

3.8 Cultural Resources

The information in this section is based on the *Historic Property Survey Report and Attachments* (HPSR) (June 2012) and the *Findings of Effect* (FOE) (November 2012).

3.8.1 Regulatory Setting

“Cultural resources” as used in this document refers to all “built environment” resources (structures, bridges, railroads, water conveyance systems, etc.), culturally important resources, and archaeological resources (both prehistoric and historic), regardless of significance. Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act of 1966 (NHPA), as amended, sets forth national policy and procedures regarding historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of NHPA requires federal agencies to take into account the effects of their undertakings on such properties and to allow the Advisory Council on Historic Preservation the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation (36 Code of Federal Regulations Part 800 [36 CFR 800]). On January 1, 2004, a Section 106 Programmatic Agreement (PA) between the Advisory Council, Federal Highway Administration (FHWA), State Historic Preservation Officer (SHPO), and Caltrans went into effect for Caltrans projects, both state and local, with FHWA involvement. The PA implements the Advisory Council’s regulations, 36 CFR 800, streamlining the Section 106 process and assigning certain responsibilities to Caltrans. The FHWA’s responsibilities under the PA have been assigned to Caltrans as part of the Surface Transportation Project Delivery Program (23 CFR 327).

Historic properties may also be covered under Section 4(f) of the U.S. Department of Transportation Act, which regulates the “use” of land from historic properties. See Appendix B for specific information regarding Section 4(f).

Historical resources are considered under the California Environmental Quality Act (CEQA), as well as California Public Resources Code (PRC) Section 5024.1, which established the California Register of Historical Resources. PRC Section 5024 requires state agencies to identify and protect state-owned resources that meet National Register of Historic Places listing criteria. It further specifically requires Caltrans to inventory state-owned structures in its rights of way, including the

following sentence as applicable. Sections 5024(f) and 5024.5 require state agencies to provide notice to and consult with the SHPO before altering, transferring, relocating, or demolishing state-owned historical resources that are listed on or are eligible for inclusion in the National Register or are registered or eligible for registration as California Historical Landmarks.

3.8.2 Affected Environment

Information from this section is derived from the HPSR and Attachments that was completed in 2012 for the MCP project. Methodology in support of these documents included a records search, a pedestrian survey, test excavations, consultation with historic groups, and Native American consultation to identify prehistoric and historical cultural resources that may be eligible for listing in the National Register of Historic Places (National Register) and the California Register of Historical Resources (California Register). All studies were completed in accordance with Section 106 of the NHPA and CEQA. As such, this project is designed to meet the requirements of reporting archaeological investigations as required under both CEQA and 36 CFR 800 of the NHPA.

3.8.2.1 Area of Potential Effects

The MCP Area of Potential Effects (APE) includes the existing and proposed right of way and adjacent areas that may be subject to effects such as visual and auditory changes. The APE generally includes all properties with buildings that are within 200 feet (ft) of the proposed right of way unless the buildings are buffered by topographic features, large parking and/or landscaped areas, or buildings on other properties. In some cases, where bridges or roadways are proposed where currently none exist, properties with buildings that are up to 500 ft from the proposed right of way have been included in the APE. In total, the APE contains approximately 3,218 acres (ac). The area of direct impacts is the horizontal and vertical area proposed for potential ground-disturbing activities and totals approximately 1,977 ac. The area within the APE that will not be directly impacted by construction is referred to as the area of indirect impacts and totals an additional 1,241 ac.

Delineation of the APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects. The area of direct impacts was used for archaeological studies.

3.8.2.2 Records Search

A cultural resources records search was conducted at the Eastern Information Center of the California Historical Resources Information System. It included review of historical maps and aerials, and review of published and unpublished information concerning archaeological, ethnographic, and historical development in the project vicinity of the MCP APE. Copies of site record forms for prehistoric, historical, and prehistoric/historical sites, as well as a bibliographic reference list of all previously conducted cultural resource work within the APE and for the surrounding records search area were obtained as part of the records search. All mapping within the California Historical Resources Information System is provided on 7.5-minute United States Geological Survey (USGS) topographic maps.

The California Historical Resources Information System records searches also included a review of listings in the National Register (updated July 29, 2005), the California Register (from lists updated in March and July 2005), the California Inventory of Historic Resources (1976, updated March 7, 2005), the California Historical Landmarks (1996, updated July 13, 2004), the California Points of Historic Interest (May 1992, updated April 10, 2003), the Historic Property Data File (Office of Historic Preservation current computer list, updated March 7, 2005), and the Caltrans State and Local Bridge Survey (January 2011). In addition, a review of historic 15-minute and 30-minute USGS topographic maps, General Land Office plat maps, and Sanborn Fire Insurance Maps was conducted.

3.8.2.3 Survey Methods

A reconnaissance-level pedestrian field survey of the archaeological survey area was conducted in May 2004, between April and July 2005, between August 2005 and March 2006, and in March 2011 following project modifications that added previously unsurveyed areas to the APE. The entire MCP archaeological survey area (approximately 1,977 ac) has been adequately surveyed.

