# CE Determination Form for Federal-Aid Projects (June 2, 2015)

CE Review Level:

☐ 1 ☒ 2 ☐ 3 ☐ Re-evaluation

The proposed project qualifies as the Categorical Exclusion Level indicated above in accordance with the 2015 Programmatic Agreement.

Appendix: B

Paragraph: 28

Project Name:

Comstock Spur Bridge

Project Number:

STP-S21C(103)

Control Number:

61582

Location and Study Area:

This bridge replacement project is located on State Spur 21C (S-21C) in Custer County, 4.26 miles west of Comstock.

The Environmental Study Area is confined to 200 feet on either end along S-21C at MM 2.86, including the existing and any additional right-of-way (ROW) plus 50 feet beyond Limits-of-Construction (LOC) for most of the project length, and extending to 150 feet beyond the LOC for wetlands and most other resources. For regulated materials the study area extended to 0.1 mile, and for Section 4(f) properties, 0.25 mile beyond ROW.

The logical termini are based on limits identified by NDOR's Bridge Inventory and Rating System, Bridge Division, and previous construction projects on this segment of highway.

Begin Point(s): MM 2.86

End Point(s): MM 2.86

Highway Number, Street, etc.: S-21C

Project Description:

This bridge replacement project is located on State Spur 21C (S-21C) in Custer County, at MM 2.86, 4.26 miles west of Comstock. Construction may begin and/or end approximately 200 feet ahead of or beyond the ends of the structure to accommodate the work on the adjacent pavement, guardrail, and foreslopes.

The existing approach roadway on this segment of S-21C consists of two, 12-foot-wide asphalt lanes and 2.5-foot wide earth shoulders. The clear roadway width of this structure is 28 feet.

The scope of work for this project consists of replacing the existing bridge with a concrete box culvert, grading of the adjacent foreslopes, grading of the ditches to establish positive drainage through the new box culvert, reconstructing the adjacent roadway, earth shoulder construction and removing the existing guardrail by grading. A hydraulic analysis conducted by Bridge Division determined that a concrete box culvert is a sufficient replacement option for the existing bridge.

Scope details include:

- The bridge (Structure Number SS21C00286) over Wagner Creek would be removed and replaced with a triple 12-foot by 10-foot concrete box culvert.
- A profile change to the existing roadway would not be needed. There would be no grade raise associated with this project.
- Work within the channel would be required to remove the existing structure and to construct the new box culvert.
- Grading along the foreslopes as well as the ditches at the existing bridge location would be required for the bridge replacement.
- The guardrail for the existing structure would no longer be required. Additional grading along the foreslopes adjacent to the new box culvert location would be necessary. Some grading within the ditches would be required to establish positive drainage.
- Pavement would be removed and replaced adjacent to the structure as necessary.
- New full depth paving would be placed over the new box culvert. The reconstructed roadway would consist of 8-inch surfacing on a prepared subgrade.
- Temporary pavement widening would be required during construction to accommodate construction phasing requirements.
- Project surveying and staking would be required.
- Areas disturbed during construction would be stabilized utilizing NDOR approved erosion control methods as set forth within the Stormwater Pollution Prevention Plans (SWPPP).
- Permanent pavement markings would be applied to all new surfacing.
- Additional property rights would be required to build this project.
- An existing fence line would need to be removed and replaced back to its original location to accommodate construction. A small portion of the existing fence would need to relocated to accommodate the new State right-of-way (ROW) line.
- Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.
- This project would be constructed under traffic with lane closures controlled with approved temporary traffic control devices.
- A temporary signal would be required during phased construction.

Purpose and Need *(include for Level 3, NWP 23, and Section 4(f) Programmatic Evaluation)*:

N/A

| Action is identified in the Current STIP Date: | Subsequent Phase: | Estimated Cost *($)*: |
|---|---|---|
| 5/25/2016 | Construction | $751,000 |

**The numbers in the parentheses (x) indicate the level of CE review that will be required.**

All technical assessment approvals shall be made by NDOR Professional Qualified Staff (PQS) responsible for the resource category and are indicated by "NDOR PQS Determination Date."

## Right of Way and Property Impacts

**1.1 Easements/ROW** – Will the action require the acquisition of new temporary or permanent right-of-way *including easements)*?

[X] Yes (2) [ ] No (1) [ ] N/A

1.2 Will the action result in acquisition of greater than 2 acres per linear mile *(estimated)* or the removal of major property improvements?

[ ] Yes (3) [X] No (2)

1.3 Describe type of property required for ROW and/or potential impacts to major property improvements:

Additional property rights are anticipated for this project. ROW would be acquired from farmland to relocate an existing fence line to accommodate new ROW.

