IV. Environmental Impact Analysis

D.2 Cultural Resources—Archaeological and Paleontological Resources

1. Introduction

The following section of the Draft EIR evaluates potential impacts related to archaeological and paleontological resources associated with development of the Proposed Project. The analysis is based on the following correspondences: written correspondence from the South Central Coastal Information Center at California State University, Fullerton, on April 16, 2009 (Appendix D2 to this Draft EIR); written correspondence from the Native American Heritage Commission dated October 9, 2008; and written correspondence from the Natural History Museum of Los Angeles County, on March 28, 2009 (Appendix D3 to this Draft EIR).

2. Environmental Setting

   a. Regulatory Framework

      (1) State Level

         (a) California Public Resources Code

            (i) Section 21083.2

            According to Section 21083.2(g) of the California Public Resources Code, a “unique archaeological resource” means 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:

            • Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;

            • Has a special and particular quality such as being the oldest of its type or the best available example of its type; or
• Is directly associated with a scientifically recognized important prehistoric or historic event or person.¹

No further consideration need be given to a non-unique archaeological resource, “other than the simple recording of its existence by the lead agency if it so elects.”²

For unique archaeological resources, the statute also provides examples of treatments. If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

• Planning construction to avoid archaeological sites.
• Deeding archaeological sites into permanent conservation easements.
• Capping or covering archaeological sites with a layer of soil before building on the sites.
• Planning parks, greenspace, or other open space to incorporate archaeological sites.³

Regarding mitigation, the statute also provides that excavation “shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.”⁴

(ii) Section 5097.98

Section 5097.98 of the California Public Resources Code (PRC) addresses the procedures for the notification of discovery of Native American human remains and descendants, and the disposition of human remains and associated grave materials. When the Native American Heritage Commission (NAHC) receives notification of a discovery of

¹ California Public Resources Code Section 21083.2(g).
² California Public Resources Code Section 21083.2(h).
³ California Public Resources Code Section 21083.2(b).
⁴ California Public Resources Code Section 21083.2(d).
Native American human remains, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American, the Most Likely Descendant (MLD). This PRC Section outlines the protocol for inspection and treatment of the remains and other burial items associated with the remains:

A lead agency shall work with the appropriate Native Americans as identified by the Native American Heritage Commission as provided in Public Resources Code Section 5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American Heritage Commission. Action implementing such an agreement is exempt from:

1. The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5); and

2. The requirements of CEQA and the Coastal Act.5

(b) California Senate Bill 297 (1982)

California Senate Bill 297 addresses the disposition of Native American burials in archaeological sites and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establishes the authority of the NAHC to resolve disputes regarding the disposition of such remains. The bill has been incorporated into Section 15064.5(c) of the State CEQA Guidelines.

(i) SB 18 Tribal Consultation Guidelines (Govt. Code §65300 et seq.)

Senate Bill 18, signed into law by Governor Arnold Schwarzenegger in 2004, requires local governments to consult with California Native American tribes to aid in the protection of traditional tribal cultural places (“cultural places”) through local land use planning. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early stage, for the purpose of protecting, or mitigating impacts to cultural resources. Prior to the adoption of any amendment of a General Plan or Specific Plan, a local government must notify the appropriate tribes (on the contact list maintained by the NAHC) of the opportunity to conduct consultations for the purpose of preserving or mitigating impacts to cultural places located on land within the

5 State CEQA Guidelines Section 15064.5(d); see also State CEQA Guidelines Section 15064.5 (e) for requirements in the event of unanticipated discovery of human remains.
local government’s jurisdiction that is affected by the proposed plan adoption or amendment.

Pursuant to the noticing requirements of §65300 et seq., and on behalf of the lead agency, SB 18 tribal consultation letters were distributed via certified mail to all five of the tribes identified on the NAHC’s tribal consultation database. Two of the five letters were marked “unclaimed” by the U.S. Postal Service and were returned to the sender. Of the remaining contacts, responses were received from the Tongva Ancestral Territorial Tribal Nation and the Gabrieleno/Tongva San Gabriel Band of Mission, who requested to be involved with a full SB 18 consultation for the Project. Both respondents noted the Project area is within a Tongva Village site and burials and other artifacts have been recorded within the Project Site. A detailed discussion of archaeological survey records that have been performed on the Project Site or in the immediate Project vicinity is presented below under the subheading Archaeological & Paleontological Existing Conditions.

(2) Local Level

(a) City of Los Angeles General Plan

The City of Los Angeles General Plan Conservation Element, Chapter II, Section 3, states that the City has a primary responsibility to protect archeological sites. If it is determined that a project may damage an archeological site, “the project is required to provide mitigation measures to protect the site or enable study and documentation of the site, including funding of the study by the applicant. The City’s environmental guidelines require the applicant to secure services of a bona fide archaeologist to monitor excavations or other subsurface activities associated with a development project in which all or a portion is deemed to be of archaeological significance. Discovery of archaeological materials may temporarily halt the project until the site has been assessed, potential impacts evaluated and, if deemed appropriate, the resources protected, documented and/or removed.”

The City of Los Angeles General Plan Conservation Element, Chapter II, Section 3, states that the City has a primary responsibility to protect paleontological sites pursuant to CEQA. As such, the City’s policy is to identify and protect significant paleontological sites and/or resources known to exist or identified during land development, demolition, or property modification activities. If land development occurs within a potentially significant paleontological area, “the developer is required to contact a bona fide paleontologist to

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6 See correspondence from Dave Singleton, Program Analyst, Native American Heritage Commission, dated October 9, 2009, in response to the NOP (included in Appendix A to this Draft EIR).

7 City of Los Angeles Conservation Element, Section 3, adopted September 2001.
arrange for assessment of the potential impact and mitigation of potential disruption of or
damage to the site.” If significant resources are discovered, authorities must be notified
and the designated paleontologist may cease construction activity in that portion of the
project site. This cessation allows time for the assessment, removal, or protection of the
paleontological resources.8

b. Existing Conditions at the Project Site

The Project Site is generally located at the intersection of Crenshaw Boulevard and
Martin Luther King Jr. Boulevard. The Project Site occupies two full blocks bounded by
39th Street to the north, Crenshaw Boulevard to the east, Stocker Street to the southeast,
Santa Rosalia Drive to the southwest, and Marlton Avenue to the northwest. Martin Luther
King Jr. Boulevard bisects the Project Site. The May Company building, and a shopping
center are located on the portion north of Martin Luther King Jr. Boulevard, and the Project
Site south of Martin Luther King Jr. Boulevard contains the Broadway building, an enclosed
mall, the Sears building, a movie theater, and numerous freestanding commercial
buildings.

The portion of the Project Site north of Martin Luther King Jr. Boulevard is bisected
by Baldwin Villa Driveway, which runs east-west. The area south of Baldwin Villa Driveway
contains the May Company building, and an associated parking lot north of the building.
The area north of the Baldwin Villa Driveway contains an Albertson’s grocery store and
retail strip mall with an associated surface parking lot. The portion of the Project Site south
of Martin Luther King Jr. Boulevard contains the Broadway building (now Walmart), an
enclosed mall, the Sears building, and various freestanding commercial buildings. The
mall is connected to the May Company building by an elevated enclosed pedestrian bridge
over Martin Luther King Jr. Boulevard.

(1) Potential Archaeological Resources within the Proposed Project
Site

The following three archeological sites have been identified within a 0.5-mile radius
of the Project Site: 19-000080, 19-00000171, and 19-001336.9 Two of these archaeological
resources (19-000080 and 19-001336) are located within the Project Site. The
archaeological site survey records indicate the presence of archaeological burial remains
and artifacts including abalone shells, mollusk shells, chipped stone points, and other
unidentified material that were identified and recorded in 1946 during the construction of

8 Ibid.
9 The individual numbers represent the site identification numbers provided by the South Central Coastal
Information Center (see Appendix D-2 of this Draft EIR).
the Broadway Building and again in 1951 during the excavation for the store basement. None of the above sites are listed on the Archaeological Determination of Eligibility (DOE) list and no archaeological sites on the DOE list have been identified at the Project Site or within a 0.5-mile radius of the Project Site.  

(2) Potential Paleontological Resources within the Proposed Project Site

There are no known fossil vertebrate localities within the Project Site, but there are localities nearby from the same or similar sedimentary deposits as occur in the Project area. The deposits in this area are composed of younger quaternary alluvium, which consists of fluvial deposits from the nearby drainages or fan deposits from the Baldwin Hills, which are located to the south of the Project Site. While these deposits typically do not contain significant fossil vertebrate remains in the uppermost layers, the older, deeper deposits may contain significant vertebrate fossils. The closest vertebrate fossil locality to the Proposed Project area is LACM 1159, which is located about 0.55 mile northwest of the Project Site.  

3. Environmental Impacts

a. Methodology

In accordance with guidance provided in the Environmental Checklist Form contained in Appendix G to the State CEQA Guidelines, lead agencies are encouraged to address the questions from the Checklist that are relevant to the Project’s environmental effects. With respect to archaeological and paleontological resources, the following Checklist Questions are addressed under the Environmental Impacts subheading below. Would the Project:

1. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5;

2. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or

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10 Fax correspondence from Michelle Galaz, Staff Researcher, South Central Coastal Information Center, April 16, 2009.

11 Letter correspondence from Samuel A. McLeod, Ph. D., Vertebrate Paleontology Section, Natural History Museum of Los Angeles, March 28, 2009.

12 Distance measurement performed using Google Earth, April 14, 2009.
3. Disturb any human remains, including those interred outside of formal cemeteries.

The following section of the Draft EIR evaluates potential impacts related to archaeological and paleontological resources associated with development of the Proposed Project in accordance with the methodology and thresholds set forth in the *L.A. City CEQA Thresholds Guide*. The following analysis is based on the following correspondences:

- Written correspondence from the Native American Heritage Commission dated October 9, 2008;
- Written correspondence from the South Central Coastal Information Center at California State University, Fullerton, on April 16, 2009 (Appendix D2 to this Draft EIR); and
- Written correspondence from the Natural History Museum of Los Angeles County, on March 28, 2009 (Appendix D3 to this Draft EIR).

**b. Thresholds of Significance**

(1) Archaeological Resources

The *L.A. City CEQA Thresholds Guide* states that a project would normally have a significant impact on archaeological resources if it could disturb, damage, or degrade an archaeological resource or its setting that is found to be important under the criteria of CEQA because it:

- Is associated with an event or person of recognized importance in California or American prehistory or of recognized scientific importance in prehistory;
- Can provide information which is both of demonstrable public interest and useful in addressing scientifically consequential and reasonable archaeological research questions;
- Has a special or particular quality, such as the oldest, best, largest, or last surviving example of its kind;
- Is at least 100 years old$^{13}$ and possesses substantial stratigraphic integrity; or

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$^{13}$ Although the City of Los Angeles Local CEQA criteria state that “important archaeological resources” are those which are at least 100 years old, the California Register provides that any site found eligible for nomination to the National Register will automatically be included within the California Register and (Footnote continued on next page)
Involves important research questions that historical research has shown can be answered only with archaeological methods;

(2) Paleontological Resources

The L.A. City CEQA Thresholds Guide states that a project may have a significant impact on paleontological resources based on the following factors:

- Whether, or the degree to which, the project might result in the permanent loss of, or loss of access to, a paleontological resource; or
- Whether the paleontological resource is of regional or statewide significance.

c. Regulatory Compliance Measures and Project Design Features

(1) Regulatory Compliance Measures

The following Regulatory Compliance Measure addresses the Proposed Project’s potential impacts to previously unknown pre-historic human remains:

Regulatory Compliance Measure D.2-1: Pursuant to State Health and Safety Code Section 7050.5, in the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken: There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: (a) The coroner of Los Angeles County has been contacted to determine that no investigation of the cause of death is required; and (b) If the coroner determines the remains to be Native American. The coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided for in Public Resources Code Section 5097.98, or where the following conditions occur, the landowner or his authorized subject to all protections thereof. The National Register requires that a site or structure be at least 50 years old. In order to provide a conservative analysis, this EIR will use the National Register eligibility requirements.
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representative rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

(2) Project Design Features

No specific project design features are proposed with regard to archaeological and paleontological resources.

d. Project Impacts

(1) Archaeological Resources

As discussed earlier, there are two known archaeological resource sites within the Project Site (19-000080 and 19-001336) and City of Los Angeles Historic-Cultural Monument No. 487 (Sanchez Ranch), located at 3725 Don Felipe Drive, which is within 500 feet west of the southern portion of the Project Site. The archaeological site survey records indicate the presence of archaeological burial remains and artifacts including abalone shells, mollusk shells, chipped stone points, and other unidentified material that were identified and recorded in 1946 during the construction of the Broadway Building and again in 1951 during the excavation of the store basement. Construction activities associated with the Proposed Project would include excavation and grading, and thus could disturb previously undiscovered archaeological resources.

With respect to assessing the environmental impact to existing known archaeological resources, the Proposed Project would not disturb the previously recorded sites (19-000080 and 19-001336) or the City of Los Angeles Historic-Cultural Monument No. 487. As such, no impact to these resources would occur. However, because the Proposed Project would include excavation and earthwork activity in other areas across the 43-acre site, the likelihood of encountering other undiscovered archaeological resources during construction is considered high. In situations where known archaeological resources are located under sites that are developed and capped with buildings and/or paved surfaces, the preferred method to mitigate potential impacts under CEQA is avoidance and/or preservation in place. In cases where avoidance is not feasible, the State CEQA Guidelines recommends archaeological monitoring of the construction activities. In the event the archaeological monitor discovers significant archaeological resources during construction, a Phase II archaeological investigation would be warranted to determine the significance of the uncovered material.
(2) Paleontological Resources

As discussed earlier, there are no known paleontological sites within the Project Site. Furthermore, the Project Site is not located in an area designated by the City of Los Angeles General Plan Framework Element EIR or the Environmental and Public Facilities Maps of the City of Los Angeles Department of City Planning as a paleontological site or survey area.\textsuperscript{14,15} With regard to the City’s CEQA Thresholds, there are no known paleontological sites within the Project Site, and it is not expected that the Proposed Project would result in the permanent loss of, or loss of access to, a paleontological resource. Nor is there any information to indicate whether any potential undiscovered paleontological resource is of regional or statewide significance. Nevertheless, excavations anticipated for the Proposed Project would be those associated with subterranean parking, foundations, and utilities installation, thereby creating the potential for a significant impact by disturbing any existing, but undiscovered, paleontological resources.

(3) Human Remains

The Proposed Project has the potential to cause a substantial adverse change in the significance of Native American human remains. As discussed earlier, there are two known archaeological sites within the Project Site, and City of Los Angeles Historic-Cultural Monument No. 487 (Sanchez Ranch) is located within 500 feet of the Project Site. Both archaeological resource sites 19-000080 and 19-001336, and City of Los Angeles Cultural Monument No. 487, have recorded the existence of Native American burial remains and other artifacts including abalone shells, mollusk shells, and chipped stone points. Due to the proximate location of the proposed grading areas and these sites, potential to disturb other undiscovered Native American remains that may exist beneath the Project Site is considered moderate to high. Should the accidental discovery of such resources occur during construction, a potentially significant impact would occur.

The State CEQA Guidelines recommends that when the existence or likelihood of Native American human remains is identified, the lead agency shall work with the appropriate Native Americans as identified by the NAHC as provided in Public Resources Code Section 5097.98. The SB 18 consultation process with the affected Native American tribes has occurred and, through the implementation of Regulatory Compliance Measure D.2-1, would ensure that a recognized native American ancestor recognized

\textsuperscript{14} Los Angeles Citywide General Plan Framework Draft Environmental Impact Report, Section 2.15, Cultural Resources, Figure CR-21, January 1995.

\textsuperscript{15} City of Los Angeles Department of City Planning, Environmental and Public Facilities Maps, Vertebrate Paleontological Resources in the City of Los Angeles, September 1996.
under the NAHC is retained to monitor the excavation and construction activities that have the potential to unearth unknown resources or human remains. The probability of discovering human remains would be relatively low for surface scraping operations and foundation development for at-grade structures as the Project Site has been entirely graded and disturbed within a few feet of the present grade. As noted in the geotechnical investigation, fill and possible fill materials were encountered during subsurface explorations to depths of approximately 3 to 13 feet below grade with no recorded evidence of archaeological resources or Native American remains. Additionally, from a review of historical information, it can be concluded that the south portion of the Project Site was historically undeveloped until it was filled and developed as a golf course in the 1920s. Thus, if any archaeological resources or Native American human remains existed beneath the site, they may have been previously disturbed and/or removed by prior activities or could possibly be located beneath fill materials. As such it is recommended that the Applicant retain a NAHC-recognized Native American to monitor excavations greater than 10 feet below grade level. With implementation of Regulatory Compliance Measure D.2-1, potential impacts to Native American remains would be less than significant.

4. Cumulative Impacts

   a. Archeological Resources

       Development of the Proposed Project in combination with the related projects would result in the increased potential for encountering archaeological resources in the Project vicinity. The potential that one or more of these related projects might encounter archaeological resources during the course of development is determined by such factors as whether prehistoric human presence had occurred at any given related project site and the type of proposed development activities at that site.

       It is not known at this time if future development of the related project sites would involve cultural resources. However, similar to the Proposed Project, the related projects would be subject to the requirements of CEQA, and City archeological resource protection ordinances. As such, the related projects would be evaluated on a case-by-case basis and any potential impacts to archeological resources would be addressed at that time. Nevertheless, while considered remote, impacts for related projects could be determined to be significant and unavoidable. However, as the Proposed Project would include a mitigation measure to ensure impacts on archeological resources would be less than significant, the Proposed Project would not have a cumulatively considerable contribution to a significant impact, and thus, cumulative impacts would be less than significant.
b. Paleontological Resources

Development of the Proposed Project in combination with the related projects would result in the increased potential for encountering paleontological resources in the Project vicinity. The potential that one or more of these related projects might encounter paleontological resources during the course of development is determined by such factors as whether potential paleontological resources are present on any given related project site, and the type of proposed development activities at that site.

It is not known at this time if future development of the related project sites would involve paleontological resources. However, similar to the Proposed Project, the related projects would be subject to the requirements of CEQA and would be evaluated on a case-by-case basis. Any potential impacts to paleontological resources would be addressed at that time. Nevertheless, while considered remote, impacts for related projects could be determined to be significant and unavoidable. However, as the Proposed Project would include a mitigation measure to ensure impacts on paleontological resources would be less than significant, the Proposed Project would not have a cumulatively considerable contribution to a significant impact, and thus, cumulative impacts would be less than significant.

c. Human Remains

Development of the Proposed Project in combination with the related projects would result in the increased potential for encountering Native American human remains in the Project vicinity. The potential that one or more of these related projects might encounter Native American human remains during the course of development is determined by such factors as whether prehistoric human presence had occurred at any given related project site.

It is not known at this time if future development of the related project sites would involve the disturbance of Native American human remains. However, similar to the Proposed Project, the related projects would be subject to the requirements of CEQA which recommends that when the existence or probably likelihood of Native American human remains is identified, the lead agency shall work with the appropriate Native Americans as identified by the NAHC as provided in Public Resources Code Section 5097.98. With the implementation of regulatory compliance measures, cumulative impacts associated with an accidental disturbance of Native American human remains would be less than significant.

5. Mitigation Measures

The following mitigation measure is recommended to address the Proposed Project’s impacts to previously unknown archeological resources:
Mitigation Measure D.2-1: A covenant and agreement between the Project Applicant and the City of Los Angeles shall be recorded prior to obtaining a grading permit stating that if any archaeological materials are encountered during the course of Project development, construction shall be halted.

Archaeological monitoring shall be implemented during Proposed Project construction. Monitoring shall be conducted by a qualified archaeological monitor who is working under the direct supervision of a Project Manager or Principal Investigator certified by the Register of Professional Archaeologists (RPA). A pre-construction information and safety meeting shall be held to make construction personnel aware of archaeological monitoring procedures and the types of archaeological resources that might be encountered.

The services of an archaeologist shall be secured by contacting the Center for Public Archaeology—California State University Fullerton, a member of the Register of Professional Archaeologists (RPA), or an RPA-qualified archaeologist to assess the resources, evaluate the potential impact (if any), and prescribe an appropriate method for preserving the resource either by removing the resource from where it is found or by documenting the resource before construction may again commence. Copies of the archaeological survey, study, or report shall be submitted to the South Central Coastal Information Center (SCCIC), located at the California State University Fullerton Department of Anthropology.

The following mitigation measure is recommended to address the Proposed Project’s potential impacts to previously unknown paleontological resources:

Mitigation Measure D.2-2: A covenant and agreement between the Project Applicant and the City of Los Angeles shall be recorded prior to obtaining a grading permit stating that if any paleontological materials are encountered during the course of Project development, construction shall be halted. The services of a paleontologist shall be secured by contacting the Center for Public Paleontology—USC, UCLA, California State Los Angeles, California State Long Beach, or the Natural History Museum of Los Angeles County to assess the resources, evaluate the potential impact (if any), and prescribe an appropriate method for preserving the resource either by removing the resource from where it is found or by documenting the resource found before construction may again commence. Copies of the paleontological survey, study, or report shall be submitted to the Natural History Museum of Los Angeles County.
6. Level of Significance After Mitigation

With the implementation of Mitigation Measures D.2-1 through D.2-2 and Regulatory Compliance Measure D.2-1, the Proposed Project’s impacts on archaeological and paleontological resources would be less than significant.