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## IV. ENVIRONMENTAL IMPACT ANALYSIS

### C. CULTURAL RESOURCES

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#### INTRODUCTION

As a result of the Initial Study (Appendix B), the City of Los Angeles determined that the proposed project has the potential to cause impacts related to cultural resources. Therefore, this issue has been carried forward for detailed analysis in the EIR. Cultural resources at the proposed project site were evaluated with regard to the Conservation and Open Space Element of the existing adopted City of Los Angeles General Plan,<sup>1</sup> the Mulholland Scenic Parkway Specific Plan (MSPSP),<sup>2</sup> and the Cultural Resources Technical Report prepared for the proposed project (Appendix F to the EIR).

#### Definitions

A number of technical terms are used to characterize the baseline conditions and assessment of the potential for the project to result in affects to cultural resources:

**Archaeological site** is defined by the National Register of Historic Places (NRHP) as the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains. Archaeological remains usually take the form of artifacts (e.g., fragments of tools, vestiges of utilitarian, or non-utilitarian objects), features (e.g., remnants of walls, cooking hearths, or midden deposits), and ecological evidence (e.g., pollen remaining from plants that were in the area when the activities occurred).<sup>3</sup> **Prehistoric archaeological sites** represent the material remains of Native American groups and their activities. These sites are generally thought to date to the period before European contact but, in some cases, may contain evidence of trade contact with Europeans. **Ethnohistoric archaeological sites** are defined as Native American settlements occupied after the arrival of European settlers in California. **Historic archaeological sites** reflect the activities of nonnative populations during the Historic period.

**Historical resource** is defined by CEQA as any object, building, structure, site (including archaeological sites), area, place, record, or manuscript that is listed in, or is eligible for listing in, the California Register of Historical Resources (CRHR); officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution; or identified as significant in a historic resource survey conducted in accordance with the requirements of the CRHR statute (Public Resources Code Section 5024.1(g)). Properties listed in, or determined eligible for listing in, the NRHP are automatically listed in the CRHR and are therefore historical resources under CEQA.

**Impact area** is defined as the geographic area or areas within which a project may directly or indirectly cause alterations in the character or use of significant historical or archaeological resources. The impact area is influenced by the scale and nature of the project as well as by the types of cultural resources in the

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<sup>1</sup> City of Los Angeles Department of City Planning. 26 September 2001. Conservation Element of the City of Los Angeles General Plan. Available at: <http://planning.lacity.org/cwd/gnlpln/ConsvElt.pdf>.

<sup>2</sup> City of Los Angeles City Planning Commission. 22 May 2003. Mulholland Scenic Parkway Specific Plan: Design and Preservation Guidelines.

<sup>3</sup> U.S. Department of the Interior, National Park Service. 2000. National Register Bulletin: Guidelines for Evaluating and Registering Archeological Properties. Available at: <http://www.cr.nps.gov/nr/publications/bulletins/arch>

vicinity.<sup>4</sup> For the purposes of this report, the impact area is understood to be the area that would be expected to be subjected to ground disturbance for the fence installation of the project. It should be noted that for some types of resources, such as certain Native American traditional cultural places or a historic district, the impact area would be delineated much more broadly to account for indirect impacts, which may range from auditory to visual.

**Native American sacred site** by the Native American Heritage Commission (NAHC) as an area that has been, and often continues to be, of religious significance to Native American peoples, such as an area where religious ceremonies are practiced or an area that is central to their origins as a people.<sup>5</sup> The NAHC provides protection to Native American burials from vandalism and inadvertent destruction, a procedure for the notification of most likely descendants regarding the discovery of Native American human remains and associated grave goods, brings legal action to prevent severe and irreparable damage to sacred shrines, ceremonial sites, sanctified cemeteries and place of worship on public property, and maintains an inventory of sacred places.

**Phase I archaeological resources survey** consists of a literature review (background research), consultation with the Native American Heritage Commission, and fieldwork. Fieldwork consists of a physical inspection of the cultural resources survey area, generally through pedestrian surveys, or by other means when appropriate. The purpose of the Phase I survey is to identify the cultural resources known or likely to be present in the project's impact area and in the immediate vicinity.

**Unique geologic feature** is defined as an important and irreplaceable geological formation. Such features may have scientific and/or cultural values.

**Unique paleontological resource** is defined as a fossil that meets one or more of the following criteria:<sup>6</sup>

- It provides information on the evolutionary relationships and developmental trends among organisms, living or extinct.
- It provides data useful in determining the age(s) of the rock unit or sedimentary stratum, including data important in determining the depositional history of the region and the timing of geologic events therein.
- It provides data regarding the development of biological communities or interaction between plant and animal communities.
- It demonstrates unusual or spectacular circumstances in the history of life.
- The fossils are in short supply and/or in danger of being depleted or destroyed by the elements, vandalism, or commercial exploitation, and are not found in other geographic locations.

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<sup>4</sup> Adapted from 36 Code of Federal Regulations Part 800.16.

<sup>5</sup> Native American Heritage Commission. Accessed 21 July 2006. Understanding Cultural Resources. Available at: [www.nahc.ca.gov/understandingcr.html](http://www.nahc.ca.gov/understandingcr.html)

<sup>6</sup> Scott, E., and K. Springer. Fall 2003. CEQA and Fossil Preservation in Southern California. The Environmental Monitor.

## REGULATORY FRAMEWORK

### *Federal*

#### *National Historic Preservation Act of 1966*

Enacted in 1966, the National Historic Preservation Act (NHPA; 16 U.S. Code 470) declared a national policy of historic preservation and instituted a multifaceted program, administered by the Secretary of the Interior, to encourage the achievement of preservation goals at the federal, state, and local levels. The NHPA authorized the expansion and maintenance of the National Register of Historic Places (NRHP), established the position of State Historic Preservation Officer and provided for the designation of State Review Boards, set up a mechanism to certify local governments to carry out the purposes of the NHPA, assisted Native American tribes to preserve their cultural heritage, and created the Advisory Council on Historic Preservation (ACHP). Section 106 of the NHPA states that federal agencies with direct or indirect jurisdiction over federally funded, assisted, or licensed undertakings must take into account the effect of the undertaking on any historic property that is included in, or eligible for inclusion in, the NRHP and that the ACHP must be afforded an opportunity to comment, through a process outlined in the ACHP regulations at 36 Code of Federal Regulations (CFR) Part 800, on such undertakings. There is no anticipated federal nexus for the proposed project.

#### *National Register of Historic Places*

The NRHP was established by the NHPA of 1966 as “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” (36 CFR 60.2). The NRHP recognizes properties that are significant at the national, state, and local levels. To be eligible for listing in the NRHP, a resource must be significant in American history, architecture, archaeology, engineering, or culture. Districts, sites, buildings, structures, and objects of potential significance must also possess integrity of location, design, setting, materials, workmanship, feeling, and association. A property is eligible for the NRHP if it is significant under one or more of four criteria:

- Criterion A: It is associated with events that have made a significant contribution to the broad patterns of our history.
- Criterion B: It is associated with the lives of persons who are significant in our past.
- Criterion C: It embodies the distinctive characteristics of a type, period, or method of construction; represents the work of a master; possesses high artistic values; or represents a significant and distinguishable entity whose components may lack individual distinction.
- Criterion D: It has yielded, or may be likely to yield, information important in prehistory or history.

Cemeteries, birthplaces, or graves of historic figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historic buildings; and properties that are primarily commemorative in nature are not considered eligible for the NRHP unless they satisfy certain conditions. In general, a resource must be at least 50 years of age to be considered for the NRHP, unless it satisfies a standard of exceptional importance.

### *Native American Graves Protection and Repatriation Act of 1990*

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

### *State*

#### *California Environmental Quality Act*

Pursuant to CEQA, a *historical resource* is a resource listed in, or eligible for listing in, the California Register of Historical Resources (CRHR). In addition, resources included in a local register of historic resources or identified as significant in a local survey conducted in accordance with state guidelines are also considered historic resources under CEQA, unless a preponderance of the facts demonstrates otherwise. According to CEQA, the fact that a resource is not listed in or determined eligible for listing in the CRHR or is not included in a local register or survey shall not preclude a Lead Agency, as defined by CEQA, from determining that the resource may be a historic resource as defined in California Public Resources Code (PRC) Section 5024.1.

CEQA applies to archaeological resources when (1) the archaeological resource satisfies the definition of a historical resource or (2) the archaeological resource satisfies the definition of a “unique archaeological resource.” A *unique archaeological resource* is an archaeological artifact, object, or site that has a high probability of meeting any of three specified criteria:

1. The archaeological resource contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
2. The archaeological resource has a special and particular quality such as being the oldest of its type or the best available example of its type.
3. The archaeological resource is directly associated with a scientifically recognized important prehistoric or historic event or person.

