

IV. Environmental Impact Analysis

K. Tribal Cultural Resources

1. Introduction

This section of the Draft EIR provides an analysis of the Project's potential impacts to tribal cultural resources. The identification of potential impacts to tribal cultural resources is based on coordination and consultation with California Native American tribes that are traditionally and culturally affiliated with the Project Site. The information and analysis in this section is based in part on the following item, which is included in Appendix D to this Draft EIR:

- Cultural and Paleontological Resources Assessment Report for the Prologis Vermont Avenue and Redondo Beach Industrial Project, Cogstone Resource Management Inc., February 2020.

2. Environmental Setting

a. Regulatory Framework

The following describes the primary regulatory requirements regarding tribal cultural resources. Applicable plans and regulatory documents/requirements include the following:

- Assembly Bill 52
- California Public Resources Code Section 5097
- California Penal Code

(1) State

a. Assembly Bill 52

AB 52 was approved on September 25, 2014. The act amended California Public Resources Code (PRC) Section 5097.94 and added PRC Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3. The primary intent of AB 52 is to involve California Native American Tribes early in the environmental review process and to establish a category of resources related to Native Americans, known as tribal cultural resources, that require consideration under CEQA. PRC Sections 21074(a)(1) and (2) define tribal cultural resources as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe" that are either included or determined to be eligible for inclusion in the California Register or included in a local register of historical resources, or a resource that is determined to be a tribal cultural resource by a lead agency, in its discretion and supported by

substantial evidence. A tribal cultural resource is further defined by PRC Section 20174(b) as a cultural landscape that meets the criteria of subdivision (a) to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. PRC Section 20174(c) provides that a historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

PRC Section 21080.3.1 requires that, within 14 days of a lead agency determining that an application for a project is complete, or a decision by a public agency to undertake a project, the lead agency provide formal notification to the designated contact, or a tribal representative, of California Native American Tribes that are traditionally and culturally affiliated with the geographic area of the project (as defined in PRC Section 21073) and who have requested in writing to be informed by the lead agency of projects within their geographic area of concern.¹ Tribes interested in consultation must respond in writing within 30 days from receipt of the lead agency’s formal notification and the lead agency must begin consultation within 30 days of receiving the tribe’s request for consultation.²

PRC Section 21080.3.2(a) identifies the following as potential consultation discussion topics: the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project’s impacts on the tribal cultural resources, project alternatives or appropriate measures for preservation, and mitigation measures. Consultation is considered concluded when either: (1) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or (2) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.³

In addition to other CEQA provisions, the lead agency may certify an EIR or adopt a MND for a project with a significant impact on an identified tribal cultural resource, only if a California Native American tribe has requested consultation pursuant to PRC Section 21080.3.1 and has failed to provide comments to the lead agency, or requested a consultation but failed to engage in the consultation process, or the consultation process occurred and was concluded as described above, or if the California Native American tribe did not request consultation within 30 days.⁴

PRC Section 21082.3(c)(1) states that any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public

¹ Public Resources Code, Section 21080.3.1(b) and (c).

² Public Resources Code, Sections 21080.3.1(d) and 21080.3.1(e)

³ Public Resources Code, Section 21080.3.2(b)

⁴ Public Resources Code, Section 21082.3(d)(2) and (3)

without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.

Confidentiality does not apply to data or information that are, or become publicly available, are already in lawful possession of the project applicant before the provision of the information by the California Native American tribe, are independently developed by the Project applicant or the Project applicant's agents, or are lawfully obtained by the Project applicant from a third party that is not the lead agency, a California Native American tribe, or another public agency.⁵

b. California Public Resources Code

California PRC Section 5097.98, as amended by Assembly Bill 2641, provides procedures in the event human remains of Native American origin are discovered during project implementation. PRC Section 5097.98 requires that no further disturbances occur in the immediate vicinity of the discovery, that the discovery is adequately protected according to generally accepted cultural and archaeological standards, and that further activities take into account the possibility of multiple burials. PRC Section 5097.98 further requires the Native American Heritage Commission (NAHC), upon notification by a County Coroner, designate and notify a Most Likely Descendant (MLD) regarding the discovery of Native American human remains. Once the MLD has been granted access to the site by the landowner and inspected the discovery, the MLD then has 48 hours to provide recommendations to the landowner for the treatment of the human remains and any associated grave goods. In the event that no descendant is identified, or the descendant fails to make a recommendation for disposition, or if the land owner rejects the recommendation of the descendant, the landowner may, with appropriate dignity, reinter the remains and burial items on the property in a location that will not be subject to further disturbance.

