

3.8 Tribal Cultural Resources

This section describes the proposed project's potential to have an adverse effect on tribal cultural resources, and is based on Native American consultation and the Cultural Resources Survey and Evaluation Program for the El Monte Sand Mining Project (Laguna Mountain Environmental, Inc. 2018) which is included in Appendix K of this EIR with the confidential records and maps on file at the County of San Diego, Planning and Development Services and deposited with the South Coastal Information Center.

3.8.1 Existing Conditions

3.8.1.1 Environmental Setting

Natural Environment

The project is located within an east-west trending, alluvium-filled valley within the drainage of the San Diego River. The project area generally consists of a flat to gently sloping valley that includes accumulations of floodplain deposits (loose sands and gravels) related to the San Diego River drainage. Granitic rock outcrops dominate the elevated areas on either side of the valley. Elevations range from approximately 540 feet above mean sea level (MSL) at the eastern portion of the study site to approximately 420 feet above MSL at the western end of the site. The river basin extends in an east-west direction and consists of a low-flow natural channel and the associated floodplain (Chang 2018). Sand and mining operations that occurred onsite approximately 30 years ago have changed the original topography and have created a clearly defined river channel, which varies in width from 250 feet to nearly 400 feet. The channel is typically 10 to 20 feet lower than the elevations of the surrounding lands (Chang 2018).

Environment

Prehistoric archaeological resources have been identified within the project site including prehistoric archaeological sites and prehistoric isolates. The prehistoric archaeological resources include two habitation sites, four artifact scatters, and 29 isolated artifacts mainly comprised of lithic debitage and/or ceramic sherds.

3.8.1.2 Methodology

The presence and significance of existing tribal cultural resources associated with the El Monte Sand Mining Project was determined using the methodologies outlined below.

- Archaeological site record and archival research was conducted at the SCIC for the project area and immediate vicinity (one mile radius). The site record and archival research consisted of reviews of archaeological site records and previous cultural studies.

- Various maps, including Proposed Project maps, United States Geological Survey (USGS) quadrangle maps were reviewed to identify tribal cultural resources that had been previously recorded in the vicinity of the Proposed Project area.
- An intensive pedestrian field survey was conducted for the entire proposed project site which included transect spacing at intervals no greater than 15 meters. A Native American monitor, Frank Brown of the Viejas Band of Kumeyaay Indians, was present during the survey.
- A request for a Sacred Lands File (SLF) search was sent to the Native American Heritage Commission (NAHC) for their consideration and input.
- Native American consultation pursuant to AB-52 was conducted.

The evaluation of tribal cultural resources is in conformance with Section 21074 of the Public Resources Code, and the California Environmental Quality Act (CEQA).

3.8.1.3 Sacred Lands File

An SLF search with the NAHC was requested on September 12, 2016. The search indicated that sites that may be impacted by the proposed project are located within the project site. The NAHC recommended contacting the Viejas Band of Kumeyaay Indians.

3.8.1.4 Records Search and Survey Results

The SCIC does not maintain information on tribal cultural resources, but it does contain records on archaeological resources that could also be tribal cultural resources, if determined as such through consultation. The SCIC records search identified 86 cultural resources within one mile of the project site boundary. The majority of the previously recorded resources are prehistoric archaeological sites. Four of the previously recorded cultural resources have been identified within or immediately adjacent (within 50 feet) to the project site. The pedestrian survey identified 41 cultural resources within the project site. Of these identified resources, one resource is a historic archaeological site, one is a multicomponent archaeological site, six are prehistoric archaeological sites, and four are historic built resources. Results of the records search and survey are discussed in greater detail in Section 2.4, Cultural Resources.

3.8.1.5 Consultation Results

Tribal consultation per Assembly Bill 52 was initiated by the County on August 13, 2015. It included outreach and information requests to the Lipay Nation of Santa Ysabel (Santa Ysabel), the Viejas Band of Kumeyaay Indians (Viejas), and the Kwaaymii Laguna Band (Kwaaymii). A response from the Kwaaymii on August 18, 2015, declined further consultation, but requested monitoring. Viejas responded on August 31, 2015, requesting additional information. The County responded to the Kwaaymii via letter that the proposed project would be

conditioned with Native American monitoring. On December 29, 2015, County representative Donna Beddow responded to Viejas representative Julie Hagen that they were waiting for the report to become available. On February 1, 2016, a meeting was held with Viejas representative Julie Hagen and representatives of the County to discuss this and other projects.

On September 7, 2016, a copy of the draft Cultural Resources Survey and Evaluation Program for the El Monte Sand Mining Project was forwarded to Viejas. On September 8, 2016, additional AB 52 consultation letters were sent to the Barona Group of Capitan Grande Indians (Barona), Campo Kumeyaay Nation (Campo), and Sycuan Band of the Kumeyaay Nation (Sycuan). The Jamul Indian Village was contacted on April 4, 2017 pursuant to AB-52. Jamul requested formal consultation. The County met with Jamul on June 16, August 11, and November 27, 2017. Jamul requested that the project be conditioned with monitoring, and no additional concerns were raised. The County advised Jamul that the project will be conditioned with monitoring.

