

4.14 Tribal Cultural Resources

4.14.1 Introduction

This section assesses the potential for the Project to result in significant adverse environmental impacts related to tribal cultural resources. Discussed are the physical and regulatory setting, the baseline for determining environmental impacts, the significance criteria used for determining environmental impacts, and potential impacts associated with construction, operation, and maintenance of the Project at the Rodeo Refinery. Tribal cultural resources include prehistoric and historic-period archaeological resources, and human remains. The Santa Maria Site is addressed to the extent information is available and at a qualitative level of discussion.

The Project also includes the Pipeline Sites—four regional pipelines serving the Santa Maria Site and the Rodeo Refinery. The Santa Maria Site is connected to the Rodeo Refinery by approximately 200 miles of subterranean pipeline, crossing San Luis Obispo, Santa Barbara, Kern, Kings, Fresno, Merced, Stanislaus, San Joaquin, Alameda, and Contra Costa Counties. Phillips 66 proposes to empty and clean the pipelines at existing maintenance access points and to decommission or sell them; they would not be excavated as part of this Project. No physical changes would occur. Therefore, the Pipeline Sites are not further addressed in this section.

4.14.2 Environmental Setting

4.14.2.1 *Regional Setting*

Rodeo Refinery

Contra Costa County is part of the San Francisco Bay region, which is within the Coast Ranges Geomorphic Province of California, a system of northwest/southeast-trending longitudinal mountain ranges and valleys. The Rodeo Site is located on soils classified as Urban Land, a designation applied to heavily engineered and developed land that may include imported fill material or stripping of native topsoil (NRCS 2012). The remainder of the Rodeo Refinery property, except for the Carbon Plant Site and the tank farm, is undeveloped land resembling the native condition.

Prior to development, native vegetation in the vicinity of the Rodeo Refinery included coastal salt marsh, annual grassland, coastal scrub, and riparian woodlands. These habitats supported a variety of plant and animal species useful to Native Americans. Fresh water was seasonally available from the Cañada del Cierbo and other local streams that carried runoff from the East Bay Hills toward San Pablo Bay.

Geo-archaeological Context

The San Francisco Bay Area has undergone dramatic landscape changes since humans began to inhabit the region more than 10,000 years ago. Rising sea levels and increased sedimentation into streams and rivers are among some of the changes (Helley and Lajoie 1979). In many places, the interfaces between older land surfaces and alluvial fans are marked by a well-developed buried soil profile, or paleosol, formed from weathering at or near the ground surface during a period of comparative landform stability. Paleosols would have been available for human occupation and use prior to subsequent sediment deposition, and in such cases have the potential to preserve archeological resources (Meyer and Rosenthal 2007). Because human populations have increased since the arrival of the area's first inhabitants, younger paleosols (late Holocene, or from approximately 4,000 years before present [BP]) are more likely to yield archaeological resources than older paleosols (early Holocene or Pleistocene, or after approximately 14000 BP). Numerous archaeological sites in the Bay Area have been found in this context.

The Rodeo Refinery is primarily mapped as pre-Quaternary deposits of Tierra Loam and Sehorn Clay overlying sedimentary bedrock, with little to no alluvial sedimentation overlying these older soils. While Quaternary-age alluvial sedimentation may have been present along the San Pablo Bay shoreline near

the mouth of Cañada del Cierbo, these deposits have been largely graded and/or removed during the development of the refinery.

Prehistoric Context

Archaeologists have developed individual cultural chronological sequences tailored to the archaeology and material culture of each sub-region of California. Each of these sequences is based principally on the presence of distinctive cultural traits and stratigraphic separation of deposits. Milliken et al. (2007) provide a framework for the interpretation of the San Francisco Bay Area. The authors divided human history in California into three broad cultural periods comprising the past 10,000 years: the Early Period, the Middle Period, and the Late Period. This scheme uses economic and technological types, socio-politics, trade networks, population density, and variations of artifact types to differentiate between cultural periods. Economic patterns, stylistic aspects, and regional phases further subdivide cultural periods into shorter phases. Evidence of human habitation during a fourth identified cultural period, the Paleoindian Period (13500 to 10000 BP), has not yet been discovered in the San Francisco Bay Area.