PRC Section 5097.99 prohibits acquisition or possession of Native American artifacts or human remains taken from a Native American grave or cairn after January 1, 1984, except in accordance with an agreement reached with the Native American Heritage Commission.

PRC Section 5097.5 provides protection for tribal resources on public lands, where PRC Section 5097.5(a) states, in part, that:

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

⁵ Public Resources Code, Section 21082.3(c)(2)(B).

c. California Penal Code

California Penal Code Section 622½ provides the following: “Every person, not the owner thereof, who willfully injures, disfigures, defaces, or destroys any object or thing of archeological or historical interest or value, whether situated on private lands or within any public park or place, is guilty of a misdemeanor.”

California Penal Code Section 623 provides the following: “Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment: (1) breaks, breaks off, cracks, carves upon, paints, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave. (2) disturbs or alters any archaeological evidence of prior occupation in any cave. (3) kills, harms, or removes any animal or plant life found in any cave. (4) burns any material which produces any smoke or gas which is harmful to any plant or animal found in any cave. (5) removes any material found in any cave. (6) breaks, forces, tampers with, removes or otherwise disturbs any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

b. Existing Conditions

(1) Current Project Site Conditions

The Project Site was previously graded and developed with four buildings totaling 505,291 square feet, including a church (3,858 square feet), a building at 15134 Vermont Avenue (157,237 square feet), and two two-story buildings at 747 W. Redondo Beach Boulevard (192,792 and 151,404 square feet). Additionally, a former gas station, approximately 4,000 square feet, was located at the southwestern corner of the property until it was demolished in approximately 1994. All above-grade structures were demolished in 2010 and 2011.

The Project Site is currently unoccupied, surrounded by a chain link fence with three large concrete slab foundations, which are the remains of former manufacturing facilities: Virco Manufacturing, Inc. (Virco) on the western half and Pacific Electriccord Company (Electriccord) and Leviton on the eastern half of the property. Most of the areas surrounding the slabs are paved with asphalt and concrete in fair to poor condition.

(2) Prehistoric Setting

The Project Site is within an area associated with the Native American population known as the Gabrieliño/Tongva who were semi-sedentary hunters and gatherers. The Gabrieliño population spread from Topanga Canyon in the northwest, to the base of Mount Wilson in the north, to San Bernardino in the east, Aliso Creek in the southeast, and the Southern Channel Islands. Temporary season campsites were set along the bays and estuaries to gather shellfish and hunt

waterfowl. The Gabrieliño utilized numerous plants and animals for food, shelter, and medicines with their main food source being acorns. A large portion of their diet consisted of plant foods while other food sources also included deer, rabbits, wood rats, squirrels, quail, and ducks.

a. *Cultural Chronology*

The cultural chronology for the Project Site includes the Topanga Pattern⁶ of the Encinitas Tradition followed by the Angeles Pattern of the Del Rey Tradition. The Topanga Pattern was generally small and highly mobile with temporary villages along the coast in wetlands, bays, coastal plains, near-coastal valleys, marine terraces and mountains. Tools used by the Topanga Pattern are typically dominated by mano and metates with projectile points scarce. The Angeles Pattern were generally restricted to the mainland with largely terrestrial focus and greater emphases on hunting and nearshore fishing. The Angeles Pattern were also characterized by changes in settlement pattern to fewer but larger permanent villages, development of mainland dialect of Gabrieliño, and use of domesticated animals. The Angeles Pattern of the Del Rey Tradition represented the arrival, divergence, and development of the Gabrieliño in southern California.

(3) Ethnographic Setting

The Project Site is within an area associated with the Native American population known as the Gabrieliño/Tongva who were semi-sedentary hunters and gatherers. The Gabrielino speak a language that is part of the Takic language family. Their population encompass an area of more than 2,500 square miles and spread from Topanga Canyon in the northwest, to the base of Mount Wilson in the north, to San Bernardino in the east, Aliso Creek in the southeast, and the Southern Channel Islands. Villages vary in size with some housing up to 150 people. Temporary season campsites were also set along the bays and estuaries to gather shellfish and hunt waterfowl.

The Gabrieliño are considered one of the wealthiest tribes with homes that are typically domed and circular. Their best known artifacts were made of steatite and highly prized. The Gabrieliño utilized numerous plants and animals for food, shelter, and medicines with their main food source being acorns. A large portion of their diet consisted of plant foods while other food sources also included deer, rabbits, wood rats, squirrels, quail, and ducks.

(4) Assembly Bill (AB) 52 Consultation

On February 24, 2019, the City of Los Angeles commenced Native American consultation per AB 52 requirements. Each Native American group or individual listed by the NAHC was sent a Project notification letter and map and was asked to convey any knowledge regarding prehistoric or Native American resources (archaeological sites, sacred lands, or artifacts) located within the study area or surrounding vicinity. The letter included the study area location and a brief description of the proposed Project.

⁶ A pattern describes the general settlement and subsistence of a particular Native American population.

Letters were sent via certified mail to the following California Native American tribes that requested notification:

- Fernandeano Tataviam Band of Mission Indians
- Gabrieleño Band of Mission Indians – Kizh Nation
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino/Tongva Nation
- Gabrielino/Tongva San Gabriel Band of Mission Indians
- Gabrielino-Tongva Tribe
- San Fernando Band of Mission Indians
- Soboba Band of Luiseño Indians
- Torres Martinez Desert Cahuilla Indians

On March 5, 2020, the City received a consultation request pursuant to AB 52 from Andrew Salas, Chairperson of Gabrieleño Band of Mission Indians – Kizh Nation. During the consultation phone call on May 4, 2020, the tribe indicated that the Project Site is within the Area of Potential Effect and requested more documentation in regard to soil type and excavation from the City; and the City requested additional documentation from the tribe regarding the potential for tribal cultural resources in the Project vicinity.

On August 5, 2020, the City held a follow-up conference call with the Tribe. Following the conference call, Department of City Planning staff sent an email to the Tribe summarizing the phone consultation and requested additional information from the Tribe. On August 6, 2020, the Tribe provided their recommended mitigation measures to the City.

November 4, 2020 the City notified the Tribe of the City's intent to conclude consultation at publication of the Draft EIR.

As the City received no responses within 30 days of the notification letters sent to the other nine tribal parties, AB 52 consultation is considered closed.

(5) Background Research

a. *Sacred Lands File Review*

A search of the Sacred Lands File from the NAHC was also requested on November 21, 2019. NAHC responded on December 11, 2019, stating there are no known sacred lands within the Project Site. The NAHC requested that five Native American tribes or individuals be contacted for further information regarding the general vicinity. This information can be found in Appendix D.

b. *California Historical Resources Information System Review*

On November 25, 2019, a search of the California Historical Resource Information System (CHRIS) was conducted at the South Central Coast Information Center (SCCIC) at the California

State University, Fullerton. The search covered any previously recorded cultural resources and investigations within a one-mile radius of the Project Site.

The CHRIS records search conducted for the Project Site and a one-mile radius identified 29 previous studies have been completed within a mile of the Project Site. However, the record search did not identify any archaeological sites or artifacts affiliated with Native Americans (i.e., those that could be considered a tribal cultural resource) within the Project Site. Located at least 0.5 mile from the Project Site, one prehistoric archaeological site was identified and characterized as a midden with lithic and shell scatter.

c. Archival Research

In addition to the SCCIC records search, archival research was also conducted in December 2019 to obtain information regarding the cultural context of the Project area. Sources included the National Register, California Register, California Historical Resources Inventory, California Historical Landmarks, and California Points of Historical Interest and review of historic references, maps, and aerial photographs.

