

## 2.3 Cultural Resources

This section of the Environmental Impact Report (EIR) analyzes potential impacts on cultural resources from the Starlight Solar project (project). The analysis is based on the review of existing resources, technical data, and applicable laws, regulations, and guidelines, as well as the following technical reports, which were prepared for the project in accordance with *County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources* (County of San Diego 2007a), *County of San Diego Report Format and Content Requirements, Cultural Resources: Archaeological and Historic Resources* (County of San Diego 2007b), and *County of San Diego Environmental Impact Report Format and General Content Requirements* (County of San Diego 2006):

- *Cultural Resources Survey and Inventory for the Starlight Solar Project, San Diego County, California* (SWCA Environmental Consultants [SWCA] 2024) (Appendix E.1 of this EIR)
- *Historical Resource Technical Report, Starlight Solar Project* (Urbana Preservation & Planning LLC [Urbana] 2024) (Appendix E.2 of this EIR)

Comments received in response to the Notice of Preparation (NOP) include concerns regarding the proper consideration and evaluation of historical and archaeological resources. These concerns are addressed in this section of the EIR and within the cultural resources survey and inventory report (see Appendix E.1). Copies of the NOP and comment letters received in response to the NOP are included in Appendix A, NOP, Initial Study, and Public Comments, of this EIR.

### 2.3.1 Existing Conditions

Information in this section is taken from the cultural resources survey and inventory report (SWCA 2024; see Appendix E.1) unless otherwise noted.

#### 2.3.1.1 Natural Setting

The project site is in the Peninsular Ranges geomorphic province, which extends approximately 900 miles from the Transverse Ranges and the Los Angeles Basin south to the southern tip of Baja California. Northwest-trending mountain ranges and valleys distinguish the Peninsular Ranges by following faults branching from the San Andreas Fault. The Peninsular Ranges are the remnants of large igneous bodies emplaced approximately 180 million years ago. Rugged mountainous terrain on the east of the province consists mostly of Mesozoic igneous and metamorphic rocks. The project site is located within the topographically dynamic eastern portion of the Peninsular Range Geomorphic Province. Specifically, the site is in an area underlain by early and late Cretaceous tonalite of the La Posta Formation.

Three soil series are mapped within the project site. The La Posta series, loamy coarse or rocky loamy coarse sands, with 5 to 30 percent slopes which are eroded to severely eroded, covers the majority of the project area. La Posta soils are moderately deep, well-drained soils that form in material weathered from basic igneous rocks and typically are located on mountainous uplands. Mottsville loamy coarse sand, with shallower 2 to 9 percent slopes, is the second most common soil series. Mottsville loamy coarse sand is a very deep, excessively drained soil that forms in alluvium derived from granitic rocks. Comparatively small areas of Tollhouse series are mapped in the project area. Tollhouse series is a rocky coarse sandy loam with 5 to 30 percent slopes and eroded. Like the La Posta soil series, Tollhouse soils form in material weathered from granite rocks, but differ in that they are shallower and somewhat or excessively drained.

The terrain in the area is characterized by chaparral-covered hills, with large granitic boulder and bedrock outcroppings, interrupted by small valleys, dry washes, or arroyos. The elevation of the area ranges between approximately 3,300 and 3,600 feet above mean sea level, with the highest elevation located toward the

northwest, and the lowest to the southeast. Several small peaks are present in the area, which include Rattlesnake Mountain and Boundary Peak to the south and Old George, Goat, and Music Mountains to the east. Boundary Peak, located south near the international border, adjacent to the Jewel Valley, rises a little over 3,900 feet.

Nearby water sources include Boundary Creek and Walker Creek, as well as several small springs. Climatically, the area is characterized as arid, with a mean annual rainfall averaging about 15 inches. Due to the scarcity of water in the region, most streams are ephemeral, and permanent surface water flow is rare. Winter temperatures are as low as 32 degrees Fahrenheit (°F), with summer temperatures exceeding 100°F.

The project site is located near the Tecate Divide in a transitional ecoregion between the peninsular mountains and the Colorado Desert to the east. Vegetation consists of mountain chaparral, characterized by the dominant chaparral vegetation of the lowlands and deserts but lacking the hardwood and conifer woodland of some of the mountain regions around it. Common local fauna includes coyotes, cottontail and black-tailed jackrabbits, deer mouse, and song sparrow, as well as a number of other species of bird, mammals, and reptiles.

### **2.3.1.2 Cultural Setting**

#### **Prehistoric Period**

Archaeologists have defined five broad cultural traditions for the upland areas of San Diego County (Table 2.3-1). The earliest is the Paleoindian; these groups had small populations and likely were highly mobile. Scant evidence of occupation of San Diego County by Paleonindian people has been found. The San Dieguito complex is likely the first substantial population of Southern California. While a degree of mobility continued, San Dieguito subsistence strategies focused primarily on coastal shellfish, mountain and inland game, and plant foods. Artifact assemblages include manos and metates, and the evidence of plant processing differentiates this period from the earlier Paleoindian period. Stemmed (e.g., Lake Mojave or Silver Lake) projectile points, crescents, an abundance of scrapers, a small number of milling tools, and the general use of volcanic lithic materials for the manufacture of flaked stone tools mark the San Dieguito complex.

The San Dieguito complex gave way to the Millingstone Horizon (MSH) as formation of larger settlements increased, long-distance trade networks intensified, and art and personal aesthetics such shell and stone pendants became more elaborate, along with an increasing variety of shell bead types. MSH is thought to represent an ecological adaptation to collecting a wider variety of resources. Ground stone implements for the processing of small seeds, namely, metates and slabs paired with manos and mullers, dominated MSH collections. Mortar and pestle, associated with processing acorns, are present, but not common. Hammer stones, chopper tools, various scrapers including scraper planes, and expedient flake cutting tools are abundant.

The Intermediate and Late Prehistoric traditions mark a proliferation of cultures in Southern California. Overall, the Late Holocene regional record is characterized by larger populations with high densities which inhabited larger and more permanent settlements than earlier periods. Artifacts and cultural markers by the Late Prehistoric include pottery, a proliferation of acorn-processing sites in the uplands, the presence of obsidian from Obsidian Butte, the Imperial Valley source, and interment by cremation. The bow and arrow rather than the spear thrower and dart for hunting is inferred from the high densities of small, finely crafted projectile points. Mortar and pestle use expanded and was critical to exploitation of the acorn as a food resource. Since large quantities of acorns were available, which could be stored for long periods of time, the impact on local populations was significant.

**Table 2.3-1. Precontact Cultural Chronology for Southern California**

Years Before Present	Calendar Age	Geologic Period	California Prehistory Periods	Horizons/Traditions
13,000 BP	11,000 BC	Terminal Pleistocene	Paleoindian ca. 13,000–8000 BP	Paleoindian
10,000 BP	8000 BC	Early Holocene	ca. 11,000–6000 BC	Horizon I / San Dieguito
7000 BP	5000 BC	Middle Holocene	Archaic Period ca. 8000–1500 BP ca. 6000 BC to AD 500	Horizon II / MSH
3500 BP	1500 BC	Late Holocene		Horizon III / Intermediate Horizon
1500 BP	AD 500		Emergent Period ca. 1,500 BP to Historic Contact ca. AD 500 to Historic Contact	Horizon IV / Late Prehistoric
Historic Contact				

### Ethnographic Period

The Native American people in the project area at the time of European contact were the Kumeyaay, specifically the Tipai, who spoke a language broadly designated Kumeyaay, which belongs to the Yuman language family. Traditional Kumeyaay territory stretched from the San Diego coast to just beyond the eastern edge of the Salton Basin. The Kumeyaay were divided into exogamous patrilineal clans. The Tipai were 13 clans which had names based on plant, animal, or natural items. Each band or clan was autonomous and had a clan chief who saw to intra- and inter-clan affairs. However, clan membership was fluid, with individuals having affiliation with multiple communities and multiple clans sometimes sharing the same territory. The Tipai managed the landscape, cultivating native grains, burning stubbles, and casting seeds well into the 1880s in inland mountain locations far removed from the mission establishments near the coast. The indigenous coastal groups were heavily impacted by the Spanish conquest and were subject to control under the Spanish mission system.