During the Lower Archaic phase of the Early Period (10000 to 5500 BP), geographic mobility in the region was evident. During the Middle Archaic phase (5500 to 2500 BP), the first cut shell beads and mortar and pestle are documented in burials, indicating the beginning of a shift from mobility to sedentism. The Middle Period includes the Lower Middle Period or Initial Upper Archaic (2500 to 1570 BP) and the Upper Middle Period or Late Upper Archaic (1570 to 950 BP), separated by the “dramatic cultural disruption” of the collapse of a trade network. In this period, groups began to establish longer-term base camps in localities from which a more diverse range of resources could be exploited. The first rich black middens are recorded from this period, and the presence of new artifacts and the occurrence of sites in a wider range of environments suggest that the economic base was more diverse. By the Upper Middle Period, mobility was being replaced by the development of numerous small villages. During the Initial Late Period (950 to 450 BP, i.e., up to the arrival of Europeans), social complexity developed toward lifeways of large, central villages with resident political leaders and specialized activity sites. Artifacts associated with the period include the bow and arrow, small corner-notched projectile points, and a diversity of beads and ornaments.

Archaeological Research

The large prehistoric population of the San Francisco Bay region resulted in the creation of a prolific archaeological record, with some of the most important sites located in Contra Costa County. The first intensive archaeological survey of the region, between 1907 and 1908, recorded nearly 425 “earth mounds and shell heaps” (also known as middens) on or near the shoreline of the Bay (Nelson 1909). The most notable sites, such as the Emeryville shellmound (CA-ALA-309), the Ellis Landing Site in Richmond (CA-CCO-295), and the Fernandez Site in Rodeo Valley (CA-CCO-259), have been scientifically excavated (Moratto 1984). Countless others have been lost to urban development.

Ethnographic Context

Based on a compilation of ethnographic, historic, and archaeological data, Milliken (1995) describes a group known as the Ohlone, who once occupied a large territory from San Francisco Bay in the north to the Big Sur and Salinas Rivers in the south. Levy (1978) describes the language group spoken by the Ohlone, known as “Costanoan,” a linguistic term that refers to a larger family of at least eight languages of the same Penutian language group (as different as Spanish is from French) spoken by distinct sociopolitical groups. Rodeo is in the area that was occupied by speakers of the Huchiun-Aguasto language. Villages of Huchiun-Aguasto speakers lined the southeastern corner of San Pablo Bay and the south shore of the Carquinez Strait (Milliken 1995).

Economically, Ohlone engaged in hunting and gathering. Their territory encompassed both coastal and open valley environments that contained a wide variety of plant and animal resources. The Huchiun-Aguasto and their neighbors along the Carquinez Strait caught salmon that were returning to the

Sacramento and San Joaquin Rivers to spawn. The Ohlone acknowledged private ownership of goods, and village ownership of rights to land and/or natural resources; they appear to have aggressively protected their village territories, requiring monetary payment for access rights in the form of clamshell beads, and even shooting trespassers if caught. After European contact, Ohlone society was severely disrupted by missionization, disease, and displacement.

The first European expedition into the East Bay occurred in 1772 when Pedro Fages and his party explored the east shore of San Francisco Bay up to San Pablo Bay. The Fages expedition encountered five villages between the locations of the towns of Rodeo and Crockett. Diarist Juan Crespí reported that the villagers welcomed the Spaniards, giving them food and gifts, expressing their desire that the Spaniards should come and stay with them. Three years later, the ship *San Carlos*, tasked with charting the bay, encountered many Ohlone and neighboring Coast Miwok villagers (from the Marin County shore) who greeted the ship's longboat and provided food and gifts to the new arrivals (Milliken 1995).

The Spanish established three missions in the immediate Bay Area between 1776 and 1797. Missions at San Jose, Santa Clara, and San Francisco (Mission Dolores) attempted to Christianize the Bay Area Ohlone groups, including the Huchuin-Aguasto speakers that lived in the Rodeo vicinity. Mass displacements of villagers to the missions were followed almost immediately by catastrophic epidemics of European diseases, as well as food shortages, resulting in alarming death rates among the mission inhabitants. Subsequent contacts had the unfortunate consequence of spreading the European diseases to those villagers who had never left their homes, further devastating the populations of the remaining Ohlone villages. Introduced European diseases, a declining birth rate and high infant mortality reduced the overall Ohlone population from at least 10,000 (precontact) to approximately 2,000 by 1832, and no more than 1,000 by 1852 (Cook 1957). Today, the Ohlone still have a strong presence in the San Francisco Bay Area, and are highly interested in their historic and prehistoric past.

Santa Maria Site

Geo-archaeological Context

The Santa Maria Site is located within the coastal plain, along the eastern margin of the Oceano Dune complex, and is within the South Coast Ranges physiographic province. Natural History Museum of Los Angeles County paleontological records state: "The entire proposed project area has surficial deposits composed of older Quaternary dune sands" and "Older Quaternary or even Pliocene deposits probably underlie the Quaternary dune sands at relatively shallow depth" (San Luis Obispo County 2015).

Prehistoric Context

As stated in the *Phillips 66 Rail Spur Extension and Crude Unloading Project Final EIR* (San Luis Obispo County 2015), the Santa Maria Site lies in what is generally described as the Central Coast Archaeological Region, which extends southward from Monterey Bay and includes most of San Luis Obispo County (Moratto 1984). This region extends southward from Monterey Bay and includes most of San Luis Obispo County. Several chronological sequences have been devised to understand cultural changes within the Central Coast Region subsequent to the Paleoindian (ca. 10000 BC) and Milling Stone (ca. 6500–3500 BC) periods. The Milling Stone period was first described by Wallace as part of his synthesis of earlier studies and development of a comprehensive southern California coastal region sequence, a chronological scheme that is still widely used today (Wallace 1955, 1978). Initially, Central Coast researchers relied on the cultural sequences developed for the San Francisco Bay Area to the north, the Central Valley to the east, and the Santa Barbara region to the south. Breschini and Haversat proposed the Sur and Monterey Patterns to describe Central Coast occupations dating younger than 5,000 years (Breschini and Haversat 1980). Jones and Jones and Waugh presented an integrated central coast sequence after the development of cultural resource management in the 1980s and ensuing excavations of numerous archaeological sites (Jones et al. 1994; Jones and Waugh 1995). Three periods are

presented in their prehistoric sequence subsequent to the Milling Stone period: Early, Middle, and Late periods. More recently, Jones and Ferneau updated the sequence following the Milling Stone period as follows: Early, Early-Middle Transition, Middle, Middle-Late Transition, and Late periods (Jones and Ferneau 2002). It has become apparent that the archaeology of the Central Coast Region subsequent to the Milling Stone period is distinct from that of the Bay Area and Central Valley, although the region has more in common with the Santa Barbara Channel area during the Middle and Middle-Late Transition periods, but few similarities during the Late period (Jones and Ferneau 2002).

Ethnographic Context

The Santa Maria Site was historically occupied by the northernmost subdivision of the Chumash, the Obispeño (Gibson 1983; Kroeber 1925). Chumash refers to the entire linguistic and ethnic group of societies that occupied the coast between San Luis Obispo and northwestern Los Angeles County, including the Santa Barbara Channel Islands, and inland to the western edge of the San Joaquin Valley.

European influence began in the 1770s with the establishment of the Spanish missions and the introduction of ranching and agriculture. As in Contra Costa County, the effect of mission influence upon local native populations in San Luis Obispo County was devastating; in addition to the ravages of European diseases, the increase in agriculture and the spread of grazing livestock into their collecting and hunting areas made maintaining traditional lifeways increasingly difficult. Although most Chumash eventually submitted to the Spanish and were incorporated into the mission system, some refugees escaped into the interior regions of the state to live with other tribes. With the secularization of mission lands after 1834, traditional Chumash lands were distributed among grants to private owners. Only in the area of Mission Santa Barbara and Mission San Fernando del Rey were several small ranchos granted to neophytes of those missions, providing secure homes and gardens for a few people.

Most Chumash managed to maintain a presence in the area into the early twentieth century as cowboys, farm hands, and town laborers. The Catholic Church provided some land near Mission Santa Ynez for ex-neophytes. This land eventually was deeded to the US government in 1901 as a 127-acre reservation and is the sole Chumash reservation. Since the 1970s, Chumash descendants living in the City of Santa Barbara and the rural areas of San Luis Obispo, Santa Barbara, and Ventura counties have formed social and political organizations to aid in cultural revitalization, to protect sacred areas and archaeological sites, and to petition for federal recognition. Today, the Santa Ynez Band of Chumash Indians is the only federally recognized Chumash tribe (San Luis Obispo County 2015).

4.14.2.2 Local Setting

Rodeo Refinery

A records search was conducted for a previous project at the Rodeo Refinery at the NWIC of the California Historical Resources Information System at Sonoma State University on September 6, 2012 (File No. 12-0246). The purpose of the records search was to determine whether known cultural resources have been recorded within or adjacent to the Rodeo Refinery and to assess the likelihood for unrecorded cultural resources to be present based on historical references and the distribution of nearby sites. That records search is described in detail in Contra Costa County (2013).

In addition, as required by CEQA and Assembly Bill 52 (refer to Section 4.14.2.3, *Regulatory Setting*), Contra Costa County submitted a request for formal consultation to the Wilton Rancheria on October 21, 2020 (Contra Costa County 2020). Mariah Mayberry of the Wilton Rancheria responded on October 25, 2020, requesting consultation. Based on discussion between Contra Costa County and the Wilton Rancheria it was agreed that inclusion of four mitigation measures into the EIR for the Project will satisfy the consultation requirements under AB 52 (Wilton Rancheria, pers. comm. 2020). Refer to Section 4.14.6, *Direct and Indirect Impacts of the Proposed Project*.

The records research identified five prehistoric shell mounds (most with documented human burials) that have been recorded within or adjacent to the Rodeo Refinery (Table 4.14-1). Four of those sites are east of I-80, outside the Rodeo Site, although Rosenthal (2007) suggests that sites CCO-254 and CCO-255 could actually be in nearby Cañada de Cierbo, entirely outside the Rodeo Refinery. Only one resource, CA-CCO-257, has been reported in the immediate vicinity of a Project component (i.e., the rail facility), but that resource was removed in the early development of the Rodeo Refinery. The records search also identified four research reports that described activities within the Rodeo Refinery near Project components, and all four reports yielded negative results. An archaeological field survey of the Rodeo Refinery was conducted in 2006 for a previous project at the Rodeo Refinery (Contra Costa County 2006). Because that and other previous cultural resource surveys have had negative results within the areas of the Project component sites, and because the ground surface in these areas has been thoroughly graded, filled, and paved or built on during the various stages of refinery development, a pedestrian field survey for the Project would not be an effective way of identifying and evaluating cultural resources, and no field survey was conducted.

Table 4.14-1. Identified Cultural Resources within or Adjacent To Rodeo Refinery

Primary Number	Trinomial	Age	Description	Comments	Location
P-07-000135	CA-CCO-254	Prehistoric	Shellmound site with human burials	"...main central portion of the mound has been removed." (Nelson 1909)	East of I-80
P-07-000136	CA-CCO-256	Prehistoric	Shellmound site	"Some hauling from the place has been done leaving 2-4 ft. exposures." (Nelson 1909)	East of I-80
P-07-000137	CA-CCO-257	Prehistoric	Shellmound site with human burials	"The site is at present occupied by the Union Oil Refinery...The last of the material was removed within the past year to give place for some oil tanks." (Nelson 1909)	~1,000 feet east of railcar facility
P-07-000318	CA-CCO-547	Prehistoric	Shellmound site with human remains	"Surrounding area has been modified by Freeway." (Elsasser 1957)	East of I-80
P-07-000439	CA-CCO-255	Prehistoric	Shellmound site with human remains	"...presents a very uneven surface as a result of the removal of material through 20 years past." (Nelson 1909)	East of I-80

Source: Contra Costa County 2013; Northwest Information Center 2012

Santa Maria Site

A records search conducted for a previous project at the Santa Maria Site identified one prehistoric archeological resource in the immediate area of the site. That resource, CA-SLO-1190, consists of marine shell, lithic artifacts and debitage, fire affected rock (i.e., hearth stones), and midden soil, and is located the undeveloped eastern portion of the Santa Maria Refinery property, approximately 0.75 mile from the Santa Maria Site; none of the resource is within the Santa Maria Site (San Luis Obispo County 2015).

4.14.2.3 Regulatory Setting

Federal Authority

Section 106 of the National Historic Preservation Act of 1966

Section 106 requires that every federal agency “take into account” how each of its undertakings could affect historic properties. Historic properties are districts, sites, buildings, structures, traditional cultural properties, and objects significant in American history, architecture, engineering, and culture that are eligible for or listed in the National Register. Historic properties are resources listed on or eligible for listing on the National Register (36 CFR Sections 800.16(l)(1)). A property may be listed in the National Register if it meets criteria provided in the National Register regulations (36 CFR Section 60.4). For more detailed discussion refer to Section 4.5, *Cultural Resources*.

Properties of traditional religious and cultural importance to Native Americans are considered under Section 101(d)(6)(A) of the National Historic Preservation Act (as amended). Other pertinent federal laws include the Archaeological Data Preservation Act of 1974, the American Indian Religious Freedom Act of 1978, the Archaeological Resources Protection Act of 1979, and the Native American Graves Protection and Repatriation Act of 1990, among others.

Native American Heritage Commission and Tribal Consultation

Consultation is required with the NAHC, the local Native American community, the State Historic Preservation Office, and any persons or organizations that know and/or are interested in cultural resources (e.g., traditional use areas and places of traditional or cultural significance) that could be impacted or affected by the Proposed Project.

State Authority

California Environmental Quality Act and Assembly Bill 52

Effective July 1, 2015, CEQA was revised to include early consultation with California Native American tribes and consideration of Tribal Cultural Resources (TCRs). These changes were enacted through AB 52. By including TCRs early in the CEQA process, AB 52 intends to ensure that local and Tribal governments, public agencies, and project proponents would have information available, early in the project planning process, to identify and address potential adverse impacts to TCRs. CEQA now establishes that a “project with an effect that may cause a substantial adverse change in the significance of a TCR is a project that may have a significant effect on the environment” (PRC Section 21084.2).

To help determine whether a project may have such an adverse effect, the PRC requires a lead agency to consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a proposed project. The consultation must take place prior to the determination of whether a negative declaration, mitigated negative declaration, or EIR is required for a project (PRC Section 21080.3.1). Consultation must consist of the lead agency providing formal notification, in writing, to the tribes that have requested notification or proposed projects within their traditionally and culturally affiliated area.

If the tribe wishes to engage in consultation on the project, the tribe must respond to the lead agency within 30 days of receipt of the formal notification. Once the lead agency receives the tribe's request to consult, the lead agency must then begin the consultation process within 30 days. As noted above, Mariah Mayberry of the Wilton Rancheria responded on October 25, 2020, requesting consultation. Based on discussion between Contra Costa County and the Wilton Rancheria it was agreed that inclusion of four mitigation measures into the EIR for the Project will satisfy the consultation requirements under AB 52 (Wilton Rancheria, pers. comm. 2020).

California Native American Graves Protection and Repatriation Act

The California Native American Graves Protection and Repatriation Act of 2001 is the state repatriation policy for Native American remains

California Register of Historical Resources

The California Register is "an authoritative listing and guide to be used by State and local agencies, private groups, and citizens in identifying the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change" (PRC Section 5024.1[a]). Criteria eligibility to the California Register are based on National Register criteria (PRC Section 5024.1[b]). Certain resources are determined by the statute to be automatically included in the California Register, including California properties formally determined eligible for, or listed in the National Register.

In order for a resource to meet the criteria for listing in the California Register, it must satisfy all of the following three provisions:

1. It meets one or more of the following four criteria of significance (PRC 5024.1[c] and CEQA Guidelines 15064.5):
2. the resource "is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;"
3. the resource "is associated with the lives of persons important in our past;"
4. the resource "embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values;" or
5. the resource "has yielded, or may be likely to yield information important in prehistory or history" (this criterion applies primarily to archaeological sites).
6. The resource retains sufficient integrity to be recognizable as a historical resource and to convey its significance; and
7. It is fifty years old or older (except where it can be demonstrated that sufficient time has passed to understand the historical importance of the resource).

California Health and Safety Code

The Project is also subject to the provisions of the California Health and Safety Code with respect to the discovery of human remains. Health and Safety Code Section 7050.5 states that "Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the Public Resources Code."

The measures outlined in Section 7050.5 of the Health and Safety Code and Section 5097.98 of the PRC are considered standard mitigation measures implemented in the event of an accidental discovery of human remains during excavation activities.

Local Authority

Contra Costa County General Plan

The Open Space Element of the Contra Costa County General Plan (Contra Costa County 2010) provides a general overview of cultural resources in the County, and includes an archaeological sensitivity map for planning purposes. The Rodeo Refinery is in an area of that map described as “Largely urbanized areas and publicly owned lands excluded from archaeological sensitivity survey. However, there are also significant archaeological resources within this area.” A portion of the map immediately adjacent to the northeast of the refinery is designated as “Extremely sensitive area (known archaeological sites),” due to the documented presence of multiple prehistoric/ethnohistoric period shell middens along the edge of San Pablo Bay and the Carquinez Strait.

The general plan also contains goals and policies related to the protection of cultural resources. The goal and policy that could be applicable to the Project are Goal 9-31 (To identify and preserve important archaeological and historic resources within the County) and Policy 9-32 (Areas which have identifiable and important archaeological or historic significance shall be preserved for such uses, preferably in public ownership).

San Luis Obispo County General Plan

The San Luis Obispo County CZLUO includes ordinance requirements for the protection of known cultural resources, and implementation of mitigation measures to minimize potential impacts to known and unknown resources. In addition to San Luis Obispo County General Plan and ordinance requirements, *Coastal Plan Policies* include policies for the protection of cultural resources consistent with the requirements of the California Coastal Act (1976).

4.14.3 Significance Criteria

Based on CEQA Guidelines Section 15064.5 and CEQA Guidelines Appendix G, a project would cause adverse impacts to tribal cultural resources if it would:

Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 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 § 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 § 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code § 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

CEQA Guidelines Section 15064.5(a)(3) provides standards for determining what constitutes a “substantial adverse change” that must be considered a significant impact on historical resources. In addition, a resource included on a local register of historical resources, as defined by PRC Section 5020.1(k) or identified as significant in a historical resource survey meeting the requirements of PRC Section 5024.1(g), shall be presumed to be culturally significant.

4.14.4 CEQA Baseline

Baseline conditions reflect the 2019 operation and maintenance of the Rodeo Refinery and Santa Maria Site as petroleum refineries, including operation and maintenance activities. The baseline setting also includes the applicable regulatory framework to protect environmental resources, which are described above.

4.14.5 Approach to Analysis

Under existing law, environmental documents must not include information about the locations of an archaeological site or sacred lands or any other information that is exempt from public disclosure pursuant to the Public Records Act. TCRs are also exempt from disclosure. CEQA defines the term “tribal cultural resource” as either of the following:

- (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 [PRC] 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 [PRC] Section 5024.1.*

In addition, continuing operation and maintenance of the Rodeo Refinery does not involve any new activities or ground disturbance that could affect tribal cultural resources. Therefore, operation and maintenance impacts associated with the Rodeo Refinery are not further addressed, and the focus of analysis is on construction of new facilities and demolition impacts.

The transitional phase of the Project does not involve activities that would be affect tribal cultural resources above that identified for construction/demolition impacts. Therefore, the transitional phase is not further addressed.

4.14.6 Direct and Indirect Impacts of the Proposed Project

Direct impacts result from land modification directly and immediately caused by the construction, operation, or maintenance of a facility. Indirect impacts also occur as a result of a specific project, but do not result from intentional ground disturbance. Common indirect impacts include erosion, vibration, unauthorized artifact collecting, and vandalism. The proposed Project entails ground disturbance construction and demolition activities at the Rodeo Refinery and Santa Maria Site.

Table 4.14-2 presents a summary of the potential tribal cultural resources impacts, as well as significance determinations for each impact.

Table 4.14-2. Summary of Impacts

Impact	Significance Determination		
	LTS	LTSM	SU
Impact 4.14-1. Would the Proposed Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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 PRC Section 5020.1(k)? 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 PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.)?			
Rodeo Refinery and Santa Maria Site			
<i>Construction/Demolition including Transitional Phase^a</i>		✓	

Notes: LTS = Less than significant, no mitigation proposed
 LTSM = Less-than-significant impact with mitigation
 SU = Significant and unavoidable

^a. Transitional phase applies only to Rodeo Refinery

IMPACT 4.14-1

Would the Proposed Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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 PRC Section 5020.1(k)?***
- 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 PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of PRC Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?***

Construction/Demolition: Less-than-Significant Impact with Mitigation

Rodeo Refinery

The Project components at the Rodeo Refinery, including existing equipment to be repurposed and new equipment, are in an area that has been a developed part of the refinery for decades. One prehistoric archaeological site (CA-CCO-257) that would represent a tribal cultural resource has been previously recorded in the general vicinity of the rail loading facility. Recorded by Nelson in 1909, the site was at that time already largely removed and built upon by the original Union Oil Company Refinery. Subsequent researchers (Nelson 1998; Tremaine 2000) have found only inconclusive evidence of the site during monitoring projects for utilities construction, including: in 2000, archaeological monitors found small bits of shell in a highly disturbed context approximately 1,000 feet from the location of the proposed rail unloading element of the Project.

Although CA-CCO-257 has not been evaluated for its eligibility for the California Register, any remaining intact deposits could potentially meet the CEQA definition of a historical resource. Additionally, construction activities for other Project components could unearth previously unknown archaeological sites that are not visible on the ground surface. Although this scenario is very unlikely

given the extreme disturbance of the native soils on the Rodeo Site (including the placement of up to 15 feet of imported fill), pockets of intact buried cultural remains could still exist. The impact would be considered potentially significant. However, with implementation of Mitigation Measures TCR-1, TCR-2, TCR-3, TCR-4 construction- and demolition-related impacts to previously unknown tribal cultural resources would be less than significant.

Santa Maria Site

A records search of the Santa Maria Site identified one prehistoric archeological resource in the immediate area. That resource, CA-SLO-1190, consists of marine shell, lithic artifacts and debitage, fire affected rock (i.e., hearth stones), and midden soil, and is located at the undeveloped eastern edge of the Santa Maria Refinery, approximately 0.75 mile from the Santa Maria Site; none of the resource is within the Santa Maria Site (San Luis Obispo County 2015). Demolition activities would not, therefore, affect this known resource. Consultation was conducted with the NAHC for a previous project that was never implemented; however, that analysis resulted in a series of measures to protect the resource in the event of disturbance. Because the project was not constructed, the resource is still in place.

Demolition activities could, however, unearth previously unknown archaeological sites that are not visible on the ground surface. Although this scenario is very unlikely given the extreme disturbance of the native soils, pockets of intact buried cultural remains could still exist. The impact would be considered potentially significant. However, with implementation of Mitigation Measures TCR-1 through TCR-4, construction- and demolition-related impacts to previously unknown tribal cultural resources would be less than significant.

Mitigation Measure TCR-1: Awareness Training

- A consultant and construction worker tribal cultural resources awareness brochure and training program for all personnel involved in project implementation shall be developed by Phillips 66 in coordination with interested Native American Tribes (i.e. Wilton Rancheria). The brochure will be distributed and the training will be conducted in coordination with qualified cultural resources specialists and Native American Representatives and Monitors from culturally affiliated Native American Tribes before any stages of project implementation and construction activities begin on the Project site. The program will include relevant information regarding sensitive tribal cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating state laws and regulations. The worker cultural resources awareness program will also describe appropriate avoidance and minimization measures for resources that have the potential to be located on the Project site and will outline what to do and whom to contact if any potential archaeological resources or artifacts are encountered. The program will also underscore the requirement for confidentiality and culturally-appropriate treatment of any find of significance to Native Americans and behaviors, consistent with Native American Tribal values.

Mitigation Measure TCR-2: Monitoring

To minimize the potential for destruction of or damage to existing or previously undiscovered burials, archaeological and tribal cultural resources and to identify any such resources at the earliest possible time during project-related earthmoving activities, Phillips 66 and its construction contractor(s) will implement the following measures:

- Paid Native American monitors from culturally affiliated Native American Tribes will be invited to monitor the vegetation grubbing, stripping, grading or other ground-disturbing activities in the project area to determine the presence or absence of any cultural resources. Native American representatives from cultural affiliated Native American

Tribes act as a representative of their Tribal government and shall be consulted before any cultural studies or ground-disturbing activities begin.

- Native American representatives and Native American monitors have the authority to identify sites or objects of significance to Native Americans and to request that work be stopped, diverted or slowed if such sites or objects are identified within the direct impact area. Only a Native American representative can recommend appropriate treatment of such sites or objects.
- If buried cultural resources, such as chipped or ground stone, historic debris, building foundations, or bone, are discovered during ground-disturbing activities, work will stop in that area and within 100 feet of the find until an archaeologist who meets the Secretary of the Interior's qualification standards can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the Caltrans, the State Historic Preservation Office, and other appropriate agencies. Appropriate treatment measures may include development of avoidance or protection methods, archaeological excavations to recover important information about the resource, research, or other actions determined during consultation.
- In accordance with the California Health and Safety Code, if human remains are uncovered during ground disturbing activities, the construction contractor or the County, or both, shall immediately halt potentially damaging excavation in the area of the burial and notify the County coroner and a qualified professional archaeologist to determine the nature of the remains. The coroner shall examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands, in accordance with Section 7050(b) of the Health and Safety Code. If the coroner determines that the remains are those of a Native American, they shall contact the NAHC by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). After the coroner's findings are presented, the County, the archaeologist, and the NAHC-designated MLD shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed.

Mitigation Measure TCR-3: Inadvertent Discoveries

- Phillips 66 shall develop a standard operating procedure, or ensure any existing procedure, to include points of contact, timeline and schedule for the project so all possible damages can be avoided or alternatives and cumulative impacts properly accessed.
- If potential tribal cultural resources, archaeological resources, other cultural resources, articulated, or disarticulated human remains are discovered by Native American Representatives or Monitors from interested Native American Tribes, qualified cultural resources specialists or other Project personnel during construction activities, work will cease in the immediate vicinity of the find (based on the apparent distribution of cultural resources), whether or not a Native American Monitor from an interested Native American Tribe is present. A qualified cultural resources specialist and Native American Representatives and Monitors from culturally affiliated Native American Tribes will assess the significance of the find and make recommendations for further evaluation and treatment as necessary. These recommendations will be documented in the project record. For any recommendations made by interested Native American Tribes which are not implemented, a justification for why the recommendation was not followed will be provided in the project record.

- If adverse impacts to tribal cultural resources, unique archeology, or other cultural resources occurs, then consultation with Wilton Rancheria regarding mitigation contained in the Public Resources Code sections 21084.3(a) and (b) and CEQA Guidelines section 15370 should occur, in order to coordinate for compensation for the impact by replacing or providing substitute resources or environments.

Mitigation Measure TCR-4: Avoidance and Preservation

Avoidance and preservation in place is the preferred manner of mitigating impacts to tribal cultural resources and shall be accomplished by several means, including:

- Planning construction to avoid tribal cultural resources, archaeological sites and/ or other resources; incorporating sites within parks, green-space or other open space; covering archaeological sites; deeding a site to a permanent conservation easement; or other preservation and protection methods agreeable to consulting parties and regulatory authorities with jurisdiction over the activity. Recommendations for avoidance of cultural resources will be reviewed by the CEQA lead agency representative, interested Native American Tribes and the appropriate agencies, in light of factors such as costs, logistics, feasibility, design, technology and social, cultural and environmental considerations, and the extent to which avoidance is consistent with project objectives. Avoidance and design alternatives may include realignment within the project area to avoid cultural resources, modification of the design to eliminate or reduce impacts to cultural resources or modification or realignment to avoid highly significant features within a cultural resource. Native American Representatives from interested Native American Tribes will be allowed to review and comment on these analyses and shall have the opportunity to meet with the CEQA lead agency representative and its representatives who have technical expertise to identify and recommend feasible avoidance and design alternatives, so that appropriate and feasible avoidance and design alternatives can be identified.
- If the resource can be avoided, the construction contractor(s), with paid Native American monitors from culturally affiliated Native American Tribes present, will install protective fencing outside the site boundary, including a buffer area, before construction restarts. The construction contractor(s) will maintain the protective fencing throughout construction to avoid the site during all remaining phases of construction. The area will be demarcated as an “Environmentally Sensitive Area.” Native American representatives from interested Native American Tribes and the CEQA lead agency representative will also consult to develop measures for long term management of the resource and routine operation and maintenance within culturally sensitive areas that retain resource integrity, including tribal cultural integrity, and including archaeological material, Traditional Cultural Properties and cultural landscapes, in accordance with state and federal guidance including National Register Bulletin 30 (Guidelines for Evaluating and Documenting Rural Historic Landscapes), Bulletin 36 (Guidelines for Evaluating and Registering Archaeological Properties), and Bulletin 38 (Guidelines for Evaluating and Documenting Traditional Cultural Properties); National Park Service Preservation Brief 36 (Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes) and using the Advisory Council on Historic Preservation’s Native American Traditional Cultural Landscapes Action Plan for further guidance. Use of temporary and permanent forms of protective fencing will be determined in consultation with Native American representatives from interested Native American Tribes.

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