

1 **3.5 CULTURAL AND PALEONTOLOGICAL RESOURCES/TRADITIONAL**
2 **CULTURAL PROPERTIES/SACRED SITES**

CULTURAL AND PALEONTOLOGICAL RESOURCES/TRADITIONAL CULTURAL PROPERTIES/SACRED SITES - Would the Project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource (as defined in State CEQA Guidelines, § 15064.5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource (pursuant to State CEQA Guidelines, § 15064.5)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code section 21074?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3 **3.5.1 Environmental Setting**

4 Early human occupation on the lower River is evidenced by stone tools and projectile
5 points, the earliest of which may date to 40,000 to 30,000 B.C. The introduction of
6 pottery on the River is associated with the Patayan culture. The Patayan culture gave
7 rise to Yuman speaking groups including the Quechan, Mohave, and Halchidhoma.
8 Tribes occupying the River in the vicinity of the Project area included the Mohave who
9 made use of the River from approximately the south end of Black Canyon (where
10 Hoover Dam was built) to Blythe, California. This Tribe historically subsisted on a
11 combination of gathering and agriculture with a lesser dependence on hunting and
12 fishing, living in villages along and within the floodplain.

13 European settlement began when Spanish explorers first entered the River in 1539.
14 They traded with the Mohave and other Tribes. These initial explorations led to further
15 white settlement and the establishment of mines, military forts, ranches, and farms. The
16 Reclamation Act of June 17, 1902 was passed to encourage agricultural growth in the
17 western United States and resulted in dams and other irrigation works along the lower
18 River. Reclamation, formed to construct these irrigation works, has had a long history of
19 River maintenance in the vicinity of the Project area between 1949 and the present. The
20 goal of this maintenance is to protect properties adjacent to the River from high water
21 flows and to reduce sediment accumulation that could impact the delivery of water
22 throughout the River system. This maintenance includes straightening and deepening
23 the River channel, dredging, construction of levees, and riprap placement.

1 The Project area is located entirely on sediment spoils that resulted from Reclamation’s
2 dredging and bankline/levee maintenance. Because these sediment spoils all came
3 from the River channel, there is no potential for in situ (originating locally) subsurface
4 cultural materials.

5 Historic resources near the Project area include the nearby National Trails
6 Highway/Route 66 which is eligible for listing on the National Register of Historic Places
7 (NRHP) and California Register of Historical Resources; it is identified as a California
8 Historical Landmark. This roadway can be used as a secondary access to the Park.

9 *Recent Cultural Resources Investigations, Consultations, and Sacred Sites*

10 In 2011, a *Phase I Cultural Resources Investigation for the Proposed OHV Area-Park*
11 *Moabi Regional Park Trail Improvement, San Bernardino County California* (Appendix
12 H) was completed as part of County’s CEQA analysis for various projects within the
13 Park. The Project area is located entirely within the 2011 Phase I project area. The
14 2011 Phase I included archaeological records search, historic background research,
15 Native American consultations, a paleontological overview, and an intensive
16 archaeological survey. No archaeological materials were identified within the Project
17 area (McKenna et al. 2011) (Appendix H).

18 In 2014, Reclamation consulted with the California State Historic Preservation Officer
19 (SHPO) under a “No Historic Properties Affected” determination for the test pits dug
20 within the Project area as part of the geotechnical investigations for the Project
21 (Appendix I). As part of this consultation, Reclamation conducted archival research of
22 Reclamation’s cultural resource files, referenced the archaeological survey conducted
23 as part of the 2011 Phase I, and consulted with Native American Tribes as identified by
24 the Native American Heritage Commission (NAHC) (Appendix J). The SHPO concurred
25 with Reclamation’s determination of no effect. No archaeological materials were found
26 during monitoring activities undertaken by Reclamation during the geotechnical
27 investigation.

28 In 2015, Reclamation continued consultation with the SHPO under a “No Historic
29 Properties Affected” for the construction of the Project. During consultation,
30 Reclamation referenced the 2014 archival research indicating that no previously
31 recorded archaeological resources were within the Project area (Appendix K). On March
32 28, 2014, Reclamation contacted the NAHC and mailed individual tribal letters
33 (Appendix J). A list of Federally identified Tribes and contact information were provided.
34 In addition, a check of the files and information at the NAHC “failed to identify Native
35 American traditional cultural places or properties.” Tribal consultation letters were
36 mailed on May 20, 2015 (Appendix L). One reply was received from the Hopi Tribe who
37 had no concerns about the Project (Appendix M). The SHPO concurred with
38 Reclamation’s determination in a letter dated September 1, 2015 (Appendix K). In
39 summary, no cultural properties were identified during these consultation efforts and no
40 traditional cultural properties (TPCs) or sacred sites have been identified within the
41 Project area.

1 Title to all abandoned shipwrecks, archeological sites and historical and cultural
 2 resources on or in the submerged tidelands of California is vested in the State and
 3 under the jurisdiction of the CSLC (Pub. Resources Code, § 6313). On September 21,
 4 2015, Reclamation searched the CSLC-maintained shipwreck database which lists
 5 shipwrecks by county and is based primarily on historical accounts of known and
 6 potential vessels (CSLC 2015). No known shipwrecks appear within the Project footprint
 7 or within 0.5 mile of the Project.

8 **3.5.2 Regulatory Setting**

9 Federal and State Laws and regulations pertaining to this issue area and relevant to the
 10 Project are identified in Table 3.5-1.

Table 3.5-1. Laws, Regulations, and Policies (Cultural And Paleontological Resources/Traditional Cultural Properties/Sacred Sites)

U.S.	Archaeological and Historic Preservation Act (AHPA)	The AHPA provides for the preservation of historical and archaeological data that might be irreparably lost or destroyed as a result of (1) flooding, the building of access roads, the erection of workmen’s communities, the relocation of railroads and highways, and other alterations of terrain caused by the construction of a dam by an agency of the U.S. or by any private person or corporation holding a license issued by any such agency; or (2) any alteration of the terrain caused as a result of a Federal construction project or federally licensed project, activity, or program. This Act requires Federal agencies to notify the Secretary of the Interior when they find that any federally permitted activity or program may cause irreparable loss or destruction of significant scientific, prehistoric, historical, or archaeological data. The AHPA built upon the national policy, set out in the Historic Sites Act of 1935, "...to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance...."
U.S.	Archaeological Resources Protection Act (ARPA)	The ARPA states that archaeological resources on public or Indian lands are an accessible and irreplaceable part of the nation’s heritage and: <ul style="list-style-type: none"> • Establishes protection for archaeological resources to prevent loss and destruction due to uncontrolled excavations and pillaging; • Encourages increased cooperation and exchange of information between government authorities, the professional archaeological community, and private individuals having collections of archaeological resources prior to the enactment of this Act; • Establishes permit procedures to permit excavation or removal of archaeological resources (and associated activities) located on public or Indian land; and • Defines excavation, removal, damage, or other alteration or defacing of archaeological resources as a “prohibited act” and provides for criminal and monetary rewards to be paid to individuals furnishing information leading to the finding of a civil violation or conviction of a criminal violator. ARPA has both enforcement and permitting components. The enforcement provision provides for the imposition of both criminal and civil penalties against violators of the Act. The ARPA's permitting component allows for recovery of certain artifacts consistent with the standards and requirements of the National Park Service (NPS) Federal Archeology Program.
U.S.	National Historic Preservation	This applies only to Federal undertakings. Archaeological resources are protected through the NHPA, as amended, and its implementing regulation, Protection of Historic Properties (36 Code of Federal Regulations [CFR] 800),

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	Act (NHPA) (16 USC 470 et seq.)	the AHPA, and the ARPA. This Act presents a general policy of supporting and encouraging the preservation of prehistoric and historic resources for present and future generations by directing Federal agencies to assume responsibility for considering the historic resources in their activities. The State implements the NHPA through its statewide comprehensive cultural resource surveys and preservation programs. The California Office of Historic Preservation (OHP), within the California Department of Parks and Recreation, implements the policies of the NHPA on a statewide level and advises Federal agencies regarding potential effects on historic properties. The OHP also maintains the California Historic Resources Inventory. The State Historic Preservation Officer (SHPO) is an appointed official who implements historic preservation programs within the State’s jurisdictions, including commenting on Federal undertakings.
U.S.	Other	<ul style="list-style-type: none"> • Executive Order 13007: “Indian Sacred Sites” requires that Federal agencies with legal or administrative responsibility for management of Federal lands, “to the extent practicable permitted by law, and not clearly inconsistent with essential agency functions, to: (1) accommodate access to, and ceremonial use of, Indian sacred sites by Indian religious practitioners; and (2) avoid adversely affecting the physical integrity of such sacred sites.” • Executive Order 13158 requires Federal agencies to (1) identify actions that affect natural or cultural resources that are within a MPA; and (2) in taking such actions, to avoid harm to the natural and cultural resources that are protected by a MPA. • NPS Abandoned Shipwreck Act of 1987 (43 USC 2101–2106). Under this Act, states have the responsibility for management of living and nonliving resources in State waters and submerged lands, including certain abandoned shipwrecks. The NPS has issued guidelines that are intended to: maximize the enhancement of cultural resources; foster a partnership among sport divers, fishermen, archeologists, sailors, and other interests to manage shipwreck resources of the states and the U.S.; facilitate access and utilization by recreational interests; and recognize the interests of individuals and groups engaged in shipwreck discovery and salvage. Specific provisions of the Act’s guidelines include procedures for locating and identifying shipwrecks, methods for determining which shipwrecks are historic, and preservation and long-term management of historic shipwrecks.
CA	CEQA (Pub. Resources Code, § 21000 et seq.)	As the CEQA lead agency, the CSLC is responsible for complying with all provisions of the CEQA and State CEQA Guidelines that relate to “historical resources.” A historical resource includes: (1) a resource listed in, or eligible for listing in, the California Register of Historic Resources (CRHR); (2) a resource included in a local register of historical or identified as significant in an historical resource surveys; and (3) any resource that a lead agency determines to be historically significant for the purposes of CEQA, when supported by substantial evidence in light of the whole record. The CRHR was created to identify resources deemed worthy of preservation on a State level and was modeled closely after the National Register. The criteria, which are nearly identical to those of the National Register but focus on resources of statewide significance (see State CEQA Guidelines, § 15064.5, subd. (a)(3)), are defined as any resource that meets any of the following criteria: (1) Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage; (2) Is associated with lives of persons important in our past; (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative

Table 3.5-1. Laws, Regulations, and Policies (Cultural And Paleontological Resources/Traditional Cultural Properties/Sacred Sites)

		individual, or possesses high artistic values; or (4) Has yielded, or may be likely to yield, information important in prehistory or history. Properties listed, or formally designated as eligible for listing, on the National Register are automatically listed on the CRHR, as are certain State Landmarks and Points of Interest. A lead agency is not precluded from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1, subdivision (j), or 5024.1 (State CEQA Guidelines, § 15064.5, subd. (a)(4)).
CA	Health and Safety Code section 7050.5	This code states that if human remains are exposed during construction, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code section 5097.998. The Coroner has 24 hours to notify the Native American Heritage Commission (NAHC) if the remains are determined to be of Native American descent. The NAHC will contact most likely descendants, who may recommend how to proceed.
CA	Assembly Bill (AB) 52 (Gatto, Stats. 2014, Ch. 532)	AB 52 (effective July 1, 2015) adds sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to CEQA, relating to consultation with California Native American tribes, consideration of tribal cultural resources, and confidentiality. The definition of tribal cultural resources considers tribal cultural values in addition to scientific and archaeological values when determining impacts and mitigation. AB 52 provides procedural and substantive requirements for lead agency consultation with California Native American tribes and consideration of effects on tribal cultural resources, as well as examples of mitigation measures to avoid or minimize impacts to tribal cultural resources. AB 52 establishes that if a project may cause a substantial adverse change in the significance of a tribal cultural resource, that project may have a significant effect on the environment. Lead agencies must avoid damaging effects to tribal cultural resources, when feasible, and shall keep information submitted by tribes confidential.
CA	Public Resources Code section 5097.98	This code states protocol for notifying the most likely descendent from the deceased if human remains are determined to be Native American in origin. It also provides mandated measures for appropriate treatment and disposition of exhumed remains.

1 The following local goals and policies regarding cultural resources are from the San
 2 Bernardino County General Plan 2012 (San Bernardino County, 2012).

- 3 • Chapter V: Conservation – Section C. 2. Cultural/Paleontological Resources.
 4 Goal CO 3. To preserve and promote its historic and prehistoric cultural heritage
 5 by:
- 6 ○ **CO 3.1.** Identify and protect important archaeological and historic
 7 cultural resources in areas of the County that have been determined to
 8 have known cultural resource sensitivity.
 - 9 ○ **CO 3.2.** Identify and protect important archaeological and historic
 10 cultural resources in all lands that involve disturbance of previously
 11 undisturbed ground.
 - 12 ○ **CO 3.3.** Establish programs to preserve the information and heritage
 13 value of cultural and historical resources.

- 1 ○ **CO 3.4.** The County will comply with Government Code section 65352.2
2 (SB 18) by consulting with tribes as identified by the California NAHC on
3 all General Plan and specific plan actions.
- 4 ○ **CO 3.5.** Ensure that important cultural resources are avoided or
5 minimized to protect Native American beliefs and traditions.

6 **3.5.3 Impact Analysis (CEQA)**

7 **a) Cause a substantial adverse change in the significance of a historical** 8 **resource as defined in CEQA Guidelines, § 15064.5?**

9 **Less than Significant Impact.** As described in the Environmental setting
10 discussion, above, there are no known historic resources in the Project area that
11 could potentially be affected by construction or operation of the Project because
12 the Project area was created by sediment spoils as a result of dredging and
13 bankline/levee maintenance conducted by Reclamation. None of the right-of-way
14 for the National Trails Highway/Route 66 roadway is within the Project area and
15 the Project does not propose any activities that would impact the roadway. Given
16 the site's location, the investigations and consultations with the NAHC, Tribes,
17 and the California SHPO concluded that there were no known historic resources
18 in the Project area.

19 **b) Cause a substantial adverse change in the significance of an** 20 **archaeological resource (pursuant to State CEQA Guidelines, § 15064.5)?**

21 **Less than Significant with Mitigation.** As described in the Environmental
22 Setting discussion, above, there are no known archaeologically significant
23 resources located within or adjacent to the Project site. Additionally, the Project
24 would not increase the potential for disruption of a site or increase the potential
25 for vandalism or trespassing. Impacts would be less than significant, therefore,
26 based on what is known; however, the possibility exists that previously
27 unidentified cultural resources could be discovered during Project
28 implementation, which would be potentially significant. If this occurred, **MM CUL-**
29 **1** would ensure potential impacts to cultural resources remain less than
30 significant.

31 **MM CUL-1: Discovery of Unanticipated Cultural Resources.** Should
32 additional cultural materials such as archaeological and/or historical
33 resources be uncovered during earthmoving activities, all work in that area
34 shall cease immediately and a qualified archeologist shall be retained to
35 access the findings and CSLC staff shall be contacted immediately.
36 Earthmoving shall be diverted no closer than 100 feet temporarily around the
37 deposits until they have been evaluated, recorded, excavated, and/or
38 recovered as necessary. Construction will be allowed to proceed on the site
39 when the archaeologist, in consultation with the Bureau of Reclamation,
40 CSLC, appropriate Native American Tribe(s) and the County of San

1 Bernardino Museum, determines the resources are recovered to their
2 satisfaction.

3 The State requires that the location of any such findings must be kept
4 confidential and measures should be taken to ensure that the area is secured
5 to minimize site disturbance and potential vandalism. Additional measures to
6 meet these requirements include assessment of the nature and extent of the
7 resource, including its possible eligibility for listing in the National Register of
8 Historic Places, and subsequent recordation and notification of relevant
9 parties based upon the results of the assessment. Title to all abandoned
10 shipwrecks, archaeological sites, and historic or cultural resources on or in
11 the tide and submerged lands of California is vested in the State and under
12 the jurisdiction of the CSLC. The final disposition of archaeological, historical,
13 and paleontological resources recovered on State lands under the jurisdiction
14 of the CSLC must be approved by the Commission.

15 **c) Cause a substantial adverse change in the significance of a tribal cultural**
16 **resource as defined in Public Resources Code section 21074?**

17 **Less than Significant Impact.** The term tribal cultural resource includes
18 consideration of the resource’s cultural value to a California Native American
19 tribe in addition to the resource’s scientific and archaeological values (Table 3.5-
20 1), and can include sites, features, places, landscapes, sacred places, and
21 objects. CSLC’s Executive Officer sent letters on October 2, 2015 notifying the
22 Native American Representatives of the Project (Appendix N). Based on
23 information collected and investigations conducted for the EA/MND analysis
24 there do not appear to be any known tribal cultural resources in the area that
25 would be affected by the Project, as nothing was identified in the 2011 survey,
26 nothing reported as included or eligible for inclusion in the California Register of
27 Historical Resources, nothing reported as included in local registers of historical
28 resources, and nothing resulting from CSLC’s Executive Officer’s October 2,
29 2015 notification letters sent out to the known tribes in the region.

30 As discussed in detail in the Environmental Setting section above, Reclamation
31 conducted a pedestrian surface survey in 2011 that did not identify
32 archaeological sites in the Project area, sent notifications to Federally recognized
33 tribes pursuant to Federal consultation provisions on or around May 20, 2015,
34 and was provided a Sacred Lands File search report by the NAHC that did not
35 identify Native American traditional cultural places or properties in the Project
36 area (although it noted that the Project site may be considered “culturally
37 sensitive” by local tribes). CSLC also sent notification letters of the proposed
38 Project on October 2, 2015 to the Federally recognized and non-Federally
39 recognized tribes with cultural affiliation in the Project area identified by the
40 NAHC in order to solicit input related to potential tribal cultural resources.

1 **d) Directly or indirectly destroy a unique paleontological resource or site or**
2 **unique geologic feature?**

3 **Less than Significant Impact.** The 2011 Phase I (Appendix H) determined that
4 there is no potential for the presence of paleontological resources within the site.

5 **e) Disturb any human remains, including those interred outside of formal**
6 **cemeteries?**

7 **Less than Significant with Mitigation.** There are no known existing cemeteries,
8 previously recorded Native American or other human remains within or directly
9 adjacent to the Project. The Project work would be in area that contains sediment
10 spoils from dredging and bankline/levee maintenance. Additionally, these areas
11 are already being disturbed by the OHVs in the area. Therefore, the potential for
12 the inadvertent discovery of Native American or other human remains during
13 subsurface activity associated with the Project is considered extremely low.
14 However, if previously unidentified human remains were discovered during
15 Project activities, the impact would be potentially significant. Implementation of
16 **MM CUL-2**, however, would ensure this potential impact remains less than
17 significant.

18 **MM CUL-2: Discovery of Unanticipated Human Remains.** If human
19 remains are encountered during implementation of the Project, all provisions
20 provided in California Health and Safety Code section 7050.5 and California
21 Public Resources Code section 5097.98 shall be followed. Work shall stop
22 within 100 feet of the discovery and a qualified Cultural Resources Specialist
23 must be contacted immediately, who shall consult with the County Coroner. In
24 addition, CSLC staff shall be notified. If human remains are of Native
25 American origin, the County Coroner shall notify the NAHC within 24 hours of
26 this determination and a Most Likely Descendent shall be identified. No work
27 is to proceed in the discovery area until consultation is complete and
28 procedures to avoid and/or recover the remains have been implemented.

29 **3.5.4 Environmental Consequences (NEPA)**

30 **No Action Alternative**

31 The No Action Alternative would have no impacts to Cultural and Paleontological
32 Resources/Traditional Cultural Properties/Sacred Sites since no archaeological
33 materials or cultural properties were identified. The Project area would not be altered
34 and would remain in its current condition. The LCR MSCP ecological site restoration
35 would not occur at this location on the River.

36 **Proposed Action (Project)**

37 The implementation of the Project would not have impacts to Cultural and
38 Paleontological Resources/Traditional Cultural Properties/Sacred Sites because no
39 previously recorded archeological materials, Traditional Cultural Properties, or historical

1 properties have been identified in the Project area due to its origin as sediment spoils
2 resulting from dredge and backline/levee maintenance.

3 Reclamation's efforts, with the concurrence of the NAHC and ongoing consultations with
4 the Tribes and the SHPO, to identify and evaluate archeological materials, TCPs, and
5 historical properties have resulted in no cultural resources identified within the Project
6 area. Additionally, no sacred sites have been identified within the Project area.

7 **Cumulative Impacts**

8 Cumulative impacts are not anticipated to Cultural and Paleontological
9 Resources/Traditional Cultural Properties/Sacred Sites as a result of the implementation
10 of the Project since no cultural resources, TCPs, or historic properties have been
11 identified within the Project area.

12 **3.5.5 Mitigation Summary (CEQA Only)**

13 Implementation of the following mitigation measures would reduce the potential for
14 Project related impacts to Cultural and Paleontological Resources/Traditional Cultural
15 Properties/Sacred Sites to less than significant.

- 16 • MM CUL-1: Discovery of Unanticipated Cultural Resources
- 17 • MM CUL-2: Discovery of Unanticipated Human Remains