

## **2.6 Tribal Cultural Resources**

An Archaeological Inventory and Assessment was prepared for the Proposed Project to determine the potential for significant impacts to Tribal Cultural Resources (TCRs) as a result of Project development (HELIX 2022a**4b**). The report was prepared in conformance with the County Guidelines for Determining Significance and Report Format and Content Requirements, Cultural Resources: Archaeological and Historical Resources (2007a). The results of the technical study are presented below and included as Appendices D to this EIR. Confidential records and maps are on file at the County and have been submitted to the SCIC.

### **2.6.1 Existing Conditions**

Riparian forest, southern willow scrub, coast live oak, and freshwater marsh are present on site and in the surrounding area, along with other vegetation communities. These vegetation communities, as well as others, were historically used by Native American populations for a broad range of uses, including food, clothing, tools, décor, and ceremonial purposes. The vegetation also supported many of the animals living within these communities, which were then also used by Native American populations as sources of food, leather, and bone.

The Project area lies within the floodplain of the Sweetwater River, which flows in a northeast-to-southwest direction through the center of the site. Several habitation and village areas have been documented both upriver and downriver from the Project site, suggesting that the Project area was used prehistorically as a travel route along the Sweetwater River corridor and as a resource processing and gathering area.

The presence and significance of existing TCRs within the boundaries of the Proposed Project were determined based on a review of institutional records, Native American outreach and consultation, a field survey that involved Native American monitors, and archaeological testing. To date, no TCRs have been identified within the Project area that currently serve religious or other community practices.

#### **2.6.1.1 Methodology**

This section presents the methods used in the site assessment and Native American participation to evaluate TCRs within the Project site and surrounding area. The presence and significance of existing TCRs associated with the Proposed Project were determined using the following methodologies: a review of previous studies of the Project site and a records search conducted at the SCIC, field surveys of the Project site and archaeological testing, a Sacred Lands File Search, and Native American outreach. The evaluation of TCRs is in conformance with PRC Section 210823.32 and the CEQA Guidelines. Statutory requirements of CEQA (Section 15064.5) were followed in evaluating the significance of TCRs. Pursuant to Section 86.605(d) of the County RPO, and as described in further detail in Section 2.2.2.5, *Local Policies, Ordinances, and Adopted Plans*, under *County RPO Wetlands (Guideline 27)*, and in Section 2.3.1.2, *Regulatory Setting*, under *Resource Protection Ordinance*, the Project would be exempt from RPO requirements. The Sacred Lands File Search and Native American outreach are described in detail below. Summaries related to the records search, field survey, and testing are also provided. Please refer to Section 2.3, *Cultural Resources*, for additional detail related to the records search, field survey, and testing.

## Records Search Results

The records search indicated that five previously identified sites have been mapped within the Project area; those sites are CA-SDI-4765 (P-37-004765), CA-SDI-5468 (P-37-005468), CA-SDI-14767 (P-37-016257), CA-SDI-17943 (P-37-027624), and P-37-027625. Additional research found that site CA-SDI-5468 (P-37-005468) had been inaccurately mapped in the records, and was actually situated adjacent to the Project site, not within it. Of the four remaining sites that the records indicated were present within the Project site, three of the sites, CA-SDI-4765 (P-37-004765), CA-SDI-17943 (P-37-027624), and P-37-027625, are prehistoric resources.

## Field Survey and Testing

In August 2018, HELIX archaeological field director Julie Roy, HELIX archaeologists Amber Parron and Sheila Adolph, and Kumeyaay Native American monitor Justin Linton of Red Tail Environmental surveyed the Project property for cultural resources. During the field survey, of the four sites that had been recorded as being located within the Project area, resource CA-SDI-17943 (P-37-027624) was the only one that was relocated and was still intact. In addition to site CA-SDI-17943 (P-37-027624), two sites containing artifact scatters were discovered within the Project area: site CA-SDI-22864 (P-37-038837) and CA-SDI-22865 (P-37-038838). The three sites, which consist of sparse lithic and shell scatters with limited material, were subjected to a testing program. It was determined that all three sites have poor integrity due to the consistent construction and maintenance of the golf course over the last 50 years.