3.8.2.4 Native American Consultation

Consultation with Native American tribes/groups and representatives has been ongoing for both the original 32 mi and the modified 16 mi MCP project, as required by Section 106 of the NHPA. Interested Native American parties participated in and/or commented on the Phase I Identification Survey (Phase I), the Extended Phase I Testing (XPI), the Phase II Evaluation efforts (Phase II), and the draft HPSR and FOE, as well as the *Preliminary Recommendations of Eligibility and Level of Effects* document, a document that was prepared for use in the 2008 Draft EIR/EIS for the

MCP project, but is no longer under consideration because the Final HPSR and FOE are now complete.

Consultation was initiated as part of the Phase I survey for the MCP project in February 2005 when 43 tribes/individuals, as recommended by the NAHC, were contacted by letter and telephone. Consultation was conducted again in anticipation of the XPI survey in May and November of 2006. The XPI consultation in November 2006 included eight parties identified during the previous consultation processes as having a continued interest in the project. These parties included Mr. Alvino Siva, the Cahuilla Band of Indians (Cahuilla), the Cupa Cultural Center, the Gabrieleno/Tongva San Gabriel Band of Mission Indians (Gabrieleno/Tongva-San Gabriel), the Morongo Band of Mission Indians (Morongo), the Pechanga Band of Luiseño Indians (Pechanga), the Ramona Band of Cahuilla Indians (Ramona), and the Soboba Band of Luiseño Indians (Soboba). As the Phase I survey effort neared completion and the XPI survey approached, all of these parties were contacted by telephone between the dates of November 27, 2006, and December 13, 2006. The phone calls were to inform the parties of the status of the project and determine what level of involvement they would prefer as the project progressed. Of the eight groups contacted, two declined further involvement for various reasons: the Cupa Cultural Center and Mr. Siva.

The six remaining Native American tribes and groups (Cahuilla, Gabrieleno/Tongva-San Gabriel, Morongo, Pechanga, Ramona, and Soboba) continue to participate in consultation for the MCP project. On November 21, 2007, Mr. Sam Dunlap, a Native American from the Gabrielino Tongva Nation, who was included in the initial 2005 consultation for the MCP project but originally declined further consultation, requested involvement. Mr. Dunlap became formally involved on November 21, 2007. These seven tribes and groups were involved in and commented on Phase II and the *Preliminary Recommendations of Eligibility and Level of Effects* document.

Through continuing Native American consultation, the FHWA has received comments from several of the consulting Native American tribes regarding Site 33-16598 that aided in the identification of this site as eligible for the National Register (see discussion of this site below under Section 3.8.2.6, results):

- The Gabrieleno/Tongva–San Gabriel (comments given by Adrian Morales) recommend that this site be re-evaluated as a sacred ceremonial property eligible for the National Register and the California Register. Mr. Morales suggests that

- the site may produce substantial data on human history and ceremonial practices, and might produce data indicating common ceremonial practices in other regions.
- The Gabrielino Tongva Nation (comments given by Sam Dunlap) state that the Gabrielino Tongva Nation concurs with the recommendations made for the site.
 - The Pechanga Band of Luiseño Indians (comments given by Laura Miranda) agrees that the site is National Register eligible and that it holds a tribal cultural significance. The entire village area is known as *Páavi* by the Pechanga people. As this is a significant site with important cultural value, the Pechanga Tribe has consistently taken the position that the entire site be avoided and preserved in place with no development activity to directly or indirectly affect this significant sacred area. The Pechanga Tribe suggests that the three unique artifacts that were found on the surface of the site are consistent with the high significance of the site and are representative of the types of items likely to be uncovered if this area is ever subject to development. The Pechanga Tribe asserts that this entire site, including the area of the site that is within the MCP right of way, is eligible under the National Register criteria. The Tribe believes that all portions are contributing components to the overall integrity of the site as demonstrated by the presence of ceremonial items and the drawing of the site boundary to include this area, and the destruction of any portion of the site is a destruction of the totality of the site.
 - The Ramona Band of Cahuilla Indians (comments given by John Gomez, Jr.) believes that Site 33-16598 is a truly unique and sacred area and that any impacts, including redefining the sites boundaries so as to “clear” portions of the site for inclusion in the proposed MCP project right of way, would forever negatively impact the integrity of the site. The Ramona Band strongly recommends avoidance of Site 33-16598 in its entirety.
 - The Soboba Band of Luiseño Indians (comments given by Darren Hill) is concerned about the site, and wants it preserved.

The following concerns were expressed regarding the *Preliminary Recommendations of Eligibility and Level of Effects* document:

- That the federal criteria being applied for determining whether a site is eligible for listing in the National Register did not fully reflect the Native American’s cultural values;
- That cultural resources be considered as significant not just on an individual basis, but also on a regional level; and
- That it be assured that the tribal comments would be acknowledged by the agencies.

Written comments on the *Preliminary Recommendations of Eligibility and Level of Effects* document were received from the Gabrieleno/Tongva-San Gabriel, the Gabrielino Tongva Nation, the Pechanga, the Ramona, and the Soboba by regular and/or electronic mail. Concerns regarding the preliminary evaluations of sites, the preservation versus the destruction of sites, and the general cultural significance of the overall project area were expressed by all of the commenting tribes/groups with the exception of the Gabrielino Tongva Nation, which agreed with the approach and results of the testing program.

On February 4, 2011, a letter discussing the refinements to the MCP project limits was sent from RCTC to 11 individuals representing the six tribes and groups that continue to be in consultation for the project: the Gabrieleno/Tongva-San Gabriel, the Cahuilla, the Pechanga, the Ramona, the Morongo, and the Soboba. The letter also discussed the need for a small amount of additional survey and invited Native American participation.

Three of the tribes and groups contacted declined to participate in the survey, but were glad that other Native Americans would be present: the Gabrieleno/Tongva-San Gabriel, the Cahuilla, and the Soboba. The Pechanga, the Ramona, and the Soboba Tribes all expressed interest in being present and were kept in communication regarding the survey schedule. Tribal representatives from the Pechanga and the Soboba accompanied the archaeologist on the survey, which took place on March 30, 2011.

Sam Dunlap, of the Gabrielino Tongva Nation, was not included in the original notification sent on February 4, 2011, to the six tribes and groups as described above. However, he was contacted by telephone on April 12, 2011. The content of the letter was explained to him, and the negative results of the survey were reported. Mr. Dunlap requested that a copy of the letter be sent to him by email. He also stated that he would like to continue to be consulted for the remainder of the MCP project.

Two informational meetings were held on September 21 and 28, 2011, to provide the tribal representatives a clear understanding on how the project had changed from its original alignment between Interstate 15 (I-15) in the west and State Route 79 (SR-79) in the east to the modified project limits between Interstate 215 (I-215) in the west and SR-79 in the east, as well as to outline the next steps, including major milestones and review of the schedule for completing the cultural documents. State Historic Preservation Officer representatives were present via conference call at the

September 21, 2011, meeting. All consulting Native Americans, including those who were unable to attend the meetings, were sent meeting summaries. In November 2011, the HPSR for the Modified MCP project was sent for review to the seven tribes/groups that are currently in consultation.

Two responses were received with regard to the Draft HPSR. The Soboba responded in a letter dated December 5, 2011. The letter requested government-to-government consultation per Section 106, and that it continue to be a lead consulting entity for the project. The letter also requested that a Native American monitor from the Soboba be present during any ground-disturbing proceedings for the project, that proper procedures be taken, and that the requests of the Tribe be honored.

The Pechanga requested a meeting to discuss the Draft HPSR. This meeting was held on February 7, 2012. Besides the Pechanga representatives, those present included personnel from FHWA, RCTC, Caltrans District 8, and the MCP project consultants. Pechanga gave a detailed presentation regarding the project area as part of its ethnographic and ancestral territory and stated that it has multiple issues with the MCP project and its potential to impact cultural resources. The concerns include: direct and indirect effects to Site 33-16598; effects to sites immediately outside the APE; cumulative effects to cultural resources by future residential and commercial development precipitated by the presence of the MCP; and the lack of a “landscape” approach in the HPSR that would consider effects of the project on the larger vicinity as a traditional area that was used by the Luiseño people for hundreds of years. These concerns and others are detailed in a formal letter response from the Pechanga dated February 22, 2012.

Follow-up phone calls to the five tribes and groups that did not comment on the draft HPSR were made on February 23, 2012. These included the Gabrieleno/Tongva–San Gabriel, the Cahuilla, the Ramona, the Morongo, and the Gabrielino Tongva Nation. The Cahuilla responded that it is currently reviewing the Draft HPSR and may provide a response.

The draft FOE was submitted to the participating Native American tribes and groups for review on March 23, 2012. Follow-up phone calls to confirm that the FOE was received were made on March 30, 2012.

One response was received as a result of the FOE submittals. In a letter dated April 23, 2012, Pechanga stated that they are not opposed to the project as a whole, but are opposed to any direct, indirect and cumulative impacts the MCP project may

have on tribal cultural resources, including impacts proposed to Site 33-16598 and the additional five sites determined ineligible for the National Register. The tribe does not agree that any part of the project should impact Site 33-16598. They would also like to see the remaining sites, which they do not agree are ineligible, evaluated as contributing elements of the larger cultural landscape in order to better understand their nature and properly assess their value. The Pechanga requested continued involvement in the development of all cultural resources documents for the MCP project (for example, the Historic Properties Treatment Plan and Memorandum of Agreement), as well as participation in developing mitigation measures to assist with the avoidance, short-term mitigation, and long-term preservation of Site 33-16598. The letter from the Pechanga also requested that their comments be incorporated into the record of approval for the MCP project. FHWA formally responded to the Pechanga's letter in a letter dated July 31, 2012.

The Soboba requested a meeting to discuss the FOE in an email dated July 2, 2012. The meeting was held at RCTC offices on August 16, 2012. Of primary concern to the Tribe are impacts to 33-16598. The Soboba stated that this site is one of the only remaining sites of its kind that still retains integrity in the valley and that they, and other consulting tribes, are continually fighting to preserve it. The Tribe is currently working with other tribes on an agreement regarding the treatment of 33-16598 for another project that will impact it. They request that the draft Memorandum of Agreement for the MCP project and preliminary mitigation measures be sent at the same time so that the tribes have the necessary information to comment and participate in devising the mitigation measures that will be included in the Historic Property Treatment Plan.