1.4 Estimated Acres of Permanent ROW/Easements:

0.87

1.5 Estimated Acres of Temporary ROW/Easements

0.00

1.6 Will the action result in any residential or nonresidential displacements?

[ ] Yes (3) [X] No (2) [ ] N/A

**2.1 Section 4(f)** – Will the action result in a Section 4(f) use or qualify for Section 4(f) Exception?

[ ] Yes (2) [X] No (1) [ ] N/A

2.3 Describe resources, impacts, and the coordination conducted with officials/agencies *(including FHWA approval date(s))*:

N/A

**3.1 Section 6(f)** – Are there any Section 6(f) Land and Water Conservation Fund Act properties 36 CFR 59) within the study area?

[ ] Yes (1) [ ] No (1) [X] N/A

## Other Non-Threshold Property Impacts

4.1 Will the action take place on or adjacent to Tribal lands or other Federal lands?

☐ Yes ☒ No

4.2 Will federal funds be used to relocate utilities, or will the project contractor be responsible for the relocation of the utilities?

☐ Yes ☒ No ☐ Unknown

**The following questions should only be answered when the action is processed for CE Level 2 or CE Level 3 determinations. These questions are not required for a CE Level 1 analysis.**

**4.3 Trails** – Will the action involve construction of new trails on ROW not previously designated for trails?

☐ Yes ☒ No

**4.4 Farmland** – Will the action result in impacts to prime or unique farmland?

☒ Yes ☐ No

4.5 If Yes, does the affected property accumulate 60 points or more in Part VI of the NRCS-CPA-106 Form?

☐ Yes ☒ No ☐ N/A

4.6 Describe resources, impacts, and the coordination conducted with officials/agencies (including FHWA):

The Part VI section assessment point total is 35. Since the Part VI point total is less than 60 the overall Total Points would not reach 160 and coordination with the NRCS is not required.

4.7 Describe Mitigation for Above Non-Threshold Resources:

Utility relocation or replacement is not anticipated for the project. If utility relocation or replacement is required in a later phase of the project, a reevaluation would be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor will initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor will initiate the reevaluation prior to the commencing utility work. (NDOR Environmental, NDOR District)

If any one of the above two conditions do not apply, later relocation or replacement of utilities will be coordinated through NDOR and the Contractor per NDOR's Standard Specifications for Highway Construction, Subsection 105.06. Any environmental permits required for these utility relocations or replacements will be the responsibility of the Utility. [NDOR District, Utility Provider(s)]

## Water and Ecological Resources:

**5.1 Wild and Scenic/National Recreational Rivers** – Will the action cross or occur adjacent to a Wild and Scenic River, National Recreational River Segment, or a river listed on the nationwide rivers inventory, including its buffer area?

☐ Yes* ☒ No ☐ N/A

**Note:** If Yes, the proposed action can be processed as a Level 1 [all Appendix A categories] or a Level 2 Action [ Appendix B categories other than (26), (27), and (28)] if the Agency with Jurisdiction has determined the action will not result in an impact.

**6.1 Floodplain/Floodway** – Will the action occur within the boundaries of a mapped Zone A floodplain or a mapped floodway?

☒ Yes (1) ☐ No (1) ☐ N/A

**If Yes, attach permits to the CE document. If a floodplain permit has not been obtained, add commitment that one will be obtained prior to the start of construction.**

6.2 Will the action cause a greater than 1-foot rise in the Base Flood Elevation (BFE), any rise in a floodplain that potentially impacts an adjacent structure, or any rise in a floodway?

☐ Yes (3) ☒ No (1) ☐ N/A

6.3 Will the actions reviewed under Appendix B, Paragraphs (26), (27), and (28) result in a floodplain encroachment other than functionally dependent uses or actions that facilitiate open space use?

☐ Yes (3) ☒ No ☐ N/A

6.4 Describe resources, impacts, and the coordination conducted with officials/agencies:

Based on Flood Hazard Boundary Mapping from FEMA (Community Panel 310428 0010 A) the project is over a Zone A floodplain, Wagner Creek. All work around the creek would be related to the bridge work and considered functionally dependent.

6.5 Floodplain/Floodway Mitigation:

Floodplain permits will be required for the project action. Floodplain permits will be acquired from the appropriate local Floodplain Administrator(s), in accordance with Nebraska Floodplain regulations, prior to the construction obligation phase. (NDOR Environmental)

**7.1 Wetlands/Waters of the U.S.** – Are there wetlands, stream channels, or other waters within the study area?

☒ Yes (1) ☐ No (1)

7.2 Will the action result in wetland impacts in accordance with Section 404 of the Clean Water Act and/or Nebraska State Title 117?

