DOCKETED	
Docket Number:	24-OPT-02
Project Title:	Compass Battery Energy Storage
TN #:	255535-7
Document Title:	Section 4-3_Cultural Resources
Description:	This section describes the cultural resources inventory of the Project site and vicinity, identifies associated regulatory standards, evaluates potential impacts, and identifies mitigation measures related to implementation of the proposed Project.
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Submission Date:	4/5/2024 11:41:19 AM
Docketed Date:	4/5/2024

4.3 Cultural Resources

This section describes the cultural resources inventory of the project site and vicinity, identifies associated regulatory standards, evaluates potential impacts, and identifies mitigation measures related to implementation of the proposed project. This section is divided into several subsections. Following this introduction, Section 4.3.1 reviews the natural environment and the cultural context, Section 4.3.2 provides the methods used to complete the current inventory, Section 4.3.3 discusses records search and survey results, and tribal correspondence, Section 4.3.4 summarizes the cultural resources analysis completed for this project and provides recommendations for further treatment of the cultural resources consistent with CEQA and NHPA Section, Section 4.3.6 contain mitigation measures to reduce project impacts, and Section 4.3.7 provides a summary of the regulatory setting. Several appendices are attached to this section:

- Appendix 4.3A provides resumes of key personnel;
- Appendix 4.3B includes *confidential* records search results;
- Appendix 4.3C contains a *confidential* cultural resources overview map;
- Appendix 4.3D includes the Departments of Parks and Recreation 523 Form updates; and
- Appendix 4.3E documents NAHC correspondence.

The cultural resources inventory was conducted in compliance with the California Environmental Quality Act (CEQA) and the National Historic Preservation Act (NHPA). Adam Giacinto, MA, RPA, Loukas Barton, PhD, RPA, Roshanne Bakhtiary, MA, and David Alexander, BA conducted the intensive pedestrian survey in support of this Project. William Burns, MSc, RPA and Roshanne Bakhtiary, MA, drafted the present section. Adam Giacinto acted as principal investigator; reviewed management recommendations; and finalized the section. All archaeologists meet Secretary of the Interior Standards for archaeology and have extensive experience working within local, state, and federal regulatory contexts (Appendix 4.3A).

4.3.1 Affected Environment

The proposed project is located in the City of San Juan Capistrano (City), approximately 4 miles east the Pacific coastline and adjacent to Interstate-5. The site is located in Sections 25, 26, 35, and 36 of Township 7 South and Range 8 West of the San Juan Capistrano, California U.S. Geological Survey 7.5-minute quadrangle. The approximate center of the Project location corresponds to latitude 33°31′56.00″ and longitude 117°40′38.80″.

The Project Area of Direct Impacts (ADI) is approximately 14 acres. This includes the proposed BESS footprint, the offsite access road, as well as the placement of the new transmission and interconnect poles that would tie the proposed Project into the SDG&E Trabuco to Capistrano 138 kV transmission line (Figure 4.3-1, Project Area of Direct Impacts Map). For the purposes of providing management recommendations, the vertical ADI, as represented by the maximum depth of disturbance, is assumed to be 60 feet below the existing ground surface.

The Project is located within the hills of the California Peninsular Ranges, approximately 4 miles east of the Pacific Coastline. The majority of the Project ADI is currently either undeveloped or used for agriculture, with the exception of a soccer field in the northeast portion of the ADI. Elevations within the Project range from 160 to 270 feet above mean sea level and is generally flat with hills rising up at the western portion of the site. The region surrounding the Project receives approximately 12.5 inches of precipitation annually. Average temperatures range from approximate 51°F to 71°F (WRCC 2021). Several seasonal drainages are in the vicinity of the Project ADI.

4.3.1.1 Cultural Context

The following sections have had a strong contribution from previous cultural contexts prepared by Micah Hale, PhD, RPA. Evidence for continuous human occupation in the region spans the last 10,000 years. Various attempts to parse out variability in archaeological assemblages over this broad time frame have led to the development of several cultural chronologies; some of these are based on geologic time, most are based on temporal trends in archaeological assemblages, and others are interpretive reconstructions. Each of these reconstructions describes essentially similar trends in assemblage composition in more or less detail. This research employs a common set of generalized terms used to describe chronological trends in assemblage composition: Paleoindian (pre-5500 BC), Archaic (8000 BC–AD 500), Late Prehistoric (AD 500–1750), and Ethnohistoric (post-AD 1750).

Paleoindian (pre-5500 BC)

Evidence for Paleoindian occupation in the region is tenuous; the knowledge of associated cultural pattern(s) is informed by a relatively sparse body of data that has been collected from within an area extending from coastal San Diego through the Mojave Desert and beyond. One of the earliest dated archaeological assemblages in this area (excluding the Channel Islands) derives from SDI-4669/W-12, in La Jolla, San Diego County. A human burial from SDI-4669 was radiocarbon dated to 9,590–9,920 years before present (95.4% probability) (Hector 2006). The burial is part of a larger site complex that contained more than 29 human burials associated with an assemblage that fits the Archaic profile (i.e., large amounts of groundstone, battered cobbles, and expedient flake tools). In contrast, typical Paleoindian assemblages include large stemmed projectile points, high proportions of formal lithic tools, bifacial lithic reduction strategies, and relatively small proportions of groundstone tools. Prime examples of this pattern are sites that were studied by Emma Lou Davis (1978) on China Lake Naval Air Weapons Station near Ridgecrest, California. These sites contained fluted and unfluted stemmed points and large numbers of formal flake tools (e.g., shaped scrapers, blades). Other typical Paleoindian sites include the Komodo site (MNO-679), a multicomponent fluted point site, and MNO-680, a single component Great Basined stemmed point site (Basgall et al. 2002). At MNO-679 and MNO-680, groundstone tools were rare, while finely made projectile points were common.

Warren et al. (2004) claimed that a biface manufacturing tradition present at the Harris site complex (SDI-149) is representative of typical Paleoindian occupation in the Southern California region that possibly dates between 10,365 and 8200 BC (Warren et al. 2004, p. 26). Termed San Dieguito (Rogers 1945), assemblages at the Harris site, located in the area now occupied by City of Escondido, are qualitatively distinct from most others in the region because the site has large numbers of finely made bifaces (including projectile points), formal flake tools, a biface reduction trajectory, and relatively small amounts of processing tools (Warren 1964, 1968). Despite the unique assemblage composition, the definition of San Dieguito as a separate cultural tradition is debated. Gallegos (1987) suggested that the San Dieguito pattern is simply an inland manifestation of a broader economic pattern. Gallegos' interpretation of San Dieguito has been widely accepted in recent years, in part because of the difficulty in distinguishing San Dieguito components from other assemblage constituents. In other words, it is easier to ignore San Dieguito as a distinct socioeconomic pattern than it is to draw it out of mixed assemblages.

The large number of finished bifaces (i.e., projectile points and non-projectile blades), along with large numbers of formal flake tools at the Harris site complex, is very different than nearly all other assemblages throughout the region, regardless of age. Warren et al. (2004) made this point, tabulating basic assemblage constituents for key early Holocene sites. Producing finely made bifaces and formal flake tools implies that relatively large amounts of time were spent for tool manufacture. Such a strategy contrasts with the expedient flake-based tools and

cobble-core reduction strategy that typifies non-San Dieguito Archaic sites. It can be inferred from the uniquely high degree of San Dieguito assemblage formality that the Harris site complex represents a distinct economic strategy from non-San Dieguito assemblages.

If San Dieguito truly represents a distinct socioeconomic strategy from the non-San Dieguito Archaic processing regime, its rarity implies that it was not only short-lived, but that it was not as economically successful as the Archaic strategy. Such a conclusion would fit with the general trends in Southern California deserts, wherein hunting-related tools are replaced by processing tools during the early Holocene (Basgall and Hall 1990).

Archaic (8000 BC–AD 500)

The more than 1500-year overlap between the presumed age of Paleoindian occupations and the Archaic period highlights the difficulty in defining a cultural chronology in the region. If San Dieguito is the only recognized Paleoindian component in the region, then the dominance of hunting tools implies that it derives from Great Basin adaptive strategies and is not necessarily a local adaptation. Warren et al. (2004) admitted as much, citing strong desert connections with San Dieguito. Thus, the Archaic pattern is the earliest local socioeconomic adaptation in the region (Hale 2001, 2009).

The Archaic pattern is relatively easy to define with assemblages that consist primarily of processing tools: millingstones, handstones, battered cobbles, heavy crude scrapers, incipient flake-based tools, and cobble-core reduction. These assemblages occur in all environments across the region, with little variability in tool composition. Low assemblage variability over time and space among Archaic sites has been equated with cultural conservatism (Byrd and Reddy 2002; Warren 1968; Warren et al. 2004). Despite enormous amounts of archaeological work at Archaic sites, little change in assemblage composition occurs until the bow and arrow is adopted at around AD 500, as well as ceramics at approximately the same time (Griset 1996; Hale 2009). Even then, assemblage formality remains low. After the bow is adopted, small arrow points appear in large quantities, and already low amounts of formal flake tools are replaced by increasing amounts of expedient flake tools. Similarly, shaped millingstones and handstones decrease in proportion relative to expedient, unshaped groundstone tools (Hale 2009). Thus, the terminus of the Archaic period is equally as hard to define as its beginning because basic assemblage constituents and patterns of manufacturing investment remain stable, complimented only by the addition of the bow and ceramics.

Late Prehistoric (AD 500–1750)

The period of time following the Archaic and prior to Ethnohistoric times (AD 1750) is commonly referred to as the Late Prehistoric (Rogers 1945; Wallace 1955; Warren et al. 2004). However, several other subdivisions continue to be used to describe various shifts in assemblage composition, including the addition of ceramics and cremation practices. The post-AD 1450 period is called the San Luis Rey Complex (Meighan and True 1977). Rogers (1929) also subdivided the last 1,000 years into the Yuman II and III cultures, based on the distribution of ceramics. Despite these regional complexes, each is defined by the addition of arrow points and ceramics and the widespread use of bedrock mortars. Vagaries in the appearance of the bow and arrow and ceramics make the temporal resolution of the San Luis Rey complex difficult. For this reason, the term Late Prehistoric is well-suited to describe the last 1,500 years of prehistory in the region.