The Pechanga sent a letter dated July 26, 2012, to the State Historic Preservation Officer expressing their concern about, and disagreement with, the Determinations of Eligibility (DOE) that the four Sites (33-19862, 33-19863, 33-19864, and 33-19866) are ineligible for the National Register. The Tribe stated that "the importance of these food processing sites lies not in their individual attributes and individual contribution to scientific research, but rather in, how they relate to one another, to the surrounding 40+ recorded sites within a one-mile radius and the scientific research contribution on a broader landscape level." In response to Pechanga's letter and concerns expressed for Sites 33-19862, 33-19863, 33-19864, and 33-19866, in a letter dated September 18, 2012, the SHPO requested FHWA to revise the Finding of Effect to include these four sites. FHWA revised the FOE and resubmitted the report to the SHPO on

December 4, 2012 for concurrence; refer to Chapter 5 of this Recirculated Draft EIR/ Supplemental Draft EIS for additional information on agency coordination.

3.8.2.5 Consultation with Historical Contacts

As part of the preparation of the *Historic Resource Evaluation Report* (attachment to the HPSR), consultation with other potentially interested parties was also conducted. The following were contacted via letter, electronic mail, or telephone call to identify known historic land uses and the locations of research materials pertinent to the project area:

- Norco Historical Society – letters sent June 14 and July 8, 2005, and May 25, 2006.
- Hemet-San Jacinto Genealogical Society – letters sent June 14 and July 8, 2005. August 30, 2006, Mary Allred requested additional information. Information sent October 24, 2006. Follow-up letter sent November 5, 2006.
- Perris Valley Historical Society – letters sent June 14 and July 8, 2005, and May 25, 2006. Additional information was requested in June 2006. Telephone message left with Society on October 24, 2006. Additional follow-up with Katie Keyes in December 2006.
- Pioneer Historical Society of Riverside – letters sent June 14 and July 8, 2005, and May 25, 2006. Erin Gettis requested additional information, which was emailed to her on June 28, 2005.
- Riverside Genealogical Society – letters sent June 14 and July 8, 2005, and May 25, 2006.
- Winchester Historical Society of Pleasant Valley – letters sent June 14 and July 8, 2005, and May 25, 2006.
- Corona Historic Preservation Society – telephone message left January 17, 2007; letter sent January 18, 2007.
- Joe Toth (possible relative of current owner) – letter sent December 28, 2006.

Interviews were conducted with the following persons:

- Katie Keyes, Perris Valley Historical and Museum Association, email communications, December 11, 21, and 26, 2006.
- John Vrsalovich, Metropolitan Water District of Southern California (Metropolitan), telephone communication, November 7, 2006.
- Tim Skrove, Western Municipal Water District representative for the Lake Mathews region, email and telephone conversations, November 6, 2006.

- Steve Lech, local historian and Riverside County Park Planner, email and telephone communications, December 11, 2006, and February 2007.
- Kim Johnson, local historian and former Riverside County Department of Parks and Recreation employee, telephone communication, December 2006.
- Lori Norris, Riverside County Historical Commission, email communication, October 24, 2006.
- Mary Allred, Hemet-San Jacinto Genealogical Society, email communication, October 24, 2006.
- Kevin Hallaran, Riverside Municipal Museum, email communication, December 5 through 7, 2006.
- Bill Bell, Banning Public Library, email communication, December 5 and 6, 2006.
- Dave Reynolds, Mead Valley Community Center, personal communication, October 24, 2006.

Local Cultural Resources Management Firm Contacts

In addition to the above contacts, two cultural resources firms were also contacted concerning reports in the MCP project. In April 2005, Mr. Michael Lerch of Statistical Research, Inc., was contacted to obtain copies of a report that was being completed by Statistical Research, Inc. A copy of this report, *The Villages of Lakeview Specific Plan*, which contains the archaeological study of Site 33-16598, was obtained. Applied Earthworks was contacted to coordinate evaluation of the CBJ Dairy (Site 33-15752) that is also located in the APE of the SR-79 Realignment Project. Applied Earthworks also provided a copy of the State Historic Preservation Officer concurrence letter regarding the eligibility determination for the CBJ Dairy and assisted with the field survey for the MCP project.

3.8.2.6 Results

The information in this section is based on the HPSR and the FOE. As stated above, identification efforts for cultural resources included research, field survey, and consultation with Native American tribes, historical societies, and individuals with knowledge of the area.

National Register/California Register Eligible Resources within the MCP APE

Site 33-16598 (CA-RIV-8712)

This is a large and deeply buried multi-use prehistoric site that measures approximately 78 ac. The entire site is within the APE, but only a portion of the site is

within the proposed right of way (area of direct impacts), and this portion measures approximately 2.6 ac. The site is situated on a land formation that has been deep-ripped and plowed for agriculture for many years. Many surface artifacts, especially in the central and northern portions of the site, may have been displaced from their original provenience by repeated agricultural plowing activities across the site in combination with extensive trenching activities that displaced soil and artifacts during work for the Inland Feeder Project (Susan Goldberg, personal communication, 2007). However, the site appears to be relatively intact below the plow zone. Trenching and excavation at the site has uncovered what appears to be several levels of occupation, with radiocarbon dates associated with intact features as deep as 13 ft containing ceramics that date to approximately 8,000 years before present. Trench excavations on the site revealed that a more dense deposit of artifacts is present on the southern and central portions of the site; northern trenches within and near the MCP area of direct impacts, albeit limited, indicate a drastic drop-off in site density.