☐ Yes (1) ☒ No (1)

7.3 Will the action result in greater than 0.5 acres (total permanent) of wetland impacts?

☐ Yes (2) ☐ No (1) ☒ N/A

7.4 Estimated Permanent Wetlands Impacts:

N/A

7.5 If the project is processed with a Nationwide Permit, is a Pre-construction Notification required?

☐ Yes (2) ☒ No (1) ☐ N/A

7.6 Will the action require an Individual Permit (IP) or Section 10 Permit from the U.S. Army Corps of Engineers or a Section 9 Permit from the U.S. Coast Guard?

☐ Yes (3) ☒ No (2) ☐ N/A

7.7 Describe resources, potential impacts, and any coordination conducted to date with officials/agencies:

Temporary channel impacts are estimated at 0.01 acre and 151 linear feet. Permanent impacts to channel are estimated at 0.005 acres and 76.60 linear feet. Permanent impacts result from replacing the existing bridge with a triple concrete box culvert. Temporary impacts result from channel shaping to allow for positive water flow from the perched roadside drainages to the creek.

Under the Nationwide Permit #14, no pre-construction notification (PCN) is required since there are no wetland impacts and the permanent channel impacts are under 0.10 acre.

7.8 Wetlands/Waters of the U.S. Mitigation:

The Contractor shall not stage, store, waste or stockpile materials and equipment in undisturbed locations, or in known/potential wetlands and/or known/potential streams that exhibit a clear “bed and Bank” channel. Potential wetland areas consist of any area that is known to pond water, swampy areas or areas supporting known wetland vegetation or areas where there is a distinct difference in vegetation (at lower elevations) from the surrounding upland areas. (Contractor, NDOR District)

All wetlands/waters within the project area that are not permitted for impacts will be marked on the 2W aerial sheets for the contractor as avoidance areas. (NDOR Design, NDOR Environmental)

The project qualifies under a Nationwide Permit #14 (non-notifying) and impacts only to Waters of the U.S. are anticipated. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

**8.1 Impaired Waters, Section 402, and MS4** – Are there any impaired waters within or adjacent to *(0.5 mile)* the project study area?

☐ Yes ☒ No

8.2 Does the project occur within a MS4 community?

☐ Yes ☒ No

8.3 Does the project require a NPDES storm water permit (*ground disturbance of greater than 1 acre*)?

[X] Yes [ ] No

**If Yes, add standard Erosion Control plans and Storm Water Pollution Prevention Plan (SWPPP) commitment to the mitigation commitments.**

8.4 Describe resources, potential impacts, and any coordination conducted with officials/agencies:

N/A

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMP's) including devices every 14 days minimum and after every precipitation event of 0.5 inch or greater as per the requirements in the General Construction Storm Water Permit. Any BMP adjustments and repairs are to occur within 7 days of the inspections to ensure that water quality is being protected to the maximum extent practicable. The SWPPP shall be maintained and discharge points shall be monitored by the NDOR District Staff until the site is 70% re-vegetated. At that time the Notice of Termination with NDEQ for the General Construction Storm Water Permit and completion of the SWPPP responsibilities shall be filed. (NDOR Environmental)

**9.1** **Threatened and Endangered Species** – Will the action result in a "May Affect" determination per the Nebraska Biological Evaluation Process *Matrix** that requires further consultation with the resource agencies?

[ ] Yes (2) [X] No (1)

NDOR PQS Determination Date:

7/28/2015

9.4 Suitable habitat for eagle nesting is reviewed as part of the *Matrix* Biological Evaluation process and projects are evaluated for compliance with the Bald and Golden Eagle Protection Act (BGEPA). This project was reviewed for potential impacts to bald and golden eagles resulting in the following determination:

[X] NDOR has determined the project site does not have appropriate habitat for eagles. Due to the lack of suitable habitat and the information that there are no known bald or golden eagle nests within the project area, NDOR has determined that there will be no impact to these species.

[ ] It has been determined that suitable habitat does exist within 0.5 mile of the Environmental Study Area. NDOR will utilize the Bald and Golden Eagle Survey Protocols to determine when a survey for nests and/or roosts should be conducted. If nest(s) are present within 0.5 mile of the project area, NDOR will notify the Nebraska Game and Parks Commission and the United States Fish and Wildlife Service, and construction will not commence prior to their approval.

9.5 This project will comply with the Migratory Bird Treaty Act *(MBTA)* in accordance with NDOR's Avian protection Plan *(APP)* and Biological Evaluation *Matrix* Appendix A.

[X]

9.6 If a Section 404 Individual Permit is required, coordination under the Fish and Wildlife Coordination Act will occur during the permitting process.

[ ] Coordination Required [X] N/A

9.7 Describe resources, potential impacts, and any coordination conducted to date with officials/agencies:

A May Affect, Not Likely to Adversely Affect" determination was made for the Northern Long-Eared Bat. The project would have "no effect" to all other state or federally listed species or their designated critical habitat.

