

IV. Environmental Impact Analysis

L. Tribal Cultural Resources

1. Introduction

This section of the Draft EIR provides an analysis of the Project’s potential impacts on tribal cultural resources. Potential impacts to tribal cultural resources are based on consultation with a California Native American tribe that is traditionally and culturally affiliated with the Project Site, as well as a Sacred Land Files (SLF) records search conducted by the Native American Heritage Commission (NAHC).

2. Environmental Setting

a. Regulatory Framework

On September 25, 2014, Governor Brown signed into law Assembly Bill 52 (AB 52), which took effect July 1, 2015. It requires tribal cultural resources to be analyzed as a CEQA topic and establishes a consultation process for lead agencies and California Native American tribes. Projects that require a Notice of Preparation of an EIR or Notice of Intent to adopt a ND or MND are subject to AB 52. A significant impact on a tribal cultural resource is considered a significant environmental impact, requiring feasible mitigation measures. PRC Section 21074 defines tribal cultural resources as follows:

(a) “Tribal cultural resources” are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.¹

¹ Per subdivision (k) of PRC Section 5020.1, “local register of historical resources” means a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution.

- (2) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1.² In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*
- (b) *A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.*
- (c) *A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2,³ or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2⁴ may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).*

Pursuant to AB 52, the lead agency is required to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if: (1) the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area; and (2) the tribe requests consultation, in writing, within 30 days of receiving the notification. Section 21080.3.1(b) of the PRC defines “consultation” with a cross-reference to Government Code Section 65352.4, which applies when local governments consult with tribes on certain planning documents and states the following:

“Consultation” means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking

² *Subdivision (c) of PRC Section 5024.1 provides the National Register criteria for listing of historical resources in the California Register.*

³ *Per subdivision (g) of PRC Section 21083.2, a unique archaeological resource means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria: (1) contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; or (2) has a special and particular quality such as being the oldest of its type or the best available example of its type; or (3) is directly associated with a scientifically recognized important prehistoric or historic event or person.*

⁴ *Per subdivision (h) of PRC Section 21083.2, a nonunique archaeological resource means an archaeological artifact, object, or site which does not meet the criteria in subdivision (g). A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.*

agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

The new provisions in Section 21080.3.2(a) of the PRC enumerate topics that may be addressed during consultation, including identification of the significance of tribal cultural resources, determination of the potential significance of Project impacts on tribal cultural resources and the type of environmental document that should be prepared, and identification of possible mitigation measures and Project alternatives.

Section 21084.3 of the PRC also states that public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. This section of the PRC also includes examples of mitigation measures that may be considered to avoid or minimize the significant adverse effects, such as the following:

- Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Protecting the resource.

Consultation ends when either of the following occurs prior to the release of the environmental document:⁵

1. Both parties agree to measures to avoid or mitigate a significant effect on a tribal cultural resource. Agreed upon mitigation measures shall be recommended for inclusion in the environmental document (PRC Section 21082.3(a)); or
2. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached (PRC Sections 21080.3.2(b)(1)-(2) and 21080.3.1(b)(1)).

b. Existing Conditions

Section IV.C, Cultural Resources, of the Draft EIR, provides a discussion of the cultural setting of the area where the Project Site is located. Specifically, archaeological research in the Los Angeles County area has resulted in the development of a temporal scheme for regional prehistory. The temporal periods for Los Angeles County include Early Man Horizon, 11,000 to 6,000 years before present (B.P.); the Milling Stone Horizon, ranging between 6000 and 1000 B.P.; and the Late Prehistoric Horizon, A.D. 750 to A.D. 1769.

The native ecological environment consisted of a large basin surrounded by the San Gabriel Mountains and river and stream drainages, which were prime locations for Native American food processing and village sites. Prehistoric archaeological sites are often covered by 3 or more feet of topsoil, often protecting sites even after an area has become highly urbanized, particularly in areas with shallow building foundations, parks, parking lots, and roads. However, prehistoric sites occasionally can be found on the surface in urbanized areas that have not been extensively disturbed. As discussed in more detail in the Cultural and Paleontological Report, the cultural chronology of the Native American habitation of Southern California is as follows.

- Early Man Horizon (ca. 11,000 to 6000 B.P.)—From the end of the Pleistocene (approximately 11,000 years ago) to approximately 6000 B.P.), archaeological assemblages attributed to this horizon area are characterized by large projectile points and scrapers. The limited data available suggest that prehistoric populations focused on hunting and gathering, moving from region to region in small nomadic groups.

