

## 2.17 Tribal Cultural Resources

This section analyzes and evaluates the potential impacts of the project on known and unknown (undiscovered or unidentified) tribal cultural resources. Tribal cultural resources, as defined by Assembly Bill (AB) 52, Statutes of 2014, in Public Resources Code (PRC) Section 21074, are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe. A tribal cultural landscape is defined as a geographic area (including both cultural and natural resources and the wildlife therein) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.

Two comment letters regarding tribal cultural resources were received in response to the notice of preparation (see Appendix A). The Native American Heritage Commission (NAHC) identified that AB 52 and Senate Bill (SB) 18 may apply to the project. SB 18 does not apply to the project because there is no General Plan amendment associated with the project (which is the trigger for SB 18 compliance). AB 52 compliance is described below. In addition, the Tribal Historic Preservation Office of the Morongo Band of Mission Indians commented that the project is not located within ancestral territory or traditional use area of the Cahuilla and Serrano people of the Morongo Band and no concerns were identified.

One comment relating to tribal cultural resources was received during the scoping meeting. The comment expressed concern about tribal cultural resources and requested that these issues be addressed in the PEIR. All comments received in response to the NOP are presented in Appendix A of this Draft PEIR.

A summary of impacts evaluated in this section is provided in Table 2.17.1.

**Table 2.17.1 Tribal Cultural Resources Summary of Impacts**

Issue Number	Issue Topic	Project Direct Impact	Project Cumulative Impact	Impact after Mitigation
1	Substantial Adverse Change in the Significance of Tribal Cultural Resources	Alternatives 1-5: Less than Significant	Alternatives 1-5: Less than Significant	Alternatives 1-5: Less than Significant

### 2.17.1 Existing Conditions

This section presents a brief summary of the tribes that predominantly have lived in San Diego County, as well as cultural resources records searches conducted in 2024. The environmental setting information provided below addresses the county as a whole and does not specifically differentiate between incorporated and unincorporated unless otherwise noted.

#### 2.17.1.1 Kumeyaay/Diegueño

After hundreds of years of archaeological research and evidence gleaned from many Southern California Native American sites, it is widely agreed that the Kumeyaay (Iipai-Tipai-Diegueño) people have occupied this region for at least 12,000 years, for over 600 generations (Kumeyaay 2024). The Kumeyaay, referred to as Diegueño by the Spanish, were the original native inhabitants of San Diego County. The Kumeyaay, who are Yuman-speaking people of

Hokan stock, have lived in this region for more than 10,000 years. Historically, the Kumeyaay were horticulturists and hunters and gatherers (Viejas 2024).

The Kumeyaay Native Americans were a seasonal hunting and gathering people with cultural elements that were very distinct from the Luiseño people. Material culture included cremation, the use of the bow and arrow, and adaptation to use of the acorn as a main food staple. Along the coast, the Kumeyaay made use of marine resources by fishing and collecting shellfish for food. Game and seasonally available plant food resources (including acorns) were sources of nourishment for the Kumeyaay. By far, though, the most important food resource for these people was the acorn. The acorn represented a storable surplus, which in turn allowed for seasonal sedentism and its attendant expansion of social phenomena (Smith and Conroy 2022).

The Kumeyaay engaged in total environmental management of their land and water resources. As chronicled by anthropologist Florence Shipek, “Kumeyaay erosion control systems...included complex techniques of controlled burning. These systems were combined with several methods of water management to maintain ground waters close to valley surfaces, and to keep the many springs and surface streams at usable levels for the complex Kumeyaay plant husbandry-corn agriculture systems” (Viejas 2024).

In 1542, the first European explorer in California, Juan Cabrillo, sailed into what is known today as San Diego Bay and made first contact with the Kumeyaay people. In 1769, Father Junípero Serra, established the first Franciscan mission in California near the ancient Kumeyaay village of Kosa'aay (Cosoy), known today as Old Town, San Diego. In 1848, the Mexican-American War ended with signing of the Treaty of Guadalupe Hidalgo. This treaty, between the Mexican and American governments, established the current US-Mexico border and divided California from Mexico. Moreover, it cut the international border through the heart of the Kumeyaay ancestral homelands (Kumeyaay 2024).

The boundaries of the Kumeyaay lands changed with the arrival of the Europeans, but the Kumeyaay lands once extended from the Pacific Ocean, south to Ensenada in Baja Norte, Mexico, east to the sand dunes of the Colorado River in Imperial Valley, and north to Warner Springs Valley. North to northeast, their territory was bounded by other California Native American Indian nations: the San Luiseño, Cupeño and Cahuilla (Kumeyaay 2024).

Today there are 13 Kumeyaay bands:

- Campo Band of the Kumeyaay Nation
- Viejas Band of Kumeyaay Indians
- Barona Group of the Capitan Grand
- San Pasqual Band of Diegueño Indians
- Inaja Cosmit Band of Indians
- Lipay Nation of Santa Ysabel
- Ewiiapaayp Band of Kumeyaay Indians
- Manzanita Band of the Kumeyaay Nation
- La Posta Band of Diegueño Mission Indians

- Jamul Indian Village
- Mesa Grande Band of Diegueño Mission Indians
- Sycuan Band of the Kumeyaay Nation
- Kwaaymii Laguna Band of Mission Indians

### 2.17.1.2 Luiseño

The Luiseño people enjoyed life in a land rich with a variety of plants and animals. Women gathered seeds, roots, wild berries, acorns, wild grapes, strawberries, wild onions, and prickly pear in finely woven baskets. They made a tasty ground acorn mush, “*wiiwish*,” a staple food, high in protein. The men hunted deer, rabbits, wood rats, ducks, quail, seafood, and various insects. Hunters used bows and arrows, atlatls or spear throwers, rabbit sticks, traps, nets, and slings to catch the game. Fishermen and traders used tule reed canoes in the ocean and tule rafts in the rivers and lakes. Family groups had specific hunting and gathering areas in the mountains and along the coast and the boundaries of these areas were crossed only with permission (Native Talk n.d.).

The traditional territory of the Luiseño people extended along the coast, from the north near San Juan Capistrano, south to the Encinitas/Carlsbad area, and east to the valleys of the coastal mountains and Mount Palomar. Today this area is in northern San Diego, Riverside, and Orange counties. The Uto-Aztec language that the Luiseños speak, Chamtéela, is vibrant and complex. In Chamtéela, some of the names the Luiseño people use for themselves are *Payómkawichum* (people of the west), *‘atáaxum* (the people), and *Qéchnkawish* (people originating in or residents of San Luis Rey) (Native Talk n.d.).

