

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).

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 (in Section 4(f) terminology—historic sites). Full details on Section 4(f) properties related to this project are provided in Appendix A of this Initial Study/Environmental Assessment (IS/EA).

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* for EA 0Q3600 (HPSR) (May 2018); the *Archaeological Survey Report* (ASR) for EA 0Q3600 (May 2018) which accompanies the HPSR; the *Supplemental Historic Property Survey Report* (SHPSR) for EA 0N0600/0Q3600 (September 2018), the SHPSR for EA0N0600 (May 2018), and the *Historic Property Survey Report* for EA 0N0600 (December 2016).

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

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 proposed project may directly or indirectly cause alterations in the character or use of cultural resources. A 6.31-acre APE consisting of the Build Alternative was established as all areas in which the proposed project has the potential to directly or indirectly affect cultural resources. The APE includes areas where physical effects from the project will occur. These are generally limited to the project's proposed and existing right-of-way, including any temporary or permanent easements, as well as the horizontal and vertical limits associated with ground-disturbing activities.

The vertical APE within the areas of direct effects is determined based on planned excavation depths and will extend to various depths from approximately 1.55 feet (ft) to approximately 12 ft, depending upon the type of construction occurring.

Records Searches

On June 5, 2017, a record 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 record 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 the record search, refer to the ASR (May 2018). For the Component 2 Safety Project (EA 0N0600), a record search was conducted at the SCCIC on August 31, 2016. In addition, the following inventories were examined:

- National Register of Historic Places
- California Register of Historical Resources
- 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 the City of Laguna Beach Historic Resource Inventory (accessed November 2017), the Laguna Beach Historical Society, 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 project APE, refer to the HPSR (May 2018), ASR (May 2018), and the Component 2 SHPSR (May 2018), and the Component 2 HPSR (December 2016).

Field Survey

On September 15, 2017, a pedestrian survey of portions of the APE was completed by a qualified archaeologist. The survey consisted of 11.3 acres. Areas of exposed ground that could be accessed, even if vegetated, were surveyed by walking linear transects separated by seven to ten meters (23 ft to 33 ft) over larger areas and opportunistically over smaller areas. Inaccessible areas were visually inspected from a distance, when possible. Special attention was given to areas where exposed sediment, cut slopes, or rodent burrow backdirt was visible. Additional survey effort was made in areas outside the APE if sites were recorded near the APE. This was done to verify that resources did not extend near or into the APE. Areas within the APE that were not surveyed include existing roadway and concrete culverts.

Additionally, on September 12, 2016, and March 21, 2018, a pedestrian survey was completed of portions of the APE related to Component 2 of the Build Alternative. The survey area for this Component 2 portion was a 2.80-acre area encompassed entirely by the larger 6.31-acre APE of the Build Alternative. The same survey methods described above were applied, including the use of linear transects of seven to ten meters (23 ft to 33 ft) where possible.

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 June 2, 2017, to conduct a Sacred Lands File (SLF) search for the project APE and to request a CEQA Tribal Consultation List under AB 52. The NAHC responded on June 2, 2017, stating that the SLF was conducted with negative results for the presence of Native American cultural resources in the project APE. However, the NAHC recommended that eight Native American individuals representing the Gabrielino and Juaneño groups be contacted for information regarding cultural resources that could be affected by the project.

The eight Native American contacts were notified of the project in letters sent by Caltrans on July 31, 2017. The following Native American contacts were notified:

- Andrew Salas, Chairperson, Gabrieleno Band of Mission Indians–Kizh Nation
- Anthony Morales, Chairperson, Gabrieleno/Tongva San Gabriel Band of Mission Indians
- Sandonne Goad, Chairperson, Gabrielino/Tongva Nation
- Robert F. Dorame, Chairperson, Gabrielino Tongva Indians of California Tribal Council
- Linda Candelaria, Co-Chairperson, Gabrielino-Tongva Tribe
- Sonia Johnston, Chairperson, Juaneño Band of Mission Indians
- Matias Belardes, Chairperson, Juaneño Band of Mission Indians Acjachemen Nation–Belardes
- Teresa Romero, Chairperson, Juaneño Band of Mission Indians Acjachemen Nation–Romero

One response (from Andrew Salas, Gabrieleno Band of Mission Indians–Kizh Nation) was received as a result of the initial project notification letter. On May 14, 2018, Mr. Salas and Matt Teutimez met with Caltrans and the consulting archaeologist for a field meeting. Ultimately, Mr. Salas and Mr. Teutimez were relieved that no rockshelters or caves would be impacted by the project. The seven other individuals listed on the NAHC consultation list received follow-up communication attempts via email or phone. As a result, Joyce Perry, Tribal Manager for the Juaneño Band of Mission Indians Acjachemen Nation–Belardes, requested archaeological and Native American monitoring for utility vault work and any other excavation deeper than four ft. Additionally, Anthony Morales, Gabrieleno/ Tongva San Gabriel Band of Mission Indians, requested that his group be notified of any cultural discoveries during project work. No other responses were received.

Further Native American consultation was conducted in association with the Component 2 HPSR and SHPSR. This included an NAHC SLF search and AB52 Consultation List requested in October 2016, and subsequent letters sent to the Native American contacts listed, as well as an updated search on March 22, 2018, with project outreach letters dated March 29, 2018, sent to various tribal contacts. Chapter 4, Comments and Coordination, offers detailed information regarding Native American consultation.

2.6.2.2 Results

Archaeological Results

The SCCIC record search identified 30 cultural resource studies covering the current APE and an additional 39 studies that were conducted within one mile of the APE.

Nearly half of the previous studies within the APE were surveys, and the APE has been completely surveyed several times.

Previous cultural resource work in the area has resulted in recording 37 cultural resources within a one-mile radius of the current project, two of which are depicted within the APE. The two resources recorded within the APE—P-30-315 and P-30-177470—are described below. The remaining 35 resources consist of prehistoric (27), historic (6), and a combination of prehistoric/historic (2) resources. The majority of the sites consist of prehistoric habitation and lithic workshop sites. There is an abundance of Miocene Topanga Formation sandstone outcrops near the southern portion of the APE and outcropping Eocene Sespe Formation sandstone near the northern portion of the APE. Concavities have developed in some of the outcrops and some of the larger concavities were used prehistorically as rockshelters. For this reason, many of the sites in the canyon are associated with the sandstone outcrops.

P-30-315 (CA-ORA-315)

This resource was originally recorded in 1966 and described as a “boulder with a deep mortar hole” with “small caves near site.” A 1976 update to the site proposed that the site was either destroyed by a Laguna Canyon rock music festival, or that the hole might have been natural in origin and erroneously mistaken for a mortar. The site was not relocated during site surveys.

P-30-177470 (Laguna Canyon Road)

This resource is Laguna Canyon Road. Although the SCCIC depicts the site within the current APE, the site form states specifically that the segment of Laguna Canyon Road recorded on the form is located between the Laguna Canyon Bowl and the Laguna Canyon College of Arts and Design at 2222 Laguna Canyon Road. This segment of State Route 133 (SR-133) is one mile in length and is located about 1.4 miles south of the current APE. It was evaluated and determined ineligible for both the NRHP and the CRHR in 2016. A 2016 update for this segment of road (P-30-177470) states that this road does not retain any of its historic characteristics, although it did make a significant contribution to the development of Laguna Beach during the period 1888–1927, as it provided the only access to the town prior to the completion of Coast Highway. For the SR-133 (Component 2) study, the segment of Laguna Canyon Road between Post Mile (PM) 3.1 and PM 3.6 (between Phillips Street and 1,200 ft north of El Toro Road) within the current APE, was evaluated and determined not eligible for the NRHP, CRHR, or as a California Historical Landmark. SHPO concurred with this determination on January 19, 2017.

The segment of Laguna Canyon Road under evaluation extends from PM 0.0 to PM R7.8, a distance of 7.8 miles from the intersection of Laguna Canyon Road/Broadway with Pacific Coast Highway in Laguna Beach to the intersection of Laguna Canyon Road with Pavona in Irvine, where Laguna Canyon Road becomes the Laguna Beach Freeway. This segment exhibits many similar characteristics as the previous segment originally recorded in 2013 and evaluated in 2016, and the site update form recommends Laguna Canyon Road from PM 0.0 to PM R7.8 as not eligible for the NRHP or the CRHR. Additionally, it is not recommended for designation as a California Historical Landmark. SHPO concurred with this determination on July 24, 2018.

Built Environment Results

No built environment resources (other than Laguna Canyon Road) were identified within the APE during archival research or field surveys. No bridges listed on the Caltrans Historic Bridge Inventory are within the APE. Other research into built environment resources within the APE, including a review of historic maps and aerial photographs, also returned negative results, as all current built elements within the APE appear to be of modern origin.

2.6.3 Environmental Consequences

2.6.3.1 Temporary Impacts

Alternative 1 (Build Alternative)

Construction of the Build Alternative 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 Alternative on cultural resources are discussed below in Section 2.6.3.2.

Alternative 2 (No Build Alternative)

The No Build Alternative would not include construction of the Build Alternative and, therefore, would not result in temporary effects to cultural resources. The existing operation of SR-133 would continue under the No Build Alternative.

2.6.3.2 Permanent Impacts

Alternative 1 (Build Alternative)

The Build Alternative would require ground disturbance and modification of existing roadway structures. P-30-315 could not be relocated and may be an erroneous site. The SHPO has concurred with eligibility determinations for Laguna Canyon Road (P-30-177470) from Laguna Canyon Road between Phillips Street and 1,200 ft north

of El Toro Road on January 19, 2017. Caltrans determined that the entirety of Laguna Canyon Road (P-30-177470) from PM 0.0 to PM R7.8 (from intersection of Broadway with Pacific Coast Highway (SR-1) in Laguna Beach to Pavona in Irvine) is not eligible for inclusion in the NRHP; and SHPO concurrence on this segment was received on July 24, 2018.

There are no historic properties within the project APE that are eligible for inclusion in the NRHP. Based on the findings of the SHPSR for EA 0N0600/EA 0Q3600 (September 2018), the HPSR for EA 0Q3600 (May 2018), the SHPSR for EA 0N0600 (May 2018) and the HPSR for EA 0N0600 (December 2016), and pursuant to the Section 106 PA, the project Build Alternative would not affect historic properties per 36 CFR 800.4. Overall, a finding of No Historic Properties Affected is appropriate for the proposed project as a whole. Caltrans submitted the EA 0Q3600 HPSR and ASR to SHPO for their review and concurrence. SHPO concurred with this determination on July 24, 2018. Additionally, Caltrans submitted the EA 0N0600 HPSR and ASR to SHPO for review, and SHPO concurred with the findings on January 19, 2017.

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

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 **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.

Measure CUL-3 allows for monitoring during construction given the CEQA measure identified within the County of Orange Initial Study/Mitigated Negative Declaration (IS/MND) completed in 2006 and the 2018 Addendum for the *Laguna Canyon Road Improvement Project* that includes Components 3 and 4.

CUL-3 **Construction Monitoring.** Caltrans will incorporate the County CEQA measure and Archaeological Monitoring and Native American Monitoring (Juaneno and Gabrieleno) will be conducted for all ground-disturbing activities and an Archaeological Monitoring Area (AMA) will be delineated on project plans during the Plans, Specifications, and Estimates (PS&E) phase and incorporated into the final construction contract. A final Archaeological Monitoring Report would be required after construction is completed to document the monitoring efforts and any resources identified.

Alternative 2 (No Build Alternative)

The No Build Alternative would not include construction of the Build Alternative and, therefore, would not result in temporary effects to cultural resources that are considered permanent. The existing operation of SR-133 would continue under the No Build Alternative.

2.6.4 Avoidance, Minimization, and/or Mitigation Measures

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