4.0 SECTION 4(F)/6(F) EVALUATION

4.1 INTRODUCTION

This chapter provides the analysis to support preliminary determinations necessary to comply with the provisions of 49 U.S.C. 303 (hereinafter referred to as "Section 4(f)") and the Land and Water Conservation Fund (LWCF) Act of 1965 (hereinafter referred to as "Section 6(f)").

Section 4(f) properties are publicly owned parks, recreation areas, or wildlife and waterfowl refuges or properties of a historical site of national, state, or local significance as determined by the federal, state, regional, or local officials having jurisdiction over the resource. Under Section 4(f), an operating administration of the U.S. Department of Transportation may not approve a project that uses protected use properties unless there are no prudent of feasible alternatives and the project includes all possible planning to minimize harm to such properties.

Section 6(f) properties are recreation resources funded by the LWCF Act. Land purchased with these funds cannot be converted to a non-recreation use without coordination with the National Park Service (NPS) and mitigation that includes replacement of the quality and quantity of land used.

This chapter describes the existing Section 4(f) and 6(f) resources within the study area, and identifies the potential uses of and potential impacts on these resources for No Build Alternative and Build Alternative.

4.1.1 STUDY AREA

The study area as defined below identifies the Section 4(f) and Section 6(f) properties considered for evaluation. To identify potential Section 4(f) and 6(f) resources in the study areas, a review of the California Protected Areas Database from the GreenInfo Network (calands.org) was completed for the study areas

defined below.¹ Potential resources were further determined through review of aerial maps and adopted local plans, including city and county general plans and coordination with responsible federal and local agencies. Potential historic resources that might qualify as Section 4(f) properties were identified using the National Register of Historic Places (NRHP). Potential Section 4(f) resources include those that are listed or eligible for listing for the NRHP.

Cultural Resources

The Federal Railroad Administration (FRA) and the San Luis Obispo Council of Governments (SLOCOG) initiated consultation with the State Historic Preservation Officer (SHPO) under Section 106 of the National Historic Preservation Act (NHPA) in June 2013 and requested SHPO to confirm an appropriate study area for conducting a records search and identification of cultural resources. SHPO concurred with the study area designation for this programmatic evaluation.

Study areas analyzed herein reflect the potential for direct and constructive use as set forth by Section 4(f) and Section 6(f) implementing legislation. Study areas were developed around each of the proposed physical improvements in the Build Alternative that would adequately capture the potential for direct use as well as noise, vibration, or visual effects that could lead to constructive use. Screening distances for potential direct use were defined as follows:

- New Sidings and Siding Extensions: entire projected length and width.
- Second mainline: entire projected right-of-way.
- Curve realignments: entire projected length and 100 feet wide.
- Powered switches, track and signal upgrades: assumed to be within existing rail alignment.
- New Stations: footprints of sites as noted in previously adopted local documents.

Screening distances for potential constructive use were defined as follows:

 Siding extensions: entire projected length and width plus 50 feet on either side of existing right of way.

¹ The California Protected Areas Database (CPAD) contains data about lands that are owned outright ("in fee") and protected for open space purposes by over 900 public agencies or non-profit organizations. CPAD lands range from the smallest urban parks all the way to the largest wilderness areas – all told, CPAD inventories just over 49 million acres in 13,500 "parks."

- Second mainline: entire projected length and width plus 100 feet on either side of existing right of way.
- Curve realignments: entire projected length and 200 feet on either side, for a total of 500 feet.
- Powered switches, track and signal upgrades: assumed to be within existing rail right-of-way, so no constructive use anticipated.
- New Stations: Footprints for proposed sites plus public parks within one mile.

Public Park and Recreation Lands; Wildlife and Waterfowl Refuges

The study area for public park and recreation lands and wildlife and waterfowl refuges includes lands within 400 feet of the existing rail corridor and the outer edges of the buffer area for each proposed physical improvement. This area was intended to capture park and recreation areas that could be indirectly (or constructively) used by any of the elements of the Build Alternative.

Clean Air Act Class I Areas

In addition, in accordance with the Clean Air Act, all designated Class I Areas located with 100 kilometers of the proposed project were identified and assessed for potential visibility impacts related to air pollutant emissions.

4.1.2 LAWS, REGULATIONS, AND ORDERS

This section includes the federal laws and regulations that pertain to Section 4(f) and 6(f) properties in the study area.

U.S. Department of Transportation Act 49 U.S.C. 303(c) [Section 4(f)]

In brief, Section 4(f) of the Department of Transportation Act of 1966² is intended to minimize or avoid impacts to public park and recreational areas, wildlife and waterfowl refuges, and certain historic properties. The Federal Railroad Administration (FRA) uses Federal Highway Administration (FHWA) regulations 23 CFR 771/774 as guidance in applying Section 4(f), as described below.

49 USC 303		

Section 4(f) prohibits Department of Transportation, or any of its operating administrations, to "approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of an historic site of national, state, or local significance (as determined by the federal, state, or local officials having jurisdiction over the park, area, refuge, or site) unless:

- 1. There is no prudent or feasible avoidance alternative to the use of the land from the Section 4(f) property; and,
- 2. The program or project includes all possible planning to minimize harm to the Section 4(f) property resulting from the use.

Certain historic or archaeological sites or properties are also protected by Section 4(f). For historic properties, Section 106 of the NHPA is used to identify properties potentially protected under Section 4(f) and to understand the potential impacts to such properties.

Section 4(f) and Section 106

Section 4(f) is applicable to programs and projects undertaken by any agency within the U.S. DOT that may entail the use of publically owned parks, recreation areas, and wildlife refuges, and/or to historic sites on or eligible for the NRHP.

Section 106, in contrast, applies to any federal agency and is meant to address both direct and indirect effects of an action on historic properties, including archaeological resources. Section 106 evaluates "effects" on cultural resources sites, whereas Section 4(f) evaluates whether the project or program results in a "use" of the site. Under these regulations, an "adverse effect" under Section 106 may not constitute a Section 4(f) "actual use" (permanent or temporary occupancy of a site) or a "constructive use" (substantial impairment of the features or attributes which qualified the land for the NRHP.