The people lived in small villages near freshwater sources. Each home or “*kiicha*” was built of arroyo willow, yucca, and tule. The *kiicha* was dome-shaped with a small smoke hole on top and the floor dug down 2 to 3 feet into the earth. This design served to insulate the hut, keeping it warm in the winter and cool in the summer. A large granary basket made from willow was kept outside the *kiicha*, raised off the ground, to store acorns (Native Talk n.d.).

European influence on the Luiseño people was limited until the mid-1700s. The Spanish set up the mission system to bring the Catholic religion to the native people and to protect their claim on the land of California. The Mission San Luis Rey was built in 1798, and the missionaries worked to eliminate the Luiseño way of life in their efforts to convert the Indians to Christianity. The native language, religion, way of life, and culture began to break down as the Indians were separated from their families and forced to live and work in the mission. Many people died from illnesses and poor living conditions imposed upon them by the missionaries. The name “Luiseño” was given to the people by the Spanish as a result of their proximity to the mission (Native Talk n.d.).

Today there are 7 Luiseño bands:

- San Luis Rey Band of Mission Indians
- Pala Band of Mission Indians
- Pauma Band of Luiseño Indians
- La Jolla Band of Luiseño Indians

- Rincón Band of Mission Indians
- Pechanga Band of Indians
- Sobóba Band of Luiseño Indians

The Luiseño continue to work for civil rights, cultural preservation, and language revitalization.

### **Records Search**

Information contained in the California Historical Resources Information System (CHRIS) is derived from the accumulated observations and assessments reported by individuals and organizations. The resources reported include both eligible and ineligible resources for the California Register of Historical Resources (CRHR) and the National Register of Historic Places (NRHP). The purpose of conducting a records search is to obtain that information and proceed based on the needs of the project.

On May 20, 2024, a records search was performed at the South Coastal Information Center (SCIC) at San Diego State University. The records search results identified a total of 2,271 precontact archaeological sites, such as lithic scatters, bedrock milling features, habitation sites, burial sites, and petroglyphs, have previously been recorded in San Diego County (incorporated and unincorporated). Some of these precontact archaeological resources may also be identified as tribal cultural resources.

### **Tribal Consultation**

California Native American Tribes culturally affiliated with the unincorporated county that had previously requested to be notified of projects subject to AB 52 consultation have been contacted for input regarding the potential impacts of implementation of the Cannabis Program on tribal cultural resources. The following tribal representatives were contacted on August 24, 2023, by certified mail and/or on August 27, 2023, by email:

- Barona Group of the Capitan Grande, Art Bunce;
- Campo Kumeyaay Nation, Daniel Tsosie;
- Lipay Nation of Santa Ysabel, Virgil Perez, Chairperson;
- Jamul Indian Village, Lisa Cumper, Tribal Historic Preservation Officer;
- Kwaaymii Band of Mission Indians, Carmen Lucas, Chairperson;
- Manzanita Band of the Kumeyaay Nation, Angela Elliot-Santos, Chairperson; and Lisa Haws;
- Pala Band of Mission Indians, Dr. Shasta Gaughen, Tribal Historic Preservation Officer;
- Pechanga Band of Indians, Ebru Ozdil, Cultural Resources; Paul Macarro, Historian; Juan Ochoa, Assistant Tribal Historic Preservation Officer; and Molly Earp;
- Rincon San Luiseño Band of Mission Indians, Cheryl Madrigal, Tribal Historic Preservation Officer;
- San Luis Rey Band of Mission Indians, Cami Mojado;

- San Pasqual Band of Mission Indians, Angelina Guitierrez, Tribal Historic Preservation Officer;
- Soboba Band of Mission Indians, Joseph Ontiveros;
- Sycuan Band of the Kumeyaay Nation, Cody J. Martinez, Chairperson; Adam Day, Chief Administrative Officer; Bernice Paipa, Cultural Specialist; and Charlene Worrell-Elliot; and
- Viejas Band of Kumeyaay Indians, Ernest Pingleton and Ray Teran.

Five Tribes requested consultation, and meetings took place on the dates listed below.

- Campo Kumeyaay Nation: September 21, 2023; November 14, 2023; June 10, 2024; September 24, 2024; December 3, 2024
- Jamul Indian Village: November 16, 2023; February 5, 2024; August 6, 2024
- Rincon Band of Luiseño Indians: October 12, 2023; December 11, 2023; March 14, 2024; June 12, 2024; August 28, 2024; October 16, 2024; December 18, 2024
- San Luis Rey Band of Mission Indians: November 1, 2023; December 18, 2024
- San Pasqual Band of Mission Indians: January 10, 2024; October 7, 2024

Consultation is ongoing with these 5 tribes.

### **2.17.1.1 Tribal Cultural Resources**

To date, no specific tribal cultural resources have been identified; however, the tribes have identified the sensitivity of the program area for tribal cultural resources to be present.

### **2.17.2 Regulatory Framework**

#### **2.17.2.1 Federal**

There are no federal regulations that apply to tribal cultural resources.

#### **2.17.2.2 State**

#### **California Register of Historical Resources**

All properties in California that are listed in or formally determined eligible for listing in the NRHP are also listed in the CRHR. The CRHR is a listing of State of California resources that are significant in the context of California's history. It is a statewide program with a scope and with criteria for inclusion similar to those used for the NRHP. In addition, properties designated under municipal or County ordinances are also eligible for listing in the CRHR.

A historical resource must be significant at the local, state, or national level under 1 or more of the criteria defined in the California Code of Regulations Title 15, Chapter 11.5, Section 4850 to be included in the CRHR. The CRHR criteria are tied to CEQA because any resource that meets the criteria below is considered a significant historical resource under CEQA. As noted

above, all resources listed in or formally determined eligible for listing in the NRHP are automatically listed in the CRHR.

The CRHR uses 4 evaluation criteria:

- Criterion 1. Is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
- Criterion 2. Is associated with the lives of persons important to local, California, or national history.
- Criterion 3. Embodies the distinctive characteristics of a type, period, region, or method of construction; represents the work of a master; or possesses high artistic values.
- Criterion 4. Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

Similar to the NRHP, a historical resource must meet 1 of the above criteria and retain integrity to be listed in the CRHR. The CRHR uses the same 7 aspects of integrity used by the NRHP: location, design, setting, materials, workmanship, feeling, and associations.