CEQA does not specifically establish thresholds for significant impacts in regard to paleontological resources; however, Appendix G of the State CEQA Guidelines indicates that a project may have a significant effect on the environment if it would directly or indirectly destroy a unique paleontological resource or unique geologic feature.

Under CEQA, a project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. Substantial adverse change in the significance of an historical resource is defined as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. The significance of an historical resource would be significantly impaired when a project demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for inclusion in, the CRHR, a local register of historic resources pursuant to Section

5020.1(k) of the Public Resources Code, or historic resources survey meeting the requirements of Section 5024.1(g) of the Public Resources Code. CEQA also explicitly states that damage to archaeological sites that meet the definition of an historical resource or unique archaeological resource must be considered. In general, a project that follows the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and associated guidelines shall be considered as mitigated to below the level of significance.<sup>7</sup>

While a significance threshold for impacts to human remains is not explicitly stated in CEQA, Appendix G of the CEQA Guidelines indicates that any disturbance of human remains could potentially be considered an impact to cultural resources, particularly with respect to Native American graves and burials.

#### *California Register of Historical Resources*

Created in 1992 and implemented in 1998, the CRHR is “an authoritative guide in California to be used by state and local agencies, private groups, and citizens to identify the state’s historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.” Certain properties, including those listed in or formally determined eligible for listing in the NRHP and California Historical Landmarks (CHLs) numbered 770 and higher, are automatically included in the CRHR. Other properties recognized under the California Points of Historical Interest program, identified as significant in historic resources surveys, or designated by local landmarks programs may be nominated for inclusion in the CRHR. A resource, either an individual property or a contributor to a historic district, may be listed in the CRHR if the State Historical Resources Commission determines that it meets one or more of the following criteria, which are modeled on NRHP criteria:

- Criterion 1: It is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.
- Criterion 2: It is associated with the lives of persons important in our past.
- Criterion 3: It embodies the distinctive characteristics of a type, period, region, or method of construction; represents the work of an important creative individual; or possesses high artistic values.
- Criterion 4: It has yielded, or may be likely to yield, information important in history or prehistory.

Resources nominated to the CRHR must retain enough of their historic character or appearance to be recognizable as historic resources and to convey the reasons for their significance. It is possible that a resource whose integrity does not satisfy NRHP criteria may still be eligible for listing in the CRHR. A resource that has lost its historic character or appearance may still have sufficient integrity for the CRHR if, under Criterion 4, it maintains the potential to yield significant scientific or historical information or specific data. Resources that have achieved significance within the past 50 years also may be eligible for inclusion in the CRHR, provided that enough time has lapsed to obtain a scholarly perspective on the events or individuals associated with the resource.<sup>8</sup>

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<sup>7</sup> Weeks, Kay D., and Anne E. Grimmer. 1995. *The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstruction Historic Buildings*. Washington, DC: U.S. Department of the Interior, National Park Service.

<sup>8</sup> Office of Historic Preservation. n.d. *Technical Assistance Bulletin 6: California Register and National Register, A Comparison (for Purposes of Determining Eligibility for the California Register)*. Available at: [www.ohp.parks.ca.gov](http://www.ohp.parks.ca.gov)

*California Historical Landmarks*<sup>9</sup>

CHLs are buildings, structures, sites, or places that have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value and that have been determined to have statewide historical significance by meeting at least one of the criteria listed below. The resource must also be approved for designation by the County Board of Supervisors (or the City or Town Council in whose jurisdiction it is located), be recommended by the State Historical Resources Commission, and be officially designated by the Director of California State Parks. The specific standards in use now were first applied in the designation of CHL No. 770. CHLs No. 770 and above are automatically listed in the CRHR.

To be eligible for designation as a Landmark, a resource must meet at least one of the following criteria:

- The first, last, only, or most significant of its type in the state or within a large geographic region (Northern, Central, or Southern California)
- Associated with an individual or group having a profound influence on the history of California
- A prototype of, or an outstanding example of, a period, style, architectural movement or construction or one of the more notable works or the best surviving work in a region of a pioneer architect, designer, or master builder

*California Points of Historical Interest*<sup>10</sup>

California Points of Historical Interest are sites, buildings, features, or events that are of local (city or county) significance and have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value. Points of Historical Interest (Point[s]) designated after December 1997 and recommended by the State Historical Resources Commission are also listed in the CRHR. No historic resource may be designated as both a Landmark and a Point. If a Point is later granted status as a Landmark, the Point designation will be retired. In practice, the Point designation program is most often used in localities that do not have a locally enacted cultural heritage or preservation ordinance.