Temporal trends in socioeconomic adaptations during the Late Prehistoric period are poorly understood. This is partly due to the fact that the fundamental Late Prehistoric assemblage is very similar to the Archaic pattern but includes arrow points and large quantities of fine debitage from producing arrow points, ceramics, and cremations.

While steatite was commonly the material of choice for vessel production, it was generally replaced near the time of missionization by locally procured clay to produce ceramic vessels. The appearance of mortars and pestles is difficult to place in time because most mortars are on bedrock. Some argue that the Ethnohistoric intensive acorn economy extends as far back as AD 500 (Bean and Shipek 1978). However, there is no substantial evidence that reliance on acorns, and the accompanying use of mortars and pestles, occurred prior to AD 1400. True (1980) argued that acorn processing and ceramic use in the region did not occur until the San Luis Rey pattern emerged after approximately AD 1450.

Ethnohistoric (post-AD 1750)

The history of the Native American communities prior to the mid-1700s has largely been reconstructed through later mission-period and early ethnographic accounts. The first records of the Native American inhabitants of the region come predominantly from European merchants, missionaries, military personnel, and explorers. These brief, and generally peripheral, accounts were prepared with the intent of furthering respective colonial and economic aims and were combined with observations of the landscape. They were not intended to be unbiased accounts regarding the cultural structures and community practices of the newly encountered cultural groups. The establishment of the missions in the region brought more extensive documentation of Native American communities, though these groups did not become the focus of formal and in-depth ethnographic study until the early twentieth century (Bean and Shipek 1978; Boscana 1846; Fages 1937; Geiger and Meighan 1976; Harrington 1934; Laylander 2000; White 1963). The principal intent of these researchers was to record the precontact, culturally specific practices, ideologies, and languages that had survived the destabilizing effects of missionization and colonialism. This research, often understood as "salvage ethnography," was driven by the understanding that traditional knowledge was being lost due to the impacts of modernization and cultural assimilation. Alfred Kroeber applied his "memory culture" approach (Lightfoot 2005, p. 32) by recording languages and oral histories within the region. Ethnographic research by Dubois, Kroeber, Harrington, Spier, and others during the early twentieth century seemed to indicate that traditional cultural practices and beliefs survived among local Native American communities.

It is important to note that even though there were many informants for these early ethnographies who were able to provide information from personal experiences about Native American life before European immigration, a significantly large proportion of these informants were born after 1850; therefore, the documentation of pre-contact, aboriginal culture was being increasingly supplied by individuals born in California after considerable contact with Europeans. This is an important issue to note when examining these ethnographies, since considerable culture change had undoubtedly occurred by 1850 among the Native American survivors of California.

Based on ethnographic information, it is believed that at least 88 different languages were spoken from Baja California Sur to the southern Oregon state border at the time of Spanish contact (Johnson and Lorenz 2006, p. 34). The distribution of recorded Native American languages has been dispersed as a geographic mosaic across California through six primary language families (Golla 2007, p. 71). Victor Golla has contended that one can interpret the amount of variability within specific language groups as being associated with the relative "time depth" of the speaking populations (Golla 2007, p. 80) A large amount of variation within the language of a group represents a greater time depth than a group's language with less internal diversity. One method that he has employed is by drawing comparisons with historically documented changes in Germanic and Romantic language groups. Golla has observed that the "absolute chronology of the internal diversification within a language family" can be correlated with archaeological dates (2007, p. 71). This type of interpretation is modeled on concepts of genetic drift and gene flows that are associated with migration and population isolation in the biological sciences.

The Native American inhabitants of the region would have generally spoken Luiseño-Juaneño (Acjachemen) and Gabrielino (or Tongva) varieties of Takic, which may be assigned to the larger Uto-Aztecan family (Golla 2007, p. 74). Golla has interpreted the amount of internal diversity within these language-speaking communities to reflect a time depth of approximately 2,000 years. Other researchers have contended that Takic may have diverged from Uto-Aztecan ca. 2600 BC–AD 1, which was later followed by the diversification within the Takic speaking tribes, occurring approximately 1500 BC–AD 1000 (Laylander 2010). The Luiseño-Juaneño (Acjachemen) and Gabrielino (or Tongva) represent the descendants of local Late Prehistoric populations. They are generally considered to have migrated into the area from the Mojave Desert, possibly displacing the prehistoric ancestors of the Yuman-speaking Kumeyaay (Ipai Tipai) that lived to the south during Ethnohistoric times. The Luiseño-Juaneño shared boundaries with the Gabrielino and Serrano to the west and northwest, the Cahuilla to the east, the Cupeño to the southeast, and the Kumeyaay to the south (Bean and Shipek 1978; Kroeber 1925). Southern Native American tribal groups of the San Diego and southern Imperial region have traditionally spoken Yuman languages, a subgroup of the Hokan Phylum.

The Uto-Aztecan inhabitants of the region were called Juaneño and Gabrielino by Franciscan friars who established the Missions San Juan Capistrano and San Gabriel Arcángel the traditional territory of these two respective tribes. The project area is east of Aliso Creek, which is considered by Kroeber (1925) to be the ethnographic boundary marker between the Gabrielino (or Tongva) (west of the Aliso Creek) and Juaneño (east of the Aliso Creek). A brief description of both ethnographic groups is provided in the following text.

The Gabrielino may have numbered as many as 5,000 people during their peak in the pre-contact period; however, population estimates are difficult due to the gradual process of missionization (Kroeber 1925). The Gabrielino territory included the Los Angeles Basin, the coast of Aliso Creek in Orange County to the south, and Topanga Canyon in the north, the four southern Channel Islands, and watersheds of the Los Angeles, San Gabriel, and Santa Ana Rivers. At the time of European contact, the Gabrielino were actively involved in trade using shell and beads as currency. The Gabrielino produced pipes, ornaments, cooking implements, inlay work, and basketry. Dwellings were constructed of tule mats on a framework of poles, but size and shape have not been recorded (Kroeber 1925). Basketry and steatite vessels were used rather than ceramics until near the end of the mission period in the nineteenth century (Garcia et Al. 2011).

The Juaneño, or Acjachemen, territory was bounded to the north by Aliso Creek, the east by the crest of the Santa Ana Mountains, the south by San Onofre Creek, and west by the Pacific Ocean (Kroeber 1925:636). Ethnographic, linguistic, and archaeological evidence indicate that Juaneño and Luiseño are one cultural/tribal group. There is no existing record of the Juaneño population during the pre-contact period. Records indicated that approximately 1,300 individuals culturally affiliated with the Juaneño resided at Mission San Juan Capistrano in the year 1800 (Engelhardt 1922). The mission death register shows as many as 4,000 native burials in the mission cemetery (White 1963). It is clear from that arrival of the Spanish decimated Native peoples through disease and changed living conditions (Bean and Shipek 1978).

The tribes of the region were organized into patrilineal clans or bands centered on a chief, composed of 25–30 people (Kroeber 1925), each of which had their own territorial land or range where food and other resources were collected at different locations throughout the year (Sparkman 1908). The title of chief was heritable along family lines. Inter-band conflict was most common over trespassing. Sparkman observed that “when questioned as to when or how the land was divided and subdivided, the Indians say they cannot tell, that their fathers told them that it had always been thus” (1908). Place names were assigned to each territory, often reflecting common animals, plants, physical landmarks, or cosmological elements that were understood as being related to that location. Marriages were generally arranged by parents or guardians. Free and widowed women had the option to choose their partner. Polygamy occurred though was not common, often with a single man marrying a number of sisters

and wives. Shamanism was a major component in tribal life. The physical body and its components was thought to be related to the power of an individual, and wastes such as fluids, hair, and nails were discarded with intent. Hair, once cut, was often carefully collected and buried to avoid being affected negatively or controlled by someone who wishes them harm. Some locations and natural resources were of cultural significance. Springs and other water-related features were thought to be related with spirits. These resources, often a component of origin stories, had power that came with a variety of risks and properties to those who became affected. Puberty ceremonies for both boys and girls were complex and rigorous. Mourning ceremonies were similar throughout the region, generally involving cutting of the hair, burning the deceased's clothes a year after death, and redistributing personal items to individuals outside of the immediate tribal group (Sparkman 1908; Kroeber 1925). The center of the Juaneño and Gabrielino religion was *Chinigchinich*, the last of a series of heroic mythological figures. The heroes were originally from the stars and the sagas told of them formed the Juaneño religious beliefs. The most obvious expression of the religion was the *Wankech*, a brush enclosed area where religious observances were performed. The *Wankech* contained an inner enclosure housing a representation of *Chinigchinich*, a coyote skin stuffed with feathers, claws, beaks, and arrows.

The staple food of the Native American inhabitants of this region during the ethnohistoric period was acorns (Sparkman 1908). Of the six or more oak species within this traditional territory, the most desirable of these was the black oak (*Quercus kelloggii*) due to its ease of processing, protein content, and digestibility. Acorns were stored in granaries to be removed and used as needed. The acorns were generally processed into flour using a mortar and pestle. The meal was most commonly leached with hot water and the use of a rush basket; however, there are also accounts of placing meal into excavated sand and gravel pits to allow the water to drain naturally. The acorn was then prepared in a variety of ways, though often with the use of an earthen vessel (Sparkman 1908). Other edible and medicinal plants of common use included wild plums, choke cherries, Christmas berry, gooseberry, elderberry, willow, *Juncus*, buckwheat, lemonade berry, sugar bush, sage scrub, currents, wild grapes, prickly pear, watercress, wild oats and other plants. More arid plants such as *Yucca, Agave*, mesquite, chia, bird-claw fern, *Datura*, yerba santa, *Ephedra*, and cholla were also of common use by some Juaneño and Gabrielino populations. A number of mammals were commonly eaten. Game animals included black-tailed deer, antelope, rabbits, hares, birds, ground squirrels, woodrats, bears, mountain lions, bobcats, coyotes, and others. In lesser numbers, reptiles and amphibians may have been consumed. Fish and marine resources provided some portion of many tribal communities, though most notably those nearest the coast. Shellfish would have been procured and transported inland from three primary environments, including the sandy open coast, bay and lagoon, and rocky open coast. The availability of these marine resources changed with the rising sea levels, siltation of lagoon and bay environments, changing climatic conditions, and intensity of use by humans and animals.

