

4.5 Cultural and Tribal Cultural Resources

This section analyzes potential impacts to cultural and tribal cultural resources that would be caused by implementation of the Project. This includes impacts to prehistoric archaeological sites, historic-era structures and buildings, and the potential for newly discovered archaeological resources, which could potentially be impacted by demolition, excavation, and/or remediation activities associated with the Project.

This section also describes the environmental setting, regulatory setting, identifies the applicable significance thresholds for impacts, assesses potential impacts of the Project, and recommends measures to mitigate any significant impacts, if applicable. The section also provides a discussion of cumulative impacts. Alternatives are discussed in Chapter 5.0, Alternatives.

As described in Chapter 2.0, Project Description, the Project would include the demolition of aboveground infrastructure and remediation of the site, followed by surface stabilization, re-hardening or revegetation of disturbed areas, with some minor long-term operations associated with remediation.

4.5.1 Environmental Setting

The following discussion is provided as a framework for the types of known cultural resources, and the types that may occur, within the Project vicinity.

4.5.1.1 Prehistoric and Cultural Setting

California prehistory can be generally divided into four geological time periods: Terminal Pleistocene, Early Holocene, Middle Holocene, and Late Holocene, as described below.

Terminal Pleistocene (13,500–11,700 B.P.) through Early Holocene (11,700–8,200 B.P.)

Occupation of the California coast occurred by at least 12,000 years Before Present (B.P.), with the earliest radiocarbon dates coming from the Santa Barbara Channel Islands as evidenced by Daisy Cave (CA-SMI-261) on San Miguel Island and the Arlington Spring site (CA-SRI-1730) on Santa Rosa Island (ERM 2022). These sites indicate a maritime adaptation that emphasized exploitation of marine mammal and shellfish. On the mainland, the Rancho La Brea tar pits contain some of the most well-known early sites, while radiocarbon dates from Malaga Cove (CA-LAN-138) suggest occupation occurred as at least as far back as 10,000 B.P.; however, disagreements about methodologies render the results somewhat inconclusive (ERM 2022). These sites also roughly correspond with the presence of large projectile points and the lack of grinding implements, potentially a more mobile population that practiced seasonal exploitation of large terrestrial and marine mammals. No Terminal Pleistocene archaeological sites or fluted projectile points, often characteristic of this period, have been identified around the Guadalupe-Nipomo Dunes Complex and vicinity. This is potentially due to the small archaeological manifestation of a small and highly mobile population, who may have resided along the coast and whose sites have been eroded or inundated (ERM 2022).

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The Early Holocene represents semi-mobile hunter-gatherers utilizing marine, lacustrine, and terrestrial resources. The chronology at the Cave of the Chimneys site (CA-SMI-603) on San Miguel Island is one of the best-preserved Early Holocene sites that has produced radiocarbon samples indicating continuous site occupation that spanned more than 7,000 years (ERM 2022). Characteristic artifacts change to include milling tools, including handstones and slabs, large core and cobble implements, flake tools, and bifaces.

Middle Holocene (8,200–4,200 B.P.)

Preservation differences and population expansion along the California coast and into the interior regions likely account for the increasing number of Middle Holocene sites. Sites from the Middle Holocene are characterized by the change to a more diversified subsistence regime, with an emphasis on marine resources, such as seeds, nuts, and grasses and supplemented by hunting a broad range of small- to medium-size terrestrial mammals. This emphasis enabled larger, semisedentary populations to establish around coastal inlets and estuaries. Midden deposits at coastal and inland sites begin to appear in the archaeological record with some frequency during this period, suggesting longer occupation of single sites and residing for longer periods, as part of seasonal subsistence activities. Mortars and pestles began appearing in greater numbers, while inversely, larger milling slabs decreased in number, projectile points diminished in size, and shell beads and ornaments were introduced. Adaptation during this period is more diverse, with a wider range of site locations, including coastal and inland.

Late Holocene (4,200–180 B.P.)

The Late Holocene represents a marked increase in population and social, political, and economic complexity. During the late Holocene, California experienced a growth in population overall, and ethnographic and archaeological data indicate villages were able to support larger groups and became increasingly more sedentary in their lifeways. Ritual and ceremonial activity had an increasingly prominent role in societies, indicated by the occurrence of ritual or ceremonially associated items becoming more prolific and mortuary items becoming increasingly more elaborate and highly stylized. Political systems, particularly along the coast, grew in importance and influence in the region.

Subsistence practices among coastal groups emphasized marine resources, such as shellfish, including abalone, California mussel (*Mytilus californianus*), and Pismo clam (*Tivella stultorum*), vast kelp forests, marine mammals, and fish. Fishing grew in importance during this time with a particular emphasis on pelagic fish species (i.e., fish species that inhabit the water column of coasts, open oceans, and lakes). Evidence for important technological innovations such as the shell fishhook and the plank canoe, or “tomol,” are associated with this period and provided the means for greater diversity in food sources and likely had a profound impact on the prehistoric economic and social structure. Inland groups’ emphasis on hunting terrestrial mammals such as deer and rabbit continued during this time, as well as exploitation of freshwater shellfish and fish. Plant resources, particularly acorns and chia, became an increasingly important staple food among both inland and coastal groups during this period. Ground stone use continued to gradually shift during this time away from milling implements (i.e., manos and metates) and toward mortar and pestle use.

This period saw many advancements in tool technology, including innovations such the bow and arrow. Regional stylistic trends in chipped stone tools also emerged during this time, along with

craft specialization among some California groups. Exotic materials were more prolific in assemblages from this period and have been linked to the growing complexity and reliance of trade networks that connected California groups along the coast and throughout the inland areas. Ornamental goods, such as pendants, effigies, and beads produced from soapstone; and shells, including abalone, olivella, and Pismo clam; appeared in greater densities among assemblages during this time. Bone was also being used for tools and other ceremonial or status items including bone awls, drills, hair pins, and whistles.

Historic/Mission Period

The Santa Maria Refinery (SMR) property has been occupied by humans for at least 10,000 years. In historic times, the area was inhabited by the Obispeño Chumash, one of a group of linguistically related societies inhabiting the region between San Luis Obispo County (County) and northwestern Los Angeles County. Missionization devastated these populations, and European settlers dominated the area during the Mexican period (1821–1848) and the American period (post-1848).

The Project site and surrounding areas have been largely agricultural from the earliest settlements until the present, even as control passed from the Spanish to the Mexican government and then to the U.S. government. Very little infrastructure that could constitute historic cultural resources was ever constructed. One exception is the railroad main line, which reached the Guadalupe area in 1885 and was completed by the Southern Pacific Railroad in 1900 as the Coast Line between Los Angeles and San Francisco. Another exception would include the SMR itself (refer to Section 4.5.1.5, Previous Investigations).

4.5.1.2 Historical Development in the Project Region

Modest developments have occurred on the land since the Nipomo Rancho Land Grant (Rancho Nipomo) was given to William G. Dana. Mr. Dana was an “Alcalde,” an annually elected position. The Alcalde had a supportive role in a town and would act as presiding officer in the absence of a Corregidor or other municipal or administrative office. The Nipomo Rancho Land Grant, like all the lands gifted under the Land Grant system during the Mexican period, was focused on raising livestock on the lands, primarily cattle and sheep. The Rancho was revered as a hospitable stopover for travelers and evolved into being a designated exchange point on California’s first U.S. mail route in 1847. Notable guests to the Rancho included Captain John C. Fremont, Edwin Bryant, and General Henry W. Halleck (ERM 2022).

