
3.12 SECTION 4(F) EVALUATION

3.12.1 INTRODUCTION

This discussion addresses the federal requirements found in 49 USC, Section 303 and 23 USC, Section 138, commonly referred to as Section 4(f). These requirements pertain to all actions or projects undertaken by agencies within the Department of Transportation (DOT), including the Federal Transit Administration (FTA). The essence of Section 4(f) requirements is that special efforts are to be made to protect public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Section 4(f) of the *Department of Transportation Act of 1966* specifies that:

... [t]he Secretary [of Transportation] may 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) only if

- (1) there is no prudent and feasible alternative to using that land; and
- (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

Section 4(f) further requires consultation with the Department of Interior and, as appropriate, the involved offices of the Department of Agriculture and the Department of Housing and Urban Development, and relevant state and local officials, in developing transportation projects and programs that use lands protected by Section 4(f).

As defined under Section 4(f), use can occur under three circumstances: (1) when protected land is permanently acquired for a transportation facility, (2) when a temporary use is considered adverse, or (3) when there is “constructive use” of the resource. These circumstances are further defined below.

■ Direct Use

A direct use of a Section 4(f) resource takes place when property is permanently incorporated into a proposed transportation project. This may occur as a result of partial or full acquisition of a fee simple interest, permanent easements, or temporary easements that exceed regulatory limits noted below (23 CFR §771.135(p)(7)).

■ 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. Under the FTA/Federal Highway Administration (FHWA) regulations, a temporary occupancy of property does not constitute a use of a Section 4(f) resource when the following conditions are satisfied: (1) the occupancy must be of temporary duration (i.e., shorter than the period of construction) and not involve a change in

ownership of the property; (2) the scope of work must be minor, with only minimal changes to the protected resource; (3) there are no permanent adverse physical effects on the protected resource, nor will there be temporary or permanent interference with activities or purpose of the resource; (4) the property being used must be fully restored to a condition which is at least as good as that which existed prior to the proposed project; and (5) there must be documented agreement of the appropriate officials having jurisdiction over the resource regarding the foregoing requirements.

■ Constructive Use

The third circumstance that is considered in whether “use” would be made of an eligible Section 4(f) property is the potential for constructive use. Although the term “constructive” is often thought of as positive, in this case it has a meaning more similar to “imposed.” When assessing whether a proposed project would make use of an eligible Section 4(f) property, the corollary effects of the project must be accounted for. A constructive use can occur even when a transportation project does not permanently incorporate land from the Section 4(f) resource, but the proximity of the project to the resource results in impacts (i.e., noise, vibration, visual, access, and/or ecological impacts) 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 substantially diminished. The determination of whether constructive use would be generated upon a Section 4(f) property is made through (1) identification of the current activities, features, or attributes of the resource which may be sensitive to proximity impacts; (2) analysis of the potential proximity impacts on the resource; and (3) consultation with the appropriate officials having jurisdiction over the resource.

Section 4(f) applies to the project because operation of the project would be adjacent to, and construction would use the right-of-way of a portion of the San Francisco Bay Trail within the limits of the project area.

This Draft Section 4(f) evaluation is being circulated with the environmental document for review and comment by state and local officials having jurisdiction over the resources regarding the impacts, discussion of Section 4(f) use, avoidance alternatives, planning efforts to reduce harm, and the proposed finding discussed herein.

3.12.2 PROJECT PURPOSE AND NEED

As described in Chapter 2 (Project Description), the primary purpose of the WTA system IOP is to increase Bay Area regional mobility and transportation options by providing new and expanded water transit services and related ground transportation terminal access in the Bay Area. An expanded water-transit system would primarily decrease car usage and its associated impacts, rather than divert riders from buses, BART, or Caltrain. The need for the project is primarily the following:

- Relief of traffic congestion in the Bay Area
- Support of growing population and employment in South San Francisco
- Increase disaster response effectiveness

In addition, the NOP for the project identified the following major objectives for the proposed South San Francisco Ferry Terminal project:

- Provide connections to existing and programmed elements of the WTA public water transit system
- Improve mobility and increase transit ridership
- Relieve existing and projected traffic congestion
- Meet the needs of transit dependent residents
- Provide improved transit service in high commute corridors with an emphasis on work trips
- Support the goals of Transit Oriented Development, which strive to intensify and diversify land uses and enhance pedestrian circulation at appropriate locations

3.12.3 PROJECT DESCRIPTION

The project includes construction of a ferry terminal (passenger waiting area, gangway ramp and float), bus terminal, striping for 56 vehicle parking spaces, and reconfigured circulation and access (see Figure 2-3 [Conceptual Site Plan]). About 124 berths, approximately 21 percent of current berths, would be removed, and tenants relocated, to create a path for entering and exiting ferries: all of the slips at Gates 9 and 10, as well as individual slips at the far end of Gates 11, 12 and 13. Some dredging would occur at the northeast vessel entrance, along the entrance channel, and in the area of Gates 9 and 10.