⁵ *Governor's Office of Planning and Research, Tribal Consultation Guidelines, Supplement to General Plan Guidelines, November 14, 2005.*

- Milling Stone Horizon (ca. 6000 to 1000 B.P.)—This horizon is characterized by the appearance of hand-stones and milling stones and dates between approximately 6000 B.P. to 1000 B.P. Artifact assemblages during the early Milling Stone Horizon reflect an emphasis on plant foods and foraging subsistence systems. Inland populations generally exploited grass seeds, which became the primary subsistence activity. Artifact assemblages are characterized by choppers and scraper planes but generally lack projectile points. The appearance of large projectile points in the latter portion of the Milling Stone Horizon suggests a more diverse subsistence economy.
- Ethnography (1000 B.P. to present)—The ethnographic composition of the study area consists of the Tongva/Gabrielino Band of Mission Indians. The Tongva/Gabrielino are a Native American people who inhabited the area in and around Los Angeles, which they shared with the Tataviam people. The Tongva are also often referred to as the Gabrieleño/Tongva or Gabrielino/Tongva tribe. Following the Spanish custom of naming local tribes after nearby missions, they were called the Gabrieleño, Gabrielino, or San Gabrieleño in reference to Mission San Gabriel Arcángel. In this discussion, Tongva is used to refer to the pre-contact indigenous population; Gabrieleño will be used to refer to the missionized post-contact population. These Native Americans known as the Gabrieleño spoke a language that falls within the Cupan group of the Takic subfamily of the Uto-Aztecan language family. This language family is extremely large and includes the Shoshonean groups of the Great Basin. Given the geographic proximity of Tongva/Gabrieleño and Serrano bands living in the area and the linguistic similarities, ethnographers have suggested that they shared the same ethnic origins. Correspondingly, these groups are collectively referred to as the Gabrieleño here. The Gabrieleño are considered one of the most distinctive tribes in all of California, occupying a large area that was bordered on the west by Topanga and Malibu, the San Fernando Valley, the greater Los Angeles Basin, and the coastal strip south to Aliso Creek, south of San Juan Capistrano. Gabrieleño territory extended from the San Bernardino Mountains to the islands of Catalina, San Clemente, and San Nicolas and occupied most of modern-day Los Angeles and Orange Counties, which is incredibly fertile land.

The Tongva were a hierarchically ordered society with a chief who oversaw social and political interactions both within the Tongva culture and with other groups. The Tongva had multiple villages ranging from seasonal satellite villages to larger more permanent villages. Resource exploitation was focused on village-centered territories and ranged from hunting deer, rabbits, birds, and other small game to sea mammals. Fishing for freshwater fish, saltwater mollusks, and crustaceans and gathering acorns and various grass seeds were also important.

Modern place names with Tongva origins include Pacoima, Tujunga, Topanga, Rancho Cucamonga, Azusa, and Cahuenga Pass. A 2,656-foot summit in the Verdugo

Mountains, in Glendale, has been named Tongva Peak. The Gabrieleño Trail is a 32-mile path through the Angeles National Forest. In the 1990s, Kuruvungna Springs, a natural spring located on the site of a former Tongva village on the campus of University High School in West Los Angeles, was revitalized due to the efforts of the Gabrieleño/Tongva Springs Foundation. The spring, which produces 22,000 gallons of water each day, is considered by the Tongva to be one of their last remaining sacred sites and is regularly used for ceremonial events.

As discussed in Section IV.C, Cultural Resources, of this Draft EIR, on October 2, 2015, a records search was conducted by the South Central Coastal Information Center at California State University, Fullerton (SCCIC) ([See *Cultural and Paleontological Resources Technical Report for the New LACMA Building Project* (Cultural and Paleontological Report) prepared by AECOM in September 2017 and provided in Appendix D of this Draft EIR]). A 0.25-mile radius of the Project Site was checked for previous archaeological and architectural, surveys, known sites, and resources listed in the National Register, California Register, California Historical Landmark and the City of Los Angeles HCMs List. A number of archaeological and historic resource surveys have previously been conducted within the study area. Previously conducted surveys are listed in Table 1 of the Cultural and Paleontological Resources Report. As discussed above in subsection 2(b)(2)(d), one California Historical Landmark was identified within the Project area, identified as Hancock Park La Brea (which encompasses the La Brea Tar Pits). The California Historical Landmark, listed in 1935, is described as:

- California Historical Landmark #170: Hancock Park La Brea. The bones of thousands of prehistoric animals that had been entrapped during the Ice Age in pools of tar that bubbled from beneath the ground were exhumed from this site. First historic reference to the pools, part of the 1840 Rancho La Brea land grant, was recorded by Gaspar de Portolá in 1769—first scientific excavations were made by the University of California in 1906. The site was presented to the County of Los Angeles in 1916 by Captain G. Allan Hancock to be developed as a scientific monument.