9.8 Species Mitigation:

S-2 Platte River Depletions. All efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a depletion, NDOR (during design) and the contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) any diverted water will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet. (NDOR Environmental, District Construction)

S-3 Revegetation. All permanent seeding and plantings (excluding managed landscaped areas) shall use species and composition native to the project vicinity as shown in the Plan for the Roadside Environment. However, within the first 16 feet of the road shoulder, and within high erosion prone locations, tall fescue or perennial ryegrass may be used at minimal rates to provide quick groundcover to prevent erosion, unless state or federally listed threatened or endangered plants were identified in the project area during surveys. If listed plants were identified during survey, any seed mix requirements identified during resource agency consultations shall be used for the project. (NDOR Environmental)

S-4 Sensitive Areas. Environmentally Sensitive Areas will be marked on the plans, in the field, or in the contract by NDOR Environmental for avoidance. (NDOR Environmental, District Construction)

S-5 Species Surveys. If species surveys are required for this project, results will be sent by NDOR to the USFWS, NGPC, and if applicable COE. FHWA will be copied on submittals. (NDOR Environmental, District Construction)

Northern Long-Eared Bat
NLEB-1 Tree clearing and bridge removal activities will be scheduled to occur between October 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)
OR
NLEB-2 If tree clearing, or removal of bridge structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: Structure SS12C 00286 (location of suitable habitat). If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

* The Nebraska Biological Evaluation Process Programmatic Agreement *Matrix* complies with the Federal Endangered species Act *(ESA)* and Nebraska Nongame and Endangered Species Conservation Act *(NESCA)*.

# Human and Social Resources

**10.1 Historic Properties** – Are there any properties listed or eligible for the National Register of Historic Properties in the study area?

☐ Yes (1) ☒ No (1)

10.4 Historic Property Determination

No Historic Properties Affected

NDOR PQS Determination Date:

11/5/2015

Has coordination occurred with SHPO?

☐ Yes ☒ No

Has coordination occurred with THPO?

☐ Yes ☒ No

Has coordination occurred with CLG?

☐ Yes ☒ No

**11.1 Hazardous Materials** – Will the project actions exceed the scope of the listed exemption identified in NDOR's Hazardous Materials Assessment Guidance?

☒ Yes (1) ☐ No (1)

11.2 Will the action result in more than a Low Potential for encountering hazardous materials during construction (excluding Lead Based Paint or Asbestos Containing Material)?

☐ Yes (2) ☒ No (1)

11.2A There is potential for the project to encounter Lead Based Paint (LBP). LBP standard specifications shall apply to the proposed project.

☒ Yes ☐ N/A

11.2B Asbestos Containing Materials (ACM) has been identified on bridge structures. ACM specifications will be included in the contract by special provisions.

☐ Yes ☒ N/A

11.4 Will any soil disturbance occur below or beyond preexisting roadway fill within an active Superfund Site?

☐ Yes (3) ☒ No (1)

NDOR PQS Determination Date:

2/2/2016

11.5 Describe potential conflicts and the coordination with officials/agencies:

The HMR did not identify any facilities where past releases have occurred within the hazardous materials study area.

11.6 Hazardous Materials Mitigation:

If the method of removal of the components generates paint debris, the waste shall be handled in accordance with NDOR's Standard Specification for Highway Construction Section 732 (Lead-based Paint Removal) and Title 128, Nebraska Hazardous Waste Regulations. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractor shall recycle any lead bearing plates and/or lead shims at a legitimate recycling facility as found in paragraph 3 (environmental requirements) in Section 203.01 of the Standard Specification for Highway Construction and in accordance with Title 128, Nebraska Hazardous Waste Regulations. The Contractors implementation plan efforts shall be documented in ECOD. (NDOR District, Contractor)

If contaminated soils and/or water or hazardous materials are encountered, then all work within the immediate area of the discovered hazardous material shall stop until NDOR/FHWA is notified and a plan to dispose of the Hazardous Materials has been developed. Then NDEQ shall be consulted and a remediation plan shall be developed for this project. The potential exists to have contaminants present resulting from minor spillage during fueling and service associated with construction equipment. Should contamination be found on the project during construction, the NDEQ shall be contacted for consultation and appropriate actions to be taken. The Contractor is required by NDOR's Standard Specification section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws (NDOR District, Contractor).

**12.1 Traffic Noise** – Does the project qualify as a Type I Project under NDOR's Noise Policy?

☐ Yes (3) ☒ No (1) ☐ N/A

**13.1 Air Quality** – Will the action increase capacity in exceedance of 100,000 vehicles per day in the 20th year following construction; will it result in a high potential for Mobile Source Air Toxics*(MSAT Level III)* effects; or is it considered *Regionally Significant* within a designated non-attainment area?

