

3.7 Cultural Resources

This section describes the affected environment and regulatory setting for Cultural Resources, including brief descriptions of the prehistoric and historic setting of the Commonwealth Corporate Center Project (Project) area and the results of the archaeological resources investigation conducted for the Project. Applicable federal, state, and local regulations are identified, followed by impact analysis and mitigation measures, as applicable, to reduce potentially adverse impacts on cultural resources.

This section is based on a records search at the Northwest Information Center (NWIC) of the California Historical Resources Information System, a search of the Native American Heritage Commission (NAHC) sacred lands database, and geological information. No comments pertaining to cultural resources were received in response to the Notice of Preparation (NOP) (Appendix 1).

Existing Conditions

Regulatory Setting

Federal

National Historic Preservation Act. Federal regulations for cultural resources are primarily governed by Section 106 of the National Historic Preservation Act (NHPA) of 1966, which applies to actions taken by federal agencies. The goal of the Section 106 review process is to offer a measure of protection to sites that are determined eligible for listing in the National Register of Historic Places (NRHP). The criteria for determining NRHP eligibility are found in 36 Code of Federal Regulations (CFR) Part 60. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and affords the federal Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The Council's implementing regulations, "Protection of Historic Properties," are found in 36 CFR Part 800. The NRHP criteria (contained in 36 CFR 60.4) are used to evaluate resources when complying with NHPA Section 106. Those criteria state that eligible resources comprise districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- a. Are associated with events that have made a significant contribution to the broad patterns of our history;
- b. Are associated with the lives of persons significant in our past;
- c. Embody the distinctive characteristics of a type, period, or method of construction, or that possess high artistic values, or that represent a significant distinguishable entity whose components may lack individual distinction; or
- d. Have yielded or may be likely to yield, information important to history or prehistory.

Archaeological site evaluation assesses the potential of each site to meet one or more of the criteria for NRHP eligibility based upon visual surface and subsurface evidence (if available) at each site location, information gathered during the literature and records searches, and the researcher's knowledge of and familiarity with the historic or prehistoric context associated with each site.

Paleontological Resources Preservation Act. The federal Paleontological Resources Preservation Act of 2002 was enacted to codify the generally accepted practice of limiting the collection of vertebrate fossils and other rare and scientifically significant fossils to qualified researchers. These researchers must obtain a permit from the appropriate state or federal agency and agree to donate any materials recovered to recognized public institutions, where they will remain accessible to the public and to other researchers.

State

California Public Resources Code. Under the California Environmental Quality Act (CEQA), public agencies must consider the effects of their actions on both historical resources and unique archaeological resources. Pursuant to Public Resources Code Section 21084.1, a “project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.”

Historical resource is a term with a defined statutory meaning (see Public Resources Code Section 21084.1 and State CEQA Guidelines Section 15064.5 (a) and (b)). The term embraces any resource listed in or determined to be eligible for listing in the California Register of Historical Resources (CRHR). The CRHR includes resources listed in or formally determined eligible for listing in the NRHP, as well as some California State Landmarks and Points of Historical Interest.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be historical resources for the purposes of CEQA unless a preponderance of evidence indicates otherwise (Public Resources Code Section 5024.1; California Code of Regulations, Title 14, Section 4850). Unless a resource listed in a survey has been demolished, lost substantial integrity, or there is a preponderance of evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource to be potentially eligible for the CRHR.

In addition to assessing whether historical resources potentially affected by a proposed project are listed or have been identified in a survey process, lead agencies have a responsibility to evaluate them against the CRHR criteria prior to making a finding as to a proposed project’s impacts on historical resources (Public Resources Code Section 21084.1; State CEQA Guidelines Section 15064.5 (a)(3)). In general, an historical resource, under this approach, is defined as any object, building, structure, site, area, place, record, or manuscript that:

- a. Is historically or archeologically significant; or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political or cultural annals of California; and
- b. Meets any of the following criteria:
 1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
 2. Is associated with the lives of persons important in our past;
 3. 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
 4. Has yielded, or may be likely to yield, information important in prehistory or history.

As noted above, CEQA also requires lead agencies to consider whether projects will impact unique archaeological resources. Although CEQA does not define a unique paleontological resource or site, Public Resources Code Section 21083.2 (g) states that 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 and 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; or
3. Is directly associated with a scientifically recognized important prehistoric or historic event or person” (Public Resources Code Section 21083.2 (g)).

With only slight modification, this definition is equally applicable to recognizing a *unique paleontological resource* or site. Additional guidance is provided in CEQA Section 15064.5 (a)(3)(D), which indicates “generally, a resource shall be considered historically significant if it has yielded, or may be likely to yield, information important in prehistory or history.”

Under Section 21083.2 of the Public Resources Code, options on how to treat such resources include activities that preserve the resources in place in an undisturbed state. Other acceptable methods of mitigation under Public Resources Code Section 21083.2 include excavation and curation or study in place without excavation and curation (if the study finds that the artifacts would not meet one or more of the criteria for defining a unique archaeological resource).

Section 7050.5 (b) of the California Health and Safety Code specifies protocol when human remains are discovered. The code states:

In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27492 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.

State CEQA Guidelines Section 15064.5(e) requires that excavation activities be stopped whenever human remains are uncovered and that the County Coroner be called in to assess the remains. If the County Coroner determines that the remains are those of Native Americans, the NAHC must be contacted within 24 hours. At that time, the lead agency is required to consult with the appropriate Native Americans as identified by the NAHC and direct the lead agency (or applicant), under certain circumstances, to develop an agreement with the Native Americans for the treatment and disposition of the remains.

Local

City of Menlo Park General Plan. The following goal and policies from the Open Space Element of the City of Menlo Park’s (City’s) General Plan are relevant to the Project.