Areas or regions, identified by known physical landmarks, could be recognized as band-specific territories that might be violently defended. Other areas or resources, such as water sources and other locations that were rich in natural resources, were generally understood as communal land to be shared. The coastal Juaneño and Gabrielino exchanged a number of local goods, such as seafood, coastal plants, and various types of shell, for items including acorns, agave, mesquite beans, gourds, and other more interior plants of use (Luomala 1978). Shellfish would have been procured from three primary environments, including the sandy open coast, bay and lagoon, and rocky open coast. The availability of these marine resources changed with the rising sea levels, siltation of lagoon and bay environments, changing climatic conditions, and intensity of use by humans and animals (Gallegos and Kyle 1988; Pigniolo 2005; Warren 1964). Shellfish from sandy environments included *Donax*, *Saxidomas*, *Tivela*, and others. Rocky coast shellfish dietary contributions consisted of *Pseudochama*, *Megastraea*, *Saxidomus*, *Protothaca*, *Megathura*, *Mytolis*, and others. Lastly, the bay environment would have provided *Argopecten*, *Chione*, *Ostrea*, *Neverita*, *Macoma*, *Tagelus*, and others. While marine resources were obviously consumed, terrestrial animals and

other resources likely provided a large portion of sustenance. Game animals consisted of rabbits, hares (*Leporidae*), birds, ground squirrels, woodrats (*Neotoma*), deer, bears, mountain lions (*Puma concolor*), bobcats (*Lynx rufus)*, coyotes (*Canus latrans*), and others. In lesser numbers, reptiles and amphibians may have been consumed.

A number of local plants were used for food and medicine. These were exploited seasonally, and were both traded between regional groups and gathered as a single triblet moved between habitation areas. Some of the more common of these that might have been procured locally, or as higher elevation varieties, would have included buckwheat (*Eriogonum fasciculatum*), *Agave*, *Yucca*, lemonade berry (*Rhus integrifolia*), sugar brush (*Rhus ovata*), sage scrub (*Artemisia californica*), yerba santa (*Eriodictyon*), sage (*Salvia*), *Ephedra*, prickly pear (*Opuntia*), mulefat (*Baccharis salicifolia*), chamise (*Adenostoma fasciculatum*), elderberry (*Sambucus nigra*), oak (*Quercus*), willow (Salix), and *Juncus* grass, among many others (Wilken 2012).

The Historic Period (post-AD 1542)

European activity in the region began as early as AD 1542, when Juan Rodríguez Cabrillo landed in San Diego Bay. Sebastián Vizcaíno returned in 1602, and it is possible that there were subsequent contacts that went unrecorded. These brief encounters made the local native people aware of the existence of other cultures that were technologically more complex than their own. Epidemic diseases may also have been introduced into the region at an early date, either by direct contacts with the infrequent European visitors or through waves of diffusion emanating from native peoples farther to the east or south. Father Juan Crespí, a member of the 1769 Spanish Portolà expedition, authored the first written account of interaction between Europeans and the indigenous population in the region that makes up Orange County today. It is possible, but as yet unproven, that the precipitous demographic decline of native peoples had already begun prior to the arrival of Gaspar de Portolá and Junípero Serra in 1769.

Spanish colonial settlement was initiated in 1769, when multiple expeditions arrived in San Diego by land and sea, and then continued northward through the coastal plain toward Monterey. A military presidio and a mission were soon firmly established at San Diego, despite violent resistance to them from a coalition of native communities in 1776. Mission San Juan Capistrano was established this same year, on November 1st. Private ranchos subsequently established by Spanish and Mexican soldiers, as well as other non-natives, appropriated much of the remaining coastal or near-coastal locations (Pourade 1960–1967).

Mexico's separation from the Spanish empire in 1821 and the secularization of the California missions in the 1830s caused further disruptions to native populations. Some former mission neophytes were absorbed into the work forces on the ranchos, while others drifted toward the urban centers at San Diego and Los Angeles or moved to the eastern portions of the county where they were able to join still largely autonomous native communities. United States conquest and annexation, together with the gold rush in Northern California, brought many additional outsiders into the region. Development during the following decades was fitful, undergoing cycles of boom and bust. With rising populations in the nineteenth century throughout the Southern California region, there were increased demands for important commodities such as salt.

4.3.2 Research Methods for the Cultural Resources Inventory

The Secretary of the Interior has issued Standards and Guidelines for Archeology and Historic Preservation (48 FR 44720–44726), which are used for the identification and evaluation of historic properties and to ensure that the procedures are adequate and appropriate. The identification and evaluation of historic properties are dependent upon the relationship of individual properties to other similar properties (NPS and ACHP 1998, pp. 18–20).

Information about properties regarding their prehistory, history, architecture, and other aspects of culture must be collected and organized to define these relationships (NPS 2009), which is the intent of the current inventory.

This investigation consisted of a records search of the Project ADI and surrounding one-mile radius at the South Central Coastal Information Center (SCCIC), located at California State University, Fullerton. Following Bureau of Land Management precedents, which are appropriate for federal projects in general, survey techniques are loosely grouped into two categories: reconnaissance and intensive (BLM 2004; NPS 2009). The choice of survey category depends on the level of effort required for a particular project, which can vary depending on the nature of the properties or property types, the possible adverse effects on such properties, and agency requirements (NPS and ACHP 1998). The selection of field survey techniques and level of effort must be responsive to the management needs and preservation goals that direct the survey effort. For any survey, it is important to consider the full range of historic properties that may be affected, either directly or indirectly, and consider strategies that will minimize any adverse effects and maximize beneficial effects on those properties (BLM 2004; NPS 2009; NPS and ACHP 1998).

The current survey methods can be classified as intensive, since short-interval transect spacing and full documentation of cultural resources was completed. Survey staff exceeded the applicable Secretary of the Interior Professional Qualifications Standards for archaeological survey. Dudek archaeologists Adam Giacinto, Loukas Barton, David Alexander and Roshanne Bakhtiary surveyed the entire Project ADI in transects spaced no more than 15 meters apart. A Global Positioning System ("GPS") receiver with sub-meter accuracy and loaded with a shapefile of the Project ADI boundary was used to verify the accuracy of the survey coverage. Evidence for buried cultural deposits was opportunistically sought through inspection of natural or artificial erosion/excavation exposures and the spoils from rodent burrows. Field recording and photo documentation of resources, as appropriate, was completed.

Historic research was also performed to understand better the history of land use of the Project ADI and surrounding vicinities. This research consisted of reviewing Bureau of Land Management (BLM) General Land Office Records, historic topographic maps (USGS 2023), and historic aerial photographs (NETR 2023).

Documentation of cultural resources complied with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716-44740), and the California Office of Historic Preservation Planning Bulletin Number 4(a), December 1989, Archaeological Resource Management Reports: Recommended Contents and Format for the Preparation and Review of Archaeological Reports. All cultural resources identified during this inventory were recorded on California Department of Parks and Recreation (DPR) Form 523 (Series 1/95), using the Instructions for Recording Historical Resources (Office of Historic Preservation 1995), including updates to previously recorded resources.

4.3.3 Results

This section presents the results of the SCCIC records search, the historic topographic and aerial imagery review, the geomorphological review of the Project ADI, the field survey, and NAHC tribal coordination in support of the currently proposed Project.

4.3.3.1 Records Search Results

Previously Conducted Cultural Resources Studies

A records search was completed for the current Project ADI and a 0.5-mile radius by staff at the SCCIC on March 17, 2021. Updates to this original records search to incorporate changes to the project footprint and to encompass a one-mile radius were completed by Dudek archaeologists Brenda Rogers and Roshanne Bakhtiary on June 2, 2023, and December 6, 2023, respectively. The records search identified 87 previous cultural resources studies that have been performed within a one-mile radius of the Project ADI; of these studies, 9 intersect the ADI (Table 4.3-1). These studies include six cultural resources surveys/inventories, one cultural resources inventory and evaluation, one literature review, and one monitoring report. Relevant reports are discussed in further detail below Table 4.3-1. 100% of the currently proposed Project ADI has been subject to past cultural resources investigations. See Appendix 4.3B for the complete SCCIC records search results and associated documentation.

Table 4.3-1. Previous Cultural Resource Studies that Intersect the Project ADI

Report ID	Year	Author	Title
OR-00464	1979	Desautels, Roger J.	Archaeological/paleontological Survey Report on Proposed Extension of Either Trabuco Road or Junipero Serra Road to Intersect the Future Extension of Street of the Golden Lantern
OR-00653	1983	Schroth, Adella and Constance Cameron	Archaeological Assessment of 450 Acres for the Northwest Circulation Study, City of San Juan Capistrano, California
OR-00706	1983	Cottrell, Marie G.	Archaeological Resources Assessment Conducted for a 99 Acre Rancho Capistrano Property
OR-01011	1990	Sorensen, Jerrell H.	Archival Research for Interstate 5, From the Confluence with I 405 to Route 1, Capistrano
OR-01104	1991	Whitney-Desautels, Nancy A.	Grading Monitoring and Disturbance Report, Archaeology and Paleontology Lakefill Bypass Pipeline Project San Juan Capistrano Orange County, California
OR-01237	1992	Bissell, Ronald M. and Jeanette A. McKenna	Cultural Resources Reconnaissance of Ten Areas for Possible Park Locations, City of San Juan Capistrano, Orange County, California
OR-02426	2001	Demcak, Carol R.	Report of Archaeological Resources Assessment for 22-acre Parcel in San Juan Capistrano, Orange County, California
OR-02435	2002	Ferraro, David D., and Tim Gregory	Archaeological Survey of the Rancho Capistrano Property in the City of San Juan Capistrano, Orange County, California
OR-04588	2018	Calvani, Daniel and Brian Williams	Archaeological Survey for CMP Pole Replacement, P321830, San Juan Capistrano, Orange County, California (SDG&E eTS 37129 # ASM Project #23005.27)

OR-02435

An archaeological resources inventory and evaluation was conducted in 2001 by RMW Paleo Associates in support of Crystal Cathedral Ministries' plans to upgrade their Rancho Capistrano facilities across a 165-acre parcel. This study included a brief culture history overview, a literature review, a records search, and an intensive-level cultural resources pedestrian survey of 165-acres of land that encompasses the currently proposed Project ADI. The pedestrian survey identified and recorded one prehistoric midden deposit, two historic-era storage tanks and the Bathgate Ranch Property. One resource, the Bathgate Ranch Property, was recorded within the currently proposed Project ADI. Overall, RMW recommended efforts should be made to retain the buildings and citrus trees associated within the Bathgate Ranch Property, either in place or by relocating them to another location on property. Additionally, RMW recommended additional testing to assess the significance of the prehistoric midden deposit identified as part of this study (outside of currently proposed Project ADI) (Ferraro and Gregory 2001).

