

Table of Contents

4.14	Tribal Cultural Resources	4.14-1
4.14.1	Environmental Setting	4.14-1
4.14.2	Regulatory Setting	4.14-2
4.14.3	Impact Analysis	4.14-5
4.14.4	Cumulative Impacts	4.14-7

Tables

[No table of contents entries found.](#)

Figures

[No table of contents entries found.](#)

4.14 Tribal Cultural Resources

This section of the EIR analyzes the project's potential impacts related to tribal cultural resources. Tribal cultural resources are those resources identified by California Native American tribes in consultation with lead agencies during tribal consultation (also referred to as Assembly Bill [AB] 52 consultation). The background information and analysis in this section is partially based on the *Archaeological Resources Assessment* prepared for the project by Amec Foster Wheeler Environment & Infrastructure, Inc. in December 2017, as well as the results of the City's AB 52 consultation.

4.14.1 Environmental Setting

a. Regional Tribal Cultural Resources

The Santa Barbara region was historically occupied by the Chumash. The Chumash were a diverse population living in settlements along the California coast from Malibu Creek in the south to Estero Bay in the north, and from Tejon Pass, Lake Casitas and the Cuyama River inland to the islands of San Miguel, Santa Rosa, and Santa Cruz. The setting of the project site as it relates to tribal cultural resources is summarized below.

The Chumash spoke six closely related Chumashan languages, which have been divided into two broad groups—Northern Chumash (consisting only of Obispeño) and Southern Chumash (Purisimeño, Ineseño, Barbareño, Ventureño, and Island Chumash) (Mithun 2001:389). Groups neighboring the Chumash included the Salinan to the north, the Southern Valley Yokuts and Tataviam to the east, and the Gabrielino (Tongva) to the south.

Permanent Chumash villages included hemispherical dwellings arranged in close groups. Each Chumash village had a formal cemetery marked by tall painted poles, often with a defined entrance area (Gamble et al. 2001). Archaeological studies have identified separate sections for elite and common families within the cemetery grounds (King 1969).

The acorn was a dietary staple for the mainland Chumash, though its dominance varied by coastal or inland location. Chumash diet also included cattail roots, fruits and pads from cactus, and bulbs and tubers of plants such as amole (Miller 1988). On the coast, the wooden plank canoe (*tomol*) was employed in the pursuit of marine mammals and fish. The *tomol* not only facilitated marine resource procurement but also facilitated an active trade network maintained by frequent crossings between the mainland and the Channel Islands.

Chumash populations were decimated by the effects of European colonization and missionization. Traditional lifeways largely gave way to laborer jobs on ranches and farms in the Mexican and early American periods. At the time of first European contact in 1542, the Goleta area was occupied by a Native American group speaking a distinct dialect of the Chumash language. Historically, this group became known as the Barbareño Chumash (Landberg 1965); the name deriving from the Mission Santa Barbara under whose jurisdiction many local Chumash came after its founding in 1776. Today, the Santa Ynez Band of Chumash Indians is the only federally recognized Chumash tribe, though many people of Chumash descent continue to live throughout their traditional territory.

b. Native American Consultation

The City of Goleta sent AB 52 consultation request letters to local Native American contacts identified by the Native American Heritage Commission (NAHC) notifying them of the project on April 25, 2018 shortly after the project application was deemed complete in accordance with Government Code Section 65352. Native American tribes that were sent consultation letters include the Santa Ynez Band of Chumash Indians, the Barbareño/Ventureño Band of Mission Indians, and the Coastal Band of the Chumash Nation. In the letters, the City requested that the tribes respond within 30 days if they would like an opportunity to consult on the project. The City did not receive any requests for Native American consultation in 2018. In response to the Notice of Preparation released for the Project, the Santa Ynez Band of Chumash Indians requested consultation on May 18, 2023, five years after the formal consultation request was sent by the City. City of Goleta staff met with the Santa Ynez Band of Chumash Indians on July 24, 2023 to discuss the project, although this meeting was not required under AB 52 and does not constitute formal consultation. Additional information on the requirements of tribal consultation as it relates to the project is included in Section 4.14.2, *Regulatory Setting*, and Section 4.14.4, *Impact Analysis* below.

4.14.2 Regulatory Setting

a. Federal Regulations

American Indian Religious Freedom Act and Native American Graves and Repatriation Act

The American Indian Religious Freedom Act recognizes that Native American religious practices, sacred sites, and sacred objects have not been properly protected under other statutes. It establishes as national policy that traditional practices and beliefs, sites (including right of access), and the use of sacred objects shall be protected and preserved. Additionally, Native American remains are protected by the Native American Graves and Repatriation Act of 1990.

b. State Regulations

California Environmental Quality Act

Tribal cultural resources are defined in Public Resources Code §21074 as:

1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either: (a) included or determined to be eligible for inclusion in the California Register of Historical Resources (California Register), or (b) included in a local register of historical resources.
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant.

A cultural landscape that meets these criteria is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. Archaeological resources may also be tribal cultural resources if they meet these criteria.

Assembly Bill 52 (AB 52)

As of July 1, 2015, California Assembly Bill 52 (AB 52, codified in Government Code Section 65352) was enacted and expands CEQA by establishing a formal consultation process for California tribes within the CEQA process. The bill specifies that any project that may affect or cause a substantial adverse change in the significance of a tribal cultural resource would require a lead agency to “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” According to the legislative intent for AB 52, “tribes may have knowledge about land and cultural resources that should be included in the environmental analysis for projects that may have a significant impact on those resources.” Section 21074 of AB 52 also defines a new category of resources under CEQA called “tribal cultural resources.” Tribal cultural resources are defined as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe” and is either listed on or eligible for the CRHR or a local historic register, or if the lead agency chooses to treat the resource as a tribal cultural resource. See also PRC 21074 (a)(1)(A)-(B).

In recognition of California Native American tribal sovereignty and the unique relationship of California local governments and public agencies with California Native American tribal governments and with respect to the interests and roles of project proponents, it is the intent of AB 52 to accomplish all of the following:

- 1) Recognize that California Native American prehistoric, historic, archaeological, cultural, and sacred places are essential elements in tribal cultural traditions, heritages, and identities.
- 2) Establish a new category of resources in CEQA called “tribal cultural resources” that considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.
- 3) Establish examples of mitigation measures for tribal cultural resources that uphold the existing mitigation preference for historical and archaeological resources of preservation in place, if feasible.
- 4) Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated (Because CEQA calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources).
- 5) In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources early in the CEQA environmental review process, so that tribal cultural resources can be identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decision-making body of the lead agency.
- 6) Recognize the unique history of California Native American tribes and uphold existing rights of all California Native American tribes to participate in, and contribute their knowledge to, the environmental review process pursuant to CEQA.
- 7) Ensure that local and tribal governments, public agencies, and project proponents have information available early in CEQA environmental review process, for purposes of identifying and addressing potential adverse impacts to tribal cultural resources and to reduce the potential for delay and conflicts in the environmental review process.

- 8) Enable California Native American tribes to manage and accept conveyances of, and act as caretakers of, tribal cultural resources.
- 9) Establish that a substantial adverse change to a tribal cultural resource has a significant effect on the environment.

c. Local Regulations

Goleta General Plan

The City of Goleta's Open Space Element of the General Plan (2006) outlines several goals and policies related to the preservation of cultural resources, including tribal cultural resources. Policies that are relevant to the project include:

- **Policy OS 8.5: Mitigation.** If research and surface reconnaissance shows that the project area contains a resource of cultural significance that would be adversely impacted by proposed development and avoidance is infeasible, mitigation measures sensitive to the cultural beliefs of the affected population shall be required. Reasonable efforts to leave these resources in an undisturbed state through capping or covering resources with a soil layer prior to development shall be required. If data recovery through excavation is the only feasible mitigation, the City shall confer with the affected Native American nation or most-likely descendants, as well as agencies charged with the responsibility of preserving these resources and organizations having a professional or cultural interest, prior to the removal and disposition of any artifacts.

Please see Section 4.10, *Land Use and Planning*, for a comprehensive list of applicable goals and policies.

Goleta Coastal Zoning Ordinance

Section 35-65 of the City's previous Coastal Zoning Ordinance provides archaeological resource development standards for projects. According to Section 35-65, when archaeological or other cultural resources are located on the project site, projects should be designed to avoid impacts to such resources, implement mitigation if impacts are unavoidable, and engage in Native American consultation when projects may impact significant archeological or cultural resources.

Goleta Historic Preservation and Archaeological and Tribal Cultural Ordinance (Ordinance No. 22-05)

This ordinance, passed in April 2022, established regulations and processes associated with archaeological resources and tribal cultural resources. Chapter 17.43 (Archaeological and Tribal Cultural Resources) of the City's Municipal Code was established by this ordinance, excerpts from Chapter 17.43 that would potentially apply to the project are provided below.

Chapter 17.43.040 Development Standards

- a. The following standards are applicable to all permits issued under this chapter:
 1. If unanticipated discovery of archaeological and/or tribal cultural resources occurs during earth-disturbing activities, earth-disturbing activities must be stopped immediately until a qualified archaeologist can evaluate the significance of the archaeological and/or tribal cultural resource pursuant to standards set forth in Council Resolution No. 08-40,

Environmental Thresholds and Guidelines Manual as amended, and local Chumash tribal representative(s) can evaluate the importance of the find.

2. If human remains are uncovered as a result of earth-disturbing activities, work must stop immediately and the Planning and Environmental Review Department must be contacted, and the applicant must follow the procedures identified by Public Resources Code Section 5097.98.
3. As applicable, recommendations identified in the Preliminary Archaeological Assessment, Phase 1 Report, or Extended Phase 1 Report and agreed upon by the City, must be implemented and printed on the approved building plans.

4.14.3 Impact Analysis

a. Methodology and Significance Thresholds

Methodology

As described in 4.14.2, *Regulatory Setting*, AB 52 requires consultation with Native American tribes. The City of Goleta prepared and sent AB 52 notification letters on April 25, 2018. Letters were sent to the Santa Ynez Band of Chumash Indians, the Barbareño/Ventureño Band of Mission Indians, and the Coastal Band of the Chumash Nation. The City did not receive any requests for Native American consultation in 2018. In response to the Notice of Preparation released for the Project, the Santa Ynez Band of Chumash Indians requested consultation on May 18, 2023, five years after the formal consultation request was sent by the City. The following analysis is based on the results of the consultation process.

Significance Thresholds

As described in more detail in Section 4.0, *Environmental Impact Analysis*, the following thresholds are based on the County's 2021 *Environmental Thresholds and Guidelines Manual* and Appendix G of the *State CEQA Guidelines*. In accordance with Appendix G of the CEQA Guidelines, an impact to tribal cultural resources is considered significant if the project would:

1. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 - b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

According to the County of Santa Barbara's 2021 *Environmental Thresholds and Guidelines Manual* (refer to Section 4.0, *Environmental Impact Analysis*), a project would have a significant impact on a cultural resource if it results in the physical demolition, destruction, relocation, or alteration of the

resource or its immediate surroundings such that the significance of such a resource would be materially impaired.

b. Project Impacts and Mitigation Measures

Threshold 1: Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or
- b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Impact TCR-1 CONSTRUCTION OF THE PROJECT WOULD INVOLVE GROUND DISTURBING ACTIVITIES SUCH AS GRADING AND SURFACE EXCAVATION. HOWEVER, NO TRIBAL CULTURAL RESOURCES HAVE BEEN IDENTIFIED ON THE PROJECT SITE AND THERE IS NO POTENTIAL FOR ARCHAEOLOGICAL RESOURCES TO OCCUR WITHIN THE PROJECT SITE. THIS IMPACT WOULD BE CLASS III, LESS THAN SIGNIFICANT.

Pursuant to the requirements of AB 52, the City conducted Native American consultation for the project to identify potential concerns or issues associated with Native American cultural resources within the project vicinity. As part of the AB 52 consultation process, the City sent AB 52 consultation request letters to the Santa Ynez Band of Chumash Indians, the Barbareño/Ventureño Band of Mission Indians, and the Coastal Band of the Chumash Nation on April 25, 2018, shortly after the project application was deemed complete. No requests for tribal consultation were received in 2018 in response to the AB 52 consultation request letters. Santa Ynez Band of Chumash Indians requested consultation on May 18, 2023 in response to the Notice of Preparation. City of Goleta staff and the Santa Ynez Band of Chumash Indians met on July 24, 2023 to discuss the project, although this meeting was not required under AB 52 and does not constitute formal consultation.

No cultural resources were identified on the project site as a result of the CHRIS records search for the project. No tribal cultural resources have been identified on the project site to date. The project site is primarily underlain by fill soils that reach approximately 4 feet in depth (Appendix G). As indicated by cross-sections of grading plans for the project, project construction would result in the excavation of less than 4 feet of fill for all project components, except for the bioretention basin and utility trench construction, which would involve excavation of no more than 5 feet of fill. Therefore, excavation and ground disturbance associated with construction of the proposed industrial building would primarily occur in previously disturbed and fill soils, rather than native soils where there is a potential for tribal cultural resources to exist. Although the Goleta-Santa Barbara region has a long history of Native American occupation, the *Archaeological Resources Assessment* completed for the project site determined there is very low potential for subsurface resources to exist within the project site. Therefore, the project would not cause a substantial adverse change to tribal cultural resources, and impacts would be less than significant.

Mitigation Measures

No mitigation measures are required.

4.14.4 Cumulative Impacts

The geographic scope for considering cumulative impacts to tribal cultural resources is based on the ethnographic use patterns of the project site and surrounding region. For the ethnographic period, the geographic extent includes the entire traditional Chumash territory. Development of past, present, and reasonably foreseeable future developments could cumulatively contribute to the erasure of Chumash tribal cultural resources from the landscape. However, compliance with the provisions of AB 52 would ensure that any known or potential tribal cultural resources are treated in consultation with local Native American groups. Compliance with AB 52, implementation of project-specific measures to protect tribal cultural resources on a case-by-case basis, and continued involvement by local Native American groups in regional planning would generally limit the destruction of tribal cultural resources such that cumulative impacts would be less than significant. Given that no tribal cultural resources have been identified on the project site, the project would not have a cumulatively considerable contribution to cumulative impacts associated with tribal cultural resources.

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