To be eligible for designation as a Point of Historical Interest, a resource must meet at least one three specified criteria:

- The first, last, only, or most significant of its type within the local geographic region (city or county)
- Associated with an individual or group having a profound influence on the history of the local area
- A prototype of, or an outstanding example of, a period, style, architectural movement or construction or one of the more notable works or the best surviving work in the local region of a pioneer architect, designer, or master builder

<sup>9</sup> Office of Historic Preservation, Department of Parks and Recreation, State of California. n.d. California Historical Landmarks Registration Programs. Available at: [www.ohp.parks.ca.gov](http://www.ohp.parks.ca.gov)

<sup>10</sup> Office of Historic Preservation, Department of Parks and Recreation, State of California. n.d. California Points of Historical Interest Registration Programs. Available at: [www.ohp.parks.ca.gov](http://www.ohp.parks.ca.gov)

*Native American Heritage Commission, Public Resources Code Sections 5097.9–5097.991*

Section 5097.91 of the PRC established the NAHC, whose duties include the inventory of places of religious or social significance to Native Americans and the identification of known graves and cemeteries of Native Americans on private lands. Under Section 5097.9 of the PRC, a State policy of noninterference with the free expression or exercise of Native American religion was articulated along with a prohibition of severe or irreparable damage to Native American sanctified cemeteries, places of worship, religious or ceremonial sites, or sacred shrines located on public property. Section 5097.98 of the PRC specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a county coroner. Section 5097.5 defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands.

*California Native American Graves Protection and Repatriation Act of 2001*

Codified in the California Health and Safety Code Sections 8010–8030, the California Native American Graves Protection and Repatriation Act (Cal NAGPRA) is consistent with the federal NAGPRA. Intended to “provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect,” Cal NAGPRA also encourages and provides a mechanism for the return of remains and cultural items to lineal descendants. Section 8025 established a Repatriation Oversight Commission to oversee this process. The Act also provides a process for non-federally recognized tribes to file claims with agencies and museums for repatriation of human remains and cultural items.

*Health and Safety Code, Sections 7050 and 7052*

Health and Safety Code, Section 7050.5 declares that, in the event of the discovery of human remains outside a dedicated cemetery, all ground disturbance must cease and the county coroner must be notified. Section 7052 establishes a felony penalty for mutilating, disinterring, or otherwise disturbing human remains, except by relatives.

*Penal Code, Section 622.5*

Penal Code, Section 622.5 provides misdemeanor penalties for injuring or destroying objects of historic or archaeological interest located on public or private lands but specifically excludes the landowner.

*Assembly Bill 52*

On September 25, Governor Brown signed Assembly Bill No. 52 (AB 52), which creates a new category of environmental resources that must be considered under CEQA: “tribal cultural resources.” AB 52 is applicable to project for which a Notice of Preparation is filed on or after July 2015.

AB 52 adds tribal cultural resources to the categories of cultural resources in CEQA, which had formerly been limited to historic, archaeological, and paleontological resources. “Tribal cultural resources” are defined as either (1) “sites, features, places cultural landscapes, sacred places and objects with cultural value to a California Native American tribe” that are included in the state register of historical resources or a local register of historical resources, or that are determined to be eligible for inclusion in the state register; or (2) resources determined by the lead agency, in its discretion, to be significant based on the criteria for listing in the state register.

Recognizing that tribes may have expertise with regard to their tribal history and practices, AB 52 requires lead agencies to provide notice to tribes that are traditionally and culturally affiliated with the geographic area of a proposed project if they have requested notice of projects proposed within that area. If the tribe requests consultation within 30 days upon receipt of the notice, the lead agency must consult with the tribe. Consultation may include discussing the type of environmental review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and alternatives and mitigation measures recommended by the tribe.

The parties must consult in good faith, and consultation is deemed concluded when either the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource (if such a significant effect exists) or when a party concludes that mutual agreement cannot be reached.