The eastern Kumeyaay were not recognized by the federal government and were left on their own to deal with Euro-American encroachment of their homeland. Eventually, the Bureau of Indian Affairs created reservations for the eastern Kumeyaay during the early part of the twentieth century. Today 13 federally recognized bands form the Kumeyaay Nation consisting of Barona, Campo, Capitan Grande (an unoccupied reservation that is part of the Barona Band), Ewiiapaayp, Inaja Cosmit, Jamul, La Posta, Manzanita, Mesa Grande, San Pasqual, Santa Ysabel, Sycuan, and Viejas. There are also numerous Kumeyaay tribal organizations that are not federally recognized but are recognized by the State of California.

### Historic Period

The post-contact history of California is divided into three periods: the Spanish (1769–1822), Mexican (1822–1848), and American (1848–present) periods. The Spanish period began with the establishment of a mission and presidio (fort) in San Diego in 1769. Twenty-one missions were constructed in California between 1769 and 1822. The Mexican period began with independence from Spain and ended with the signing of the Treaty of Guadalupe Hidalgo in 1848. The American period began with the end of the Mexican–American War and included California becoming a territory of the United States. Please see the historic resource technical report (Urbana 2024; see Appendix E.2) for a detailed discussion of the history of the project site.

### **2.3.1.3 Methodology**

The presence and significance of existing cultural resources associated with the project site were determined using the methodologies outlined below. Methodologies included a review of institutional records and reports for the project site and immediate vicinity; coordination with Native American tribes and individuals; a field survey; and site recording. Site record forms (including updates) were prepared and will be submitted to the South Coastal Information Center (SCIC).

#### **Archival Research Methods**

##### **Archaeology**

SWCA reviewed available online historical U.S. Geological Survey topographic maps and aerial imagery of the project site (SWCA 2024; see Appendix E.1). Historical topographic maps show most of the property as undeveloped and unused from the mid-1900s. The earliest topographic map available for the project site is the 1939 Campo, California, 15-minute quadrangle. The 1950 San Diego 7.5 × 15-foot map displays an increase in private ranch lands around the general project area. The 1959 Tierra del Sol 7.5-minute quadrangle shows undeveloped land. The 1975 Live Oak Springs 7.5-minute quadrangle shows portions of the project site being used as agricultural farmland. The 1997 Live Oak Springs 7.5-minute quadrangle illustrates that no new development occurred.

Aerial photographs from 1953 show the north end of the project site as undeveloped. Later imagery from 1984 shows low levels of development and portions of the project site potentially used for grazing or agriculture. The most current aerial photograph from December 2023 shows the project site unchanged from these earlier aerial photographs. Most of the project site is undeveloped.

References on archaeology and ethnography were obtained from SWCA's in-house library and archives.

##### **Built Environment**

Urbana conducted research into built environment resources. Archival research included a review of relevant records and reference resources on file at the San Diego History Center and regional libraries at San Diego State University and the University of California at San Diego. Contextual and property-specific historical research included San Diego regional newspapers from the California Digital Newspaper Collection at the University of California Riverside and via Genealogy Bank. References and narratives on Boulevard and San Diego County were obtained from Urbana's in-house library.

#### **Field Methods**

##### **Archaeological Inventory**

SWCA conducted field surveys of the project site. The intensive-level survey consisted of systematic surface inspection of all areas with transects walked, where possible, at 15-meter (m) intervals or less to ensure that any surface-exposed artifacts and sites could be identified. SWCA examined the ground surface for the presence of prehistoric artifacts (e.g., flaked stone tools, tool-making debris, or stone milling tools); historic-era artifacts (e.g., metal, glass, or ceramics); sediment discoloration that might indicate the presence of a cultural midden; roads and trails; and depressions and other features that might indicate the former presence of structures or buildings (e.g., post holes or foundations).

A reconnaissance-level survey was undertaken of any areas deemed inaccessible (e.g., steep slopes or thick vegetation); professional judgment was used to assess whether areas were safe for pedestrian survey. In areas that were inaccessible, the reconnaissance survey consisted of inspecting the area from a safe

distance, looking for indications that cultural resources were present. The project site was photographed using a digital camera, and resource data were recorded with a handheld tablet with a submeter-accurate GPS antenna using the Collector for ArcGIS application. Newly identified resources were documented on appropriate California Department of Parks and Recreation Series 523 forms, and all previously recorded resources were updated. All records will be filed with the SCIC. All field notes, photographs, and records related to the current study are on file at the SWCA San Diego, California, office. For the purposes of this project, a prehistoric archaeology site was defined as four or more artifacts within 30 m from one artifact to another, or a prehistoric archaeological feature with or without additional artifact or artifacts. Three or fewer prehistoric artifacts within the same distance were recorded as isolates. The same rules applied for historic archaeology sites except 10 or more artifacts were needed to define a site.

### **Built-Environment Inventory**

Urbana conducted a historic resources survey to observe and photograph historic-era resources within the study area to understand and identify historic-era built environment resources and to examine development patterns associated with the area and the surrounding environs.

### **Native American Correspondence and Participation**

SWCA contacted the Native American Heritage Commission (NAHC) to request a search of their Sacred Lands File on February 4, 2022. The NAHC responded on March 30, 2022, indicating a positive result of the Sacred Lands File. While a positive result does not necessarily indicate the presence of a sacred land within the project site, the NAHC recommended contacting the Ewiiapaayp Band of Kumeyaay Indians and the Manzanita Band of Kumeyaay Nation (Manzanita) for more information.

SWCA contacted 23 individuals via letters sent by certified mail on January 17, 2024. The letters provided basic project information and a request to notify the County of San Diego (County) within 30 days of receiving the letter should they wish to engage in government-to-government consultation pursuant to Public Resources Code (PRC) Sections 21080.3.1 and 21080.3.2. Follow-up phone calls to the 23 individuals were placed on February 5, 2024, and voicemails were left with contact information if the tribes wanted to reach out. Responses were received from seven of the 23 tribal contacts. In summary, six of the seven responding tribes, including the Ewiiapaayp Band of Kumeyaay Indians, Jamul Indian Village (Jamul), Quechan Tribe of the Fort Yuma Reservation, San Pasqual Band of Diegueño Mission Indians (San Pasqual), Sycuan Band of the Kumeyaay Nation (Sycuan), and Viejas Band of Kumeyaay Indians (Viejas), stated they wished to defer consultation to tribes nearer to the project site. Sycuan also requested a copy of the cultural and tribal cultural resources technical study. The Campo Band of Diegueño Mission Indians (Campo) requested consultation with the County. SWCA also conducted information gathering through subconsultant Loveless and Linton, who provided Kumeyaay Cultural Committee feedback on the initial intensive survey.