## Native American Consultation

The NAHC was contacted on August 3, 2018 for a Sacred Lands File search and a list of Native American contacts. A response dated August 6, 2018 was received from the NAHC indicating that Native American cultural sites are present within the Project area. The commission recommended contacting the Viejas Band of Kumeyaay Indians (Viejas), Kumeyaay Cultural Repatriation Committee (KCRC), Ewiiapaayp Band of Kumeyaay Indians (Ewiiapaayp), Barona Band of Mission Indians (Barona), and Kwaaymii Laguna Band of Mission Indians (Kwaaymii). Phone calls were made to these entities in November 2018. Additional contact to tribes and organizations identified by the NAHC regarding the Project was made by letter on December 3, 2018. Responses were received from the contacted tribes identifying that the Proposed Project is in a highly sensitive area for cultural resources and concerns for the type of project and potential impacts to cultural resources; requesting the presence of a Kumeyaay cultural monitor during ground disturbing activities, a site visit, a copy of the cultural study and site forms; notification of inadvertent discoveries; and deferring to tribes in closer proximity to the Proposed Project.

County staff contacted the NAHC for an updated Sacred Lands File search and list of tribal contacts on January 7, 2019. Five tribal groups/organizations (Ewiiapaayp, Inaja, La Posta, San Pasqual, and KCRC) were contacted on February 19, 2019 inquiring whether they had any information related to Sacred Lands. No responses were received from these groups.

On January 8, 2019, the County initiated AB 52 consultation with seven tribes (Barona, Campo, Jamul, Kwaaymii, Santa Ysabel, Sycuan, and Viejas). Barona, Campo, Jamul, Santa Ysabel, Sycuan, and Viejas requested AB 52 consultation. On February 19, 2019, AB 52 consultation was

initiated with the Manzanita Band of Kumeyaay Nation and no response was received. Tribal consultation under AB 52 has been ongoing and has occurred since January 2019 with all the tribes that have requested consultation. Field trips with consulting tribes to the Project site were conducted on April 11, 2019 and April 16, 2019.

A Kumeyaay Native American monitor from Red Tail Environmental participated in the field survey in August 2018 and during the testing program conducted in November 2018.

Although the Sacred Lands File search indicated that Native American cultural sites are present in the Project area, no specific information has been obtained through Native American outreach, consultation, or in communication with the Native American monitors during fieldwork that the archaeological sites within the Project area are culturally or spiritually significant. To date, no TCRs have been identified that currently serve religious or other community practices are known to exist within the Project area.

#### **2.6.1.2 Regulatory Setting**

A state regulation specific to TCRs and relevant to this analysis is described below. Additional federal, state, and local regulations relevant to this analysis, including the National Historic Preservation Act; National Register of Historic Places; CEQA Guidelines, California Register of Historical Resources; County's General Plan; County's Grading, Clearing, and Watercourses Ordinance; County's Resource Protection Ordinance; and County's Local Register of Historical Resources, are discussed in Section 2.3, *Cultural Resources*.

##### State

##### California Assembly Bill 52

California State Assembly Bill (AB) 52 revised PRC Section 21074 to include TCRs as an area of CEQA environmental impact analysis. Further, per new PRC Section 21080.3, a CEQA lead agency must consult with any California Native American tribe that requests consultation and that is traditionally and culturally affiliated with the geographic area of a proposed project to identify resources of cultural or spiritual value to the tribe, even if such resources are already eligible as historical resources as a result of cultural resources studies.

#### **2.6.2 Analysis of Project Effects and Determination as to Significance**

The following discussion evaluates potential impacts to TCRs resulting from the Proposed Project.

##### **2.6.2.1 Tribal Cultural Resources**

##### Guideline for the Determination of Significance

The Proposed Project would have a potentially significant environmental impact if it would:

1. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as a site, feature, place, [or] 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:

- a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k), or
- b. 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 PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

#### Guideline Source

This guideline is derived from CEQA Guidelines Appendix G. A project that would have a substantial adverse impact (direct, indirect, cumulative) on the significance of tribal cultural resources as defined by this guideline would be considered to result in a significant impact.