### ***Local***

#### *Conservation Element of the Los Angeles City General Plan*

The Conservation Element of the Los Angeles City General Plan includes policies regarding paleontological, archaeological, and historical resources. The City aims to protect its archaeological and paleontological resources through continued identification and protection efforts. Additionally, the city aims to protect important cultural and historic sites/resources by the development and enforcement of preservation programs.

#### *Mulholland Scenic Parkway Specific Plan*

The MSPSP contains measures in place for potential development projects up to ½ mile away to ensure compatibility with the environment. Section 2-M lists the protection of all identified archaeological and paleontological resources as a purpose of the MSPSP. Section 5-B-5 of the MSPSP contains specific environmental protection measures for cultural resources within the MSPSP inner corridor:

Applicants which propose to grade more than 50 cubic yards per 5,000 square feet of lot area shall submit to the Director a preliminary archaeological and paleontological record search from the State Regional Archaeological Information Center (UCLA) [Now located at California State University, Fullerton]. If this search reveals that archaeological and paleontological resources may be located on the lot, the applicant shall file an environmental assessment with the Planning Department.

## **ENVIRONMENTAL SETTING**

The existing conditions for paleontological, archaeological, historical resources, and Native American sacred sites and human remains are characterized based on records and archival review, agency coordination, and a Phase I Walkover survey (see Appendix F).

### ***Paleontological Resources***

A map review and records searches at the Natural History Museum of Los Angeles County indicate that the proposed project area is underlain by the marine middle Miocene Upper Topanga Formation.<sup>11</sup> In the proposed project area, the facies of the Upper Topanga Formation is primarily a rock unit of marine shales and siltstones. The Topanga Formation has the potential to yield significant paleontological

<sup>11</sup> McLeod, Samuel, Natural History Museum of Los Angeles County, Los Angeles, CA. 22 October 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

resources. The closest vertebrate fossil locality in the Topanga Formation to the proposed project, LACM 6969, was collected during construction of the Metrorail Universal City subway station at the intersection of Lankershim Boulevard and the Hollywood Freeway (Highway 101) northeast of the proposed project area. Locality LACM 6969 produced specimens of grunion, Atherinidae; henings, Etringus, Ganolytes, and Sardinella; codlets, Bregmacerotidae; bigeyes, Priacanthidae; croakers, Sciaenidae; mackerels, Scombridae; and boarfishes, Caproidae. The next closest vertebrate fossil locality from the Topanga Formation is LACM 1084, southeast of the proposed project area west of Cahuenga Boulevard and north of Oakshire Drive. Locality LACM 1084 documents the occurrence of *Paleoparadoxia*, a member of an extinct group of marine mammals called the Desmostylia that had heavy bodies, relatively short and stout legs, and unique cylindrically cusped cheek teeth. Desmostylian fossils are rare in Southern California.<sup>12</sup> The *Paleoparadoxia* specimen collected from locality LACM 1084 has been published in scientific literature. Despite the presence of fossil localities in the vicinity of the proposed project, no fossil localities have been recorded within the proposed project area.<sup>13</sup>

### ***Tribal Cultural Resources***

Consultation with the NAHC indicated that no Native American sacred sites are located within the proposed project area.<sup>14</sup> Pursuant to AB 52, the City of Los Angeles has initiated correspondence with recommended tribal organizations and individuals identified by NAHC. As of April 2016, two responses have been received (see Appendix C, *Notice of Preparation Contact Letters*). The Fernandeano Tataviam Band of Mission Indians, finds the Project site to be highly sensitive to tribal and cultural resources and, therefore, wishes to consult with the Lead Agency on the Project. The Gabrieleño Band of Mission Indians – Kizh Nation, considers the project area to be highly sensitive to tribal resources.

## **ENVIRONMENTAL IMPACTS**

### **Methodology**

The following analysis is based on the results of the Cultural Resources Technical Report prepared for the proposed project (Appendix F) and records searches at the South Central Coastal Information Center (SCCIC) at California State University, Fullerton, regarding previously recorded cultural resources and investigations conducted within the proposed project;<sup>15</sup> the Natural History Museum of Los Angeles County for the presence of paleontological resources;<sup>16</sup> the NAHC for the presence of Native American sacred lands within the proposed project area;<sup>17</sup> and a review of published and unpublished literature pertaining to cultural resources at the proposed project.

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<sup>12</sup> McLeod, Samuel, Natural History Museum of Los Angeles County, Los Angeles, CA. 22 October 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

<sup>13</sup> McLeod, Samuel, Natural History Museum of Los Angeles County, Los Angeles, CA. 22 October 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

<sup>14</sup> Sanchez, Katy. Native American Heritage Commission, Sacramento, CA. October 14, 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

<sup>15</sup> Noyes, Lindsey, South Central Coastal Information Center, California State University, Fullerton, 2 October 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

<sup>16</sup> McLeod, Samuel, Natural History Museum of Los Angeles County, Los Angeles, CA. 22 October 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

<sup>17</sup> Sanchez, Katy. Native American Heritage Commission, Sacramento, CA. October 14, 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

## Thresholds of Significance

### *CEQA Thresholds*

The State CEQA Guidelines recommend the consideration of four questions when addressing the potential for significant impact to cultural resources. Would the proposed project:

- (a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?
- (b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?
- (c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?
- (d) Disturb any human remains, including those interred outside of formal cemeteries?

In addition, pursuant to AB 52, would the proposed project:

- (e) Cause a substantial adverse change in the significance of a Tribal cultural resource, pursuant to Assembly Bill 52?

### *LA CEQA Thresholds Guide*<sup>18</sup>

The City of Los Angeles provides the following thresholds of significance relating to cultural resources in determining the significance of a project's impacts during the CEQA process in Los Angeles.

#### *Historical Resources*

A project would normally have a significant impact on historical resources if it would result in a substantial adverse change in the significance of a historic resource, which occurs if the project involves:

- Demolition of a significant resource;
- Relocation that does not maintain the integrity and significance of a significant resource;
- Conversion, rehabilitation, or alteration of a significant resource which does not conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; or
- Construction that reduces the integrity or significance of important resources on the site or in the vicinity.

#### *Archaeological Resources*

A project would normally have a significant impact upon archaeological resources if it could disturb, damage, or degrade an archaeological resources or its setting that is found to be important under the criteria of CEQA because it:

- Is associated with an event or person of recognized importance in California or American prehistory or of recognized scientific importance in prehistory;
- Can provide information which is both of demonstrable public interest and useful in addressing scientifically consequential and reasonable archaeological research questions;

<sup>18</sup> City of Los Angeles. 2006. L.A. CEQA Thresholds Guide. Available at: <http://www.environmentla.org/programs/Thresholds/Complete%20Threshold%20Guide%202006.pdf>

- Has a special or particular quality, such as the oldest, best, largest, or last surviving example of its kind;
- Is at least 100-years-old and possesses substantial stratigraphic integrity; or
- Involves important research questions that historical research has shown can be answered only with archaeological methods.

### *Paleontological Resources*

The determination of significance shall be made on a case-by-case basis, considering the following factors:

- Whether, or the degree to which, the project might result in the permanent loss of, or loss of access to, a paleontological resource; and
- Whether the paleontological resource is of regional or statewide significance.

### **Project Impacts**

***(a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?***

The Initial Study (Appendix B) determined that the proposed project would not result in significant impacts to cultural resources in regard to causing a substantial adverse change in the significance of a historical resource as defined in § 15064.5. Therefore, this question was not carried forward for detailed analysis in the EIR.

***(b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?***

The Initial Study (Appendix B) determined that the proposed project would not result in significant impacts to cultural resources in regard to causing a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5. Therefore, this question was not carried forward for detailed analysis in the EIR.

***(c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?***

The proposed project has the potential to result in significant impacts to cultural resources related directly or indirectly to the destruction of a unique paleontological resource or unique geologic feature. The bedrock in the proposed project area is composed of the marine middle Miocene Upper Topanga Formation, a formation known to contain significant paleontological resources. Excavation proposed for the project site may affect unique paleontological contained within the Upper Topanga Formation. Surface grading or shallow excavations in the loose soil above the Upper Topanga Formation bedrock have a low potential to encounter any significant paleontological resources. However, any excavations into bedrock within the proposed project area have the potential to uncover significant paleontological resources. As a result, the proposed project has the potential to result in significant impacts to cultural resources related directly or indirectly to the destruction of a unique paleontological resource, therefore requiring the consideration of mitigation measures.

**(d) Disturb any human remains, including those interred outside of formal cemeteries?**

The Initial Study (Appendix B) determined that the proposed project would not result in significant impacts to cultural resources in regard to disturbing any human remains, including those interred outside of formal cemeteries. Therefore, this question was not carried forward for detailed analysis in the EIR.

