4.4 CULTURAL RESOURCES

The analysis in this Subsection is based on a the site-specific paleontological resource and monitoring assessment titled, "Paleontological Resource and Monitoring Assessment, Nichols Road Quarry Expansion Project Area, City of Lake Elsinore, Riverside County, California," prepared by Brian F. Smith and Associates (BFSA) and dated May 5, 2015. The technical report is provided as *Technical Appendix E1* to this EIR. The analysis in this Subsection is also based on a site-specific archaeological assessment prepared by BFSA titled, "A Phase I and II Cultural Resources Assessment for the Nichols Road Quarry Expansion Project, City of Lake Elsinore, Riverside County, California," and dated July 9, 2015. This technical report is provided as *Technical Appendix E2* to this EIR. Information used to support the analysis in this subsection also was obtained from Section 3.2, Cultural and Paleontological Resources, of the City of Lake Elsinore General Plan Update Final Recirculated Program Environmental Impact Report (State Clearinghouse No. 2005121019), certified December 13, 2011 (herein referred to as GPU EIR).

4.4.1 SCOPE OF REVIEW

The Nichols Canyon Mine, as discussed in Section 2.0, Environmental Setting, is an existing, ongoing surface mining operation operating pursuant to vested mining rights and an approved reclamation plan (RP 2006-01A1), which was analyzed in a prior MND. Although the City has chosen to prepare an EIR for the Project here, the scope of review addresses those impacts resulting from the Project as described in Section 3.0, Project Description, and not impacts related to existing, approved operations, which form the environmental baseline, as discussed in Section 2.7, Existing Physical Site Conditions. Accordingly, this Subsection analyzes cultural resources impacts related to the Project specifically. This Subsection does not analyze cultural resources impacts related to existing, approved operations.

4.4.2 EXISTING CONDITIONS

A. Cultural Setting

The Project site is located in the eastern portion of the City of Lake Elsinore, Riverside County, California. The Paleo Indian Period, Archaic Period, and the Late Prehistoric Period are the three general cultural periods represented in Riverside County, which were followed by the historic period, as summarized briefly below. Refer to *Appendix E2* for a more detailed discussion about the prehistoric cultural periods in western Riverside County. (BFSA, 2015b, pp. 2.0-5 through 2.0-11)

1. Paleontological Setting

A paleontological resources assessment was conducted by BFSA, the results of which are contained in *Technical Appendix E1* to this EIR. As mapped, the Project site is dominantly underlain by three major rock types, which bear a relationship to paleontological sensitivity: unnamed heterogeneous granitic rocks (Khg) in the north and northeast; an intermixed suite (Ksv) of Cretaceous Estelle Mountain volcanics and Cretaceous metasedimentary rocks in the northwest; and young Quaternary sandy alluvial fan sediments (Qyfa) along the southern part of the Project site. The geologic units within the bounds of the Project site are either assigned a Low Potential to yield fossiliferous materials, or are regarded as unlikely to yield fossiliferous materials on the basis of the geologic field investigation. (BFSA, 2015a, p. 2)

2. Prehistoric Period Setting

Paleo Indian, Archaic Period Milling Stone Horizon, and the Late Prehistoric Shoshonean groups are the three general cultural periods represented in Riverside County. The Paleo Indian Period is associated with the terminus of the late Pleistocene between 12,000 to 10,000 years before present (YBP). Paleo Indians were likely attracted to multiple habitat types, including mountains, marshlands, estuaries, and lakeshores. (BFSA, 2015b, page 2.0-5 to 2.0-6) During the Archaic Period Milling Stone Horizon (circa 9,000 to 1,300 YBP) the coastal lagoons in southern California supported large Milling Stone Horizon populations circa 6,000 YBP, as shown by numerous radiocarbon dates from the many sites adjacent to the lagoons (BFSA, 2015b, page 2.0-6). In approximately 1,350 YBP, a Shoshonean-speaking group from the Great Basin region moved into Riverside County, marking the transition to the Late Prehistoric Period. This period is characterized by higher population densities and elaborations in social, political, and technological systems. Economic systems diversified and intensified during this period with the continued elaboration of trade networks, the use of shell-bead currency, and the appearance of more labor-intensive, yet effective, technological innovations. (BFSA, 2015b, page 2.0-7). Ethnohistorical and ethnographic evidence indicates that three Shoshonean-speaking groups occupied portions of Riverside County during the Protohistoric Period, including the Cahuilla, the Gabrielino, and the Luiseño (BFSA, 2015b, page 2.0-8).