### **California Environmental Quality Act**

CEQA requires public agencies to consider the effects of their actions on “tribal cultural resources.” PRC Section 21084.2 establishes that “[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” PRC Section 21074 states:

- 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 CRHR.
    - B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
  - 2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American Tribe.
- 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 resource if it conforms with the criteria of subdivision (a).

AB 52, signed by the California Governor in September of 2014, established a new class of resources under CEQA: “tribal cultural resources,” defined in PRC Section 21074. Pursuant to CEQA requirements, lead agencies undertaking CEQA review must, upon written request of a California Native American Tribe, begin consultation before the release of an EIR, negative declaration, or mitigated negative declaration.

### **Health and Safety Code, Section 7050.5**

Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If they are determined to be those of a Native American, the coroner must contact NAHC.

### **California Native American Historical, Cultural, and Sacred Sites Act**

The California Native American Historical, Cultural, and Sacred Sites Act (PRC Section 5097.9) applies to both state and private lands. The act requires, upon discovery of human remains, that construction or excavation activity cease and that the county coroner be notified. If the remains are those of a Native American, the coroner must notify the NAHC, which notifies (and has the authority to designate) the most likely descendants (MLDs) of the deceased. The act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods.

### **Public Resource Code Section 5097**

PRC Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. The disposition of Native American human burials falls within the jurisdiction of the NAHC. Section 5097.5 of the Code states the following:

No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor.

### **State Water Resources Control Board Order WQ 2023-0102-DWQ**

Attachment A (Section 1, General Requirements and Prohibitions) of the State Water Resources Control Board (SWRCB) Order WQ 2023-0102-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities, includes the following requirements (terms) for state-licensed cultivation sites:

18. Cannabis cultivators shall not commit trespass. Nothing in this Policy or any program implementing this Policy shall be construed to authorize cannabis cultivation: (a) on land not owned by the cannabis cultivator without the express written permission of the landowner; or (b) inconsistent with a conservation easement, open space

easement, or greenway easement. This includes, but is not limited to, land owned by the United States or any department thereof, the State of California or any department thereof, any local agency, or any other person who is not the cannabis cultivator. This includes, but is not limited to, any land owned by a California Native American tribe, as defined in section 21073 of the Public Resources Code, whether or not the land meets the definition of tribal lands and includes lands owned for the purposes of preserving or protecting Native American cultural resources of the kinds listed in Public Resources Code section 5097.9 and 5097.993. This includes, but is not limited to, conservation easements held by a qualifying California Native American tribe pursuant to Civil Code section 815.3 and greenway easements held by a qualifying California Native American tribe pursuant to Civil Code section 816.56.

19. Prior to acting on a cannabis cultivator's request to cultivate cannabis on tribal lands<sup>1</sup> or within 600 feet of tribal lands, the Water Boards will notify the governing body of any affected California Native American tribe or the governing body's authorized representative, as applicable. A 45-day review period will commence upon receipt of the notice by the affected tribe.

During the 45-day review period, the affected tribe may, at its discretion, accept, reject, or not act regarding the cannabis cultivation proposal. If the tribe rejects the proposed cultivation, the cannabis cultivator is prohibited from cultivating cannabis on or within 600 feet of the affected tribe's tribal lands. If the affected tribe accepts the cannabis cultivation proposal or does not act during the 45-day review period, the Water Boards may proceed with a decision on the cannabis cultivation request as though the affected tribe accepted the cannabis cultivation proposal. The Water Boards will consider requests to extend the 45-day review period on a case-by-case basis.

The governing bodies of California Native American tribes may, at their discretion, notify the State Water Board's Executive Director in writing that they: a) reject all proposed cannabis cultivation; or b) waive the 45-day review period for all current and future proposed cannabis cultivation on their tribal lands, on portions of their tribal lands, or within 600 feet of their tribal lands. Upon the Executive Director's receipt of written notice, the Water Boards will, based on the nature of the request, either:

- a. Not approve cannabis cultivation proposals on or within 600 feet of the affected tribe's tribal lands, as applicable; or
- b. Abide by the waiver and, at the Water Boards discretion, act on cannabis cultivation requests on or within 600 feet of tribal lands, as applicable, as though the affected tribe accepted the proposal.

The governing bodies of California Native American tribes may, at their discretion, withdraw a previously issued decision regarding cannabis cultivation on or within 600 feet of their tribal lands. In such instances, the governing body of the affected tribe should notify the State Water Board's Executive Director in writing. The Water Boards will abide by the withdrawal of the affected tribe's decision for any new cannabis cultivation proposals received after the date the State Water Board Executive Director has notified the governing body of the affected tribe that its

<sup>1</sup> "Tribal lands" means lands recognized as "Indian country" within the meaning of title 18, United States Code, section 1151.



decision was received. The Water Boards will coordinate with the affected tribe to address existing permitted cannabis cultivation sites on the affected tribe's lands, as necessary. Nothing in this provision shall be construed to modify or interpret tribal law or tribal jurisdiction in any way.

20. No cannabis cultivation activities shall occur within 600 feet of an identified tribal cultural resource site. The State Water Board may modify this requirement for specific identified tribal cultural resource sites at the request of an affected California Native American tribe(s) after consultation with the affected tribe(s). The cannabis cultivator is solely responsible for identifying any tribal cultural resource sites<sup>2</sup> within the cannabis cultivation area.
21. Prior to land disturbance activities for new or expanded cannabis cultivation activities, the cannabis cultivator shall perform a records search of potential Native American archeological or cultural resources at a CHRIS information center. Any person who meets qualification requirements for access to the CHRIS may perform the initial CHRIS records search and document the results. The requirement to perform a CHRIS records search may be satisfied by using the results of a previous CHRIS records search completed within the previous 10 years for the specific parcel or parcels where new or expanded cannabis cultivation activities are proposed to occur.