#### Analysis

As indicated by the Sacred Lands File search, Native American cultural sites have been identified within the Project area. No information has been obtained through Native American consultation or communication with Native American monitors during fieldwork that any of the archaeological sites previously identified within the Project area are culturally or spiritually significant. No TCRs that currently serve religious or other community practices are known to exist within the Project area. No artifacts or remains were identified or recovered during the archaeological evaluation that could be reasonably associated with such practices. Prehistoric artifactual material consisted of common flaked stone and ecofacts, and those in very limited quantities. All areas of past cultural use are of cultural importance to the Native American community, even if they do not meet the significance criteria for archaeological resources. Additionally, the Project site has been identified by several of the tribes that are consulting to be within a culturally significant area. Based on these considerations, implementation of proposed mining and reclamation activities has the potential to impact buried TCRs, particularly within the alluvial soils of the Sweetwater floodplain. **Impacts to buried TCRs are identified as potentially significant (Impact TCR-1).**

#### 2.6.3 Cumulative Impact Analysis

No on-site significant TCRs were located. There is, however, an identified potential for on-site impacts to subsurface resources or features that are currently not recorded, which could result in a cumulatively considerable impact.

Prehistoric settlement patterns can be very broad; therefore, it is prudent to consider a large study area when evaluating cumulative impacts. The TCRs cumulative study area includes the Sweetwater River valley surrounding the Project site and was selected because the similarity in types of natural resources, topography, and patterns of prehistoric land use suggests that similar types of resources would occur within the area.

The cumulative projects in the vicinity of the Proposed Project are listed in Table 1-11 in Chapter 1.0 and are shown on Figure 1-15. Projects within the cumulative study area include primarily residential and commercial development projects, as well as two school projects and a church. Given the confidential nature of resources, specific details on the resources that might occur within the cumulative project sites are not known; however, it is assumed that projects in the study area have the potential to impact both known and unknown TCRs that are or would be considered significant resources because of their potential to provide important information about scientific research questions, as well as the presence of culturally significant elements, such as pictographs, petroglyphs, or human remains. Impacts to these sites would contribute to a regionally significant cumulative loss of non-renewable TCRs.

Cumulative projects located in the region would potentially result in the destruction or loss of TCRs due to ground-disturbing activities, such as grading and excavation during construction. Any projects with the potential to destroy or damage tribal cultural resources would be regulated by applicable federal, state and local regulations, including the Native American Graves Protection and Repatriation Act (NAGPRA), Cal NAGPRA, National Historic Preservation Act Section 106, SB 18 and AB 52, PRC Section 5079, and CEQA Section 21084.3. Therefore, cumulative projects would not result in a potentially significant cumulative impact.

As noted above, no significant impacts to TCRs are currently anticipated to result from implementation of the Proposed Project. If significant sites were to be located during Project construction and mining operations, direct impacts to TCRs would be reduced to less than significant through mitigation measures that include monitoring of ground-disturbing activity, avoidance of unique cultural resources (if feasible), and protocols for the treatment of unanticipated discoveries. Because the Proposed Project and the projects identified within the cumulative impact study area would be mitigated through avoidance/preservation, data recovery, and curation/repatriation of artifactual materials, adequate mitigation would be implemented for protection of TCRs. This results in the Project contribution to the significant cumulative impact being less than considerable, and therefore **less than significant**.

#### **2.6.4 Significance of Impacts Prior to Mitigation**

The following potentially significant impacts would occur with Project implementation without mitigation:

**Impact TCR-1** There is potential for significant direct impacts related to undiscovered buried TCRs on the Project site during the Project's ground-disturbing mining activities. Impacts to these resources would represent significant environmental effects.

#### **2.6.5 Mitigation**

Impact TCR-1 would be reduced to less than significant with the implementation of mitigation measures M-CR-1, M-CR-2, and M-CR-3 as described in Section 2.3.

### **2.6.6 Conclusion**

The Proposed Project would potentially result in significant impacts if undiscovered buried TCRs are uncovered or unearthed during the Project's ground-disturbing mining activities (Impact TCR-1). With implementation of the above mitigation, impacts to potential buried TCRs would be **less than significant**, thereby also ensuring compliance with CEQA and County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements, Cultural Resources: Archaeological and Historical Resources.