Previously Recorded Cultural Resources

The records search identified one cultural resource within the Project ADI: P-30-176642, the Bathgate Ranch Property. This resource is described in further detail below Table 4.3-2. An additional 28 previously recorded cultural resources were identified within the one-mile radius of the Project ADI (Table 4.3-2; Appendix 4.3B). These include eight prehistoric midden deposits, four lithic isolates, three prehistoric lithic scatters, five historic-era properties, three water storage tanks, one roadway alignment, one railway alignment, one historic-era trash scatter, one historic-era isolate, and one multicomponent resource. See Appendix 4.3B for the complete SCCIC records search results, documentation, and DPR forms.

Table 4.3-2. Previously Recorded Cultural Resources within 1-Mile of Project ADI

Primary Number	Trinomial	Age	Type	Description	Eligibility for CRHR/NRHP
Intersects Project ADI					
P-30-176642	—	Historic	District	Single Family Property; Farm/ Ranch	Recommended eligible
Outside of Project ADI					
P-30-000538	CA-ORA-000538	Prehistoric	Site	Lithic Scatter; Quarry	Not evaluated
P-30-000855	CA-ORA-000855	Prehistoric	Site	Habitation Debris	Recommended eligible
P-30-000963	CA-ORA-000963	Prehistoric	Site	Lithic Scatter; Habitation Debris	Not evaluated
P-30-000964	CA-ORA-000964	Prehistoric	Site	Lithic Scatter; Habitation Debris	Not evaluated
P-30-001040	CA-ORA-001040	Prehistoric	Site, Other	Lithic Scatter; Habitation Debris	Not evaluated
P-30-001278	CA-ORA-001278	Prehistoric	Site	Habitation Debris	Not evaluated
P-30-001279	CA-ORA-001279	Prehistoric	Site, Other	Lithic Scatter	Not evaluated
P-30-001327	CA-ORA-001327/H	Prehistoric, Historic	Site	Historic-era residential complex with prehistoric lithic scatter	Not evaluated

Table 4.3-2. Previously Recorded Cultural Resources within 1-Mile of Project ADI

Primary Number	Trinomial	Age	Type	Description	Eligibility for CRHR/NRHP
P-30-001328	CA-ORA-001328H	Historic	Building, Structure, Site	Residential complex	Not evaluated
P-30-001329	CA-ORA-001329H	Historic	Structure, Site	Residential complex	Not evaluated
P-30-001330	CA-ORA-001330H	Historic	Building, Structure, Site	Residential complex	Not evaluated
P-30-001338	CA-ORA-001338	Prehistoric	Site	Lithic Scatter; Burials; Habitation Debris; Other	Recommended eligible
P-30-001343	CA-ORA-001343H	Historic	Site	Water storage tank	Not evaluated
P-30-001536	CA-ORA-001536	Prehistoric	Site	Habitation Debris	Unknown
P-30-001603	CA-ORA-001603	Prehistoric	Site	Habitation Debris	Not evaluated
P-30-001604	CA-ORA-001604H	Historic	Structure, Site	Water storage tank	Not evaluated
P-30-001688	CA-ORA-001688H	Historic	Object, Site	Historic road alignment	Not evaluated
P-30-100043	—	Prehistoric	Other	Lithic Scatter	Not evaluated
P-30-100045	—	Historic	Other	Isolate	Not eligible
P-30-100121	—	Historic	Other	Trash scatter	Not evaluated
P-30-100151	—	Prehistoric	Other	Isolate	Not eligible
P-30-100152	—	Prehistoric	Other	Isolate	Not eligible
P-30-100153	—	Prehistoric	Other	Isolate	Not eligible
P-30-100154	—	Prehistoric	Other	Isolate	Not eligible
P-30-176663	—	Historic	Structure	Railway	Recommended not eligible
P-30-176751	—	Historic	Building	Residential property	Not evaluated
P-30-177064	—	Historic	Structure	Water storage tank	Not evaluated
P-30-179860	—	Historic	Building	Fulton Shaw Barn	Recommended not eligible

P-30-176642

P-30-176642 consists of the Bathgate Ranch Property, which was first recorded in 2001 by Tim Gregory DBA of RMW Paleo Associates (P-30-176642 and Ferraro and Gregory 2001).

Bathgate Ranch is the remains of an historic-era citrus ranch. At the time it was recorded in 2001, this resource consisted of three houses, one attached to a garage, a multi-purpose building (four structures in total), orange trees, and dirt roads connecting them all. The structures were given the names Farm-house #1, Farm-house #2, Farm-house #3, and Multi-Purpose Building. All four structures were built between 1924 and 1930 and were reported to be rustic in style. The DPR form notes that "various alterations and additions have been made to the structures over the years, some as late as 1966. However, their historic appearance is still observable" (P-30-176642: 2). The historic district was mapped to the original parcel boundary of the citrus ranch, measuring a total of 77-acres. Farm-house #1, Farm-house #2, and Farm-house #3 are all located adjacent to one another, towards

the western-central portion of the historic parcel boundary, while the Multi-Purpose Building is located to the northwest (P-30-176642).

The property was acquired by the Bathgate and Williams families in 1913 after it was sold to them by Judge Richard Egen, an early settler who was instrumental in bringing the railroad to San Juan Capistrano in 1891. It remained in their families, which were intermarried, until the last owner within the families, Billy Bathgate. Billy Bathgate, the mayor of the City of San Juan Capistrano from 1963 to 1972, who died in 2001, sold the property to Crystal Cathedral Ministries in 1989 (P-30-176642).

The RMW Paleo Associates report findings provide the following with regard to the significance of this ranching property:

> Within the broad historic context of local history, the Bathgate Ranch is significant because it is one of the last properties within the city limits of San Juan Capistrano to represent the phenomenal growth of the citrus industry in the 1920s. Virtually unchanged from its days as a working ranch, the fifty-plus acre parcel is a valuable reminder of the vast citrus empire that, as long ago as the 1940s, occupied over 75,000 acres of Orange County. (The only noticeable change on the property is the addition of playing fields on its easterly border and the removal of a large number of dead or dying orange trees.) The layout and appearance of the Ranch's buildings, extant groves, and other improvements supply information regarding rural life in San Juan Capistrano during the early- and mid-20th century and how it evolved over that time period. The Bathgate's were one of three inter-related families who introduced citri-culture into the area almost one hundred years ago. The family also had a significant impact on the civic and cultural growth of San Juan Capistrano. [Gregory et. al 2001: 13]

Based on this assessment, Gregory recommended the property as 5D, ineligible for NRHP listing, but eligible for the CRHR under Criteria 1 (local contributions to knowledge of the broad patterns of the state's history) and 2 (association with locally significant persons).

As described in field results below, only one structure (Multi-Purpose Building) of this resource remains extant and will be avoided by the Project as presently designed. Farm-house #1, Farm-house #2, and Farm-house #3 were razed sometime between 2012 and 2014, and most of the citrus trees throughout the property have been removed as well. The Multi-Purpose building is documented as follows:

> Multi-purpose Building ("The Schoolhouse" or "Barn"). This basically U-shaped wooden building was built in 1927 according to the Orange County Assessor, although, on inspection, parts of it may date back to as early as the 1910s. It is located approximately 500 feet west of Camino Capistrano and approximately 1,500 feet northeast of Farm-house #3. It measures approximately 48 feet north-south by 38 feet east-west. The roof is gabled and covered with composition shingles. Eaves are open with exposed rafter-tails. Wall cladding is a mixture of tongue-in-groove and clapboard. (This, plus the fact the building has no foundation other than wooden posts resting on concrete piers, indicates it may have been moved and perhaps assembled out of two to three once-independent buildings.) All wall corners are "finished" with vertical timbers. [Gregory et. al 2001: 9]

4.3.3.2 Archival Research

In addition to the SCCIC records search, Dudek conducted an online review of Bureau of Land Management (BLM) General Land Office Records, historical topographic maps, and historic aerial photographs to understand the

development of the Project ADI and surrounding areas over time. The Project ADI was first recorded predominantly within Section 26 of Township 7 South, Range 8 by James R. Hardenbergh of the BLM in 1873. The BLM plat image shows the Project ADI within a largely undeveloped area just east of the historic course of Dry Creek (BLM 2023). To note, there is a structure labeled "Cabin" southwest of the Project ADI recorded in the 1873 original plat image.

Historic topographic maps (historic topo) of the Project ADI are available for the years of 1901 to 1983 (USGS 2023). The first historic topo from 1901 shows a roadway and railway east of the Project ADI, traversing parallel to the historic course of Dry Creek, which trends on a north to south axis. There are no observable changes to the Project ADI until 1942, when dirt roadway development appears to the north and southwest, as well as within the Project ADI. Additionally, two structures appear directly to the southwest of the Project ADI, with frontage on the dirt roadways; there is also a single structure depicted to the north with frontage on a dirt roadway as well. There are no other observable changes to the Project ADI and surroundings as depicted in the historic topographic maps until the last available in 1983 (USGS 2023).

