A preliminary assessment of the areas where adverse impacts to paleontological resources may occur, based on available geologic maps, is outlined below. This assessment is in no way final, and is subject to revision during and after the field survey.

Approximately 90 percent (12,640 acres) of the project area (see Figure 4.5-2) is underlain by low-sensitivity (PFYC Class 1) igneous and metamorphic units, and therefore excavations in these units have little potential to impact paleontological resources. About 609 acres in the northernmost portion of the project area is underlain by low-sensitivity (PFYC Class 2) Older Alluvium, which may include lenses of higher-sensitivity sediment such as river deposits. The highest potential to impact paleontological resources within the project area is in areas underlain by marbles (PFYC Class 3a), which in the geologic maps consulted appear as thin lenses of marble scattered throughout the central and western portion of the site and total roughly 73 acres. The unknown-sensitivity (PFYC Class 3b) Witnet Formation and the high-sensitivity (PFYC Class 4b) Kinnick Formation lie near the project area’s southeastern boundary, but do not appear to lie within the site on the geologic maps consulted.

### 4.5.3 Regulatory Setting

#### State

**California Environmental Quality Act**

CEQA requires the assessment of a project’s effects on cultural resources. Pursuant to CEQA, a “historical resource” is a resource listed in, or eligible for listing in, the CRHR. In addition, resources included in a local register of historic resources or identified as significant in a local survey conducted in accordance with State guidelines are also considered historic resources under CEQA, unless a preponderance of the facts demonstrates otherwise. According to CEQA, the fact that a resource is not listed in or determined eligible for listing in the CRHR or is not included in a local register or survey shall not preclude a lead agency, as defined by CEQA, from determining that the resource may be a historical resource as defined in California PRC Section 5024.1. CEQA applies to archaeological resources when (1) the archaeological resource satisfies the definition of a historical resource, or (2) the archaeological resource satisfies the definition of a “unique archaeological resource.” A unique archaeological resource is an archaeological artifact, object, or site that has a high probability of meeting any of the following criteria:
Source: CH2M HILL, 2011.

Figure 4.5-2
Geologic Map

• The archaeological resource contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.

• The archaeological resource has a special and particular quality such as being the oldest of its type or the best available example of its type.

• The archaeological resource is directly associated with a scientifically recognized important prehistoric or historic event or person.

California Register of Historical Resources

Created in 1992 and implemented in 1998, the CRHR is “an authoritative guide in California to be used by State and local agencies, private groups, and citizens to identify the State’s historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.” Certain properties, including those listed in or formally determined eligible for listing in the NRHP and California Historical Landmarks numbered 770 and higher, are automatically included in the CRHR. Other properties recognized under the California Points of Historical Interest program, identified as significant in historical resources surveys or designated by local landmarks programs, may be nominated for inclusion in the CRHR. A resource, either an individual property or a contributor to a historic district, may be listed in the CRHR if the State Historical Resources Commission (SHRC) determines that it meets one or more of the following criteria, which are modeled on NRHP criteria:

• **Criterion 1:** It is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.

• **Criterion 2:** It is associated with the lives of persons important in our past.

• **Criterion 3:** It embodies the distinctive characteristics of a type, period, region, or method of construction; represents the work of an important creative individual; or possesses high artistic values.

• **Criterion 4:** It has yielded, or may be likely to yield, information important in history or prehistory.

Furthermore, under PRC Section 4852(c), a cultural resource must retain integrity to be considered eligible for the CRHR. Specifically, it must retain sufficient character or appearance to be recognizable as a historical resource and convey reasons of significance. Integrity is evaluated with regard to retention of such factors as location, design, setting, materials, workmanship, feeling, and association. Cultural sites that have been affected by ground-disturbing activities, such as grazing and off-road vehicle use (both of which occur within the project site), often lack integrity because they have been directly damaged or removed from their original location, among other changes.

Typically, a prehistoric archaeological site in California is recommended eligible for listing in the CRHR based on its potential to yield information important in prehistory or history (Criterion 4). Important information includes chronological markers such as projectile point styles or obsidian artifacts that can be subjected to dating methods or undisturbed deposits that retain their stratigraphic integrity. Sites such as these have the ability to address research questions.

California Historical Landmarks

California Historical Landmarks (CHLs) are buildings, structures, sites, or places that have anthropological, cultural, military, political, architectural, economic, scientific or technical,
religious, experimental, or other value and that have been determined to have statewide historical significance by meeting at least one of the criteria listed below. The resource also must be approved for designation by the County Board of Supervisors (or the city or town council in whose jurisdiction it is located); be recommended by the SHRC; and be officially designated by the Director of California State Parks. The specific standards now in use were first applied in the designation of CHL #770. CHLs #770 and above are automatically listed in the CRHR.

To be eligible for designation as a landmark, a resource must meet at least one of the following criteria:

- It is the first, last, only, or most significant of its type in the State or within a large geographic region (Northern, Central, or Southern California);
- It is associated with an individual or group having a profound influence on the history of California; or
- It is a prototype of, or an outstanding example of, a period, style, architectural movement or construction or is one of the more notable works or the best surviving work in a region of a pioneer architect, designer, or master builder.

**California Points of Historical Interest**

California points of historical interest are sites, buildings, features, or events that are of local (city or county) significance and have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value. Points of historical interest designated after December 1997 and recommended by the SHRC are also listed in the CRHR. No historic resource may be designated as both a landmark and a point. If a point is later granted status as a landmark, the point designation will be retired. In practice, the point designation program is most often used in localities that do not have a locally enacted cultural heritage or preservation ordinance.

To be eligible for designation as a point of historical interest, a resource must meet at least one of the following criteria:

- It is the first, last, only, or most significant of its type within the local geographic region (city or county);
- It is associated with an individual or group having a profound influence on the history of the local area; or
- It is a prototype of, or an outstanding example of, a period, style, architectural movement or construction or is one of the more notable works or the best surviving work in the local region of a pioneer architect, designer, or master builder.

**Native American Heritage Commission**

Section 5097.91 of the California PRC established the NAHC, whose duties include the inventory of places of religious or social significance to Native Americans and the identification of known graves and cemeteries of Native Americans on private lands. Section 5097.98 of the PRC specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a county coroner.
**Government Code Sections 6254(r) and 6254.10 (CA Public Records Act)**

These sections of the California Public Records Act were enacted to protect archaeological sites from unauthorized excavation, looting, or vandalism. Section 6254(r) explicitly authorizes public agencies to withhold information from the public relating to “Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.” Section 6254.10 specifically exempts from disclosure requests for “records that relate to archaeological site information and reports, maintained by, or in the possession of the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the NAHC, another State agency, or a local agency, including the records that the agency obtains through a consultation process between a Native American tribe and a State or local agency.”

**Health and Safety Code, Sections 7050 and 7052**

Health and Safety Code, Section 7050.5, declares that, in the event of the discovery of human remains outside of a dedicated cemetery, all ground disturbance must cease and the county coroner must be notified. Section 7052 establishes a felony penalty for mutilating, disinterring, or otherwise disturbing human remains, except by relatives.

**California Penal Code, Section 622.5**

Penal Code, Section 622.5, provides misdemeanor penalties for injuring or destroying objects of historic or archaeological interest located on public or private lands, but specifically excludes the landowner.

**Public Resources Code, Section 5097.5**

Public Resources Code, Section 5097.5, defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands.

**Local**

**Kern County General Plan**

**Chapter 1. Land Use, Open Space, and Conservation Element**

1.10.3. Archaeological, Paleontological, Cultural, and Historical Preservation

**Policies**

- **Policy 25.** The County will promote the preservation of cultural and historic resources that provide ties with the past and constitute a heritage value to residents and visitors.

**Implementation Measures**

- **Implementation Measure K.** Coordinate with the California State University, Bakersfield’s Archaeology Inventory Center.
- **Implementation Measure L.** The County shall address archaeological and historical resources for discretionary projects in accordance with CEQA.
- **Implementation Measure M.** In areas of known paleontological resources, the County should address the preservation of these resources where feasible.
- **Implementation Measure N.** The County shall develop a list of Native American organizations and individuals who desire to be notified of proposed discretionary projects.
This notification will be accomplished through the established procedures for discretionary projects and CEQA documents.

- **Implementation Measure O.** On a project-specific basis, the County Planning Department shall evaluate the necessity for the involvement of a qualified Native American monitor for grading or other construction activities on discretionary projects that are subject to a CEQA document.

### Kern County CEQA Implementation Document and Environmental Checklist

Kern County maintains a threshold of significance related to cultural resources. The Implementation Document and the Environmental Checklist state that a project could have a significant impact on cultural resources if the project could do the following:

- Cause a substantial adverse change in the significance of a historical resource as defined in PRC § 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 formal cemeteries

### 4.5.4 Impacts and Mitigation Measures

**Methodology**

To evaluate the project’s potential effects on significant cultural and paleontological resources, Sapphos Environmental, Inc. and CH2M HILL conducted Phase I characterization and evaluation of the project site, which included literature reviews, Native American consultations, and intensive field surveys of the cultural resources study area. An initial paleontological resources assessment of the project area was also conducted.

**Thresholds of Significance**

The Kern County CEQA Implementation Document and Kern County Environmental Checklist state that a project would normally be considered to have a significant impact if it would:

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

Section 21083.2(g) of CEQA further defines “unique archaeological resource” for purposes of determination as to whether a project may have a significant effect on archaeological resources. As used in this section “unique archaeological resource” means an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

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