

5 Section 4(f) and 6(f) Discussion

5.1 Introduction

This chapter discusses potential uses of Section 4(f) properties, and potential impacts on Section 6(f) properties. Section 4(f) refers to Section 4(f) of the USDOT Act of 1966, as amended (49 USC Section 303), and Section 6(f) applies to parkland and recreation facilities that have used funds authorized under Section 6(f) of the LWCF Act. This section summarizes Section 4(f) and Section 6(f) considerations at a conceptual level appropriate for this Tier 1/Program analysis.

A Tier 1/Program EIS/EIR does not have the level of detail available that is necessary to make final approvals on uses of protected Section 4(f) or 6(f) resources. No preliminary Section 4(f) determination is being made at this time. Instead, any necessary Section 4(f) evaluations and approvals would be completed during the Tier 2/Project-level analysis. Although a Section 4(f) approval is not required for this Tier 1/Program EIS/EIR, potential impacts on Section 4(f) and Section 6(f) properties have been identified and assessed to inform the decisions made at the Tier 1/Program EIS/EIR level and to identify Section 4(f) and Section 6(f) resources that would be subject to further discussion in subsequent Tier 2/Project-level analysis.

5.2 Regulatory Framework

In accordance with NEPA (42 USC Section 4321 et seq.), CEQ regulations implementing NEPA (40 CFR Parts 1501-1508); FRA's Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999); and CEQA, FRA identified potential Section 4(f) and Section 6(f) resources within the Tier 1/Program EIS/EIR Study Area and analyzed the potential impacts on those resources as a result of implementing the Build Alternative Options at the Tier 1/Program EIS/EIR level.

5.2.1 Federal

Section 4(f) of the United States Department of Transportation Act of 1966

Section 4(f) of the USDOT Act of 1966 (49 USC Section 303) is intended to protect public parks, recreation areas, wildlife/waterfowl refuges, and historic sites of national, state, or local significance from being used for transportation projects. Protected properties must be of national, state, or local significance, as determined by the federal, state, or local officials having jurisdiction over the resource. A use occurs when land is permanently incorporated into a transportation facility; when

temporary occupancy (e.g., during construction) compromises the land in terms of the statute's preservation purpose; or when the proximity impacts of the project are so severe that they substantially impair the protected activities, features, or attributes that qualify the property for Section 4(f) protection.

Specifically, Section 4(f) states that the Secretary of Transportation may approve the use of publicly owned land or a publicly owned park, recreation area, wildlife and waterfowl refuge of national, state, or local significance, or land of a historic site of national, state, or local significance, only if a determination is made that:

- a. There is no feasible and prudent alternative to the use of the land from the property;
- b. The action includes all possible planning to minimize harm to the property resulting from such use; or,
- c. The use of Section 4(f) property would have a *de minimis* impact on the property.

A *de minimis* impact for historic sites means that, as determined in accordance with 36 CFR Part 800, no historic property is affected by the project or the project would have no adverse effect on the historic property in question. For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that would not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

Section 6(f) of the Land and Water Conservation Fund Act of 1965

Section 6(f) lands are defined as parkland or recreation land that was acquired or developed with funding authorized under Section 6(f) of the LWCF Act of 1965 (Public Law 88-578). The purpose of the LWCF is to assist with preserving, developing, and providing accessibility to outdoor recreation resources and strengthen the health and vitality of the citizens of the U.S. by funding, planning, acquiring, and developing facilities. Recreational facilities awarded such funds are subject to the provisions of the act. The LWCF's most important tool for supporting long-term stewardship is its conversion protection requirement. Section 6(f)(3) strongly discourages conversions of state and local park and recreation facilities to other uses.

Section 6(f)(3) of the LWCF Act states that no property acquired or developed with LWCF assistance would be converted to uses other than public outdoor recreation uses without the approval of the Secretary of the Interior, and only if the secretary finds it to be in accord with the statewide comprehensive outdoor recreation plan, and only upon such conditions as the secretary deems necessary to ensure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location (36 CFR Part 59).

Section 106 of the National Historic Preservation Act of 1966

Section 106 of the NHPA is an independent statute from Section 4(f); however, historic properties identified through the Section 106 consultation may be eligible for protection under Section 4(f). The Section 106 process is the method by which a historic property's significance is determined through consultation with the SHPO and other consulting parties. Section 106 also requires consideration of a project's effects on historic properties.

5.3 Methodology

This conceptual-level discussion was prepared using a desktop review of the data sources. The Tier 1/Program EIS/EIR Study Area was combined with GIS overlays to identify Section 4(f)/6(f) properties that could be affected by the Program. These potential resources were identified on a broad scale, using available mapping information. A detailed description of the Tier 1/Program EIS/EIR Study Area is provided in Section 3.1, Introduction to Environmental Analysis, of this Tier 1/Program EIS/EIR.

5.3.1 Data Sources

This Section 4(f) and 6(f) resource assessment is based on information from the California Protected Areas Database (2017), a California Historical Resources Information System search, and ESRI GIS data. Given that no construction would occur within the Western Section, historic site data was not obtained for the Western Section. Site boundaries for historic architectural/built environment resources in the Eastern Section that are eligible for listing on the NRHP or local designation are not available in GIS; acreage for those site types would be calculated during the Tier 2/Project-level analysis. Listed, eligible, or potentially eligible NRHP historic properties for the Program Corridor are based on a preliminary survey of existing cultural documentation, as described in Section 3.13, Cultural Resources, of this Tier 1/Program EIS/EIR. During future Tier 2/Project-level analysis, additional properties may be identified and considered in a subsequent Section 106 consultation and Section 4(f) evaluation. Information from the following related sources, identified in Table 5-1, was also used.

