

Cultural, Tribal Cultural, and Paleontological Resources

This section addresses the proposed project’s potential impacts in relation to cultural, historic, tribal cultural, and paleontological resources. Cultural resources include places, objects, and settlements that reflect group or individual religious, archaeological, architectural, or paleontological activities. Such resources provide information on scientific progress, environmental adaptations, group ideology, or other human advancements. By statute, the California Environmental Quality Act (CEQA) is primarily concerned with two classes of cultural resources: historical resources, which are defined in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5, and unique archaeological resources, which are defined in Public Resources Code Section 21083.2. Tribal cultural resources are generally described as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe and are further defined in Public Resources Code Section 21074(a)(1)(A)-(B).

The analysis in this section is primarily based on the *Class III Cultural Resource Inventory* prepared by HDR (2018; see **Appendix F-1**), the *Paleontological Resources Technical Memorandum* prepared by Tetra Tech (2018; see **Appendix F-2**), the *County of San Bernardino 2007 General Plan* and consultation with applicable agencies and Native American tribes. All technical reports referenced above were peer reviewed by Michael Baker International. Due to confidential information contained in the *Class III Cultural Resource Inventory*, the report is not available for public review.

ENVIRONMENTAL SETTING

CULTURAL RESOURCES INVENTORY RESULTS

The area of potential effect (APE) outlines the area that may cause impacts to cultural resources either directly or indirectly, should any be present, by the proposed project. The APE evaluated in the survey and in this report includes the area within which cultural resources could be affected by construction and operation of the proposed project (see **Appendix F-1, Figure 2-2 USGS Topographic Overview Map of the APE**). The South Central Coastal Information Center provided a records search of all archaeological and historical resources within 1 mile of the APE. The records search identified 191 previously recorded cultural resources in or within 1 mile of the APE.

A total of 82 built environment and archaeological cultural resources were identified and evaluated for inclusion in the California Register of Historical Resources (CRHR). Seventy-two of these resources were determined ineligible for listing in the CRHR due to a lack of significance and integrity. Additionally, none of these resources qualified as a unique archaeological resource.

Ten historical resources within the APE are either eligible for the National Register of Historic Places (NRHP) and the CRHR or recommended as potentially eligible for listing, as shown in **Table 3.5-1**.

**Table 3.5-1:
Eligibility of Historical Resources in the APE**

Primary Number	Trinomial/OHP Number	Description	Eligibility
P-36-001961	CA-SBR-1961	Prehistoric: Habitation site	Potentially eligible for the CRHR (n)
P-36-005067	CA-SBR-5067	Prehistoric: Habitation site with ash lenses and scattered lithics	Potentially eligible for the CRHR (n)
P-36-007694	CA-SBR-7694H	Historic: LADWP Boulder Transmission Lines 1, 2, 3	Eligible for the NRHP Listed in the CRHR (o)
P-36-007883 Coolwater HDR-45	CA-SBR-7883H	Historic: Daggett Ditch/Wind and Water Ditch Previously unrecorded segment	Eligible for the NRHP Listed in the CRHR (o) New segment recommended eligible for the CRHR (n)
P-36-010627 Coolwater HDR-55	CA-SBR-10627H	Historic District: Barstow-Daggett Airport Previously unrecorded component Coolwater HDR-55, remnants of fence line	Eligible for the NRHP (f) Coolwater HDR-55 recommended ineligible for the CRHR as non-contributing to district significance (n)
Coolwater HDR-23	N/A	Prehistoric: Possible habitation location with two loci containing lithics and hearth features	Potentially eligible for the CRHR (n)
Coolwater HDR-57	N/A	Prehistoric: A small concentration of chert tested cobbles and lithic debitage surrounded by a highly diffused scatter	Potentially eligible for the CRHR (n)
Coolwater HDR-58	N/A	Prehistoric: A large diffused scatter of chert cobbles, tested cobbles, lithic debitage, and lithic tools	Potentially eligible for the CRHR (n)
Coolwater HDR-61	N/A	Historic: A refuse deposit with domestic expendable items and personal items	Potentially eligible for the CRHR (n)
Coolwater ISO-56	N/A	Historic: LADWP survey marker: survey point no. L33W. R783. L.s. 328. P-36-007694 district component	Recommended eligible for the CRHR (n)

Eligibility: (o) = official determination; (f) = field recommendation from previous survey; (n) = new recommendation

On August 10, 2017, a request was submitted to the Native American Heritage Commission (NAHC) for a search of the Sacred Lands File. The NAHC responded on August 23, 2017, and indicated there are no known sacred lands or sites near the APE. On April 26, 2018, the California Historic Route 66 Association submitted a letter to the San Bernardino County Land Use Services Department expressing concern over the protection of critical historical resources outside of the APE. The letter specifically lists Alf's Blacksmith Shop (P-36-004138), the Stone Hotel (P-36-005525), and the Daggett Museum in the community of Daggett (P-36-026531), as well as the historic Route 66 pavement (P-36-002910), Barstow-Daggett Airport (P-36-010627), and viewsheds from Interstate 40 and Route 66 (P-36-002910).

Assembly Bill (AB) 52 established a formal consultation process for California tribes in the CEQA process. The bill specifies that any project which may affect or cause a substantial adverse change in the significance of a tribal cultural resource would require a lead agency to "begin consultation with a California Native American tribe that is traditional and culturally affiliated with the geographic area of the proposed project." Section 21074 of AB 52 defines tribal cultural resources as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, and is either listed on, or eligible for, the California Register of Historical Resources or a local historic register, or if the lead agency chooses to treat the resource as a tribal cultural resource.