Historic aerial photographs (historic aerials) of the Project ADI are available from 1938 to 2020 and provide more detail on the historic development of the region through time (NETR 2023). The first available historic aerial shows the Project ADI covered in orange groves. Additionally, there appears to be three structures to the southwest of the Project ADI, and an additional three structures to the north of the Project ADI. There is little change in the development of the Project ADI and immediate surroundings until 1967. By 1967, the two smaller structures appearing to the north of the Project ADI have been razed; only one structure to the north remains. There are no substantial changes to the aerial depiction of the Project ADI and surrounding until 1996. By 1996, the Project ADI appears to have been partially cleared of trees and graded by heavy machinery. Throughout the late 1990s and early 2000s, there is additional grading and earthwork apparent within the Project ADI and surroundings. It is not until 2014 that the three structures to the southwest of the Project ADI appear to have been razed. Continued disturbances and land use changes (predominantly the grading and removal of agricultural land) are observed within and adjacent to the Project ADI throughout the early 21st century until the last available historic aerial photograph in 2020 (NETR 2023). The historic-era structure (first observed in the 1938 historic aerial) to the north of the Project APE continues to appear extant until the last available aerial depiction available in 2020.

Overall, this historic topo and aerial imagery review indicates that the Project ADI was agricultural land as far back as the earliest aerial images available (1938). Several historic-era structures once existed within and directly adjacent to the Project ADI but were likely razed between 2012 and 2014. As indicated by this archival review, one structure associated with the Bathgate Ranch Property likely remains extant to the north of the Project ADI. Many of the citrus tree first appearing in 1938 historic aerial appear to no longer exist as indicated in the last available historic aerial from 2020.

4.3.3.3 Geomorphological Information

According to the U.S. Department of Agriculture Web Soil Survey (USDA 2023), there are several soil types within the Project ADI, but the largely predominant types are Corralitos loamy sand and Sorrento loam with 2% to 9% slopes. The U.S. Department of Agriculture does not consider this soil type to be a hydric soil (USDA 2023). Soils in this series are consist of alluvial fans formed of loamy alluvium derived from igneous, metamorphic, and sedimentary rocks.

In general, the soils present in the Project ADI are consistent with alluvial lands derived from an assortment of parent materials in the surrounding area underlain by Miocene marine rocks (USDA 2023). Sediment formation in this location would likely have occurred primarily since the Holocene, generally relating to increased water flows following Pleistocene glaciation (possibly 5,000–7,000 BP; Ritter 1972). While such low-slope locations are

characteristically Late Holocene or younger, the distinction between depositional and non-depositional formations are more difficult to discern in foothills when overlaying bedrock or where glacial deposits are erosional (Meyer et al. 2010). Regardless of the age of sediments in this area, reoccurring alluvial action and flooding would serve to support the development and presence of cultural deposits in the area.

The Project ADI has not been subject to substantial disturbances outside of general agricultural and ranching activities. Due to the undisturbed nature of large portions of the Project ADI, and the presence of alluvial deposits along seasonal drainages, there remains moderate potential for archaeological deposits within the Project ADI.

4.3.3.4 Field Survey Results

On March 31, 2021, Dudek archaeologists Adam Giacinto and Loukas Barton conducted an intensive-level pedestrian survey of the Project ADI. Due to changes in Project design, the ADI was resurveyed in March and August of 2023 by Dudek archaeologists David Alexander and Roshanne Bakhtiary, respectively. All field efforts were consistent with the Secretary of Interior Standards and Guidelines for Archaeology and Historic Preservation. Surveyors used 15-meter spacing, intensively inspecting the ground surface for cultural resources, including artifacts, features, and/or midden soils. Surface visibility within the proposed offsite access road and within the mowed and graded portions of the ADI were generally good, allowing for approximately 70% of the ground surface to be directly observed. These conditions constituted approximately 30% of the total Project ADI. Ground surface visibility throughout the majority of the ADI (central and southern portions) was very poor, less than 10%, due to the presence of dense vegetation (Figure 4.3-2). All portions of the Project ADI appear to have been previously disturbed by agricultural and ranching activities. It was observed that the ADI appears to have the potential to support the presence of intact buried archaeological deposits below the plow zone. No prehistoric or historic-era cultural resources were identified within the Project ADI during any of the pedestrian surveys in support of this Project. However, in the 22 years since the Bathgate Ranch Property (P-30- 176642) was last recorded, this resource appears to have been substantially modified (Figure 4.3-3).

Figure 4.3-2. Project ADI Overview. Poor ground visibility, view to south.

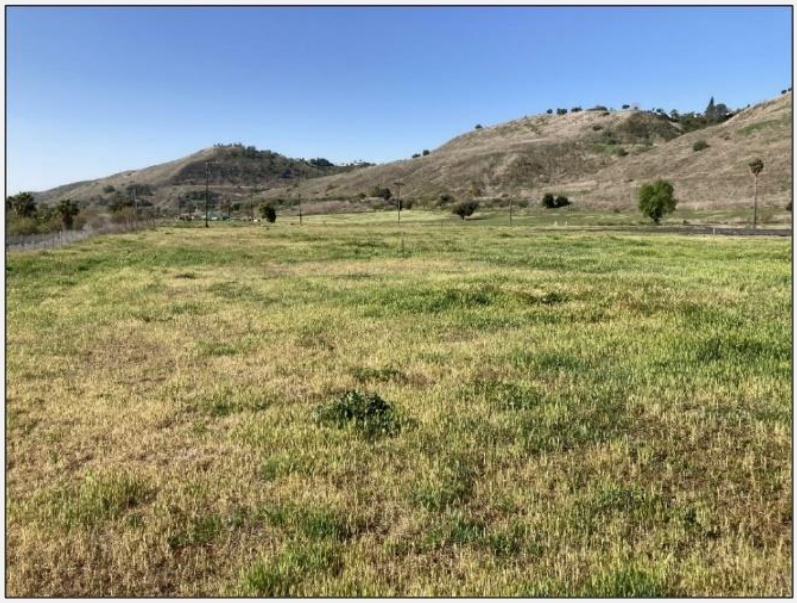
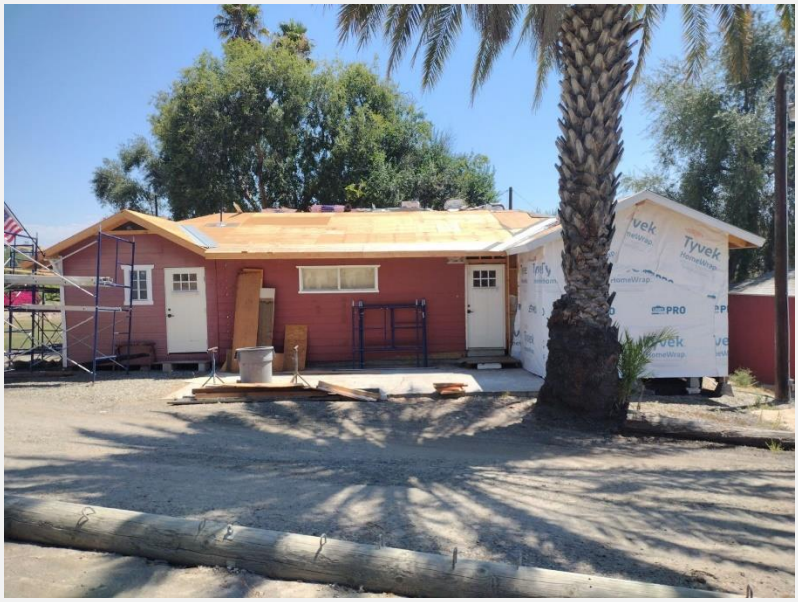


Figure 4.3-3. Last remaining structure of Bathgate Ranch Property (P-30- 176642 (Multi-Purpose Building)). Extensive alterations were in process as of August 2023, view to east.



As previously noted, the Project falls within the larger parcel associated with the Bathgate Ranch Property (P-30-176642). Gregory et al. (2001), suggested that this ranching property is eligible for CRHR listing (5D) as a place of local interest for its associations with the Bathgate family and its contribution to the 1920's citrus industry boom. At the time of the initial 2001 recordation, no appreciable alteration of the property was observed, with the exception of expected changes required to support the ongoing needs of an active citrus ranch. Dudek's recent survey documented substantial additional modifications to P-30-176642. One extant structure (Multi-Purpose Building) associated with the Bathgate Ranch Property (P-30-176642) was noted to be present during the Dudek surveys, to the north of (outside) the currently proposed Project ADI. At the time of the most recent survey, the building was undergoing active maintenance/ improvements. The other three structures recorded as contributors to the Bathgate Ranch Property (originally to the southwest of the Project ADI) have been razed, and all but a few citrus trees removed. Terracing associated with the location of Farm-house #1 and Farm-house #2 recorded to the southwest of the ADI appears to still be present, however no refuse, foundations or other materials were observed in this area.

The Multi-Purpose Building falls outside of the ADI. It has been indicated by the Project proponent that the historic-era Multi-Purpose Building associated with the Bathgate Ranch Property will be entirely avoided during Project implementation. While some potential historic-era building materials were observed within the central portion of the Project ADI, these materials were mixed with modern debris.

Given the extended historical use of this area, it is possible that additional historic-era deposits could be present. See Appendix 4.3C for a Cultural Resources Overview Map of P-30-176642 to-date, and Appendix 4.3D for the 2023 recordation and DPR form continuation sheet for P-30-176642.

4.3.3.5 NAHC Correspondence

Dudek contacted the NAHC on May 18, 2023 and requested a review of their Sacred Lands File (SLF) for the proposed Project ADI and a 0.5-mile radius of the Project ADI. The SLF consists of a database of known Native American cultural resources. These resources may not be included in the SCCIC database. The NAHC replied via email on June 12, 2023, stating that the SLF search was completed with positive results. Positive results indicate the presence of Native American cultural resources within 0.5-miles of the Project ADI, and not necessarily directly within the Project ADI. The NAHC additionally provided a list of 10 Native American individuals and/or tribal organizations that should be contacted for more information on potential tribal sensitivities regarding the currently proposed Project ADI. To date, Dudek has not sent outreach letters to any of the entities identified by NAHC. Tribal notification and consultation associated with Assembly Bill 52, as outlined by CEQA, are government-to-government processes. See Appendix 4.3E for complete documentation of NAHC correspondence and SLF results.