The La Brea Tar Pits are also archaeologically known as both CA-LAN-159 and P-19-171007. In 1949, the La Brea Tar Pits were recorded by Robert Heizer as archaeological site CA-LAN-159/P-19-000159. The site was described as “asphalt seeps with faunal and floral remains.” A “human skull and other human parts” were identified between 6 and 9 feet below surface in Pit 10. Other human-related artifacts were identified, including wooden bunt foreshafts, possibly for atlatls; dart shafts; and a stone “cog.” In 1984, a Determination of Eligibility Notification Form was submitted for the park, documenting it as eligible for listing in the National Register under Criteria D because the property yields or may be likely to yield information important in prehistory or history; at this time the resource was issued a new Primary (P-) number, P-19-171007. As the resource

has deemed eligible for the National Register, it is automatically listed on the California Register and considered an historical resource under CEQA. Most recently, the site was surveyed in 2011 for the Wilshire Bus Rapid Transit Project which did not result in the identification of any additional surficial archaeological features.

Archaeological monitoring was conducted by Laurie Solis, MA, DRS, and Joe Stewart, Ph.D., on October 15, 16, 23; 24, and November 2, and 20, 2015, to observe geotechnical boring samples removed from the Project Site. No archaeological resources were identified within the boring samples.

A Sacred Sites/Lands File Search was conducted by the California Native American Heritage Commission (NAHC) for the Project on October 6, 2015 (See Appendix D of the Cultural and Paleontological Report). The results of the Sacred Sites/Lands File search indicated the presence of a designated Sacred Site/Land within or directly adjacent to the Project area:

- The La Brea Tar Pits: Archaeological Site # CA-LAN-159 is listed in the Sacred Lands File based on the discovery of human remains and associated prehistoric archaeological resources.

The NAHC recommended early communication with Native American tribes in order to avoid unforeseen archaeological discoveries once the Project has started and provided a list of tribal representatives to contact for additional information. All tribal representatives identified by the NAHC were notified of the Project on October 8, 2015. A response was received on October 9, 2015, via email by Mr. Andrew Salas, Chairperson of the Gabrieleño Band of Mission Indians—Kizh Nation, regarding the Project.

On February 22, 2017, the County also sent a project notification letter, in accordance with AB 52, to all the California Native American tribes identified by NAHC.

In response, a letter dated March 14, 2017, was received from the Gabrieleño Band of Mission Indians—Kizh Nation requesting consultation. No communication or request for consultation was received from any other notified tribes within the 30-day response period.

3. Project Impacts

a. Methodology

In accordance with AB 52, Consultation with the Gabrieleño Band of Mission Indians—Kizh Nation was conducted to address potential impacts associated with tribal cultural resources.

b. Thresholds of Significance

Appendix G of the CEQA Guidelines provides a set of sample questions that address impacts with regard to tribal cultural resources. These questions are as follows:

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or*
- ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

The County of Los Angeles has not adopted specific thresholds for potential impacts to tribal cultural resources. Thus, in the context of the above question from the change recently adopted by the Office of Planning and Research (OPR) to Appendix G of the CEQA Guidelines that incorporates tribal cultural resources, impacts to tribal cultural resources would be considered significant if the Project were to cause a substantial adverse change in the significance of a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American Tribe that is listed or determined eligible for listing on the California Register, listed on a local historical register, or otherwise determined by the lead agency to be a tribal cultural resource, as defined in PRC Section 21074.⁶

c. Project Design Features

No specific project design features are proposed with regard to tribal cultural resources.

⁶ Office of Planning and Research, Tribal Cultural Resources and CEQA, www.opr.ca.gov/s_ab52.php.

d. Analysis of Project Impacts

As discussed above, a Sacred Sites/Lands File Search was conducted by the California Native American Heritage Commission (NAHC) for the Project on October 6, 2015 (See Appendix D of the Cultural and Paleontological Report). The NAHC recommended early communication with Native American tribes in order to avoid unforeseen archaeological discoveries once the Project has started and provided a list of tribal representatives to contact for additional information. All tribal representatives identified by the NAHC were notified of the Project on October 8, 2015. A response was received on October 9, 2015, via email by Mr. Andrew Salas, Chairperson of the Gabrieleño Band of Mission Indians—Kizh Nation, regarding the Project.