**(e) Cause a substantial adverse change in the significance of a Tribal cultural resource, pursuant to Assembly Bill 52?**

Pursuant to AB 52, the scope of the evaluation at the project level should include consultation with Native American representatives identified by the NAHC for areas outside of reservations, and with Tribal representatives of federally recognized Tribes where projects are located near or within lands associated with federally recognized Tribes. The consultation should be undertaken, consistent with most recent guidance provided by the Office of Planning and Research. The purpose of the consultation is to identify Tribal cultural resources and ensure that such resources are taken into consideration in the planning process. Consultation with the NAHC indicated that no Native American sacred sites are located within the proposed project area.<sup>19</sup> Sapphos Environmental, Inc. transmitted letters to the recommended tribal organizations and individuals identified by NAHC in October 2014 requesting information or comments regarding Native American cultural resources in the vicinity of the proposed project property. In conformance with AB 52, on October 21, 2015, Sapphos Environmental, Inc. resent a letter to NAHC requesting the CEQA Tribal Consultation List.

As of April 2016, two responses have been received (see Appendix C, *Notice of Preparation Contact Letters*). The Fernandeño Tataviam Band of Mission Indians finds the project site to be highly sensitive to tribal and cultural resources and, therefore, wishes to consult with the Lead Agency on the project. The Gabrieleño Band of Mission Indians – Kizh Nation considers the project area to be highly sensitive to tribal resources. Records searches and cultural resources site visit did not reveal any known cultural resources within the area of potential impact of the project site. However, as the proposed project would have the potential to encounter tribal cultural resources during ground-disturbance activities, the consideration of mitigation measures is required.

## CUMULATIVE IMPACTS

Cumulative impacts to cultural resources take into account the impacts of the proposed project or alternatives as well as those likely to occur as a result of other existing, proposed, and reasonably foreseeable future projects. When analyzing cumulative impacts to cultural resources, an assessment is made of the impacts on individual resources as well as the inventory of cultural resources within the cumulative impact analysis area. This study identifies the destruction of a unique paleontological resource or unique geologic feature as a potentially significant impact. Cumulative impacts to paleontological resources involve the loss of nonrenewable scientifically important fossils and associated data, and the incremental loss to science and society of these resources over time. In consideration of the related past, present, or reasonably foreseeable probable future projects in the proposed project vicinity, the proposed project would not lead to an adverse effect or a significant impact to paleontological resources. Any paleontological resources encountered as a result of the proposed project are likely to be individual specimens contained within a confined area, based on fossil localities in the project vicinity. Therefore, any impact to paleontological resources would not result in a cumulative impact as the resource will be contained within the proposed project area. The proposed project would not expected contribute to

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<sup>19</sup> Sanchez, Katy. Native American Heritage Commission, Sacramento, CA. October 14, 2014. Letter response to Karl Holland, Sapphos Environmental, Inc., Pasadena, CA.

cumulative impacts associated with the destruction of unique paleontological resources or unique geologic features.

As the Fernandeano Tataviam Band of Mission Indians and the Gabrieleño Band of Mission Indians – Kizh Nation have identified the area as highly sensitive to tribal resources, it is anticipated that the proposed project has the potential to contribute to cumulative impacts to tribal resources, in conjunction with the 40 related single-family residential projects in the area.

## MITIGATION MEASURES AND REGULATORY COMPLIANCE MEASURES

The proposed project has the potential to result in impacts to cultural resources in regard to directly or indirectly destroying a unique paleontological resource or site or unique geologic feature or Tribal cultural resource. Implementation of Mitigation Measures CUL-1 and CUL-2, as well as Regulatory Compliance Measure RCM-CUL-1, would be required to reduce impacts to below the level of significance.

**MM-CUL-1:** Construction monitoring by a qualified paleontological monitor shall be implemented during all ground-disturbing activities within the Upper Topanga Formation (site bedrock). Should a potentially unique paleontological resource be encountered, a qualified paleontologist, as defined by the Society of Vertebrate Paleontology's Impact Mitigation Guidelines, shall be contacted to assess the find.<sup>20</sup> Ground-disturbing activities include, but are not limited to, drilling, excavation, and trenching within Upper Topanga Formation bedrock.