3. Historic Period

The historic background of the Project area began with the Spanish colonization of Alta California. The first Spanish colonizing expedition reached southern California in 1769 with the intention of converting and civilizing the indigenous populations, as well as expanding the knowledge of and access to new resources in the region. In the late eighteenth century, the San Gabriel (Los Angeles County), San Juan Capistrano (Orange County), and San Luis Rey (San Diego County) missions began colonizing southern California and gradually expanded their use of the interior valley (into what is now western Riverside County) for raising grain and cattle to support the missions. While no missions were ever built in what would become Riverside County, many mission outposts were established in the early years of the nineteenth century to extend the missions' influence to the backcountry. Two outposts that were located in Riverside County include San Jacinto and Temecula. (BFSA, 2015b, page 2.0-8 to 2.0-9)

The region of Lake Elsinore started to develop in 1883 with the emergence of the railroad. The railroad brought a steady stream of settlers, miners, and prospectors into the area, thereby creating the community of Lake Elsinore. By 1884, the developing town had a school and post office established, and in 1893, the town officially became recognized as the City of Lake Elsinore. In the late nineteenth century, the town experienced a boom due to the mining of gold between the towns of Elsinore and nearby Perris. In addition to the mining of gold, Lake Elsinore is also known for the mining of tin ore, coal, clay, and asbestos. Following the mining boom, Lake Elsinore began to bring in many tourists due to boat and auto racing and the lakefront resorts. The Great Depression limited expansion, except for the completion of a new post office in 1932. (BFSA, 2015b, page 2.0-11)

B. Documented Prehistoric and Archaeological Resources

BFSA reviewed the records search conducted by the Eastern Information Center (EIC) at the University of California at Riverside (UCR) to determine the presence of any previously recorded sites. The EIC also provided the standard review of the National Register of Historic Places and the

Office of Historic Preservation Historic Property Directory. Land patent records, held by the Bureau of Land Management (BLM) and accessible through the BLM General Land Office (GLO) website, were also reviewed for pertinent Project information. The results were that 32 cultural resource sites and 36 cultural resource studies have been recorded within a one-mile radius of the Project. The Mine was previously surveyed as part of two studies: Drover in 1987 as well as Lerch and Gray in 2006. The 2006 Lerch and Gray study (published by Statistical Research, Inc.) identified a single historic site within the current Project site, RIV-8116, which is characterized as a historic refuse scatter on the southeastern boundary of the Mine. (BFSA, 2015b, page 2.0-1).

C. Documented Paleontological Resources

BFSA reviewed the results of a literature review and collections and records search of areas in Temescal Valley north of the Project site conducted by the Geological Sciences Division of the San Bernardino County Museum in Redlands, California. The literature review identified a low potential for fossil-bearing geologic units in the Project area. Because of the unlikely possibility of finding fossils in the geologic formations exposed across the Project site, a museum collections and records search was not solicited for the proposed Project. (BFSA, 2015a, p. 2)

D. Applicable Regulatory Requirements

1. Senate Bill (SB) 18

California Senate Bill 18 requires that lead agencies consult with California Native American tribes during the local planning process for the purposes of protecting Traditional Tribal Cultural Places whenever a project proposes to amend or adopt any general plan or specific plan, or designate land as open space. The consultation process must be completed prior to project approval. Because the proposed Project does not include a General Plan or Specific Plan Amendment, the City of Lake Elsinore is not subject to the requirements associated with the SB 18 process for Native American consultation.

2. Assembly Bill 52 and Public Resources Code § 21074

The provisions of Public Resources Code § 21074 were established pursuant to California Assembly Bill 52 (AB 52), which was approved by the Governor on September 25, 2014. AB 52 requires "a lead agency to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project." AB 52 applies to projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015. The bill requires "the Office of Planning and Research to revise on or before July 1, 2016, the guidelines to separate the consideration of tribal cultural resources from that for paleontological resources and add consideration of tribal cultural resources."

3. California Code of Regulations § 15064.5

The California Code of Regulations, Title 14, Chapter 3, § 15064.5, establishes the procedure for determining the significance of impacts to archeological and historical resources, as well as classifying the type of resource. Cultural resources are aspects of the environment that require

identification and assessment for potential significance. The evaluation of cultural resources under CEQA is based upon the definitions of resources provided in § 15064.5.

4. National Historic Preservation Act (1981)

The National Historic Preservation Act (NHPA) (16 U.S. Code § 470 et. seq.) created the National Register of Historic Places program under the Secretary of the Interior. In addition to enticing state and local municipalities with federal funding, the NHPA provides the legal framework for most state and local preservation laws. Significant historical or archaeological resources are listed in the National Register of Historic Places, which is a program maintained by the Keeper of the National Register. The National Register program also includes National Historic Landmarks, which is limited only to properties of significance to the nation.

The NHPA established the Section 106 review procedure to protect historic and archaeological resources listed in or eligible for listing in the National Register from the impact of projects by a federal agency or project funded or permitted by a federal agency. The National Register is an authoritative guide to be used by governments, private groups, and citizens to identify the nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment. Listing of private property on the National Register does not prohibit by law any actions which may otherwise be taken by the property owner with respect to the property.

5. California Register of Historic Places (1993)

As a recipient of federal funding, the California Office of Historic Preservation administers the California Register of Historical Resources (CA Pub. Res. Code § 5020 et. seq.). The purpose of the California Register is to develop and maintain an authoritative guide to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate which properties are to be protected, to the extent prudent and desirable, from substantial adverse change. The State Historic Preservation Officer enforces a designation and protection process, has a qualified historic preservation review commission, maintains a system for surveys and inventories, and provides for adequate public participation in its activities. Sites, places or objects that are eligible to the National Register, are automatically included in the California Register.

6. Traditional Tribal Cultural Places (2004)

The Traditional Tribal Cultural Places Bill of 2004 (CA Government Code § 65352 et. seq.) directs local governments to consult with Native American tribes early in the land use planning process. The intent of the consultation process is to allow for meaningful dialogue regarding potential means to preserve places of prehistoric, archaeological, cultural, spiritual, and ceremonial importance to Native American tribes.

7. Health and Safety Code Provisions for Human Remains

The California Health and Safety Code § 7050.5, as well as the Public Resources Code § 5097 et. seq., require that in the event of discovery or recognition of any human remains in any location other than a formal cemetery, no further excavation of disturbance of the site or site vicinity can occur until the County Coroner has examined the remains and makes a report. The Native American Heritage Commission is required to be notified within 24 hours if the Coroner determines or suspects the remains to be of Native American descent.

4.4.3 BASIS FOR DETERMINING SIGNIFICANCE

The proposed Project would result in a significant impact to cultural resources if the Project or any Project-related component would:

a. *Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?*

b. *Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?*

c. *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

d. *Disturb any human remains, including those interred outside of formal cemeteries?*

e. *Cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code § 21074?*

Thresholds a through d are taken directly from Appendix G to the State CEQA Guidelines, and are intended to ensure that Project impacts to historic, archaeological and/or paleontological resources are fully evaluated and mitigated for, as impact to these resources could interfere with scientific research endeavors could compromise resources that are considered sensitive to prehistoric and/or historic cultures. Threshold e was selected to discuss the requirements of Public Resources Code § 21074.

4.4.4 IMPACT ANALYSIS

Threshold a. Would the Project cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?

The Project proposes a 24-acre expansion of an existing surface mining operation. As detailed in the City of Lake Elsinore General Plan Update EIR Figure 3.2-2, the Nichols Canyon Mine and surrounding areas have been determined to not contain historic resources as defined in § 15064.5 of the CEQA Guidelines (Lake Elsinore, 2011b, Figure 3.2-2). Although there are no known historical resources located within the Project area, it is possible for the proposed Project to uncover the presence of significant subsurface historical resources within the proposed Expanded Disturbance Area (EDA), which is the proposed approximately 24-acre increase in the approved disturbance limits for the Nichols Canyon Mine. A site-specific Phase I and Phase II Cultural Resources Assessment was prepared to evaluate the potential for the presence of historical resources within the EDA.