PREHISTORIC AND HISTORIC SETTING

A detailed summary about the prehistoric and historic settings of the proposed project location can be found in Section 4 of the *Class III Cultural Resource Inventory* prepared by HDR (2018; see **Appendix F-1**).

REGULATORY FRAMEWORK

FEDERAL

Archaeological Resources Protection Act

The Archaeological Resources Protection Act of 1979 regulates the protection of archaeological sites and resources that are on Native American lands or federal lands.

Section 106 of the National Historic Preservation Act of 1966

Federal regulations for cultural resources are governed primarily by Section 106 of the National Historic Preservation Act of 1966. Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties and affords the Advisory Council on Historic

Preservation a reasonable opportunity to comment on such undertakings. The council's implementing regulations, Protection of Historic Properties, are found in 36 Code of Federal Regulations (CFR) Section 800. The goal of the Section 106 review process is to offer a measure of protection to sites that are determined eligible for listing on the National Register of Historic Places. The criteria for determining NRHP eligibility are found in 36 CFR 60. Amendments to the act (1986 and 1992) and subsequent revisions to the implementing regulations have, among other things, strengthened the provisions for Native American consultation and participation in the Section 106 review process. While federal agencies must follow federal regulations, most projects by private developers and landowners do not require this level of compliance. Federal regulations only come into play in the private sector if a project requires a federal permit or if it uses federal funding.

National Register of Historic Places

The National Register of Historic Places is "an authoritative guide to be used by federal, state, and local governments, private groups, and citizens to identify the nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment." However, the federal regulations explicitly provide that a listing of private property on the NRHP "does not prohibit under federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property."

Historic properties, as defined by the Advisory Council on Historic Preservation, include any "prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior" (36 CFR Section 800.16[1]). Eligibility for inclusion in the NRHP is determined by applying the following criteria, developed by the National Park Service in accordance with the National Historic Preservation Act:

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and

1. *that are associated with events that have made a significant contribution to the broad patterns of our history; or*
2. *that are associated with the lives of persons significant in our past; or*
3. *that embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or*

4. *that have yielded, or may be likely to yield, information important in prehistory or history (36 CFR 60.4).*

STATE

State historic preservation regulations affecting the project include the statutes and guidelines contained in CEQA, Public Resources Code (PRC) Sections 20183.2 and 21084.1, and CEQA Guidelines Section 15064.5. CEQA requires lead agencies to carefully consider the potential effects of a project on historical resources. A historical resource includes, but is not limited to, any object, building, structure, site, area, place, record or manuscript which is historically or archaeologically significant (PRC Section 5020.1). Section 15064.5 of the CEQA Guidelines specifies criteria for evaluating the significance or importance of cultural resources, including:

- The resource is associated with events that have made a contribution to the broad patterns of California history;
- The resource is associated with the lives of important persons from our past;
- The resource embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important individual or possesses high artistic values; or
- The resource has yielded, or may be likely to yield, important information in prehistory or history.

Advice on procedures to identify such resources, evaluate their importance, and estimate potential effects is given in several agency publications, such as the series produced by the Governor's Office of Planning and Research (OPR). The technical advice series produced by OPR strongly recommends that Native American concerns and the concerns of other interested persons and corporate entities, including but not limited to museums, historical commissions, associations, and societies, be solicited as part of the process of cultural resources inventory. In addition, California law protects Native American burials, skeletal remains, and associated grave goods regardless of the antiquity and provides for the sensitive treatment and disposition of those remains.

Assembly Bill 52

With the enactment of AB 52, CEQA recognizes tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation by identifying a category of resources called tribal cultural resources (TCRs). In order to qualify as a TCR, a resource must be listed, or determined eligible for listing, on the national, state, or local register of historic

resources; or be a resource that a lead agency chooses to treat as a tribal cultural resource based on the CRHR criteria and the cultural value of a resource to a California Native American tribe (PRC Section 21074). In order to identify TCRs, lead agencies are required to consult with local Native American tribes in a manner that is cognizant of all parties' cultural values and, where feasible, seek agreement on a proposed action. A project with an effect that may cause a substantial adverse change in the significance of a TCR is a project that may have a significant effect on the environment (PRC Section 21084.2).

California Register of Historical Resources

The California Register of Historical Resources is an authoritative guide in California 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. The criteria for eligibility for the CRHR are based on National Register of Historic Places criteria. Certain resources are determined by the statute to be included on the CRHR, including California properties formally determined eligible for, or listed in, the NRHP, State Landmarks, and State Points of Interest.

The California Office of Historic Preservation (OHP) has broad authority under federal and state law for the implementation of historic preservation programs in California. The State Historic Preservation Officer makes determinations of eligibility for listing on the NRHP and the CRHR.

The appropriate standard for evaluating "substantial adverse effect" is defined in PRC Sections 5020.1(q) and 21084.1. Substantial adverse change means demolition, destruction, relocation, or alteration such that the significance of an historical resource would be impaired. Such impairment of significance would be an adverse impact on the environment.