Table 5-1. Related Resource Inputs for Section 4(f)/6(f) Resource Assessment

Resource	Input for Section 4(f) Resource Assessment
Land Use and Planning (Section 3.2)	Land uses for areas where a conversion may occur were reviewed.
Noise and Vibration (Section 3.6)	Areas where noise and vibration thresholds may be exceeded that could cause a potential constructive Section 4(f) use were reviewed.
Cultural Resources (Section 3.13)	Cultural resources assessment for NRHP-eligible historic properties that could be Section 4(f) resources were reviewed. ^a
Parklands and Community Services (Section 3.14)	Parklands that could be Section 4(f)/6(f) resources were reviewed.

Notes:

^a This discussion does not include a Section 4(f) analysis of archaeological resources; however, an evaluation of archeological resources would be conducted at the Tier 2/Project-level analysis.

NRHP=National Register of Historic Places

5.4 Affected Environment

5.4.1 Section 4(f)/6(f) Properties

Section 4(f) of the USDOT Act of 1966 protects parks, recreation areas, and refuges that meet the criteria summarized in Table 5-2.

Table 5-2. Section 4(f) Criteria

Criteria	Criteria Summary
Publicly owned	<p>Public ownership, in relation to protected parks, recreation areas, and refuges, refers to ownership by a local, state, or federal government agency. There are three types of public ownership:</p> <ul style="list-style-type: none"> • Fee simple ownership: The land is solely owned by a government entity for park, recreation, or refuge purposes. • Permanent easement for Section 4(f) purposes: The land is not necessarily owned by a government agency; however, the agency possesses an easement for Section 4(f) activities. • Lease agreement for Section 4(f) purposes: Similar to a public easement but with a lease agreement typically intended to be long term.

Criteria	Criteria Summary
Open to the public	A property that is open to the public is one where access is permitted to the entire public during normal hours of operation. A property would not be considered open to the public if access was permitted only to select groups. Wildlife and waterfowl refuges are an exception to this rule, as they may restrict public access either to sensitive areas or during certain times of the year for the protection of refuge habitat and/or species. Therefore, a publicly owned refuge would not have to provide unrestricted access to the public to be considered a Section 4(f) property.
Purposed primarily for park, recreation, or refuge activities	The major purpose is related to the property's primary function and how it is intended to be managed. Parks and recreation areas typically offer a wide range of activities, such as walking, hiking, or camping, as well as organized sports like soccer, softball, or tennis. Parks can also be fairly passive in nature and may be designated open space without a specified recreational purpose. Refuges refer to properties that are formally part of the National Wildlife Refuge System or other publicly owned land (including waters), where the major purpose of such land is the conservation, restoration, or management of endangered species, their habitat, and other wildlife and waterfowl resources and their habitat.
Parks, recreation areas, and refuges must be significant	The term "significant" means that in comparing the availability and function of the park, recreation area, or refuge with the park, recreation, or refuge objectives of the agency, community, or authority, the property in question plays an important role in meeting those objectives at the national, state, or local level, except for certain multiple-use land holdings. Significance determinations are applicable to the entire property, not just to the portion of the property proposed for use by a project. A determination of significance is made in coordination with the official with jurisdiction, which is most commonly the agency that owns the property. Properties would be presumed significant in the absence of a determination by the official with jurisdiction. All determinations of significance are ultimately made by the federal lead agency.

Potential Section 4(f) properties within the Program Corridor (including parks, recreation areas, wildlife or waterfowl refuges, and historic sites) and Section 6(f) parks funded through LWCF grants are listed in Table 5-3 and depicted on Figure 5-1.

Table 5-3. Potential Section 4(f) and Section 6(f) Properties within the Program Corridor

Resource Type	Western Section	Eastern Section
State or regional park	<ul style="list-style-type: none"> Yorba Regional Park^b Featherly Regional Park Chino Hills State Park 	<ul style="list-style-type: none"> None

Resource Type	Western Section	Eastern Section
Local park or trail ^a	<ul style="list-style-type: none"> • Los Angeles River • San Gabriel River and Bike Trail • John Zimmerman Park • Neff Park^b • Pacific Drive Park • Adlena Park^b • Pooch Park • Independence Park • Amerige Park • Plaza Park • Lemon Park • Truslow Park • Chapman Park • Santa Fe Park • Parque de Los Ninos^b • Woodgate Park • Santa Ana River Trail • East Side Community Park^b • Vista Lampara Park • Las Brisas Park • Brush Canyon Park • Fresno Canyon • Butterfield Park • Contreras Park • City Park • Don Derr Park • Villegas Park^a • Shamel Park 	<ul style="list-style-type: none"> • Colony Park • Elmer Digneo Park • Baseball Field Park • Lillian V. Miller Memorial Trail • Bryn Mawr Veterans Memorial Park • Leonard Bailey Park • San Timoteo Canyon Park • Pacific Crest Trail • Shadow Hill Community Park • Rangel Park • Veterans Park • Carpenter Hamilton Park • Freedom Park • Yucca Park • Miles Avenue Park • Doug York Plaza • South Jackson Park and Davis Sports Complex • Veterans Park • Dateland Park

Resource Type	Western Section	Eastern Section
	<ul style="list-style-type: none"> Lincoln Park North Park Hunter Park North Street Mini Park West North Street Mini Park East 	
School recreation facilities	<ul style="list-style-type: none"> Pioneer High School Los Nietos Middle School 	<ul style="list-style-type: none"> None
National monument	<ul style="list-style-type: none"> El Pueblo de Los Angeles Historic Monument 	<ul style="list-style-type: none"> Santa Rosa San Jacinto Mountains National Monument
Wildlife refuge	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Whitewater Floodplain Reserve Coachella Valley National Wildlife Refuge
Historic sites ^c	<ul style="list-style-type: none"> 6 NRHP-listed properties^d 	<ul style="list-style-type: none"> 1 NRHP-listed property 36–41 potentially NRHP-eligible properties

Notes:

^a This does not include planned parks.