Prior to land disturbance activities for new or expanded cannabis cultivation activities, the cannabis cultivator shall also request a search of the Sacred Lands Inventory that is maintained by the Native American Heritage Commission pursuant to Public Resources Code sections 5097.94, subdivision (a), and 5097.96 (Sacred Lands Inventory). If the Sacred Lands Inventory search reveals the presence or potential presence of Native American places of special or social significance to Native Americans, Native American known graves or cemeteries, or Native American sacred places, the cannabis cultivator shall consult with the tribe or tribes that are culturally affiliated with the area in which these Native American cultural resources exist or potentially exist prior to conducting any land disturbance activities. The information provided by tribes through consultation with the cannabis cultivator shall be maintained as confidential by the cannabis cultivator and its agents. A new Sacred Lands Inventory search is always required prior to ground disturbing activities for new or expanded cannabis cultivation.

The cannabis cultivator shall notify the Appropriate Person within seven days of receiving a CHRIS positive result or Sacred Lands Inventory positive result. The Appropriate Person is the Deputy Director for Water Rights (Deputy Director) if the cannabis cultivator is operating under the Cannabis Small Irrigation Use Registration (SIUR), the Executive Officer of the applicable Regional Water Board (Executive Officer) if the cannabis cultivator is operating under the Cannabis Cultivation General Order or Cannabis General Water Quality Certification, or both if the cannabis cultivator is operating under both programs.

In the event that prehistoric archeological materials or indicators are identified in a CHRIS positive result, the cannabis cultivator shall also notify the Native American

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<sup>2</sup> "Identified tribal cultural resource site" means a tribal cultural resource that meets the requirements of section 21074, subdivision (a)(1) of the Public Resource Code.

Heritage Commission within seven days of receiving the CHRIS positive result and request a list of any California Native American tribes that are potentially culturally affiliated with the positive result. The cannabis cultivator shall notify any potentially culturally affiliated California Native American tribes of the CHRIS positive result within 48 hours of receiving a list from the Native American Heritage Commission.

The cannabis cultivator shall promptly retain a Professional Archeologist<sup>3</sup> to evaluate the CHRIS positive result and recommend appropriate conservation measures. In the event of a Sacred Lands Inventory positive result, the cannabis cultivator shall develop appropriate mitigation and conservation measures in consultation with the affected California Native American tribe, and shall promptly retain a Professional Archeologist to assist in this task in the event of a Sacred Lands Inventory positive result related to human remains or archeological resources. The cannabis cultivator shall submit proposed mitigation and conservation measures to the Appropriate Person(s) (Deputy Director for the Cannabis SIUR and Executive Officer for the Cannabis Cultivation General Order or Cannabis General Water Quality Certification) for written approval. The Appropriate Person may require all appropriate measures necessary to conserve archeological resources and tribal cultural resources, including but not limited to Native American monitoring, preservation in place, and archeological data recovery.

In the event that prehistoric archeological materials or indicators are identified in a CHRIS positive result, or in the event of a Sacred Lands Inventory positive result, the cannabis cultivator shall also provide a copy of the final proposed mitigation and conservation measures to any culturally affiliated California Native American tribes identified by the Native American Heritage Commission. The Appropriate Person will carefully consider any comments or mitigation measure recommendations submitted by culturally affiliated California Native American tribes with the goal of conserving tribal cultural resources and prehistoric archeological resources with appropriate dignity.

Ground-disturbing activities shall not commence until all approved measures have been completed to the satisfaction of the Deputy Director and/or Executive Officer, as applicable.

22. If any buried archeological materials or indicators<sup>4</sup> are uncovered or discovered during any cannabis cultivation activities, all ground-disturbing activities shall immediately cease within 100 feet of the find.

The cannabis cultivator shall notify the Appropriate Person within 48 hours of any discovery. The Appropriate Person is the Deputy Director if the cannabis cultivator is operating under the Cannabis SIUR, the Regional Water Board Executive Officer if the cannabis cultivator is operating under the Cannabis General Order or Cannabis General Water Quality Certification, or both if the cannabis cultivator is operating under both programs.

<sup>3</sup> A professional archaeologist is one that is qualified by the Secretary of Interior, Register of Professional Archaeologists, or Society for California Archaeology.

<sup>4</sup> Prehistoric archaeological indicators include but are not limited to: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars, and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone, fire affected stones, shellfish, or other dietary refuse.

In the event that prehistoric archeological materials or indicators are discovered, the cannabis cultivator shall also notify the Native American Heritage Commission within 48 hours of any discovery and request a list of any California Native American tribes that are potentially culturally affiliated with the discovery. The cannabis cultivator shall notify any potentially culturally affiliated California Native American tribes of the discovery within 48 hours of receiving a list from the Native American Heritage Commission.

The cannabis cultivator shall promptly retain a professional archeologist<sup>5</sup> to evaluate the discovery. The cannabis cultivator shall submit proposed mitigation and conservation measures to the appropriate person(s) (Deputy Director for the Cannabis SIUR and Regional Water Board Executive Officer for the Cannabis General Order or Cannabis General Water Quality Certification) for written approval. The appropriate person may require all appropriate measures necessary to conserve archeological resources and tribal cultural resources, including but not limited to Native American monitoring, preservation in place, and archeological data recovery.

In the event of a discovery of prehistoric archeological materials or indicators are discovered, the cannabis cultivator shall also provide a copy of the final proposed mitigation and conservation measures to any culturally affiliated California Native American tribes identified by the Native American Heritage Commission. The appropriate person will carefully consider any comments or mitigation measure recommendations submitted by culturally affiliated California Native American tribes with the goal of conserving prehistoric archeological resources and tribal cultural resources with appropriate dignity.

Ground-disturbing activities shall not resume within 100 feet of the discovery until all approved measures have been completed to the satisfaction of the Deputy Director and/or Executive Officer, as applicable.

23. Upon discovery of any human remains, cannabis cultivators shall immediately comply with Health and Safety Code section 7050.5 and, if applicable, Public Resources Code section 5097.98. The following actions shall be taken immediately upon the discovery of human remains:

All ground-disturbing activities in the vicinity of the discovery shall stop immediately. The cannabis cultivator shall immediately notify the County coroner. Ground disturbing activities shall not resume until the requirements of Health and Safety Code section 7050.5 and, if applicable, Public Resources Code section 5097.98 have been met. The cannabis cultivator shall ensure that the human remains are treated with appropriate dignity.

Per Health and Safety Code section 7050.5, the coroner has two working days to examine human remains after being notified by the person responsible for the excavation, or by their authorized representative. If the remains are Native American, the coroner has 24 hours to notify the Native American Heritage Commission.

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<sup>5</sup> A professional archaeologist is one that is qualified by the Secretary of Interior, Register of Professional Archaeologists, or Society for California Archaeology.

Per Public Resources Code section 5097.98, the Native American Heritage Commission will immediately notify the persons it believes to be the most likely descended from the deceased Native American. The most likely descendent has 48 hours to make recommendations to the landowner or representative for the treatment or disposition, with proper appropriate dignity, of the human remains and any associated grave goods. If the Native American Heritage Commission is unable to identify a descendant; the mediation provided for pursuant to subdivision (k) of Public Resources Code section 5097.94, if invoked, fails to provide measures acceptable to the landowner; or the most likely descendent does not make recommendations within 48 hours; and the most likely descendants and the landowner have not mutually agreed to extend discussions regarding treatment and disposition pursuant to subdivision (b)(2) of Public Resources Code section 5097.98, the landowner or their authorized representative shall reinter the human remains and items associated with the Native American human remains with appropriate dignity on the property in a location not subject to further and future disturbance consistent with subdivision (e) of Public Resources Code section 5097.98. If the landowner does not accept the descendant's recommendations, the landowner or the descendants may request mediation by the Native American Heritage Commission pursuant to Public Resources Code section 5097.94, subdivision (k).

### 2.17.2.3 *Local*

#### **San Diego County General Plan**

The San Diego County General Plan provides the following policies related to tribal cultural resources (County of San Diego 2011):

- **Policy COS-7.1: Archaeological Protection.** Preserve important archaeological resources from loss or destruction and require development to include appropriate mitigation to protect the quality and integrity of these resources.
- **Policy COS-7.2: Open Space Easements.** Require development to avoid archaeological resources whenever possible. If complete avoidance is not possible, require development to fully mitigate impacts to archaeological resources.
- **Policy COS-7.3: Archaeological Collections.** Require the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner.
- **Policy COS-7.4: Consultation with Affected Communities.** Require consultation with affected communities, including local tribes to determine the appropriate treatment of cultural resources.
- **Policy COS-7.5: Treatment of Human Remains.** Require human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains will be done in consultation with the Most Likely Descendant (MLD) and under the requirements of Federal, State and County Regulations.

### **San Diego County Code of Regulatory Ordinances Sections 87.101–87.804: Grading, Clearing, and Watercourses Ordinance**

Section 87.430 of the County’s Grading, Clearing, and Watercourses Ordinance provides for the requirement of a paleontological monitor at the discretion of the County. In addition, the suspension of grading operation is required upon the discovery of fossils greater than 12 inches in any dimension. The ordinance also requires notification of the County official (e.g., permit compliance coordinator). The ordinance gives the County official the authority to determine the appropriate resource recovery operations, which shall be carried out prior to the County official’s authorization to resume normal grading operations.

Section 87.429 of the County’s Grading, Clearing, and Watercourses Ordinance requires that grading operations cease if human remains or Native American artifacts are found, and Section 87.216(a)(7) requires changes to grading plans/operations if it is determined that historic or archaeological resources may be located on site, in which case avoidance or mitigation will be required.

### **San Diego County Code of Regulatory Ordinances Sections 86.601–86.608: Resource Protection Ordinance**

This ordinance requires that cultural resources be evaluated as part of the County’s discretionary environmental review process, and if any resources are determined significant under the Resource Protection Ordinance (RPO), they must be preserved. RPO prohibits development, trenching, grading, clearing, and grubbing, and any other activity or use damaging to significant prehistoric or historic site lands, except for scientific investigations with an approved research design prepared by an archaeologist certified by the Register of Professional Archaeologists. Sites determined to be RPO significant must be avoided and preserved.

### **San Diego County Local Register of Historical Resources**

The purpose of the San Diego County Local Register of Historical Places is to develop and maintain “an authoritative guide to be used by state agencies, private groups, and citizens to identify the county’s historical resources and to indicate which properties are to be protected, to the extent prudent and feasible, from substantial adverse change.” Sites, places, and objects that are eligible to the NRHP or the CRHR are automatically included in the San Diego County Local Register of Historical Places.

## **2.17.3 Analysis of Project Impacts and Determination of Significance**

### **2.17.3.1 *Thresholds of Significance***

Based on Appendix G of the State CEQA Guidelines, the Cannabis Program would result in a potentially significant impact on tribal cultural resources if it would:

- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, 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:

- (i) 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 Section 5020.1(k), or
- (ii) 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 Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

### **2.17.3.2 *Issues Not Discussed Further***

All potential tribal cultural resources impacts are evaluated below.

### **2.17.3.3 *Approach to Analysis***

Information related to tribal cultural resources is based on the records search from the SCIC at San Diego State University and the results of Native American consultation under AB 52. The analysis is also informed by the provisions and requirements of state and local laws and regulations that apply to cultural resources.

PRC Section 21074 defines “tribal cultural resources” as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American [T]ribe” that are listed or determined eligible for listing in the CRHR, listed in a local register of historical resources, or otherwise determined by the lead agency to be a tribal cultural resource.

### **2.17.3.4 *Issue 1: Substantial Adverse Change in the Significance of Tribal Cultural Resources***

#### **Thresholds of Significance**

Tribal cultural resources are nonrenewable and, therefore, cannot be replaced. The Cannabis Program would have a significant effect if it would cause a substantial adverse change in the significance of a tribal cultural resource, defined in CEQA Section 21074 as either a site, feature, place, 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:

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

## **Impact Analysis**

As noted above, Section 2.17.1, “Existing Conditions,” the records search results identified a total of 2,271 precontact archaeological resources, such as lithic scatters, bedrock milling features, habitation sites, burial sites, and petroglyphs, that have previously been recorded in San Diego County. Some of these precontact archaeological resources may also be tribal cultural resources. San Diego County sent AB 52 tribal letters to 14 culturally affiliated tribes, and 5 tribes responded to the notification letters. Tribal consultation is still ongoing with the Campo Kumeyaay Nation, Jamul Indian Village, Rincon Band of Luiseño Indians, San Luis Rey Band of Mission Indians, and San Pasqual Band of Mission Indians. No specific tribal cultural resources were identified as a result of the AB 52 notifications; however, the tribes have identified the program area as sensitive for the presence of tribal cultural resources.

As noted in Section 2.17.2, there are a number of state and local regulations currently in place that help protect tribal cultural resources in the county.