Paleontological Resources Sensitivity Training is required for all project personnel prior to the start of ground-disturbing activities. This brief (approximately 15 minute) field training reviews what fossils are, what fossils might potentially be found, and the appropriate procedures to follow if fossils are found.

If fossil localities are discovered, the paleontologist shall assess the find and proceed accordingly. This includes the controlled collection of fossil and geologic samples for processing.

Daily logs shall be kept by the qualified paleontological monitor during all monitoring activities. The daily monitoring log shall be keyed to a location map to indicate the area monitored, the date, and assigned personnel. In addition, this log shall include information of the type of rock encountered, fossil specimens recovered, and associated specimen data.

All significant specimens collected shall be appropriately prepared, identified, and catalogued prior to their placement in a permanent accredited repository. The qualified paleontologist shall be required to secure a written agreement with a recognized repository, regarding the final disposition, permanent storage, and maintenance of any significant fossil remains and associated specimen data and corresponding geologic and geographic site data that might be recovered as a result of the specified monitoring program. The written agreement shall specify the level of treatment (i.e., preparation, identification, curation, cataloguing, etc.) required before the fossil collection would be accepted for storage. In addition, a technical report shall be completed.

<sup>20</sup> Society of Vertebrate Paleontology. n.d. Conformable Impact Mitigation Guidelines. Available at: <http://vertpaleo.org/The-Society/Governance-Documents/Conformable-Impact-Mitigation-Guidelines-Committee.aspx>

Within 90 days of the completion of any salvage operation or monitoring activities, a mitigation report shall be submitted to the City with an appended, itemized inventory of the specimens. The report and inventory, when submitted to the City, signify the completion of the program to mitigate impacts to paleontological resources.

**MM-CUL-2:** The project applicant shall retain a representative of the Gabrielino Band of Mission Indians to observe and monitor all earth-moving, grading, and sub-surface activities. Prior to issuance of a grading permit, evidence shall be provided for placement in the Project file that a Native American monitor has been retained. In the event that subsurface archaeological resources/human remains are encountered during the course of grading and/or excavation, all development shall temporarily cease in these areas until the archaeological resources are properly assessed and subsequent recommendations are determined by a qualified archaeologist. In the event that human remains are discovered, there shall be no disposition of such human remains, other than in accordance with the procedures and requirements set forth in California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98. These code provisions require notification of the County Coroner and the Native American Heritage Commission, who in turn must notify those persons believed to be most likely descended from the deceased Native American for appropriate disposition of the remains. Excavation or disturbance may continue in other areas of the Project Site that are not reasonably suspected to overlie adjacent remains or archaeological resources. Copies of a subsequent archaeological study or report, detailing the nature of any archaeological discovery, remedial actions taken, and disposition of any accessioned remains shall be submitted to the South Central Coastal Information Center at California State University, Fullerton.

**RCM-CUL-1:** If human remains are encountered unexpectedly during construction demolition and/or grading activities, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to California Public Resources Code (PRC) Section 5097.98. In the event that human remains are discovered during excavation activities, the following procedure shall be observed:

- Stop immediately and contact the County Coroner:  
1104 N. Mission Road  
Los Angeles, CA 90033  
323-343-0512 (8 a.m. to 5 p.m. Monday through Friday) or  
323-343-0714 (After Hours, Saturday, Sunday, and Holidays)
- If the remains are determined to be of Native American descent, the Coroner has 24 hours to notify the Native American Heritage Commission (NAHC).
- The NAHC will immediately notify the person it believes to be the most likely descendent of the deceased Native American.
- The most likely descendent has 48 hours to make recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the human remains and grave goods.

- If the owner does not accept the descendant's recommendations, the owner or the descendent may request mediation by the NAHC.

#### **LEVEL OF SIGNIFICANCE AFTER MITIGATION**

Implementation of Mitigation Measure CUL-1 would reduce impacts to cultural resources related to directly or indirectly destroying a unique paleontological resource or site or unique geological feature to below the level of significance.

Implementation of Mitigation Measure CUL-2 and Regulatory Compliance Measure RCM-CUL-1 would reduce impacts to cultural resources in relation to causing a substantial adverse change in the significance of a Tribal cultural resource to below the level of significance.

Other impacts regarding cultural resources would be less than significant or result in no impact.

Cumulative impacts would be less than significant after implementation of Mitigation Measures CUL-1 and CUL-2, as well as Regulatory Compliance Measure RCM-CUL-1.