^b This park was developed with LWCF assistance.

^c Listed, eligible, or potentially eligible NRHP historic properties for the Program Corridor are based on a preliminary survey of existing cultural documentation for the Eastern Section. During future Tier 2/Project-level analysis, additional properties may be identified and considered in a subsequent Section 106 consultation and Section 4(f) evaluation.

^d Historic site data was not obtained for the Western Section per discussion in Section 5.3.

LWCF=Land and Water Conservation Fund; NRHP=National Register of Historic Places

Build Alternative Option 1 (Coachella Terminus)

The total number of acres of potential Section 4(f) and Section 6(f) properties within Build Alternative Option 1 is presented by resource type in Table 5-4. Please refer to Section 3.13, Cultural Resources, of this Tier 1/Program EIS/EIR for additional information on cultural resources present within the Program Corridor and Section 3.14, Parklands and Community Services, of this Tier 1/Program EIS/EIR for additional information on parks present within the Program Corridor.

Table 5-4. Section 4(f)/6(f) Properties by Type (Build Alternative Option 1)

Property Type	Western Section (acres)	Western Section (Total number of properties)	Eastern Section (acres)	Eastern Section (Total number of properties)
State or regional park	449.4	3	—	—
Local park or trail	205.3	33	285.7	19
School recreation facilities ^a	21.9	2	—	0
National monument	1.4	1	442.7	1
Wildlife refuge	—	—	232.7	2
Historic sites ^b	Undetermined	6 NRHP listed properties	Undetermined	1 NRHP listed property; 41 potentially eligible NRHP properties
LWCF grants ^c	116.7	6	52.4	6

Notes:

^a This includes public schools with recreation facilities evident through aerial imagery.

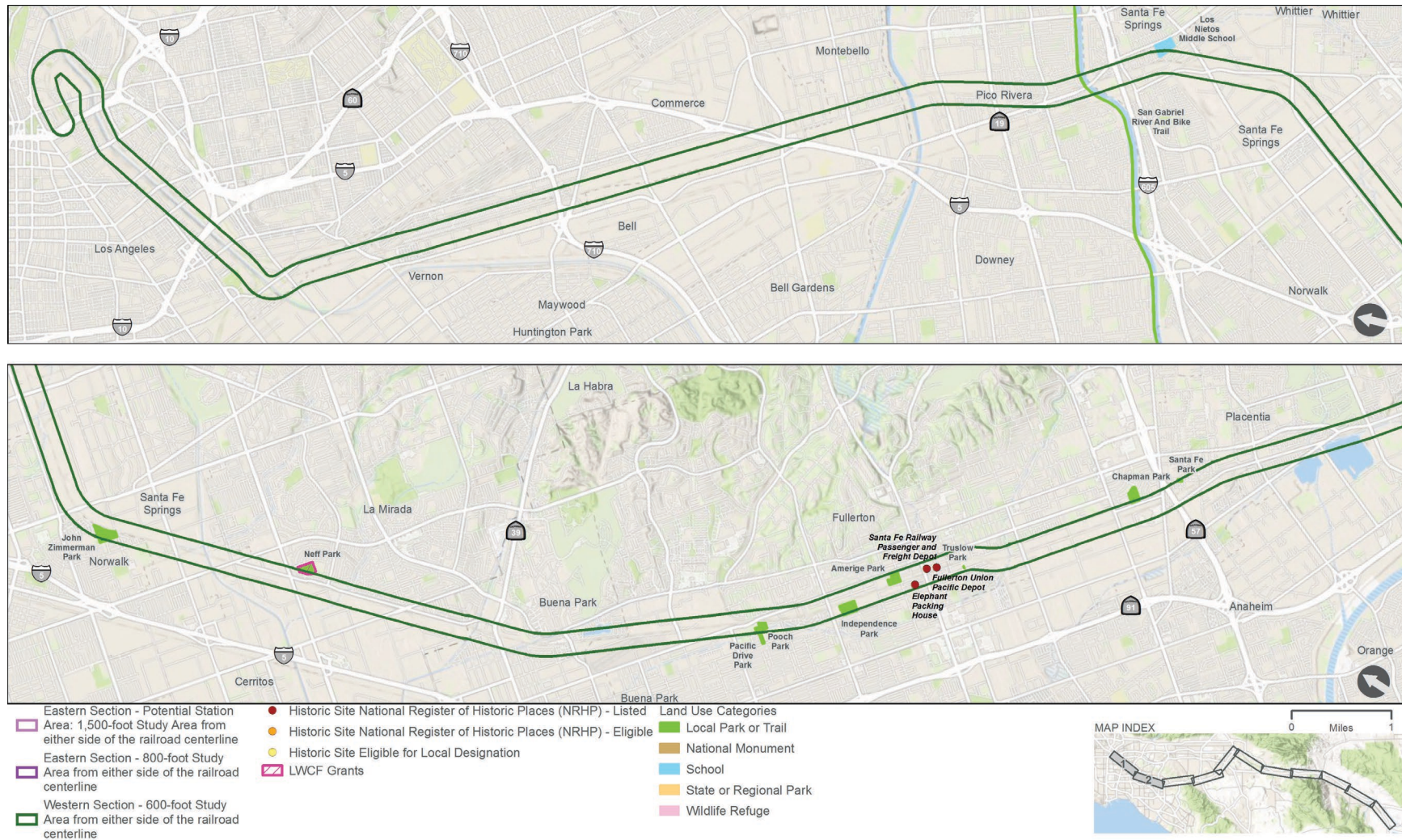
^b Historic site data was not obtained for the Western Section, per discussion in Section 5.3.