As previously described, Attachment A (Section 1, General Requirements and Prohibitions) of SWRCB Order WQ 2023-0102-DWQ established requirements (Terms 18–23) for state-licensed cultivation sites. Term 18 prohibits cannabis cultivation activities within tribal lands; Term 19 requires cannabis cultivation activities within 600 feet of tribal lands to undergo a 45-day review period to notify the potentially affected tribe(s); Term 20 prohibits cannabis cultivation activities within 600 feet of an identified tribal cultural resource; and Terms 21 and 22 require CHRIS records searches, NAHC record searches, and archaeological surveys or evaluations (if necessary). Compliance with Term 23 would reduce impacts on previously undiscovered human remains by requiring compliance with Health and Safety Code Section 7050.5 and, if applicable, PRC Section 5097.98.

Similarly, San Diego County General Plan policies that are applicable to tribal cultural resources (COS-7.1, COS-7.2, COS-7.3, COS-7.4, and COS-7.5) are listed above in Section 2.17.2, “Regulatory Framework.” Policy COS-7.1 requires the preservation of important archaeological resources from loss or destruction and requires development to include appropriate mitigation to protect the quality and integrity of these resources. Policy COS-7.2 requires development to avoid archaeological resources whenever possible. If complete avoidance is not possible, it requires the development to fully mitigate impacts to archaeological resources. Policy COS-7.3 requires the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. Policy COS-7.4 requires consultation with affected communities, including local tribes, to determine the appropriate treatment of cultural resources. Lastly, Policy COS-7.5 requires that human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains are done in consultation with the MLD and under the requirements of federal, state, and County regulations.

The RPO requires protection of significant precontact sites that provide information regarding important scientific research questions about precontact activities that have scientific, religious, or other ethnic value of local, regional, state, or federal importance. Examples of significant sites include but are not limited to burial(s), pictographs, petroglyphs, solstice observatory sites, sacred shrines, religious ground figures, or other formally designated and recognized sites that are of ritual, ceremonial, or sacred value to any precontact or historic era ethnic group. In addition, development, trenching, grading, clearing and grubbing, or any other activity or use damaging to significant precontact site lands shall be prohibited, except for scientific

investigations with an approved research design prepared by an archaeologist certified by the Society of Professional Archaeologists.

Section 87.429 of the County's Grading, Clearing, and Watercourses Ordinance requires that grading operations cease if human remains or Native American artifacts are found, and Section 87.216(a)(7) requires changes to grading plans/operations if it is determined that historic or archaeological resources may be located on site, in which case avoidance or mitigation will be required.

### ***Alternative 1: No Project—Retention of Current Cannabis Regulations***

Under Alternative 1, the Cannabis Program would not be adopted. The existing 5 commercial cannabis facilities in the unincorporated areas of El Cajon, Escondido, and Ramona would be allowed to continue to operate under the existing ordinances as well as expand their existing facilities and operations to a total of 10,000 square feet of building area for each site.

Ground disturbance activities associated with expansion of the 5 existing facilities and current commercial cannabis operations resulting from Alternative 1 could result in damage or destruction of known or yet to be discovered tribal cultural resources would be a potentially significant impact. However, as discussed above, cannabis cultivation sites would be subject to Terms 18–23 of SWRQCB Order WQ 2023-0102-DWQ and San Diego County General Plan Policies COS-7.1 through COS-7.5.

Term 18 of SWRQCB Order WQ 2023-0102-DWQ prohibits cannabis cultivation activities within tribal lands; Term 19 requires cannabis cultivation activities within 600 feet of tribal lands to undergo a 45-day review period to notify the potentially affected tribe(s); Term 20 prohibits cannabis cultivation activities within 600 feet of an identified tribal cultural resource; and Terms 21 and 22 require CHRIS records searches, NAHC record searches, and archaeological surveys or evaluations (if necessary). Compliance with Term 23 would reduce impacts on previously undiscovered human remains by requiring compliance with Health and Safety Code Section 7050.5 and, if applicable, PRC Section 5097.98.

Similarly, San Diego County General Plan policies that are applicable to tribal cultural resources (COS-7.1, COS-7.2, COS-7.3, COS-7.4, and COS-7.5) are listed above in Section 2.17.2, "Regulatory Framework." Policy COS-7.1 requires the preservation of important archaeological resources from loss or destruction and requires development to include appropriate mitigation to protect the quality and integrity of these resources. Policy COS-7.2 requires development to avoid archaeological resources whenever possible. If complete avoidance is not possible, it requires the development to fully mitigate impacts to archaeological resources. Policy COS-7.3 requires the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. Policy COS-7.4 requires consultation with affected communities, including local tribes, to determine the appropriate treatment of cultural resources. Lastly, Policy COS-7.5 requires that human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains are done in consultation with the MLD and under the requirements of federal, state, and County regulations. In addition, project activities that require discretionary review would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*.



Compliance with SWRQCB Order WQ 2023-0102-DWQ Terms 18 through 23, San Diego General Plan Policies COS-7.1 through COS-7.5, and County ordinances would reduce impacts to tribal cultural resources.

This impact would be less than significant for Alternative 1.

***Alternative 2: Proposed Project—Cannabis Program Consistent with State Requirements***

The Cannabis Program under Alternative 2 is anticipated to accommodate up to 372 cultivation and 170 noncultivation sites/licenses within the county in 2044 (refer to Table 1.4 in Chapter 1, “Project Description, Location, and Environmental Setting,” for a full list of development assumptions). Alternative 2 would include 600-foot buffers from cannabis uses from certain state-defined sensitive uses, including schools, daycares, and youth centers.

Commercial cannabis cultivation operations resulting from Alternative 2 that could result in damage or destruction of known or yet to be discovered tribal cultural resources would be a potentially significant impact. However, as discussed above, cannabis cultivation sites would be subject to Terms 18–23 of SWRQCB Order WQ 2023-0102-DWQ and San Diego County General Plan Policies COS-7.1 through COS-7.5.

Term 18 of SWRQCB Order WQ 2023-0102-DWQ prohibits cannabis cultivation activities within tribal lands; Term 19 requires cannabis cultivation activities within 600 feet of tribal lands to undergo a 45-day review period to notify the potentially affected tribe(s); Term 20 prohibits cannabis cultivation activities within 600 feet of an identified tribal cultural resource; and Terms 21 and 22 require CHRIS records searches, NAHC record searches, and archaeological surveys or evaluations (if necessary). Compliance with Term 23 would reduce impacts on previously undiscovered human remains by requiring compliance with Health and Safety Code Section 7050.5 and, if applicable, PRC Section 5097.98.