4.3.4 Environmental Analysis

4.3.4.1 Significance Criteria

Appendix G of the CEQA Guidelines addresses significance criteria concerning cultural resources (PRC Sections 21000 et seq.). Appendix G (V) (a, b, d) indicates that an impact would be significant if the project will have the following effects:

- Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?
- Disturb any human remains, including those interred outside of dedicated cemeteries?

4.3.4.2 Construction Impacts

Dudek conducted records searches of the Project ADI and the surrounding one-mile radius at the SCCIC. The records search identified one previously recorded cultural resource intersecting the Project ADI (P-30-176642), and 28 within a one-mile radius of the Project ADI. P-30-176642, the Bathgate Ranch Property, operated as a citrus ranch and residence to several families over the 20th century. An NAHC SLF search was also conducted, and results were positive for Native American cultural resources within the search area (assumed to be USGS Sections intersecting the Project ADI and 0.5-mile radius). The NAHC did not provide details on what the resource(s) are or where they are located. These findings should be addressed through future discussions with designated representatives of the Juaneño Band of Mission Indians Acjachemen Nation.

P-30-176642 was first recorded as a historic-era ranching complex in 2001, at which time it was recommended as CRHR eligible (under Criteria 1 and 2) for its contributions to the local history of the citrus farming boom of the 1920s and the Bathgate family. At the time of initial recordation, four contributing historic-era structures were identified on the property, along with several hundred citrus trees. The area was an active citrus farm with limited modification since its period of significance. Dudek conducted an intensive-level cultural resources pedestrian survey of the Project ADI in 2021 and 2023, observing that only one of the four contributing historic-era structures remained extant on the property: the Multi-Purpose Building. The three primary farm houses have been razed. At time of survey, the majority of the citrus trees had also been removed and the land converted into grass fields.

Although the Project ADI intersects with the previously recorded parcel of the Bathgate Ranch Property, there are no contributing elements of this historic ranch complex intersecting the ADI. The one extant building is located north, outside of, the ADI. Given that the Project would not result in any physical or use-related changes to the existing setting of P-30-176642, it does not appear that any formal re-evaluation of this resource is required. Unless otherwise evaluated, the remnant Multi-Purpose structure should be assumed eligible for CRHR listing.

No prehistoric or historic-era archaeological resources were documented through intensive-level pedestrian survey of the ADI completed by Dudek, or by previous technical specialists. Historic topographic maps and aerial imagery indicate the Project ADI was used predominantly for agricultural purposes in the past and has been subject to mass grading by heavy machinery and other ground disturbances throughout the late 20th and early 21st centuries. This suggests that upper sediments have been substantially altered, or otherwise destroyed. This observed, it should be noted that the SCCIC records search did indicate there are potentially sensitive archaeological resources in the area surrounding the Project ADI, including prehistoric sites with midden deposits, lithics scatters, and one resource with reported burials. Given this information and the geoarchaeological suitability for supporting the presence of buried archaeological resources, there is a moderate potential for the discovery of unanticipated cultural resources during initial Project-related ground disturbance. Compliance with Mitigation Measures **MM–CUL-1** and **MM-CUL-2,** outlined below, would reduce potential impacts to unanticipated archaeological resources and human remains during project construction.

4.3.4.3 Operations Impacts

Project operations will occur primarily within the BESS facility and will not require additional ground disturbing activity. As such, impacts to cultural resources from the operations will not occur.

4.3.5 Cumulative Effects

A cumulative impact refers to a proposed project's incremental effect together with other closely related past, present, and reasonably foreseeable future projects whose impacts may compound or increase the incremental effect of the proposed project (PRC Section 21083; CCR, Title 14, Sections 15064[h], 15065[c], 15130, and 15355).

Most of the projects in the vicinity of the project involve minor modifications to existing buildings and are likely to impact cultural resources that are not significant. As such, the project is unlikely to have impacts that would combine cumulatively with other closely related past, present, and reasonably foreseeable future projects to cumulatively impact cultural resources.

4.3.6 Mitigation Measures

MM-CUL-1 Cultural Resources Monitoring and Accidental Discovery. It is recommended that an archaeological monitor be present during all initial ground-disturbing activities with the potential to encounter cultural resources. The requirement to include a Native American Monitor should be determined by the CEC through consultation and review of the present report findings. A monitoring plan should be prepared by the archaeologist and implemented upon approval by the CEC. Archaeological monitors shall be present on the project site during initial ground-disturbing activities to monitor rough and finish grading, excavation, and other ground-disturbing activities in the native soils.

If cultural materials are discovered during initial disturbances associated with site preparation, grading, or excavation, the construction contractor shall divert all earthmoving activity within and around the immediate discovery area until a qualified archaeologist can assess the nature and significance of the find. The area of avoidance shall be assumed to be a minimum of 50 feet around the find, however, may be adjusted to support construction needs by the qualified archaeologist in coordination with the construction team so long as protection of the discovery can be ensured. If determined necessary by the qualified archaeologist for the protection of this area, it shall be delineated by a temporary physical exclusionary boundary using staking and survey tape or other similar materials. Non-cultural project personnel shall not handle, collect or move any archaeological materials or human remains and associated materials. To the extent feasible, project activities shall avoid these deposits. Where avoidance is not feasible, the archaeological deposits shall be evaluated for their eligibility for listing on the California Register of Historical Resources. If the deposits are not eligible, regulations provide that avoidance is not necessary. If the deposits are eligible, adverse effects to the identified resource must be avoided, or such effects must be mitigated. Mitigation strategies are dependent on the nature of the resource, and can include, but are not necessarily limited to: preservation in place, excavation of the deposit in accordance with a data recovery plan (see California Code of Regulations [CCR] Title 4(3) Section 5126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; production of a report detailing the methods, findings, and significance of the archaeological site and associated materials; curation of archaeological materials at an appropriate facility for future research and/or display; an interpretive display of recovered archaeological materials at a local school, museum, or library; and public lectures at local schools and/or historical societies on the findings and significance of the site and recovered archaeological materials. The CEC, or designee, shall be responsible for reviewing management plans and any reports produced by the archaeologist to determine the appropriateness and adequacy of the findings and recommendations.

Daily monitoring logs should be completed by onsite archaeological (and Native American monitors if present). Within 60 days following completion of construction, the qualified archaeological principal investigator should provide an archaeological monitoring report to the lead agency for review. The intent of this report should be to document compliance with approved mitigation. This report should include the results of the cultural resources monitoring program (even if negative), including a summary of any findings or evaluation/data recovery efforts, and supporting documentation that demonstrates all mitigation measures defined in the environmental document were appropriately met. Appendices should include monitoring logs and documentation relating to any newly identified or updated cultural resources.

MM-CUL-2 Human Remains. Consistent with the requirements of CCR Section 15064.5(e), if human remains are encountered during site disturbance, grading, or other construction activities on the project site, the construction contractor shall halt work within 50 feet of the discovery; all work within 50 feet of the discovery shall be redirected and the Orange County (County) Coroner notified immediately. This exclusionary buffer may be adjusted based on project needs, while also ensuring the protection of this area and regulatory compliance, at the recommendation of a qualified archaeologist. If determined necessary by the qualified archaeologist for the protection of this area, it shall be delineated by a temporary physical exclusionary boundary using staking and survey tape or other similar materials. No further disturbance shall occur in areas likely to contain human

remains until the County Coroner has made a determination with regard to if the find is human in origin pursuant to Public Resources Code Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which will determine and notify the Most Likely Descendant (MLD). With the permission of the CEC and land owner, the MLD may inspect the site of the discovery. The MLD shall make recommendations or preferences for treatment within 48 hours of being granted access to the site. Public Resources Code Section 5097.98 includes reasonable options for treatment that may be requested by the MLD. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, the CEC, in coordination with the landowner, shall consult with the MLD identified by the NAHC to develop an agreement for the treatment and disposition of the remains.

Upon completion of the assessment, the consulting archaeologist shall prepare a report documenting the methods and results and provide recommendations regarding the treatment of the human remains and any associated cultural materials, as appropriate, and in coordination with the recommendations of the MLD. The report shall be submitted to the CEC, or designee, and the South Central Coastal Information Center. The CEC, or designee, shall be responsible for reviewing any reports produced by the archaeologist to determine the appropriateness and adequacy of the findings and recommendations.

4.3.7 Law, Ordinances, Regulations, and Standards

4.3.7.1 Federal LORS

National Historic Preservation Act of 1966

Enacted in 1966, the NHPA declared a national policy of historic preservation and instituted a multifaceted program, administered by the National Parks Service, to encourage the achievement of preservation goals at the federal, state, and local levels. The NHPA authorized the expansion and maintenance of the National Register of Historic Places (NRHP), established the position of State Historic Preservation Officer and provided for the designation of State Review Boards, set up a mechanism to certify local governments to carry out the purposes of the NHPA, assisted Native American tribes to preserve their cultural heritage, and created the Advisory Council on Historic Preservation (ACHP). Section 106 of the NHPA states that federal agencies with direct or indirect jurisdiction over federally funded, assisted, or licensed undertakings must take into account the effect of the undertaking on any historic property that is included in, or eligible for inclusion in, the NRHP, and that the ACHP must be afforded an opportunity to comment, through a process outlined in the ACHP regulations at 36 Code of Federal Regulations (CFR) Part 800, on such undertakings. The Project will be coordinating with US Army Corps of Engineers and any other federal permitting entities to ensure that permit processing is completed in accordance with the requirements of Section 106.

The National Register of Historic Places

The NHPA established the National Register of Historic Places (NRHP) and the President's Advisory Council on Historic Preservation (ACHP) and provided that states may establish State Historic Preservation Officers to carry out

some of the functions of the NHPA. Most significantly for federal agencies responsible for managing cultural resources, Section 106 of the NHPA directs the following:

> [T]he head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the NRHP.

Section 106 of the NHPA also affords the ACHP a reasonable opportunity to comment on the undertaking (16 USC 470[f]).