^c Acreage for recreation areas funded through LWCF grants is also included under state or regional park, as well as local park or trail.

LWCF=Land and Water Conservation Fund; NRHP=National Register of Historic Places

Figure 5-1. Section 4(f)/6(f) Resources within the Tier 1/Program EIS/EIR Study Area

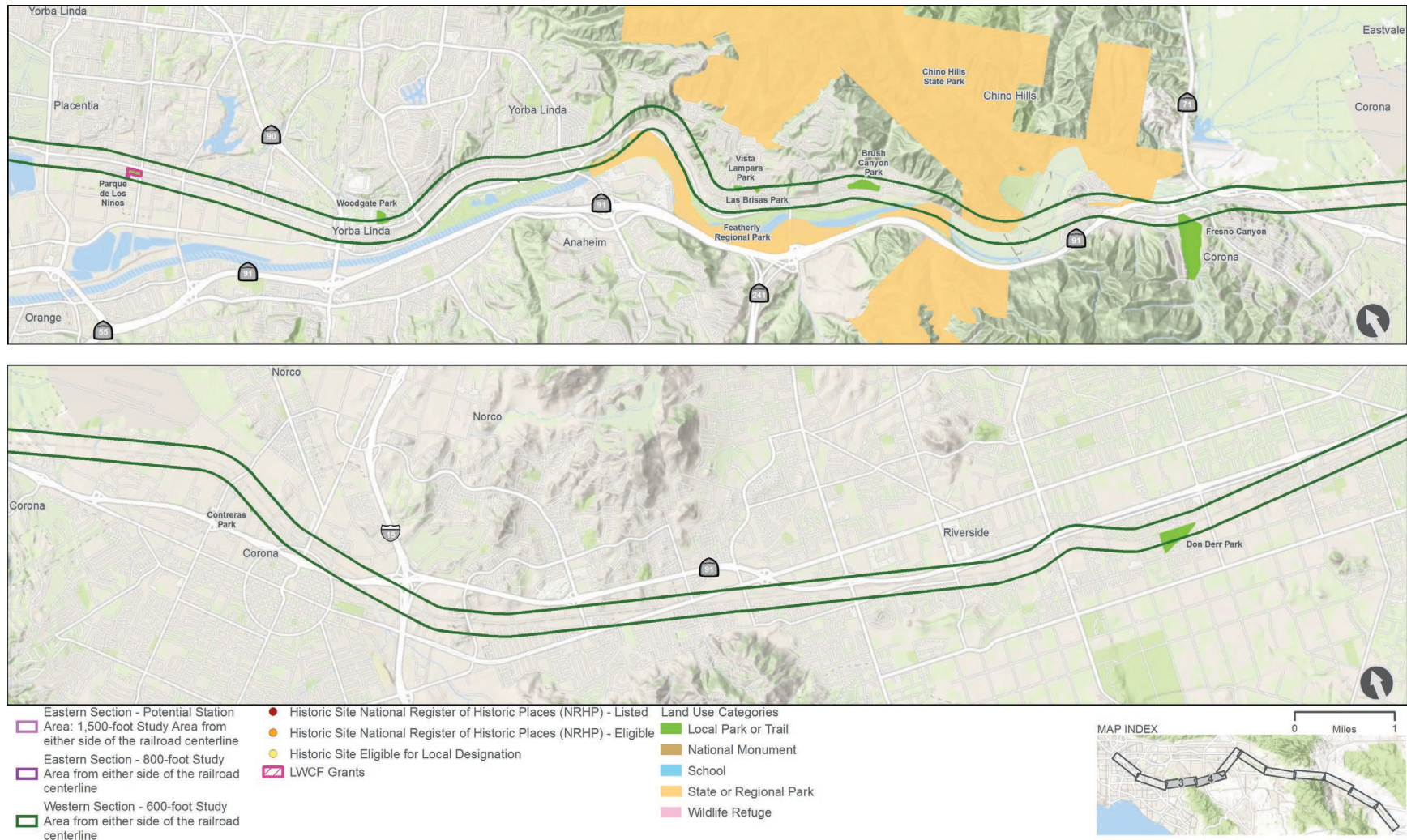
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Figure 5-1. Section 4(f)/6(f) Resources within the Tier 1/Program EIS/EIR Study Area

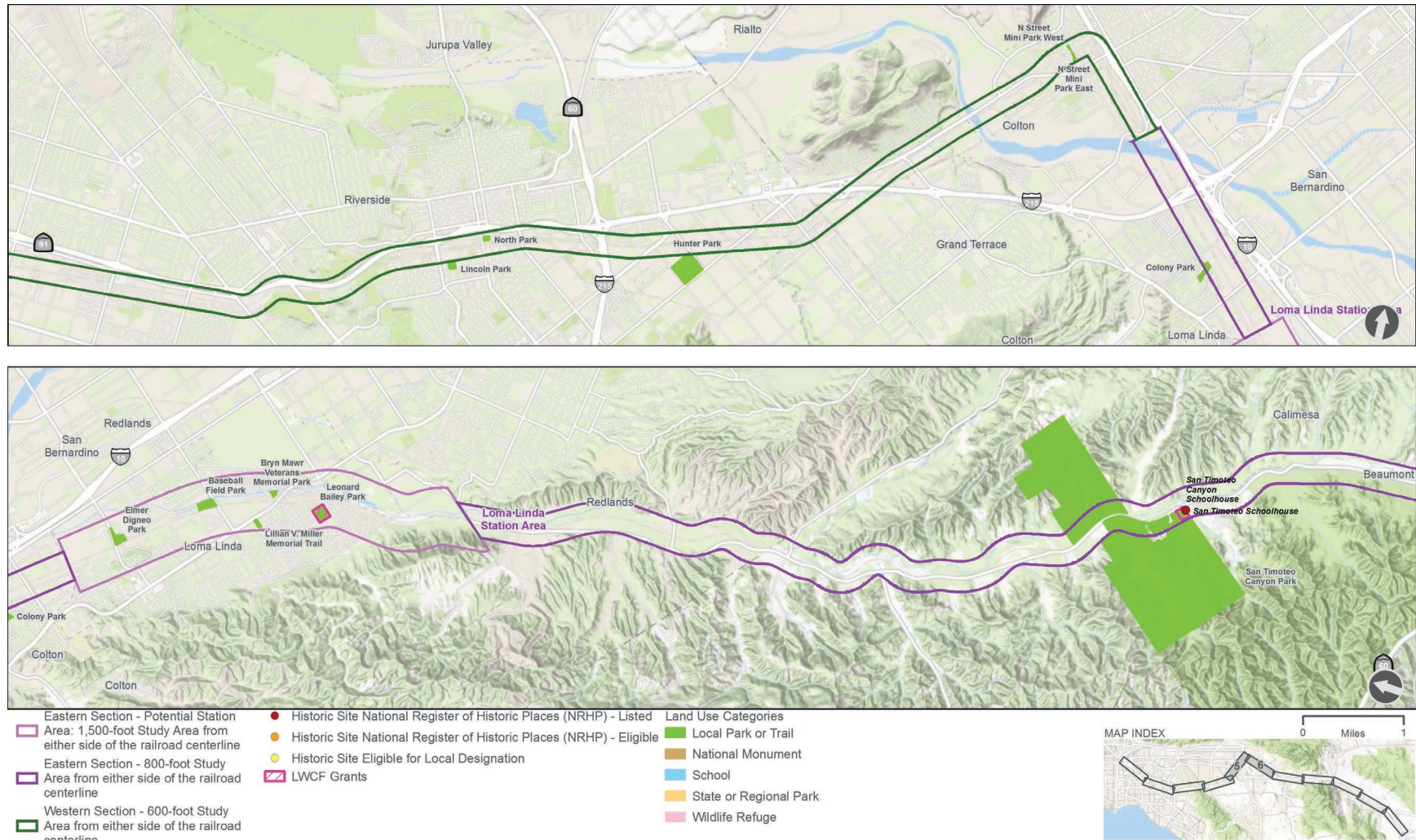
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Figure 5-1 Section 4(f)/6(f) Resources within the Tier 1/Program EIS/EIR Study Area

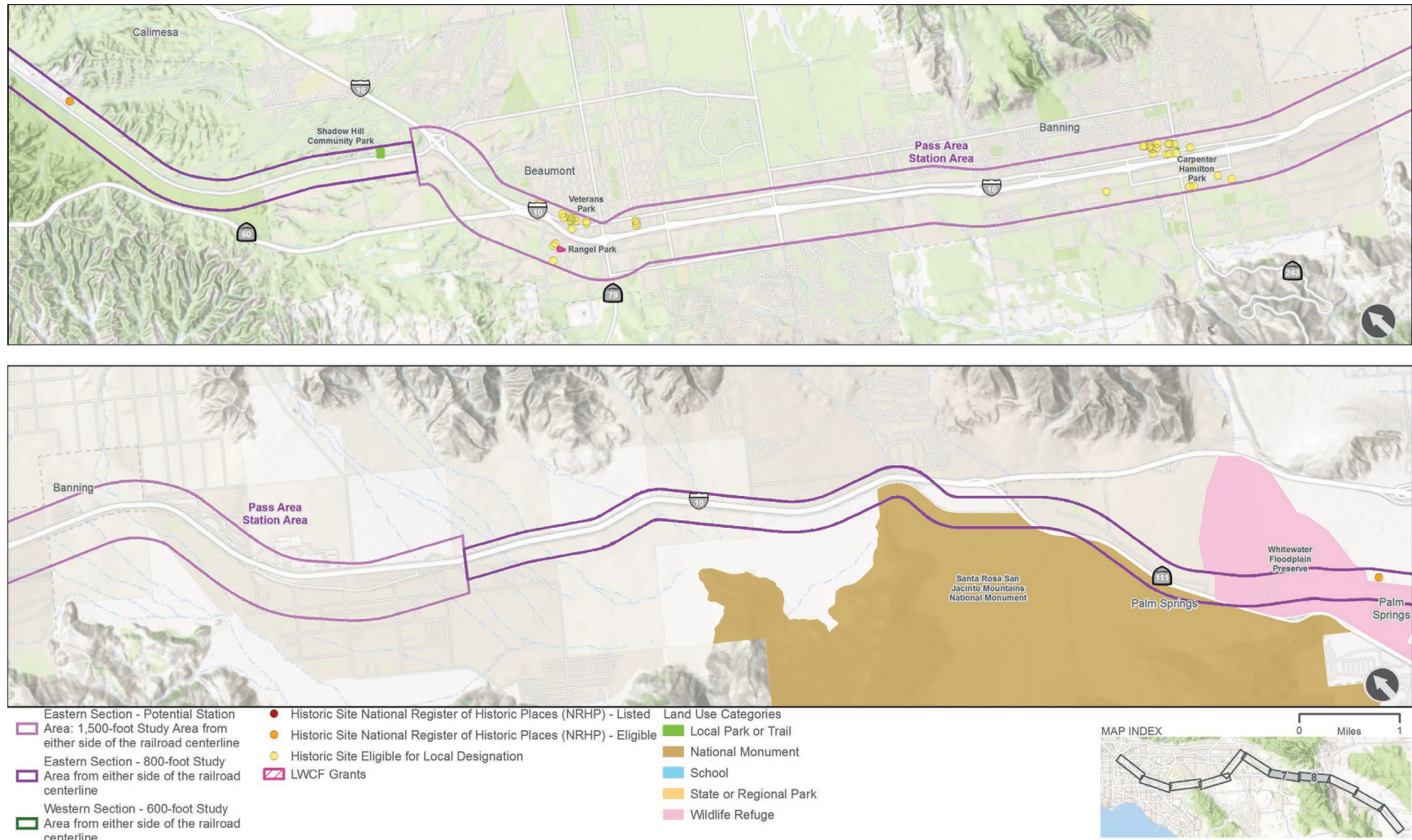
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Figure 5-1. Section 4(f)/6(f) Resources within the Tier 1/Program EIS/EIR Study Area

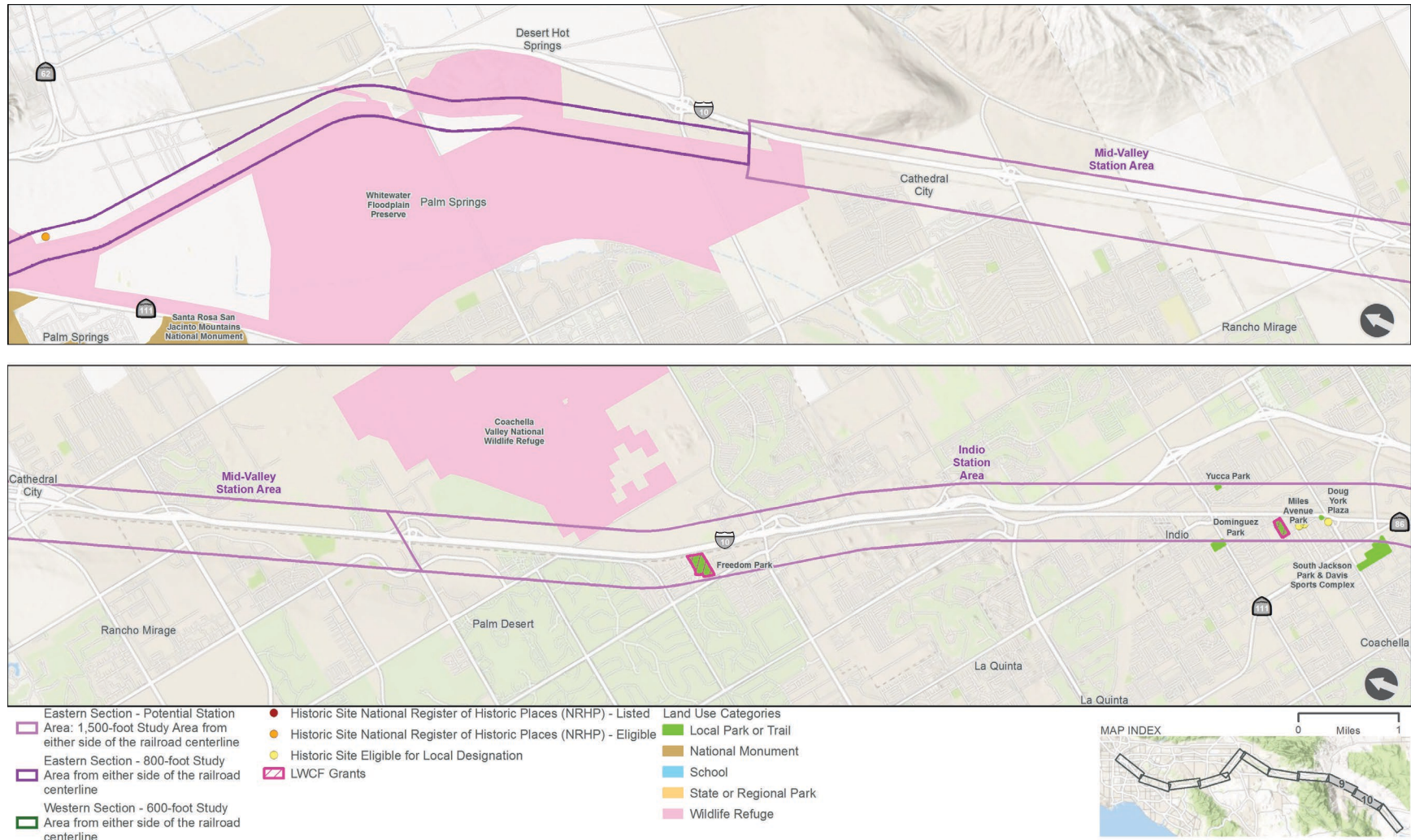
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Figure 5-1. Section 4(f)/6(f) Resources within the Tier 1/Program EIS/EIR Study Area

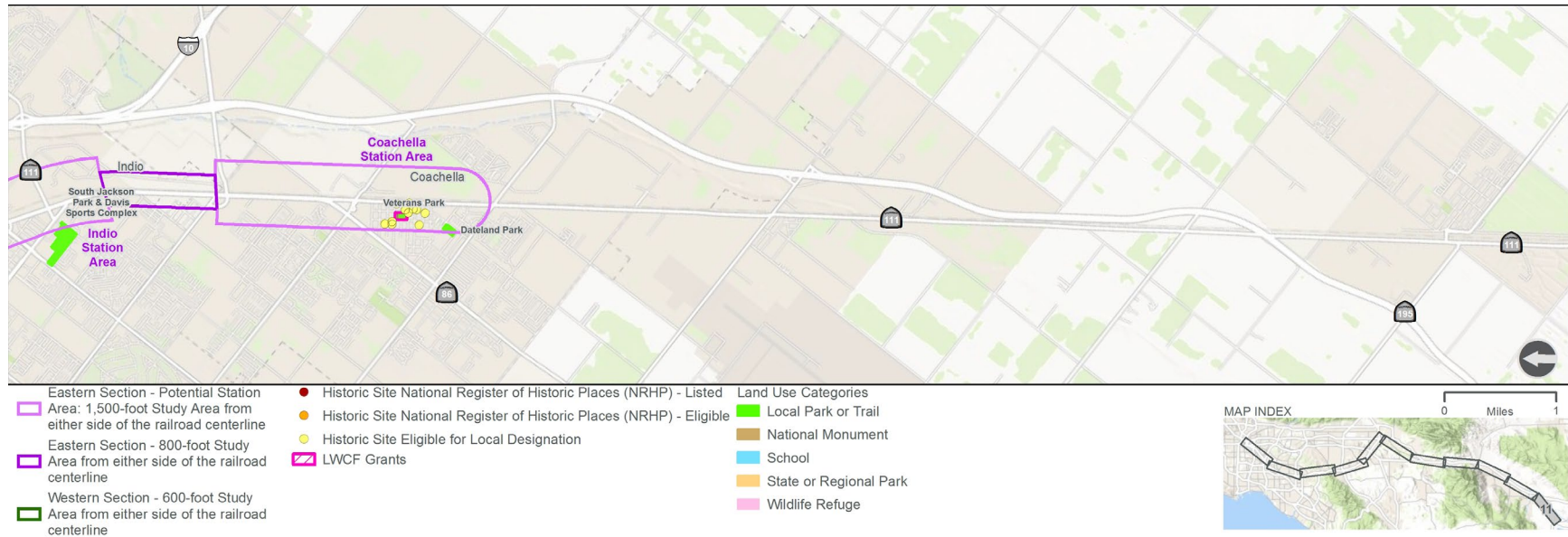
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Figure 5-1. Section 4(f)/6(f) Resources within the Tier 1/Program EIS/EIR Study Area

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Build Alternative Option 2 (Indio Terminus)

The total number of acres of potential Section 4(f) and Section 6(f) properties within Build Alternative Option 2 is presented by resource type in Table 5-5. Please refer to Section 3.13, Cultural Resources, of this Tier 1/Program EIS/EIR for additional information on cultural resources present within the Program Corridor and Section 3.14, Parklands and Community Services, of this Tier 1/Program EIS/EIR for additional information on parks present within the Program Corridor.

Table 5-5. Section 4(f)/6(f) Properties by Type (Build Alternative Options 2 and 3)

Property Type	Western Section (acres)	Western Section (Total number of properties)	Eastern Section (acres)	Eastern Section (Total number of properties)
State or regional park	449.4	3	—	—
Local park or trail	205.3	33	280.2	18
School recreation facilities ^a	21.9	2	—	0
National monument	1.4	1	442.7	1
Wildlife refuge	—	—	232.7	2
Historic sites ^b	Undetermined	6 NRHP listed properties	Undetermined	1 NRHP listed property; 41 potentially eligible NRHP properties
LWCF grants ^c	116.7	6	50.9	5

Notes:

^a This includes public schools with recreation facilities evident through aerial imagery.

^b Historic site data was not obtained for the Western Section per discussion in Section 5.3.

^c Acreage for recreation areas funded through LWCF grants is also included under state or regional park, as well as local park or trail.

LWCF=Land and Water Conservation Fund; NRHP=National Register of Historic Places

Build Alternative Option 3 (Indio Terminus with Limited Third Track)

Existing information for Section 4(f)/6(f) properties within Build Alternative Option 3 are the same as Build Alternative Option 2.

5.5 Potential Impacts on Section 4(f)/6(f) Resources

5.5.1 No Build Alternative

The No Build Alternative, as described in Chapter 2, Program Alternatives, of this Tier 1/Program EIS/EIR, is used as the baseline for comparison. The No Build Alternative would not implement the Program associated with this service-level evaluation and would not meet the Purpose and Need of the Program. Several existing and committed transportation improvement projects would still occur in the Program Corridor under the No Build Alternative. However, because no physical changes associated with the Program would occur within the Program Corridor, no use of Section 4(f) or 6(f) properties are anticipated under the No Build Alternative.

5.5.2 Build Alternative Options 1, 2, and 3

The use of a protected Section 4(f) property, as defined in 23 CFR Part 774.17, occurs when any of the conditions, discussed in Table 5-6, are met.

Table 5-6. Use of Section 4(f) Resource Summary

Use Type	Use Summary
Permanent/ direct use	A permanent use of a Section 4(f) property occurs when the property is permanently incorporated into a proposed transportation facility. This use may occur as a result of partial or full acquisition or a permanent easement allowing permanent access onto the property for maintenance or other transportation-related purposes.
Constructive use	A constructive use of a Section 4(f) property occurs when a transportation project does not permanently incorporate land from the resource; however, the project's proximity results in impacts so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only if the protected activities, features, or attributes of the resource are substantially diminished.
Temporary occupancy	A temporary use of a Section 4(f) property results when the Section 4(f) property is required for project construction-related activities, the property is not permanently incorporated into a transportation facility, and the activity is considered adverse by the agency with jurisdiction in terms of the preservation purpose of Section 4(f).

A conversion of a Section 6(f)-protected property occurs when the property is converted to anything other than outdoor recreation. A conversion of use must be in accordance with an existing statewide outdoor recreation plan and must be approved by the U.S. Department of the Interior. If a conversion occurs, the land must be replaced with a property of equivalent value and usefulness. The only type

of use recognized by Section 6(f) is a permanent incorporation. Constructive use or adverse impacts are not considered under Section 6(f), and temporary occupancy during construction is not considered a conversion if the property is restored to its original condition after construction.

Typically, an incorporation of Section 6(f) property for project purposes would be considered a conversion or change in use; however, if the incorporation is necessary as part of a project that would directly enhance the recreational use of the Section 6(f) property, such as improving access for visitors or emergency personnel, then the incorporation of land may not require a conversion because the incorporation would not change or diminish the recreational use of the Section 6(f) property.

Construction

Western Section. The Build Alternative Options would not require construction of additional rail or station infrastructure in the Western Section because the existing railroad infrastructure and stations from LAUS to Colton would be used. Therefore, no potential use of Section 4(f)/6(f) properties is anticipated. When compared with the No Build Alternative, effects related to Section 4(f) property use and Section 6(f) conversion would be negligible because no additional construction activities are planned within the Western Section under Build Alternative Options 1, 2, and 3.

Eastern Section. As summarized in Table 5-4, there are at least 64 Section 4(f) properties within the Eastern Section of Build Alternative Option 1, including 19 parks or recreational properties and 42 historic resources. Of these 64 Section 4(f) properties within Build Alternative Option 1, 6 properties are also considered Section 6(f) properties. As summarized in Table 5-5, there are at least 62 Section 4(f) properties within Build Alternative Option 2 and Build Alternative Option 3, including 17 parks or recreational properties and 42 historic resources. Of these 62 Section 4(f) properties within Build Alternative Option 2 and Build Alternative Option 3, 5 properties are also considered Section 6(f) properties.

Use of Section 4(f) properties and conversion of Section 6(f) properties would vary depending on the future rail infrastructure improvements or station locations within the Eastern Section of the selected Build Alternative Option. Construction activities that have the potential to affect parks, recreation areas, wildlife or waterfowl refuges, and historic sites includes the construction of rail infrastructure improvements and station facilities within the Eastern Section under Build Alternative Options 1, 2, and 3. Potential ROW acquisitions for rail infrastructure improvements (such as sidings, additional main line track, wayside signals, drainage, and grade-separation structures) and station facilities to accommodate the enhanced passenger rail service may be required. This would result in the incorporation of land into a transportation use.

Locations where new station facilities would be constructed would avoid the use of Section 4(f) properties or conversion of Section 6(f) properties, to the extent feasible. However, if Section 4(f)/6(f) properties cannot be avoided, impacts on Section 4(f)/6(f) properties would be minimized and mitigated through measures developed during Tier 2/Project-level analysis.

Operation

Western Section. During operation, passenger train frequencies proposed within the Western Section of the Program Corridor would consist of the addition of two daily, round-trip intercity diesel-powered passenger trains. Operational activities are anticipated to be limited to maintenance of culverts, bridges, embankments, and station areas. Therefore, no potential use of Section 4(f) properties or conversion of Section 6(f) properties is anticipated. When compared with the No Build Alternative, effects related to Section 4(f) property use and Section 6(f) conversion would be negligible because the type of operational activities are anticipated to remain as existing conditions within the Western Section under Build Alternative Options 1, 2, and 3.

Eastern Section. Operational activities within the Eastern Section could result in permanent access restrictions, visual effects, or noise and vibration effects on Section 4(f)/6(f) properties that are in the proximity of the Build Alternative Options. Potential site-specific mitigation measures would be identified during Tier 2/Project-level analysis and would be implemented when avoidance and minimization of impacts are not prudent or feasible.

5.6 Avoidance, Minimization, and Mitigation Strategies

If a Section 4(f) evaluation is required to approve the implementation of the Build Alternative Options, alternatives that completely avoid Section 4(f) and Section 6(f) resources would be developed and evaluated prior to approval. To the extent that resources cannot be avoided, measures to minimize and mitigate impacts would be considered and implemented based on site-specific information available in a Tier 2/Project-level analysis.