Archaeological sites on or eligible for inclusion on the NRHP are covered under Section 4(f), except those whose principal importance is related to data recovery and thus have minimal value for preservation in place.³

Section 6(f)

The Land and Water Conservation Fund Act provides grants to state and local governments for the acquisition or improvement of parks and recreation areas.⁴

^{3 23} CFR §771.135[g][2]

⁴ 16 U.S.C. §§ 460-4 through 460-11, September 3, 1964, as amended 1965, 1968, 1970, 1972–1974, 1976–1981, 1983, 1986, 1987, 1990, 1991, 1993–1996

Section 6(f) of this act restricts the conversion of land acquired or developed under these grants to a non-recreational purpose without explicit approval from the Department of the Interior (DOI). Under Section 6(f), replacement lands of equal value (monetary), location, and usefulness must be provided to obtain DOI approval of a conversion of Section 6(f) lands for transportation projects.

4.1.3 SECTION 4(F) USE DEFINITION

A "use" of a Section 4(f) resource occurs in the following circumstances:

Permanent Use. When the protected property is permanently incorporated into a transportation facility.

Temporary Use. When there is a temporary occupancy of a Section 4(f) property that is adverse in terms of the statute's preservationist purpose.

Constructive Use. When the transportation project does not incorporate land, but its proximity results in impacts (e.g., noise, vibration, visual, access, ecological) that substantially impair the activities, features, or attributes that qualify a resource for protection under Section 4(f). Substantial impairment occurs only if the protected activities, features, or attributes of the resource are diminished.

Permanent Use

A permanent use of a Section 4(f) resource occurs when property is permanently incorporated into a proposed transportation facility. This might occur as a result of partial or full acquisition, permanent easements, or temporary easements that exceed limits for temporary use, as noted below.

Temporary Use

A temporary use of a Section 4(f) resource occurs when there is a temporary occupancy of property that is considered adverse in terms of the preservationist purposes of the Section 4(f) statute. A temporary occupancy of property does not constitute a use of a Section 4(f) resource when the following conditions are satisfied:

- The occupancy must be of temporary duration (e.g., shorter than the period of construction) and must not involve a change in ownership of the property.
- The scope of work must be minor, with only minimal changes to the protected resource.

- There must be no permanent adverse physical impacts on the protected resource or temporary or permanent interference with activities or purpose of the resource.
- The property being used must be fully restored to a condition that is at least as good as existed prior to the proposed project.
- There must be documented agreement of the appropriate officials having jurisdiction over the resource regarding the foregoing requirements.

Constructive Use

A constructive use of a Section 4(f) resource occurs when a transportation project does not permanently incorporate land from the resource, but the proximity of the project results in impacts (e.g., noise, vibration, visual, access, ecological) that are so severe that the protected activities, features, or attributes that qualify the resource for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only if the protected activities, features, or attributes of the resource are diminished. This determination is made through the following:

- Identifying the currently activities, features, or attributes of the resource that may be sensitive to proximity impacts.
- Analyzing the potential proximity impacts on the resource.
- Consulting with the appropriate officials having jurisdiction over the resource.

In addition, it is important to note that erecting a structure over a Section 4(f) property, and thus requiring an air lease, does not in and of itself constitute a use unless a constructive use is present.

De Minimis Impact

According to 49 U.S.C. 303(d), the following criteria must be met to reach a *de minimis* impact determination:

- For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact determination may be made if a transportation project will not adversely affect the activities, features, and attributes qualifying the property for protection under Section 4(f) after mitigation. In addition, to make a *de minimis* impact determination, there must be:
 - Public notice and opportunity for public review and comment.
- Written concurrence received from the officials with jurisdiction over the property.

For a historic site, a *de minimis* impact determination may be made only if, in accordance with the Section 106 process of the NHPA and written concurrence from the SHPO, it is found that the transportation program or project will have no effect or no adverse effect on historic properties. In addition, FRA will inform these officials of its intent to make a *de minimis* impact determination based on their concurrence in the finding of "no adverse effect" or "no historic properties affected."

Section 4(f) Applicability

A park qualifies for protection under Section 4(f) if: (1) the property is publicly owned, (2) the park is open to the general public, (3) it is being used for outdoor recreation, and (4) it is considered significant by the authority with jurisdiction. The park must be publicly owned at the point at which "use" occurs.

A historic site on or eligible for the NRHP qualifies for protection under Section 4(f) and a use may occur if land from the site is permanently or temporarily incorporated into the project. If a project does not physically take (permanently incorporate) historic property but causes an adverse effect, the proximity impacts must be evaluated to determine if the proximity impacts will substantially impair the features or attributes that contribute to the National Register eligibility of the historic site or district. While the statutory requirements of Section 106 and Section 4(f) are similar, even if a proposed action results in an "adverse effect" under Section 106, there will not automatically be a Section 4(f) "use" absent a separate analysis and determination by FRA.

In order for a cultural resource to be protected by Section 4(f), it must be eligible for the National Register under specific criteria. Specifically, archaeological sites whose importance as a resource can be documented through a data recovery process alone are not protected under Section 4(f). In other words, Section 4(f) does not apply to a site if a federal agency, after consultation with the SHPO and the appropriate Native American Tribes and/or Tribal Historic Preservation Officer (THPO), concludes that the archaeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place.

The NHPA provides specific criteria to assist in making this determination. An archaeological resource that is eligible only under NHPA "Criterion D" is considered valuable only in terms of the data that can be recovered from it. For such resources (such as pottery scatters and refuse deposits), it is generally assumed that there is

minimal value attributed to preserving such resources in place. Conversely, resources eligible under Criteria A, B, and/or C are considered to have value intrinsic to the resource's location.

4.2 COORDINATION

49 U.S.C. 303(b) requires cooperation and consultation with the Secretary of the Interior (and the Secretaries of Housing and Urban Development and Agriculture, if appropriate) and the states in development of transportation plans. Throughout the Program EIS/EIR process, SLOCOG and FRA consulted with the SHPO, the Native American Heritage Commission (NAHC) and interested tribes. Section 4(f) determinations may be aided by coordination with the SHPO, pursuant to 36 CFR Part 800, and agencies of jurisdiction in identifying Section 4(f) properties and assessing impacts on the properties. **Table 4-1** lists the SLOCOG and FRA coordination to date with these agencies.

Table 4-1 Section 4(f) and 6(f) Evaluation Consultation Summary

Date	Form	Participants	General Topics
June 27, 2013	Telephone	Project team, SHPO	Background, purpose and need, the environmental document, and key stakeholders of the project, parameters for the cultural records search, NAHC consultation
July 1, 2013	Letter	NAHC to project team	Results of record search, coordination with tribal governments
September 17, 2013	Letter	FRA to tribal governments and individuals	Initial consultation to determine potential impacts to cultural places
October 3, 2013	Email	Project consultants and SHPO	SHPO acknowledged receipt of FRA letter initiating Section 106 consultation

Source: Circlepoint, 2014

The project team performed a Sacred Lands File and Native American Contacts List Request through the NAHC. On July 1, 2013, the NAHC responded to the records search, noting that the search indicated the possible presence of Native American traditional cultural place(s) in the proposed study area. As such, the NAHC recommended that tribal governments and individuals be contacted to determine

potential impact of any cultural place(s), and follow up within two weeks of initial contact via telephone call. The NAHC provided contact information for 25 individuals from several tribal organizations traditionally affiliated with lands in the study area.

In response to the NAHC's request, and pursuant to Section 106 of the National Historic Preservation Act (36 CFR 800.2(c)(2)(ii)) the lead Federal agency, FRA, reached out to the identified individuals to advise about the project.

Initial contact was made via letter, sent certified mail on September 17, 2013. As recommended by the NAHC, the project team made follow up phone calls to the tribal government contacts on September 24, 2013. All answered calls indicated receipt of FRA's letter.

SLOCOG and FRA will continue to consult with these agencies and tribal representatives regarding the effects of the project on the features and attributes of Section 4(f) properties and provide opportunity for public comment.

4.3 PURPOSE AND NEED

The project purpose is to increase the frequency, speed, and reliability of passenger rail while fostering greater passenger connectivity to the proposed California High-Speed Rail System and enhancing safety with minimal disruption to existing and proposed freight rail operations. Implementation of the Build Alternative would help to create an interconnected, multimodal solution allowing for better mobility throughout the Coast Corridor region, providing added capacity in response to increased travel demand between Los Angeles and San Francisco.

The Coast Corridor region is faced with transportation challenges associated with anticipated population growth, constrained travel options, aging rail infrastructure, safety issues, and a need for increased travel capacity without impacting air quality and natural resources. These challenges are likely to continue in the future as continued growth in population, employment, and tourism activity is expected to generate increased travel demand.

4.4 ALTERNATIVES

This Program EIS/EIR evaluates two alternatives: a Build Alternative and a No Build Alternative. The Build Alternative includes a list of potential physical improvements to the railway and expanded passenger rail service (Coast Daylight). Some, all, or

none of these improvements may eventually be constructed in order to facilitate the addition of up to two round trip Coast Daylight trains per day (four train trips in all) between San Francisco and Los Angeles.

4.4.1 NO BUILD ALTERNATIVE

The No Build Alternative represents the continuation of existing rail operations and physical components, and assumes the perpetuation of existing freight and passenger service between Salinas and San Luis Obispo. The only physical improvement expected under the No Build Alternative would be the installation of positive train control (PTC) along the Corridor, which would provide increased safety for freight and passenger trains. For the purposes of this Program EIS/EIR whose purpose and need is limited to potential physical rail system improvements and expansion of passenger rail service, the No Build Alternative includes other planned and programmed rail improvement projects for the Coast Corridor in the vicinity of the Salinas to San Luis Obispo region.

4.4.2 BUILD ALTERNATIVE

The Build Alternative assumes the restoration of "Coast Daylight" passenger service, which would initially consist of 2 trains per day traveling between Salinas and San Luis Obispo, increasing to 4 trains per day by the year 2040. The Build Alternative includes an exhaustive list of potential physical improvements between Salinas and San Luis Obispo, some number of which may be found necessary to accommodate increased Coast Daylight service. The extent of needed physical improvements has not been identified at this time but is expected to be determined outside the context of CEQA/NEPA environmental review. The Build Alternative looks broadly at each physical improvement contemplated for the area to provide decision-makers additional information in identifying which if any conceptual physical improvements should be carried forward. Both corridor-wide and specific area improvements are further discussed below.

Corridor-wide Track Upgrades: Track improvements intended to improve performance are proposed along the entire rail alignment between Salinas and San Luis Obispo. Proposed corridor-wide track upgrades include replacement of existing rail with continuous welded rail (CWR), track structure realignment, track resurfacing, tie replacement, replacing or upgrading ballasting, rehabilitation of existing sidings, and replacement of existing turnouts. CWR reduces the number of joints and thus enables trains to move more quickly and with less friction and noise.

- Signal System Upgrades: The Build Alternative proposes that centralized traffic control (CTC) be introduced in two locations: 1) from Salinas to Soledad, via the extension of an existing CTC system to the north and 2) an "island" CTC over 27 miles of the railroad between San Lucas and Bradley (both unincorporated communities in southern Monterey County).
- New powered switches: Powered switches are mechanical devices within a railroad track that guide trains from one track to another such as a siding, or a second mainline. Switching mechanisms include sensors placed on rails/ties and control boxes placed immediately alongside the railroad within the railroad right of way. Powered switches are generally considered an upgrade over manually thrown switches insofar as they facilitate the speed of transition from one track to another.
- Siding extensions/new siding: A siding is a short section of track adjacent to a main track used for passing and dwelling purposes in single track systems. At present, the sidings in the Salinas to San Luis Obispo portion of the corridor are generally one mile in length or shorter. Freight trains often exceed one mile in length and thus sometimes cannot be accommodated in the existing sidings. The proposed siding extensions are generally located within the railroad ROW and would lengthen existing sidings so that each would be at least 10,000 feet in length. Figure 2-5 shows a diagram of a typical siding extension.
 - In addition to several siding extensions, the Build Alternative also includes entirely new sidings at Chalone Creek near Soledad (MP 147 to MP 149), San Lucas (MP 167.2 to MP 190.4), and Wellsona (MP 205 to MP 207.6).
- New second mainline: A second main track is contemplated from South Santa Margarita toward the Cuesta Grade (MP 233 to MP 235), terminating just north of the first tunnel between Cuesta Grade and San Luis Obispo. At present, train speeds through this portion are some of the slowest for the entire alignment ranging between 25 and 35 mph. Slow speeds here are considered to be related to track curvature and deficient train control systems. A second mainline here would significantly expand mobility.
- Curve or other track realignments: The existing Coast Corridor alignment includes some sharp curves that require trains to slow down to reduce the risk of derailment. The Build Alternative contemplates several curve realignments intended to reduce track curvature. If constructed, curve realignments would allow for increased speeds, enhance safety, and reduce trip times. Such realignments typically result in less wear and tear to tracks, reducing the frequency of repair or maintenance.