4.5.1.3 Project Site Historical Development and Aerial Photograph Review

Topographic maps from 1897 to the present were reviewed to examine the land use and built environment in the Project vicinity. The 1897 Arroyo Grande United States Geological Survey (USGS) 1:62,500 topographic map shows the Southern Pacific Railroad (Guadalupe Line) extending through the Project site, as well as a few roads but no structures. Railroad stops were located at Callender to the north and Bromela to the south of the Project site. Within the 1900 San Luis USGS 1:125,000 topographic map, the Project site also shows no structures. By 1942, a few structures were located just outside the Project boundary but none within it, and agricultural development appears to have begun northeast of the Project site. The 1952 Arroyo Grande USGS 1:62,500 topographic map shows small clusters of structures around Callender and Bromela and

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to the southeast of Callender, along the northeast boundary of the Project site. There were still no structures within the Project site in 1952 (ERM 2022).

Historic aerial imagery from 1956 shows that the oil refinery in the Project site had begun being built at some point in between the publication of the 1952 USGS map and the 1956 aerial imagery. The 1965 Oceano USGS map labels some of the features within the refinery, which include buildings, coke ovens, a conveyor belt, wastewater ponds, tanks, and a water tower. The 1965 USGS map and 1963 aerial photographs show that residential development was occurring northeast of the Project site, but only dirt roads and scattered industrial buildings such as sheds and well pads were located within the SMR property. South of the property were agricultural fields. This pattern has continued to the present. Periodic changes to the buildings and facilities at the SMR site are evident from aerial photographs between 1956 and 2018, but the overall layout and footprint of the site has not changed significantly (ERM 2022).

4.5.1.4 Literature and Records Search

ERM conducted a records search for the Project and reviewed results from previous record searches conducted in or near the Project site. Additional data included historical registries and databases of significant cultural resources, historical society archives and inventories, previously identified archaeological sites, architectural resources, and cultural resource studies. Historical registries were consulted to determine the presence of culturally significant resources within the Project site that may have been recently found eligible for listing in an historical register. An ERM archaeologist requested background research from the California Historic Resources Information System in 2022, within a 0.25-mile radius of the Project site.

USGS topographic quadrangles, historic maps, aerial photographs, and soil data were also reviewed to assess the portions of the Project site that may possess a higher potential for containing previously unidentified archaeological sites.

4.5.1.5 Previous Investigations

ERM completed a review of literature and archival data pertaining to the Project site and did not reveal any significant cultural resources that had been identified in previous studies. Previous studies within the vicinity of the Project site conducted by Stantec in 2012, Arcadis in 2013, and Applied Earthworks in 2014 were also reviewed. ERM requested background research from the California Historic Resources Information System in 2022, which revealed 15 reports within a 0.25-mile radius of the Project site. Of these, eight intersect the Project site. The 15 reports, including the four separate iterations of SL-02516, are detailed in Table 4.5.1, below.

Table 4.5.1 Previous Investigations Within 0.25 mile of the Project Site

Number	Year	Author	Title of Study
SL-00035*	1979	Spanne, L.	Archaeological Investigation of the Union Oil Company Santa Maria Refinery, San Luis Obispo, California. Archaeological Survey

Table 4.5.1 Previous Investigations Within 0.25 mile of the Project Site

Number	Year	Author	Title of Study
SL-00443	1981	Spanne, L.	Archaeological Evaluation of a Proposed Subsurface Pipeline Route, Nipomo Mesa, San Luis Obispo County, California
SL-00587*	1984	MacFarlane, H.	Addendum: Cultural Resources Survey, San Miguel Project, Onshore Pipeline and Facility Site, San Luis Obispo County, California
SL-00588*	1984	MacFarlane, H.	Addendum: Cultural Resources Investigation, San Miguel Project, Onshore Pipeline and Facility Site, San Luis Obispo County, California
SL-00589*	1985	MacFarlane, H.	Cultural Resources Element, Cities Service Oil and Gas Corporation, San Miguel Project Interconnect All American Pipeline Company Mainline, San Luis Obispo County, California
SL-02516*	1985	PHR Associates	Baseline Study, Technical Report, Historic Resources Study
SL-02516*	1985	PHR Associates	Revised Draft, Technical Report, Historical Resources Study
SL-02516*	1986	URS Corporation	San Miguel Project and Northern Santa Maria Basin Area Study, Final Environmental Impact Statement/Environmental Impact Report
SL-02516*	1986	Gibson, R.	Cultural Resources Survey and Assessment, South Nipomo Mesa Facility Site and Proposed Pipeline Corridors
SL-00679	1986	Waldron, W.	A-Archaeological Survey Report for Curve Improvement on State Highway Route 1 in San Luis Obispo County, Revised B-Negative Archaeological Survey Report C-First Addendum to: (A)original
SL-02516	1987	URS Corporation	Cities Service Oil and Gas Corporation and Celeron Pipeline Company of California San Miguel Project and Northern Santa Maria Basin Area Study, Additional Analysis, Second California Environmental Quality Act (CEQA) Revision to the Final EIS/EIR
SL-01001*	1988	Dills, C.	Letter Report: Archaeological Potential of Your Sheridan Road Lot, Nipomo
SL-01269	1989	Dills, C.	Letter Report: Archaeological Potential of Nipomo Mesa Property
SL-01830*	1990	Dills, C.	Archaeological potential of UNOCAL Refinery improvements
SL-01688	1990	Dills, C.	Archaeological Potential of Brackett Recycling Project on Nipomo Mesa (0691)
SL-01955*	1991	Dills, C.	Archaeological Potential of Sand Excavation Project at the Refinery
SL-02187	1991	Anastasio, R.L.	Archaeological Surface Survey, 2351 Willow Road, Arroyo Grande, San Luis Obispo County, CA Parcel 1, Lot 20, Division "A", Pomeroy's Resubdivision of Part of the Los Berros Tract APN 091-341-046
SL-05903	2005	Gibson, R.O.	Results of Archival Records Search and Phase One Surface Survey for the Sheridan Road Industrial Park Project, Nipomo Mesa, San Luis Obispo County, CA
SL-05833	2006	Lober, A.	Phase I Archaeological Inventory Survey a One Acre Parcel at 790 Calle Bendita, Oceano, San Luis Obispo County, California

*Previous studies that intersect with the Project site.

Source: California Historic Resources Information System 2022

Previously Identified Cultural Resources within 0.25 Mile of the Project Site

Archaeological Resources

No archaeological resources have been identified within the Project site or 100-foot buffer; two are within 0.25 mile and are discussed further below.

CA-SLO-1189H

Historic archaeological site CA-SLO-1189H is within the 0.25-mile buffer of the Project site (specific location withheld for confidentiality reasons). It is a historic site, possibly dating to pre-1920. It consists of a low-density collection of glass, bolts, and Pismo clam shells on a natural low knoll adjacent to a marshy area. No evidence of structures or features is associated with this site. While the site has not been evaluated for the California Register of Historical Resources (CRHR) or National Register of Historic Places (NRHP), it appears that it would offer little research value.

CA-SLO-1190

Prehistoric archaeological site CA-SLO-1190 was extensively studied during the previously proposed Phillips 66 Rail Spur Project. The resource was observed within one mile from the currently planned demolition and remediation work area. The resource consists of marine shell, lithic artifacts and debitage, fire-affected rock (i.e., hearth stones), and midden soil.

Historic/Built Environment Resources

The SMR is more than 50 years old, having been developed starting in the 1950s. Site development at that time included extensive grading and filling (to level the site) and excavation (for piping and foundations). The buildings and equipment at the SMR have been modified over the decades. A cultural resources assessment for the Phillips 66 Company Rail Spur Extension Project concluded that the SMR is not eligible for listing in the CRHR or NRHP (County 2015).

4.5.1.6 Native American Heritage Commission Consultation

A Sacred Lands File search was requested from the Native American Heritage Commission (NAHC) on April 13, 2023. The NAHC responded on April 28, 2023, indicating the results were “positive” but provided no further detail. The NAHC also included a list of local tribal contacts. The NAHC response was provided to the County for its use during Assembly Bill (AB) 52 consultation, which is discussed in further detail in the following sections.

In addition, during the Project Notice of Preparation (NOP) public review period, the County received a letter from the NAHC dated May 2, 2023, that stated that the NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed Project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

4.5.1.7 Field Survey

The cultural resource field inventory of the Project site and surrounding areas within the existing SMR fence line was conducted by walking parallel transects using a survey interval of no more than 15 meters. The archaeologist surveyed the areas within the fence line that encompass the SMR

and included undisturbed and developed areas. Evidence for buried cultural deposits was sought through inspection of natural or artificial exposures of soil stratigraphy and in the spoils from rodent burrows. Representative photographs were taken to indicate the landscape setting.

Of the 218 acres of land within the Project site, approximately 2/3 of the area was sufficiently exposed to allow a surface survey. Although much of the working Refinery is surfaced in asphalt, asphalt slurry, base or concrete, ground visibility during the pedestrian reconnaissance was estimated at roughly 75 percent across the portions of the Project site that was subject to survey. Areas within the fence line consisted of coastal dune scrub and transitional zone habitat, and densely packed shrubs interspersed with scattered areas of grasses, forbs, and open sand. The developed areas consisted of paved roadways surrounding the SMR work areas filled with equipment, structures, stockpiles and accessways separated by open or vegetated patches with occasional modern debris or trash. Portions of the SMR site within the defined Project boundary were excluded from the survey due to existing hardscape cover or structures. This included the refinery infrastructure buildings, paved roads, and parking areas within the SMR. The coke stockpile area to the south covers or obscures nearly a quarter of the Project site. Open areas with low or no surface visibility within the fence line consisted of coastal dune scrub transitional zone habitat; these areas were not surveyed.

4.5.1.8 Historic Architectural Survey

Arcadis surveyed the SMR previously in 2012 and found that the location of the SMR was chosen due to its proximity to the Santa Maria Oil Fields, with railway and highway access. Construction began in 1953, although the San Luis Obispo Tax Assessor notes 1955 as the build date. Arcadis claimed major upgrades to the facility occurred in 1976 with the addition of an effluent treatment unit. Additional upgrades from 1976 to 1994 were completed to increase output and minimize environmental impacts. Arcadis estimated that less than 20 percent of the original facility remained in place. ERM visited the site on March 10 and 11, 2022. Some of the original structures, present in a 1956 historic aerial and 1965 USGS topographic map, are no longer extant. This includes six structures located southwest of the oil storage tanks. In addition, the administration buildings on the western end of the resource appear to feature minor additions built between 1976 and 1994. The cooling towers, oil storage tanks, sewage disposal ponds, and coke ovens appear to be in the same location as the 1956 aerial but feature material upgrades. Currently, the SMR consists of gabled structures with metal roof and siding. Arcadis noted that as of 2012, 80 percent of the facility was not original, and of the 89 permanent buildings within the facility, only 14 were greater than 50 years old. This is most likely attributed to the large expansion between 1979 and 1994. Upgrades to the original structures appear to be mostly internal or include material replacements, as their footprints have not been substantially altered (ERM 2022).

Arcadis recommended the resource is not eligible for listing under the California Register of Historical Resources (See Section 4.5.2.2 for information on historic resource eligibility) due to the expansions of and modifications to the facility, which are not historic (Arcadis 2013). Arcadis also noted the SMR's influence on the success and productivity of the communities associated with the Santa Maria Valley. While the construction of modern structures underscores the evolution and continuing use of the SMR, they have diminished the resource's integrity of setting and design. Furthermore, the material replacements and change in many of the original structure's

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function have compromised the resource's integrity of material and feeling. In addition, the SMR was not found to have any associations to significant people. Thus, the SMR was determined not eligible for the CRHR under Criteria 2 or 3 (ERM 2022). Although the SMR contributed to the success of some of the communities in the surrounding area, the SMR is one of many in the state and not a distinguished example of architectural history due to its alterations and is not expected to provide or have potential to provide important information pertaining to architectural prehistory or history. Therefore, the SMR is also not eligible under Criterion 1 or Criterion 4 (ERM 2022).

4.5.2 Regulatory Setting

4.5.2.1 Federal Regulations

No federal laws are anticipated to be applicable to the Project.

4.5.2.2 State Regulations

California Environmental Quality Act

CEQA requires a lead agency (in this case the County) to determine whether a project may have a significant effect on historical resources. Sections 21083.2 and 21084.1 of the Statutes of CEQA, Public Resources Code (PRC) Section 5024.1, and Section 15064.5 of the State CEQA Guidelines were used as the guidelines for the cultural resources study. PRC Section 5024.1 requires that any properties that can be expected to be directly or indirectly affected by a proposed project be evaluated for CRHR eligibility. The purpose of the CRHR is to maintain listings of the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from material impairment and substantial adverse change. The term "historical resources" includes a resource listed in, or determined to be eligible for listing in, the CRHR; a resource included in a local register of historical resources; and any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant (State CEQA Guidelines Section 15064.5(a)). The criteria for listing properties in the CRHR were expressly developed in accordance with previously established criteria developed for listing in the NRHP.

According to PRC Section 5024.1(c)(1–4), a resource may be considered historically significant if it retains integrity and meets at least one of the following criteria. A property may be listed in the CRHR if the resource:

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 the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region or method of installation, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history.

Under CEQA, if an archaeological site is not a historical resource but meets the definition of a “unique archeological resource” as defined in PRC Section 21083.2, then it should be treated in accordance with the provisions of that section. A unique archaeological resource is defined as:

An archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

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

Resources that neither meet any of these criteria for listing on the CRHR nor qualify as a unique archaeological resource under CEQA PRC Section 21083.2 are viewed as not significant. Under CEQA, “A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects” (PRC Section 21083.2(h)).

Impacts that adversely alter the significance of a resource listed in or eligible for listing in the CRHR are considered a significant effect on the environment. Impacts to historical resources from the Project are thus considered significant if the Project physically destroys or damages all or part of a resource, changes the character of the use of the resource or physical feature within the setting of the resource that contributes to its significance, or introduces visual, atmospheric, or audible elements that diminish the integrity of significant features of the resource.

Assembly Bill 52

Signed into law in July 2015, AB 52 was enacted to guarantee that tribal cultural resources are protected to the largest extent possible throughout the development process. Tribal cultural resources are defined by PRC Section 21074 as follows:

- 1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*
 - a. Included or determined to be eligible for inclusion in the California Register of Historical Resources.*
 - b. Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.*
- 2. 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 Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead*

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agency shall consider the significance of the resource to a California Native American tribe.

3. *A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.*
4. *A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “non-unique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).*

If tribal cultural resources are identified within a project site, impacts must be avoided or mitigated to the extent feasible. AB 52 protects these resources by requiring that lead agencies seek tribal consultation prior to the release of any CEQA documentation. Lead agencies must notify tribes traditionally and culturally affiliated with a potential project area within 14 days of a development application being complete. Upon this initial notification, tribes would confirm consultation within 30 days of notification if consultation is deemed necessary. AB 52 also requires updates to the CEQA Guidelines Appendix G environmental checklist to include a section to formally analyze tribal cultural resources during environmental review.

California Native American Heritage Commission

PRC Section 5097.91 established the NAHC, whose duties include the inventory of places of religious or social significance to Native Americans and the identification of known graves and cemeteries of Native Americans on private lands. PRC Section 5097.98 specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a county coroner.

California Public Records Act

Sections 6254(r) and 6254.10 of the California Public Records Act, within the California Government Code, were enacted to protect archaeological sites from unauthorized excavation, looting, or vandalism. Section 6254(r) explicitly authorizes public agencies to withhold information from the public relating to “Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.” Section 6254.10 specifically exempts from disclosure requests for “records that relate to archaeological site information and reports, maintained by, or in the possession of the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the NAHC, another State agency, or a local agency, including the records that the agency obtains through a consultation process between a Native American tribe and a State or local agency.”

California Health and Safety Code Sections 7050 and 7052

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

California Penal Code Section 622.5

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

California Public Resources Code Section 5087.5

PRC Section 5097.5 defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historical, or paleontological resources located on public lands.

4.5.2.3 Local Regulations

County of San Luis Obispo Coastal Zone Land Use Ordinance

The County has a vital interest in preserving its many older buildings, and prehistoric and historic sites, which not only represent the heritage of the County, but also help define the character of the region today. The Coastal Zone Land Use Ordinance (CZLUO) includes requirements for the protection of known cultural resources and implementation of mitigation measures to minimize potential impacts on known and unknown resources. In addition to County General Plan and ordinance requirements, Local Coastal Plan policies address protection of cultural resources consistent with the requirements of the California Coastal Act (1976).

4.5.3 Thresholds of Significance

CEQA guides lead agencies to protect and preserve resources with cultural, historic, scientific, or educational value. State CEQA Guidelines Section 15064.5 provides significance threshold criteria for determining a substantial adverse change to the significance of a cultural resource. In addition, Appendix G of the CEQA Guidelines provides additional guidance in determining a project's impact on cultural resources. The information provided in the CEQA guidelines has been used to develop the significance criteria for cultural resources.

The Project would be considered to have a significant effect on cultural resources if the Project would:

- a. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5;
- b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- c. Disturb any human remains, including those interred outside of dedicated cemeteries.

The Project would be considered to have a significant effect on tribal cultural resources if the Project would:

- d. 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

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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 the local register of historical resources as defined in Public Resources Code Section 5020.1(k), or
- 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, the lead agency shall consider the significance of the resources to a California Native American tribe.

Each of these thresholds is discussed under Section 4.5.5, Project-Specific Impacts and Mitigation Measures, below.

4.5.4 Impact Assessment Methodology

Information sources used to inform the impact analysis of this section included literature and data review, background research, and the Cultural Resources Study prepared for the Project (ERM 2022). The Cultural Resources Study was prepared in accordance with the California Office of Historic Preservation *Archaeological Resource Management Reports Guidelines, Guidelines for Archaeological Research Designs, Instructions for Recording Historical Resources, and The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* [48 *Federal Register* 190 pp. 44716–44740]. The report included a records search from the California Historic Resources Information System (CHRIS) via the Central Coast Information Center (CCIC) as well as a review of historic registries and databases of significant cultural resources, historic society archives and inventories, and previously identified archaeological sites. USGS topographic quadrangles, historic maps, aerial photographs, and soil data were also reviewed to assess the portions of the Project site that may possess a higher potential for containing previously unidentified archaeological sites (ERM 2022). The Cultural Resources Study also included a cultural resources field inventory of the Project site, as described under Section 4.5.1.7 above.

Generally, intact cultural and historic deposits are considered significant. Severely disturbed or mixed deposits often are not considered significant but may have educational value. Human remains and associated goods are accorded special consideration, and even when fragmentary are considered significant (ERM 2022).

Impact analysis for tribal cultural resources was also informed by the County's consultation with California Native American tribes in accordance with AB 52 (ongoing as of February 2024). The concerns and recommendations of the local Native American tribes were essential to the development of the tribal cultural resources mitigation measures provided in the following section, Project-Specific Impacts and Mitigation Measures.

4.5.5 Project-Specific Impacts and Mitigation Measures

4.5.5.1 Cultural Resources

Impact #	Impact Description	Residual Impact
CT.1	Threshold a): Would the Project cause a substantial adverse change in the significance of a historical resource?	Class III

According to PRC Section 5024.1(c)(1–4), a resource may be considered historically significant if it retains integrity and meets at least one of the following criteria. A property may be listed in the CRHR if the resource:

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 the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region or method of installation, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history.

The SMR facility is more than 50 years old, having been developed starting in the 1950s. Site development at that time included extensive grading and filling (to level the site) and excavation (for piping and foundations). The buildings and equipment at the SMR have been modified over the decades. While the SMR has had notable influence on the success and productivity of the communities associated with the Santa Maria Valley, the SMR is not eligible for listing as a historic resource under the CRHR due to the fact that it is one of many in the state and is not a distinguished example due to the expansions of and modifications to the facility over the years, which are not historic. Although the construction of modern structures underscores the evolution and continuing use of the SMR, they have diminished the resource’s integrity of setting and design. Furthermore, the material replacements and functional changes in many of the original structures have compromised the resource’s integrity of material and feeling. In addition, the assessment did not reveal any associations with significant people or specific events (ERM 2022). Based on these findings, the SMR is not eligible for listing under Criterion 1, 2, 3, or 4, and impacts to historic resources would be **less than significant (Class III)**.

Impact #	Impact Description	Residual Impact
CT.2	Threshold b): Would the Project result in a substantial adverse change in the significance of previously undiscovered archaeological resources?	Class II

A review of relevant literature and records at the Central Coast Information Center, historical registries, historic aerial photographs, and archival materials indicate that while eight previous studies conducted between 1979 and 1991 overlapped with the Project site, no previously recorded

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archaeological resources were located within the Project site. No new archaeological sites or finds were identified during recent field surveys of the visible portions of the Project site and immediately surrounding areas (ERM 2022).

However, proposed demolition and soil remediation activities associated with the Project could unearth previously unknown archaeological sites or resources that may have been moved or buried during the original construction, and that are not detectable from the ground surface. In areas that do not require soil remediation, only the aboveground features (except those identified in Section 2.4.7) would be removed and the surface hardscapes (concrete, asphalt, compacted base/gravel, or asphalt emulsion coating covering banks and berms) and belowground infrastructure would be left in place. There would be no earthmoving or site restoration in the areas not requiring remediation. The retention of hardscape and limited disturbance where no contamination is found would limit the potential for encountering previously unknown sites or artifacts. However, as the core drilling performed for soil testing would include all areas of the site, the core samples could provide evidence of previously unknown sites.

Mitigation measures CT.2-1, CT.2-2, CT.2-3, CT.2-4, and CT.2-5 have been identified to: 1) require retaining a qualified archaeologist (CT.2-1); 2) require retaining archaeological monitors (CT.2-2); require the development of a Cultural Resources Monitoring and Discovery Plan (CT.2-3); include procedures to be followed in the event of a unanticipated discovery (CT.2-4); and require the development and implementation of a Cultural Resources Worker Environmental Awareness Program (WEAP) training for Project workers (CT.2-5). With implementation of these measures, the Project would not result in significant impacts to archaeological resources.

Mitigation Measures

CT.2-1 *Retain County-qualified Project Archaeologist:* *At the time of application for County demolition or construction permits, a Project Archaeologist whose training and background conforms to the US Secretary of the Interior’s Professional Qualifications Standards, as published in Title 36, Code of Federal Regulations, part 61 (36 C.F.R., part 61) shall be retained by the Applicant or its designee to prepare and oversee a Cultural Resources Monitoring and Discovery Plan (CT.2-3), the Cultural Resources Environmental Awareness Program (CT.2-5) training, and manage all cultural resources monitoring, mitigation, and curation, if necessary, activities for the Project.*

A copy of the Project Archaeologist’s qualifications shall be provided to the County of San Luis Obispo Planning and Building Department (County) for review and approval. The qualifications of the Project Archaeologist shall be appropriate to the needs of the Project and demonstrate prior experience on the Central Coast of California. The Project Archaeologist’s qualifications shall be provided by the County to the Tribes designated point of contact with whom the County conducted Assembly Bill (AB) 52 consultation for the Project (hereinafter referred to as “appropriate consulting Tribes”) for review and comment prior to approval by the County.

Submittal Timing: *At the time of application for County demolition and construction permits. **Approval Trigger:** Submittal of County permit applications. **Responsible Party:** The Applicant or designee. **What is required:** Submittal of proposed Project*

Archaeologist qualifications. **To whom it is submitted and approved by:** County Department of Planning and Building.

CT.2-2 **Retain County-qualified Project Archaeological Monitors:** Prior to application for County demolition or construction permits, Project Archaeological Monitors shall be retained by the Applicant or its designee to assist in the monitoring, mitigation, and curation activities for the Project. The Monitors shall have the following minimum qualifications:

1. A BS or BA degree in anthropology, archaeology, historic archaeology, or a related field and two years' experience monitoring in California including demonstrated experience with coastal cultural resources. Preference will be given to those with demonstrated experience along the coast of Central California; or
2. An AS or AA degree in anthropology, archaeology, historic archaeology, or a related field and four years' experience monitoring in California including demonstrated experience with coastal cultural resources. Preference will be given to those with demonstrated experience along the coast of Central California; or
3. A BS or BA degree and enrollment in graduate level classes pursuing a Master's degree in the fields of anthropology, archaeology, historic archaeology, or a related field and two years of monitoring experience in California including demonstrated experience with coastal cultural resources. Preference will be given to those with demonstrated experience along the coast of Central California. If the Monitor's undergraduate degree is not in anthropology, archaeology, or a related field, two graduate classes in anthropology or archaeology must have been completed prior to the Monitor working on site.

A Monitor with a degree in historic archaeology must also have completed coursework in anthropology or archaeology and have demonstrated experience monitoring for California prehistoric archaeological resources.

A copy of each Monitor's qualifications shall be provided to the County for review and approval. Each Monitor's qualifications shall be provided by the County to the appropriate consulting Tribes for review and comment prior to approval by the County.

Submittal Timing: Prior to the application for County demolition and construction permits. **Approval Trigger:** Issuance of County permit. **Responsible Party:** The Applicant or designee. **What is required:** Archaeological Monitor Qualifications. **To whom it is submitted and approved by:** County Department of Planning and Building.

CT.2-3 **Develop a Cultural Resources Monitoring and Discovery Plan:** At the time of application for County demolition and construction permits, the Project Archaeologist shall develop and submit a Cultural Resources Monitoring and Discovery Plan (CRMDP) to the County for review and approval. No ground disturbing activities can occur until the CRMDP is approved by the County. A draft of the CRMDP shall be provided by the County to the appropriate consulting Tribes and an independent third-

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party County qualified archaeologist for a 45-day review and comment period. No ground disturbance can occur before approval of any construction-related permits by the County.

At a minimum, the CRMDP shall include the following:

- 1. An introduction outlining the project description, purpose for monitoring, summary of resources studies or description of known resources, anticipated construction schedule, anticipated impacts to cultural resources, if discovered, curation, and treatment options. Permanent curation of cultural resources will not take place unless approved in writing by the appropriate consulting Tribes.*
- 2. A description of the monitoring personnel involved with the Project (Project Archaeologist, Archaeological Monitors, and Chumash Tribal Monitors (CT.4-1) and their responsibilities, which shall include but are not limited to:*
 - a. A list of personnel involved in the monitoring activities and their availability;*
 - b. A description of how the monitoring shall occur;*
 - c. A description of how the monitoring schedule will be developed and implemented given that different areas of ground disturbance may occur simultaneously;*
 - d. A description of what resources could be encountered and where they could be encountered; and*
 - e. A description of monitoring reporting procedures.*
- 3. A description of the Cultural Resources Worker Environmental Awareness Program training (CT.2-5) and when and how that will take place.*
- 4. Definition and description of authorities, protocols, and procedures for halting and/or pausing work in order to record, evaluate, and identify any necessary treatment for any cultural resources encountered. This shall include protocols for ensuring all treatment or recovery of cultural resources is completed prior to work resuming in the area of the find.*
- 5. Information that the Project Archaeologist, Archaeological Monitor(s), and the Chumash Tribal Monitor(s) shall have the authority to halt ground disturbing activities in the event cultural resources are encountered as a result of that ground disturbing activity.*
- 6. Details regarding the immediate cessation of ground disturbing activities within a minimum of 100 feet of the discovery of any cultural resources or human remains and measures to delineate the area with clearly visible lath, flagging tape, or other marking. The County and the appropriate consulting Tribes shall be consulted on a determination of significance.*

7. *Notification procedures of unanticipated discoveries of cultural resources including human remains (CT.2-4). The County and appropriate consulting Tribes shall be notified of a discovery as soon as possible but no later than 24 hours of the find. If the discovery occurs on a Friday, the County can be notified the following Monday morning.*
8. *Specific in-field procedures for collecting, handling, and categorizing cultural resources, including human remains, encountered and a detailed process for evaluating unanticipated discoveries.*
9. *Development of a preliminary treatment plan which shall, at a minimum, include:*
 - a. *A description of the treatment options for each type of resource which include, in order of priority: 1) preservation in place, where feasible; 2) the development of a treatment plan, archaeological testing, or data recovery; 3) reburial as close as possible to the location where all artifacts, remains, and/or funerary objects were found; and 4) reburial near the Project site. Any Chumash cultural materials disinterred as a result of this Project shall be curated or reinterred upon determination by the Most Likely Descendant (MLD) after notification by the Project Archaeologist to the appropriate consulting Tribes. Reinternment shall be conducted on a weekly basis or as deemed appropriate by the MLD after notification by the Project Archaeologist to the appropriate consulting Tribes.*
 - b. *The location of a secured, on-site storage area for recovered artifacts and human remains shall be identified before any ground disturbing activities occur. The location shall be determined in consultation with the appropriate consulting Tribes.*
 - c. *In the event of a human remains discovery, the County and appropriate consulting Tribes shall be notified by the Applicant or Project Archaeologist no later than 24 hours of the find along with one of the proposed treatment options outlined above, by the MLD, in consultation with the Applicant. The County and appropriate consulting Tribes shall be given 72 hours from the time of notification to provide comments on the proposed treatment option to the MLD.*
 - d. *In the event human remains are discovered, a Project Osteologist shall be retained by the Applicant or its designee to assist in the identification of any human remains. The Project Osteologist shall have the following minimum qualifications:*
 1. *A graduate degree in archaeology, forensic anthropology, or related discipline, with four years' experience working with archaeological and Tribal Cultural resources in California;*
 2. *If an Osteologist with four years' experience is not available, a candidate with no less than two years' experience may be considered; and*

and Registering Archaeological Properties), and Bulletin 38 (Guidelines for Evaluating and Documenting Traditional Cultural Properties.

Submittal Timing: *At the time of application for County demolition and construction permits. **Approval Trigger:** Issuance of permit. **Responsible Party:** The Applicant or designee. **What is required:** Submittal of CRMDP. **To whom it is submitted and approved by:** County Department of Planning and Building.*

CT.2-4 **Inadvertent Discoveries:** *In the event that Tribal Cultural Resources, archaeological, or cultural resources are exposed during demolition or remediation, all ground disturbing activity occurring within a minimum of 100 feet of the find shall immediately stop until the Project Archaeologist, Archaeological Monitor, and Chumash Tribal Monitor(s) can evaluate the significance of the find and determine, in consultation with the County of San Luis Obispo Planning and Building Department, whether additional study is warranted, including any efforts necessary to delineate the resource boundary.*

The area of the discovery shall be delineated with clearly visible lath, flagging tape, or other marking and the County notified within 24 hours of a discovery. If the discovery occurs on a Friday, the County can be notified the following Monday morning.

Depending upon the significance of the find, the Project Archaeologist or Archaeological Monitor and Chumash Tribal Monitor may record the find and allow work to continue. The County shall be consulted on a determination of significance. If the discovery proves significant under the California Environmental Quality Act (CEQA), every effort will be made to preserve the resource in place, if possible. If avoidance/preservation in place is not feasible, specific resource documentation or recovery shall be implemented in accordance with the treatment options in the CRMDP (CT.2-3), including, but not limited to, the preparation of a treatment plan, archaeological testing, or data recovery.

During the assessment and potential treatment time, construction work may proceed in other areas outside the minimum 100-foot buffer consistent with CT.2-3. Work at the discovery location cannot resume until all necessary investigation and evaluation under CEQA, Tribal consultation, and/or the procedures under PRC Section 5097.98 and Health and Safety Code Section 7050.5 have been satisfied and released by the County. This requirement shall be reproduced on all grading and construction plans for the Project.

Submittal Timing: *During Project demolition and remediation activities. **Approval Trigger:** Notification and consultation with County Planning and Building staff at time of discovery. Issuance of permit. **Responsible Party:** The Applicant or designee. **What is required:** Construction Note on Plans. **To whom it is submitted and approved by:** County Department of Planning and Building.*

CT.2-5 **Cultural Resources Worker Environmental Awareness Program:** *Prior to and for the duration of any ground disturbance, the Applicant or its designee shall provide*

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Cultural Resources Worker Environmental Awareness Program (WEAP) training to all new workers prior to any new worker beginning work on the Phillips 66 SMR site.

The training program shall be developed by the Project Archaeologist with input from appropriate consulting Tribes and may be presented in the form of a video. A draft of the training program shall be provided to the County of San Luis Obispo Planning and Building Department for review and approval no fewer than 135 days prior to any Project-related ground disturbance at the site. A draft of the training program (i.e., video and written materials shall be provided by the County to the appropriate consulting Tribes for a 45-day review and comment period, prior to approval by the County. The training may be conducted concurrent with other environmental training (e.g., biological resources awareness training, safety training, etc.).

The training shall include, at a minimum:

- 1. An overview by a tribal member from the appropriate consulting Tribes;*
- 2. A description of the types of Tribal Cultural Resources, archaeological, and cultural resources that may be encountered during demolition and remediation activities;*
- 3. Steps to follow in the event of an unanticipated discovery;*
- 4. Contact information for the County of San Luis Obispo Planning and Building Department, Project Archaeologist, Archaeological and Chumash Tribal Monitors, and appropriate consulting Tribes;*
- 5. Samples or visual of artifacts that might be found on the site;*
- 6. Information that the Project Archaeologist, Archaeological Monitors, and Chumash Tribal Monitors shall have the authority to halt ground disturbing activities in the event previously unknown, or suspected cultural resources are encountered as a result of that ground disturbing activity;*
- 7. Instructions that workers are to halt work on their own within 100-feet of a potential cultural resource discovery, shall contact their supervisor and the Project Archaeologist or Archaeological Monitor, and that redirection of work shall be determined by the Project Archaeologist and Chumash Tribal Monitors;*
- 8. Emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and discuss appropriate behaviors and responsive actions, consistent with Native American tribal values;*
- 9. An information brochure that identifies reporting procedures in the event of a discovery;*

10. An acknowledgement form signed by each worker indicating that the worker has received the training and will abide by the Project requirements; and

11. A sticker that shall be placed on hard hats indicating that environmental training has been completed.

The Applicant or its designee shall provide to the County, within a Project Monthly Compliance Report (CT.4-2), the WEAP training acknowledgement forms for persons who have completed the training in the prior month and a running total of all persons who have completed the training to date.

Submittal Timing: No more than 135 days prior to Project-related ground disturbance. **Approval Trigger:** Prior to issuance of permits or ground disturbance. **Responsible Party:** The Applicant or designee. **What is required:** Submittal of WEAP. **To whom it is submitted and approved by:** County Department of Planning and Building.

Residual Impacts

Upon implementation of the measures identified above, impacts associated with archaeological resources would be **less than significant with mitigation (Class II)**.

Impact #	Impact Description	Residual Impact
CT.3	Threshold c): Would the Project result in disturbance and destruction of unknown human remains?	Class II

As described under impact CT.2, no known previously recorded archaeological resources are located within the Project site, and the pedestrian field survey did not indicate the presence of any known burial sites within the Project site. Based on the extent of future ground disturbance in areas where soil remediation is required and the known archaeological sensitivity in the Project vicinity, there is some potential for inadvertent discovery of previously unidentified human remains. If human remains were encountered during demolition or remediation activities, the potential for disturbance of these remains would be potentially significant. However, mitigation measures CT.2-1, CT.2-2, CT.2-3, CT.2-4, and CT.2-5 have been identified to: 1) require retaining a qualified archaeologist (CT.2-1); 2) require retaining archaeological monitors (CT.2-2); the development of a Cultural Resources Monitoring and Discovery Plan (CT.2-3); procedures to be followed in the event of a unanticipated discovery (CT.2-4); and the development and implementation of a Cultural Resources WEAP training for Project workers (CT.2-5). In addition, mitigation measure CT.3-1 has been identified to specify the required protocol to be implemented in the event human remains are found during Project activities in accordance with applicable state and local regulations. Implementation of these mitigation measures would ensure avoidance and minimization of impacts related to inadvertent discovery of unidentified human remains during future Project-related demolition and remediation activities.

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Further, the Project would be required to comply with HSC Section 7050.5 and County LUO Section 22.10.040. These policies identify the required protocol to be implemented in the event of inadvertent discovery of human remains, including the cessation of work within the vicinity of the discovery, identification of human remains by the County Coroner, and if the remains are identified to be of Native American descent, contact with the NAHC. The NAHC would determine a MLD to complete an inspection of the site within 48 hours of notification and provide recommendations. The Project would also be required to comply with PRC Sections 5097.94, 5097.98, and 5097.99 for further protection of human remains.

Based on implementation of mitigation measures and required compliance with state and local policies related to inadvertent discovery of human remains, the Project would not result in significant adverse disturbance to human remains.

Mitigation Measures

Implement mitigation measures CT.2-1 through CT.2-5.

CT.3-1 ***Discovery of Human Remains:** In the event human remains are discovered during the Project all Project activity shall immediately cease with a minimum of 100 feet of the discovery site, and the area delineated with clearly visible lath, flagging tape, or other marking. The County and appropriate consulting Tribes must be notified within 24 hours of the find as outlined in the CRMDP (CT.2-3). The Applicant or its designee shall comply with Section 15064.5 (e) (1) of the State CEQA Guidelines, and the procedures described in Section 7050.5 of the California Health and Safety Code. The Project Archaeologist and Project Osteologist with a Chumash Tribal Monitor shall inspect the remains and confirm that they are human, and if so, shall immediately notify the County Coroner in accordance with PRC Section 5097.98 and Health and Safety Code Section 7050.5. Treatment, handling, and storage of remains will follow the protocols outlined in the CRMDP (CT.2-3).*

If the coroner determines the remains are Native American, the coroner shall contact the Native American Heritage Commission (NAHC). As provided in PRC Section 5097.98, the NAHC will notify the person or persons it believes to be the Most Likely Descendent (MLD) from the deceased Native American. The MLD must follow the procedures and preliminary treatment options in the CRMDP and make a recommendation to the County and appropriate consulting Tribes for means of treating, with appropriate dignity, the human remains, and any associated grave goods as provided in PRC Section 5097.98 and as outlined in CT.2-3, above. If more than one MLD is designated for the Project by the NAHC, each MLD shall be consulted regarding the handling of the human remains, and any associated grave goods and/or burial related soils. Burial associated grave goods and soil shall be reinterred with the associated burial. This measure shall be included in the CRDMP.

Submittal Timing: N/A. **Approval Trigger:** N/A. **Responsible Party:** The Applicant or designee. **What is required:** Notification of County and consulting Native American Tribes. **To whom it is submitted and approved by:** N/A.

Residual Impacts

Upon implementation of the measures identified above, impacts associated with disturbance of human remains would be **less than significant with mitigation (Class II)**.

Impact #	Impact Description	Residual Impact
CT.4	Threshold d): Would the Project cause a substantial adverse change in the significance of previously undiscovered tribal cultural resources?	Class II

The County, as the CEQA Lead Agency, provided notification to Native American tribes affiliated with the Project site pursuant to AB 52. On October 6, 2022, an initial AB 52 Project Referral describing the Project and information regarding consultation was sent to the County’s referral consultation list of local tribes:

- Northern Chumash Tribal Council (NCTC) – Violet Sage Walker, Chairperson;
- Salinan Tribe of Monterey & San Luis Obispo Counties (STMSLO), Patti Dunton, Tribal Administrator;
- Xolon Salinan Tribe – Donna Haro; and
- yak tityu tityu yak tilhini Northern Chumash Tribe (ytt) – Mona Tucker, Chairperson.

The County received affirmative responses in October 2022 for consultation from NCTC, STMSLO, and ytt. The Xolon Salinan Tribe did not respond; their territory is north of Morro Bay. Efforts to coordinate meetings were delayed as the Project application had not yet been accepted for processing. On February 27, 2023, the County sent an email notification to these four Tribes with additional information on the Project, including the NOP for EIR scoping meetings, and requested consultation coordination.

The NAHC was contacted in late April 2023 for a records search of Sacred Lands Files (SLF) for the Project. The search results were positive, and NAHC provided an updated list of Tribes affiliated with the Project area. On May 30, 2023, the County sent email and certified USPS mailed letter to the following Tribes, requesting recipients to contact the County to coordinate a consultation as part of EIR scoping:

- Barbareño/Ventureño Band of Mission Indians, Annette Ayala, CRM Committee Chair;
- Barbareño/Ventureño Band of Mission Indians. Dayna Barrios, Chairperson;
- Chumash Council of Bakersfield, Julio Quair, Chairperson;
- Coastal Band of the Chumash Nation, Mia Lopez, Chairperson;
- Coastal Band of the Chumash Nation, Gabe Frausto, Vice Chair;
- Northern Chumash Tribal Council, Violet Sage-Walker, Chairperson;
- Salinan Tribe of Monterey & San Luis Obispo Counties, Patti Dunton, Tribal Administrator;
- Santa Ynez Band of Chumash Indians, Kenneth Kahn, Chairperson; and
- yak tityu tityu yak tilhini Northern Chumash Tribe, Mona Tucker, Chairperson.

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During the public scoping period as specified in the Project NOP (May 4 – June 5, 2023), scoping comments were received from Patti Dunton of the Salinan Tribe of Monterey and SLO Counties via email on May 24, 2023, stating that the Salinan Tribe (STMSLO) had concerns that cultural resources may be impacted by the Project and requesting that all ground disturbing activities for the Project be monitored by a cultural resource specialist from their Tribe. In addition, on May 12, 2023, the County received a scoping comment letter from Sam Cohen of the Santa Ynez Band of Chumash Indians (SYBC) requesting AB 52 consultation.

Site visits to the Phillips 66 SMR were conducted and consultations were held with representatives from the ytt, NCTC, and SYBC. The Salinan Tribe did not respond to a site visit invitation or further consultation requests. The ytt, NCTC, and SYBC expressed concern that there may be undocumented resources or cultural artifacts that underlie the facility structures. The Tribes also stated that the site is considered culturally important to the Chumash tribes as the Central Coast dune complex was utilized for thousands of years. The Refinery was constructed before CEQA was enacted, such that any resources encountered at that time were not required to be reported. Soil remediation activities may disturb soils from the initial construction that may contain unknown resources. The Tribes also requested that the mitigation measures from a recent coastal project AB 52 consultation which began in 2021, be used as a starting point for the SMR Project consultations.

Project-related demolition and remediation activities have the potential to directly impact previously undiscovered tribal cultural resources if they are present within the Project site. Mitigation measures CT.2-1, CT.2-2, CT.2-3, CT.2-4, and CT.2-5 have been identified to: 1) require retaining a qualified archaeologist (CT.2-1); 2) require retaining archaeological monitors (CT.2-2); the development of a Cultural Resources Monitoring and Discovery Plan (CT.2-3); procedures to be followed in the event of a unanticipated discovery (CT.2-4); and the development and implementation of a Cultural Resources WEAP training for Project workers (CT.2-5). In addition, mitigation measure CT.3-1 has been identified to specify the required protocol to be implemented in the event human remains are found during Project activities in accordance with applicable state and local regulations. These mitigation measures would help reduce potential impacts to any tribal cultural resources discovered during Project demolition and remediation activities.

Based on consultation with the Tribes, mitigation measures CT.4-1 and CT.4-2 have also been included to ensure protection of tribal cultural resources in accordance with AB 52 consultations. Implementation of the identified mitigation measures would ensure avoidance and minimization of impacts to previously undiscovered tribal cultural resources. Based on the implementation of identified mitigation measures and required compliance with state and local regulations, the Project would not result in substantial adverse change in the significance of undiscovered tribal cultural resources within the Project site. Therefore, impacts would be less than significant with mitigation.

Mitigation Measures

Implement mitigation measures CT.2-1 through CT.2-5 and CT.3-1.

CT.4-1 ***Retain Chumash Tribal Monitors:*** *At the time of application for any County Grading or Construction Permit, Chumash Tribal Monitors from appropriate consulting Tribes*

shall be retained by the Applicant or its designee to assist in the monitoring, mitigation, and curation activities for the Project.

Submittal Timing: *At the time of permit application; prior to any permit issuance.*
Approval Trigger: *Issuance of permit.* **Responsible Party:** *The Applicant or designee.*
What is required: *Identification of retained Chumash Tribal Monitors **To whom it is submitted and approved by:** County Department of Planning and Building.*

CT.4-2 **Archaeological and Tribal Monitoring:** *During and throughout all Project-related activities, including soil testing, Archaeological Monitors and Chumash Tribal Monitors shall conduct full-time on-site monitoring during all ground disturbing activities, including those occurring in previously disturbed soil and soil sampling associated with remediation activities. Monitoring may not be required during hydroseeding or paving activities, unless an exception is demonstrated as warranted by the Project Archaeologist and approved by the County of San Luis Obispo Planning and Building Department, after consultation with the appropriate consulting Tribes.*

Where multiple areas of work are concurrently permitted for grading or disturbance, or where multiple pieces of equipment are operating within the same work area, there shall be multiple monitors, at least one for each area, and a sufficient number of Archaeological Monitors and Chumash Tribal Monitors shall be on site to ensure all concurrent activities are monitored. The Chumash Tribal Monitors may be rotated to ensure that all appropriate consulting Tribes can observe the areas of work. The Project Archaeologist shall be responsible for creating monitoring schedules for the Archaeological Monitors and Chumash Tribal Monitors, and specifying the locations where they will monitor.

The Archaeological Monitors shall work under the direction of the Project Archaeologist and shall submit daily logs detailing the types of activities, soils observed, and any discoveries to the Project Archaeologist. The daily log shall also identify the nature of any resource found and the method of mitigation treatment. The Project Archaeologist shall prepare a weekly summary report, with all daily monitoring logs appended, on the progress or status of cultural resources related activities which shall be provided to the appropriate consulting Tribes on a weekly basis. The weekly summary reports shall be provided to the County in the Project Monthly Compliance Report.

Cultural resources monitoring activities are the responsibility of the Project Archaeologist. Any interference with monitoring activities, removal of a monitor from duties assigned by the Project Archaeologist, or direction to a monitor to relocate or cease monitoring activities by anyone other than the Project Archaeologist shall be considered a non-compliance event. In the event a Chumash Tribal Monitor is dismissed from monitoring and the County determines this to be in error, the Chumash Tribal Monitor will be compensated for time lost by the Applicant. Any disagreements between the Project Archaeologist and Chumash Tribal Monitors shall be brought to the County's attention for resolution.

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The Project Archaeologist or appropriate consulting Tribes shall notify the Applicant and the County by telephone or email, of any incidents of non-compliance with any cultural resource mitigation measure or condition within 24 hours of becoming aware of the situation. The Project Archaeologist and appropriate consulting Tribes shall also recommend corrective action(s) to resolve the problem or achieve compliance with the mitigation measure or Project condition.

In the event of a non-compliance issue, the Project Archaeologist shall write a report within two weeks after resolution of the issue that describes the issue, resolution of the issue, and the effectiveness of resolution measures. The report shall be provided in the next Monthly Compliance Report, which is submitted to the County. The Applicant or its designee shall also provide a copy of the non-compliance report to the consulting Tribe when issued to the County.

Submittal Timing: *During and throughout all Project-related activities; prior to any permit issuance. Approval Trigger:* Issuance of permit. **Responsible Party:** *The Applicant or designee. What is required:* Weekly summary reports. **To whom it is submitted and approved by:** *County Department of Planning and Building.*

Residual Impacts

Upon implementation of the measures identified above, impacts associated with impacts to tribal cultural resources would be **less than significant with mitigation (Class II)**.

4.5.6 Mitigation Measure Impacts to Other Issue Areas

Implementation of mitigation measures would reduce potential impacts associated with discovering and disturbing previously undiscovered cultural resources, human remains, and tribal cultural resources. These measures generally include awareness training of all Project workers, retaining qualified professionals to monitor ground disturbing Project activities, and protocol for avoiding impacts to any sensitive cultural resources if discovered. Additional staff required by these measures include the Project Archaeologist, Project Osteologist (if required), Archaeological Monitors, and Tribal Monitors. This would result in a minor increase in vehicle trips to and from the Project site during phases of the Project that involve ground disturbance, which would result in a minor increase in overall Project vehicle miles traveled (VMT), air pollutant and greenhouse gas emissions, and noise. Based on the very limited number of additional staff required to implement these measures, all secondary impacts associated with the increase in on-site staff would be less than significant.

4.5.7 Cumulative Impacts

Implementation of the Project could contribute to the cumulative degradation of significant cultural resources in the County. The destruction of cultural resources can have the potential for significant cumulative impacts that are inherently important to the descendants of native peoples and make the study of prehistoric and historic life unavailable for study by scientists. Given the prevalence of cultural resources within and in the immediate vicinity of the Project site, and the number of construction activities that involve disturbance of archaeologically sensitive areas that

are not regulated, it is likely that significant prehistoric and historic resources are often not identified and are permanently lost. For the Project, impacts to previously undiscovered cultural resources could occur, and mitigation measures have been identified to reduce these potential impacts. Based on implementation of recommended mitigation measures as requested by the consulting Tribes, potential cumulative impacts resulting from the Project would be less than significant with mitigation.

4.5.8 References

Arcadis. 2013. Cultural Resources Assessment of the Phillips 66 Santa Maria Refinery. August.

County of San Luis Obispo (County). 2015. San Luis Obispo County, Phillips 66 Company Rail Spur Extension And Crude Unloading Project Final Environmental Impact Report And Vertical Coastal Access Project Assessment, December 2015, SCH # 2013071028.

ERM-West, Inc. (ERM). 2022. Cultural Resources Study; Santa Maria Refinery Demolition and Remediation Project, Arroyo Grande, San Luis Obispo County, California.