SWCA obtained no information through Native American outreach or communication with the Native American monitors during fieldwork that any of the sites are culturally significant, beyond their recognition as prehistoric, Native American-affiliated archaeological sites. In their capacity as the lead agency under the California Environmental Quality Act (CEQA), the County maintains a list of California Native American tribes that requested to receive notifications pursuant to PRC Sections 21080.3.1 and 21080.3.2, as amended by Assembly Bill (AB) 52. The AB 52 list includes representatives from the following 13 tribal organizations: Campo, Ewiiapaayp Band of Kumeyaay Indians, Iipay Nation of Santa Ysabel (Santa Ysabel), Inaja-Cosmit Band of Indians, Jamul, Kwaaymii Laguna Band of Mission Indians (Kwaaymii), La Posta Band of Diegueno Mission Indians, Manzanita, Mesa Grande Band of Diegueño Mission Indians, Quechan Tribe of the Fort Yuma Reservation, San Pasqual, Sycuan, and Viejas.

In addition, tribal outreach for government-to-government consultation (AB 52) was initiated by the County on February 15, 2023. Nine tribes (Barona, Campo, Jamul, Kwaaymii, Manzanita, San Pasqual, Santa Ysabel, Sycuan, and Viejas) were sent notices of the project. Four tribes (Campo, Jamul, San Pasqual, and Viejas) have requested formal government-to-government consultation. The County has met with Campo, Jamul, and San Pasqual. On February 5, 2024, Jamul concluded consultation with the County and have deferred to Campo. Finally, Campo provided tribal monitoring during pedestrian survey from September 11 through 29, 2023. SWCA provided Loveless and Linton preliminary survey results to be discussed with members of the Kumeyaay Cultural Committee. The cultural resources survey and inventory report (see Appendix E.1) includes a detailed summary of the outreach and tribal consultation efforts, along with copies of the notification letters and copies of original correspondences.

As discussed in greater detail in Section 2.6, Tribal Cultural Resources, no known tribal cultural resources as defined in CEQA are known to exist within the project site, including those that currently serve religious or other community practices. During the survey, no artifacts or remains were identified or recovered that could be reasonably associated with such practices. Further, no human remains were identified.

### **2.3.1.4 Record Search Results**

Results of the cultural resources records search at the SCIC indicate that 58 cultural resource studies have been conducted in and within the project site and a 1-mile radius. Of these, 18 intersect some portion of the project site. In total, these studies document 210 previously recorded cultural resources within the project site and 1-mile radius, 12 of which are located within the project site. Of the 12 resources, six are archaeological sites and six are isolated occurrences of cultural materials (isolates).

### **2.3.1.5 Survey and Evaluation Results**

#### **Archaeological Survey and Evaluation Results**

The archaeological survey completed for the project identified 32 archaeological sites and 41 archaeological isolates. Six of the 32 archaeological sites were previously recorded—P-37-010476/P-37-034159, P-37-027350, P-37-032037, P-37-033279, P-37-033310, and P-37-033497/P-37-033502/P-37-033503—and 26 were newly recorded (P-37-040847 through P-37-040853; P-37-040854 through P-37-040855; P-37-040856 through P-37-040859; P-37-040860 through P-37-040872). The cultural resources survey and inventory report (see Appendix E.1) provides a description of the resources visited during the pedestrian survey.

Twenty one archaeological sites—P-37-010476/P-37-034159, P-37-027350, P-37-033310, P-37-033497/P-37-033502/P-37-033503, P-37-040847, P-37-040848, P-37-040850, P-37-040851, P-37-040857, P-37-040858, P-37-040859, P-37-040861, P-37-040862, P-37-040863, P-37-040864, P-37-040865, P-37-040866, P-37-040867, P-37-040869, P-37-040870, and P-37-040872—are recommended assumed eligible for listing in the California Register of Historical Resources (CRHR) and San Diego County Local Register of Historical Resources (County Register).

Nine resources—P-37-032037, P-37-033279, P-37-33501, P-37-37612, P-37-040853, P-37-040856, P-37-040860, P-37-040868, and P-37-040871—are recommended ineligible for listing in the CRHR and County Register. Most of these are surficial scatters of historic-era trash. P-37-033279 was previously evaluated through a Phase II testing and recommended ineligible for listing in the CRHR. SWCA concurs with the recommendation of ineligible based on the previous Phase II efforts (Daniels 2013). In the future, and at the request of the Campo Tribe, the artifacts will be removed from curation from the San Diego Archaeological Center (Tierra del Sol Project – Collection #657) to be reinterred within or near the location

of the recorded boundary for P-37-033279. Four sites (P-37-040849, P-37-040852, P-37-040854, P-37-040855) are outside the project site; therefore, they were not evaluated.

### **Built Environment Survey and Evaluation Results**

The built environment survey completed for the proposed project identified 20 historic-era built environment resources. Nineteen of the built environment resources consist of newly recorded unimproved roads greater than 45 years old. The final resource consists of a newly recorded segment of the San Diego & Arizona Railroad (P-37-025860). The pedestrian survey revealed that two previously recorded archaeological sites, P-37-033502 and P-37-033503, are overlapped by a continuous artifact scatter also associated with P-37-033497. All 19 unimproved roads were recommended ineligible under any of the established CRHR and County Register criteria and are not historical resources for the purposes of CEQA. The former San Diego & Arizona Railroad line (P-37-025860) was evaluated as a whole and was found ineligible for listing in the National Register of Historic Places (NRHP). The present evaluation concurs with the previous conclusions and finds it ineligible for the CRHR and County Register as well.

## **2.3.2 Regulatory Setting**

Cultural resources regulations that apply to the project site consist of CEQA (including modification from AB 52), provisions of the CRHR, portions of the Health and Safety Code and PRC pertaining to human remains, the County Resource Protection Ordinance (RPO), and the County Register. Within this framework, historic and archaeological districts and sites are assigned significance based on their exceptional value or quality in illustrating or interpreting the heritage of San Diego County in history, architecture, archaeology, engineering, and culture. Several criteria are used in demonstrating resource importance and are discussed below.

### **2.3.2.1 State**

#### **California Environmental Quality Act**

CEQA is legislation that requires a lead agency to evaluate whether a proposed project would have a significant adverse effect on the environment, including historical resources. The State CEQA Guidelines (Title 14 California Code of Regulations [CCR] Section 15064.5) govern implementation of CEQA. The guidelines pertaining to historical resources (Section 15064.5(b)(1)) state, “A substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.”

According to CEQA (Section 15064.5a), the term “historical resource” includes the following:

- 1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14 CCR. Section 4850 et seq.).
- 2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements of section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

- 3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code SS5024.1, Title 14, Section 4852) including the following:
  - A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
  - B) Is associated with the lives of persons important in our past;
  - C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
  - D) Has yielded, or may be likely to yield, information important in prehistory or history
- 4) The fact that a resource is not listed in, or determined eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resource Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code section 5020.1(j) or 5024.1.

According to CEQA (Section 15064.5(b)), a project with an effect that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment. CEQA defines a substantial adverse change as:

- 1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.
- 2) The significance of an historical resource is materially impaired when a project:
  - a) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources; or
  - b) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
  - c) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

Section 15064.5(c) of CEQA applies to effects on archaeological sites and contains the following additional provisions regarding archaeological sites:

- 1) When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subsection (a).