- New passenger stations: There are currently three passenger train stations between Salinas and San Luis Obispo: 1) Salinas, 2) Paso Robles, and 3) San Luis Obispo. The Build Alternative contemplates two new passenger stations in Soledad and King City. The existing Coast Corridor alignment passes through the downtowns of each city. The proposed Coast Daylight train service may include stops in one or both of these cities.
- Grade Crossing and Mobility Improvements: The MP 172 curve realignments has the potential to create a single new at-grade crossing of an existing public, paved road at Cattlemen Road, about 10 miles south of King City. The Build Alternative would install as-yet undefined signal, signage, and other related improvements at as-yet unspecified existing at-grade crossings.
- Coast Daylight Service and new rolling stock: The SDP contemplates the reinstitution of Coast Daylight passenger rail service, which was discontinued in 1971. The SDP proposes initial service of one daily southbound and one daily northbound train between San Francisco and Los Angeles. Preliminary proposed schedules indicate trains leaving San Francisco and Los Angeles in the early morning (approximately 7 a.m.), and arriving at their respective destinations between 6:30 p.m. and 7 p.m. Future expanded service would see the addition of one additional daily southbound and northbound departure. This expanded service would be overnight, leaving San Francisco or Los Angeles in the early evening and arriving at the respective destination early the following morning.

Coast Daylight trains would stop at existing Amtrak stations in the Coast Corridor and potentially also at proposed new stations identified in the Service Development Plan (Soledad and King City). The proposed Coast Daylight service would require the acquisition of locomotives and passenger railcars.

4.4.3 SECTION 4(F)/6(F) PROPERTIES (PARKS, WILDLIFE REFUGES, AND HISTORIC SITES)

This section discusses the park, recreation, open space, and wildlife refuge properties evaluated as Section 4(f) resources and the project components that potentially use these properties. The project will have no Section 4(f) use if the property is not directly incorporated into the project, or when the project's proximity impacts, such as noise, visual change, or minor access changes do not substantially impair the features and attributes that qualify the site for protection under Section 4(f) during construction or operation.

Public Parks/Recreation Areas

Figure 4-2 shows potential Section 4(f) resources based on the study areas defined above. These potential 4(f) resources are described below from north to south.

City of Salinas

Bataan Memorial Park is an urban park less than 1 acre in area located on West Market Street. The park honors the 105 Salinas and Pajaro Valley military members deployed to the Philippines in 1941. The park includes grassy areas, trees, and a soldiers' memorial. The City of Salinas owns and maintains this park, which was renovated in 2012.⁵

City of Gonzales

Gonzales Cemetery is not recognized as a park by the City of Gonzales in which it is located. However, the cemetery is included in the California Protected Areas Database and for the purposes of this analysis is considered a potential Section 4(f) resource. The cemetery is managed by a local Cemetery District. ⁶

City of Soledad⁷

Bill Ramus Park is a 0.5 acre urban park near the proposed Soledad passenger station. It is a popular neighborhood picnic spot, equipped with barbeques and picnic tables. The City of Soledad owns and maintains this park.

Vosti Park is a 6.4 acre urban park owned and maintained by the City of Soledad. It is the largest park facility in the city, with several recreational facilities including soccer and baseball fields, volleyball courts, a playground and picnic areas.

Cesar Chavez Park is a 0.1 acre green space in Soledad in between Front Street and the existing Coast Corridor railroad. It offers benches and serves as an attractive green buffer between downtown Soledad and the train tracks. The City of Soledad owns and maintains this park.

San Miguel (Unincorporated San Luis Obispo County)

Rios Caledonia Adobe is a unit of the San Luis Obispo County Parks Department that includes historic buildings, gardens, and a visitors' center.⁸

⁵ City of Salinas, 2002c

⁶ City of Gonzales, 2010

⁷ City of Soledad, 2014

⁸ Rios-Caledonia Adobe, 2013

City of El Paso de Robles (Paso Robles)

Pioneer Park is a 6.8-acre park owned and maintained by the City of Paso Robles. The park includes a skate park, softball and basketball facilities, a playground, and picnic area.⁹

Paso Robles City Park is a 4.8-acre park in downtown Paso Robles, owned by the City. The park is a popular gathering place for community events. It has a picnic area, small playground, gazebo, and horseshoe pits.¹⁰

Robbins Field is a 2.4 acre park owned and maintained by the City of Paso Robles that includes baseball facilities. ¹¹

Lawrence Moore Park is a neighborhood park owned and maintained by the City of Paso Robles on the east bank of the Salinas River. It has a small recreation area, including barbecue facilities, a playground, and a playing field. The park includes sections of the city's trail network.¹²

Templeton Area (Unincorporated San Luis Obispo County)

Evers Sports Park is a park managed by the Templeton Community Services District. The park offers baseball and soccer fields.

Templeton Skate Park is a skateboarding facility managed by the Templeton Community Services District.

City of Atascadero Area

Heilmann Regional Park is a 15 acre park located within the City of Atascadero, but owned and maintained by the County of San Luis Obispo. The park has hiking trails, picnic areas, a disc-golf course, and tennis courts.

Paloma Creek Park is a small park owned and maintained by the City of Atascadero with sports fields and a playground. 13

Santa Margarita Area

Santa Margarita Community Park is located in Santa Margarita and owned and maintained by the County of San Luis Obispo. The park has a playground and several picnic areas.¹⁴

⁹ City of Paso Robles, 2013b

¹⁰ City of Paso Robles, 2013a

¹¹ City of Paso Robles, 2013c

¹² City of Paso Robles, 2013d

¹³ City of Atascadero, 2013

City of San Luis Obispo

Ellsford Park is a 1 acre park owned and maintained by the City of San Luis Obispo, adjacent to San Luis Obispo High School. The park has two small grassy areas separated by a stand of trees. ¹⁵

Santa Rosa Park is an 11-acre park owned and maintained by the City of San Luis Obispo. The park offers horseshoe pits, softball/baseball facilities, playgrounds, basketball courts, a skate park, and picnic areas. ¹⁶

Stenner Springs Open Space is a 363-acre protected area owned and maintained by the City of San Luis Obispo. The area is composed of four distinct parcels, three of which have typically been used for hiking, biking, outdoor education, and research opportunities. There are multiple trails used for hiking and mountain biking in this open space, and one popular mountain biking tail in close proximity to a portion of the existing railway that is considered Section 4(f) resources.¹⁷

Cultural Resources

Archaeological Sites

There are a total of 27 known archaeological sites within the study area, as described in **Section 3.10**, **Cultural Resources**, and summarized in **Table 3.10-2**. The NRHP eligibility status of these resources has not been evaluated or determined. Resources potentially affected by various components of the Build Alternative may require evaluation under the NRHP criteria, and one or more of these may be found to qualify for protection under Section 4(f).

Historic Resources

As described in **Section 3.10, Cultural Resources**, the Bradley Road Bridge over the Salinas River is the only historic resource within the entire Coast Corridor study area that was previously determined eligible for the NRHP. Additionally, over 50 recorded historic resources potentially affected by various components of the Build Alternative may require evaluation under the NRHP criteria. One or more of these may be found to qualify for protection under Section 4(f).

¹⁴ San Luis Obispo County Parks, 2002

¹⁵ City of San Luis Obispo, 2001, p. 16

¹⁶ City of San Luis Obispo, 2001, p. 20

¹⁷ City of San Luis Obispo2009, pp. 5-6

Class 1 Areas

As shown in **Figure 4-1**, within 100 kilometers of the Coast Corridor study area, there are three Class 1 Areas: Pinnacles National Park, and two wilderness areas of the Los Padres National Forest – the Ventana Wilderness and the San Rafael Wilderness.

Wildlife and Waterfowl Refuges

Big Sandy Wildlife Area is composed of two parcels, together comprising 850 acres of grasslands, streams, and riparian habitats. The California Department of Fish and Wildlife administers the wildlife area, which is adjacent to the Camp Roberts Military Reservation.¹⁸

Section 6(f) Resources

No Section 6(f) resources were identified in the study areas. A full review of the California State Parks Land and Water Conservation Fund grants list for Monterey and San Luis Obispo counties did not find that any of the parks affected by the proposed improvements had been improved using funds from the Land and Water Conservation Fund.

4.4.4 PRELIMINARY 4(F) USE ASSESSMENT AND DRAFT DETERMINATION

No Build Alternative

The Build Alternative represents the continuation of existing operations and physical components, and assumes the perpetuation of existing passenger service and freight service. No physical improvements are anticipated beyond the installation of rail-side equipment associated with Positive Train Control (PTC). Since such equipment is assumed to be similar to existing signaling equipment and would be placed in the railroad right-of-way, no Section 4(f) use would be assumed for the No Build Alternative.

Under the No Build scenario, it is assumed that between today and 2040, there would be no substantial changes to 4(f) resources in the study area. Moderate changes to these resources could be expected as a result of ongoing development in

¹⁸ California Department of Fish and Wildlife, 2014

the Coast Corridor region. Various planned and programmed projects would be implemented. However, the No Build Alternative is not expected to directly or indirectly affect any 4(f) properties in the study area.

Build Alternative

This analysis evaluated the potential for permanent, temporary, and constructive uses of Section 4(f) resources. A constructive use is an indirect impact to a Section 4(f) resource, such as noise, access restrictions, vibration, and visual impacts, resulting from the close proximity of project features to a Section 4(f) resource.

Table 4-2 below summarizes the potential for permanent, temporary, and constructive use impacts to Section 4(f) resources to result from each proposed improvement comprising the Build Alternative. The acreage of impacts tabulated below is consistent with the parameters outlined for the study area in **Section 4.1.1** above.

Table 4-2 Summary of Potential Impacts to Section 4(f) Resources

Build Alternative Components	Sum of Acreage with Potential for Permanent Use	Sum of Acreage with Potential for Temporary Use	Sum of Acreage with Potential for Constructive Use
Salinas Powered Switch	0	0	0
Upgrades to Existing Alignment Section #1	0	0	Bataan Memorial Park: 0.3
Spence Siding Extension	0	0	0
Upgrades to Existing Alignment Section #2		0	Bill Ramus Park: 0.2 Cesar Chavez Park: 0.1 Gonzales Cemetery: 4.5 Vosti Park: 6.3
Gonzales Powered Switch	0	0	0
Soledad Powered Switch	0	0	0
Soledad New Passenger Station		0	Cesar Chavez Park: 1.36
Harlem/Metz Curve Realignments	0	0	0
Chalone Creek New Siding	0	0	0

Build Alternative Components	Sum of Acreage with Potential for Permanent Use	Sum of Acreage with Potential for Temporary Use	Sum of Acreage with Potential for Constructive Use
Upgrades to Existing Alignment Section #3	0	0	0
Coburn Curve Realignments	0	0	0
King City Siding Extension	0	0	0
King City New Passenger Station	0	0	0
King City Powered Switch	0	0	0
Upgrades to Existing Alignment Section #4	0	0	0
MP 165 Curve Realignment	0	0	0
San Lucas New Siding	0	0	0
Upgrades to Existing Alignment Section #5	0	0	0
MP 172 Track Realignment	0	0	0
San Ardo Powered Switch	0	0	0
Getty/Bradley Curve Realignments	0	0	0
Bradley Siding Extension	0	0	0
Bradley Powered Switch)	0	0	0
Upgrades to Existing Alignment Section #6	Big Sandy Wildlife Area: 2.3	0	Big Sandy Wildlife Area: 23.9
Upgrades to Existing Alignment Section #7	Big Sandy Wildlife Area: 0.3	0	Big Sandy Wildlife Area: 89.7 Rios Caledonia Adobe: 3.2
McKay/Wellsona Curve Realignments	Big Sandy Wildlife Area: 10.5	Big Sandy Wildlife Area: 36. 8	Big Sandy Wildlife Area: 91.6

Build Alternative Components	Sum of Acreage with Potential for Permanent Use	Sum of Acreage with Potential for Temporary Use	Sum of Acreage with Potential for Constructive Use
McKay Powered Switches	0	0	0
Wellsona New Siding	0	0	0
Upgrades to Existing Alignment Section #8	0	0	Lawrence Moore Park: 1.5 Paso Robles City Park: 1.8 Pioneer Park: 2.2 Robbins Field: 2.1
Wellsona/Paso Robles Curve Realignments	0	0	0
Templeton Siding	Evers Sports Park: 0.5	Evers Sports Park: 1.2	Evers Sports Park: 11.9 Templeton Skate Park: 2.0
Templeton/Henry Curve Realignments	0	0	0
Upgrades to Existing Alignment Section #9 ^a	0	0	Heilmann Park: 58.5 Paloma Creek Park Open Space: 9.2 Santa Margarita Community Park: 1.6
Henry/Santa Margarita Curve Realignment ^b	0	0	0
Santa Margarita Powered Switch	0	0	0
Cuesta Second Main Track ^c	0	0	0
Upgrades to Existing Alignment Section #10	0	0	Elsford Park: 0.2 Los Padres National Forest: 25.6 Santa Rosa Park: 0.6 Stenner Springs Open Space: 27.3

Source: ICF 2013.

Notes: a)² In a review of aerial maps, BLM land was identified for potential constructive use impacts at EA-9. Since there are no developed recreation facilities on this land, the lands would not be covered by Section 4(f), so no

constructive use under Section 4(f) could occur. (Personal Communication between Lily Gilbert and Harrison Friedman, August 14, 2014).

b) In a review of aerial maps, BLM land was identified for potential permanent use by a portion of the Henry/Santa Margarita Curve Realignment. There are no recreation facilities on this BLM holding, so the lands would not be covered by Section 4(f); no Section 4(f) use could occur. (Personal Communication between Lily Gilbert and Harrison Friedman, August 14, 2014).

c) In a review of aerial maps, the proposed second mainline was identified as traversing a portion of the Los Padres National Forest (LPNF) near Cuesta Grade. The affected portion of the LPNF is in utilities and transportation use (including the existing railroad right-of-way and US 101). As this portion of the LPNF does not have any sanctioned recreational use, the lands would not be covered by Section 4(f), so no Section 4(f) use could occur.

Public Parks/Recreation Areas

As noted in **Table 4-2** above, potential permanent and constructive use impacts were identified to occur on BLM lands at alignment improvement segment #9 and associated with the Henry/Santa Margarita Curve Realignment. After consulting with Harrison Freidman, an Outdoor Recreation Planner for the BLM, it was concluded that no developed recreation facilities exist on the potentially affected parcels. Additionally, constructive use impacts were identified to potentially occur within the Los Padres National Forest associated with the second mainline. No developed recreational uses occur in this area of the Los Padres National Forest. ¹⁹ Therefore, neither the BLM land nor the affected Los Padres National Forest lands are considered Section 4(f) resources, and are thus not discussed further.

Bataan Park: The only improvements contemplated in close proximity to this park are upgrades to the existing alignment, which would occur within the existing railway right-of-way. Thus, no permanent or temporary uses of this park would occur. Furthermore, track upgrades in this area included in the Build Alternative would have minimal potential to significantly increase the noise beyond current levels, as it is located in an urban area less than 500 feet from the existing rail alignment, and is exposed to existing traffic noise. Constructive use associated with the Build Alternative may occur to up to 1/3 acre of the park; however it is unlikely given its proximity to the existing railway and nature of the improvements in this area.

City of Soledad Parks (Vosti, Cesar Chavez, Bill Ramus): Upgrades proposed for the existing alignment in Soledad would not result in any permanent or temporary impacts to any of the parks identified, as they would occur within the railway right-of-way. Potential constructive uses have been identified at all three parks. However, both passenger and freight trains currently travel through Soledad in proximity to these parks on the existing rail alignment. The Build Alternative would

¹⁹ U.S. Forest Service, 2008

bring additional train activity through Soledad, but passenger trains would likely be moving at lower speeds as they would be approaching/departing the new proposed Soledad station. Therefore, a constructive use of any existing Soledad park would be unlikely to occur.

Gonzales Cemetery: Potential constructive use may occur to the Gonzales Cemetery associated with upgrades to the existing railway. However, the cemetery is exposed to substantial existing noise, due to its location, wedged between US 101 and Old US 101, and less than 500 feet from the existing rail alignment. Since the proposed project would add new passenger service on the railway, there is the possibility that noise would increase slightly above existing levels. Given the high existing noise level, the addition of two additional trains by 2020 and four trains total by 2040 makes it highly unlikely that a constructive use would occur. No temporary or permanent uses would result as the proposed upgrades in this area would occur within existing railway right-of-way.

Big Sandy Wildlife Area: The existing railway right-of-way passes directly through this resource, which appears to have been designated a wildlife refuge well after construction of the railroad. The Build Improvement contemplates two different physical improvements for the Big Sandy area: track and signal upgrades and a portion of a curve realignment. In addition, proposed new passenger rail service would travel through the Big Sandy area.

A portion of the McKay/Wellsona curve realignment would potentially require the acquisition of lands within Big Sandy and their conversion to a transportation use. As noted in **Chapter 2.0**, **Alternatives**, no specific curve realignment plans have been developed by any involved entity; the extent of the potential curve realignment areas was estimated for purposes of this programmatic environmental review. If the proposed curve realignment is selected to move forward for further design and environmental review, the final alignment will need to be evaluated against Section 4(f) regulations to determine whether any permanent and/or temporary use of Big Sandy would result and, as necessary, if any prudent and feasible alternatives can be identified.

Track upgrade work would be completed entirely within the existing right-of-way and would not result in any new permanent intrusion within Big Sandy. There is some potential for the track upgrade work to result in some temporary use of Big Sandy, but most track upgrade work can be completed within the footprint of the existing right-of-way. Temporary occupancy requirements would be met as to avoid any temporary use under Section 4(f). Therefore, track upgrades would be unlikely to result in any Section 4(f) use - permanent, temporary, or constructive.

Rios Caledonia Adobe: The existing right-of-way is directly adjacent to Rios Caledonia Adobe. Improvements to the existing railway have the potential to result in a constructive use of this park. The Build Alternative would add new passenger service on the railway, adding up to four new train passings per day, which could increase noise slightly above existing levels. Given the substantial noise to which this resource is exposed as a result of the proximity to US 101 and the existing right-of-way, such additional trains are unlikely to result in a new constructive use of this resource. No temporary or permanent impacts to Rios Caledonia Adobe would result from implementation of the Build Alternative as the track and signal upgrades would occur entirely within the existing railway right-of-way.

Parks in Paso Robles: All involved Paso Robles parks are within 500 feet of the existing railroad. However, the existing railroad does not directly traverse any Paso Robles parks nor are the existing tracks immediately adjacent to any Paso Robles parks.

Through Paso Robles, the Build Alternative would result in track upgrades which would not be expected to result in a permanent use given that such work would take place entirely within the existing right-of-way. The Build Alternative would also increase passenger rail service throughout the entire corridor with up to four new train passings per day, which could increase noise at Paso Robles parks above existing levels. Given the substantial noise to which this resource is exposed as a result of the proximity to US 101 and existing rail use (both freight and passenger trains travel through Paso Robles), the additional passenger rail service is unlikely to result in a new constructive use of Section 4(f) resources in Paso Robles.

Templeton Parks, Heilmann Park and Paloma Park, Atascadero; and Santa Margarita Community Park: The existing rail alignment is directly adjacent to two parks each in Templeton and Atascadero, and one park in Santa Margarita.

As reflected in **Table 4-2** above, analysis indicates potential *direct* use of 0.5 acres of land associated with the Templeton Siding within Evers Sports Park in Templeton. There is also potential for temporary and constructive use. A review of aerial photography shows that the sports fields within Evers Park are separated from the existing railroad (double-tracked in this vicinity) by extensive fencing and trees. As noted in **Chapter 2.0**, **Alternatives**, no specific siding plans have been developed by any involved entity; the extent of the potential siding and siding extension areas were estimated for purposes of this programmatic environmental review. If the proposed siding is selected to move forward for further design and environmental

review, the final alignment will need to be evaluated against Section 4(f) regulations to determine whether any permanent and/or temporary use of Evers Sports Park would result and, as necessary, if any prudent and feasible alternatives can be identified.

Proposed improvements for all other Templeton, Atascadero, and Santa Margarita parks would include only track upgrades and the addition of passenger service. Neither of these proposed improvements would require relocating or expanding the railroad right-of-way, either into a Section 4(f) resource or anywhere else. Moreover, track improvements would be unlikely to require temporary use of adjacent lands, as most such work can be completed entirely within the existing footprint of the tracks. Therefore, there is virtually no potential for direct or temporary use of Evers Sports Park.

Owing to the immediate adjacency of the existing railroad to these parks, the potential for constructive use must be considered. As noted above, track upgrade work would likely be contained to the existing footprint of the tracks themselves. The Build Alternative would also increase passenger rail service throughout the entire corridor with up to four new train passings per day, which could result in increased noise levels at the adjacent Templeton, Atascadero, and Santa Margarita parks. Given existing rail use by both freight and passenger trains through these communities, the incremental addition of up to four trains per day would be unlikely to rise to the level of a constructive use of any of these parks.

City of San Luis Obispo Parks: Trains currently travel through San Luis Obispo on the existing rail alignment, passing within a quarter mile or less of two City-owned parks that would be considered Section 4(f) resources. Within an urbanized area, these parks are exposed to existing traffic noise. Track upgrades and increased passenger rail service through this area would have some potential to increase the noise beyond current levels, but given the current urban environment, the noise increase would be unlikely to rise to the level of a constructive use. No temporary or permanent impacts would result as the proposed track upgrades would occur entirely within existing railway right-of-way.

Stenner Springs Natural Reserve: The existing alignment skirts the southern edge of the Stenner Springs Natural Reserve. Track upgrade work proposed to occur near Stenner Springs would be completed entirely within the existing alignment and would not result in any temporary or permanent Section 4(f) use. Increased passenger rail service would potentially result in somewhat higher noise levels here, but given the existing presence of the railroad and proximity to urbanized areas, the noise increase would be unlikely to rise to the level of a constructive use.

Cultural Resources

Section 106 of the National Historic Preservation Act of 1966 requires federal agencies to consider a project's effect on cultural resources in much the same way as Section 4(f). The most important connection between the two statutes is that the Section 106 process is generally the method by which a cultural resource's significance is determined under Section 4(f).

The results of the Section 106 process determine whether Section 4(f) applies to historic properties. The results of the Section 106 analysis are critical in determining the applicability and outcome of the Section 4(f) evaluation. The most important difference between the two statutes is the way each of them measures impacts on cultural resources. Whereas Section 106 is concerned with "adverse effects," Section 4(f) is concerned with "use" of protected properties.

Archaeological Sites

Archaeologically sensitive areas have been identified within the study area; these areas are described in **Section 3.10**, **Cultural Resources**.

The Final Section 4(f) use determinations will be dependent upon the results of NRHP eligibility determinations. For cultural resources, such eligibility determinations will require a survey, which will be completed once property access is obtained through owner permission or purchase of property for the Build Alternative. SLOCOG will evaluate design modifications to avoid ground disturbance at the location of any archaeologically sensitive areas. If the areas cannot be avoided, SLOCOG will conduct archaeological data recovery for the purposes of site identification and significance evaluation according to a plan prepared in accordance with the Programmatic Agreement for Section 106 to determine if the sites are eligible for the NRHP. If they are determined eligible for the NRHP, SLOCOG will mitigate impacts through archaeological data recovery as described in Section 3.10, Cultural Resources.

SLOCOG has not subjected portions of the study area to intensive archaeological cultural resource surveys. Consequently, SLOCOG and FRA cannot determine potential effects on presently unidentified cultural sites, features, artifacts, or other sensitive properties within the footprint of the Build Alternative. In the event any one or more elements of the Build Alternative move forward for further design, funding, and implementation, the lead agency would conduct intensive surveys prior to project-related ground-disturbing activities to comply with the identification provisions of Section 106. Previously undocumented archaeological materials may be present on documented significant sites and sensitive landforms, and could be inadvertently discovered or damaged through project ground-disturbing activities.

Section 3.10, Cultural Resources, describes measures to address unidentified archaeological resources.

If archaeological resources are encountered inadvertently during construction and are determined to be eligible for the NRHP and warrant preservation in place, FRA will expedite preparation of separate Section 4(f) evaluations for such resources.

Historic Architectural Resources

Based on the analysis conducted for Cultural Resources (see **Section 3.10**), there is only one historic architectural resource that has been determined eligible for NRHP listing, the Bradley Road Bridge. The Bradley Road Bridge is located west of the existing alignment in southern Monterey County. The only proposed physical improvement potentially outside the railroad right-of-way near the Bradley Road Bridge is the proposed Bradley siding extension. The siding currently ends about 0.75 miles to the southeast of the Bradley Road Bridge. If the siding is extended to the south, the siding extension would be about 0.8 miles to the southeast of the Bradley Road Bridge - in other words, further away from the Bradley Road Bridge than the current siding and thus highly unlikely to result in a Section 4(f) use of the Bradley Road Bridge.

If the Bradley Siding is selected for this portion of the corridor, an appropriate level of review will be needed to formally determine the potential for such improvements to affect the bridge's previously established eligibility.

Additionally, over 50 recorded historic resources potentially affected by various components of the Build Alternative may require evaluation under the NRHP criteria. One or more of these may be found to qualify for protection under Section 4(f). If such resources are determined to be eligible for the NRHP and warrant protection, FRA will expedite preparation of separate Section 4(f) evaluations.

Class I Areas

The proposed project would add up to four new train trips each day, so it is possible that a slight increase in pollutant emissions could affect visibility in the identified areas. However, as detailed in **Section 3.2**, **Air Quality and Greenhouse Gases**, the Build Alternative could have a minor positive effect on regional air pollutant emissions. Given these factors, the Build Alternative would not be expected to cause substantial degradation in visibility in Class I areas.

4.4.5 IMPACT AVOIDANCE STRATEGIES, MITIGATION STRATEGIES AND SUBSEQUENT ANALYSIS

Based on the analysis above, potential effects to Section 4(f) resources would most likely be limited to the Big Sandy Wildlife Area and Evers Sports Park. It is assumed that the affected portion of the Los Padres National Forest would not be deemed a Section 4(f) resource owing to existing transportation and utilities uses in the immediate area.

It may be possible to avoid significant impacts to these resources through design modifications. However, if corresponding components of the Build Alternative are selected for further design leading to potential construction, mitigation efforts should be focused on these two areas.

Potential impacts to Big Sandy Wildlife Area and Evers Sports Park are associated with the McKay/Wellsona curve realignment and the Templeton Siding, respectively. Future analysis must assess the centrality of this curve realignment and siding to overall train performance in light of anticipated impact to biological and 4(f) resources. Pending future analysis, it may be possible to introduce design refinements or mitigation strategies to lessen the significance of the potential impacts.

In these areas and others, avoidance of impacts to 4(f) resources may not be possible. Therefore, thorough evaluation of impacts, alternatives, and strategies to minimize the effects on these resources will be critical.

Prior to implementing elements of the Build Alternative, a more detailed analysis of potential impacts to Section 4(f) resources should be conducted to identify potential prudent and feasible alternatives, and identify and analyze potential mitigation measures.

Future evaluations could include the following analyses:

- Detailed physical descriptions of the plan area for the proposed project (including plans and profiles).
- Complete descriptions of the proposed uses of and potential impacts on Section 4(f) resources in light of refined designs. Specific potential impacts on each resource would be identified, including any impacts that could affect ambient noise, air quality, transportation, and visual resources. In particular, a reevaluation of the potential noise effects of the proposed curve realignments and second mainline on Section 4(f) resources would be completed.
- Applicability of the de minimis finding would be evaluated for proposed uses and potential impacts on Section 4(f) resources.

- Identification and evaluation of strategies to avoid or minimize proposed use of and impacts on Section 4(f) resources by narrowing rights-of-way/disturbance limits, realigning/ relocating project features, and developing other alignment adjustments. Where feasible, the accompanying analysis would evaluate the technical feasibility of each mitigation measure, including cost estimates with figures showing percentage differences in total project costs, possibility of community or ecosystem disruption, and other potential significant adverse environmental impacts of each alternative. The financial, social, or ecological costs or potential adverse environmental impacts of each alternative will also be addressed, as well as unique problems and extraordinary magnitudes of impacts.
- Documentation of consultation with the affected local jurisdictions and owners/operators of each of the identified Section 4(f) resources. Required documentation includes proof of concurrence or efforts to obtain concurrence from the public official or officials having jurisdiction over the Section 4(f) resources and documentation of the planning that took place to minimize harm to the affected resources. Input from the public, or documentation of efforts to obtain input from the public, must be included. The public would be consulted on proposed effects to recreational or wildlife refuge resources as well as historic resources.

In addition to these analyses, mitigation measures would be identified. Mitigation measures for natural, cultural, aesthetic and recreational impact could include, but would not be limited to:

- Compensation for temporary and loss of park and recreation use.
- Where necessary, provide alternative transit service to park visitors.
- Restore directly impacted park lands to a natural state after construction.
- Planning studies for relocated facilities, including measures for design and appropriate replacement with minimal impact on park use.
- Inventory and document affected historic structures. Identify appropriate mitigation to address adverse effects to historic structures.
- Use local native plants for revegetation.

- Employ best management practices during construction and maintenance to protect wetland resources.
- Construct wildlife under- or over-crossings as necessary.
- Incorporate construction best practices to protect critical wildlife corridors and visitor use areas within any impacted public park.



Figure

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