Title 36 of the Code of Federal Regulations (CFR), Part 800, implements Section 106 of the NHPA. It defines the steps necessary to identify historic properties (those cultural resources listed in or eligible for listing in the NRHP), including consultation with federally recognized Native American tribes, to identify resources with important cultural values; to determine whether or not they may be adversely affected by a proposed undertaking; and to establish the process for eliminating, reducing, or mitigating the adverse effects.

The content of 36 CFR, Part 60.4, defines criteria for determining eligibility for listing in the NRHP. The significance of cultural resources identified during an inventory must be formally evaluated for historic significance in consultation with the ACHP and the California State Historic Preservation Officer to determine if the resources are eligible for inclusion in the NRHP. Cultural resources may be considered eligible for listing if they possess integrity of location, design, setting, materials, workmanship, feeling, and association.

The National Park Service (NPS) has established guidelines for considering NRHP eligibility for a district, site, building, structure, or object (NPS 1997, 2000). To be individually eligible for the NRHP, a property must be significant within a historic context and retain integrity of those features that convey significance. The significance of a resource within its historic context must relate to one or more of the following criteria (Criteria A–D):

A. Associated with events that have made a significant contribution to the broad patterns of our history.
B. Associated with the lives of persons significant in our past (i.e., persons whose activities are demonstrably important within a local, state, or national context).
C. Embodies the distinctive characteristics of a type, period, or method of construction, or represents the works of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction (i.e., are part of a district). Discrete features, a particular building for example, may best be documented under this criterion, though collections of resources may also have significance under Criterion C for architecture or engineering association.
D. Yielded, or has the potential to yield, information important in history. To be eligible under Criterion D, the property must have, or have had, information to contribute to our understanding of human history and that information must be considered “important.” Most commonly applied to archaeological sites, buildings, structures, and objects may be eligible under Criterion D if they are the principal source of information (NPS 1997:21).

In addition to these basic evaluation criteria, the NRHP outlines further criteria considerations for significance. Moved properties; birthplaces; cemeteries; reconstructed buildings, structures, or objects; commemorative properties; and properties that have achieved significance within the past 50 years are generally not eligible for the NRHP. The criteria considerations are exceptions to these rules, and they allow for the following types of resources to be NRHP eligible:

A. a religious property deriving primary significance from architectural or artistic distinction or historical importance;
B. a building or structure removed from its original location, but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event;
C. a birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life;
D. a cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, from association with historic events;
E. a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;
F. a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
G. a property achieving significance within the past 50 years if it is of exceptional importance.

Once the significance of a resource has been determined, the resource then must be assessed for integrity. Integrity is 1) the ability of a property to illustrate history and 2) possession of the physical features necessary to convey the aspect of history with which it is associated (NPS 1997:44). The evaluation of integrity is grounded in an understanding of a property's physical features and how they relate to the property's significance. Historic properties either retain integrity (that is, convey their significance) or they do not. To retain integrity, a property will always possess several, and usually most, of the seven aspects of integrity (NPS 1997:44–45, 2000:35–36):

1. *Location* is the place where the historic property was constructed or the place where the historic event occurred.
2. *Design* is the combination of elements that create the form, plan, space, structure, and style of a property.
3. *Setting* is the physical environment of a historic property.
4. *Materials* are the physical elements that were combined or deposited during a particular period and in a particular pattern or configuration to form a historic property.
5. *Workmanship* is the physical evidence of crafts of a particular culture or people during any given period in history or prehistory.
6. *Feeling* is the property's expression of the aesthetic or historic sense of a particular period.
7. *Association* is the direct link between an important historic event or person and a historic property.

The 1992 amendments to the NHPA enhance the recognition of tribal governments' roles in the national historic preservation program, including adding a member of a Native American tribe or Native Hawaiian organization to the ACHP.

The NHPA amendments accomplish the following:

1. Clarify that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined eligible for inclusion in the National Register.
2. Reinforce the provisions of the Council's regulations that require the federal agency to consult on properties of religious and cultural importance.

The 1992 amendments also specify that the ACHP can enter into agreements with tribes that permit undertakings on tribal land and that are reviewed under tribal regulations governing Section 106 of the NHPA. Regulations implementing the NHPA state that a federal agency must consult with any Native American tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking.

National Graves Protection and Repatriation Act of 1990

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 sets provisions for the intentional removal and inadvertent discovery of human remains and other cultural items from federal and tribal lands. It clarifies the ownership of human remains and sets forth a process for repatriation of human remains and associated funerary objects and sacred religious objects to the Native American groups claiming to be lineal descendants or culturally affiliated with the remains or objects. It requires any federally funded institution housing Native American remains or artifacts to compile an inventory of all cultural items within the museum or with its agency and to provide a summary to any Native American tribe claiming affiliation.

4.3.7.2 State LORS

California Register of Historical Resources

In California, the term "historical resource" includes, but is not limited to, "any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California" (PRC Section 5020.1[j]). In 1992, the California legislature established the California Register of Historical Resources (CRHR) "to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change" (PRC Section 5024.1[a]). The criteria for listing resources in the CRHR were expressly developed to be in accordance with previously established criteria developed for listing in the National Register of Historic Place (NRHP), enumerated as follows: According to California Public Resources Code (PRC) Section 5024.1(c)(1–4), a resource is considered historically significant if it (i) retains "substantial integrity" and (ii) meets at least one of the following criteria:

(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 understand the historic importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resource. A resource less than 50 years old may be

considered for listing in the CRHR if it can be demonstrated that sufficient time has passed to understand its historical importance (14 CCR 4852[d][2]).

The CRHR protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources. The criteria for the CRHR are nearly identical to those for the NRHP, and properties listed or formally designated as eligible for listing in the NRHP are automatically listed in the CRHR, as are state landmarks and points of interest. The CRHR also includes properties designated under local ordinances or identified through local historical resource surveys.

California Environmental Quality Act

The following CEQA statutes (PRC Section 21000 et seq.) and CEQA Guidelines (14 CCR 15000 et seq.) are of relevance to the analysis of archaeological, historic, and tribal cultural resources:

- PRC Section 21083.2(g) defines "unique archaeological resource."
- PRC Section 21084.1 and CEQA Guidelines Section 15064.5(a) defines "historical resources." In addition, CEQA Guidelines Section 15064.5(b) defines the phrase "substantial adverse change in the significance of an historical resource"; it also defines the circumstances when a project would materially impair the significance of a historical resource.
- PRC Section 21074(a) defines "tribal cultural resources."
- PRC Section 5097.98 and CEQA Guidelines Section 15064.5(e) set forth standards and steps to be employed following the accidental discovery of human remains in any location other than a dedicated cemetery.
- PRC Sections 21083.2(b) and 21083.2(c) and CEQA Guidelines Section 15126.4 provide information regarding the mitigation framework for archaeological and historic resources, including examples of preservation-in-place mitigation measures. Preservation in place is the preferred manner of mitigating impacts to significant archaeological sites because it maintains the relationship between artifacts and the archaeological context and may help avoid conflict with religious or cultural values of groups associated with the archaeological site(s).

More specifically, under CEQA, a project may have a significant effect on the environment if it may cause "a substantial adverse change in the significance of an historical resource" (PRC Section 21084.1; 14-CCR 15064.5[b]).

A "substantial adverse change in the significance of an historical resource," reflecting a significant effect under CEQA, 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" (14- CCR 15064.5[b][1]; PRC Section 5020.1[q]). In turn, the significance of a historical resource is materially impaired when a project does any of the following (14 CCR 15064.5[b][2]):

1. 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 [CRHR]; or
2. 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 PRC or its identification in an historical resources survey meeting the requirements of Section 5024.1(g) of the PRC,

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

3. Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register as determined by a lead agency for purposes of CEQA.

Pursuant to these sections, the CEQA inquiry begins with evaluating whether a project site contains any historical resources, then evaluates whether that project will cause a substantial adverse change in the significance of a historical resource such that the resource's historical significance would be materially impaired.

If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. To the extent that they cannot be left undisturbed, mitigation measures are required (PRC Sections 21083.2[a]–[c]).

PRC Section 21083.2(g) defines a *unique archaeological resource* as an archaeological artifact, object, or site about which it can be clearly demonstrated that without merely adding to the current body of knowledge, there is a high probability that it meets 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.

Impacts on non-unique archaeological resources are generally not considered a significant environmental impact (PRC Section 21083.2[a]; 14 CCR 15064.5[c][4]). However, if a non-unique archaeological resource qualifies as a tribal cultural resource (PRC Sections 21074[c] and 21083.2[h]), further consideration of significant impacts is required.

CEQA Guidelines Section 15064.5 assigns special importance to human remains and specifies procedures to be used when Native American remains are discovered. These procedures are detailed in PRC Section 5097.98.

Native American Historical Cultural Sites (California Public Resources Code Section 5097 et. Seq.)

State law addresses the disposition of Native American burials in archaeological sites and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establishes the Native American Heritage Commission (NAHC) to resolve disputes regarding the disposition of such remains. In addition, the Native American Historic Resource Protection Act makes it a misdemeanor punishable by up to 1 year in jail to deface or destroy an Indian historic or cultural site that is listed or may be eligible for listing in the CRHR.

California Native American Graves Protection and Repatriation Act

The California Native American Graves Protection and Repatriation Act (California Repatriation Act), enacted in 2001, required all state agencies and museums that receive state funding and that have possession or control over collections of human remains or cultural items, as defined, to complete an inventory and summary of these remains and items on or before January 1, 2003, with certain exceptions. The California Repatriation Act also provides a process for the identification and repatriation of these items to the appropriate tribes.

California State Assembly Bill 52

Assembly Bill (AB) 52 of 2014 amended PRC Section 5097.94 and added PRC Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3. AB 52 established that tribal cultural resources must be considered under CEQA and also provided for additional Native American consultation requirements for the lead agency. Section 21074 describes a tribal cultural resource as a site, feature, place, cultural landscape, sacred place, or object that is considered of cultural value to a California Native American tribe and that is either:

- On or determined to be eligible for the California Register of Historical Resources or a local historic register; or
- 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.

