

3.8. TRIBAL CULTURAL RESOURCES

This section of the Draft EIR provides an analysis of the Proposed Project's potential impacts on tribal cultural resources. Potential impacts to tribal cultural resources are based on coordination and consultation with California Native American tribes that are traditionally and culturally affiliated with the Project Site.

3.8.1. REGULATORY FRAMEWORK

3.8.1.1. Federal

There are no federal laws relevant to the Draft EIR with respect to tribal cultural resources.

3.8.1.2. State

Assembly Bill (AB) 52

AB 52 specifies that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource may have a significant effect on the environment. AB 52 requires that a lead agency consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a project prior to the determination of whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. Furthermore, it provides examples of mitigation measures that may be considered to mitigate an impact.

California Health and Safety Code

California Health and Safety Code Section 7050.5 requires that, in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined that the remains are not subject to the provisions of Section 27491 of the California Government Code or any other related provisions of law concerning investigation of the circumstances, manner, and cause of any death. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the California Native American Heritage Commission (NAHC). The NAHC shall identify the most likely descendant (MLD) who shall be consulted regarding treatment or repatriation of the remains.

California Public Resources Code (PRC)

PRC Section 5097.5 defines the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands as a misdemeanor. The Section also prohibits the knowing destruction of objects of antiquity without a permit (expressed permission) on public lands issued by the public agency that has jurisdiction over the lands and provides for criminal sanctions.

PRC Section 5097.94 provides for the NAHC to make recommendations to encourage private property owners to protect and preserve sacred places in a natural state and to allow appropriate access to Native Americans for ceremonial or spiritual activities. The NAHC is authorized to assist Native Americans in obtaining appropriate access to sacred places on public lands, and to aid State agencies in any negotiations with federal agencies for the protection of Native American sacred places on federally administered lands in the State.

PRC Sections 5097.98-99 require that the NAHC be consulted whenever Native American graves are found. According to these Sections, it is illegal to take or possess remains or artifacts taken from Native American graves; however, it does not apply to materials taken before 1984.

3.8.1.3. Local

There are no City laws relevant to the Draft EIR with respect to tribal cultural resources.

3.8.2. EXISTING SETTING

In compliance with AB 52, Metro is conducting consultation with Native American tribes. This process began by contacting the NAHC to request a search of the Sacred Lands File (SLF) and a list of tribal groups whom should be contacted regarding the Proposed Project. The search of the SLF by the NAHC indicated the presence of Native American sites in the Project Area. No additional information about the nature or location of the site(s) was provided, but the NAHC recommended contacting the Gabrieleno Band of Mission Indians – Kizh Nation for more information about the sites. The NAHC also provided a list of four additional tribes whom should be contacted about the Proposed Project. Metro sent letters to all five tribal groups in September 2017. The Gabrieleno Band of Mission Indians – Kizh Nation was the only Native American group to provide a formal written response, and they requested Native American monitoring during ground-disturbing activities. The Gabrieleno/Tongva San Gabriel Band of Mission Indians expressed interest in consultation for the project via a phone conversation with Metro staff but has not provided a written formal response. Follow-up emails from Metro to the San Gabriel Band have had no response. Details regarding tribal outreach are provided in Appendix C-2.

As presented in Section 3.3.2, the Project area is situated on lands that were once inhabited by the Gabrieleno, also known as the Tongva. The Gabrieleno had many forms of cultural materials, including beads, baskets, bone and stone tools and weapons, shell ornaments, wooden bowls and paddles, and steatite ornament and cooking vessels. A typical settlement would have had a variety of structures used for daily living, recreation, and rituals.¹ A review of the ethnographic literature indicates that the Project Area is in the general vicinity of the Gabrielino settlement Ya'angna, which existed along the Los Angeles River in the area of the

¹Bean, Lowell J., and Florence C. Shipek, Luiseño. In: California, edited by Robert F. Heizer, page 547, *In Handbook of North American Indians*, Vol. 8, William C. Sturtevant, general editor. Smithsonian Institution, Washington, D.C., 1978; McCawley, William, *The First Angelinos: The Gabrielino Indians of Los Angeles*. Malki Museum Press, Banning, California, and Ballena Press, Novato, California, 1996.

Los Angeles Civic Center. The potential for the presence of existing tribal cultural resources on the Project Site was identified through a records search completed with the South Central California Information Center (SCCIC), field surveys, and consultation with Native American groups conducted pursuant to AB 52. The findings are summarized below and refer to the Archaeological Assessment in Appendix C-2 for additional details.

The records search results indicated that there are ten archaeological resources located within 0.25 mile of the Project Site. One site (P-19-1575), located about 0.2 mile from and outside the Project area, contains buried deposits of both prehistoric and historic-age materials, as well as Native American burials. Two of the 10 resources are located within the Project Site. The first resource is a subsurface refuse deposit that was identified below the existing rail yard. The deposit consists of historic-age refuse, including glass and stoneware bottles, cans, ceramics, smoking pipe fragments, railroad spikes, bricks, metal fragments, horseshoes, butchered bone, and some shell. Some Chinese artifacts have also been noted on the site. The site has been evaluated and recommended as not eligible for inclusion in the NRHP or the CRHR, and subsequent surveys have found the area to be completely developed and paved with a building situated on top of the recorded site location. Given the age and nature of the site, and Native American consultation conducted under AB 52, this historic-age refuse deposit is not considered to be a tribal cultural resource.

The second resource is the Burlington Northern Santa Fe/Atchison, Topeka, and Santa Fe Railway, which was originally constructed in the 1880s, but since then has had numerous alterations and modern upgrades to keep it in active service. This site has been evaluated and recommended as not eligible for inclusion in the NRHP or CRHR. Given the age and nature of the site, and Native American consultation conducted under AB 52, the historic-age railway is not considered a tribal cultural resource.

Field surveys of the Project area were conducted in November and December 2016 and September 2017. Because most of the Project area is developed and paved, the surveys focused on locations of previously-recorded resources and areas with exposed soils where archaeological materials could exist.² The field surveys did not result in the discovery of new archaeological resources. No native soils exist within the surface of Project Site. The entire Project Site is developed or paved, except for a small section of the northern-most end, just south of Commercial Street, where light gray-brown, sandy fill had been introduced to raise the ground surface in this area, approximately eight feet above the adjacent paved road surface and railroads. Here, a light scatter of non-diagnostic historic-age objects mixed with modern debris was observed. These objects include fragments of glass bottles, undecorated fine earthenware, porcelain vessels, red clay brick fragments, and pane glass. Because these objects were secondary deposits within the imported fill material, they do not retain any

²Beherec, Marc A., Allison Hill, Chandra Miller, Jeremy Hollins, *Cultural Resources Assessment for the Metro Red/Purple Line Core Capacity Improvements Project, Los Angeles, California*, 2017; Chandler, Evelyn N., *Updated Archaeological Assessment for the Los Angeles County Metropolitan Transportation Authority (Metro) Division 20 Portal Project, Los Angeles, California*, 2018.

integrity regarding the original location of deposition and were not recorded as an archaeological site.

3.8.3. THRESHOLDS OF SIGNIFICANCE

In accordance with the State CEQA Guidelines, the Proposed Project would have a significant impact related to tribal cultural resources if it would:

- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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 PRC Section 5020.1(k).
 - 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 PRC Section 5024.1? In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

A tribal cultural resource can be classified as a site, feature, place, cultural landscape, sacred place, or object per the CEQA guidelines. The specific classification type would be determined based on the nature of the find and the significance of the find to the Native American tribe.

3.8.4. IMPACT ANALYSIS AND MITIGATION MEASURES

This section assesses potential impacts associated with the Proposed Project and, if necessary, identifies mitigation measures to eliminate or reduce impacts.

Impact 3.8.1 Would the Proposed Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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 listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k)?

Impact 3.8.2 Would the Proposed Project cause 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 PRC Section 5024.1?

Impact Analysis

Less-than-Significant with Mitigation. As discussed in Section 3.8.2, Metro is conducting consultation with Native American tribes pursuant to AB 52. Details regarding tribal outreach are provided in Appendix C-2. As also discussed in Section 3.8.2, the subsurface refuse deposit and the Burlington Northern Santa Fe/Atchison, Topeka, and Santa Fe Railway present on the Project Site are not considered tribal cultural resources. Consultation with the Gabrieleno Band of Mission Indians – Kizh Nation indicates that the Project area has a high potential to contain buried human remains of Gabrieleno ancestry, and such resources, if present, would be considered a tribal cultural resource.

Although no resources eligible for listing in the CRHR, or local register, or cultural tribal resources as defined in PRC Section 21074 have been identified on the Project Site, ground-disturbing activities have the potential to reveal additional, as yet unidentified subsurface deposits of prehistoric and historic-age, and Native American burials. If previously unidentified archaeological resources, including tribal cultural resources, are encountered during construction, the possibility exists that those resources could be disturbed or damaged during construction, a potentially significant impact. To avoid inadvertent impacts to tribal cultural resources, Mitigation Measure **TCR-1**, shall be implemented:

Mitigation Measures

Mitigation Measures **CR-5** and **CR-9**, as presented in Section 3.3, Cultural Resources, would mitigate or reduce potential impacts to archaeological resources and human remains, respectively, to a level that is less than significant. Mitigation Measure **TCR-1**, provided below, addresses potential impacts to tribal cultural resources that do not include human remains.

TCR-1 Because of the potential for tribal cultural resources, a Native American monitor shall be retained to monitor all project-related, ground-disturbing construction activities (e.g., boring, grading, excavation, drilling, trenching) that occur after existing pavement and buildings are removed. The appropriate Native American monitor shall be selected based on ongoing consultation under AB 52 and shall be identified in the Cultural Resources Monitoring and Mitigation Plan (CRMMP), as described in Mitigation Measure CR-5. Monitoring procedures and the role and responsibilities of the Native American monitor shall be outlined in the project CRMMP. In the event the Native American monitor identifies cultural or archeological resources, the monitor shall be given the authority to temporarily halt construction (if safe) within 50 feet (15 meters) of the discovery to investigate the find and contact the Project Archaeologist and Metro. The Native American monitor and consulting tribe(s) shall be provided an opportunity to participate in the documentation and evaluation of the find. If a Treatment Plan or Data Recovery Plan is prepared, the consulting tribe(s) shall be provided an opportunity to review and provide input on the Plan.

Significance After Mitigation

Mitigation Measures **CR-5**, **CR-9**, and **TCR-1** would mitigate inadvertent impacts to potential subsurface archaeological deposits or tribal cultural resources, including tribal monitoring during construction activities, and ensuring the appropriate disposition of human remains, if encountered. Therefore, with mitigation, the Proposed Project would result in a less-than-significant impact related to tribal cultural resources.