

2.18 Tribal Cultural Resources

	Potentially Significant Impact	Less-than-Significant with Mitigation	Less-than-Significant Impact	No Impact
a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2.18.1 Environmental Setting

This section describes the environmental and regulatory setting for tribal cultural resources. As defined in CEQA Section 21074, tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are listed or determined to be eligible for listing in a national, State, or local register of historical resources. Based on discussions with Native American tribal representatives in San Francisco, prehistoric archeological resources are presumed to be potential tribal cultural resources. This section also describes impacts on tribal cultural resources that would result from implementation of the Project and mitigation for significant impacts where feasible and appropriate.

2.18.1.1 Existing Conditions

Information about ethnographic lifeways and the post-contact history of Native Americans who traditionally inhabited the vicinity of the Project site is provided in Section 2.5, *Cultural Resources*.

2.18.1.2 Regulatory Setting

California Public Resources Code

Archaeological, paleontological, and historical sites are protected pursuant to a wide variety of State policies and regulations, as enumerated under the California PRC. Cultural and paleontological resources are recognized as nonrenewable resources and receive additional protection under the California PRC and CEQA.

- California PRC Sections 5020–5029.5 continued the former Historical Landmarks Advisory Committee as the State Historical Resources Commission. The commission oversees the administration of the CRHR and is responsible for the designation of State Historical Landmarks and Historical Points of Interest.

- California PRC Sections 5079–5079.65 define the functions and duties of the Office of Historic Preservation (OHP). The OHP is responsible for the administration of federally and State-mandated historic preservation programs in California and the California Heritage Fund.
- California PRC Sections 5097.9–5097.991 provide protection to Native American historical and cultural resources and sacred sites and identify the powers and duties of the NAHC. These sections also require notification to descendants of discoveries of Native American human remains and provide for treatment and disposition of human remains and associated grave goods.

California Environmental Quality Act

CEQA requires projects to be assessed to determine their potential to affect historical resources. CEQA uses the term *historical resources* to include buildings, sites, structures, objects, or districts, each of which may have historical, pre-historical, architectural, archaeological, cultural, or scientific importance. If implementation of a project would result in significant effects on historical resources, CEQA states that alternative plans or mitigation measures must be considered; however, only significant historical resources need to be addressed (14 CCR 15064.5, 15126.4). Therefore, before impacts and mitigation measures can be identified, the significance of historical resources must be determined.

The State CEQA Guidelines define three ways that a property may qualify as a historical resource for the purposes of CEQA review.

1. The resource is listed in or determined eligible for listing in the CRHR.
2. The resource is included in a local register of historical resources, as defined in Section 5020.1[k] of the California PRC or identified as significant in a historical resource survey meeting the requirements of Section 5024.1[g] of the California PRC unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
3. The Lead Agency determines the resource to be significant, as supported by substantial evidence in light of the whole record (CCR, Title 14, Division 6, Chapter 3, Section 15064.5[a]).

The State CEQA Guidelines also establish the criteria for CRHR eligibility as the standard for the significance of historical resources and find that cultural resources that meet the criteria of eligibility for the CRHR are significant historical resources. A historical resource may be eligible for inclusion in the CRHR if it meets any of the following conditions:

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

Properties that are listed in or eligible for listing in the NRHP are considered eligible for listing in the CRHR (PRC Section 5024.1[d][1]) and, thus, are significant historical resources for the purpose of CEQA.

According to CEQA, a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant impact on the environment (14 CCR 15064.5[b]). Under CEQA, a substantial adverse change in the significance of a resource means the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource would be materially impaired. Actions that would

materially impair the significance of a historic resource are any actions that would demolish or adversely alter the physical characteristics that convey the property's historical significance and qualify it for inclusion in the CRHR or in a local register or survey that meet the requirements of PRC Sections 5020.1[k] and 5024.1[g].

CEQA includes in its definition of *historical resources* “any object [or] site ... that has yielded or may be likely to yield information important in prehistory” (State CEQA Guidelines Section 15064.5[3]), which is typically interpreted as including fossil materials and other paleontological resources. In addition, destruction of a “unique paleontological resource or site or unique geologic feature” constitutes a significant impact under CEQA (State CEQA Guidelines Appendix G). Treatment of paleontological resources under CEQA is generally similar to treatment of cultural resources, requiring evaluation of resources in a project's area of potential affect; assessment of potential impacts on significant or unique resources; and development of mitigation measures for potentially significant impacts, which may include monitoring, combined with data recovery and/or avoidance.

Assembly Bill 52 – Tribal Cultural Resources

A tribal cultural resource can be a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe. It also must be either on or eligible for the CRHR, or a local historic register; otherwise, the lead agency, at its discretion and supported by substantial evidence may choose to treat the resource as a significant tribal cultural resource. AB 52, which amended the PRC, requires lead agencies to participate in formal consultations with California Native American tribes during the CEQA process, if requested by any tribe, to identify tribal cultural resources that may be subject to significant impacts by a project. Where a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss the impact and whether feasible alternatives or mitigation measures could avoid or substantially lessen the impact. Consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that mutual agreement cannot be reached.

2.18.2 Discussion of Potential Impacts

This section contains the impact analysis for the proposed Project as it relates to tribal cultural resources. The methods used to determine the potential Project-related impacts, as well as the thresholds of significance used to conclude whether or not an impact would be significant, are described below. Measures that would mitigate (i.e., avoid, minimize, rectify, eliminate, or compensate for) significant impacts are included within each impact discussion where they have been deemed necessary and appropriate.

2.18.2.1 Thresholds of Significance

CEQA Guidelines Appendix G (14 CCR 15000 et seq.) identifies significance criteria to be considered for determining whether a project could have significant impacts on existing tribal cultural resources:

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- Listed or eligible for listing in the CRHR or in a local register of historical resources, as defined in PRC Section 5020.1(k), or

- A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1? In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

2.18.2.2 Methods for Analysis

Records Search and Historic Map Review

As discussed in Section 2.5. *Cultural Resources*, a Records search was conducted at the NWIC on April 29, 2013. The records search compiled bibliographic references, previous survey reports, historic maps, and archaeological site records pertinent to the Project in order to identify prior archaeological studies and known cultural resources within a 0.5-mile area surrounding, or adjacent to, the archaeological Area of Potential Effect (APE).

Eleven previous studies have covered portions of the archaeological APE or adjacent areas. The majority of these studies focused on the Oakland Army Base and buildings within the Base; additional studies focused on the archaeology and history of West Oakland, the installation of fiber optics, and the San Francisco Bay Bridge.

The records search identified one historic-era resource within the archaeological APE. While no prehistoric resources were identified within the archaeological APE, the location of a former shellmound was identified within 0.5 mile.

To supplement the material collected during the records search, several historic maps of West Oakland were reviewed to place the archaeological APE in a proper historic context. The following historic maps were reviewed:

- 1876 Map of Oakland, Alameda, and Vicinity, Showing Plan: Streets As Opened and Proposed. Published by M. G. King, C. E., 1876, via Rumsey Digital Collection
- 1895 7.5-minute Oakland West USGS quadrangle (1:24,000 scale)

Both maps depict the archaeological APE as existing partially within what was historically open water of the San Francisco Bay and marshland.

Native American Consultation

ICF contacted the NAHC on September 29, 2020, requesting a search of the Sacred Lands File and a list of Native American individuals with an affiliation to the geographic region. The NAHC responded on October 5, 2020, stating that a search of the Sacred Lands File indicated the presence of Native American cultural resources in the vicinity of the archaeological APE. The NAHC identified three California Native American Tribe representatives to contact to further discuss the sacred lands. The NAHC also provided a list of six individuals who may have knowledge of additional resources in the area. Letters containing the Project description and location were sent to the following individuals on October 19, 2020:

- Monica Arellano, Chairperson – Muwekma Ohlone Indian Tribe of the San Francisco Bay Area
- Tony Cerda, Chairperson – Costanoan Rumsen Carmel Tribe
- Andrew Galvan – The Ohlone Indian Tribe
- Charlene Nijmeh, Chairperson – Muwekma Ohlone Indian Tribe of the San Francisco Bay Area
- Ann Marie Sayers, Chairperson – Indian Canyon Mutsun Band of Costanoan

- Kanyon Sayers-Roods, MLD Contact - Indian Canyon Mutsun Band of Costanoan
- Irenne Zwierlein, Chairperson – Amah Mutsun Tribal Band of Mission San Juan Bautista
- Timothy Perez, MLD Contact – North Valley Yokuts Tribe
- Katherine Perez, Chairperson – North Valley Yokuts Tribe
- Corrina Gould, Chairperson – The Confederated Villages of Lisjan

All tribal representatives had the opportunity to formally request consultation until November 30, 2020. No requests were received within the 30-day response period.

a, b The project could cause a potentially substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the CRHR, in a local register of historical resources (as defined in PRC Section 5020.1(k). This also includes tribal cultural resources determined to be significant by the lead agency in its discretion and supported by substantial evidence (as defined in subdivision (c) of Public Resources Code Section 5024.1). (Less than Significant)

Although a review of existing records and review of historic maps indicate that the archaeological APE has low potential for prehistoric resources, the presence of sacred lands in the vicinity of the APE suggests that the potential exists for previously undiscovered tribal cultural resources (as defined in CEQA Section 21074.2) to be encountered during demolition or construction activities associated with the Project. Furthermore, any such buried deposits may be eligible for listing in the CRHR. Therefore, this impact could be significant. However, **AMM CUL-1** (Stop Work If Buried Cultural Resources Are Discovered) and **AMM CUL-2** (If Human Remains Are Discovered, Comply with State Laws Relating to Human Remains) would ensure that the proper protocols are in place to protect any inadvertent discoveries encountered during Project-related ground disturbance and ensure the proper and respectful treatment of human remains. Therefore, impacts related to tribal cultural resources would be less than significant.

2.18.3 Mitigation Measures

No mitigation measures are required to reduce impacts related to tribal cultural resources to a less-than-significant level.