



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: A B

Paragraph: 25 26

Project Name:

Deweese Spur North

Project Number:

STP-14-1(119)

Control Number:

42566

Location and Study Area:

This project is located along Nebraska Highway 14 (N-14) south of Clay Center in Clay County, NE. The project extends from mile marker (MM) 26.50 to MM 37.17. The Environmental Study Area (ESA) is confined to the length of this project (10.67 miles) plus half a mile on either end along Nebraska Highway 14 (N-14) including the existing right-of-way (ROW), plus 50 feet beyond ROW for most of the project length, and extending to 150 feet beyond the ROW at the bridges and culverts for wetlands and most other resources. For regulated materials the study area is extended 0.10 miles, and for Section 4(f) resources 0.25 miles beyond ROW. Termini are based on limits identified by NDOR pavement management system, District 4 and previous construction projects on this segment of highway.

Begin Point(s):

MM 26.50

End Point(s):

MM 37.17

Highway Number, Street, etc.:

Nebraska Highway 14

Project Description:

This project would resurface 10.67 miles of N-14 located in Clay County, starting where the pavement transitions from concrete to asphalt, at MM 26.50, and extending north to MM 37.17, south of Clay Center. Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

A short segment of the roadway where the bridge is being replaced (MM 31.82) would be built to New and Reconstruction minimum design standards. The extent of pavement work ahead or beyond the structure to accommodate the replacement would be determined by Roadway Design.

The existing roadway on this segment of N-14 consists of the following:

- MM 26.50 – MM 27.02: The segment consists of two 12-foot-wide asphalt lanes and 10-foot-wide shoulders, of which 8 feet is paved with asphalt.
- MM 27.02 – MM 27.34: The segment consists of two 12-foot-wide asphalt lanes and 14-foot-wide shoulders, of which a maximum of 12 feet is paved with asphalt.
- MM 27.34 – MM 30.60: The segment consists of two 12-foot-wide asphalt lanes and 10-foot-wide shoulders, of which 8 feet is paved with asphalt.
- MM 30.60 – MM 31.82: The segment consists of two 12-foot-wide asphalt lanes and 14-foot-wide shoulders, of which a maximum of 12 feet is paved with asphalt.
- MM 31.82 – MM 37.17: The segment consists of two 12-foot-wide asphalt lanes and 10-foot-wide shoulders, of which 8 feet is paved with asphalt.

The improvements on this project consist of milling and resurfacing the roadway and surface shoulders with asphalt. Structure Number S014 02929 would undergo repairs and resurfacing with 3-inch grade raise. Structure Number S014 03182 would be replaced with a 44-foot clear width by 90-foot bridge with new approaches and access crossing (pipes). The existing guardrail would be removed and replaced at both bridge locations. Surfacing would be placed underneath the guardrail. Existing culverts would be extended or shielded as determined by Roadway Design. The scope of work for the turn lanes at MM 31.40 and MM 31.76 and the existing lighting at MM 31.40 would be determined by Roadway Design.

Scope details include:

- Grading beyond the hinge point would be required for the following work: culverts; guardrail; bridges; drives and intersections; turn lanes; roadway grading for culvert extensions; and removal of old substructure.
- A few existing metal culverts would be broken back and rebuilt to existing lengths to removed rusted/corroded segments. Flared end sections would be replaced.
- The guardrail would be removed and replaced with grading beyond the hinge point.
- The bridge over the Union Pacific Railroad (Structure Number S014 02929) would undergo the following repairs: partial and full depth deck repairs and resurfacing; modifying abutments for turndowns; adding approaches; moving the expansion joints to grade beam; updating the buttresses; cleaning and painting bearings; repairing abutment concrete; and repairing erosion. The existing guardrail would be removed and replaced. Surfacing would be placed underneath the guardrail. There would be a 3-inch grade raise.
- The bridge over the Big Sandy Creek (Structure Number S014 03182) would be replaced with a 44-foot clear width by 90-foot bridge with no grade raise. New approaches would be added and access crossing (pipes) would be required. The existing guardrail would be removed and replaced. Surfacing would be placed underneath the guardrail.
- The existing asphalt would be milled prior to resurfacing.
- Asphalt patching operations would be performed prior to resurfacing.
- Existing surfaced driveways and intersections would be resurfaced.
- Rock or gravel would be placed behind driveways and intersections to match the new asphalt.
- Surfacing would be placed under the guardrail.
- The existing earth shoulders would be brought up to match the new asphalt.
- Project surveying and staking would be required.
- Areas disturbed during construction would be stabilized utilizing methods of erosion control as shown in the Storm Water Pollution Prevention Plan (SWPPP).
- Rumble strips would be constructed from MM 26.50 to MM 31.82 and replaced from MM 31.82 to MM 37.17 on the resurfaced shoulders.
- Permanent pavement markings would be applied to all new surfacing.
- Existing street lighting would be left in place for work to the existing turn lane at MM 31.40.
- Additional property rights would be required to build this project.
- Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.
- The bridge replacement at MM 31.82 would be phased with constructed under traffic and lane closures controlled with approved temporary traffic control. Temporary surfacing for phasing construction may be necessary. Access crossing with pipes would be needed.
- This project would be constructed under traffic with lane closures controlled with approved temporary traffic control.
- Temporary Easement would be needed for Access Crossings.
- The 600-foot right turn lane at Sandy Creek Public School would be widened from 10 to 12 feet and a 4-foot surfaced shoulder would be added

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 (\$):

9/9/2016

Construction

\$7,751,000

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)?

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) No (2)

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

Temporary easements would be required for work on Structure S014 03182 at MM 31.82. The easements would be required from primarily pasture or crop land.

1.4 Estimated Acres of Permanent ROW/Easements:

0.00

1.5 Estimated Acres of Temporary ROW/Easements

0.87

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

Yes (3) 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) No (1) N/A

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

Three potential Section 4(f) properties were located adjacent to the project area (Bluewing Wildlife Management Area (WMA), Massie Waterfowl Production Area (WPA), and Sandy Creek Elementary School); however, the project would not encroach on the properties. Access to the school driveways and WMA/WPA parking areas would remain open throughout construction. No impacts are anticipated.

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) 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

4.7 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 will 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 shall 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 shall 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 facilitate open space use?

Yes (3) No N/A

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

The project encroaches the Zone A Floodplain at Big Sandy Creek and two unnamed drainages. A floodplain permit application has been submitted to Clay County. The project encroachments were reviewed and it was determined that the work described would be functionally dependent uses.

6.5 Floodplain/Floodway Mitigation:

Floodplain permits will be required for the project action. Floodplain permits shall 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:

0.00

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:

A wetland delineation was completed on 8/14/2013.

No permanent impacts are anticipated from this project. Temporary impacts associated with this project are anticipated to be approximately 0.107 acre of PEMA/PEMC (Palustrine Emergent) wetlands and 0.025 acre (60.0 feet) of stream channel for a temporary access crossing to repair the bridge. The temporary crossing would be removed after completion of the bridge construction and the area would be graded back to pre-construction elevations.

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.

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.

The project will require a Nationwide Permit for impacts to waters of the U.S. The permit shall be obtained prior to project letting. The contractor shall adhere to all permit conditions, including regional and general conditions, during construction. (NDOR Environmental, 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*)?

Yes No

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

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Erosion control plans and SWPPP are required on all projects that have 1 acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMP) 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 Nebraska Department of Environmental Quality (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) No (1)

9.2 Will the action result in a “may affect, likely to adversely affect” determination for threatened or endangered species or designated critical habitat?

Yes (3) No (2)

9.3 Will the action require the use of unique conservation conditions that are not included within the *Matrix* PA, requiring resource agency concurrence?

Yes (3) No (2)

NDOR PQS Determination Date:

2/9/2016

USFWS Concurrence Date:

11/16/2015

NGPC Concurrence Date:

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:

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.

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 N/A

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

The Project "May Affect, Not Likely to Adversely Affect" northern long-eared bat and whooping crane. The Project would have "No Effect" to all other state or federally listed species or their designated critical habitat.

The Biological Assessment was sent to the U.S. Fish and Wildlife Service (USFWS) Rainwater Basin Wetland Management District for review and concurrence on 11/12/15. Email correspondence was received on 11/16/15 that the USFWS had no concerns.

9.8 Species Mitigation:

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, bridge deck joint replacements over the bridge deck, bridge > 5-foot box-culvert

removal activities will be scheduled to occur between October 1st and March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

OR

NLEB-2 If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert 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: the bridge over the Union Pacific Railroad tracks (Structure S014 02929) and the bridge over Big Sandy Creek (Structure S014 03182). If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, Nebraska Game and Parks Commission (NGPC), and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

Whooping Crane:

WC-1 Construction activities will not occur during whooping crane migration periods. (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16). (NDOR Environmental, Construction, Contractor)

OR

WC-2 If construction activities occur during whooping crane migration periods (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16), NDOR trained personnel, or a qualified biologist, will conduct surveys according to protocol at the following locations: from MM 26.50 to MM 27.00 (this includes the portion of the project corridor that is adjacent to the Bluewing Wildlife Management Area) and from MM 33.37 to MM 34.67 (this includes the portion of the project corridor that are adjacent to the Massie Federal Waterfowl Production Area and two sub-irrigated grasslands with shallow open water wetlands), prior to the start of daily construction activities. If species are present, the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume (also not initiate work if species is found in the morning survey).

Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):

Construction activities are limited to the hours from 10:00 a.m. to 4:00 p.m. (CST) during the migration period, unless morning survey indicates whooping cranes are not present.

If a whooping crane is observed during the survey within ½ mile of the project, but departs the area (further than ½ mile from the project) then work can resume. Document this departure according to protocol.

AND

WC-3 Herbaceous species used for re-seeding within ¼ mile of the following location: from MM 26.50 to MM 27.00 (this includes the portion of the project corridor that is adjacent to the Bluewing Wildlife Management Area) and from MM 33.37 to MM 34.67 (this includes the portion of the project corridor that are adjacent to the Massie Federal Waterfowl Production Area and two sub-irrigated grasslands with shallow open water wetlands) will be native grass or forb species. Native shrub or woody species used in restoration should reach no more than 4 feet in height at maturity. (Design, NDOR Environmental)

R-11 For the whooping crane, nighttime work with lights from March 10 - May 10 and September 16 - November 16 is not authorized. If nighttime work is required, the contractor will notify the District, and the District will request approval from NDOR Environmental Section at least 10 working days prior to construction so consultation with the USFWS, NGPC, and FHWA can be initiated. Approval from these agencies is required (NDOR Environmental, District 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

NDOR PQS Determination Date:

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:

7/7/2016

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

A hazardous materials review (HMR) was completed for the project and approved on July 7, 2016. The HMR identified two facilities where past releases had occurred. These facilities are non-National Priorities List Superfund sites located just outside the search radii but were discussed in the HMR. Based on the minimal scope of work and the distance from each facility to construction activities, there is a low potential of encountering contamination originating from these sites during construction.

11.6 Hazardous Materials Mitigation:

Lead Commitments

Bridge Structure No. S014 02929 is being repaired and Bridge Structure No. S014 03182 is being replaced. There is potential for lead-based paint to be found on the bridge's painted components. 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 Contractors implementation plan efforts shall be documented in either the ECOD or Site Manager (Contractor, NDOR District).

The bearings of Bridge Structure S014 02929 will be cleaned and painted. There is potential for lead-based paint to be found on the bearings. If lead-based paint is being removed in a manner that would create waste debris (i.e. sandblasting, abrasive removal, scraping), the Contractor shall remove the paint 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 Contractors implementation plan efforts shall be documented in ECOD (Contractor, NDOR District).

The Bridge Structure S014 03182 is being replaced. 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 (Contractor, NDOR District).

Unexpected Waste Commitment

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:

The bridge replacement at MM 31.82 will be phased and constructed under traffic with lane closures controlled with approved temporary traffic control. Temporary surfacing for phasing construction may be necessary.

15.9 Traffic Disruption Mitigation:

This project shall be constructed under traffic with lane closures controlled 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:

Sandy Creek Elementary School is located along the project alignment. The school has two access drives that would remain open during construction.

16.8 Substantial Access Disruption Mitigation:

Access to adjacent properties shall be maintained at all times during construction. Access may be disrupted temporarily at times due to construction activities, 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:

12/15/2015

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

There would be no disproportionately high, adverse human health, or environmental effects to minority and low-income populations, as defined in FHWA Order 640.23A, because these protected populations are not present in the project area.

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

Due to the nature of the work, additional public outreach during the NEPA phase is not needed. This project has been disclosed in the District Program Hearings as well as through the public involvement efforts in conjunction with the development of the STIP. No Limited English Proficiency outreach is recommended for this project. Due to the Scope of Work, further Public Involvement efforts are not required.

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)

The district shall coordinate with Sandy Creek Elementary School prior to the start of construction. (NDOR District)

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

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."

21.3 Cumulative Impacts:

A resurfacing project located east of this project, STP-74-5(110) South Jct. N-14 - Ong Spur (CN 42608), has been scheduled to be contracted in 2016.

There are no anticipated cumulative impacts due to the Deweese Spur North project in conjunction with the additional project referenced above. Construction for the individual projects has been scheduled such that there would be adequate time between projects to prevent interference with local traffic patterns. There are no impacts anticipated to threatened and endangered species with conservation conditions or Section 4(f) properties due to the Deweese Spur North project. There are no negative long-term socioeconomic impacts anticipated as access to residences or businesses would only be limited during construction. There are, however, long term benefits to motorists due to the proposed roadway improvements.