Rock art in the form of pictographs and cupules are present at the southern portion of the site, Locus A (RIV-393); the style of the pictographs suggests that they are of the San Luis Rey style (Rockman and Lerch 2005:5.12), which is associated with the San Luis Rey II Period, dating from AD 1750 to 1850. Mid-19th century ethnographic accounts by early settlers in the Lakeview area confirm the presence of Native Americans living in the region (Rockman and Lerch 2005).

The site has been previously recommended as eligible for the National Register (Rockman and Lerch 2005).

Based on this prior work, as well as the survey work for the MCP project, this site as a whole was determined to be National Register eligible under Criteria A, C, and D, and also eligible for listing in the California Register under Criteria 1, 3, and 4. The State Historic Preservation Officer concurred that Site 33-16598 does meet National Register criteria in a letter dated September 18, 2012.

Resources in the MCP APE that are Assumed Eligible for the National Register/California Register

Site 33-3653

This site is a milling station site with associated surface artifacts. It measures 82 ft x 20 ft and consists of three well-worn milling slicks on two granitic boulder outcrops. This site is within the APE, but adjacent to the right of way (area of direct impacts) and can, therefore, be protected by designation as an Environmentally Sensitive Area

with assumed eligibility for the National Register for the current undertaking. In the letter dated September 18, 2012, the State Historic Preservation Officer stated that there were no objections to these findings.

Sites 33-19862, 33-19863, 33-19864, and 33-19866

Sites 33-19862, 33-19863, 33-19864, and 33-19866 were initially determined not eligible for the National Register. In the September 18, 2012, letter, the State Historic Preservation Officer agreed that these cultural resources have limited data potential and archaeological values beyond the data already recorded, but noted that based on comments from the Tribes, these resources individually may not be eligible but may contribute to an as yet to be defined historic district located within the cultural landscape identified by the Tribes. In the letter dated September 18, 2012, the State Historic Preservation Officer requested that existing data and information provided by the Tribes be analyzed to determine if a National Register eligible District may exist and if the four sites contribute to the District's significance. As an option, the State Historic Preservation Officer suggested that these four sites be assumed eligible for the undertaking and to explore means for taking the effects of the undertaking into account. For the MCP project, these four sites are assumed eligible. A description of each resource follows.

Site 33-19862

This site is a milling station site that measures 240 ft x 246 ft and has two loci with no associated surface artifacts. Locus A measures 32 ft x 272 ft and contains nine well-worn milling slicks on five granitic boulder outcrops. Locus B measures 23 ft x 20 ft and contains one lightly worn milling slick on a single granitic boulder outcrop.

Site 33-19863

This 23 ft x 20 ft site is a small milling station with no associated surface artifacts that contains one moderately worn milling slick on a single granitic boulder.

Site 33-19864

This 26 ft x 52 ft site is a small milling station with no associated surface artifacts that contains five well-worn milling slicks on a single granitic bedrock outcrop.

Site 33-19866

This 23 ft x 49 ft site is a milling station with no associated surface artifacts. It consists of three well-worn milling slicks on two granitic boulder outcrops.

Resources in the MCP APE Determined Not Eligible for the National Register

Site 33-15752 (CBJ Dairy)

This 1959 California ranch-style dairy is situated on 170 ac (distributed over three parcels) and is a representative but undistinguished example of a post-World War II scientific dairy type. The property lacks sufficient significance and integrity to be considered eligible for the National Register. While the property was influential to the growth and expansion of the local dairy industry in the San Jacinto Valley, its marginal significance is not sufficient to outweigh the property's lack of integrity. This site was previously recommended as not eligible for the National Register as documented in State Historic Preservation Officer concurrence obtained as part of the SR-79 Realignment Project in a letter dated August 2, 2010. The August 2010 State Historic Preservation Officer concurrence letter is attached to the Historical Resources Evaluation Report (August 2011) prepared for the MCP project.¹ In the letter dated September 18, 2012, the State Historic Preservation Officer stated that this determination remains unchanged.

Site 33-19865

This 203 ft x 282 ft site includes the remnants of a historic homestead and well. Although this site includes the remains of a historic-period residence, it is considered a marginal cultural resource due to its minimal archaeological data and because this site does not appear to have the potential to answer more than the simple questions of who lived on the property and the dates they occupied the property. Additionally, no historic artifacts were located on the surface of the site, and no indication of any subsurface archaeological deposits was visible. Based on archaeological and historical evaluations, this site does not appear to meet any of the criteria for listing in the National Register or the California Register. It does not appear to have significant associations with events or persons important in history (Criteria A/1 and B/2) nor does it represent an important property type (Criterion C/3). Due to the lack of potential for additional significant archaeological information, the site does not appear to be able to answer any important research questions (Criterion D/4).

¹ The Historical Resources Evaluation Report (August 2011) is included as Attachment G to the HPSR prepared for the MCP project (June 2012).

Therefore, it has been determined and the State Historic Preservation Officer has concurred in a letter dated September 18, 2012, that Site 33-19865 does not meet the criteria to be eligible for listing in the National Register.

3.8.2.7 Discovery of Cultural Materials or Human Remains

If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.

If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County of Riverside (County) Coroner contacted. Pursuant to PRC Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) who will then notify the Most Likely Descendant (MLD). At this time, the person who discovered the remains will contact the District Environmental Branch Chief or the District Native American Coordinator so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

3.8.3 Environmental Consequences

3.8.3.1 Permanent Impacts

National Register Eligible Resources

Site 33-16598

Site 33-16598 is within the MCP APE, and all MCP Build Alternatives will result in the physical destruction of the northeastern 2.6 ac (3.3 percent) of Site 33-16598 that are in the MCP right of way (area of direct impacts). This destruction will occur due to the placement of fill material in the construction of the MCP freeway. Construction will involve overexcavation to a depth of approximately 2 ft below current grade. Overexcavation is necessary to stabilize the fill material that is placed on top of the existing soils. This depth of impact is roughly equal to the depth of the current agricultural plow zone (the top approximately 2 ft of soil).

In the area of Site 33-16598, the MCP freeway will be elevated approximately 10–15 ft above current grade. At the eastern boundary of the site, the proposed elevation of the MCP facility will be nearly 15 ft above current grade. At the western boundary of the site, the MCP facility will be approximately 10 ft above current grade.

The area of Site 33-16598 that will be affected is highly disturbed, and trench excavations there revealed a drastic drop-off in site artifact density in that area; the portion of the site within the MCP area of direct impacts does not appear to contribute to overall site eligibility for the National Register under Criterion D. However, based on tribal comments, there will be an adverse effect to the site for the National Register under Criterion A. Criterion A is associated with events that have made a significant contribution to the broad patterns of local or regional history. Therefore, consistent with 36 CFR 800.5(a)(2)i), the physical destruction of the northeastern 2.6 percent of Site 33-16598 will be an adverse effect to the historic property. The State Historic Preservation Officer concurred with this determination on January 8, 2013.

The first option considered for this type of effect is preservation in place of the archaeological site. However, this option is not feasible for the MCP Build Alternatives because the existing soil in that area is not suitable for use as base material for the MCP freeway facility and requires removal and compaction in order to provide an appropriate base for the road. A Memorandum of Agreement and a Discovery and Monitoring Plan will be prepared to mitigate effects of the MCP project to Site 33-16598 and is described in Section 3.8.4.

It should be noted that native soils below the depth of the excavation for the project which may contain archaeological resources would not be disturbed by the project construction. The placement of the compacted soil and the road surface over the native soil at and below approximately 2 ft below grade would preserve the resources below that level in place.

Realignment of the MCP project was also considered in order to fully avoid Site 33-16598. These avoidance options are described in detail in Appendix B, Section 4(f) Evaluation. In summary, no prudent avoidance options were identified.

Site 33-3653

This site is within the MCP APE, but adjacent to the MCP right of way (area of direct impacts). As such, it will be designated for protection as an Environmentally Sensitive Area and will be fenced off and monitored during construction. The site will not be directly impacted; therefore, the Determination of Effect for Site 33-3653 is No Adverse Effect with Standard Conditions (Environmentally Sensitive Area). The State Historic Preservation Officer concurred with this determination on January 8, 2013.

Sites 33-19862, 33-19863, 33-19864, and 33-19866

These four prehistoric milling station sites are within the MCP APE and right of way (area of direct impacts) and will be destroyed. Therefore, the Determination of Effect for Sites 33-19862, 33-19863, 33-19864, and 33-19866 is an Adverse Effect, and a Memorandum of Agreement will be prepared to mitigate effects of the MCP project. The State Historic Preservation Officer concurred with this determination on January 8, 2013.

Consultation

The FHWA is the lead federal agency under the NHPA and NEPA, with Caltrans assisting in the preparation of the NEPA environmental document. The RCTC is the Lead Agency under CEQA. Agency consultation and public participation for this project have been accomplished through a variety of formal and informal methods, including the MCP website (<http://www.midcountyparkway.org/>), public scoping meetings held in late 2004 and August 2005, continued coordination with MCP partner agencies, monthly project development team meetings, meetings with other agencies and interested parties, and ongoing consultation with Native American tribes. Historical contacts, as well as local cultural resource management firms, were also contacted in order to gather research materials important for the project area and vicinity. In October 2008, a Draft EIR/EIS for the MCP project was circulated for a 90-day public review period. During this time, six public meetings/hearings were held, and RCTC accepted public comments for the record at all of these meetings, along with comments via the MCP project website and email. The efforts of RCTC, FHWA, and Caltrans to involve the public in the Section 106 process, as well as to fully identify, address, and resolve project-related issues through early and continuing consultation, are presented in detail in the HPSR.

The following discussions regarding federal and state contacts refer to the *Preliminary Recommendations of Eligibility and Level of Effects* document. This document was prepared for use in the 2008 Draft EIR/EIS for the MCP project, but is no longer under consideration because the Final HPSR and FOE are now complete. The discussions are included here because of references to the treatment and eligibility of Site 33-16598.

Federal Contacts

Advisory Council on Historic Preservation

Based on the scale of the MCP undertaking and the fact that the project is listed on the national priority list for environmental stewardship and streamlining pursuant to

Executive Order 13274, the FHWA consulted with the Advisory Council on Historic Preservation at an early stage in the Section 106 process. Carol Legard, a representative of the Advisory Council on Historic Preservation, attended several FHWA consultation meetings. Ms. Legard attended two FHWA meetings with interested Native American tribes (on October 11 and December 19, 2007) in order to have an understanding of the FHWA's implementation of Section 106 and to give the FHWA advice on the preliminary determinations of eligibility and the FOE presented for the MCP project. On March 19, 2008, Ms. Legard was also a participant in a teleconference call among the FHWA, the RCTC, Caltrans, the Office of Historic Preservation, and the project consultant team, to discuss revisions to the draft *Preliminary Recommendations of Eligibility and Level of Effects*.

During the meeting, Ms. Legard suggested that FHWA give further consideration to the possibility that Site 33-16598 is eligible for the National Register under Criterion A for its traditional religious and cultural value to the participating Native American tribes. In a follow-up email dated April 1, 2008 (see HPSR, Volume 3, Attachment C, for a copy of the email), Ms. Legard stated that in light of the comments received from the California State Historic Preservation Officer (see HPSR, Volume 3, Attachment C, for a copy of these comments dating to March 20, 2008), she believed that the cultural values associated with the sites evaluated in the *Preliminary Recommendations of Eligibility and Level of Effects* document had been considered. Ms. Legard stressed that if Native American tribes ascribed a traditional value to historic properties (whether or not they are determined to be Traditional Cultural Properties), that the tribes be consulted in the resolution of effects to those properties. Also noted in the email dated April 1, 2008, the Advisory Council on Historic Preservation agreed with the recommendations of the State Historic Preservation Officer regarding Site 33-16598 (see HPSR, Volume 3, Attachment C, for comments from March 2, 2008) about recommendations made about the status of the site as a Traditional Cultural Property, but that the Advisory Council on Historic Preservation had no further comments regarding the preliminary findings.

State Contacts

California Office of Historic Preservation

Michael McGuirt, Susan Stratton, and Dwight Dutschke of the State Office of Historic Preservation attended several FHWA Native American consultation meetings. On October 11, 2007, Mr. McGuirt met with the project consultant team and representatives from the FHWA, the Advisory Council on Historic Preservation, Caltrans, consulting Native American tribes, and the RCTC. The meeting consisted of

a field tour, the discussion of proposed Phase II field methods, and a subsequent discussion of artifact curation. Upon completion of the MCP Phase II fieldwork, Ms. Stratton and Mr. Dutschke met with representatives from the Advisory Council on Historic Preservation, FHWA, the RCTC, Caltrans, the project consultant team, and consulting Native American tribes on December 19, 2007. This meeting was to discuss the *Preliminary Recommendations of Eligibility and Level of Effects* document that summarized the results of the testing program and the preliminary findings of the fieldwork.

Ms. Stratton was also a participant in a teleconference call on March 19, 2008, with FHWA, the RCTC, Caltrans, the Advisory Council on Historic Preservation, and the project consultant team to discuss further revisions of the draft *Preliminary Recommendations of Eligibility and Level of Effects* document. On March 20, 2008, verbal comments from Mr. Dutschke and Ms. Stratton were given in regard to the revised *Preliminary Recommendations of Eligibility and Level of Effects* document.

Comments included the clarification on the difference between cultural significance and/or importance to tribes and the designation of a Traditional Cultural Property. According to Mr. Dutschke, a site can be culturally significant to a tribe (as is the stated case from many consulting tribes for the MCP); however, for a site that is culturally significant to be considered a Traditional Cultural Property, there needs to be continued and contemporary traditional cultural use or an explanation as to why such use could not occur. A Traditional Cultural Property would likely be eligible under Criterion A because it is associated with a traditionally important event or ceremony; however, stating that a site is culturally important to the tribe should not imply that the site is also eligible under Criterion A. Mr. Dutschke stated that while the Office of Historic Preservation agreed that Site 33-16598 is culturally significant based on the archaeological evidence and the comments from the tribe, due to the lack of ethnohistoric data on the rock art cultural use of the site and lack of data showing the connection of the contemporary use of the site with the prehistoric use of the site, the site does not appear to be a Traditional Cultural Property.

In a letter dated August 28, 2008, the Office of Historic Preservation gave preliminary concurrence with the Determinations of Eligibility and FOE presented in the *Preliminary Recommendations of Eligibility and Level of Effects* document.

In a letter dated September 18, 2012, the State Historic Preservation Officer did not object to the finding that Site 33-3653 is assumed eligible for the current undertaking

and that adverse effects to the site would be avoided by establishing an Environmentally Sensitive Area. In the letter, the State Historic Preservation Officer also concurred that the CBJ Dairy, Site 33-15752, had previously been determined ineligible for the National Register and that the determination remained unchanged and that Site 33-16865 is not eligible for the National Register. The State Historic Preservation Officer concurred that Site 33-16598 does meet National Register criteria. The State Historic Preservation Officer did not concur that Sites 33-19862, 33-19863, 33-19864, and 33-19866 are not eligible for the National Register, based in part on comments received from the Tribes stating that: “they may contribute to an as yet to be defined historic district located within the cultural landscape identified by the Tribes.” The State Historic Preservation Officer requested that existing data and the information provided by the Tribes be analyzed to determine if a National Register eligible District may exist and if the four sites contribute to the District’s significance. The State Historic Preservation Officer suggested that these four sites be assumed eligible for the undertaking and to explore means for taking the effects of the undertaking into account.

3.8.3.2 Temporary Impacts

Build Alternatives

Impacts to cultural resources would result from construction of the MCP Build Alternatives, not from operation of the facility itself. Impacts to cultural resources are considered permanent, not temporary, as discussed above.

No Build Alternatives

As discussed above, impacts to cultural resources are considered permanent, not temporary. Although the MCP project would not be built under the No Build Alternatives, impacts to cultural resources identified in the MCP project cultural resources studies (specifically Site 33-16598) could result from construction of the other improvements to the Ramona Expressway under Alternative 1B.

3.8.3.3 Environmentally Sensitive Areas

Environmentally Sensitive Areas are locations of identified resources within a project APE that are to be protected by avoidance or restrictions on construction activities. These sites are flagged off or fenced off and monitored during project construction.

Eligible Environmentally Sensitive Area Sites

Site 33-3653 (CA-RIV-3653)

Site 33-3653 has been designated an Environmentally Sensitive Area. It is assumed eligible for this undertaking and will be avoided by the project. Therefore, the Determination of Effect for Site 33-3653 is No Adverse Effect with Standard Conditions (Environmentally Sensitive Area).

3.8.3.4 Section 4(f)

The study area for National Register listed and eligible historic sites was based on the APE as defined in the HPSR.

Site 33-16598 qualifies for protection under Section 4(f) because it has been determined to be eligible for the National Register. The MCP project will result in the use of a Section 4(f) property because Site 33-16598 extends partially into the MCP area of direct impacts. Refer to Appendix B, Section 4(f) Evaluation, for discussion of the project effects on this site under Section 4(f).

Sites 33-19862, 33-19863, 33-19864, and 33-19866 qualify for protection under Section 4(f) because they have been assumed to be eligible for the National Register because of the cultural values ascribed to them by the Tribes. Refer to Appendix B, Section 4(f) Evaluation, for discussion of the project effects on these sites under Section 4(f).

3.8.4 Avoidance, Minimization, and/or Mitigation Measures

The following mitigation measures are proposed to mitigate adverse effects of the MCP project on cultural resources.

CUL-1 **Discovery of Cultural Material.** If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.

CUL-2 **Discovery of Human Remains.** If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) who will then notify

the Most Likely Descendent (MLD). At this time, the person who discovered the remains will contact the Riverside County Transportation Commission (RCTC) Project Manager and the Caltrans District 8 Environmental Branch Chief so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.

CUL-3

Avoidance of Site 33-3653. During the final design, the RCTC's Project Engineer will designate the part of Site 33-3653 near the project Area of Potential Effects (APE) as an Environmentally Sensitive Area on the project construction plans. The boundary of that site near the APE will be mapped by the Project Archaeologist (to be retained by the RCTC Project Manager) for incorporation in the final design mapping. The Environmentally Sensitive Area for Site 33-3653 will not be shown as a cultural site on the final design plans to avoid unauthorized artifact collection or vandalism to the site.

Prior to any ground-disturbing activities in the vicinity of Site 33-3653, RCTC's Project Engineer will require the Construction Contractor to provide fencing or flags around the boundary of the Environmentally Sensitive Area. The Project Archaeologist will monitor the installation of the fencing/flagging.

The area in the project disturbance limits near or adjacent to the Environmentally Sensitive Area boundary will be monitored when construction in the MCP APE is adjacent to the site by the Project Archaeologist and a Native American monitor during all ground-disturbing and construction activities in this area.

The RCTC Project Engineer will require the Construction Contractor to maintain the fencing/flagging throughout the entire construction period in this area. The Project Archaeologist will monitor the condition of the fencing/flagging monthly and will report the need for any repairs to that material to the RCTC Project Engineer and the Construction Contractor.

Memorandum of Agreement

A Memorandum of Agreement will be developed for Sites 33-16598, 33-19862, 33-19863, 33-19864, and 33-19866. The Native American tribes and groups that have

been involved in consultation for the MCP project have been invited to participate in the development of the Memorandum of Agreement and the Discovery and Monitoring Plan that would be developed for the project. The Memorandum of Agreement will also stipulate the responsibilities of the FHWA, State Historic Preservation Officer, Caltrans (as assigned by FHWA), RCTC, and the Advisory Council on Historic Preservation on measures that will be taken to avoid, minimize, or mitigate the effects of the undertaking on historic properties. The executed Memorandum of Agreement will be included as an appendix in the Final EIR/EIS. An Environmentally Sensitive Area Action Plan will be appended to the Discovery and Monitoring Plan for the MCP project.