☐ Yes (3) ☒ No ☐ N/A

**14.1 Roadway** – Will the action result in the addition of through-lane capacity?

☐ Yes (3) ☒ No (1) ☐ N/A

**15.1 Traffic Disruption** – Will the action result in minor traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days?

☐ Yes (2) ☒ No (1)

15.3 Will temporary roads, detours, or ramp closures substantially change the environmental consequences of the action?

☐ Yes (3) ☒ No (1)

15.4 Will the action result in adverse travel *(out-of-direction)* greater than 5 miles in urban areas or 25 miles in rural areas?

☐ Yes (3) ☒ No (1)

15.5 Will the action result in temporary or permanent interference with local special events or festivals?

☐ Yes (3) ☒ No (1)

15.6 Will the action result in temporary or permanent adverse effects to through-traffic dependent business?

☐ Yes (3) ☒ No (1)

15.7 Will the action result in permanent traffic pattern changes or disruptions?

☐ Yes (3) ☒ No (1)

**If a detour is required for the project, attach a map to the CE document.**

15.8 Traffic Disruption Comments:

N/A

15.9 Traffic Disruption Mitigation:

This project shall be constructed under traffic with lane closures by approved temporary traffic control. The project shall not result in traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days. (Contractor)

**16.1 Access Disruptions** – Will the action require any access closures to businesses or residences?

☐ Yes (1) ☒ No (1)

16.5 Will the action result in access restrictions to emergency service facilities or providers?

☐ Yes (3) ☒ No (1)

16.6 Will the action change the functionality of adjacent properties?

☐ Yes (3) ☒ No (1)

16.7 Access Disruption Comments:

N/A

16.8 Substantial Access Disruption Mitigation:

Access to adjacent properties shall be maintained during construction but may be limited at times due to phasing requirements, but shall not be closed. (Contractor)

**17.1 Environmental Justice** – Are protected populations within the study area?

☐ Yes (1) ☒ No (1)

NDOR Highway Civil Rights Specialist Determination Date:

9/24/2014

17.4 Describe resources, impacts, and the coordination conducted with officials/agencies:

The study area does not contain high concentrations of low-income or minority populations when compared to the area surrounding the study area and/or the city/county as a whole.

**18.1 Public Involvement** – Provide a summary of any completed and planned Public Involvement Activities**:**

Based on an analysis of the project scope and a civil rights analysis, FHWA recommended to proceed with early coordination with a privately owned airport located approximately one-half mile south of the project during NEPA. The property owner of the Hyde Ranch Airport, Mr. Gordon Hyde, has since moved from Comstock to Omaha, Nebraska. NDOR Public Involvement has reached out to Mr. Hyde via postal mail notifying him of the proposed project, and offered contact information for any comments, questions, and or concerns. A response has not been received at this time.

18.2 Public Involvement Mitigation:

A minimum of one news release shall go to all local and area media, and be posted on the NDOR website, prior to the start of construction work. (NDOR District, NDOR Communication)

**19.1 Unresolved Controversy** – Based on public involvement carried out per NDOR's procedures, is there any known public or agency controversy on human, natural, or economic grounds associated with the action?

☐ Yes ☒ No

If Yes, coordinate with FHWA to determine the proper level of environmental review.

## Contract Provisions Required

20.1 Wellhead Protection Special Provisions

☐ Yes ☒ No

20.2 General Conditions for Nationwide Permit

Nationwide Permit: 14

☒ Yes ☐ No

20.3 Federal Aviation Administration *(FAA)* Form 7460-1

☐ Yes ☒ No

20.4 General Conservation Conditions from the Matrix PA

☒ Yes ☐ No

**T&E General Conditions:**

**A-1 Changes in Project Scope**. If there is a change in the project scope, the project limits, or environmental commitments, the NDOR Environmental Section must be contacted to evaluate potential impacts prior to implementation. Environmental commitments are not subject to change without prior written approval from the Federal Highway Administration. (District Construction, Contractor)

**A-2 Conservation Conditions**. Conservation conditions are to be fully implemented within the project boundaries as shown on the plans. (District Construction, Contractor)

**A-3 Early Construction Starts**. Request for early construction starts must be coordinated by the Project Construction Engineer with NDOR Environmental for approval of early start to ensure avoidance of listed species sensitive lifecycle timeframes. Work in these timeframes will require approval from the Federal Highway Administration and could require consultation with the USFWS and NGPC. (District Construction, Contractor)

**A-4 E&T Species**. If federal or state listed species are observed during construction, contact NDOR Environmental. Contact NDOR Environmental for a reference of federal and state listed species. (NDOR Environmental, District Construction, Contractor)

**A-5 Refueling**. Refueling will be conducted outside of those sensitive areas identified on the plans, in the

contract, and/or marked in the field. (Contractor)

**A-6 Restricted Activities**. The following project activities shall, to the extent possible, be restricted to between the beginning and ending points (stationing, reference posts, mile markers, and/or section-township-range references) of the project, within the right-of-way designated on the project plans: borrow sites, burn sites, construction debris waste disposal areas, concrete and asphalt plants, haul roads, stockpiling areas, staging areas, and material storage sites.