Goal OSC3: Protect and Enhance Historic Resources. Protect and enhance cultural and historical resources for their aesthetic, scientific, educational, and cultural values.

Policy OSC3.1: Prehistoric or Historic Cultural Resources Investigation and Preservation. Preserve historical and cultural resources to the maximum extent practical.

Policy OSC3.2: Prehistoric or Historic Resources Protection. Require significant historic or prehistoric artifacts to be examined by a qualified consulting archaeologist or historian for appropriate protection and preservation, and to ensure compliance with local, state, and federal regulations.

Policy OSC3.3: Archaeological or Paleontological Resources Protection. Protect prehistoric or historic cultural resources either on site or through appropriate documentation as a condition of removal. Require that when a development project had sufficient flexibility, avoidance and preservation of the resource shall be the primary mitigation measure, unless the City identifies superior mitigation. If resources are documented, undertake coordination with descendants and/or stakeholder groups, as warranted.

Policy OSC3.4: Prehistoric or Historic Cultural Resources Found During Construction. Requires that is cultural resources, including archaeological or paleontological resources, are uncovered during grading or other on-site excavation activities, construction shall stop until appropriate mitigation is implemented,

Policy OSC3.5: Consultation with Native American Tribes. Consult with those Native American tribes with ancestral ties to the Menlo Park city limits regarding General Plan Amendments and land use policy changes.

Environmental Setting

Prehistoric Setting

The Project site is located along the southwest edge of the San Francisco Bay Area (Bay Area). The San Francisco Bay–Delta Cultural Sequence, often referred to as the Central California Taxonomic System, was defined largely on the basis of stylistic variation in artifacts from burials found in the lower Sacramento Valley.¹ Over time, this sequence has been refined as research has yielded new clues to the early development of the Bay Area. The following summary is extracted from Byrd and Meyer (2011),² which used several studies, including Milliken et al. (2007),³ Rosenthal and Meyer (2004),⁴ and Moratto (1984).⁵

Terminal Pleistocene (13,500–11,600 cal BP). The Terminal Pleistocene is largely contemporaneous with the Clovis and Folsom periods of the Great Plains and the Southwest and is generally considered to

¹ Lillard, J., R. Heizer, and F. Fenenga. 1939. An Introduction to the Archaeology of Central California. Department of Anthropology Bulletin 2. Sacramento Junior College, Sacramento.

² Byrd, B. F. and J. Meyer. 2011. Initial Cultural Resources Investigation, San Francisquito Creek Flood Damage Reduction and Ecosystem Restoration Project, Santa Clara and San Mateo Counties, California. Redacted Version. Prepared for Kristin O’Kane, Santa Clara Water District, San Jose.

³ Milliken, R., R. T. Fitzgerald, M. G. Hylkema, R. Groza, T. Origer, D. G. Bieling, A. Leventhal, R. S. Wiberg, A. Gottsfield, D. Gillette, V. Bellifemine, E. Strother, R. Cartier, and D. A. Fredrickson. 2007. Chapter 8: Punctuated Change in the San Francisco Bay Area, Pages 99-123 in Terry L. Jones and Kathryn A. Klar, (eds.), California Prehistory: Colonization, Culture, and Complexity, Altamira Press, New York.

⁴ Rosenthal, J. S. and J. Meyer. 2004. Landscape Evolution and the Archaeological Record: A Geoarchaeological Study of the Southern Santa Clara Valley and Surrounding Region. Center for Archaeological Research at Davis Publication 14, University of California, Davis.

⁵ Moratto, M. 1984. California Archaeology. Academic Press, New York.

be represented by wide-ranging, mobile hunters and gatherers who regularly exploited large game.⁶ Throughout California, the Terminal Pleistocene is most often represented by isolated fluted points.^{7,8}

Early Holocene (11,600–7700 cal BP). Early Holocene prehistoric material in the Bay Area is sparse; only four sites date to this period: two sites at Los Vaqueros Reservoir (Contra Costa County [CCO]-696 and -637) in the East Bay, the Blood Alley site (Santa Clara County [SCL]-178) in the Coyote Narrows of the Santa Clara Valley, and SCR-177 at Scott's Valley in the Santa Cruz Mountains.^{9,10,11} Their deposits, which indicate diverse resource exploitation, demonstrate that the general region was occupied throughout this time segment, but strong insight into the nature of early occupation trends is still lacking.

Middle Holocene (7700–4000 cal BP). In the Bay Area, Middle Holocene assemblages can include various types of groundstone, points, chopping, scraping, and pounding implements, and shell beads and ornaments.^{12,13} Exploitation of the Bay's estuary, mud flats, and freshwater tidal marshes were common, and the presence of a diverse range of habitation sites, including the basal layers of some Bay margin shell mounds, suggests higher population levels, more complex adaptive strategies, and longer seasonal occupation than during the early Holocene. Notable sites in the vicinity of the Project site include SCL-484, -674, and -832; SMA-269 and -273; and SFR-28, all of which contained several isolated human burials.

Late Holocene (4000–170 cal BP). The Late Holocene is generally divided into five "slices" based on specific types of shell beads. It is well documented in the Bay Area; over 200 sites reflect widespread occupation by complex hunter-gatherers.¹⁴ Important mounds along the Peninsula margins include the

⁶ Haynes, G. M. 2002. *The Early Settlement of North America: The Clovis Era*. Cambridge University Press, Cambridge.

⁷ Erlandson, J., T. C. Rick, T. L. Jones, and J. F. Porcasi. 2007. One if by Land, Two if by Sea: Who Were the First Californians? In *California Prehistory: Colonization, Culture, and Complexity*, edited by T. L. Jones and K. Klar, pp. 53–62. Altamira Press, Walnut Creek.

⁸ Rondeau, M. F., J. Cassidy, and T. L. Jones. 2007. Colonization Technologies: Fluted Projectile Points and the San Clemente Island Woodworking/Microblade Complex. In *California Prehistory: Colonization, Culture, and Complexity*, edited by T. L. Jones and K. Klar, pp. 63–70. Altamira Press, New York.

⁹ Cartier, R. 1993. *The Scotts Valley Site: CA-SCR-177*. Santa Cruz Archaeological Society, Santa Cruz.

¹⁰ Hildebrandt, W. R. 1983. *Archaeological Research of the Southern Santa Clara Valley Project: Based on a Data Recovery Program from Sites CA-SCI-54, CA-SCI-163, CA-SCI-178, CA-SCI-237, and CA-SCI-241 Located in the Route 101 Corridor, Santa Clara County, California*. Daniel, Mann, Johnson, and Mendenhall and San Jose State University, Los Angeles and San Jose. Submitted to California Department of Transportation, District 4, San Francisco. Report S-6369. On file at the Northwest Information Center, Sonoma State University, Rohnert Park, CA.

¹¹ Meyer, J. and J. S. Rosenthal. 1997. *Archaeological and Geoarchaeological Investigations at Eight Prehistoric Sites in the Los Vaqueros Reservoir Area, Contra Costa County*. In *Los Vaqueros Project Final Report. Anthropological Studies Center, Sonoma State University, Rohnert Park, California*. Submitted to the Contra Costa Water District, Concord. Report on file, Northwest Information Center, Sonoma State University, Rohnert Park, CA.

¹² Fitzgerald, R. T., Jr. 1993. *Archaic Milling Cultures of the Southern San Francisco Bay Region*. Edited by G. S. Breschini and T. Haversat. Coyote Press Archives of California Prehistory Number 35. Coyote Press.

¹³ Meyer, J. and J. S. Rosenthal. 1998. *An Archaeological Investigation of Artifacts and Human Remains from CA-CCO-637, Los Vaqueros Project Area, Contra Costa County, California*. Anthropological Studies Center, Sonoma State Academic Foundation, Inc., Rohnert Park, California. Submitted to Contra Costa Water District, Concord, CA.

¹⁴ Milliken, R., R. T. Fitzgerald, M. G. Hylkema, R. Groza, T. Origer, D. G. Bieling, A. Leventhal, R. S. Wiberg, A. Gottsfield, D. Gillette, V. Bellifemine, E. Strother, R. Cartier, and D. A. Fredrickson. 2007. Chapter 8: Punctuated Change in the San Francisco Bay Area, Pages 99-123 in Terry L. Jones and Kathryn A. Klar, (eds.), *California Prehistory: Colonization, Culture, and Complexity*, Altamira Press, New York.

University Village site (SMA-77), the San Bruno Mountain mound (SMA-40), and the Ynigo Mound (SCL-12/H).^{15,16,17} The artifact assemblages include various types of beads and pendants, bone tools, “flower pot” mortars, and the bow and arrow. Funerary rituals were strongly patterned, and included flexed interments and “killed” grave offerings, along with occasional cremations. Extensive trade relations also appear to have flourished with neighboring groups.

Ethnographic Setting

Menlo Park is situated within territory once occupied by Costanoan (also commonly referred to as Ohlone) language groups. Eight Ohlone languages were spoken in the area from the southern edge of the Carquinez Strait to portions of the Big Sur and Salinas Rivers south of Monterey Bay and approximately 50 miles inland from the coast. Mountain View lies on the approximate ethnolinguistic boundary between the Tamyen and Ramaytush languages. Tamyen, or Santa Clara Costanoan, was spoken around the south end of San Francisco Bay and in the lower Santa Clara Valley and seems to have had about 1,200 speakers. Ramaytush, or San Francisco Costanoan, was spoken by about 1,400 people in San Mateo and San Francisco counties.¹⁸

Ohlone territories were composed of one or more land-holding groups that anthropologists refer to as *tribelets*. The tribelet consisted of a principal village occupied year-round, with a series of smaller hamlets and resource gathering and processing locations occupied intermittently or seasonally.¹⁹ The Puichon tribelet lived on the west shore of San Francisco Bay between lower San Francisquito Creek and lower Stevens Creek, now the areas of Menlo Park, Palo Alto, and Mountain View.²⁰

Seven Spanish missions were founded in Ohlone territory between 1776 and 1797. While living within the mission system, the Ohlone commingled with other groups, including the Yokuts, Miwok, and Patwin. Members of the Puichon tribelet went to Mission San Francisco between 1781 and 1794 and to Mission Santa Clara from 1781 to as late as 1805. Mission life was devastating to the Ohlone population.²¹ When the first mission was established in Ohlone territory in 1776, the Ohlone population was estimated to be 10,000. By 1832, the Ohlones numbered less than 2,000 as a result of introduced disease, harsh living conditions, and reduced birth rates.^{22,23,24}

¹⁵ Byrd, B. F. and J. Berg. 2009. Phase II Excavations in the Caltrans Right-of-Way at CA-SCL-12/H, Santa Clara County, California. 04-SCL-101/237 PM 46.10-46.3/Prepared for Caltrans District 4.

¹⁶ Clark, M. R. 1989. Evaluative Archaeological Investigations at the San Bruno Mountain Mound Site, CA-SMA-40, South San Francisco, California. Report on file, Northwest Information Center, Sonoma State University, Rohnert Park, CA.

¹⁷ Gerow, B. A. with R. W. Force. 1968. An Analysis of the University Village Complex: with a Reappraisal of Central California Archaeology. Stanford University Press, Stanford, CA.

¹⁸ Levy, R. 1978. Costanoan. Pages 398–413 in W. C. Sturtevant (ed.), Handbook of North American Indians, 8, California. Washington, DC: Smithsonian Institution.

¹⁹ Kroeber, A. L. 1955. Nature of the Land-Holding Group. Ethnohistory 2:303-314.

²⁰ Milliken, R. 1995. A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area 1769–1810. (Ballena Press Anthropological Papers No. 43.) Novato, CA: Ballena Press.

²¹ Milliken, R. 1995. A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area 1769–1810. (Ballena Press Anthropological Papers No. 43.) Novato, CA: Ballena Press.

²² Cook, S. F. 1943a. The Conflict between the California Indians and White Civilization, I: The Indian Versus the Spanish Mission. Ibero-Americana 21. Berkeley, California.

²³ Cook, S. F. 1943b. The Conflict between the California Indians and White Civilization, II: The Physical and Demographic Reaction of the Non-Mission Indians in Colonial and Provincial California. Ibero-Americana 22. Berkeley, California.

²⁴ Levy, R. 1978. Costanoan. Page 486 in W. C. Sturtevant (ed.), Handbook of North American Indians, 8, California. Washington, DC: Smithsonian Institution.

Ohlone recognition and assertion began to move to the forefront during the early twentieth century, enforced by legal suits brought against the United States government by Indians of California (1928–1964) for reparation due them for the loss of traditional lands. The Ohlone participated in the formation of political advocacy groups, which brought focus upon the community and reevaluation of rights due its members.²⁵ In recent years, the Ohlone have become increasingly organized as a political unit and have developed an active interest in preserving their ancestral heritage. Many Ohlones are active in maintaining their traditions and advocating for Native American issues.

Historic Setting

Spanish rule came to the Menlo Park area in 1769 when the exploration party led by Don Gaspar de Portola camped near “El Palo Alto” after their discovery of the Bay. The colonization of the San Francisco Peninsula began after the expedition of Juan Bautista de Anza passed through Menlo Park on its way to establishing Mission Dolores and the Presidio of San Francisco in 1776.²⁶

The mission padres, explorers, military personnel, travelers, and settlers occupied areas of what is today Menlo Park, developing and populating the land. As a reward for their contribution to the settling movement, some pioneers were granted huge portions of land by the Spanish, and after 1822, by the Mexican government. The largest land grant on the San Francisco Peninsula was the Rancho de las Pulgas, an area of over 35,000 acres, awarded to presidio Comandante Don Jose Dario Arguello in 1795 by Governor Diego de Borica, and endorsed on behalf of his son Luis Arguello in 1820 by Pablo Sola, the last Spanish governor of California. This land extended north and south from San Mateo Creek to San Francisquito Creek, and east and west from the Bay to today’s Cañada Road in Woodside. The present boundaries of Menlo Park would have been within this rancho, which became part of the new State of California. The Arguello family obtained legal title to their lands in 1853 and later the land was subdivided.

In August 1854, Menlo Park received its official name when two Irishmen, Dennis J. Oliver and D. C. McGlynn, whose wives were sisters, purchased 1,700 acres (some sources say it was 640 acres) bordering present day El Camino Real, and built two houses with a common entrance. Across the drive they erected a huge wooden gate with tall arches on which the name of their estate “Menlo Park” was printed in foot-high letters. When the railroad came through in 1863, the Menlo Park station was unnamed, so a railroad official looked over at the gates and decided that “Menlo Park” would be officially adopted. This station is now California State Landmark No. 955, the oldest California station in continuous operation.²⁷ The origin of the name of Menlo Park, California (ca. 1854) pre-dates any work done by Thomas Edison (ca. 1876) in Menlo Park, New Jersey.

San Mateo County became independent of San Francisco County in 1856. A county road had been laid from San Francisco to Belmont and soon was extended to San Jose. This opened the San Francisco Peninsula to the residents of San Francisco who wished to establish summer residences in the country. Among the first to buy large tracts of land and build mansions were the Atherton, Hopkins, Flood, Mills, Donohoe, and Felton families. These estates were largely self-sufficient, working farms and some had their own services, such as barber shops, general stores, blacksmith shops, livery stables, saloons, and hotels.

²⁵ Bean, L. J. 1994. *The Ohlone Past and Present: Native Americans of the San Francisco Bay Region*. Ballena Press, Menlo Park, page xxiv.

²⁶ PaloAltoHistory.com. *Palo Alto: Rooted in History*. Available <www.paloaltohistory.com> Accessed: June 12, 2013.

²⁷ Durham, David L. *California's Geographic Names: A Gazetteer of Historic and Modern Names of the State*. 1998.

On March 23, 1874, Menlo Park became the second incorporated city in San Mateo County, although only for a short time. The purpose was to provide a quick way to raise money for road repairs. This incorporation, which included Fair Oaks (later Atherton) and Ravenswood (later East Palo Alto), lasted only until 1876.

Menlo Park remained relatively rural until World War I, when it was suddenly populated by 43,000 soldiers in training at Camp Fremont, on land that extended from Valparaiso Avenue to San Francisco Creek, and El Camino Real to the Alameda de las Pulgas.

Menlo Park reincorporated in 1923 with much the same boundaries as the earlier town. Incorporation planning involving Menlo Park and Atherton culminated in a dramatic race to the County Courthouse to file differing plans. Atherton representatives arrived only minutes before those from Menlo Park, who had wished to include Atherton in their plans. Final incorporation of Menlo Park took place in November 1927. The town of Menlo Park grew up around this station, becoming a popular home for San Francisco businessmen.²⁸

Near the Bay, Menlo Park developed light industrial plants, like the Diageo Global Supply spirits distillery, bottling, and distribution plant (the Commonwealth Site). As bayside land along the San Francisco Peninsula grew through silt accumulation and the infill of wetlands, land that was less desirable for residential and retail commercial space and more affordable and level for industrial development became available. The further development of freight rail, waterfront for some industries, and US 101 provided transportation networks essential for the economical trade of raw materials and manufactured products. The Bohannon Industrial Park, which includes the Commonwealth Site and Jefferson Site, is located in northeast Menlo Park between State Route (SR) 84 to the north, the Dumbarton Rail Corridor to the east, US 101 to the south, and Marsh Road to the west. This area forms a district that has been in transition from industrial/light industrial to high-tech and other business offices from the late twentieth century to the present.

Paleontological Setting

The fossil-yielding potential of a particular area is highly dependent on the geologic age and origin of the underlying rocks. As discussed in Section 3.8, *Geology and Soils*, the overlying material at the Project site, is artificial fill.

Artificial fill could include sediment from older rocks obtained elsewhere. Therefore, it is possible there could be fossils at the Project site, but because the fossils would have been transported from their original locations, they would lack stratigraphic context and be of limited scientific value. Pollen, plants, and shells have been recovered from Bay Mud, but vertebrate fossils have not been reported. Remains of land mammals (extinct mammoth, bison, and horse) have been reported from localities in younger alluvium along the Bay margin in the Bay Area.²⁹ As discussed below under *Methods for Analysis*, vertebrate fossils are considered sensitive paleontological resources.

²⁸ Hoover, Mildred Brooke; Douglas E Kyle (2002). *Historic Spots in California* (4th edition ed.). Stanford, CA: Stanford University Press. p. 405.

²⁹ University of California Museum of Paleontology. n.d. UCMP Specimen Search. Available: <<http://ucmpdb.berkeley.edu/>>. Accessed: June 2013.

Project Site

Commonwealth Site

The Commonwealth Site was a former spirits distillery, bottling, and distribution plant of Heublein, Inc. built in 1956. The plant consisted of a bottling plant with a main entrance and offices, a boiler room, a distilling building, and a tank farm structure. Sometime after 1990 until its closure, the international spirits company Diageo Global Supply, or Diageo North America, owned and operated the plant. Diageo is one of the largest manufacturers of spirits in the world.³⁰

To date, the shutdown plant still is comprised of these four plant facilities, but all have undergone expansions and other significant alterations between 1970 and 1990. All of the alterations were made by Heublein, Inc. prior to the sale of the company.

- In 1970, a proposed addition of 51,900 square feet (sf) on the southeast side of the bottling plant was approved and built.³¹
- In 1973, a guardhouse was installed at the entrance of the property at the end of Commonwealth Drive.³²
- In 1975, the Hueblein plant manager requested that the City of Menlo Park abandon a 50 foot stretch of Commonwealth Drive in order to improve plant security. A maintenance addition was added to the northwest of the boiler plant building, and a tank expansion was made to the northwest side of the tank farm.
- In 1976, the property was expanded to encompass the two neighboring parcels on Commonwealth Drive to the northwest (the property was later contracted again).
- In 1978, Hueblein, Inc. expanded parking into the nearer of the two merged parcels and a 220 foot long building connected the main plant and the neighboring building.
- In 1981, the maintenance addition was further expanded to the northwest, and a 500,000-gallon fire protection tank and pumphouse was constructed along the new addition's northwestern wall.
- In 1990, a final expansion was made to the plant. The project expanded the tank farm with six new 16,000-gallon tanks and new containment walls and required a Use Permit for the use of hazardous chemicals.

Plant operations were discontinued on July 29, 2011, and final closure activities completed on October 31, 2011. The plant has been unoccupied since that time.

Jefferson Site

One building, which is currently in operation, is located on Jefferson Site. The one-story, 20,462 sf building is used as a warehouse and offices for storage and light industrial purposes. There are currently

³⁰ Diageo, PLC. "The Diageo Family Tree Diagram." Available <<http://www.diageo.com/en-ie/ourbusiness/Pages/History.aspx>> Accessed: June 10, 2013.

³¹ Menlo Park Planning Department Staff Report # 005359 with site plan, March 2, 1970.

³² Menlo Park Planning Department Staff Report # 005360 with site plan, December 17, 1973.

47 parking spaces and minimal landscaping. An aerial photograph in 1965 shows a vacant site; therefore, the present building cannot be older than 48 years.³³

Environmental Impacts

This section describes the impact analysis relating to cultural resources for the Project. It describes the methods used to determine the impacts of the Project and lists the thresholds used to conclude whether an impact would be significant. Measures to mitigate (i.e., avoid, minimize, rectify, reduce, eliminate, or compensate for) significant impacts accompany each impact discussion.

Thresholds of Significance

In accordance with Appendix G of the State CEQA Guidelines, the Project would be considered to have a significant effect if it would result in any of the conditions listed below.

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- Disturb any human remains, including those interred outside of formal cemeteries.

Methods for Analysis

Records Search. Background research was conducted to identify any known cultural resources within 0.5 mile of the project area. The research included a records search at the NWIC, Sonoma State University, Rohnert Park, in March 2013. Sources consulted during the records search included cultural resources studies and resource records; the Historic Properties Data File (April 29, 2013); the NRHP; the CRHR; *California Inventory of Historic Resources*; *California Historical Landmarks*; and California Points of Historical Interest (May 1992 and updates).

No previously recorded cultural resources were identified by the NWIC in or adjacent to the Project site. Three prehistoric sites have been recorded within 0.5 mile of the Project site.

- P-41-000270/CA-SMA-275 consists of a highly disturbed shell midden primarily located underneath Bay Road.
- P-41-000282/CA-SMA-242 consists of a medium density shell midden, highly disturbed by plowing/grading. Fire-cracked rock, carbon, baked clay, lithics, a bowl mortar, and a possible human bone fragment have also been recorded at this site. A 2008 site record update, however, stated that despite a thorough inspection of the ground surface, there was no evidence of the previously recorded site. Surface deposits within the recorded site were likely destroyed within the railroad right-of-way.³⁴

³³ PES Environmental, Inc., drawing number 126087001101_ESA_1-2, page 2.

³⁴ Whittaker, A. 2008. Continuation Sheet for P-41-00282/CA-SMA-242. Record on file at the Northwest Information Center, Sonoma State University, Rohnert Park, CA.

- P-41-000438/CA-SMA-341 consists of a single human burial that was discovered during construction activities in 1998. The remains were reinterred at the same location and capped with concrete footings.

Eleven cultural resources studies have been conducted within 0.5 mile of the Project site. Only one of these studies covered an area adjacent to the Project site.

- S-24987, Busby, C. 2001. *HOV Lanes - Santa Clara to San Mateo Counties*. No resources within 0.5 mile of the Project site were identified during this study.

The remaining ten studies consisted of studies for residential and commercial development. No resources within or adjacent to the Project site were identified in any of these studies.

Native American Consultation. ICF contacted the NAHC on June 6, 2013 and requested a search of their Sacred Land Files. The NAHC responded on June 11, 2013, stating that a records search of their Sacred Land Files failed to indicate the presence of Native American cultural resources in the immediate Project area.

The NAHC also provided a list of 10 Native American contacts that might have information pertinent to the Project or have concerns regarding the proposed actions. A letter explaining the Project, along with a map depicting the Project area, was sent to all ten contacts listed by the NAHC on June 28, 2013. The letter also solicited responses from each of the contacts, should they have any questions, comments, or concerns regarding the Project.

Letters were sent to the following contacts.

- Jakki Kehl
- Katherine Erolinda Perez
- Valentin Lopez, Chairperson, Amah Mutsun Tribal Band
- Edward Ketchum, Amah Mutsun Tribal Band
- Irene Zwierlein, Chairperson, Amah Mutsun Tribal Band
- Jean-Marie Feyling, Amah Mutsun Tribal Band
- Ann Marie Sayers, Chairperson, Indian Canyon Mutsun Band of Costanoan
- Rosemary Cambra, Chairperson, Muwekma Ohlone Indian Tribe of the SF Bay Area
- Andrew Galvan, The Ohlone Indian Tribe
- Ramona Garibay, Representative, Trina Marine Ruano Family

No comments were received with regards to this Project.

Architectural and Historical Research. Building Permits for the Commonwealth Site and aerial photographic evidence for the Commonwealth Site and Jefferson Site were gathered and analyzed by a qualified architectural historian, as defined by the Secretary of Interior's Professional Standards. The 1965 aerial photograph of the Jefferson Site shows a vacant lot. Therefore, the building on the property was built no earlier than 48 years ago, fewer than the 50 year threshold for consideration by the NRHP and CRHR. The architectural historian's professional opinion is that the building at the Jefferson Site does not appear to have the exceptional significance necessary to warrant consideration by the NRHP or CRHR as a historic resource constructed within the last 50 years. However, some of the structures at the

Commonwealth Site were constructed in 1956. Therefore, City of Menlo Park permits were used to analyze the potential for this site to encompass a historic resource.

Paleontological Sensitivity. The Conformable Impact Mitigation Guidelines Committee of the Society of Vertebrate Paleontology (SVP) has published Standard Guidelines in response to a recognized need to establish procedures for the investigation, collection, preservation, and cataloguing of fossil-bearing sites. The Standard Guidelines are widely accepted among paleontologists, followed by most investigators, and identify the two key phases of paleontological resource protection as (1) assessment and (2) implementation. Assessment involves identifying the potential for a project site or area to contain significant nonrenewable paleontological resources that could be damaged or destroyed by project excavation or construction. Implementation involves formulating and applying measures to reduce such adverse effects. The SVP defines the level of potential as one of three sensitivity categories for sedimentary rocks: High, Moderate, and Low.

- **High Sensitivity.** Assigned to geologic formations known to contain paleontological localities with rare, well preserved, and/or critical fossil materials for stratigraphic or paleoenvironmental interpretation, and fossils providing important information about the paleobiology and evolutionary history (phylogeny) of animal and plant groups. Generally speaking, highly sensitive formations are known to produce vertebrate fossil remains or are considered to have the potential to produce such remains.
- **Moderate Sensitivity.** Assigned to geologic formations known to contain paleontological localities with moderately preserved, common elsewhere, or stratigraphically long-ranging fossil material. The moderate sensitivity category also is applied to geologic formations that are judged to have a strong, but unproven potential for producing important fossil remains (e.g., Pre-Holocene sedimentary rock units representing low to moderate energy, of marine to non-marine depositional settings).
- **Low Sensitivity.** Assigned to geologic formations that, based on their relative youthful age and/or high energy depositional history, are judged unlikely to produce important fossil remains. Typically, low sensitivity formations may produce invertebrate fossil remains in low abundance.

Based on these criteria, the artificial fill would have low sensitivity for paleontological resources. The thick deposits of silty clay underlying the Commonwealth Site and presumed to underlie the Jefferson Site, the Bay Mud, would have moderate sensitivity. The Pleistocene alluvial deposits that underlie the Bay Mud are considered high sensitivity.

Impacts and Mitigation Measures

Impact CUL-1: Impacts on Historic Resources. The Project would not cause a substantial adverse change in the significance of a historical resource. (LTS)

The Project would not cause a substantial adverse change in the significance of a historic resource at the Commonwealth Site because the 1956 distillery, bottling, and distribution plant built by Heublein, Inc. is not eligible for the CRHR and is not a historic resource. The plant's construction date of 57 years ago was considered as the potential period of significance when considering the buildings on the property and their potential to convey aspects of historic integrity of the plant complex on the Commonwealth Site. Aspects of historic integrity are defined by the *Secretary of Interior in the National Register Bulletin: How*

to Apply the National Register Criteria for Evaluation, National Park Service and include design, materials, workmanship, feeling, and association.

As stated above, the Commonwealth Site had seven significant alterations affecting all four primary structures and the plant complex as a whole between 1970 and 1990. These significant alterations to the original complex undermine the property's historic integrity and render it incapable of conveying any potential historical associations with significant community events, individuals, or designers. The severity of loss of historic integrity was also observed by a qualified architectural historian during a field visit to the site on April 19, 2013, and photographically recorded. The loss and alteration of defined aspects of historic integrity since the plant's original construction prevent the property from further consideration as eligible to the NRHP or the CRHR and, therefore, result in the Commonwealth Site not containing a historic resource, as defined in Section 15064.5 of the State CEQA Guidelines.

The Commonwealth Site is not associated with events that made a significant contribution to the broad patterns of California history (CRHR Criterion 1). The property was not associated with the lives of a person of historical importance (CRHR Criterion 2). The embodiment of characteristics distinctive to plants built for the distilling, bottling, and distribution of spirits from the 1956 period has been greatly altered from seven alterations made between 1970 and 1990. The alterations render the property unable to convey characteristic type, period, region, or construction methodology from the period of original construction and the property lacks architectural merit or association with a significant designer (CRHR Criterion 3), and does not have the potential to yield information of historical importance (CRHR Criterion 4).

At the Jefferson Site, the building was constructed less than 50 years ago and may only be considered for listing on the CRHR if it is demonstrated that sufficient time has passed to understand its historical importance. In addition, a building that is less than 50 years old could only be determined significant if it embodied a particularly substantial contribution to the broad patterns of California's history, was associated with the lives of important historical figures, or showed exceptional architectural or artistic design qualities. There is no scholarly or other information that establishes the historical significance of the Jefferson Site structure, and the office and warehouse building is a typical, rather than exceptional, tilt-up concrete slab construction building.

As such, Project implementation would not impact a historic resource at either the Commonwealth Site or the Jefferson Site because neither property includes historic resources. Therefore, the impact would be ***less than significant***.

Impact CUL-2: Impacts on Archaeological Resources. The Project has the potential to encounter and damage or destroy previously unknown subsurface archaeological resources during construction. (PS)

Although no archaeological resources were identified in or adjacent to the Project site, three prehistoric sites have been recorded within 0.5 mile of the Project site. As discussed in *Methods for Analysis*, these sites are P-41-000270/CA-SMA-275 (a highly disturbed shell midden), P-41-000282/CA-SMA-242 (a medium density shell midden, highly disturbed by plowing/grading), and P-41-000438/CA-SMA-341 (a single human burial that has been reinterred in a location outside of the Project site). Therefore, the potential may exist for previously undiscovered archaeological resources to be encountered during construction of various elements of the Project. This impact is considered ***potentially significant***.

MITIGATION MEASURE. Impacts on Archaeological Resources would be reduced to a ***less-than-significant*** level by implementing Mitigation Measure CUL-2.1.

CUL-2.1: *Perform Construction Monitoring, Evaluate Uncovered Archaeological Features, and Mitigate Potential Disturbance for Identified Significant Resources at the Project Site.* Prior to demolition, excavation, grading, or other construction-related activities on the Project site, the applicant shall hire a qualified professional archaeologist (i.e., one who meets the Secretary of the Interior's professional qualifications for archaeology or one under the supervision of such a professional) to monitor, to the extent determined necessary by the archaeologist, Project-related earth-disturbing activities (e.g. grading, excavation, trenching). In the event that any prehistoric or historic-period subsurface archaeological features or deposits, including locally darkened soil (midden), that could conceal cultural deposits, animal bone, obsidian, and/or mortar are discovered during demolition/ construction-related earth-moving activities, all ground-disturbing activity within 100 feet of the discovery shall be halted immediately, and the Planning and Building Divisions shall be notified within 24 hours. City staff shall consult with the Project archeologist to assess the significance of the find. Impacts on any significant resources shall be mitigated to a less-than-significant level through data recovery or other methods determined adequate by the City and that are consistent with the Secretary of the Interior's Standards for Archaeological Documentation. If Native American archaeological, ethnographic, or spiritual resources are discovered, all identification and treatment of the resources shall be conducted by a qualified archaeologist and Native American representatives who are approved by the local Native American community as scholars of the cultural traditions. In the event that no such Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be consulted. When historic archaeological sites or historic architectural features are involved, all identification and treatment is to be carried out by historical archaeologists or architectural historians who meet the Secretary of the Interior's professional qualifications for archaeology and/or architectural history.

Impact CUL-3: Impacts on Paleontological Resources. The Project could destroy a unique paleontological resource or site or unique geologic feature. (PS)

The Project has the potential to directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. This impact would be potentially significant, but would be reduced to less than significant with mitigation, as explained below. Impacts on paleontological resources would depend on the depth, extent, and type of soil-disturbing activities that may occur as a result of construction, as well as the paleontological sensitivity of the materials underlying the site.

Site preparation would involve earthwork, such as excavation, grading, trenching, and installation of foundation piles, all of which would encounter artificial fill and could encounter native deposits. Activities that disturb artificial fill would not result in a significant impact on paleontological resources because, as discussed above, fill is of low paleontological sensitivity. Activities that intercept clay soils or the underlying Pleistocene alluvial deposits could expose undisturbed deposits that may contain fossils. These activities could damage or destroy fossils. Because the clay soils and alluvial deposits have moderate to high paleontological sensitivity, this is considered a ***potentially significant*** impact.

MITIGATION MEASURE. Mitigation Measure CUL-3.1 would ensure that construction personnel would recognize fossil materials and follow proper notification procedures in the event that any are uncovered during construction. Implementation of CUL-3.1 would reduce potentially significant impacts on paleontological resources to a ***less-than-significant***.

CUL-3.1: Conduct Protocol and Procedures for Encountering Paleontological Resources. Prior to the start of any subsurface excavations that would extend beyond previously disturbed soils, all construction forepersons and field supervisors shall receive training by a qualified professional paleontologist, as defined by the Society of Vertebrate Paleontology (SVP), who is experienced in teaching non-specialists, to ensure they can recognize fossil materials and shall follow proper notification procedures in the event any are uncovered during construction. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who shall evaluate its significance.

If a fossil is determined to be significant and avoidance is not feasible, the paleontologist shall develop and implement an excavation and salvage plan in accordance with SVP standards. Construction work in these areas shall be halted or diverted to allow recovery of fossil remains in a timely manner. Fossil remains collected during the monitoring and salvage portion of the mitigation program shall be cleaned, repaired, sorted, and cataloged. Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall then be deposited in a scientific institution with paleontological collections. A final Paleontological Mitigation Plan Report shall be prepared that outlines the results of the mitigation program. The City shall be responsible for ensuring that monitor's recommendations regarding treatment and reporting are implemented.

Impact CUL-4: Impacts on Human Remains. The Project has the potential to encounter or discover human remains during excavation or construction. (PS)

Although the NWIC background records search did not identify any human remains in or adjacent to the Project site, at least one human burial has been identified within 0.5 mile of the Project site. Therefore, the potential may exist for previously undiscovered human remains to be encountered during Project construction. This impact is considered *potentially significant*

MITIGATION MEASURE. Mitigation Measure CUL-4.1 would reduce the impact to a *less-than-significant* level.

CUL-4.1: Comply with State Regulations Regarding the Discovery of Human Remains at the Project Site. If human remains are discovered during any construction activities, all ground-disturbing activity within 50 feet of the remains shall be halted immediately, and the County Coroner shall be notified immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. Additionally, the Building Division shall be notified. If the remains are determined by the County Coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The Project Sponsor shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant, if any, identified by the NAHC. As necessary, the archaeologist may provide professional assistance to the Most Likely Descendant, including the excavation and removal of the human remains. The City of Menlo Park Community Development Department Planning Division shall be responsible for approval of recommended mitigation as it deems appropriate, taking account of the provisions of state law, as set forth in State CEQA Guidelines Section 15064.5(e) and Public Resources Code Section 5097.98. The applicant shall implement approved mitigation, to be verified by the Planning Division, before the resumption of ground-disturbing activities within 50 feet of where the remains were discovered.

Cumulative Impacts

The geographic context for the analysis of cumulative impacts associated with cultural resources considers a broad regional system. The cumulative context for this cultural resources analysis is the Bay Area, where common patterns of prehistoric and historic development have occurred. This analysis accounts for anticipated cumulative growth within the nine counties comprising the Bay Area. The cumulative projects considered in this Draft EIR consist of two categories, Tier 1 and Tier 2, as shown in Table 3.0-1 and Table 3.0-2 in Section 3.0. In addition, buildout of the General Plans of the nine Bay Area counties and associated cities is considered in the cumulative context.

Impact C-CUL-1: Cumulative Impacts on Historical Resources. Cumulative development in the Bay Area could have significant impacts on historical resources. However, construction of the Project would not contribute to a cumulative impact. (LTS)

Tier 1 and Tier 2

Urban development that has occurred over the past several decades in the Bay Area has resulted in the demolition and alteration of historical resources, and it is reasonable to assume that present and future development activities will continue to result in impacts on historical resources. Because all historical resources are unique and nonrenewable members of finite classes, all adverse effects or negative impacts erode a dwindling resource base. Federal, state, and local laws protect historical resources in most instances. Even so, it is not always feasible to protect historical resources, particularly when preservation in place would prevent implementation of projects. For this reason, the cumulative effects of development in the region on historical resources are considered significant.

The spirits distillery, bottling, and distributing plant at the Commonwealth Site would be demolished with implementation of the Project. There is no scholarly or other information that establishes the historical significance of the structures or other built features at the Commonwealth Site. At the Jefferson Site, the building was constructed less than 50 years ago. While the building would be demolished with implementation of the Project, there is no scholarly or other information that establishes the historical significance of the building. Therefore, the Project would not contribute to any potential cumulative impact on historical resources, and the cumulative impact would be *less than significant*.

Impact C-CUL-2: Cumulative Impacts on Archaeological, Paleontological Resources, and Human Remains. Construction activities on the Project site and other cumulative development could result in impacts on archaeological resources. (PS)

Tier 1 and Tier 2

Given that known prehistoric resources have been identified within 0.5 mile of the Project site, there is the possibility that previously undiscovered archaeological resources, including human remains, could be encountered during construction. The Project, in combination with other foreseeable development in the identified geographic context, also has the potential to encounter and damage or destroy previously unknown paleontological resources during construction. All significant archaeological resources, paleontological resources, and human remains are unique and nonrenewable resources. For this reason, the cumulative effects of all development on these resources are considered *potentially significant*.

As analyzed above, the Project would potentially contribute to the cumulative loss of archeological, paleontological resources, and human remains. Therefore, the Project's contribution could be

considerable, resulting in a potentially significant cumulative impact. Mitigation Measures CUL-2.1, CUL-3.1, and CUL-4.1, prescribe discovery procedures for any previously unknown archaeological, paleontological resources, or human remains encountered during Project construction. The discovery procedures are consistent with professional standards and, as they pertain to discovered human remains, are compliant with state law. Compliance with these mitigation measures would reduce the Project's contribution to the cumulative impact to less than cumulatively considerable and reduce the potentially significant cumulative impacts associated with the loss of archaeological and paleontological resources and the disturbance of human remains to a ***less-than-significant*** level.