Cultural resources consist of buildings, structures, objects, or archaeological sites. Each of these entities may have historic, architectural, archaeological, cultural, or scientific importance. Under the CEQA Guidelines, a significant impact would result if the significance of a cultural resource would be changed by project area activities. Activities that could potentially result in a significant impact include demolition, replacement, substantial alteration, and relocation of the resource. The significance of a resource is required to be determined prior to analysis of the level of significance of project activities. The steps required to be implemented to determine significance in order to comply with CEQA Guidelines are:

- Identify cultural resources.
- Evaluate the significance of the cultural resources based on established thresholds of significance.

- Evaluate the effects of a project on all cultural resources.
- Develop and implement measures to mitigate the effects of the project on significant cultural resources.

California Government Code Sections 6253, 6254, and 6254.10 authorize state agencies to exclude archaeological site information from public disclosure under the Public Records Act. In addition, the California Public Records Act (CPRA; Government Code [GC] Section 6250 et seq.) and California's open meeting laws (the Brown Act, GC Section 54950 et seq.) protect the confidentiality of Native American cultural place information. The CPRA (as amended, 2005) contains two exemptions that aid in the protection of records relating to Native American cultural places by permitting any state or local agency to deny a CPRA request and withhold from public disclosure:

- Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Section 5097.9 and Section 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency (GC Section 6254[r]); and
- Records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency (GC Section 6254.10).

Likewise, the Information Centers of the California Historical Resources Information System (CHRIS) maintained by the OHP prohibit public dissemination of records and site location information. In compliance with these requirements and those of the Code of Ethics of the Society for California Archaeology and the Register of Professional Archaeologists, the locations of cultural resources are considered restricted information with highly restricted distribution and are not publicly accessible.

Any project site located on non-federal land in California is also required to comply with state laws pertaining to the inadvertent discovery of Native American human remains.

California Health and Safety Code Sections 7050.5, 7051, and 7054

California Health and Safety Code Sections 7050.5, 7051, and 7054 collectively address the illegality of interference with human burial remains as well as the disposition of Native American burials in archaeological sites. The law protects such remains from disturbance, vandalism, or inadvertent destruction and establishes procedures to be implemented if Native American

skeletal remains are discovered during construction of a project, including the treatment of remains prior to, during, and after evaluation, and reburial procedures.

LOCAL

San Bernardino County General Plan

The General Plan Conservation Element includes concepts and guidelines to manage, preserve, and use cultural resources. The following goals, policies, and programs are applicable to the proposed project:

GOAL CO 3 The County will preserve and promote its historic and prehistoric cultural heritage.

Policy CO 3.1 Identify and protect important archaeological and historic cultural resources in areas of the County that have been determined to have known cultural resource sensitivity.

Programs

1. Require a cultural resources field survey and evaluation prepared by a qualified professional for projects located within the mapped Cultural Resource Overlay area.
2. Mitigation of impacts to important cultural resources will follow the standards established in Article 9 of the California Environmental Quality Act Guidelines, as amended to date.

Policy CO 3.2 Identify and protect important archaeological and historic cultural resources in all lands that involves disturbance of previously undisturbed ground.

Programs

1. Require the Archaeological Information Center at the San Bernardino County Museum to conduct a preliminary cultural resource review prior to the County's application acceptance for all land use applications in planning regions lacking Cultural Resource Overlays and in lands located outside of planning regions.
2. Should the County's preliminary review indicate the presence of known cultural resources or moderate to high sensitivity for the potential presence of cultural resources, a field survey and evaluation

prepared by a qualified professional will be required with project submittal. The format of the report and standards for evaluation will follow the “Guidelines for Cultural Resource Management Reports” on file with the San Bernardino County Land Use Services Department.

Policy CO 3.3 Establish programs to preserve the information and heritage value of cultural and historical resources.

Policy CO 3.4 The County will comply with Government Code Section 65352.2 (SB 18) by consulting with tribes as identified by the California Native American Heritage Commission on all General Plan and specific plan actions.

Programs

1. Site record forms and reports of surveys, test excavations, and data recovery programs will be filed with the Archaeological Information Center at the San Bernardino County Museum and will be reviewed and approved in consultation with that office.
 - a. Preliminary reports verifying that all necessary archaeological or historical fieldwork has been completed will be required prior to project grading and/or building permits.
 - b. Final reports will be submitted and approved prior to project occupancy permits.
2. Any artifacts collected or recovered as a result of cultural resource investigations will be catalogued pursuant to County Museum guidelines and adequately curated in an institution with appropriate staff and facilities for their scientific information potential to be preserved. This shall not preclude the local tribes from seeking the return of certain artifacts as agreed to in a consultation process with the developer/project archaeologist.
3. When avoidance or preservation of an archaeological site or historic structure is proposed as a form of mitigation, a program detailing how such long-term avoidance or preservation is assured will be developed and approved prior to conditional approval.
4. In areas of potential but unknown sensitivity, field surveys prior to grading will be required to establish the need for paleontologic monitoring.

5. Projects requiring grading plans that are located in areas of known fossil occurrences, or demonstrated in a field survey to have fossils present, will have all rough grading (cuts greater than 3 feet) monitored by trained paleontologic crews working under the direction of a qualified professional, so that fossils exposed during grading can be recovered and preserved. Fossils include large and small vertebrate fossils, the latter recovered by screen washing of bulk samples.
6. A report of findings with an itemized accession inventory will be prepared as evidence that monitoring has been successfully completed. A preliminary report will be submitted and approved prior to granting of building permits, and a final report will be submitted and approved prior to granting of occupancy permits. The adequacy of paleontologic reports will be determined in consultation with the Curator of Earth Science, San Bernardino County Museum.