For activities outside the project limits, the contractor should refer to the Nebraska Game and Park Commission website to determine which species ranges occur within the off-site area. The contractor should plan accordingly for any species surveys that may be required to approve the use of a borrow site, or other off-site activities. The contractor should review Chapter 11 of the Matrix (on NDOR's website), where species survey protocol can be found, to estimate the level of effort and timing requirements for surveys.

Any project related activities that occur outside of the project limits must be environmentally cleared/permitted with the Nebraska Game and Parks Commission as well as any other appropriate agencies by the contractor and those clearances/permits submitted to the District Construction Project Manager prior to the start of the above listed project activities. The contractor shall submit information such as an aerial photo showing the proposed activity site, a soil survey map with the location of the site, a plan-sheet or drawing showing the location and dimensions of the activity site, a minimum of 4 different ground photos showing the existing conditions at the proposed activity site, depth to ground water and depth of pit, and the "Platte River depletion status" of the site. The District Construction Project Manager will notify NDOR Environmental which will coordinate with FHWA for acceptance if needed. The contractor must receive notice of acceptance from NDOR, prior to starting the above listed project activities. These project activities cannot adversely affect state and/or federally listed species or designated critical habitat. (NDOR Environmental, District Construction, Contractor).

**A-7 Waste/Debris**. Construction waste/debris will be disposed of in areas or a manner which will not adversely affect state and/or federally listed species and/or designated critical habitat. (Contractor)

**A-8 Post Construction Erosion Control.** Erosion control activities that may take place by NDOR Maintenance or Contractors after construction is complete, but prior to project close-out, shall adhere to any standard conservation conditions for species designated for the project area during construction. (NDOR Maintenance, District Construction, Contractor)

**The proposed action will be carried out in compliance with Executive Order 13112 *(Invasive Species)*. The project contractor shall comply with Special Provision A-43-2010 amending NDOR Specification 107.01 to include the following:** The Contractor shall prevent the transfer of invasive plant and animal species. The Contractor shall wash equipment at the Contractor's storage facility prior to entering the construction site. The Contractor shall inspect all construction equipment and remove all attached vegetation and animals prior to leaving the construction site.

## 21.1 No Indirect or Cumulative Impacts

[X]

This box can be checked if after careful consideration of the Indirect and Cumulative Impact analysis guidance in the CE instructions and the facts of the project, the following statement is determined to be true:
*"Indirect effects from this project are not anticipated. This project will not induce growth, change land uses, substantially change travel patterns within a community, or substantially impact water quality, drainage patterns or other resources of concern. Since no substantial human, environmental or economic impacts have been identified for this project; no cumulative impacts are expected."*

## 22.1 **Additional Comments**:

N/A

## 23.1 **Project Mitigation**:

**Mitigation for Above Non-Threshold Resources:**
Utility relocation or replacement is not anticipated for the project. If utility relocation or replacement is required in a later phase of the project, a reevaluation would be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor will initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor will initiate the reevaluation prior to the commencing utility work. (NDOR Environmental, NDOR District)

If any one of the above two conditions do not apply, later relocation or replacement of utilities will be coordinated through NDOR and the Contractor per NDOR's Standard Specifications for Highway Construction, Subsection 105.06. Any environmental permits required for these utility relocations or replacements will be the responsibility of the Utility. [NDOR District, Utility Provider(s)]

**Floodplain/Floodway Mitigation:**
Floodplain permits will be required for the project action. Floodplain permits will be acquired from the appropriate local Floodplain Administrator(s), in accordance with Nebraska Floodplain regulations, prior to the construction obligation phase. (NDOR Environmental)

**Wetlands/Waters of the U.S. Mitigation:**
The Contractor shall not stage, store, waste or stockpile materials and equipment in undisturbed locations, or in known/potential wetlands and/or known/potential streams that exhibit a clear "bed and Bank" channel. Potential wetland areas consist of any area that is known to pond water, swampy areas or areas supporting known wetland vegetation or areas where there is a distinct difference in vegetation (at lower elevations) from the surrounding upland areas. (Contractor, NDOR District)

All wetlands/waters within the project area that are not permitted for impacts will be marked on the 2W aerial sheets for the contractor as avoidance areas. (NDOR Design, NDOR Environmental)

The project qualifies under a Nationwide Permit #14 (non-notifying) and impacts only to Waters of the U.S. are anticipated. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