An archaeological records search for the Project and the surrounding area within a one mile radius was conducted by the EIC at UCR. The EIC reported that one cultural resource (RIV-8116) is located within the Project site. Site RIV-8116 is recorded as a historic refuse scatter. (BFSA, 2015b, page 4.01-1)

BFSA conducted an archaeological study to locate and record any cultural resources present within the Project. During the study, the previously recorded historic site (RIV-8116), was relocated. This site was recorded as a mid-twentieth century historical refuse scatter. The site was subjected to a

testing program to evaluate site significance. Testing documented the site as a surface scatter of historic artifacts that represent a roadside dump. (BFSA, 2015b, page 1.0-1)

With the recordation of historic Site RIV-8116, the collection of historic surface artifacts, and the excavation of subsurface tests, the research potential for this site has been exhausted and the site is evaluated as not unique and not CEQA-significant (BFSA, 2015b, page 1.0-1). Thus, based on the conclusions in the Phase I and II Cultural Resources Assessment, the Project would not impact historic resources and as such, no mitigation is required.

Threshold b. Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

An archaeological records search for the Project and the surrounding area within a one-mile radius was conducted by the EIC at UCR. The EIC reported that one cultural resource (RIV-8116) is located within the Project site and an additional 31 cultural resources are located within a one-mile radius (BFSA, 2015b, page 4.0-1). The analysis of site components and artifacts did not indicate Native American religious, ritual, or other special activities. In addition, BFSA requested a review of the Sacred Lands File (SLF) by the Native American Heritage Commission (NAHC) to determine if any recorded Native American sacred sites or locations of religious or ceremonial importance are present within one mile of the Project. The NAHC SLF search did not indicate the presence of a sacred site within the search radius. (BFSA, 2015b, page 3.0-4)

The Phase I and II Cultural Resources Assessment concludes that one previously recorded historic site, RIV-8116, was present within the Project. The RIV-8116 site was documented by BNSF and was relocated as noted above, and no further impacts would occur as a result of the Project. Mitigation measures would not be required as part of Project approval. (BFSA, 2015b, page 1.0-2) Accordingly, implementation of the proposed Project would not result in a substantial adverse change in the significance of any known archaeological resources, as defined in California Code of Regulations § 5064.5. Therefore, the Project would have no impact and no mitigation is required.

Threshold c. Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

According to GPU EIR Figure 3.2-3, the Nichols Canyon Mine has a "low" and "undetermined" potential for paleontological resources to be uncovered (Lake Elsinore, 2011b, Figure 3.2-3) A Paleontological Resource and Monitoring Assessment was prepared in May 2015 for the Nichols Canyon Mine expansion area.

As detailed in the Paleontological Resource and Monitoring Assessment for the proposed Project (*Technical Appendix E1*), the geologic units within the bounds of the Nichols Canyon Mine are either assigned a Low Potential to yield fossiliferous materials, or are regarded as unlikely to yield fossiliferous materials on the basis of the geologic field investigation. As such, implementation of a paleontological Mitigation Monitoring and Reporting Program (MMRP) would typically not be required for any earth-disturbing (quarrying) activities on-site. Because of the unlikely possibility of finding fossils in the geologic formations exposed across the Project site, a museum collections and records search was not solicited for the proposed Project. (BFSA, 2015a, p. 2)

Based on the published geologic map units within the bounds of the Nichols Canyon Mine, the lack of any known fossiliferous deposits in these units, the assignment of a Low Potential to contain significant nonrenewable paleontological resources (i.e. fossils) in the granitic and young alluvial fan sediments, and the results of the geologic field examination, the Paleontological Resource and Monitoring Assessment concludes that the likelihood of finding fossiliferous materials within the Project site during any further excavation (quarrying) and/or grading activities is low to nil. The report does not recommend a paleontological MMRP for the Project during the course of further mining activities at the Project site. (BFSA, 2015a, p. 3) Thus, based on the information provided in the Paleontological Resource and Monitoring Assessment, the Project would have a less-than-significant impact to paleontological resources and no mitigation measures are warranted.

Threshold d. Would the Project disturb any human remains, including those interred outside of formal cemeteries

The Project site does not contain a cemetery and no known formal cemeteries are located within the immediate site vicinity. Field surveys conducted on the Project site did not identify the presence of any human remains and no human remains are known to exist beneath the surface of the site (BFSA, 2015b). Nevertheless, the remote potential exists that human remains may be unearthed during grading and excavation activities associated with Project construction.

If human remains are unearthed during Project construction, the construction contractor would be required by law to comply with California Health and Safety Code, § 7050.5 "Disturbance of Human Remains." According to § 7050.5(b) and (c), if human remains are discovered, the County Coroner must be contacted and if the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the Coroner is required to contact the NAHC by telephone within 24 hours. Pursuant to California Public Resources Code § 5097.98, whenever the NAHC receives notification of a discovery of Native American human remains from a county coroner, the NAHC is required to immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. According to Public Resources Code § 5097.94(k), the NAHC is authorized to mediate disputes arising between landowners and known descendants relating to the treatment and disposition of Native American human burials, skeletal remains, and items associated with Native American burials. With mandatory compliance to California Health and Safety Code § 7050.5 and Public Resources Code § 5097.98, any potential impacts to human remains, including human remains of Native American descent, would be less than significant and mitigation is not required. (BFSA, 2015b, p. 3.0-7)

Threshold e. Would the Project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code § 21074?

The provisions of Public Resources Code § 21074 were established pursuant to AB 52. Pursuant to § 11.(c) of AB 52, the provisions of AB 52 apply only to projects that have a notice of preparation (NOP) or a notice of negative declaration or mitigated negative declaration filed on or after July 1,

2015. The proposed Project's NOP was distributed for public review on June 25, 2015. Accordingly, the Project is not subject to the provisions of AB 52, and no further analysis of this topic is necessary.

4.4.5 CUMULATIVE IMPACT ANALYSIS

This cumulative impact analysis considers development of the proposed Project in conjunction with other development projects in the vicinity of the Project site resulting from full buildout of the City of Lake Elsinore General Plan and buildout of nearby portions of unincorporated Riverside County in conformance with the Riverside County General Plan.

The Phase I and II Cultural Resources Assessment concluded that the one previously recorded historic site, RIV-8116, which has been relocated, is not CEQA-significant, and as such the impacts to RIV-8116 would not be adverse. Therefore, the Project has no potential to contribute towards a cumulatively considerable impact to historical or archaeological resources.

No paleontological resources have been identified on the Project site. The Paleontological Resource and Monitoring Assessment for the Project concludes that the likelihood of finding fossiliferous materials within the Project site during any further quarrying/grading activities is very low to nil. Therefore, the Project has no potential to contribute towards a cumulatively considerable impact to paleontological resources.

Due to mandatory compliance required of all ground-disturbing construction activities with the provisions of California Health and Safety Code § 7050.5 as well as Public Resources Code § 5097 et. seq., human remains would be assured proper treatment if encountered. Because all other development projects within the Cities of Lake Elsinore, Corona, Temecula, and elsewhere in the region similarly would be required to comply with state law, any cumulatively considerable impact associated with human remains discovery would be precluded.

As detailed in threshold e) above, the Project is not subject to the provisions of AB 52. Thus, the Project would have no cumulatively considerable impacts in this regard.

4.4.6 SIGNIFICANCE OF IMPACTS BEFORE MITIGATION

Threshold 1: No Impact. One previously recorded historic site, RIV-8116, was present within the Project site and it has since been relocated by BNSF. Surface artifacts were observed and collected during the relocation of RIV-8116. Additionally, because Site RIV-8116 does not contain any subsurface cultural deposits and lacks any further research potential, the site was evaluated as not unique and not significant under CEQA criteria. Thus, the Project would have no impacts to historical resources.

Threshold 2: No Impact. The Project would not impact any known or suspected prehistoric archaeological resources. No prehistoric archaeological resources have been identified on the Project site or in the surrounding area. Thus, the Project would have no impacts to archaeological resources.

Threshold 3: Less-than-Significant Impact. There is a very low likelihood that the Project's construction activities could uncover paleontological resources that may be buried beneath the ground surface. As such the Project would have a less-than-significant impact to these resources

because the likelihood of finding fossiliferous materials within the Project site during any further excavation/grading activities is very low to nil.

Threshold 4: Less-than-Significant Impact. In the unlikely event that human remains are discovered during Project grading or other ground disturbing activities, the Project would be required to comply with the applicable provisions of California Health and Safety Code § 7050.5 and California Public Resources Code § 5097 *et. seq*. Mandatory compliance with State law would ensure that human remains, if encountered, are appropriately treated and would preclude the potential for significant impacts to human remains.

Threshold 5: No Impact. As described under Threshold e) above, the Project's NOP was distributed for public review on June 25, 2015. Accordingly, the Project is not subject to the provisions of AB 52. Thus, there would be no impact in this regard.

4.4.7 MITIGATION

Impacts would not occur or would be less than significant; accordingly, no mitigation is required.