It is anticipated that the ferry terminal would be cantilevered from the shoreline. About 250 feet of fixed pier would provide a waiting area for passengers, as well as the entrance to the gangway ramp and float. The fixed pier would be approximately 15 feet to the top of the deck with a 15-20-foot canopy above, with the pier, gangway ramp and float also covered with canopies. The float would consist of a “T-shaped” surface that could accommodate a ferry boat on either side of the float. The fixed pier would be supported by piles drilled beyond the landfill cap. No facilities would be built on the landfill cap. A security gate at the fixed pier would be open during operating hours.

The existing unimproved parking area in the project site would be reconfigured to include a 270-foot bus loading/unloading area for four buses, striped parking, pedestrian walkways, and curbs. The existing roundabout would be removed to allow for circulation of incoming traffic on Marina Boulevard traveling north at about Gate 10, leading to bus unloading or parking access exiting south around the yacht club and back onto Marina Boulevard. As the project site is already impervious surface, new circulation and parking would not add impervious area. The project would connect to existing utilities in the Marina.

With implementation of the proposed project, new public access related to waterborne transit would be provided within the overall San Francisco Bay area. Specifically at the project site, new bayfront public access including opportunities for passive recreation (i.e., viewing of bay resources while waiting for boarding/departure) and direct access to the San Francisco Bay Trail from other parts of the region would be available through the provision of the new ferry terminal.

■ Alternatives Considered and Withdrawn (Potential Avoidance Alternatives)

WTA completed an IOP and 2003 WTA PEIR that identified transportation needs and developed an expansion of ferry transit service plan for the San Francisco Bay Area. A component of this plan was a new ferry terminal in South San Francisco. South San Francisco and the San Mateo County Harbor District had collaborated on a 1999 planning study for a ferry terminal that identified the ferry terminal extending from the mole within the Marina. The location would result in the loss some of the slips at Gate 9, reconstruction of the mole, and parking, access and ancillary uses on the mole and at the foot of the mole. The mole location was brought forward by the WTA during its planning process, and an initial concept plan for the ferry terminal location showed use of the mole. In addition, the WTA conducted an initial screening process in early 2005 that identified eight other potential sites for a ferry terminal (see Chapter 5 [Alternatives]). Each of these sites would be constructed on the shoreline and would not avoid crossing the Bay Trail. The eight sites were screened out from the EIR/EA analysis as none of them proved to be a better location with regard to environmental resources, engineering feasibility, or acquisition considerations.

During summer 2005, after careful consideration of the mole location, WTA refined the project site to include a location between Gates 9 and 10. This location would minimize interaction with the Bay Trail, as it would cross the Bay Trail at a right angle. In addition, the facilities associated with the ferry terminal were minimized to a bus terminal, parking, and pedestrian, bicycle and vehicle improvements.

3.12.4 DESCRIPTION OF SECTION 4(F) RESOURCES

■ Public Park and Recreation Resources

The San Francisco Bay Trail transverses the project area, along the shores of the Marina and connects the Marina to surrounding areas. The Bay Trail provides easily accessible recreational opportunities for hikers, joggers, bicyclists, and skaters. It also has important transportation benefits, providing a commute alternative for cyclists, and can provide important connections to numerous public transportation facilities such as ferry terminals, bus stops, and Caltrain, Amtrak, and BART stations. When complete, the Bay Trail will be a continuous 400-mile recreational corridor that will encircle the entire Bay Area, connecting communities to each other and to the Bay.

■ Historic Sites

To inventory historic resources in the project area, an APE was established in accordance with Section 106 of the NHPA of 1966, as amended. The architectural APE consists of all properties adjacent to the project limits. The archaeological APE comprises all areas of disturbance under the footprint of the project, including construction staging and storage areas.

As discussed under “Environmental Setting” in Section 3.11 (Cultural Resources), there were no previously identified historic structures located within the project site or within a quarter mile of the project site. The project site currently comprises non-historic structures used to support functions of the marina.

Archaeological Resources. As discussed under “Environmental Setting” in Section 3.11 (Cultural Resources), a possible shipwreck may exist offshore of the project site, however, the dredging activities associated with the project would be limited to the existing navigation channel within the marina. Furthermore, the original shoreline of San Francisco Bay was situated approximately 2000 feet west and 3000 feet south of the project site. Consequently, there is little likelihood that cultural deposits associated with prehistoric occupation or utilization of the project site (such as those associated with a shipwreck) will be encountered in the area to be dredged. In addition, any historic materials that may have been located within the dredge area, such as shipwreck remains or cultural material discarded into the near shore waters, have long since been destroyed, as the navigation channel has been routinely dredged for maintenance purposes for a considerable length of time.

3.12.5 IMPACTS

■ Impacts and Mitigation Measures Incorporated from 2003 WTA PEIR

The 2003 WTA PEIR (URS, 2003) included many impacts and mitigation measures that are either addressed in this document or are not applicable to this project. A table of impacts and mitigation measures from the PEIR is included as Appendix H of this document and includes a column showing how the PEIR impacts and MMs are applied to this project (i.e., *IR*—Incorporated by Reference, *AD*—Addressed in EIR, and *NA*—Not Applicable). For Section 4(f), no impacts were covered in the PEIR and are therefore not listed in Appendix H.

■ Public Park and Recreation Resources

Direct Use

Based on the preliminary site design concept prepared in August 2005 (Roma 2005), there are no areas where park or recreation land may be acquired for use as a result of the proposed improvements under the project. Therefore, direct use of Section 4(f) resources would not occur under the proposed action.

Temporary Use

Under the project, there would be temporary use of the Bay Trail right-of-way during construction.

Constructive Use

Construction Effects. Under the project, there are proposed improvements that would be located directly adjacent to the Bay Trail. Therefore, construction-related constructive use of parklands would occur under the project.

Under the project, it is anticipated that a cantilevered ramp would alight on the shore immediately adjacent to the Bay Trail, and circulation and access improvements, including a bus terminal would be located on the

landside of the Bay Trail. During construction, the Bay Trail would be reconfigured around the project site to allow the construction to occur. During this time, signs indicating the rerouted Bay Trail would be prominently posted and the Bay Trail would be kept as close to its original configuration as possible. Upon completion of construction, the Bay Trail would be recreated in its original condition or better. Most Bay Trail activity occurs during the weekend and in the midday hours during the weekdays. The Bay Trail is located in a medium urbanized area of East of 101, within proximity of several large business parks. Construction of the project could result in temporary noise, visual, and access effects in the immediate vicinity of the Bay Trail. Construction activities would most likely occur during the weekday hours when the Bay Trail is heavily used. Additionally, construction activities would occur on either side of the Bay Trail and would require temporary taking of parkland to implement the project.

Under the project, construction-related peak impacts would be temporary, would affect a minor area located adjacent to and within the Bay Trail boundaries. However, the project construction would not substantially impair the features and attributes of the Bay Trail. Additionally, the temporary impacts of these activities would be further minimized by mitigation measures proposed in Section 3.4 (Noise and Vibration) and Section 3.10 (Aesthetics and Visual Resources).

Operation Effects. Under the project there would be new ferry service resulting in more pedestrians and vehicles using the project site and vicinity, which traverses the Bay Trail. Generally, an increase in ferry operations could have the potential to effect ambient noise levels; however, as indicated in Section 3.4 (Noise and Vibration) Impact 3.4-3, there would be no adverse impacts to recreational users of the Marina. In addition, the principal use of the Bay Trail is during midday. The project would provide ferry service from the East Bay to the Marina, which would primarily be used by commuters. Thus the majority of the ferry traffic would occur during the morning and evening commute hours when principal use of the Bay Trail does not occur.

■ Historic Sites

No historic sites were identified within the project area or within ¼ mile of the project site.

As discussed in Section 3.11 Cultural Resources, preparation of an archaeological treatment plan or programmatic agreement to address unanticipated discoveries during construction is recommended as a mitigation measure.

3.12.6 AVOIDANCE ALTERNATIVES

As described above under the summary of alternatives considered but rejected, several alternatives were considered to offset potential impacts to Section 4(f) resources within the project site. The project was configured to provide the most direct access across the Bay Trail. All other alternatives screened during the planning process would have had similar impacts to the project as the Bay Trail encompasses the shoreline within all of South San Francisco. In addition, the project was taken from its original configuration on the mole which would have impacted the Bay Trail at multiple points.

3.12.7 MEASURES TO MINIMIZE HARM

As described above, implementation of the project would not result in a direct use of Section 4(f) lands.

There is potential for impacts resulting from constructive use of areas adjacent to the Bay Trail; however, these potential impacts are temporary and can be mitigated by the Mitigation Measures described in Section 3.3 (Air Quality and Health Risk), Section 3.4 (Noise and Vibration), and Section 3.10 (Aesthetics and Visual Resources). Therefore, no Section 4(f) impacts to the Bay Trail exist and no additional measures to minimize harm have been identified. Furthermore, WTA will continue to consult with agencies and individuals having responsibility over Section 4(f) lands within the project site.

3.12.8 CONSULTATION AND COORDINATION

WTA has consulted with local jurisdictions to assure their participation in the planning process for the proposed action. Additionally, the South San Francisco Economic and Community Development Department was consulted regarding potential impacts on the park and recreational facilities within the project site.

3.12.9 FINDING

The FTA will make a final decision about whether there is direct, temporary, or constructive use of Section 4(f) resources within the project site based on the existing evaluation. Aside from the Section 4(f) use, consultation and coordination with the City will continue to ensure that all measures to minimize harm to Section 4(f) resources within the project site would be undertaken.