

Table 5.2.B - Cultural Resource Site Totals

Alternative	Within Bandwidth	Within Buffer
Alt. 1	12	54
Alt. 3	24	64
Alt. 5a	31	93
Alt. 5b	32	108
Alt. 7a	13	35
Alt. 7b	15	44
Alt. H	8	102

5.2.3.1 Archaeological Resources

Section 4(f) applies to all archaeological sites on or eligible for inclusion on the National Register and which warrant preservation in place. Section 4(f) does not apply if FHWA, after consultation with the SHPO and ACHP, determines that the resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place.

All sites identified through earlier surveys as potentially eligible are identified. The archaeological sites identified through the CETAP surveys have not undergone an evaluation of eligibility, but most are not likely to warrant Section 4(f) status. However, archaeological sites previously determined to be eligible for reasons other than Criterion D¹ are considered potential 4(f) resources. The only known National Register site within the bandwidths of the alternatives in the WT study area is the Murrieta Creek Archaeological District (National Register No. 73000424). There are no known National Register eligible sites.

5.2.3.2 Historic Resources

Section 4(f) applies to all historic sites on or eligible for inclusion on the National Register, or which have been determined to be of local significance. There are no known historic resources within the WT Corridor bandwidths that are National Register eligible or listed.

5.2.4 Wildlife Management Resources

Section 4(f) applies to wildlife refuges and to wildlife management areas that primarily function as a sanctuary or refuge for the protection of species (FHWA Policy Paper).

¹ Criterion D is one of the four criteria for eligibility determinations to the National and/or California Registers. The criterion states: “Has yielded, or may be likely to yield, information important in prehistory or history.”

Wildlife management resources are identified in the Biological Resources Technical Report and in Sections 3.11 and 4.11 of this EIS/EIR. The RCIP, of which the WT Corridor is a component, also includes a proposed Multi-Species Habitat Conservation Plan (MSHCP). The MSHCP is intended to protect wildlife species that are federal and state listed as threatened or endangered.

Due to its function as an ecological preserve, the SMER is considered a 4(f) resource. A small portion of the Santa Margarita Ecological Reserve (SMER) is within the bandwidth for Alternative 5b. The SMER is a field station of San Diego State University (SDSU), and encompasses 1,759 ha (4,344 ac). The reserve includes land owned by SDSU, as well as MWD and Bureau of Land Management (BLM) property, all of which is managed as a nature reserve for biological research and teaching. A portion of the bandwidth for improvements to SR-79/Rainbow Canyon Road at the very southern end of the WT study area encroaches onto the SMER.

5.3 Use of 4(f) Resources

This section considers whether the proposed action requires the “use” of the identified protected resources. “A ‘use’ occurs (i) when land from a Section 4(f) site is acquired for a transportation project, (ii) when there is an occupancy of land that is adverse in terms of the statute’s preservationist purposes, or (iii) when the proximity impacts of the transportation project on the Section 4(f) site, without acquisition of land, are so great that the purposes for which the Section 4(f) site exists are substantially impaired (normally referred to by courts as a constructive use)” (FHWA Policy Paper).

A “constructive use” of a protected resource occurs when at least one of the following situations occurs:

- C Predicted noise level increase, attributable to the reuse of the site, substantially interferes with the use and enjoyment of a noise sensitive facility of a resource.
- C Proximity of the reuse of the site substantially impairs the aesthetic features or attributes of a resource, where such features or attributes are considered important contributing elements to the value of the resource.
- C Restricted access which substantially diminishes the utility of a significant publicly owned park, recreation area, or historic site.
- C Vibration associated with the reuse of the site impairs the use of a resource.
- C Ecological intrusion of the reuse of the site diminishes the value of wildlife habitat in a wildlife or waterfowl refuge adjacent to the project.
- C Substantially interferes with the access to a wildlife or waterfowl refuge when such access is necessary for established wildlife migration or critical life cycle processes. 23 CFR 771.135.

When there is no physical taking but there is the possibility of use of or adverse impacts to Section 4(f) land, the FHWA must determine if the activity associated with the proposal conflicts with or is compatible with the normal activity associated with this land. The proposed action would not result in constructive use of the resource if it would not substantially diminish the protected activities, features, or attributes that qualify a resource for protection under section 4(f).