Both survey efforts included the participation of Mr. Frank Brown, a representative of Viejas who served as Native American monitor. The testing and evaluation program included the participation of Mr. Fred Tesam, a representative of Viejas who served as Native American monitor. No issues were raised by the Native American monitors during the course of fieldwork.

3.8.1.6 Regulatory Framework

Federal

Section 106 of the National Historic Preservation Act (NHPA)

The NHPA was passed in 1966 and set the foundation for much of the more specific legislation that guides cultural resource protection and management in local jurisdictions such as the County of San Diego. The Act established an Advisory Council on Historic Preservation to help implement and monitor it.

Prior to implementing an “undertaking” (e.g., issuing a federal permit), Section 106 of the NHPA requires federal agencies to consider the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation and the State Historic Preservation Officer a reasonable opportunity to comment. The goal of the Section 106 process is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties.

State

Assembly Bill 52/CEQA

State Assembly Bill 52 (AB-52), in effect as of July 1, 2015, introduces the Tribal Cultural Resource (TCR) as a class of cultural resource and additional considerations relating to Native American consultation into CEQA. As a general

concept, a TCR is similar to the federally-defined Traditional Cultural Property (TCP); however, it also incorporates consideration of local and state significance and required mitigation under CEQA. A TCR may be considered significant if included in a local or state register of historical resources; or determined by the lead agency to be significant pursuant to criteria set forth in PRC §5024.1; or is a geographically defined cultural landscape that meets one or more of these criteria; or is a historical resource described in PRC §21084.1, a unique archaeological resources described in PRC §21083.2, or is a non-unique archaeological resource if it conforms with the above criteria.

3.8.2 Analysis of Project Effects and Determination as to Significance

According to CEQA Guidelines (Section 21074):

- a) Tribal cultural resources are either of the following:
 - 1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
 - (A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.
 - (B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
 - (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1
- (b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.
- (c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resources if it conforms with the criteria of subdivision (a).

No tribal cultural resources were identified within the project site and off-site improvement areas.

3.8.2.1 Tribal Cultural Resources

Guidelines for the Determination of Significance

For the purposes of this EIR, any of the following will be considered a significant impact to tribal cultural resources:

1. The project, as designed, causes a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code §21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of Historical Resources as defined in Public Resources Code §5020.1(k); or
 - b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code §5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code §5024.1, the Lead Agency shall consider the significance of the resource to a California Native American tribe.

The significance guideline listed above has been selected because CEQA requires that tribal cultural resources be evaluated to determine whether or not a proposed action would have a significant effect. Any project that would have an adverse impact (direct, indirect, and/or cumulative) on a significant tribal cultural resource as defined by these guidelines would be considered to have a significant impact on the environment.

Analysis

As described above, the SLF search conducted by the NAHC indicated the presences of “sites” within the project site. However, no evidence of tribal cultural resources was discovered during the records search, literature review, field survey, or during AB 52 Native American consultation. While prehistoric archaeological sites are documented within the project site, none have been identified as a tribal cultural resource. Therefore, implementation of the proposed project will have no impact to tribal cultural resources.

3.8.3 Cumulative Impact Analysis

According to CEQA, the importance of tribal cultural resources is the value of the resource to California Native American tribes culturally affiliated with the project site. Therefore, the issue that must be explored in a cumulative analysis is the cumulative loss of tribal cultural resources. For tribal cultural resources that are avoided or preserved through dedication within open space, no impacts would occur. However, if avoidance or dedication of open space to preserve tribal cultural resources is infeasible, those impacts must be considered in combination with tribal cultural resources that would be impacted by other projects included in the cumulative project list.

The cumulative study area includes the community of Lakeside and the El Monte Valley, and was selected because, given the geographic proximity of both areas to the project site, they are likely to contain similar types of resources that may

be subject to similar types of impacts. Further, these areas fall within the traditional use areas of the same California Native American tribes. Projects in the cumulative study area for tribal cultural resources are listed in Table 1-11 in the Project Description and are shown on Figure 1-12. These include primarily commercial and residential development projects, and two sand mining projects. While at least one identifies a potential for impacts to cultural resources, none specifically identifies tribal cultural resources. That said, many of the projects do not have environmental data available. Further, tribal cultural resources typically are identified through the project-specific consultation process between government agencies and Native American tribes, and information regarding those resources is confidential. As such, it is difficult, if not impossible, to identify specific tribal cultural resources within a broader cumulative study area. However, other projects in the cumulative study area will be required to follow the same County, state and federal laws as the proposed project, which require outreach to and consultation with Native American tribes. Through that consultation process, any tribal cultural resources in the cumulative study area would be identified and suitable mitigation developed. In addition, no tribal cultural resources were identified as a result of the cultural resource studies and Native American consultation conducted for the proposed project. Since there are no known tribal cultural resources in the cumulative study area, and since the proposed project will not impact any tribal cultural resources, the proposed project would **not result in a cumulatively considerably impact** to tribal cultural resources.

3.8.4 Significance of Impacts Prior to Mitigation

No tribal cultural resources were identified during the cultural evaluation of the project site or during Native American consultation. As such, there would be no impact to known tribal cultural resources with the implementation of the proposed project. Therefore, mitigation is not required.

3.8.5 Conclusion

No tribal cultural resources were identified during the cultural evaluation of the project site or during Native American consultation. Implementation of the proposed project would have no impact to known tribal cultural resources.