



### 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

Paragraph:  22

Project Name:

Hampton - Waco

Project Number:

NH-80-7(165)

Control Number:

42677

Location and Study Area:

The Environmental Study Area (ESA) is confined to the length of this project (22.09 miles) plus half a mile on either end along Interstate Highway 80 (I-80) 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 337.63

End Point(s):

MM 359.72

Highway Number, Street, etc.:

I-80

**Project Description:**

This project will crack seal 22.09 miles of I-80 (both eastbound and westbound) located in Hamilton and York Counties, starting 0.12 miles east of the I-80 interchange number 338 (Hampton) at mile marker (MM) 337.63, and extending east to MM 359.72, just west of the Waco interchange.

The existing roadway on these segments consists of four 12 foot wide asphalt lanes separated by a depressed grass median, 5 foot wide inside shoulders, of which 3 feet is surfaced with asphalt, and 12 foot wide outside shoulders, of which 10 feet is surfaced with asphalt.

The improvements on this project consist of crack sealing the existing roadway and surfaced shoulders.

Scope details include:

- Grading beyond the hinge point would not be required for this project.
- This project would be constructed under traffic with lane closures controlled with approved temporary traffic control.
- Access to adjacent properties would be maintained during construction.
- No additional property rights would be required to build this project.

**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 (\$):

10/14/2016

Construction

\$363,000

**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

**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)):

Only one potential Section 4(f) property was found in the project’s study area, Kirkpatrick North WMA. Based on the scope of work, no acquisition of right-of-way, and the property access being located off of the interstate, there would be no impacts to this property.

**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

**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 does cross Zone A floodplains, however, the project activities fall outside the definition of development as defined by the National Flood Insurance Program and therefore a floodplain development permit is not required.

**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:

A desktop review of the project study area was completed on 8/30/2016. During this review wetlands and/or waters of the U.S. were found in the study area. Based on the scope of work there are no anticipated impacts to any of these waters.

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)

No wetland impacts are anticipated for this project; however, if impacts are found during design, the required permits shall be obtained prior to letting. NDOR Environmental shall reevaluate the project for the change in impacts. All wetlands within the project area shall be marked on the project plans or listed on Attachment 1 of the Environmental Commitment for the Contractor as avoidance areas. (NDOR Design, NDOR Environmental)

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

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Areas disturbed during construction will be stabilized utilizing NDOR approved erosion control methods. A Temporary Erosion Control Plan will be required by NDOR Standard Specifications for Highway Construction. (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)

NDOR PQS Determination Date:

6/21/2016

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:

A "May Affect, Not Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: Whooping Crane.

A "No Effect" determination was made for all other state or federally listed species and 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.

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)

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: The length of the project (location of suitable habitat). (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

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:

No Potential to Cause Effects

7/7/2016

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)

NDOR PQS Determination Date:

9/26/2016

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

Due to the lack of soil disturbance and work work occurring within the pre-existing roadway fill material this project qualifies as an exempt project under the NDOR Hazardous Materials Review Guidance Manual. No hazardous materials review is required.

11.6 Hazardous Materials Mitigation:

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. (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.**

15.9 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:

The project would be located entirely within the interstate ROW where there are no public access roads or drives. There would be no access issues as part of this project.

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

Yes (1)  No (1)

NDOR Highway Civil Rights Specialist Determination Date:

5/11/2016

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

The project area does not contain any high concentrations of low-income or minority populations when compared to the surrounding area. See attached DR-53.

**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-wide Program Hearings as well as through the public involvement efforts in conjunction with the development of the STIP.

**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 Communications)

**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:

N/A

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/permited 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:

There are five planned projects in the area of Hampton to Waco:  
42773, Grand Island to Waco, ITS-NH-80-7(162)  
42732, Aurora East and West, NH-80-7(161)  
42404, Henderson Spur, STP-S93A(107)  
42574, McCool Junction to York, NH-81-2(144)  
42792, Waco to Utica, NH-80-8(157)

Of these projects, only the Grand Island to Waco (CN 42773) project would be constructed in the same year as Hampton to Waco. The work for CN 42773 would consist of automated gate and CCTV camera installation. Both projects would be constructed under traffic and no cumulative impacts are anticipated based on the work.

22.1 Additional Comments:

Knox Landing (airport) south of York is privately owned, therefore, no FAA coordination would be required.

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))

**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)

No wetland impacts are anticipated for this project; however, if impacts are found during design, the required permits shall be obtained prior to letting. NDOR Environmental shall reevaluate the project for the change in impacts. All wetlands within the project area shall be marked on the project plans or listed on Attachment 1 of the Environmental Commitment for the Contractor as avoidance areas. (NDOR

Design, NDOR Environmental)

**Impaired Waters, Section 402, and MS4 Mitigation:**

Areas disturbed during construction will be stabilized utilizing NDOR approved erosion control methods. A Temporary Erosion Control Plan will be required by NDOR Standard Specifications for Highway Construction. (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.

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)

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: The length of the project (location of suitable habitat). (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

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:**

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. (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)

**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 Communications)

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:

**Ryan Walkowiak**  
Digitally signed by Ryan Walkowiak  
Date: 2016.10.14 13:37:54 -05'00'

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: