

2.6 Cultural Resources

2.6.1 Regulatory Setting

The term “cultural resources,” as used in this document, refers to the “built environment” (e.g., structures, bridges, railroads, water conveyance systems), places of traditional or cultural importance, and archaeological sites (both prehistoric and historic), regardless of significance. Under Federal and State laws, cultural resources that meet certain criteria of significance are referred to by various terms, including “historic properties,” “historic sites,” “historical resources,” and “tribal cultural resources.” Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act (NHPA) of 1966, as amended, sets forth national policy and procedures for historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for listing in the National Register of Historic Places (NRHP). Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to allow the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on those undertakings, following regulations issued by the ACHP (36 Code of Federal Regulations [CFR] 800). On January 1, 2014, the First Amended Section 106 Programmatic Agreement (PA) among the Federal Highway Administration (FHWA), the ACHP, the California 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 ACHP’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 327).

The California Environmental Quality Act (CEQA) requires the consideration of cultural resources that are historical resources and tribal cultural resources, as well as “unique” archaeological resources. California Public Resources Code (PRC) Section 5024.1 established the California Register of Historical Resources (CRHR) and outlined the necessary criteria for a cultural resource to be considered eligible for listing in the CRHR, and therefore, a historical resource. Historical resources are defined in PRC Section 5020.1(j). In 2014, Assembly Bill 52 (AB 52) added the term “tribal cultural resources” to CEQA, and AB 52 is commonly referenced instead of CEQA when discussing the process to identify tribal cultural resources (as well as identifying measures to avoid, preserve, or mitigate effects to them). Defined in PRC Section 21074(a), a tribal cultural resource is a CRHR- or local register-eligible site, feature, place, cultural landscape, or object that has a cultural value to a California Native American tribe. Tribal cultural resources must also meet the definition of a historical resource. Unique archaeological resources are referenced in PRC Section 21083.2.

PRC Section 5024 requires State agencies to identify and to protect State-owned historical resources that meet the NRHP listing criteria. It further requires Caltrans to inventory State-owned structures in its rights-of-way. Sections 5024(f) and 5024.5 require state agencies to provide notice to and consult with the SHPO before altering, transferring, relocating, or demolishing State-owned historical resources that are listed on or are eligible for inclusion in the NRHP or are registered or eligible for

registration as California Historical Landmarks. Procedures for compliance with PRC Section 5024 are outlined in a Memorandum of Understanding (MOU)¹ between Caltrans and the SHPO, effective January 1, 2015. For most federal-aid projects on the State Highway System, compliance with the Section 106 PA will satisfy the requirements of PRC Section 5024.

2.6.2 Affected Environment

The following section is based on the *Historic Property Survey Report* (HPSR) (January 2019); the *Archaeological Survey Report* (ASR) (January 2019), which accompanies the HPSR; and the *Historical Resources Evaluation Report* (HRER) (January 2019), which also accompanies the HPSR.

2.6.2.1 Methods

Area of Potential Effects

The Area of Potential Effects (APE) is established to identify the geographic area within which the Build Alternatives may directly or indirectly cause alterations in the character or use of cultural resources. The Direct APE, consisting of four Build Alternatives (including Design Option B) analyzed, totals 141.17 acres and includes areas where physical impacts from the Build Alternatives will occur. These impacts are generally limited to the proposed and existing right-of-way of the Build Alternatives, including any temporary or permanent easements, as well as the horizontal and vertical limits associated with ground-disturbing activities. Subsequent to the analysis of four Build Alternatives, two alternatives have been eliminated and the project is moving forward with Alternatives 2 and 4.

A 429.91-acre Indirect APE consisting of all four Build Alternatives (including Design Option B) was established as all areas in which the Build Alternatives have the potential to directly or indirectly affect cultural resources. The Indirect APE includes the Direct APE, as well as areas of indirect effects that extend beyond those of the direct effects. This includes areas that may be indirectly affected by visual, noise, and other effects. Areas of indirect effects generally include all properties directly adjacent to the proposed right-of-way unless they are undeveloped or unless potential indirect effects would be unlikely due to sufficient distance between the construction footprint and any development.

The Vertical APE within the Direct APE is proposed to extend to a maximum depth of 7 feet for Build Alternatives 1, 2, and 4 (including Design Option B), and to 28 feet for Build Alternative 3, where roadway grading is proposed.

Records Search

On July 3, 2018, a records search was conducted by a qualified archaeologist at the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System, located at California State University, Fullerton. The records search included a review of all recorded historic and prehistoric archaeological sites within a one-mile radius of the APE, as well as a review of known cultural resource survey and excavation reports. For a detailed description of

¹ The MOU is on the Caltrans Standard Environmental Reference at the following website: http://www.dot.ca.gov/ser/vol2/5024mou_15.pdf.

the records search, refer to the project ASR (January 2019). In addition, the following inventories were examined:

- National Register
- CRHR
- California Historical Landmarks
- California Points of Historical Interest
- California Historic Resources Inventory

In addition to research conducted at the SCCIC, further background research was conducted using historic maps (e.g., historic United States Geological Survey topographic maps) and aerial photographs. The Caltrans Historic Bridge Inventory was also consulted. On the basis of this research, a historic context was developed in which cultural resources could be evaluated for significance. This context was used during the analysis of historic archaeological resources and the historic built environment. For details of the historic context of the APE, refer to the HPSR (January 2019), ASR (January 2019), and HRER (January 2019).

Built-environment background research included reviewing literature in local and regional history, online resources regarding the history and development of the area, Caltrans historic bridge inventories, and historic aerial photographs and maps of the project vicinity. Additional research was conducted to develop relevant historic contexts and property-specific chronologies for resources requiring evaluation. In addition, historical organization outreach was conducted beginning on August 28, 2018, consisting of letters describing the project and maps depicting the project location. The following groups were contacted as part of historic outreach efforts:

- Orange County Historical Society, in Santa Ana
- Laguna Niguel Historical Society, in Laguna Niguel
- Laguna Woods History Center; in Laguna Woods
- Saddleback Area Historical Society, in Lake Forest

For organizations with email addresses, the letter and map were also sent electronically on August 28, 2018.

On October 2, 2018, the Saddleback Area Historical Society replied via a letter sent via email, indicating that St. George's Episcopal Church in the APE "is of some historical interest" for its institutional "ties to the original St. George's Episcopal Church which was relocated to Heritage Hill Historical Park in Lake Forest, California. The current complex is itself approximately 50 years old. The link of the current site to the historical building and to the history of El Toro is an important part of the history of the area. The original church was part of a business enterprise designed to attract British citizens to the El Toro area. That community played an important part in the development of today's Saddleback Valley." No other concerns were provided. The original church building referred to by the Saddleback Area Historical Society was constructed in 1891, still survives, and is at Heritage Hill Park in Lake Forest, approximately four miles northeast of the APE.

On September 21, 2018, Laguna Woods History Center Chief Executive Officer Dean O. Dixon, replied expressing concern regarding potential impacts of the Build

Alternatives to St. George's Episcopal Church and noted that the church was founded in 1891 and moved to its current location at 23802 Avenida de la Carlota (in the APE) approximately 50 years ago. Mr. Dixon stated that the church's congregation would like to receive more information about the project. Their request was forwarded to the Caltrans project manager and their information was added to the list for future notifications regarding this project.

On October 30, 2018, Caltrans and Orange County Transportation Authority staff met with church members to discuss the project. During the meeting, church members received information regarding the proposed project, public involvement in the environmental review process, and clarification regarding potential impacts of the Build Alternatives to the church. Specific concerns addressed related to staging for soundwall construction. Church representatives were informed that a small Temporary Construction Easement for three alternatives and a small partial take for two alternatives may be needed. Caltrans also informed church leaders that staging for the Build Alternatives would not take place on their property. No potential impacts to cultural, historical, or architectural resources were expressed during the meeting.

On December 17, 2018, a follow-up email was sent to the Laguna Woods History Center to inform staff of the result of the October 30, 2018, meeting. On December 18, 2018, the Laguna Woods History Center responded with an email thankful for the follow-up information. An additional follow-up email was sent to the Reverend Pat McCaughan (of St. George's Episcopal Church) on December 18, 2018, to confirm that the church has no further comments. No response to this message was received.

On January 8, 2019, Caltrans sent a follow-up email to Mr. Dixon and Reverend McCaughan to provide them with the status of the cultural resources study, the results of the study pertaining the Leisure World and St. George's Episcopal Church, to clarify the definition of "historic property" as it relates to the proposed project, and to invite any additional questions or comments from Mr. Dixon and Reverend McCaughan. No further comments or questions were received as a result of Caltrans' follow-up email.

No additional responses to consultation letters or supplemental requests for additional information were received.

Field Survey

On July 19 and 23, 2018, a pedestrian survey of portions of the Direct APE was completed by a qualified archaeologist. The survey consisted of 31.92 acres. Because much of the APE is within active freeway and street rights-of-way, access was not safely available in all areas. Areas of exposed ground that could be accessed safely, even if vegetated, were surveyed by walking linear transects separated by 7 to 10 meters (23 to 33 feet) over larger areas and opportunistically over smaller areas. Inaccessible areas were visually inspected from a distance. Special attention was given to areas that exhibited exposed sediment, cut slopes, or rodent burrow backdirt. Areas within the Direct APE that were not surveyed for the archaeological survey include existing freeways, paved roads and sidewalks, concrete-lined drainage channels, buildings, and structures. Additionally, areas that were inaccessible due to safety concerns (e.g., road medians) were not surveyed. Although outside of the APE, the area around Aliso Creek south of the APE where

open space exists was also surveyed to look for evidence of historic-era adobes due to the areas' proximity to the APE. The historical site marker for the Aliso Creek Adobes (Orange County Historical Site No. 44, located on the inland side of Interstate 5 [I-5]) was encountered during the survey. The area on the south side of I-5 was carefully surveyed for evidence of CA-ORA-16, a previously recorded prehistoric site. Both the historic-era adobes and the prehistoric archaeological site are considered to have been destroyed by prior development in the area, and proposed activities related to the Build Alternatives in the vicinity of the sites consist of Temporary Traffic Devices on I-5 only. As such, no impacts to these previously recorded resources will occur.

Native American Consultation

Native American consultation per Section 106 was conducted concurrently with AB 52 consultation. Caltrans contacted the Native American Heritage Commission (NAHC) on August 7, 2018, to conduct a Sacred Lands File (SLF) search for the APE and to request a CEQA Tribal Consultation List under AB 52. The NAHC responded on August 10, 2018, stating that the SLF was conducted with negative results for the presence of Native American cultural resources in the APE. However, the NAHC recommended that nine Native American individuals representing the Juaneño, Gabrielino-Tongva, and Gabrielino groups be contacted for information regarding cultural resources that could be affected by the Build Alternatives.

The majority of the nine Native American contacts were notified of the project in letters sent by Caltrans on August 13, 2018. The following Native American contacts were notified:

- Juaneño Band of Mission Indians Acjachemen Nation, Matias Belardes, Chairperson
- Gabrieleno/Tongva San Gabriel Band of Mission Indians, Anthony Morales, Chairperson
- Gabrielino/Tongva Nation, Sandonne Goad, Chairperson
- Juaneño Band of Mission Indians Acjachemen Nation, Teresa Romero, Chairperson
- Juaneño Band of Mission Indians, Sonia Johnston, Tribal Chairperson
- Juaneño Band of Mission Indians Acjachemen Nation, Joyce Perry, Tribal Manager
- Gabrielino-Tongva Tribe, Linda Candelaria, Chairperson
- Gabrieleño Band of Mission Indians – Kizh Nation, Andrew Salas, Chairperson
- Gabrielino-Tongva Tribe, Charles Alvarez, Councilmember

The exception to the letter and follow-ups was Ms. Candelaria (Gabrielino-Tongva Tribe). No letter was sent to Ms. Candelaria, and no other communication was

attempted; the NAHC list provided no current mailing address, email address, or phone number for Ms. Candelaria.

One response (from Andrew Salas, Gabrieleño Band of Mission Indians–Kizh Nation) was received as a result of the initial project notification letter. On August 27, 2018, the Gabrieleño Band of Mission Indians – Kizh Nation sent an email to Caltrans with an attached letter requesting consultation. The same day, Caltrans responded to ask if any information that was not included in the letter was needed at the time. The email also requested that the tribe inform Caltrans of its availability to meet to discuss the project, and Caltrans suggested a field meeting. However, follow-up communication attempts from Caltrans on September 5, September 19, and September 25, 2018, to set up a field meeting with Mr. Salas’s group were unsuccessful and no further response from the tribe was received.

On October 3, 2018, Joyce Perry with the Juaneño Band of Mission Indians Acjachemen Nation sent an email requesting consultation for the project. The same day, Caltrans responded and provided a copy of the draft APE map as well as information regarding ground disturbance and historic adobe sites. Caltrans also requested that Ms. Perry respond if she would like to meet in the field, needed additional information, or would like to provide any comments. On October 4, 2018, Caltrans sent another email to Ms. Perry, which included information regarding the need for the maximum of 28-foot excavation for Build Alternative 3. Caltrans again offered to meet in the field to discuss the project. No further response was received.

The six other individuals listed on the NAHC consultation list received follow-up communication attempts via email or phone. No other responses were received.

2.6.2.2 Results

Archaeological Results

The SCCIC record search identified 10 cultural resource studies covering the current APE and an additional 69 studies that were conducted within one mile of the APE. Seven cultural resources studies have been surveys of portions of the APE, resulting in approximately 80 percent of the APE being previously surveyed.

Although previous cultural resource work in the area has resulted in recording 13 cultural resources within a one-mile radius of the current project, none of these cultural resources has been recorded as within the APE. These nearby resources are prehistoric (12) and historic (1). The prehistoric resources are lithic sites (5), habitation sites (3), and isolated stone tools (4). The historic-era resource is the Leisure World Equestrian Center (P-30-74), which is listed in the SCCIC Historic Resource Inventory. The Equestrian Center has not been evaluated for National Register status.

The archaeological survey showed that all surveyable areas in the Direct APE exhibited high levels of disturbance from freeway and nearby road construction. Disturbance included bulldozed local sediment mixed with gravel, asphalt, concrete, other debris, and recent trash. The entire Direct APE has been substantially altered from these previous construction activities.

Most of the sidewalk areas along streets, on- and off-ramps, and parking lots for commercial or business areas exhibited some areas of exposed sediment with ornamental vegetation, including iceplant, shrubs, and one or more of several types of trees. Surveyed areas contained disturbed sediment mixed with asphalt, concrete, gravel, and abundant modern trash. Most areas contain either local sediment or artificial fill placed during construction of existing freeways, overcrossings, undercrossings, intersections, buildings, and structures. Most areas of the Direct APE were developed, and all areas were highly disturbed from previous I-5 and other road construction activities and contained ground visibility of 0 percent to nearly 100 percent.

Three small areas were undeveloped and exhibited nearly 100-percent ground visibility. All of these areas contain quantities of concrete and recent trash.

An area with exposed sediment is the southbound on-ramp to I-5 just south of El Toro Road, which although covered with iceplant, exhibits exposed sediment along the edges of the road where the iceplant is sparse. This area is also heavily disturbed and likely mixed from bulldozing to create the ramp. The other I-5/El Toro Road Interchange areas, both on the coastal and inland sides of I-5, are covered with a dense growth of iceplant, with little or no ground visibility.

An open grass-covered area exists at Cavanaugh Park and an open space area that is a 100 feet wide and nearly 2,200 feet long that runs along the inland side of I-5 adjacent to Gowdy Avenue, south of Ridge Route Drive. At the north end of this area, there is a more than 1,000-foot-long, 50-foot-wide stretch of exposed sediment close to the soundwall. This exposed sediment is also highly disturbed with recent debris and concrete from freeway and soundwall construction.

Built Environment Results

The APE and the surrounding area is characterized by suburban development including primarily modern single-family and multifamily residential units, commercial businesses, a golf course, and the Laguna Woods Village retirement community, as well as several shopping centers. Architectural field surveys of the 429.91-acre Indirect APE were conducted on October 11 and 12, 2018. During the surveys, three historic-period (45 years of age or older) resources were identified within the Indirect APE.

These three historic-period resources include the Leisure World Laguna Hills retirement community built between 1963 and 1980; St. George's Episcopal Church, built in 1969 at 23802 Avenida de la Carlota; and the Chase Bank Building, built in 1971 at 23861 El Toro Road. None of the resources that were evaluated as part of this study is eligible for listing in the National Register or California Register of Historical Resources.

Two State Agency bridges were also identified in the APE. These are El Toro Road UC (55 0235), which was built in 1969 and modified in 1996, and Los Alisos Boulevard OC (55 0631), which was built in 1984. Both bridges are listed as Category 5 (not eligible for the National Register).

In February 2019, the HPSR was submitted to the SHPO for review. On March 7, 2019, the SHPO concurred that Leisure World Laguna Hills, St. George's Episcopal Church, and the Chase Bank Building were not eligible for the National Register.

2.6.3 Environmental Consequences

This section summarizes the environmental consequences of the Build Alternatives (including Design Option B) and the No Build Alternative with regard to cultural resources.

2.6.3.1 Temporary Impacts

Build Alternatives (Alternatives 2 and 4 [including Design Option B])

Construction of any of the Build Alternatives and Design Option B could potentially result in effects to previously undocumented cultural resources. Any such effects during construction would be considered permanent effects. As a result, potential effects of the Build Alternatives (including Design Option B) on cultural resources are discussed below in Section 2.6.3.2.

No Build Alternative

The No Build Alternative would not include construction of any of the Build Alternatives or their design options and, therefore, would not result in temporary effects to cultural resources. The existing operation of I-5 would continue under the No Build Alternative.

2.6.3.2 Permanent Impacts

Build Alternatives (Alternatives 2 and 4 [including Design Option B])

Implementation of any of the Build Alternatives or Design Option B would require ground disturbance and modification of existing roadway structures. On March 7, 2019, the SHPO concurred that Leisure World Laguna Hills, St. George's Episcopal Church, and the Chase Bank Building were not eligible for the National Register.

There are no historic properties within the APE (Direct or Indirect) that are eligible for inclusion in the NRHP. Based on the findings of the HPSR and pursuant to the Section 106 PA, the Build Alternatives (including Design Option B) would not affect historic properties per 36 CFR 800.4. Overall, a finding of No Historic Properties Affected is appropriate for the Build Alternatives as a whole.

While not anticipated, if cultural materials or human remains are discovered during construction, all earthmoving activity within and around the immediate discovery area would be diverted until a qualified archaeologist or the Orange County Coroner can assess the nature of the find. Project Feature PF-CUL-1 addresses the possibility of discovery of cultural materials during construction.

PF-CUL-1 Caltrans Standard Specification 14-2.03A: Discovery of Cultural Materials. If cultural materials are discovered during site preparation, grading, or excavation, the construction Contractor will divert all earthmoving activity within and around the immediate discovery area until a qualified archaeologist can assess the nature and significance of the find. At that time, coordination will be maintained with the

California Department of Transportation (Caltrans) District 12 Environmental Branch Chief or the District 12 Native American Coordinator to determine an appropriate course of action. If the discovery of cultural materials occurs outside the Caltrans right-of-way, then coordination with the appropriate local agency will be conducted as well.

Project Feature PF-CUL-2 addresses the possibility of discovery of human remains during construction.

PF- CUL-2 Caltrans Standard Specification 14-2.03A: Discovery of Human Remains. If human remains are discovered during site preparation, grading, or excavation, California State Health and Safety Code (H&SC) Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the Orange County Coroner shall be contacted. If the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC), who, pursuant to California Public Resources Code (PRC) Section 5097.98, will then notify the Most Likely Descendant (MLD). At that time, the persons who discovered the remains will contact the Caltrans District 12 Environmental Branch Chief or the District 12 Native American Coordinator so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of California PRC 5097.98 are to be followed as applicable.

No Build Alternative

The No Build Alternative would not include construction of any of the Build Alternatives or Design Option B, and, therefore, would not result in effects to cultural resources that are considered permanent. The existing operation of I-5 would continue under the No Build Alternative.

2.6.4 Avoidance, Minimization, and/or Mitigation Measures

With the incorporation of the above Project Features, no additional measures to avoid and/or minimize potential effects of the Build Alternatives to cultural materials or human remains are required.

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