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 will 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 shall 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 shall 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 shall 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.

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.

The project will require a Nationwide Permit for impacts to waters of the U.S. The permit shall be obtained prior to project letting. The contractor shall adhere to all permit conditions, including regional and general conditions, during construction. (NDOR Environmental, Contractor)

Impaired Waters, Section 402, and MS4 Mitigation:

Erosion control plans and SWPPP are required on all projects that have 1 acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMP) 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 Nebraska Department of Environmental Quality (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-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, bridge deck joint replacements over the bridge deck, bridge > 5-foot box-culvert removal activities will be scheduled to occur between October 1st and March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

OR

NLEB-2 If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert 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: the bridge over the Union Pacific Railroad tracks (Structure S014 02929) and the bridge over Big Sandy Creek (Structure S014 03182). If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, Nebraska Game and Parks Commission (NGPC), and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

Whooping Crane:

WC-1 Construction activities will not occur during whooping crane migration periods. (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16). (NDOR Environmental, Construction, Contractor)

OR

WC-2 If construction activities occur during whooping crane migration periods (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16), NDOR trained personnel, or a qualified biologist, will conduct surveys according to protocol at the following locations: from MM 26.50 to MM 27.00 (this includes the portion of the project corridor that is adjacent to the Bluewing Wildlife Management Area) and from MM 33.37 to MM 34.67 (this includes the portion of the project corridor that

are adjacent to the Massie Federal Waterfowl Production Area and two sub-irrigated grasslands with shallow open water wetlands), prior to the start of daily construction activities. If species are present, the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume (also not initiate work if species is found in the morning survey).

Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):

Construction activities are limited to the hours from 10:00 a.m. to 4:00 p.m. (CST) during the migration period, unless morning survey indicates whooping cranes are not present.

If a whooping crane is observed during the survey within 1/2 mile of the project, but departs the area (further than 1/2 mile from the project) then work can resume. Document this departure according to protocol.

AND

WC-3 Herbaceous species used for re-seeding within 1/4 mile of the following location: from MM 26.50 to MM 27.00 (this includes the portion of the project corridor that is adjacent to the Bluewing Wildlife Management Area) and from MM 33.37 to MM 34.67 (this includes the portion of the project corridor that are adjacent to the Massie Federal Waterfowl Production Area and two sub-irrigated grasslands with shallow open water wetlands) will be native grass or forb species. Native shrub or woody species used in restoration should reach no more than 4 feet in height at maturity. (Design, NDOR Environmental)

R-11 For the whooping crane, nighttime work with lights from March 10 - May 10 and September 16 - November 16 is not authorized. If nighttime work is required, the contractor will notify the District, and the District will request approval from NDOR Environmental Section at least 10 working days prior to construction so consultation with the USFWS, NGPC, and FHWA can be initiated. Approval from these agencies is required (NDOR Environmental, District Construction, Contractor).

Hazardous Materials Mitigation:

Lead Commitments

Bridge Structure No. S014 02929 is being repaired and Bridge Structure No. S014 03182 is being replaced. There is potential for lead-based paint to be found on the bridge's painted components. 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 Contractors implementation plan efforts shall be documented in either the ECOD or Site Manager (Contractor, NDOR District).

The bearings of Bridge Structure S014 02929 will be cleaned and painted. There is potential for lead-based paint to be found on the bearings. If lead-based paint is being removed in a manner that would create waste debris (i.e. sandblasting, abrasive removal, scraping), the Contractor shall remove the paint 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 Contractors implementation plan efforts shall be documented in ECOD (Contractor, NDOR District).

The Bridge Structure S014 03182 is being replaced. 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 (Contractor, NDOR District).

Unexpected Waste Commitment

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 controlled 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 at all times during construction. Access may be disrupted temporarily at times due to construction activities, 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)

The district shall coordinate with Sandy Creek Elementary School prior to the start of construction. (NDOR District)

Additional Mitigation:

Material Source 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)

Sensitive Area:

There is a Sensitive Area between N-14 MM 26.69 and MM 26.85 (east side only). No project activities, including grading, staging, borrowing, stockpiling, or storing material and/or equipment, would occur behind the current ROW in this area. No new rights-of-way or easement acquisitions, however minimal, shall occur between N-14 MM 26.69-MM 26.85, which would be identified on plans as a sensitive area to be avoided.

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

Paragraph:

Activity:

Prepared by:

Organization:

Phone:

Email:

Signature:

Date:

Reviewed by Project Sponsor:

Name:

Organization:

Title:

Signature:

Date:

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:

Date:

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

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: