

3.6 Cultural Resources

This section discusses cultural resources that may be potentially impacted by the proposed project. The following identifies the existing cultural resources within the project site, analyzes potential impacts of the proposed project, and recommends mitigation measures to avoid or reduce potential impacts of the proposed project.

Information for this section is summarized from the *Archaeological and Paleontological Assessment Report for the Brawley Solar Project* prepared by Chambers Group, Inc. This report is included in Appendix E of this EIR. The cultural resources inventory included a records search, literature review, and pedestrian survey.

3.6.1 Existing Conditions

Cultural Setting

Prehistory

The project site is located in the mid-section of the lower Colorado Desert, in which ancient Lake Cahuilla was situated – the present-day Salton Sea is illustrative of lower stands of the former Ancient Lake Cahuilla. In addition to paleontological potential, archaeological deposits found around the shoreline of Lake Cahuilla radiocarbon date to at least 1,440 years before present (B.P.) and shows demonstrable evidence of cultural activity in the area. Lake Cahuilla presented a massive freshwater oasis, allowing seasonal occupations resulting in archaeological deposits that include pottery, ground and chipped stone artifacts, and archaeological features such as rock fish traps. As an ethnographic landscape, the Cahuilla, Kumeyaay, Kamia, and the tribes which now comprise the Colorado River Indian Tribes (CRIT), the Mojave, Chemehuevi, Hopi, and Navajo settled in various locations around the basin, including the Colorado delta. Cultural resources located in the area tend to be associated with Lake Cahuilla due to its temporal context and functional use as a landscape, which yield archaeological data of high significance regarding how people adapted to the changing environment around the lake.

The three general time periods accepted in the region are the San Dieguito Complex, the Archaic period, and the Late Prehistoric period. These periods are briefly described below.

The earliest recognized occupation of the region, dating to 10,000 to 8,000 years B.P., is known as the San Dieguito complex. Assemblages from this occupation generally consist of flaked stone tools. Evidence of milling activities is rare for sites dating to this period. It is generally agreed that the San Dieguito complex shows characteristics of the Western Pluvial Lakes Tradition (WPLT), which was widespread in California during the early Holocene. The WPLT assemblage generally includes scrapers, choppers, and bifacial knives. Archaeologists theorize this toolkit composition likely reflects a generalized hunting and gathering society.

The following period, the Archaic (8,500 to 1,300 B.P.), is traditionally seen as encompassing both coastal and inland adaptations, with the coastal Archaic represented by the shell middens of the La Jolla complex and the inland Archaic represented by the Pauma complex. Coastal settlement is also thought to have been significantly affected by the stabilization of sea levels around 4,000 years ago that led to a general decline in the productivity of coastal ecosystems. Artifacts associated with this period include milling stones, unshaped manos, flaked cobble tools, Pinto-like and Elko projectile points, and flexed inhumations. Colorado Desert rock art studies have led researchers to suggest

Archaic-Period origins for many petroglyph and pictograph styles and elements common in later times. More recently, several important late Archaic-period sites have been documented in the northern Coachella Valley, consisting of deeply buried middens with clay-lined features and living surfaces, cremations, hearths, and rock shelters. Faunal assemblages show a high percentage of lagomorphs (rabbits and hares). The larger sites suggest a more sustained settlement type than previously known for the Archaic period in this area.

The Late Prehistoric period (1,300 to 200 B.P.) is marked by the appearance of small projectile points indicating the use of the bow and arrow, the common use of ceramics, and the general replacement of inhumations with cremations, all characteristic of the San Luis Rey complex. The San Luis Rey complex is divided temporally into San Luis Rey I and San Luis Rey II, with the latter distinguished mainly by the addition of ceramics. Along the coast of northern San Diego County, deposits containing significant amounts of Donax shell are now often assigned to the Late Prehistoric, based on a well-documented increase in the use of this resource at this time.

Ethnohistory

The project site was occupied by the Cahuilla, Quechan, Kumeyaay, Kamia, and the CRIT. The two closest tribal reservations to the project site are the Torres-Martinez Reservation located to northwest of the project site and Fort Yuma reservation located to the southeast of the project site. The Torres-Martinez Indian Reservation is currently home to the desert Cahuilla Indians and is on the northwest side of the Salton Sea, roughly 55 miles from the project site. Fort Yuma is located approximately 51 miles closer to the California-Arizona border and is the home of the Quechan. An ethnographic and archaeological summary of the Cahuilla, Quechan, Kumeyaay, Kamia, and CRIT is provided in Section 3.14, Tribal Cultural Resources of this EIR.

Regional History

The first significant European settlement of California began during the Spanish Period (1769 to 1821) when 21 missions and four presidios were established between San Diego and Sonoma. Although located primarily along the coast, the missions dominated economic and political life over the greater California region. The purpose of the missions was primarily for political control and forced assimilation of the Native American population into Spanish society and Catholicism, along with economic support to the presidios.

In the 1700s, due to pressures from other colonizers (Russians, French, British), New Spain decided that a party should be sent north with the idea of founding both military presidios and religious missions in Alta California to secure Spain's hold on its lands. The aim of the party was twofold. The first was the establishment of presidios, which would give Spain a military presence within its lands. The second was the establishment of a chain of missions along the coast slightly inland, with the aim of Christianizing the native population. By converting the native Californians, they could be counted as Spanish subjects, thereby bolstering the colonial population within a relatively short time.

The party was led by Gaspar de Portolá and consisted of two groups: one would take an overland route, and one would go by sea. All parties were to converge on San Diego, which would be the starting point for the chain of Spanish colonies. What became known as the Portolá Expedition set out on March 24, 1769. Portolá, who was very loyal to the crown and understood the gravity of his charge, arrived in what would become San Diego on July 1, 1769. Here, he immediately founded the presidio of San Diego. Leaving one group in the southern part of Alta California, Portolá took a smaller group and began heading north to his ultimate destination of Monterey Bay. Continuing up the coast, Portolá

established Monterey Bay as a Spanish possession on June 3, 1770, although it would take two expeditions to accomplish this task.

Having established the presidios at San Diego and Monterey, Portolá returned to Mexico. During the first four years of Spanish presence in Alta California, Father Junípero Serra, a member of the Portolá expedition and the Catholic leader of the new province, began establishing what would become a chain of 21 coastal missions in California. The first, founded concurrently at San Diego with the presidio, was the launching point for this group. During this time, four additional missions (San Carlos Borromeo de Carmelo, San Antonio de Padua, San Gabriel Arcángel, and San Luis Obispo de Tolosa) were established.

The Mexican Period (1821-1848) began with the success of the Mexican Revolution in 1821, but changes to the mission system were slow to follow. When secularization of the missions occurred in the 1830s, the missions' vast land holdings in California were divided into large land grants called ranchos. The Mexican government granted ranchos throughout California to Spanish and Hispanic soldiers and settlers. Even after the decree of secularization was issued in 1833 by the Mexican Congress, missionaries continued to operate a small diocesan church. In 1834, the San Gabriel Mission, including over 16,000 head of cattle, was turned over to the civil administrator.

In 1848, the Treaty of Guadalupe Hidalgo ended the Mexican American War and marked the beginning of the American Period (1848 to present). The discovery of gold that same year sparked the 1849 California Gold Rush, bringing thousands of miners and other new immigrants to California from various parts of the United States, most of whom settled in the northern part of the state. For those settlers who chose to come to southern California, much of their economic prosperity was fueled by cattle ranching rather than by gold. This prosperity, however, came to a halt in the 1860s because of severe floods and droughts, as well as legal disputes over land boundaries, which put many ranchos into bankruptcy.

Imperial County was formed in 1907 from a portion of San Diego County known as Imperial Valley and is the newest of California's counties. It is known for being one of California's most prosperous agricultural communities because of its vast canal systems stemming from the Colorado River. The first diversion of the Colorado River was in 1905 and continued through 1942 when the All-American Canal was completed. It is this water, conveyed from the Colorado River, that makes Imperial County so rich.

City of Brawley

Just as the Imperial Valley was starting to develop, a circular was released by the U.S. Government in 1902 claiming nothing would grow in this desert area, even with plentiful water. This now famous "libel" changed the name of Brawley, which was initially slated to be called Braly. A man named J.H. Braly from Los Angeles had underwritten shares of water stock and was assigned 4,000 acres of land at the center of the site where Brawley now stands. When Braly read this circular, he appealed to the Imperial Land Company to be released from his bargain. They told him they expected to build a city on his land and call it Braly. However, J.H. Braly wanted no part of it; he did not want his name connected with what he envisioned as a failure. George E. Carter, who was building the grade for the new railroad, heard of Braly's wish and took over Braly's contract for the 4,000 acres.

The Imperial Land Company got wind of the deal and sent emissaries to Carter, who sold out. Meanwhile, A.H. Heber (a principal in the townsite organizing company) had a friend in Chicago by the name of Brawley and suggested the town be called that name. The company ordered the new town platted in October of 1902. Brawley had a petition signed and was ready to incorporate in June

1907 but deferred the matter until the new Imperial County was formed out of a portion of San Diego County that year. Then in February 1908, a petition was filed, and Brawley was allowed to call an election. The vote was 34 to 22 in favor of incorporation.

For more than a century, Brawley has remained close to its roots of being a small, agricultural community. Many of its businesses cater to area farmers and ranchers who also call Brawley home. From the beginning, those who believed in Brawley were successful in creating imaginative ways to develop an oasis in what was once a hostile environment. Now as then, the town folk of Brawley pull together to create a united vision that is attractive to visitors, homeowners, consumers, developers and businesspeople alike. Incorporated in 1908, was a “tent city” of only 100 persons who were involved in railroads and the earliest introduction of agriculture. It had a population of 11,922 in 1950, but population growth was slow from the 1960s to the early 1990s.

Records Search

A records search dated October 14, 2020, was obtained from the South Coastal Information Center (SCIC) at San Diego State University. The records search provided information on all documented cultural resources and previous archaeological investigations within the 1-mile record search radius. Resources consulted during the records search conducted by the SCIC included the NRHP, California Historical Landmarks, California Points of Historical Interest, and the CRHR Inventory. Results of the records search and additional research are detailed below.

Previous Research

Based upon the records search conducted by the SCIC, 14 cultural resource studies have previously been completed within the 1-mile records search radius. Of the 14 previous studies, 9 of the studies were within the project site. A list of previous cultural resource studies within the 1-mile records search radius is provided in the *Archaeological and Paleontological Assessment Report for the Brawley Solar Project* (Appendix E of this EIR).

Previously Recorded Resources

Based upon the records search conducted by the SCIC, 5 previously recorded cultural resources were recorded within the 1-mile record search radius. Results show that none of the previously recorded resources are mapped within the project site boundaries. A list of previously recorded resources within the 1-mile records search radius is provided in the *Archaeological and Paleontological Assessment Report for the Brawley Solar Project* (Appendix E of this EIR).

Field Survey

A pedestrian survey was conducted on the project site between November 2 and 5, 2020. The purpose of the field survey was to visually inspect the ground surface for both paleontological and archaeologically significant materials. The archaeologists assessed the ground surface for prehistoric artifacts (e.g., flaked stone tools, tool-making debris, stone milling tools), historic-period artifacts (e.g., metal, glass, ceramics), and sediment discoloration that might indicate the presence of a cultural midden, as well as depressions and other features indicative of the former presence of structures or buildings (e.g., post holes, foundations). When an artifact or feature was observed during survey, the GPS data were recorded using the ArcGIS Collector application; photographs and measurements were taken; and, when applicable, for historic glass artifacts, the maker’s marks and date codes were recorded for further analysis and post-processing.

During completion of the survey, resource CA-IMP-08166H was relocated. Although not mapped within the actual project site boundaries, a segment of CA-IMP-08166H was relocated due to its bisecting position between the two adjacent project areas. Additionally, six newly recorded historic-period resources were identified (Table 3.6-1). The new historic-period resources were fully documented with the appropriate DPR 523 series forms for each of the new resources and will be submitted to the SCIC for inclusion in the archaeological database.

Table 3.6-1. Newly Identified Cultural Resources within the Project Site

Resource Name (Temporary)	Trinomial Number	Date Recorded	Age	Description	Recommended Evaluation
21267-001	Pending	November 2, 2020	Historic	Single-story residence	Recommended not eligible
21267-002	Pending	November 2, 2020	Historic	House/pads; glass and ceramic scatter	Not evaluated
21267-003 (Iso)	Pending	November 3, 2020	Historic	Green glass bottle base	Not evaluated
21267-004	Pending	November 5, 2020	Multi-component	Glass bottle, sanitary and food can scatter	Not evaluated
21267-005	Pending	November 5, 2020	Multi-component	Historic glass bottle, sanitary and food can scatter, modern refuse	Not evaluated
21267-006	Pending	November 5, 2020	Historic	Canals/water conveyance, part of irrigation district	Not evaluated

Source: Appendix E of this EIR

Historical Resources

Historical resources significant under CEQA include those designated or eligible for designation in the NRHP, the CRHR or other state program, or a local register of historical resources. Historical resources may also include resources listed in the State Historic Resources Inventory as significant at the local level or higher, and resources evaluated as potentially significant in a survey or other professional evaluation.

As shown in Table 3.6-1, a total of 6 cultural resources were identified within the project site: four historic-period and two multi-component sites. Five of the resources have yet to be evaluated. A detailed description of these five resources is provided in the *Archaeological and Paleontological Assessment Report for the Brawley Solar Project* (Appendix E of this EIR).

Resource 21267-001 was evaluated and not recommended eligible for designation in the NRHP, the CRHR or other state program, or a local register of historical resources. The NRHP and CRHR eligibility criteria are described below.

- **NRHP Eligibility Criteria.** Four criteria have been established to determine if a resource is significant to American history, architecture, archaeology, engineering, or culture and should be listed in the NRHP. These criteria include:
 - A. It is associated with events that have made a significant contribution to the broad patterns of our history;
 - B. It is associated with the lives of persons significant in our past;
 - C. It embodies the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and
 - D. It yields, or may be likely to yield, information important in prehistory or history.
- **CRHR Eligibility Criteria.** For the purposes of CEQA review, a historical resource is defined as follows (14 CCR 15064.5[a]):
 1. A resource listed in, or determined eligible by the State Historical Resources Commission for listing in, the California Register of Historical Resources (CRHR)
 2. A resource included in a local register of historical resources
 3. A resource identified as significant in a historical resource survey meeting the requirements specified in PRC 5024.1(g)
 4. Any resource that the lead agency determines to be historically significant

Site 21267-001

Site 21267-001 is a historic farm/ranch complex, including a single-story house, numerous miscellaneous outbuildings, and a fenced area on the east side of the property. The farm/ranch is located at 5003 N Best Avenue, Brawley, CA 92227, at the northwest corner of N Best Avenue and Ward Road, which runs parallel to the east-west Livesley Drain. The complex is in the southeastern most location within the project site boundaries and is bordered to the north and northwest by agricultural fields. The complex is visible as early as 1945 on the USGS map and 1953 in aerial imagery. The house and associated structures are still present. The building appears to correspond to typical minimal traditional style of form and construction, resting on a perimeter foundation of poorly consolidated concrete made with local materials. Wood joists are noted in the interior where exposed, suggesting a post-and-pier foundation for the floor of the building. The outline is a simple rectangle with a low, gabled roofline and minimal pitch. Roof eaves minimally extend, with boxed in soffits. The exterior is treated in stucco, using techniques typical of the period; tarpaper wrap, with wire mesh, a brown/scratch coat, and a finish coat. There are several wood-trimmed piercings for wood-cased double-sash windows. Cast-iron waste pipes are embedded into the exterior surface along one wall.

Several outbuildings are present, but their function remains unknown at this time. These are wood-framed and sided, and most are in a state of collapse or disrepair. Construction techniques and the greater fullness of the dimensions of the dimensional lumber suggest that these buildings are contemporaneous with the main residential building.

ELIGIBILITY CONSIDERATION

Site 21267-001 was evaluated in March 2021 by Chambers Group. Based on the evaluation of the residence, either as a complex or as individual structures, none of the four criteria are met for inclusion in the CRHR and the resource is recommended not eligible.

Criterion 1: This resource does not meet the criteria under Criterion 1 as it is not associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States. Therefore, this resource is recommended not eligible for the CRHR under Criterion 1.

Criterion 2: This resource does not meet Criterion 2 as it is not associated with the lives of persons who are important to local, California history. While research has yielded information to suggest that one of the original land patent holders, Thomas A. Livesley, was fairly prominent in Salem, Oregon, neither he nor his family, or those also listed on the 1911 land patent, were specifically associated with Brawley or Imperial Valley, California history. There is no evidence that Mr. Livesley or his family ever resided at 5003 N Best Avenue and were not mentioned as being influential in literature regarding the Imperial Irrigation District between the 1900s and 1940s or the history of Imperial Valley between the 1900s and 1930s (Dowd 1956; Tout 1931). It is likely that Mr. Livesley and the other parties listed on the land patent were involved in speculative agriculture but were not personally invested in the overall development of Brawley or within Imperial Valley.

Additionally, there is no evidence that the subsequent property titles holders, namely the Flammangs, were of particular significance in Brawley. The Flammangs were owners of a few farms over the decades, but there is no documentation stating any noteworthy influence in Brawley, Imperial Valley, or California. Therefore, this resource is recommended not eligible for the CRHR Criterion 2.

Criterion 3: This resource does not meet Criterion 3 for embodying the distinctive characteristics of a type, period, or method of construction; or as a representative work of a master; or for possessing high artistic values. represent a very common property type throughout the United States, California, and San Diego. Many Traditional Style residences were constructed throughout the United States during the twentieth century and these examples are neither unique nor innovative for the period in which they were constructed. Therefore, this resource is recommended not eligible for the CRHR under Criterion 3.

Criterion 4: This resource does not meet Criterion 4 since it is unlikely to yield information important to prehistory or history. It is unlikely that this property has the potential to broaden our understanding of the history of the United States, California, or San Diego during the twentieth century. Therefore, this resource is recommended not eligible for the CRHR under Criterion 4.

3.6.2 Regulatory Setting

This section identifies and summarizes federal, state, and local laws, policies, and regulations that are applicable to the project.

Federal

National Historic Preservation Act

Federal regulations (36 CFR Part 800.2) define historic properties as "any prehistoric or historic district, site, building, structure, or object included, or eligible for inclusion in, in the National Register of Historic Places." Section 106 of the National Historic Preservation Act (NHPA) (Public Law 89-665; 80 Stat

915; USC 470, as amended) requires a federal agency with jurisdiction over a project to take into account the effect of the project on properties included in or eligible for the (NRHP, and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The term "cultural resource" is used to denote a historic or prehistoric district, site, building, structure, or object, regardless of whether it is eligible for the NRHP.

State

California Office of Historic Preservation

The California Office of Historic Preservation (OHP) administers state and federal historic preservation programs and provides technical assistance to federal, state, and local government agencies, organizations, and the general public with regard to historic preservation programs designed to identify, evaluate, register, and protect California's historic resources.

Section 15064.5 of the CEQA Guidelines also requires that Native American concerns and the concerns of other interested persons and corporate entities, including but not limited to museums, historical commissions, associations, and societies be solicited as part of the process of cultural resources inventory. In addition, California law protects Native American burials, skeletal remains, and associated grave goods regardless of their antiquity and provides for the sensitive treatment and disposition of those remains (HSC Section 7050.5, PRC Sections 5097.94 et seq.).

CEQA Guidelines: Historical Resources Definition

CEQA Guidelines Section 15064.5(a) defines a historical resource as:

- (1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the CRHR (PRC Section 5024.1; Title 14 CCR, Section 4850 et seq.).
- (2) A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements Section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- (3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the CRHR (PRC Section 5024.1; Title 14 CCR, Section 4852) including the following:
 - (A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
 - (B) Is associated with the lives of persons important to our past;

- (C) 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
 - (D) Has yielded, or may be likely to yield, information important in prehistory or history.¹
- (4) The fact that a resource is not listed in, or determined to be eligible for listing in the CRHR, not included in a local register of historical resources (pursuant to Section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in Section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1.

CEQA Guidelines: Archaeological Resources

Section 15064.5(c) of CEQA Guidelines provides specific guidance on the treatment of archaeological resources as noted below.

- (1) When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subdivision (a).
- (2) If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.
- (3) If an archaeological site does not meet the criteria defined in subdivision (a), but does meet the definition of a unique archeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of Section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c–f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.
- (4) If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

CEQA Guidelines: Human Remains

Section 15064.5 of CEQA Guidelines provides specific guidance on the treatment of human remains pursuant to PRC § 5097.98, which provides specific guidance on the disposition of Native American burials (human remains), and fall within the jurisdiction of the NAHC:

- (d) When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the NAHC 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

¹ Ibid.

- appropriate Native Americans as identified by the NAHC. 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 (HSC Section 7050.5).
 - (2) The requirements of CEQA and the Coastal Act.
- (e) In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:
- (1) 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 or the county in which the remains are discovered must be 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:
 1. The coroner shall contact the NAHC within 24 hours.
 2. The NAHC shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
 3. The mostly descendent may make recommendations to the landowner of 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 in Public Resources Code section 5097.98, or
 - (2) Where the following conclusions occur the landowner or his authorized representative shall 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.
 - (A) The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
 - (B) The descendant fails to make a recommendation; or
 - (C) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the NAHC fails to provide measures acceptable to the landowner.
- (f) As part of the objectives, criteria, and procedures required by Section 21082 of the Public Resources Code, a lead agency should make provisions for historical or unique archaeological resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.”

California Health and Safety Code, Section 7050.5

California HSC 7050.5 makes it a misdemeanor to disturb or remove human remains found outside a cemetery. This code also requires a project owner to halt construction if human remains are discovered and to contact the County Coroner.

Local

Imperial County General Plan

The Imperial County General Plan provides goals, objectives, and policies for the identification and protection of significant cultural resources. The Conservation and Open Space Element of the General Plan includes goals, objectives, and policies for the protection of cultural resources and scientific sites that emphasize identification, documentation, and protection of cultural resources. While Section 3.9, Land Use Planning, of this EIR analyzes the project’s consistency with the General Plan pursuant to CEQA Guidelines Section 15125(d), the Imperial County Board of Supervisors and Planning Commission ultimately make a determination as to the project’s consistency with the General Plan. Goals and Objectives applicable to the proposed project are summarized in Table 3.6-2.

Table 3.6-2. Project Consistency with Applicable General Plan Goals and Objectives

General Plan Policies	Consistency with General Plan	Analysis
<p>Conservation and Open Space Element - Open Space and Recreation Conservation</p> <p>Goal 1 - Environmental resources shall be conserved for future generations by minimizing environmental impacts in all land use decisions and educating the public on their value.</p> <p>Objective 1.4 - Ensure the conservation and management of the County’s natural and cultural resources.</p>	<p>Consistent</p>	<p>A cultural resources inventory was prepared for the project area. Known archaeological resources within the project area will be avoided and not impacted. However, as discussed below, the proposed project has the potential to encounter undocumented historical, archaeological resources, and human remains.</p> <p>Implementation of Mitigation Measure CUL-1 and CUL-2 would require a supervising monitor to monitor all ground disturbing activity and to provide WEAP training to workers to reduce potential impacts on historical resources to a level less than significant. Implementation of Mitigation Measures CUL-3, CUL-4, and CUL-5 would reduce the potential impact associated with the inadvertent discovery of archaeological resources to a level less than significant.</p>
<p>Objective 3.1 - Protect and preserve sites of archaeological, ecological, historical, and scientific value, and/or cultural significance.</p>	<p>Consistent</p>	<p>At the completion of construction, an Archaeological Resources Monitoring Report will be prepared to summarize all monitoring efforts and observations, as performed, and all prehistoric or historic archaeological finds per Mitigation Measure CUL-6. Mitigation Measure CUL-7 would ensure that the potential impact on previously unknown human remains does not rise to the level of significance pursuant to CEQA.</p>

Source: County of Imperial 1993

Notes:

CUL=cultural; WEAP= Worker Environmental Awareness Program

3.6.3 Impacts and Mitigation Measures

This section presents the significance criteria used for considering proposed project impacts related to cultural and archeological resources, the methodology employed for the evaluation, an impact evaluation, and mitigation requirements, if necessary.

Thresholds of Significance

Based on CEQA Guidelines Appendix G, project impacts related to cultural resources are considered significant if any of the following occur:

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

Methodology

This analysis evaluates the potential for the proposed project, as described in Chapter 2, Project Description, to interact with cultural resources in the project area. Based on the extent of these interactions, this analysis considers whether these conditions would result in an exceedance of one or more of the applied significance criteria as identified above.

As indicated in the environmental setting, the *Archaeological and Paleontological Assessment Report for the Brawley Solar Project* (Appendix E of this EIR) was prepared for the project. The cultural resources inventory provides the results of a SCIC records search and a field survey which have been completed for the project area pursuant to CEQA.

The information from the cultural resources inventory was reviewed and summarized to present the existing conditions and to identify potential environmental impacts, based on the significance criteria presented in this section. Impacts associated with cultural resources that could result from project construction and operational activities were evaluated qualitatively based on site conditions; expected construction practices; materials, locations, and duration of project construction and related activities.

Impact Analysis

Impact 3.6-1 Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?

To be considered historically significant, a resource must meet one of four criteria for listing outlined in the CRHR (CEQA Guidelines 15064.3 (a)(3)). In addition to meeting one of the criteria outlined in the CRHR, a resource must retain enough intact and undisturbed deposits to make a meaningful data contribution to regional research issues (CCR Title 14, Chapter 1.5 Section 4852 [c]). Further, based on CEQA Guidelines Section 15064.5 (b), substantial adverse change would include physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource is materially impaired. This can occur when a project:

- Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the CRHR, NRHP, a local register, or historic resources.
- Demolishes or materially alters in an adverse manner those physical characteristics that account for its identification in an historical resources survey meeting the requirements of PRC §5024.1(g), unless the public agency establishes by a preponderance of the evidence that the resource is not historically or culturally significant.

As shown in Table 3.6-1, six newly recorded cultural resources were identified within the project site during field surveys. Newly identified cultural resources comprise both historic-period and two multi-component sites. Resource 21267-001 is recommended not eligible for listing and the other five resources have not been formally evaluated for potential eligibility for listing in the CRHR. The project applicant will avoid ground-disturbing activities within and in close proximity to these resources. However, if ground disturbing activities must occur within and in close proximity to these resources, a significant impact may potentially occur. Mitigation Measure CUL-1 and CUL-2 would involve retaining a Qualified Archaeologist to monitor ground disturbing work and provide WEAP training to construction personnel. If ground disturbing activities encounter unanticipated discoveries that are potentially significant historical resources pursuant to CEQA. Mitigation Measures CUL-3, CUL-4, and CUL-5 would require construction to be halted in the area surrounding the discovery so that the Qualified Archaeologist can conduct formal site evaluations to assess whether resource(s) are potentially eligible for listing in the CRHR. At the completion of construction, an Archaeological Resources Monitoring Report will be prepared to summarize all monitoring efforts and observations, as performed, and all prehistoric or historic archaeological finds per Mitigation Measure CUL-6. Implementation of Mitigation Measures CUL-1 through CUL-6 would reduce potential impacts associated with cultural resources to a level less than significant.

Mitigation Measure(s)

- CUL-1** **Cultural Monitoring.** Prior to construction, the project Applicant shall retain the services of a Qualified Professional Archaeologist meeting the Secretary of the Interior's Standards for a Qualified Archaeologist and require that all initial ground-disturbing work be monitored by someone trained in artifact and feature identification in monitoring contexts. A Supervising Archaeological Specialist and a Paleontological Monitor, to be retained by the project applicant, will be required to be present at the project construction phase kickoff meeting.

CUL-2 **Worker Environmental Awareness Program.** Prior to any ground disturbance, the supervising Archaeological Resources Specialist and Archaeological Resources Monitor shall conduct initial Worker Environmental Awareness Program (WEAP) training to all construction personnel, including supervisors, present at the outset of the project construction work phase, for which the Lead Contractor and all subcontractors shall make their personnel available. This WEAP training will educate construction personnel on how to work with the monitor(s) to identify and minimize impacts to paleontological resources and maintain environmental compliance and be performed periodically for new personnel coming on to the project as needed.

CUL-3 **Discovery of Previously Unidentified Archaeological Materials.** In the event of the discovery of previously unidentified archaeological materials, the construction contractor shall immediately cease all work activities within approximately 100 feet of the discovery. After cessation of excavation, the construction contractor shall immediately contact the Imperial County Department of Planning and Development Services. Except in the case of cultural items that fall within the scope of the Native American Grave Protection and Repatriation Act, the discovery of any cultural resource within the project area shall not be grounds for a “stop work” notice or otherwise interfere with the project’s continuation except as set forth in this paragraph. In the event of an unanticipated discovery of archaeological materials during construction, the project Applicant shall retain the services of a Qualified Professional Archaeologist meeting the Secretary of the Interior’s Standards for a Qualified Archaeologist to evaluate the significance of the materials prior to resuming any construction-related activities in the vicinity of the find. If the Qualified Archaeologist determines that the discovery constitutes a significant resource under CEQA and it cannot be avoided, the project Applicant shall implement an archaeological data recovery program.

CUL-4 **Schedule of Ground-Disturbing Activities.** The construction contractor shall provide the Supervising Archaeological Resources Specialist with a schedule of initial potential ground-disturbing activities. A minimum of 48 hours will be provided of commencement of any initial ground-disturbing activities such as vegetation grubbing or clearing, grading, trenching, or mass excavation.

As detailed in the schedule provided, an Archaeological Monitor shall be present on site at the commencement of ground-disturbing activities related to the project. The monitor, in consultation with the Supervising Archaeologist, shall observe initial ground-disturbing activities and, as they proceed, make adjustments to the number of monitors as needed to provide adequate observation and oversight. All monitors will have stop-work authority to allow for recordation and evaluation of finds during construction. The monitor will maintain a daily record of observations to serve as an ongoing reference resource and to provide a resource for final reporting upon completion of the project.

The Supervising Archaeologist, Archaeological Monitor, and the lead contractor and subcontractors shall maintain a line of communication regarding schedule and activity such that the monitor is aware of all ground-disturbing activities in advance in order to provide appropriate oversight.

CUL-5 **Discovery of Archaeological Resources.** If archaeological resources are discovered, construction shall be halted within 50 feet of the find and shall not resume until a Qualified Archaeologist can determine the significance of the find and/or the find has been fully investigated, documented, and cleared.

CUL-6 **Archaeological Resources Monitoring Report.** At the completion of all ground-disturbing activities, the Qualified Archaeologist shall prepare an Archaeological Resources Monitoring Report summarizing all monitoring efforts and observations, as performed, and any and all prehistoric or historic archaeological finds as well as providing follow-up reports of any finds to the South Coastal Information Center (SCIC), as required.

Significance After Mitigation

With the implementation of Mitigation Measures CUL-1 through CUL-6, impacts to potential historical resources during construction would be reduced to a level less than significant by requiring construction monitoring, WEAP training, and proper handling and documentation of previously undiscovered historic resources.

Impact 3.6-2 Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

Pursuant to CEQA Guidelines §15064.5(c)(1) and (2), an archaeological resource includes an archaeological site that qualifies as a significant historical resource as described for Impact 3.6-1. If an archaeological site does not meet any of the criteria outlined in the provisions under Impact 3.6-1, but meets the definition of a “unique archaeological resource” in PRC 21083.2, the site shall be treated in accordance with the provisions of PRC 21083.2, unless the project applicant and public agency elect to comply with all other applicable provisions of CEQA with regards to archaeological resources. “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:

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

CEQA Guidelines 15064.5(c)(4) confirms that if an archaeological resource is neither a unique archaeological nor an historic resource, the effects of the project on those resources shall not be considered a significant effect on the environment.

Based on the field survey conducted for the project, much of the proposed project survey area was vegetated by agricultural fields while others were in areas previously disturbed for placement of water channels and culverts for agricultural purposes. The disturbed surface and subsurface of the project area from agricultural activity and construction of channels and culverts have likely destroyed any intact potential prehistoric or historic-era cultural resources. The potential of finding a buried archaeological site during construction is considered low. However, like all construction projects in the state, the possibility exists. This potential impact is considered significant. Implementation of Mitigation

Measures CUL-1 through CUL-6 would reduce the potential impact associated with the inadvertent discovery of archaeological resources to a level less than significant.

Impact 3.6-3 Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

During the construction and operational phases of the proposed project, grading, excavation and trenching will be required. Although the potential for encountering subsurface human remains within the project site is low, there remains a possibility that human remains are present beneath the ground surface, and that such remains could be exposed during construction. The potential to encounter human remains is considered a significant impact. Mitigation Measure CUL-7 would ensure that the potential impact on previously unknown human remains does not rise to the level of significance pursuant to CEQA.

Mitigation Measure(s)

CUL-7 **Discovery of Human Remains.** In the unlikely event that human remains are discovered during ground-disturbing activities, then the proposed project would be subject to California Health and Safety Code 7050.5, CEQA Section 15064.5, and California Public Resources Code Section 5097.98 (NPS 1983). If human remains are found during ground-disturbing activities, State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Imperial County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. In the event of an unanticipated discovery of human remains, the Imperial County Coroner shall be notified immediately. If the human remains are determined to be prehistoric, the County Coroner shall notify the NAHC, which shall notify a most likely descendant (MLD). The MLD shall complete the inspection of the site within 48 hours of notification and may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

Significance After Mitigation

With the implementation of Mitigation Measure CUL-7, potential impacts from encountering human remains during ground-disturbing construction activities would be reduced to a level than significant with adherence to California Health and Safety Code 7050.5, CEQA Section 15064.5, and California Public Resources Code Section 5097.98 (NPS 1983).

3.6.4 Decommissioning/Restoration and Residual Impacts

Decommissioning/Restoration

If at the end of the PPA term, no contract extension is available for a power purchaser, no other buyer of the energy emerges, or there is no further funding of the project, the project will be decommissioned and dismantled. No impact is anticipated from restoration activities as the ground disturbance and associated impacts on cultural resources will have occurred during the construction phase of the proposed project.

Residual

Implementation of Mitigation Measure CUL-1 and CUL-2 would require a supervising monitor to monitor all ground disturbing activity and to provide WEAP training to workers to reduce potential impacts on historical resources to a level less than significant. Implementation of Mitigation Measures CUL-3, CUL-4, and CUL-5 would reduce the potential impact associated with the inadvertent discovery of archaeological resources to a level less than significant. At the completion of decommissioning construction activities, an Archaeological Resources Monitoring Report will be prepared to summarize all monitoring efforts and observations, as performed, and all prehistoric or historic archaeological finds per Mitigation Measure CUL-6. Mitigation Measure CUL-7 would ensure that the potential impact on previously unknown human remains does not rise to the level of significance pursuant to CEQA. No unmitigable impacts on cultural resources would occur with implementation of the proposed project.