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Pursuant to the requirements of AB 52, the County initiated the consultation process on April 13, 2017 in a letter to the Gabrieleño Band of Mission Indians—Kizh Nation, sent via email and U.S. mail. On May 3, 2017, County staff held a phone consultation with representatives of the Gabrieleño Band of Mission Indians—Kizh Nation to discuss potential resources in the area, impacts of the Project, and mitigation measures.

Consultation under AB 52 with the Gabrieleño Band of Mission Indians—Kizh Nation formally concluded on June 8, 2017. Based on the Cultural and Paleontological Report prepared for the Project, see Appendix D of this Draft EIR, and information provided by Mr. Andrew Salas, on behalf of the Gabrieleño Band of Mission Indians—Kizh Nation, the Project Site is considered highly sensitive for potential tribal cultural resources. Project grading activities may encounter these resources and impacts may be potentially significant. Thus, there is evidence to warrant a Native American monitor on-site during all grading activities to identify tribal cultural resources should any be discovered during such activities, as detailed in Mitigation Measure L-1, below. If tribal cultural resources are encountered during Project grading, all ground-disturbing activities within the vicinity of the find would cease and the Native American Monitor would evaluate the significance of the find. If the find is found to be significant, appropriate measures, such as avoidance, preservation in place, Phase III data recovery and associated documentation, or other appropriate measures, would be implemented. In addition, the Project would be subject to regulatory requirements, such as CEQA Guidelines Section 15064.5, PRC Section 21083.2, Health and Safety Code Section 7050.5, and PRC Section 5097.9, to ensure that

in the event tribal cultural resources are found, the resources would be properly recovered and evaluated. With implementation of Mitigation Measure L-1 and regulatory requirements, impacts relative to tribal cultural resources would be reduced to less than significant levels.

4. Cumulative Impacts

As indicated in Section III, Environmental Setting, of this Draft EIR, there are 34 related projects in the vicinity of the Project Site. The locations of these related projects are shown in Figure III-1 in Section III, Environmental Setting, of this Draft EIR. As shown therein, the closest related projects are Related Project No. 23, the Academy Museum of Motion Pictures, approximately 300 feet from the Project Site, and Related Project No. 30, approximately 100 feet from the Project Site, which includes a new façade and new display space within the Petersen Museum.

Similar to the Project regarding tribal cultural resources, it is expected that the related projects would also comply with regulatory requirements, including recommendation of appropriate mitigation measures resulting from required consultation with the California Native American Tribes. As discussed above, Project impacts to tribal cultural resources would be less than significant and would not be cumulatively considerable.

5. Mitigation Measures

The following mitigation measure would be implemented to reduce potential impacts to tribal cultural resources to less than significant levels:

Mitigation Measure L-1: Prior to issuance of a grading permit, the Applicant shall retain a qualified Native American Monitor from the Gabrieleño Band of Mission Indians-Kizh Nation to monitor all grading activities within the Project Site. The Native American Monitor shall photo-document the grading activities; maintain a daily monitoring log that describes the daily construction activities, locations, soils, and mappings of the graded areas; and document any identified tribal cultural resources. If tribal cultural resources are encountered during Project grading, all ground-disturbing activities within the vicinity of the find shall cease and the Native American Monitor shall evaluate the significance of the find, and if significant, recommend appropriate measure(s) to mitigate impacts. Such measure(s) may include avoidance, preservation in place, Phase III data recovery and associated documentation, or other appropriate measures. The County shall determine the appropriate and feasible measure(s) that will be necessary to mitigate impacts, in consideration of the measure(s)

recommended by the Native American Monitor. The Applicant shall implement all measure(s) that the County determined to be necessary, appropriate and feasible. Within 60 days after grading activities are completed, the Native American Monitor shall prepare and submit a final report about any recovered tribal cultural resources, the significance of the resources, and the treatment of the recovered resources to the County and the California Native American Heritage Commission. In addition, the Native American Monitor shall submit the monitoring log and photo documentation, accompanied by a photo key, to the County.

6. Level of Significance After Mitigation

As discussed above, with implementation of Mitigation Measure L-1 and regulatory requirements, impacts relative to tribal cultural resources would be reduced to less than significant levels. In addition, cumulative impacts associated with tribal cultural resources would also be less than significant.