Similarly, San Diego County General Plan policies that are applicable to tribal cultural resources (COS-7.1, COS-7.2, COS-7.3, COS-7.4, and COS-7.5) are listed above in Section 2.17.2, “Regulatory Framework.” Policy COS-7.1 requires the preservation of important archaeological resources from loss or destruction and requires development to include appropriate mitigation to protect the quality and integrity of these resources. Policy COS-7.2 requires development to avoid archaeological resources whenever possible. If complete avoidance is not possible, it requires the development to fully mitigate impacts to archaeological resources. Policy COS-7.3 requires the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. Policy COS-7.4 requires consultation with affected communities, including local tribes, to determine the appropriate treatment of cultural resources. Lastly, Policy COS-7.5 requires that human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains are done in consultation with the MLD and under the requirements of federal, state, and County regulations. In addition, project activities that require discretionary review would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*.

Compliance with SWRQCB Order WQ 2023-0102-DWQ Terms 18 through 23, San Diego General Plan Policies COS-7.1 through COS-7.5, and County ordinances would reduce impacts to tribal cultural resources.

This impact would be less than significant for Alternative 2.

### **Alternative 3: Cannabis Program with Expanded County Regulations**

The Cannabis Program under Alternative 3 is anticipated to accommodate up to 372 cultivation and 170 noncultivation sites/licenses within the county in 2044 (refer to Table 1.4 in Chapter 1, “Project Description, Location, and Environmental Setting,” for a full list of development assumptions). Alternative 3 additionally prohibits the development of cannabis facilities within 1,000 feet of sensitive uses, including other cannabis facilities. Advertising of cannabis on billboards would also be prohibited within 1,000 feet of sensitive uses.

Similar to Alternative 2, cannabis cultivation sites under Alternative 3 would be subject to Terms 18 through 23 of SWRQCB Order WQ 2023-0102-DWQ and San Diego County General Plan Policies COS-7.1 through COS-7.5.

Term 18 of SWRQCB Order WQ 2023-0102-DWQ prohibits cannabis cultivation activities within tribal lands; Term 19 requires cannabis cultivation activities within 600 feet of tribal lands to undergo a 45-day review period to notify the potentially affected tribe(s); Term 20 prohibits cannabis cultivation activities within 600 feet of an identified tribal cultural resource; and Terms 21 and 22 require CHRIS records searches, NAHC record searches, and archaeological surveys or evaluations (if necessary). Compliance with Term 23 would reduce impacts on previously undiscovered human remains by requiring compliance with Health and Safety Code Section 7050.5 and, if applicable, PRC Section 5097.98.

Similarly, San Diego County General Plan policies that are applicable to tribal cultural resources (COS-7.1, COS-7.2, COS-7.3, COS-7.4, and COS-7.5) are listed above in Section 2.17.2, “Regulatory Framework.” Policy COS-7.1 requires the preservation of important archaeological resources from loss or destruction and requires development to include appropriate mitigation to protect the quality and integrity of these resources. Policy COS-7.2 requires development to avoid archaeological resources whenever possible. If complete avoidance is not possible, it requires the development to fully mitigate impacts to archaeological resources. Policy COS-7.3 requires the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. Policy COS-7.4 requires consultation with affected communities, including local tribes, to determine the appropriate treatment of cultural resources. Lastly, Policy COS-7.5 requires that human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains are done in consultation with the MLD and under the requirements of federal, state, and County regulations. In addition, project activities that require discretionary review would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*.

Compliance with SWRQCB Order WQ 2023-0102-DWQ Terms 18 through 23, San Diego General Plan Policies COS-7.1 through COS-7.5, and County standards would reduce impacts to tribal cultural resources.

This impact would be less than significant for Alternative 3.

### **Alternative 4: Cannabis Program with Outdoor Cannabis Cultivation Prohibition**

The Cannabis Program under Alternative 4 is anticipated to accommodate up to 212 cultivation and 170 noncultivation sites/licenses within the county in 2044 (refer to Table 1.4 in Chapter 1, “Project Description, Location, and Environmental Setting,” for a full list of development assumptions). Alternative 4 would allow mixed-light and indoor cannabis cultivation only when

contained within a building. Alternative 4 additionally prohibits the development of cannabis facilities within 1,000 feet of sensitive uses, including other cannabis facilities.

Similar to Alternative 2, cannabis cultivation sites under Alternative 4 would be subject to Terms 18 through 23 of SWRQCB Order WQ 2023-0102-DWQ and San Diego County General Plan Policies COS-7.1 through COS-7.5.

Term 18 SWRQCB Order WQ 2023-0102-DWQ prohibits cannabis cultivation activities within tribal lands; Term 19 requires cannabis cultivation activities within 600 feet of tribal lands to undergo a 45-day review period to notify the potentially affected tribe(s); Term 20 prohibits cannabis cultivation activities within 600 feet of an identified tribal cultural resource; and Terms 21 and 22 require CHRIS records searches, NAHC record searches, and archaeological surveys or evaluations (if necessary). Compliance with Term 23 would reduce impacts on previously undiscovered human remains by requiring compliance with Health and Safety Code Section 7050.5 and, if applicable, PRC Section 5097.98.

Similarly, San Diego County General Plan policies that are applicable to tribal cultural resources (COS-7.1, COS-7.2, COS-7.3, COS-7.4, and COS-7.5) are listed above in Section 2.17.2, "Regulatory Framework." Policy COS-7.1 requires the preservation of important archaeological resources from loss or destruction and requires development to include appropriate mitigation to protect the quality and integrity of these resources. Policy COS-7.2 requires development to avoid archaeological resources whenever possible. If complete avoidance is not possible, it requires the development to fully mitigate impacts to archaeological resources. Policy COS-7.3 requires the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. Policy COS-7.4 requires consultation with affected communities, including local tribes, to determine the appropriate treatment of cultural resources. Lastly, Policy COS-7.5 requires that human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains are done in consultation with the MLD and under the requirements of federal, state, and County regulations. In addition, project activities that require discretionary review would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*.