- 2) If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.
- 3) If an archaeological site does not meet the criteria defined in subsection (a), but does meet the definition of a unique archaeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.
- 4) If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

Sections 15064.5(d) and (e) contain additional provisions regarding human remains. Regarding Native American human remains, paragraph (d) provides:

- d) When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission. Action implementing such an agreement is exempt from:
  1. The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).
  2. The requirement of CEQA and the Coastal Act.

### California Register of Historical Resources

The CRHR is the state-maintained list of cultural resources found to be historically significant. The CRHR is maintained by the California Department of Parks and Recreation. A cultural resource must meet at least one of the following four major criteria to be eligible for inclusion on the list (PRC Section 5024.1(c)):

- 1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
- 2) Is associated with the lives of persons important in our past.
- 3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual or possesses high artistic values.
- 4) Has yielded, or may be likely to yield, information important in prehistory or history.

To be considered eligible for the CRHR, a historical resource should also possess integrity, which is defined as the ability of a historical resource to convey its significance. All cultural resources must be evaluated under the four criteria for CEQA.

CEQA requires the lead agency to consider whether a project will significantly affect unique archaeological resources that may be eligible for listing in the CRHR and to avoid these unique archaeological resources

when possible or mitigate any effects to less-than-significant levels (PRC Section 21083.2). As stated by CEQA, a unique archaeological resource means an archaeological artifact, object, or site that clearly demonstrates with a high probability that it meets, without merely adding to the current body of knowledge, any of the following criteria (PRC Section 21083.2(g)):

- 1) Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
- 2) Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- 3) Is directly associated with a scientifically recognized important prehistoric or historic event or person.

The State CEQA Guidelines (Section 15064.5) specify that a “substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired”. Material impairment occurs when a project alters in an adverse manner or demolishes “those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion” or eligibility for the NRHP, CRHR, or local register. In addition, pursuant to State CEQA Guidelines Section 15126.2, the “direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects.”

The following guidelines and requirements are of particular relevance to this study’s analysis of indirect impacts to historic resources. Pursuant to the State CEQA Guidelines (Section 15378), study of a project under CEQA requires consideration of “the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The State CEQA Guidelines Section 15064(d) further define direct and indirect impacts as follows:

- 1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project.
- 2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment.
- 3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project.

Lastly, California Administrative Code, Title 14, Section 4307 states that “no person shall remove, injure, deface or destroy any object of paleontological, archeological or historical interest or value.”

## Integrity

In addition to meeting these criteria, a property must retain historic integrity, which is defined in National Register Bulletin 15 as the “ability of a property to convey its significance”. To assess integrity, the National Park Service recognizes seven aspects or qualities that, considered together, define historic integrity. To retain integrity, a property must possess several, if not all, of these seven qualities, which are defined in the following manner in National Register Bulletin 15 (National Park Service 1995):

- **Location:** the place where the historic property was constructed or the place where the historic event occurred;

- **Design:** the combination of elements that create the form, plan, space, structure, and style of a property;
- **Setting:** the physical environment of a historic property;
- **Materials:** the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property;
- **Workmanship:** the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory;
- **Feeling:** a property's expression of the aesthetic or historic sense of a particular period of time; and/or
- **Association:** the direct link between an important historic event or person and a historic property.

### California Government Code

Sections 6254(r) and 6254.10 of the California Public Records Act were enacted to protect archaeological sites from unauthorized excavation, looting, or vandalism. Section 6254(r) explicitly authorizes public agencies to withhold information from the public relating to "Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission." Section 6254.10 specifically exempts from disclosure requests for "records that relate to archaeological site information and reports, maintained by, or in the possession of the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a Native American tribe and a state or local agency."

### California State Assembly Bill 52

California State AB 52 requires public agencies to consult with tribes during the CEQA process. As of 2015, CEQA established that "[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). To be considered a tribal cultural resource (TCR), a resource must be either listed, or determined to be eligible for listing, in the national, state, or local register of historic resources; or a resource that the lead agency chooses, in its discretion, to treat as a TCR.

To help determine whether a project may have such an effect, the lead agency must consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a proposed project. If a lead agency determines that a project may cause a substantial adverse change to TCRs, the lead agency must consider measures to mitigate that impact. PRC Section 21084.3 (b)(2) provides examples of mitigation measures that lead agencies may consider to avoid or minimize impacts to TCRs.

PRC Section 21074 defines TCRs as follows:

- 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.

- 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. 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.
  - a. 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.
  - b. 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).

The Governor’s Office of Land Use and Climate Innovation, formerly known as the Governor’s Office of Planning and Research, defines what constitutes *substantial evidence* as follows:

Evidence that may support such a finding could include elder testimony, oral history, tribal government archival information, testimony of a qualified archaeologist certified by the relevant tribe, testimony of an expert certified by the tribal government, official tribal government declarations or resolutions, formal statements from a certified Tribal Historic Preservation Officer, or historical/anthropological records. (Governor’s Office of Planning and Research 2017:5).

PRC Section 5097.5 states 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 such lands.” Violation of this section is a misdemeanor. As defined in this section, “public lands” means “lands owned by, or under the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof.”

### Native American Human Remains

Sites that may contain human remains important to Native Americans must be identified and treated in a sensitive manner, consistent with state law (i.e., Health and Safety Code Section 7050.5 and PRC Section 5097.98), as outlined below:

If potential human bone or human remains are encountered during project development, and in accordance with Health and Safety Code Section 7050.5, the county coroner must be notified. The coroner will then determine within 2 working days of being notified whether the remains are subject to his or her authority. If the coroner recognizes the remains to be Native American, he or she shall contact the NAHC by phone within 24 hours, in accordance with PRC Section 5097.98. The NAHC will then designate a Most Likely Descendant (MLD) with respect to the human remains. The MLD then has the opportunity to recommend to the property owner or the person responsible for the excavation work the means for treating or disposing, with appropriate dignity, the human remains and associated grave goods.

### **2.3.2.2 Local**

#### Conservation and Open Space Element of the San Diego County General Plan

The *San Diego County General Plan: A Plan for Growth, Conservation, and Sustainability* (General Plan) (County of San Diego 2011a), presents the County’s goals and policies for cultural resources in Chapter 5,

Conservation and Open Space Element (County of San Diego 2011b). Archaeological and historic resources, known collectively as cultural resources, are the tangible or intangible remains left by ancestral people who made and used them. Cultural resources, found throughout San Diego County, are irreplaceable reminders of the county's prehistoric and historic past that continues to have value for communities today. These resources can provide clues to prehistoric and historic human behaviors, and provide scientific, religious, and other valuable educational information about the cultural past. In addition, these resources such as sacred places and traditional cultural sites continue to influence and have value for San Diego County's living tribal people. The cultural environment encompasses both the built (post-1769) and the archaeological environments, which include both prehistoric and historic archaeological sites. Cultural resources are found throughout San Diego County and include not only physical evidence of the past such as Native American rockshelters and pictographs but the intangible evidence such as traditional cultural lands and sacred sites. Examples of historic cultural resources (the built environment) include homes, barns, bridges, fountains, and silos. In 2008, San Diego County had more than 23,000 recorded cultural resource sites and this number continues to grow.

County goals and policies for cultural resources are as follows (County of San Diego 2011b):

- **GOAL COS-7- Protection and Preservation of Archaeological Resources.** Protection and Preservation of the County's important archaeological resources for their cultural importance to local communities, as well as their research and educational potential.
  - **COS-7.1 Archaeological Protection.** Preserve important archaeological resources from loss or destruction and require development to include appropriate mitigation to protect the equality and integrity of these resources.
  - **COS-7.2 Open Space Easements.** Require development to avoid archeological resources whenever possible. If complete avoidance is not possible, require development to fully mitigate impacts to archaeological resources.
  - **COS-7.3 Archaeological Collections.** Require the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner.
  - **COS-7.4 Consultation with Affected Communities.** Require consultation with affected communities, including local tribes to determine the appropriate treatment of cultural resources.
  - **COS-7.5 Treatment of Human Remains.** Require human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains will be done in consultation with the Most Likely Descendant (MLD) and under the requirements of Federal, State and County Regulations.
  - **COS-7.6 Cultural Resource Data Management.** Coordinate with public agencies, tribes, and institutions in order to build and maintain a central database that includes a notation whether collections from each site are being curated, and if so, where, along with the nature and location of cultural resources throughout the County of San Diego.
- **GOAL COS-8 - Protection and Conservation of the Historical Built Environment.** Protection, conservation, use, and enjoyment of the County's important historic resources.
  - **COS-8.1 Preservation and Adaptive Reuse.** Encourage the preservation and/or adaptive reuse of historic sites, structures, and landscapes as a means of protecting important historic resources as part of the discretionary application process and encourage the preservation of historic structures identified during the ministerial application process.

## San Diego County Register of Historical Resources

The County maintains the County Register consistent with registers developed by the Office of Historic Preservation for listing resources to the CRHR but modified for local use in order to include a range of historical resources which specifically reflect the history and prehistory of San Diego County. Only resources that meet the criteria may be listed or formally determined eligible for listing to the County Register.

## San Diego County Resource Protection Ordinance

The County of San Diego's RPO protects significant cultural resources. The RPO defines "Significant Prehistoric or Historic Sites" in the San Diego County Code of Regulatory Ordinances (County Code), Section 86.602(o) as follows:

- Any prehistoric or historic district, site, interrelated collection of features or artifacts, buildings, structure, or object either:
  - a) Formally determined eligible or listed in the National Register of Historic Places by the Keeper of the National Register; or
  - b) To which the Historic Register ("H" Designator) Special Area Regulations have been applied; or
- One-of-a-kind, locally unique, or regionally unique cultural resources which contained a significant volume and range of data and materials; and
- Any location of past or current sacred religious or ceremonial observances which is either:
  - a) Protected under Public Law 95-341, the American Indian Religious Freedom Act or Public Resources Code Section 5097.9 such as burial (s), pictographs, petroglyphs, solstice observatory sites, sacred shrines, religious ground figures or,
  - b) other formally designated and recognized sites which are of ritual, ceremonial, or sacred value to any prehistoric or historic ethnic group.

The RPO does not allow non-exempt activities or uses damaging to significant prehistoric or historic lands on properties under County jurisdiction. The only exempt activity is scientific investigation authorized by the County. All discretionary projects are required to be conformance with applicable County standards related to cultural resources, including the noted RPO criteria on prehistoric and historic sites. Noncompliance would result in a project that is inconsistent with County standards.

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

The following significance thresholds for cultural resources are taken from the *County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources* (County of San Diego 2007a). A significant impact, based on the County guidelines, would result if any of the following occur (County of San Diego 2007a):

- The project causes a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the State CEQA Guidelines. This shall include the destruction, disturbance or any alteration of characteristics or elements of a resource that cause it to be significant in a manner not consistent with the Secretary of Interior Standards.

- The project causes a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the State CEQA Guidelines. This shall include the destruction or disturbance of an important archaeological site or any portion of an important archaeological site that contains or has the potential to contain information important to history or prehistory.
- The project disturbs any human remains, including those interred outside of formal cemeteries.
- The project proposes activities or uses damaging to significant cultural resources as defined by the Resource Protection Ordinance and fails to preserve those resources.

Guidelines 1 and 2 are derived directly from CEQA. Sections 21083.2 and 15064.5 of the State CEQA Guidelines recommend evaluating historical and archaeological resources to determine whether or not a proposed action would have a significant effect on unique historical or archaeological resources. Guideline 3 is included because human remains must be treated with dignity and respect and CEQA requires consultation with the MLD as identified by the NAHC for any project in which human remains have been identified.

Guideline 4 was selected because the RPO requires that cultural resources be considered when assessing environmental impacts. Any project that would have an adverse impact (direct, indirect, and cumulative) on significant cultural resources as defined by this guideline would be considered a significant impact. The only exemption is scientific investigation.

All discretionary projects are required to be in conformance with applicable County standards related to cultural resources, including the noted RPO criteria on prehistoric and historic sites, as well as requirements listed in the County Code, Title 8 (Zoning and Land Use Regulations) and Section 87.429 (Human Remains or Native American Artifacts) and in the General Plan. Noncompliance would result in a project that is inconsistent with County standards.

### **2.3.3.1 Built Environment Resources**

#### Guidelines for the Determination of Significance

For the purpose of this EIR, the *County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources* (County of San Diego 2007a) provides that a significant impact related to historical built resources would occur if:

- The project causes a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the State CEQA Guidelines. This shall include the destruction, disturbance or any alteration of characteristics or elements of a resource that cause it to be significant in a manner not consistent with the Secretary of Interior Standards.

#### Analysis

The project site is strongly associated with homesteading, ranching, transportation, and recreation themes. Twenty historic-era (over 45 years old) built environment resources were identified within the project site and surrounding 50-foot buffer. Of the 20 identified historic-era built resources, 19 are unimproved roads and the twentieth is a small segment of the San Diego & Arizona Railroad (P-37-025680). Over the years, several minor unimproved roads were constructed to facilitate homesteading and ranching in the Boulevard area, many of which are still present. However, the identified roads do not exhibit distinctive features or reflect an innovation in road-building practices in the area of engineering and are among several basic unimproved routes that span throughout the region. The roads are not associated with events that have made a significant contribution to broad patterns of the County's and California's history (Criterion 1), are not associated with individuals significant in County or state history (Criterion 2), do not exhibit distinctive

design features, innovations, or evolution in building practices (Criterion 3), and are not likely to yield information important to history or prehistory (Criterion 4). Therefore, none of the identified roads were found individually eligible for the CRHR or County Register.

The San Diego & Arizona Railroad segment is approximately 1.8 miles long, extending between the Little Valley and Jewell Valley. As analyzed in the historical resource technical report (Urbana 2024; see Appendix E.2), under Criterion 1, the line is not directly associated with significant historic events on a national level, serving a minor role in the development of San Diego and Imperial County and in the country's national defense. Although the line was largely financed by John D. Spreckels, an important figure in San Diego's early development, much of his significant accomplishments were made prior to the line's completion. Additionally, most of his significant accomplishments were made at a local level within the city of San Diego. Therefore, the segment does not qualify under Criterion 2. The evaluated segment spans between the Little Valley and Jewel Valley for approximately 1.5 miles. The segment is a standard gauge line and does not exhibit distinctive design features or important innovations, nor does it reflect an evolution in railroad building practices in the area of engineering under Criterion 3. Lastly, the segment is unlikely to yield information important to prehistory or history under Criterion 4. Therefore, the segment of the San Diego & Arizona Railroad was not found individually eligible for designation under any of the established CRHR or County Register criteria and is not considered a historical resource under CEQA.

For these reasons, **no impacts** ~~the project would have a less than significant impact~~ to historic-era built environment resources would occur as a result of implementation of the project.

### **2.3.3.2 Archaeological Resources**

#### **Guidelines for the Determination of Significance**

For the purpose of this EIR, the *County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources* (County of San Diego 2007a) provides that a significant impact related to an archaeological resource would occur if:

- The project causes a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the State CEQA Guidelines. This shall include the destruction, disturbance or any alteration of characteristics or elements of a resource that cause it to be significant in a manner not consistent with the Secretary of Interior Standards.
- The project, as designed, causes a substantial adverse change in the significance of an archaeological resource, as defined in Section 15064.5 of the State CEQA Guidelines. This shall include the destruction or disturbance of an important archaeological site or any portion of an important archaeological site that contains or has the potential to contain information important to history or prehistory.
- The project proposes activities or uses damaging to significant cultural resources as defined by the Resource Protection Ordinance are proposed and the Proposed project fails to preserve those resources.

#### **Analysis**

The cultural resources inventory identified 32 archaeological sites and 41 archaeological isolates. The project site is strongly associated with archaeological themes of Native American settlement and subsistence, homesteading, and ranching. Of the 19 Native American archaeological sites identified, nine are lithic scatters, three are lithic quarries, three are artifact scatters, two are bedrock milling sites, and two are habitation sites. Native American components were also identified at the three multicomponent sites identified, including a bedrock milling component (P-37-027350), an artifact scatter component

(P-033497/P-37-033502/P-37-033503), and a lithic scatter component (P-37-040850). Ten historic-era refuse scatter sites and three refuse scatter components of multicomponent sites were also recorded. All historic-era refuse scatters date to the twentieth century, with the majority dating to the mid-century.

Six of the 10 historic-era archaeological sites were recommended ineligible under any of the established CRHR and County criteria because they are not associated with events that have made a significant contribution to broad patterns of the County's and California's history (Criterion 1), are not associated with individuals significant in County or state history (Criterion 2), do not exhibit distinctive design features, innovations, or evolution in building practices (Criterion 3), and are not likely to yield information important to history or prehistory (Criterion 4). The remaining four historic-era archaeological sites are outside the project site and therefore were not evaluated. One previously recorded prehistoric Native American site (P-37-033279) was previously evaluated and determined ineligible for the CRHR. Consistent with project design feature **PDF-CR-1**, artifacts from P-37-033279 would be reinterred within or near the location of the recorded site boundary. All 44 isolated finds are considered ineligible for the CRHR and County Register.

The remaining 18 prehistoric Native American sites, and all three multicomponent sites, are assumed eligible for the CRHR and County Register and therefore are considered historical resources under CEQA. They may also qualify for consideration under the County RPO.

In total, 21 archaeological sites have been assumed eligible for the CRHR and County Register and are considered to be historical resources under CEQA. Therefore, the project has the potential to impact known archaeological resources that qualify as historical resources through ground disturbance associated with project construction, including vegetation removal, excavation, grading, utility installation, and other activities that may damage or destroy known archaeological resources within the project site (**Impact CR-1**). In addition, there is potential for project construction to encounter and impact unknown archaeological resources through ground-disturbing activities (**Impact CR-2**). Therefore, impacts to archaeological resources would be **potentially significant**.

### **2.3.3.3 Human Remains**

#### Guidelines for the Determination of Significance

For the purpose of this EIR, the *County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources* (County of San Diego 2007a:22) provides that a significant impact would occur if:

- The project disturbs any human remains, including those interred outside of formal cemeteries.

#### Analysis

No human remains were identified during the intensive pedestrian survey of the project site. All 32 archaeological sites (or portions of sites) identified within the project site during the current investigation would either be avoided during project construction or have been evaluated and determined ineligible for the CRHR or County Register, not significant under the County RPO, and not historical resources or unique archaeological resources under CEQA.

The project would comply with PRC Section 5097.98 and State CEQA Guidelines Section 15064.5 in the event any unknown human remains are discovered during ground disturbance. There is potential for project construction to result in impacts to undiscovered human remains through ground-disturbing activities (**Impact CR-3**). Therefore, impacts to human remains would be **potentially significant**.

## 2.3.4 Cumulative Impact Analysis

The cumulative projects listed in Table 1-4 in Chapter 1.0, Project Description, Location, and Environmental Setting, and within this geographic area of consideration include other solar projects, a wind project, and a public facilities improvement project. Some of these projects involve related improvements such as electrical substations and subsurface or overhead generation-tie lines. Several of those that have been analyzed under CEQA have the potential to impact cultural resources. Therefore, the project, along with these projects in the cumulative area of analysis, are capable of collectively contributing to impacts to cultural resources. Cumulative projects on state or public lands would be required to comply with PRC Sections 5097–5097.6 pertaining to impacts to cultural resources. Other cumulative projects would be regulated by federal, state, and local regulations, including CEQA and County Code Title 8, Division 7, County Grading, Clearing, and Watercourses.

Archaeological resources that may qualify as significant under CEQA and County guidelines have been identified within the project site. Undiscovered archaeological resources and human remains may be encountered during construction and/or decommissioning. As such, in the absence of mitigation, the project could result in significant cumulative impacts to known archaeological resources (**Impact CR-CU-1**) undiscovered archaeological resources (**Impact CR-CU-2**), and undiscovered human remains (**Impact CR-CU-3**).

~~The creation of a dedicated cultural open space easement (**M-CR-1**) will avoid impacts to known archaeological resources, while the preparation and implementation of a Treatment Agreement and Preservation Plan (**M-CR-2**) and archaeological and Native American monitoring (**M-CR-3**) will ensure proper identification, documentation, evaluation, treatment, and reporting of inadvertent discoveries. As a result, the project would not contribute to a cumulatively considerable impact to cultural resources.~~

## 2.3.5 Significance of Impacts Prior to Mitigation

### 2.3.5.1 Built Environment Resources

The project site does not contain historic-era built environment resources that qualify as historical resources eligible for designation under any of the established CRHR or County Register criteria. Therefore, there would be **no impacts** to historic-era built resources during construction, operation, and decommissioning of the project.

### 2.3.5.2 Archaeological Resources

Construction of the project could impact known archaeological resources assumed eligible for the CRHR and County Register within the project site and impacts would be **potentially significant (Impact CR-1)**.

Construction of the project could encounter and impact undiscovered archaeological resources eligible for listing in the CRHR and County Register within the project site and impacts would be **potentially significant (Impact CR-2)**.

### 2.3.5.3 Human Remains

Construction of the project could encounter and impact undiscovered human remains within the project site and impacts would be **potentially significant (Impact CR-3)**.

## 2.3.6 Mitigation Measures and Project Design Features

### 2.3.6.1 Mitigation Measures

Mitigation measures M-CR-1 through M-CR-6 would mitigate potential impacts under **Impacts CR-1** through **CR-3** as follows.

**M-CR-1 Dedicated Cultural Open Space Easement for Significant Archaeological Resources.** Prior to grading of Phase I, and in order to protect sensitive cultural resources, a Cultural Resource Open Space Easement shall be granted to the County of San Diego (County) as shown on an approved Open Space Easement exhibit. Within Phase I of the project, this easement is for the protection of archaeological sites P-37-027350, P-37-033497/P-37-033502/P-37-033503, P-37-040847, P-37-040848, P-37-040850, P-37-040851, P-37-040861, P-37-040866, and P-37-040865. Prior to grading of Phase II, and in order to protect sensitive cultural resources, a Cultural Resource Open Space Easement shall be granted to the County as shown on an approved Open Space Easement exhibit. Within Phase II of the project, this easement is for the protection of archaeological sites P-37-010476/P-37-034159, P-37-033310, P-37-040857, P-37-040858, P-37-040859, P-37-040862, P-37-040863, P-37-040864, P-37-040867, P-37-040869, P-37-040870, and P-37-040872.

The easement prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. The sole exceptions to this prohibition are:

1. Implementation of a site-capping plan approved by the Director of Planning and Development Services, if necessary
2. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard
3. Activities required to be conducted pursuant to a revegetation, habitat management, or landscaping plan approved by the Director of Planning and Development Services
4. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health, in a location and manner approved in writing by the Director of Planning and Development Services
5. Installation of temporary or permanent fencing for the purpose of preventing inadvertent disturbance of archaeological sites during construction, maintenance, and decommissioning activities.

The Applicant shall prepare the legal descriptions of the easements, then submit them for preparation and recordation with the County and pay all applicable fees associated with preparation of the documents prior to the approval of any plan and issuance of any permit. For recordation by separate document, the County Department of General Services shall prepare and approve the easement documents and send them to the County Department of Planning and Development Services for preapproval. Planning and Development Services shall preapprove the language and estimated location of the easements prior to recordation.

Upon recordation of the easements the Department of General Services shall forward a copy of the recorded documents to Planning and Development Services for satisfaction of the condition.

**M-CR-2 Cultural Resources Treatment Agreement and Preservation Plan.** In order to mitigate for impacts to cultural resources and tribal cultural resources (TCRs), the Applicant shall develop and enter into a Cultural Resources Treatment Agreement and Preservation Plan with the consulting Native American tribes.

A Cultural Resources Treatment Agreement and Preservation Plan shall be developed between the Applicant or their representative and the consulting Native American tribes. The Cultural Resources Treatment Agreement and Preservation Plan shall be reviewed and agreed to by the County prior to final signature and authorization. The Cultural Resources Treatment Agreement and Preservation Plan shall include but is not limited to the following:

1. Parties entering into the agreement and contact information.
2. Responsibilities of the Property Owner or their representative, Principal Investigator (PI), archaeological monitors, Kumeyaay Native American monitors, and consulting tribes.
3. Requirements of the Archaeological Monitoring Program including unanticipated discoveries. The requirements shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, analysis of identified cultural materials, and on-site storage of cultural materials.
4. Treatment of identified Native American cultural materials and TCRs.
5. Treatment of Native American human remains and associated grave goods.
6. Incorporation of P-37-027350, P-37-033497/P-37-033502/P-37-033503, P-37-040847, P-37-040848, P-37-040850, P-37-040851, P-37-040861, P-37-040866, and P-37-040865 into dedicated open space in Phase I. Incorporation of P-37-010476/P-37-034159, P-37-033310, P-37-040857, P-37-040858, P-37-040859, P-37-040862, P-37-040863, P-37-040864, P-37-040867, P-37-040869, P-37-040870, and P-37-040872 into dedicated open space in Phase II.
7. Interim treatment and final internment of Native American cultural soils and materials.
8. Confidentiality of cultural information including location and data.
9. Regulations that apply to cultural resources and TCRs that have been identified or may be identified during project construction.

A copy of the implemented agreement shall be submitted to the County for approval, prior to the approval of any plan and issuance of any permit. The County shall review the implemented agreement for compliance this condition.

**M-CR-3 Archaeological and Native American Monitoring.** In order to mitigate for potential impacts to undiscovered buried archaeological resources and human remains, an Archaeological Monitoring Program and potential Data Recovery Program shall be implemented pursuant to the *County of San Diego Guidelines for Determining*

*Significance, Cultural Resources: Archaeological and Historic Resources* and the California Environmental Quality Act (CEQA). This shall be implemented prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits, for both Phases for the period of time that ground-disturbing activities have the potential to uncover or disturb cultural resources, as determined by the Principal Investigator.

A County-approved Principal Investigator known as the “Project Archaeologist” shall be contracted to perform monitoring and a potential data recovery program during all grading, clearing, grubbing, trenching, and earth-disturbing activities for both Phases I and II. The Project Archaeologist shall contract with a Kumeyaay Native American monitor(s) to conduct Native American monitoring for the project.

The monitoring program for both Phases I and II shall include the following:

1. Preconstruction
  - a. Contract with a County-approved archaeologist to perform archaeological monitoring and a potential data recovery program during all earth-disturbing activities. The Project Archaeologist shall perform the monitoring duties before, during and after construction.
  - b. Hold a preconstruction meeting to be attended by the Project Archaeologist and Kumeyaay Native American monitor(s) to explain the monitoring requirements.
2. Construction Monitoring
  - a. Both the Project Archaeologist and Kumeyaay Native American monitor(s) are to be on-site during earth-disturbing activities. The frequency and location of monitoring of native soils shall be determined by the Project Archaeologist in consultation with the Kumeyaay Native American monitor. Both the Project Archaeologist and Kumeyaay Native American monitor shall evaluate fill soils to ensure that they are negative for cultural resources, including those that could be identified as TCRs.
  - b. If cultural resources or TCRs are identified:
    - i. Both the Project Archaeologist and Kumeyaay Native American monitor(s) have the authority to divert or temporarily halt ground disturbance operations in the area of the discovery.
    - ii. The Project Archaeologist shall contact the County Archaeologist at the time of discovery.
    - iii. The Project Archaeologist in consultation with the County Archaeologist and Kumeyaay Native American monitor(s) shall determine the significance of discovered resources.
    - iv. Construction activities shall be allowed to resume after the County Archaeologist has concurred with the significance evaluation.
    - v. Isolates and non-significant deposits shall be minimally documented in the field. Should the isolates and non-significant deposits not be collected by the Project Archaeologist, the Kumeyaay Native American monitor may collect the cultural material for transfer to a tribal curation facility or repatriation program.

- c. If cultural resources are determined to be significant, a Research Design and Data Recovery Program shall be prepared by the Project Archaeologist in consultation with the Kumeyaay Native American monitor(s) and approved by the County Archaeologist. The program shall include reasonable efforts to preserve (avoid) unique cultural resources or Sacred Sites, including TCRs; the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap if avoidance is infeasible; and data recovery for nonunique cultural resources. The preferred option is preservation (avoidance).
3. Human Remains
    - a. The Property Owner or their representative shall contact the County Coroner and the Planning and Development Services Staff Archaeologist.
    - b. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin. If the human remains are to be taken off-site for evaluation, they may be accompanied by the Kumeyaay Native American monitor.
    - c. If the remains are determined to be of Native American origin, the Most Likely Descendant (MLD), as identified by the Native American Heritage Commission (NAHC), shall be contacted by the Property Owner or their representative in order to determine proper treatment and disposition of the remains.
    - d. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
    - e. Public Resources Code Section 5097.98, CEQA 15064.5, and Health and Safety Code 7050.5 shall be followed in the event that human remains are discovered.
  4. Rough Grading
    - a. Monitoring Report. Upon completion of rough grading, a monitoring report shall be prepared identifying whether resources were encountered. A copy of the monitoring report shall be provided to the South Coastal Information Center and any culturally affiliated tribe who requests a copy.
  5. Final Grading
    - a. Final Report. A final report shall be prepared substantiating that earth-disturbing activities are completed and whether cultural resources were encountered. A copy of the final report shall be submitted to the South Coastal Information Center and any culturally affiliated tribe who requests a copy.
    - b. The final report shall include evidence that all prehistoric materials have been curated at a San Diego curation facility or tribal curation facility that meets federal standards per 36 Code of Federal Regulations (CFR) 79, or alternatively have been repatriated to a culturally affiliated tribe.
    - c. The final report shall include evidence that all historic materials have been curated at a San Diego curation facility that meets federal standards per 36 CFR 79.

The Applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance, cost estimate, and memorandum of understanding (MOU) to the County. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate for both Phases I and II.

Planning and Development Services shall review the contract or letter of acceptance, MOU, and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to the County for inclusion in the grading bond cost estimate, and grading bonds and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

**M-CR-4 Temporary Fencing.** To prevent inadvertent disturbance of archaeological sites, temporary fencing shall be installed around the archaeological sites where they are located within 50 feet of the project area of direct impact (ADI). The temporary fencing shall include the following requirements:

1. Prior to the commencement of any grading and/or clearing in association with the grading and/or improvement plan, temporary construction fencing shall be placed at a distance of 50 feet around the known boundaries of archaeological sites, to protect archaeological sites or portions of sites from inadvertent disturbance. This temporary fencing shall be placed around the following sites in Phase I: P-37-027350, P-37-033497/P-37-033502/P-37-033503, P-37-040847, P-37-040848, P-37-040850, P-37-040851, P-37-040861, P-37-040866, and P-37-040865 adjacent to the project ADI during earth-disturbing activities. This temporary fencing shall be placed around the following sites in Phase II: P-37-010476/P-37-034159, P-37-033310, P-37-040857, P-37-040858, P-37-040859, P-37-040862, P-37-040863, P-37-040864, P-37-040867, P-37-040869, P-37-040870, and P-37-040872 adjacent to the project ADI during earth-disturbing activities. Temporary fencing shall be installed prior to the preconstruction meeting and any clearing, grubbing, trenching, grading, or ground disturbance during both construction and decommissioning. The temporary fencing shall remain for the duration of project earth-disturbing activities.
2. Temporary fencing shall be required in all locations of the project where proposed grading or clearing is within 50 feet of any archaeological site outside of the project ADI.
3. The placement of such fencing shall be approved by the County. Upon approval, the fencing shall remain in place until the conclusion of grading activities, after which the fencing shall be removed.
4. Installation and maintenance of temporary fencing shall require the presence of monitor(s) (archaeological and Native American) pursuant to **M-CR-3**.
5. A signed and stamped statement from a California Registered Engineer, or licensed surveyor, shall be submitted to Planning and Development Services for approval. The statement shall identify that temporary fencing has been installed in all required locations where grading or clearing is within 50 feet of an archaeological site outside of the project ADI.

**M-CR-5 Permanent Fencing.** To prevent inadvertent disturbance of archaeological sites within the avoidance areas and to the unimpacted portions of the site outside of the ADI, permanent fencing shall be installed at a distance of 50 feet from the boundaries of archaeological sites as indicated on the approved project plans. The fencing shall be a three-strand barbed

wire fence with a total height of four feet once constructed to keep an unobstructed view and to keep with the rural character of the region. The installation of the permanent fencing shall occur by Phase.

This permanent fencing shall be placed around the following sites in Phase I: P-37-027350, P-37-033497/P-37-033502/P-37-033503, P-37-040847, P-37-040848, P-37-040850, P-37-040851, P-37-040861, P-37-040866, and P-37-040865 adjacent to the project ADI. This permanent fencing shall be placed around the following sites in Phase II: P-37-010476/P-37-034159, P-37-033310, P-37-040857, P-37-040858, P-37-040859, P-37-040862, P-37-040863, P-37-040864, P-37-040867, P-37-040869, P-37-040870, and P-37-040872 adjacent to the project ADI.

The permanent fencing shall include the following requirements:

1. Installation of permanent fencing shall require the presence of monitor(s) (archaeological and Native American) pursuant to **M-CR-3**.
2. A signed and stamped statement from a California Registered Engineer, or licensed surveyor shall be submitted to Planning and Development Services for approval. The statement shall identify that temporary fencing has been installed in all required locations where grading or clearing is within 50 feet of an archaeological site outside of the project ADI.

**M-CR-6** **Long-Term Preservation of Resources.** All operation and maintenance (O&M) and decommissioning activities shall be performed within the proposed project ADI—no ground-disturbing activities shall occur outside the proposed project ADI or in the conservation areas. Employees and contractors performing O&M and decommissioning activities shall receive training or instructions regarding the archaeological and cultural sensitivity of the project site to ensure no inadvertent impacts occur to the potentially significant sites (or portions thereof) that are adjacent to the proposed project ADI.

### 2.3.6.2 **Project Design Features**

The Applicant has identified and committed to including the following project design features as part of the project to alleviate adverse cultural resources effects, to the extent feasible.

**PDF-CR-1** **Reinterment of Artifacts from P-37-033279.** At the request of the Campo Tribe, before Phase II occupancy, artifacts from P-37-033279 will be reinterred. The artifacts will be removed (deaccessioned) from curation from the San Diego Archaeological Center (Tierra del Sol Project – Collection #657) by the consulting archaeologist. The collection will be reinterred within or near the location of the recorded boundary for P-37-033279 at a depth as determined appropriate through consultation with the Campo Tribe and the County.

## 2.3.7 **Conclusion**

The project has the potential to affect both known and undiscovered archaeological resources that may qualify as significant under CEQA and County guidelines (**Impact CR-1** and **Impact CR-2**). These impacts would be mitigated to **less than significant** with implementation of mitigation measures **M-CR-1** (Dedicated Cultural Open Space Easement for Significant Archaeological Resources), **M-CR-2** (Cultural Resources Treatment Agreement and Preservation Plan), **M-CR-3** (Archaeological and Native American Monitoring), **M-CR-4** (Temporary Fencing), **M-CR-5** (Permanent Fencing), and **M-CR-6** (Long-Term Preservation of Resources). The project also has the potential to affect undiscovered human remains

**(Impact CR-3)**. This impact would be mitigated to less than significant with implementation of mitigation measures **M-CR-2** (Cultural Resources Treatment Agreement and Preservation Plan), **M-CR-3** (Archaeological and Native American Monitoring), **M-CR-4** (Temporary Fencing), **M-CR-5** (Permanent Fencing), and **M-CR-6** (Long-Term Preservation of Resources).

The project site does not contain historic-era built resources eligible for designation under any of the established CRHR or County criteria. Therefore, there would be **no impacts** to historic-era built resources as a result of the project. Impacts to cultural resources and human remains would not be cumulatively considerable.

In the absence of mitigation, the project could result in significant cumulative impacts to known archaeological resources (**Impact CR-CU-1**) undiscovered archaeological resources (**Impact CR-CU-2**), and undiscovered human remains (**Impact CR-CU-3**). However, the creation of a dedicated cultural open space easement (**M-CR-1**) will avoid impacts to known archaeological resources, while the preparation and implementation of a Treatment Agreement and Preservation Plan (**M-CR-2**) and archaeological and Native American monitoring (**M-CR-3**) will ensure proper identification, documentation, evaluation, treatment, and reporting of inadvertent discoveries. As a result, the project **would not contribute to a cumulatively considerable impact** to cultural resources.

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