3. Project Impacts

a. Thresholds of Significance

In accordance with Appendix G of the CEQA Guidelines, a project would have a significant impact related to tribal cultural resources if the Project would:

Threshold (a): 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 L.A. CEQA Thresholds Guide does not specifically address tribal cultural resources. In assessing impacts related to tribal cultural resources in this section, the City will use Appendix G as the thresholds of significance.

b. Methodology

Under CEQA, the evaluation of impacts to tribal cultural resources consists of two parts: (1) identification of tribal cultural resources within the Project site or immediate vicinity through AB 52 consultation, as well as a review of appropriate academic and ethnographic literature and research for information pertaining to past Native American use of the Project site, SLF search, and SCCIC records review; and (2) a determination of whether the project may result in a “substantial adverse change” in the significance of identified resources.

c. Project Design Features

No specific Project Design Features are proposed with regard to tribal cultural resources.

d. Analysis of Project Impacts

Threshold (a): *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.?***

(1) Impact Analysis

Based on the research and analysis conducted and the elevation provided in the *Cultural and Paleontological Resources Assessment Report*, included as Appendix D, and as discussed in detail in the Draft EIR Section IV.C, Cultural Resources, the Project Site is not listed within the National Register, California Register, California Historical Resources Inventory, California Historical Landmarks, and California Points of Historical Interest. Additionally, the NAHC's SLF search, included in this Draft EIR in Appendix D, indicates that no Native American cultural resources are located in or near the Project Site. The CHRIS records search conducted for the Project Site and a one-mile radius identified 29 previous studies have been completed within a mile of the Project Site. However, the record search did not identify any archaeological sites or artifacts affiliated with Native Americans (i.e., those that could be considered a tribal cultural resource) within the Project Site. Located at least 0.5-mile from the Project Site, one prehistoric archaeological site was identified and characterized as a midden with lithic and shell scatter. The pedestrian survey conducted also did not identify any tribal cultural resources within the Project Site. The Project Site has low sensitivity for tribal cultural resources.

The proposed Project would require excavation for construction into previously undisturbed soils, and, as such, there is a potential to uncover undiscovered prehistoric artifacts or tribal cultural resources during excavations. Therefore, while unlikely, the presence of subsurface tribal cultural resources on the Project Site remains possible, and these could be affected by ground-disturbing activities associated with grading and construction at the Project Site.

The City has established a standard condition of approval to address the inadvertent discovery of tribal cultural resources. Should tribal cultural resources be inadvertently encountered, this condition of approval provides for temporarily halting of construction activities near the encounter and the proposed Project's certified construction monitor notifying the City and Native American tribes that have informed the City that they are traditionally and culturally affiliated with the geographic area of the proposed project. If the City determines that the object or artifact appears to be a tribal cultural resource, the City would provide any affected tribe a reasonable period of time to conduct a site visit and make recommendations regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.

Therefore, the proposed Project would not cause a substantial adverse change in the significance of a tribal cultural resource, as defined in PRC Section 21074, and, with adherence to the City's standard Condition of Approval for the treatment of tribal cultural resources, impact to tribal cultural resources would be less than significant.

(2) Mitigation Measures

Impacts to tribal cultural resources were determined to be less than significant. Therefore, no mitigation measures would be required.

(3) Level of Significance After Mitigation

Impacts regarding tribal cultural resources were determined to be less than significant without mitigation. Therefore, no mitigation measures were required or included, and the impact level remains less than significant.

4. Cumulative Impacts

(1) Impact Analysis

As demonstrated above, the Project would have a less than significant impact on tribal cultural resources. Though the Project Site could be within the Area of Potential Effect, there are no resources listed or determined eligible for listing, on the national, State, or local register of historical resources, and the Lead Agency determined that no resources were identified during AB 52 tribal consultation that are eligible for listing under the criteria in PRC Section 5024.1(c). As with the Project, each related project would also be required to engage in AB 52 consultation with Native American tribes in order to identify any tribal cultural resources that could potentially be impacted by the related project and to address potentially significant impacts, if identified. The related project would also be required to comply with the City's Standard Condition of Approval for the treatment of inadvertent tribal cultural resource findings. As no known tribal cultural resources are located within the Project Site, and given the low potential to encounter such resources, the proposed Project's contribution to cumulative impacts would not be considered cumulatively significant, and cumulative impacts regarding tribal cultural resources would be less than significant.

(2) Mitigation Measures

Cumulative impacts regarding tribal cultural resources were determined to be less than significant. Therefore, no mitigation measures would be required.

(3) Level of Significance After Mitigation

Cumulative impacts regarding tribal cultural resources were determined to be less than significant without mitigation. Therefore, no mitigation measures were required or included, and the cumulative impact level remains less than significant.