Policy CO 3.5

Ensure that important cultural resources are avoided or minimized to protect Native American beliefs and traditions.

Programs

1. Consistent with SB 18, as well as possible mitigation measures identified through the CEQA process, the County will work and consult with local tribes to identify, protect and preserve “traditional cultural properties” (TCPs). TCPs include both manmade sites and resources as well as natural landscapes that contribute to the cultural significance of areas.
2. The County will protect confidential information concerning Native American cultural resources with internal procedures, pursuant to the requirements of SB 922, an addendum to SB 18. The purpose of SB 922 is to exempt cultural site information from public review as provided for in the Public Records Act. Information provided by tribes to the County shall be considered confidential or sacred.
3. The County will work in good faith with the local tribes, developers/applicants and other parties if the local affected tribes request the return of certain Native American artifacts from private development proposed projects. The developer is expected to act in good faith when considering the local tribe’s request for artifacts. Artifacts not desired by the local tribe will be placed in a qualified

repository as established by the California State Historical Resources Commission. If no facility is available, then all artifacts will be donated to the local tribe.

4. The County will work with the developer of any “gated community” to ensure that the Native Americans are allowed future access, under reasonable conditions, to view and/or visit known sites within the “gated community.” If a site is identified within a gated community proposed project, and preferably preserved as open space, the development will be conditioned by the County allow future access to Native Americans to view and/or visit that site.
5. Because contemporary Native Americans have expressed concern over the handling of the remains of their ancestors, particularly with respect to archaeological sites containing human burials or cremations, artifacts of ceremonial or spiritual significance, and rock art, the following actions will be taken when decisions are made regarding the disposition of archaeological sites that are the result of prehistoric or historic Native American cultural activity:
 - a. The Native American Heritage Commission and local reservation, museum, and other concerned Native American leaders will be notified in writing of any proposed evaluation or mitigation activities that involve excavation of Native American archaeological sites, and their comments and concerns solicited.
 - b. The concerns of the Native American community will be fully considered in the planning process.
 - c. If human remains are encountered during grading and other construction excavation, work in the immediate vicinity will cease and the County Coroner will be contacted pursuant to the state Health and Safety Code.
 - d. In the event that Native American cultural resources are discovered during project development and/or construction, all work in the immediate vicinity of the find will cease and, a qualified archaeologist meeting U.S. Secretary of Interior standards, will be hired to assess the find. Work on the overall project may continue during this assessment period.

- e. If Native American cultural resources are discovered, the County will contact the local tribe. If requested by the tribe, the County will, in good faith, consult on the discovery and its disposition with the tribe.

San Bernardino County Development Code

Development Code Chapter 82.12, Cultural Resources Preservation (CP) Overlay, includes regulations pertaining to the identification and preservation of important archaeological and historical resources. The chapter outlines application requirements for a project proposed within a CP Overlay, as well as development standards and an explanation of the need for a Native American monitor.

The Development Code states that the CP Overlay may be applied to areas where archaeological and historic sites that warrant preservation are known or are likely to be present. Specific identification of known cultural resources is indicated by listing in one or more of the following inventories: California Archaeological Inventory, California Historic Resources Inventory, California Historical Landmarks, California Points of Historic Interest, and/or National Register of Historic Places.

IMPACT ANALYSIS AND MITIGATION MEASURES

THRESHOLDS FOR DETERMINATION OF SIGNIFICANCE

The following thresholds of significance are based on CEQA Guidelines Appendix G. For the purposes of this EIR, the project would be considered to have a significant impact on cultural resources if it would do any of the following:

- Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- Disturb any human remains, including those interred outside of formal cemeteries.
- 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 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 California Register of Historical Resources, 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 subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

PROJECT IMPACTS AND MITIGATION

HISTORIC RESOURCES

Impact 3.4-1 **The project could cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5. Impacts would be less than significant with mitigation.**

POTENTIAL DIRECT IMPACTS

The Class III Cultural Resource Inventory (HDR 2018) consisted of a records search encompassing a 1-mile radius around the proposed project area at the South Central Coastal Information Center (SCCIC), at California State University, Fullerton; an intensive pedestrian survey of the entire APE; and an evaluation of cultural resources identified in the project APE. The SCCIC records search, performed in July 2017, also included a review of the site records, GIS data, survey reports, and online database – Nationwide Environmental Title Research, LLC site. US Geological Survey maps 1954 to present and aerial photographs 1952 to present were reviewed.

As shown previously in **Table 3.5-1**, 10 resources within the APE are either eligible for the NRHP or the CRHR or recommended potentially eligible for listing. Proposed project construction would take place within or near the site boundaries of two historical resources: LADWP transmission lines (P-36-007694) and Barstow-Daggett Airport Historic District (P-36-010627); however, no significant components of these resources will be destroyed or adversely altered. Project work within or near these resources would consist of minimal ground disturbance and the presence of project vehicles in already disturbed areas.

The remaining five prehistoric archaeological resources P-36-001961, P-36-005067, Coolwater HDR-23, Coolwater HDR-57, Coolwater HDR-58 and three historic-period archaeological resources Coolwater HDR-61, Coolwater HDR-45 (a new component of P-36-007883), and

Coolwater ISO-56 are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage (Criterion A); embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values (Criterion C); or have yielded, or may be likely to yield, information important in prehistory or history (Criterion D). Therefore, these sites are significant and eligible for listing in the CRHR. The historical resources present could potentially be impacted by the proposed project.

However, avoidance of historical resources is feasible. To protect these resources in place, mitigation measure **CUL-1** requires fencing the 50-foot buffer around the known boundaries of historical resources to protect them in place during construction and decommissioning. Therefore, any impacts would be less than significant with mitigation. No ground disturbing work would occur once the Project is fully constructed and in operations, and therefore no impacts to these resources are anticipated during project operation.

POTENTIAL INDIRECT IMPACTS

Based on scoping comments, a viewshed analysis was completed from seven cultural resources located both inside and outside the APE, to determine the potential for indirect impacts to LADWP transmission lines (P-36-007694), the Barstow-Daggett Airport Historic District (P-36-010627), the BNSF Railroad (P-36-006693), Route 66 (P-36-002910), the Daggett Ditch (P-36-007883) located outside the APE not that portion located inside the APE (Coolwater HDR-45), the Mojave Trail (P-36-004928), the Daggett historic district (P-36-026531) including all its components, and Calico Ghost Town (State Historical Landmark 782). These resources were selected based on their significance and concerns expressed in scoping comments regarding visual impacts.

In relation to the APE, all resources considered are either within the APE, within the foreground zone, or within the middleground zone except for the Calico Ghost Town which is in the background zone. The immediate foreground zone ranges from 0 to 300 feet from the APE boundary, the foreground zone ranges from 300 feet to 0.5 mile, and the middleground zone ranges from 0.5 mile to 4 miles. Any impacted visual resources are typically within these zones. The background zone is the visible area of a landscape which lies beyond the foreground and middleground zones from a distance of 4 miles to the horizon.

The APE, as viewed from multiple vantages, is already developed with agricultural, rural residential, and industrial uses. The current infrastructure includes but is not limited to the Coolwater Generating Station, Los Angeles Department Water and Power (LADWP) transmission lines, and the Sunray Solar Generating Station. For further analysis of the visual aesthetics of the area, refer to Section 3.1 of this EIR.

The LADWP transmission lines [P-36-007694], the Barstow-Daggett Airport Historic District [P-36-010627], the BNSF Railroad [P-36-006693] are the closest resources to the project site. The LADWP transmission lines border the existing Sunray Solar Facility, and additional solar panels in the area would not detract from their significance. Undeveloped airport property at a width ranging from 1,000 to 3,000 feet buffers significant components of the Barstow-Daggett Airport historic district, and many structures are surrounded by trees, which would obscure the view of low-profile solar panels.

No significant components of the district would be visually impacted to a degree that would detract from their historic integrity. The segment of the BNSF railroad nearest to the APE has already been assessed twice as not contributing to the significance of the resource due to a loss of substantial historic integrity and the proposed undertaking would not reduce the integrity any further. The presence of the railroad actually obscures the view of the APE from many viewpoints at lower elevations. The historic integrity of the LADWP transmission lines, the Barstow-Daggett Airport historic district, and the BNSF Railroad will not be altered by the proposed project and they will still possess enough historic integrity to convey their significance.

Route 66 [P-36-002910] is parallel to the southern border of the proposed project site at distances ranging from 950 to 2,100 feet and is separated from it by the BNSF railway berm. The project would be visible in the foreground and middleground from Route 66, beyond the railway (farther north). In the middleground, a combination of agricultural and rural residential uses and associated windrows are present. Ridgelines, including the Calico Mountains on the left and Alvord Mountain in the center, are visible in the background. Although it would be visible from Route 66, the proposed project would not adversely affect the integrity of setting or feeling and would not have any effect on location, design, materials, workmanship, or association.

With respect to setting and feeling, the area surrounding this portion of Route 66 is relatively void of urban development, with mainly open space, and agricultural and infrastructure facilities, including the airport, railroads, power transmission lines, and a solar facility. The addition of the project would be consistent with this pattern of development and not significantly alter the integrity of setting or feeling of Route 66.

The project will not indirectly impact the portion of the Daggett Ditch [P-36-007883] located outside the APE, the Mojave Trail [P-36-004928], the Daggett historic district [P-36-026531] including all its components, or Calico Ghost Town [State Historical Landmark 782]). Regarding Daggett Ditch, integrity of location, association, materials, design, and workmanship are still intact as the segment maintains its historic alignment and has not been altered since abandonment. Integrity of setting and feeling are mostly intact but have been reduced by the construction of more modern development. The portion of Daggett Ditch within the APE (Coolwater HDR-45) will be protected from project impacts with fencing. To the south and east

of the Daggett Ditch are the Coolwater Generating Station, several other industrial disturbances, and surrounding vegetation coverage which obscure any views between the resource and the APE. The recorded segment of the Mojave Trail was found to be recorded incorrectly and is not near the APE but several miles to the west/northwest near Daggett. Any views from the east end of the Daggett historic district and Mojave Trail towards the APE are completely blocked by topography and vegetation; therefore, the integrity of the district and Mojave Trail will not be affected.

The APE from Calico Ghost Town is completely obscured by the Calico Mountains, with the exception of the Calico Cemetery. However, the existing Sunray Solar Facility is not apparent from this location, indicating that the proposed project, which will have solar panels of similar dimensions and will be approximately the same distance from the Calico Cemetery as the Sunray facility, will not be apparent after the project's completion. Therefore, the proposed project would not significantly impact the historic integrity of Calico Ghost Town.

Implementation of mitigation measure **CUL-1** would reduce project impacts by requiring the installation of fencing in order to minimize potential disturbance to known historic resources during project construction and decommissioning. With implementation of mitigation measure **CUL-1**, the project is not anticipated to cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5. Impacts would be less than significant with mitigation.

Mitigation Measures:

CUL-1 Fencing shall be installed and maintained along the 50-foot buffer around the known boundaries of historical resources (P-36-001961, P-36-005067, Coolwater HDR-23, Coolwater HDR-57, Coolwater HDR-58, Coolwater HDR-61, Coolwater HDR-45 [a component of P-36-07883], and Coolwater ISO-56) to protect them in place during construction and decommissioning.

Level of Significance: Less than significant with mitigation.

ARCHAEOLOGICAL RESOURCES

Impact 3.4-2 The project could cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. Impacts would be less than significant with mitigation.

Based on the requirements of mitigation measure **CUL-1**, known historical resources will be avoided and preserved in place during construction and decommissioning, and no impacts to known resources are expected during operations. Additionally, mitigation measure **CUL-2**

reduces impacts to currently unknown archaeological resources by requiring an archaeologist provide all construction workers with Worker Education Awareness Program that will discuss the potential for archaeological resources and what to do in the event of discovery. Lastly, in the event that unknown buried archaeological resources are unearthed during project construction, implementation of mitigation measure **CUL-3** would mitigate any impacts to archaeological resources to a less than significant level.

With implementation of mitigation measures **CUL-1**, **CUL-2** and **CUL-3** the proposed project is not anticipated to cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5. Impacts would be less than significant with mitigation.

Mitigation Measures:

CUL-2 The project proponent/operator shall conduct a Worker Education Awareness Program (WEAP) for relevant construction personnel working on the proposed project and conducting subsurface activities. Development of the WEAP shall include consultation with an archaeologist. The training shall include an overview of known historical resources and potential cultural resources that could be encountered during ground disturbing activities to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified archaeologist.

CUL-3 In the event that previously unknown historic era archaeological resources (sites, features, or artifacts) are exposed during grading and/or construction activities for the proposed project, all work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist can evaluate the significance of the find and determine whether or not additional study is warranted, in consultation with the County. Pursuant to CEQA Guidelines Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant historical resources. Consistent with CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the qualified archaeologist shall develop additional treatment measures in consultation with the County, which may include data recovery or other appropriate measures. The qualified archaeologist shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the County. Protocol for discovery and treatment of pre-contact resources is outlined in mitigation measure **CUL-8**.

Level of Significance: Less than significant with mitigation.

PALEONTOLOGICAL RESOURCE OR GEOLOGIC FEATURE

Impact 3.4-3 The project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. Impacts would be less than significant with mitigation.

The proposed project site is mapped as younger alluvium, which has low sensitivity for paleontological resources. The records search performed by the Natural History Museum of Los Angeles County did not identify any vertebrate fossil find localities in the proposed project area. The nearest fossil locality occurring in alluvial deposits associated with the Mojave River is about 35–40 miles east-northeast. Intermediate age or older age alluvial fan deposits are located within about 1 mile to the south of the proposed project boundary. This location suggests these units could be found underlying the young Mojave River wash sediments mapped within the proposed project boundaries.

To mitigate any potential impacts to paleontological resources, implementation of mitigation measures **CUL-4** and **CUL-5** is required. The purpose of the mitigation measure is to educate construction personnel regarding subsurface evidence of “older” sediment or fossils that may potentially be encountered during excavation and standard protocol procedures. Therefore, the proposed project would not directly or indirectly destroy a unique paleontological resource or site or a unique geologic feature. Impacts would be less than significant with mitigation.

Mitigation Measures:

CUL-4 The project proponent/operator shall conduct a Worker Education Awareness Program (WEAP) for relevant construction personnel working on the proposed project on subsurface activities. Development of the WEAP shall include consultation with an archaeologist and an expert with expertise in paleontology. The training shall include an overview of potential significant paleontological resources that could be encountered during ground disturbing activities, including how to identify subsurface evidence of “older” sediment or fossils that may potentially be encountered during excavation, to facilitate worker recognition, avoidance, and subsequent immediate notification to the qualified paleontologist. Prior to any ground-breaking activities, the San Bernardino County Land Use Services Department shall ensure that construction personnel partake in the WEAP.

CUL-5 In the event that paleontological resources are exposed during grading and/or construction activities for the proposed project, all work occurring within 100 feet of the find shall immediately stop until a qualified paleontologist can evaluate the significance of the find and determine whether or not additional study is

warranted, in consultation with the County. If it is demonstrated that resources cannot be avoided, the qualified paleontologist shall develop additional treatment measures in consultation with the County, which may include recovery or other appropriate measures. The qualified archaeologist shall prepare a report documenting the treatment of the resource. A copy of the report shall be provided to the County.

Level of Significance: Less than significant with mitigation.

HUMAN REMAINS

Impact 3.4-4 The project could disturb human remains, including those interred outdoors of formal cemeteries. Impacts would be less than significant with mitigation.

The project site is not located on a known cemetery, and no human remains are anticipated to be disturbed during the construction phase. However, the County has complied with procedures for consulting with Native American tribes as outlined in AB 52 and the project would be compliant with the requirements for treatment of Native American human remains contained in California Health and Safety Code Sections 7050.5 and 7052 and Public Resources Code Section 5097. Mitigation measure **CUL-6** would ensure project conformance with standard procedures in the event that human remains are discovered during project construction and would reduce impacts to such resources to less than significant levels.

Mitigation Measures:

CUL-6 In accordance with California Health and Safety Code Section 7050.5, if human remains are found, the County Coroner shall be notified within 24 hours of the discovery. The project lead/foreman shall designate an Environmentally Sensitive Area (ESA) physical demarcation/barrier 100 feet around the resource and no further excavation or disturbance of the site shall occur while the County Coroner makes his/her assessment regarding the nature of the remains. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission (NAHC) in Sacramento within 24 hours. In accordance with Public Resources Code Section 5097.98, the NAHC must immediately notify those persons it believes to be the most likely descendant (MLD) from the deceased Native American. The MLD shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative will then determine, in consultation with the property owner, the disposition of the human remains.

Reburial of human remains and/or funerary objects (those artifacts associated with any human remains or funerary rites) shall be accomplished in compliance with the California Public Resources Code § 5097.98 (a) and (b). The MLD in consultation with the landowner, shall make the final discretionary determination regarding the appropriate disposition and treatment of human remains and funerary objects. All parties are aware that the MLD may wish to rebury the human remains and associated funerary objects on or near the site of their discovery, in an area that shall not be subject to future subsurface disturbances. The applicant/developer/landowner should accommodate on-site reburial in a location mutually agreed upon by the Parties.

It is understood by all Parties that unless otherwise required by law, the site of any reburial of Native American human remains or cultural artifacts shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, parties, and Lead Agencies, will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code § 6254 (r).

Level of Significance: Less than significant with mitigation.

TRIBAL CULTURAL RESOURCES

Impact 3.4-5

The project could 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 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 California Register of Historical Resources, 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 subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.**

Impacts would be less than significant with mitigation.

In compliance with AB 52, the County of San Bernardino distributed notification letters to applicable tribes that had previously requested to be notified of future projects proposed by the County, notifying each tribe of the opportunity to consult with the County regarding the proposed project, including the Morongo Band of Mission Indians, San Manuel Band of Mission Indians, Serrano Nation, Colorado River Indian Tribes and Soboba Band of Luiseno Indians. Responses were received from the Morongo Band of Mission Indians and the San Manuel Band of Mission Indians. As of the date of publication of the Draft EIR, consultation has occurred with both the San Manuel and Morongo Bands of Mission Indians and is ongoing.

As shown previously in **Table 3.5-1**, 10 resources within the APE are either eligible for the NRHP or the CRHR or recommended potentially eligible for listing. Of those, the five prehistoric archaeological resources are also considered to be tribal cultural resources by the San Manuel Band of Mission Indians. Of those five resources, the tribe has indicated that four would be adequately avoided through project design (as enforced by mitigation measures **CUL-1** and **CUL-2**), resulting in less than significant impacts.

The remaining tribal cultural resource (CA-SBR-1961) is also proposed to be avoided via the fencing and buffer requirements outlined in mitigation measure **CUL-1**. However, the tribe expressed concern that the resource may extend further than currently mapped and therefore desires subsurface testing to better define the boundaries, such that avoidance can be further ensured. Accordingly, mitigation measures **CUL-7** and **CUL-8** require preparation of a Testing Plan to allow for additional subsurface testing at the site of the resource and identify procedural requirements in the event that a discovery is made. Mitigation measures **CUL-7** and **CUL-8** would reduce potential impacts to this tribal cultural resource to a less than significant level.

Additionally, similar to archaeological and paleontological resources discussed previously in this section, there is also potential for inadvertent discoveries of tribal cultural resources on the project site. Mitigation measures **CUL-6** and **CUL-8** are thus also required to ensure proper disposition of inadvertent discoveries.

Mitigation Measures:

Implement mitigation measure **CUL-6**.

CUL-7 Due to the potential impact to a significant archaeological site (CA-SBR-1961), subsurface archaeological testing shall be conducted by at least one archaeologist, with at least 3 years of regional experience in archaeology, within the area of concern identified by the San Manuel Band of Mission Indians during consultation. Prior to any ground-disturbing activity, testing shall be conducted to confirm presence or absence of subsurface material and to delineate site boundaries.

Testing may employ a number of subsurface investigative methods, including shovel test probes, and/or deep testing via controlled units, augers or trenching.

The area of concern will be determined in the testing plan and shall be dug and dry-sifted through 1/8-inch mesh screens. A Testing Plan shall be created by the archaeologist and submitted to the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) and the Lead Agency for review at least 10 business days prior to implementation in order to provide time to review/modify the Plan, if needed. The Plan shall outline the protocol of presence/absence testing and contain a treatment protocol detailing that 1) no collection of artifacts or excavation of features shall occur during testing, and 2) all discovered resources shall be properly recorded and reburied *in situ* (see mitigation measure **CUL-8**).

The results of testing shall be presented to the applicant, Lead Agency, and SMBMI in the format of a report, which shall include details regarding testing methodology, soil assessment, and photographs. If the results of testing, as approved by SMBMI, are positive, then SMBMI and the Lead Agency shall, in good faith, consult concerning appropriate treatment of the resource(s), guidance for which is outlined in mitigation measure **CUL-8**. If the results of testing, as approved by SMBMI, are negative, then SMBMI will conclude consultation unless additional discoveries are made during project implementation in which consultation would resume. All discoveries made during project implementation shall be subject to the treatment protocol outlined within the Testing Plan, as well as the treatment guidelines within mitigation measures **CUL-6** and **CUL-8**.

CUL-8 If a pre-contact tribal cultural resource is discovered during archaeological presence/absence testing, the discovery shall be properly recorded and then reburied *in situ*. If a pre-contact tribal cultural resource is discovered during project implementation, ground disturbing activities shall be suspended 100 feet around the resource(s) and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed.

Representatives from the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI), a qualified archaeologist/applicant, and the Lead Agency shall confer regarding treatment of the discovered resource(s). As outlined in CEQA, the applicant shall make a good faith effort to redesign the project area in such a way that impacts to the identified resource(s) can be avoided/preserved in place. Should any resource(s) not be a candidate for avoidance/preservation in place, and therefore the removal of the resource(s) is necessary to mitigate impacts, a research design shall be developed in consultation with SMBMI.

The research design will include a plan to formally evaluate the resource(s) for significance under CEQA criteria, as well as to formally address the resource(s) place within the landscape identified as a Tribal Cultural Resource (TCR) by the San Manuel Band of Mission Indians. Additionally, the research design shall include a comprehensive discussion of sampling strategies, resource processing, analysis, and reporting protocols/obligations. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal Monitor representing the Tribe, unless otherwise decided by SMBMI. All plans for analysis shall be reviewed and approved by the applicant, Lead Agency, and SMBMI prior to implementation, and all removed material shall be temporarily curated on-site.

It is the preference of SMBMI that removed cultural material be reburied as close to the original find location as possible. However, should reburial within/near the original find location during project implementation not be feasible, then a reburial location for future reburial shall be decided upon by SMBMI, the landowner, and the Lead Agency, and all finds shall be reburied within this location. Additionally, in the case of a single reburial area, reburial shall not occur until all ground-disturbing activities associated with the project have been completed, all cataloguing and basic recordation of cultural resources have been completed, and a final report has been approved by SMBMI and the Lead Agency. All reburials are subject to a reburial agreement that shall be developed between the landowner and SMBMI outlining the determined reburial process/location and shall include measures and provisions to protect the reburial area from any future impacts (i.e. project plans, conservation/preservation easements, etc.).

Should it occur that avoidance, preservation in place, and on-site reburial are not an option for treatment, the landowner shall relinquish all ownership and rights to this material and confer with SMBMI to identify an American Association of Museums (AAM)-accredited facility within the County that can accession the materials into their permanent collections and provide for the proper care of these objects in accordance with the 1993 CA Curation Guidelines. A curation agreement with an appropriate qualified repository shall be developed between the landowner and museum that legally and physically transfers the collections and associated records to the facility. This agreement shall stipulate the payment of fees necessary for permanent curation of the collections and associated records and the obligation of the project developer/applicant to pay for those fees.

All draft archaeological records/reports created throughout the life of the project shall be prepared by the archaeologist and submitted to the applicant, Lead

Agency, and SMBMI for their review and approval. After approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and SMBMI.

Level of Significance: Less than significant with mitigation.

CUMULATIVE IMPACTS

Impact 3.4-6 The project could result in cumulative impacts related to historical, archaeological, tribal cultural or paleontological resources. Impacts would be less than significant with mitigation.

The geographic area of analysis for cultural resources includes the site, adjacent properties and the Mojave Valley. This geographic scope of analysis is appropriate because the archaeological, historical, tribal cultural, and paleontological resources within this area are expected to be similar to those that occur on the project site. Their proximity and similarity in environments, landforms, habitation patterns, and hydrology would result in similar land-use, and thus, site types. Similar geology within this vicinity would likely yield fossils of similar sensitivity and quantity.

In addition, the defined area of analysis is a large enough to encompass any effects of the project on cultural and paleontological resources that may combine with similar effects caused by other projects and provides a reasonable context wherein cumulative actions could affect cultural and paleontological resources. The project could cause impacts on cultural and paleontological resources during the grading and construction period or as a result of operation and maintenance, or closure and decommissioning activities.

Cumulative projects within the geographic scope of analysis are identified in **Table 3.0-1** in Section 3.0 of this EIR.

Ongoing development and growth in the broader project area may result in a cumulatively significant impact to cultural resources, tribal cultural resources, and paleontological resources due to the continuing disturbance of undeveloped areas, which could potentially contain significant, buried archaeological, paleontological, or tribal cultural resources. Because there is always a potential to encounter unrecorded archaeological, tribal cultural, and paleontological resources during construction activities, no matter the location or sensitivity of a particular site, mitigation measures **CUL-1** through **CUL-8** are required to protect, preserve, and maintain the integrity and significance of cultural, tribal cultural, and/or paleontological resources in the event of the unanticipated discovery of a significant resource.

As discussed above, the individual, project-level impacts were found to be less than significant with incorporation of mitigation measures, and the proposed project would be required by law

to comply with all applicable federal, state, and local requirements related to historical, archaeological, paleontological, and tribal cultural resources. Other related cumulative projects would similarly be required to comply with all such requirements and regulations, to be consistent with the provisions set forth by CEQA, and to implement all feasible mitigation measures should a significant project-related or cumulative impact be identified. With implementation of applicable regulatory requirements and mitigation measures **CUL-1** through **CUL-8** the proposed project would not have a cumulatively considerable contribution to impacts to archaeological and paleontological resources from decommissioning activities.

Mitigation Measures: Implement mitigation measures **CUL-1** through **CUL-8**.

Level of Significance: Less than significant with mitigation.

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