AB 52 formalizes the lead agency–tribal consultation process, requiring the lead agency to initiate consultation with California Native American groups that are traditionally and culturally affiliated with the project site, including tribes that may not be federally recognized. Lead agencies are required to begin consultation prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report.

Section 1(a)(9) of AB 52 establishes that "a substantial adverse change to a tribal cultural resource has a significant effect on the environment." Effects on tribal cultural resources should be considered under CEQA. Section 6 of AB 52 adds Section 21080.3.2 to the PRC, which states that parties may propose mitigation measures "capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource." Further, if a California Native American tribe requests consultation regarding project alternatives, mitigation measures, or significant effects to tribal cultural resources, the consultation shall include those topics (PRC Section 21080.3.2[a]). The environmental document and the mitigation monitoring and reporting program (where applicable) shall include any mitigation measures that are adopted (PRC Section 21082.3[a]).

California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98

CEQA Guidelines Section 15064.5 assigns special importance to human remains and specifies procedures to be used when Native American remains are discovered. As described below, the procedures are detailed in California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98.

California law protects Native American burials, skeletal remains, and associated grave goods, regardless of their antiquity, and provides for the sensitive treatment and disposition of those remains. Health and Safety Code Section 7050.5 requires that if human remains are discovered in any place other than a dedicated cemetery, no further disturbance or excavation of the site or nearby area reasonably suspected to contain human remains shall occur until the County coroner has examined the remains (California Health and Safety Code Section 7050.5[b]). PRC Section 5097.98 also outlines the process to be followed in the event that remains are discovered. If the coroner determines or has reason to believe the remains are those of a Native American, the coroner must contact the California NAHC within 24 hours (California Health and Safety Code Section 7050.5[c]). In accordance with California Public Resources Code Section 5097.98(a), the NAHC will notify the Most Likely Descendant (MLD). With the permission of the landowner, the MLD may inspect the site of discovery. Within 48 hours of being granted access to the site, the MLD may recommend means of treatment or disposition, with appropriate dignity, of the human remains and associated grave goods.

Guidelines for Determining Significance

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

> 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.

The significance of an historical resource is materially impaired when a project:

- 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 CRHR; or
- 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
- 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 CRHR 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:

- 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).
- If a lead agency determines that the archaeological site is a 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.
- 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.
- If an archaeological resource is neither a unique archaeological nor a 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 Environmental Impact Report (EIR), if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

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

> 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 SS5097.98. 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); and
> 2. The requirement of CEQA and the Coastal Act.

Under CEQA, an EIR is required to evaluate any impacts on unique archaeological resources (PRC Section 21083.2). A "unique archaeological resource" is defined as (PRC Section 21083.2(g)):

> [A]n archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:
>
> 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.

An impact to a non-unique archaeological resource is not considered a significant environmental impact and such non-unique resources need not be further addressed in the EIR (Public Resources Code Section 21083.2(a); CEQA Guidelines Section 15064.5(c)(4)).

As stated above, CEQA contains rules for mitigation of "unique archeological resources." For example (PRC Section 21083.2(b)(1)-(4)), "[i]f it can be demonstrated that a project will cause damage to a unique archeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:"

1. "Planning construction to avoid archeological sites."
2. "Deeding archeological sites into permanent conservation easements."
3. "Capping or covering archeological sites with a layer of soil before building on the sites."
4. "Planning parks, greenspace, or other open space to incorporate archeological sites."

PRC Section 21083.2(d) states that "[e]xcavation as mitigation shall be restricted to those parts of the unique archeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archeological resource if the lead agency determines that testing or studies already completed

have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report."

The rules for mitigating impacts to archeological resources to qualify as "historic resources" are slightly different. According to CEQA Guidelines Section 15126.4(b), "[p]ublic agencies should, whenever feasible, seek to avoid damaging effects on any historic resource of an archeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archeological site:

A. Preservation in place is the preferred manner of mitigating impacts to archeological sites. Preservation in place maintains the relationship between artifacts and the archeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
B. Preservation in place may be accomplished by, but is not limited to, the following:
    1. Planning construction to avoid archeological sites;
    2. Incorporation of sites within parks, greenspace, or other open space;
    3. Covering the archeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site [; and]
    4. Deeding the site into a permanent conservation easement.

Thus, although Section 21083.2 of the Public Resources Code, in addressing "unique archeological sites," provides for specific mitigation options "in no order of preference," CEQA Guidelines Section 15126.4(b), in addressing "historical resources of an archeological nature," provides that "[p]reservation in place is the preferred manner of mitigating impacts to archeological sites."

Under CEQA, "[w]hen data recovery through excavation is the only feasible mitigation," the lead agency may cause to be prepared and adopt a "data recovery plan," prior to any excavation being undertaken. The data recovery plan must make "provision for adequately recovering the scientifically consequential information from and about the historic resource" (CEQA Guidelines Section 15126.4(b)(3)(C)). The data recovery plan also "must be deposited with the California Historical Resources Regional Information Center" (CEQA Guidelines Section 15126.4(b)(3)(C)). Further, "[i]f an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation" (CEQA Guidelines Section 15126.4(b)(3)(C)).

However, "[d]ata recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archeological or historic resource, provided that determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center" (CEQA Guidelines Section 15126.4(b)(3)(D)).

4.3.7.3 Local LORS

City of San Juan Capistrano General Plan

The Cultural Resources Element of the City of San Juan Capistrano's General Plan, adopted in 2014, details the City's plan for the protection and preservation of its historic, archaeological, and paleontological resources. The City's goal and policies relating to its historic, archaeological, and paleontological resources are outlined below (City of San Juan Capistrano 2014).

Goal: Preserve and Protect historical, archaeological, and paleontological resources.

- Policy 1.1. Balance the benefits of development with the project's potential impacts to existing cultural resources.
- Policy 1.2. Identify, designate, and protect buildings and sites of historic importance.
- Policy 1.3. Identify funding programs to assist private property owners in the preservation of buildings and sites of historic importance.

4.3.8 Permits and Permit Schedule

No permits are required.

4.3.9 References

14 CCR 15000–15387 and Appendices A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.

14 CCR 4852. Types of Historical Resources and Criteria for Listing in the California Register of Historical Resources.

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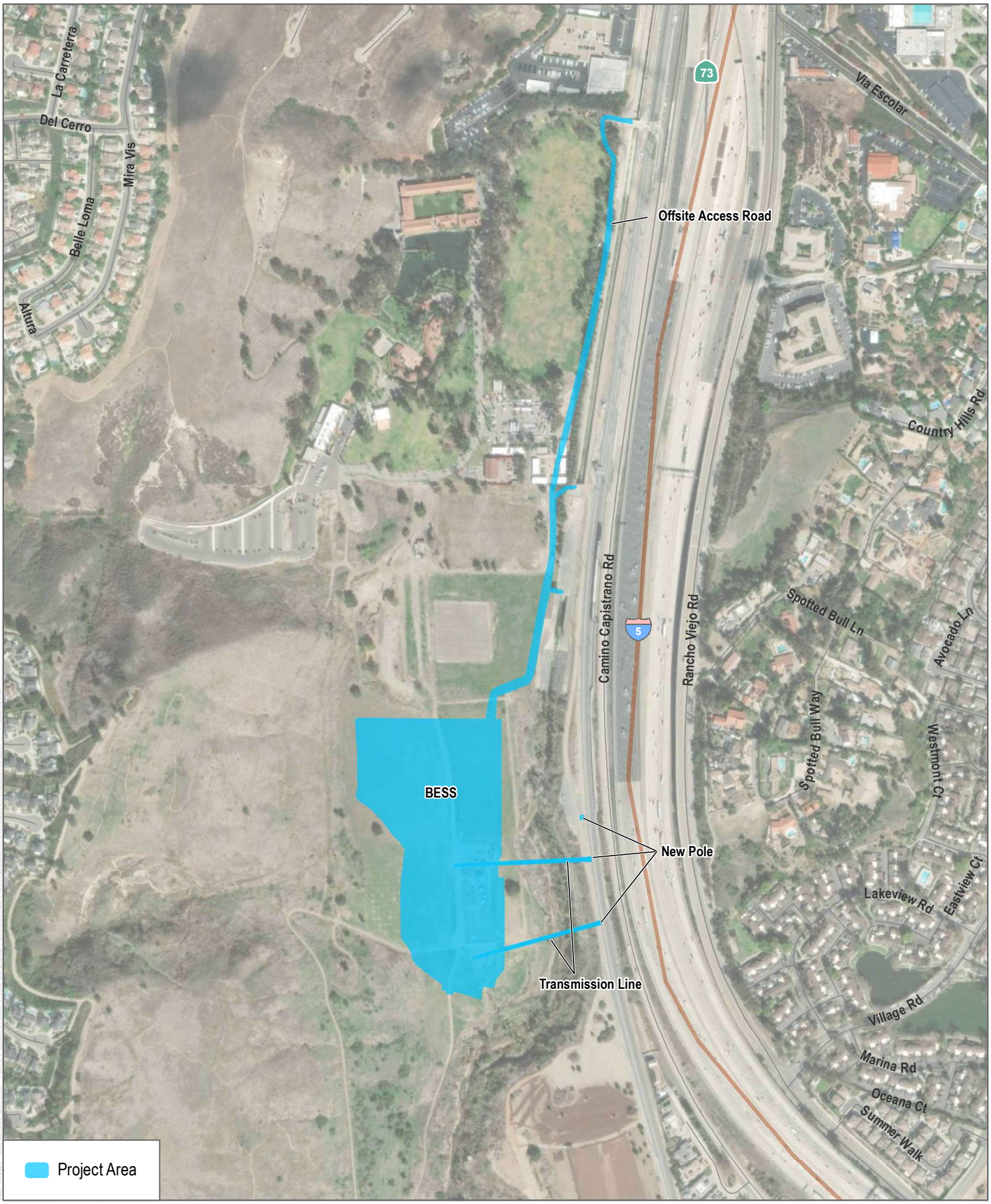

SOURCE: Maxar 2022; Orange County 2023

DUDEK

0 350 700 Feet
0 75 150 Meters
1:6,400

FIGURE 4.3-1

Project ADI

Compass Energy Storage Project

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