Compliance with SWRQCB Order WQ 2023-0102-DWQ 18 through 23, San Diego General Plan Policies COS-7.1 through COS-7.5, and County ordinances would reduce impacts to tribal cultural resources.

This impact would be less than significant under Alternative 4.

### ***Alternative 5: Cannabis Program with Maximum 1 Acre of Outdoor Cannabis Cultivation Canopy***

The Cannabis Program under Alternative 5 is anticipated to accommodate up to 372 cultivation and 170 noncultivation sites/licenses within the county in 2044 (refer to Table 1.4 in Chapter 1, "Project Description, Location, and Environmental Setting," for a full list of development assumptions). Alternative 5 additionally prohibits the development of cannabis facilities within 1,000 feet of sensitive uses, including other cannabis facilities. Alternative 5 also limits the size of outdoor cannabis cultivation canopy to 1 acre.

Similar to Alternative 2, cannabis cultivation sites under Alternative 5 would be subject to Terms 18 through 23 of SWRQCB Order WQ 2023-0102-DWQ and San Diego County General Plan Policies COS-7.1 through COS-7.5.

Term 18 SWRQCB Order WQ 2023-0102-DWQ prohibits cannabis cultivation activities within tribal lands; Term 19 requires cannabis cultivation activities within 600 feet of tribal lands to undergo a 45-day review period to notify the potentially affected tribe(s); Term 20 prohibits cannabis cultivation activities within 600 feet of an identified tribal cultural resource; and Terms 21 and 22 require CHRIS records searches, NAHC record searches, and archaeological surveys or evaluations (if necessary). Compliance with Term 23 would reduce impacts on previously undiscovered human remains by requiring compliance with Health and Safety Code Section 7050.5 and, if applicable, PRC Section 5097.98.

Similarly, San Diego County General Plan policies that are applicable to tribal cultural resources (COS-7.1, COS-7.2, COS-7.3, COS-7.4, and COS-7.5) are listed above in Section 2.17.2, "Regulatory Framework." Policy COS-7.1 requires the preservation of important archaeological resources from loss or destruction and requires development to include appropriate mitigation to protect the quality and integrity of these resources. Policy COS-7.2 requires development to avoid archaeological resources whenever possible. If complete avoidance is not possible, it requires the development to fully mitigate impacts to archaeological resources. Policy COS-7.3 requires the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. Policy COS-7.4 requires consultation with affected communities, including local tribes, to determine the appropriate treatment of cultural resources. Lastly, Policy COS-7.5 requires that human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains are done in consultation with the MLD and under the requirements of federal, state, and County regulations. In addition, project activities that require discretionary review would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*.

Compliance with SWRQCB Order WQ 2023-0102-DWQ Terms 18 through 23, San Diego General Plan Policies COS-7.1 through COS-7.5, and County ordinances would reduce impacts to tribal cultural resources.

Therefore, the impact on tribal cultural resources would be less than significant under Alternative 5.

#### **2.17.4 Cumulative Impacts**

The geographic scope of cumulative impact analysis for tribal cultural resources is the San Diego region, including jurisdictions and special districts within and adjacent to the unincorporated area of the county.

##### **2.17.4.1 *Issue 1: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource***

The San Diego County General Plan Update Draft EIR did not address tribal cultural resources but identified no cumulatively considerable impacts associated with archaeological resources from implementation of the General Plan (County of San Diego 2009).

Cumulative projects located in the southern California region would have the potential to result in a cumulative impact associated with the loss of tribal cultural resources through development activities that could cause a substantial adverse change in the significance of a tribal cultural resource. Cumulative projects that may result in significant impacts include any projects that involve ground-disturbing activities (e.g., grading, excavation). Ground-disturbing activities could damage or destroy known tribal cultural resources and previously undiscovered tribal cultural resources.

Cannabis facilities licensed and permitted under the Cannabis Program under Alternatives 1, 2, 3, 4, and 5 could result in damage or destruction of known or yet to be discovered tribal cultural resources, which would be a potentially significant impact. However, new commercial cannabis facilities would be required to comply with Terms 18 through 23 of SWRQCB's Order WQ 2023-0102-DWQ; San Diego County General Plan Policies COS-7.1 through COS-7.5; San Diego County RPO; and Sections 87.429 and 87.216(a)(7) of the County's Grading, Clearing, and Watercourses Ordinance. In addition, project activities that require discretionary review they would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*. Compliance with these standards would reduce impacts of the Cannabis Program. Furthermore, the County would take similar actions to require appropriate treatment and proper care of significant tribal cultural resources, in the case of a discovery, in accordance with applicable laws and regulations. Therefore, the contribution to cumulative tribal cultural resources impacts would not be cumulatively considerable for Alternatives 1, 2, 3, 4, and 5.

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

### **2.17.5.1 *Issue 1: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource***

The proposed Cannabis Program would result in less-than-significant direct impacts to tribal cultural resources under Alternatives 1 through 5. Project impacts would not be cumulatively considerable such that new cumulative impacts associated with tribal cultural resources would occur.

## **2.17.6 Mitigation**

### **2.17.6.1 *Issue 1: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource***

No mitigation is required.

## **2.17.7 Conclusion**

The discussion below provides a synopsis of the conclusion reached in the above impact analysis.

**2.17.7.1 Issue 1: Substantial Adverse Change in the Significance of Tribal Cultural Resources**

Cannabis facilities licensed and permitted under the Cannabis Program under Alternatives 1, 2, 3, 4, and 5 could result in damage or destruction of known or yet to be discovered tribal cultural resources, which would be a potentially significant impact. However, new commercial cannabis facilities would be required to comply with Terms 18 through 23 of SWRQCB Order WQ 2023-0102-DWQ; San Diego County General Plan Policies COS-7.1 through COS-7.5; San Diego County RPO; and Sections 87.429 and 87.216(a)(7) of the County's Grading, Clearing, and Watercourses Ordinance. In addition, project activities that require discretionary review would be subject to the guidelines outlined in *County of San Diego Report Format and Content Requirements for Cultural Resources: Archaeological and Historic Resources*. Compliance with these standards would offset impacts of Cannabis Program. Furthermore, the County would take similar actions to require appropriate treatment and proper care of significant tribal cultural resources, in the case of a discovery, in accordance with applicable laws and regulations. Therefore, this impact would be less than significant for Alternatives 1, 2, 3, 4, and 5 under direct and cumulative conditions.