**Impaired Waters, Section 402, and MS4 Mitigation:**
Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMP's) including devices every 14 days minimum and after every precipitation event of 0.5 inch or greater as per the requirements in the General Construction Storm Water Permit. Any BMP adjustments and repairs are to occur within 7 days of the inspections to ensure that water quality is being protected to the maximum extent practicable. The SWPPP shall be maintained and

discharge points shall be monitored by the NDOR District Staff until the site is 70% re-vegetated. At that time the Notice of Termination with NDEQ for the General Construction Storm Water Permit and completion of the SWPPP responsibilities shall be filed. (NDOR Environmental)

**General Conservation Conditions from the Matrix PA:**

**A-1 Changes in Project Scope.** If there is a change in the project scope, the project limits, or environmental commitments, the NDOR Environmental Section must be contacted to evaluate potential impacts prior to implementation. Environmental commitments are not subject to change without prior written approval from the Federal Highway Administration. (District Construction, Contractor)

**A-2 Conservation Conditions.** Conservation conditions are to be fully implemented within the project boundaries as shown on the plans. (District Construction, Contractor)

**A-3 Early Construction Starts.** Request for early construction starts must be coordinated by the Project Construction Engineer with NDOR Environmental for approval of early start to ensure avoidance of listed species sensitive lifecycle timeframes. Work in these timeframes will require approval from the Federal Highway Administration and could require consultation with the USFWS and NGPC. (District Construction, Contractor)

**A-4 E&T Species.** If federal or state listed species are observed during construction, contact NDOR Environmental. Contact NDOR Environmental for a reference of federal and state listed species. (NDOR Environmental, District Construction, Contractor)

**A-5 Refueling.** Refueling will be conducted outside of those sensitive areas identified on the plans, in the contract, and/or marked in the field. (Contractor)

**A-6 Restricted Activities.** The following project activities shall, to the extent possible, be restricted to between the beginning and ending points (stationing, reference posts, mile markers, and/or section-township-range references) of the project, within the right-of-way designated on the project plans: borrow sites, burn sites, construction debris waste disposal areas, concrete and asphalt plants, haul roads, stockpiling areas, staging areas, and material storage sites.

For activities outside the project limits, the contractor should refer to the Nebraska Game and Park Commission website to determine which species ranges occur within the off-site area. The contractor should plan accordingly for any species surveys that may be required to approve the use of a borrow site, or other off-site activities. The contractor should review Chapter 11 of the Matrix (on NDOR's website), where species survey protocol can be found, to estimate the level of effort and timing requirements for surveys.

Any project related activities that occur outside of the project limits must be environmentally cleared/permitted with the Nebraska Game and Parks Commission as well as any other appropriate agencies by the contractor and those clearances/permits submitted to the District Construction Project Manager prior to the start of the above listed project activities. The contractor shall submit information such as an aerial photo showing the proposed activity site, a soil survey map with the location of the site, a plan-sheet or drawing showing the location and dimensions of the activity site, a minimum of 4 different ground photos showing the existing conditions at the proposed activity site, depth to ground water and depth of pit, and the "Platte River depletion status" of the site. The District Construction Project Manager will notify NDOR Environmental which will coordinate with FHWA for acceptance if needed. The contractor must receive notice of acceptance from NDOR, prior to starting the above listed project activities. These project activities cannot adversely affect state and/or federally listed species or designated critical habitat. (NDOR Environmental, District Construction, Contractor).

**A-7 Waste/Debris.** Construction waste/debris will be disposed of in areas or a manner which will not adversely affect state and/or federally listed species and/or designated critical habitat. (Contractor)

**A-8 Post Construction Erosion Control.** Erosion control activities that may take place by NDOR Maintenance or Contractors after construction is complete, but prior to project close-out, shall adhere to any standard conservation conditions for species designated for the project area during construction. (NDOR Maintenance, District Construction, Contractor)

**Species Mitigation:**

S-2 Platte River Depletions. All efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a depletion, NDOR (during design) and the contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) any diverted water will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet. (NDOR Environmental, District Construction)

S-3 Revegetation. All permanent seeding and plantings (excluding managed landscaped areas) shall use species and composition native to the project vicinity as shown in the Plan for the Roadside Environment. However, within the first 16 feet of the road shoulder, and within high erosion prone locations, tall fescue or perennial ryegrass may be used at minimal rates to provide quick groundcover to prevent erosion, unless state or federally listed threatened or endangered plants were identified in the project area during surveys. If listed plants were identified during survey, any seed mix requirements identified during resource agency consultations shall be used for the project. (NDOR Environmental)

S-4 Sensitive Areas. Environmentally Sensitive Areas will be marked on the plans, in the field, or in the contract by NDOR Environmental for avoidance. (NDOR Environmental, District Construction)

S-5 Species Surveys. If species surveys are required for this project, results will be sent by NDOR to the USFWS, NGPC, and if applicable COE. FHWA will be copied on submittals. (NDOR Environmental, District Construction)

Northern Long-Eared Bat
NLEB-1 Tree clearing and bridge removal activities will be scheduled to occur between October 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)
OR
NLEB-2 If tree clearing, or removal of bridge structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: Structure SS12C 00286 (location of suitable habitat). If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

**Hazardous Materials Mitigation:**
If the method of removal of the components generates paint debris, the waste shall be handled in accordance with NDOR's Standard Specification for Highway Construction Section 732 (Lead-based Paint Removal) and Title 128, Nebraska Hazardous Waste Regulations. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractor shall recycle any lead bearing plates and/or lead shims at a legitimate recycling facility as found in paragraph 3 (environmental requirements) in Section 203.01 of the Standard Specification for Highway Construction and in accordance with Title 128, Nebraska Hazardous Waste Regulations. The Contractors implementation plan efforts shall be documented in ECOD. (NDOR District, Contractor)

If contaminated soils and/or water or hazardous materials are encountered, then all work within the immediate area of the discovered hazardous material shall stop until NDOR/FHWA is notified and a plan to dispose of the Hazardous Materials has been developed. Then NDEQ shall be consulted and a remediation plan shall be developed for this project. The potential exists to have contaminants present resulting from minor spillage during fueling and service associated with construction equipment. Should contamination be found on the project during construction, the NDEQ shall be contacted for consultation and appropriate actions to be taken. The Contractor is required by NDOR's Standard Specification section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws (NDOR District, Contractor).

**Traffic Disruption Mitigation:**
This project shall be constructed under traffic with lane closures by approved temporary traffic control. The project shall not result in traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days. (Contractor)

**Substantial Access Disruption Mitigation:**
Access to adjacent properties shall be maintained during construction but may be limited at times due to phasing requirements, but shall not be closed. (Contractor)

**Public Involvement Mitigation:**
A minimum of one news release shall go to all local and area media, and be posted on the NDOR website, prior to the start of construction work. (NDOR District, NDOR Communication)

**Additional Mitigation:**
Borrow Site
Any material needed will be provided by the Contractor. The Contractor shall try to obtain borrow from an upland site to prevent depletion issues. If the borrow site is within a depletion area of concern, the Contractor shall coordinate with the appropriate agencies and NDOR to offset or minimize impacts. The Contractor shall obtain all environmental clearances and permits required for the borrow site prior to obtaining borrow material for the project.

The Contractor shall have a staging area for the project where material and equipment for the project is stored (e.g. re-steel, forms, etc.). The Contractor shall be required to dispose of material removed as part of the project described above and miscellaneous obstructions encountered and removed along the project. The disposal shall be the responsibility of the Contractor. A waste site may be needed. The Contractor shall be responsible to obtain all permits and clearances and all conditions of those permits. (Contractor)

**The proposed project qualifies as a Categorical Exclusion under the following activity found in 23 CFR 771.117:**

Paragraph: (c)

Activity: 28

**Prepared by:**

Valerie R. Jones, AICP

**Organization:**

WSP | Parsons Brinckerhoff

**Phone:**

(513) 639-2153

**Email:**

jonesv@pbworld.com

**Signature:**

**Date:**

4/4/16

**Reviewed by Project Sponsor:**

**Name:**

Richard Geschwender

**Organization:**

NDOR

**Title:**

Highway Designer

**Signature:**

**Date:**

5/19/16

**NDOR has determined the information in this form is accurate and the project is in compliance with the *OPERATIONAL DRAFT* 2015 Categorical Exclusion Programmatic Agreement between FHWA and NDOR, and satisfies the criteria of 23 CFR 771.117(a) no significant impact and (b) no unusual circumstances. The mitigation identified above shall be implemented for the project.**

NDOR Environmental NEPA Specialist Signature:

Digitally signed by Carmen Modrcin
DN: cn=Carmen Modrcin, o=NDOR Environmental, ou=NEPA Specialist, email=carmen.modrcin@nebraska.gov, c=US
Date: 2016.06.14 10:27:52 -05'00'

Date:

NDOR Environmental Documents Manager Signature *(Level 2 and 3 Requirement)*:

Digitally signed by Jon Barber
Date: 2016.06.14 10:48:36 -05'00'

Date:

FHWA Environmental Specialist *(Level 3 Requirement)*:

Date:

**If the scope of work changes, existing conditions change, or applicable regulations change, NDOR shall reevaluate this determination in accordance with the *NDOR reevaluation procedures*.**

Reevaluation Approval *(if necessary)*:

Date: