

CE Form Review  
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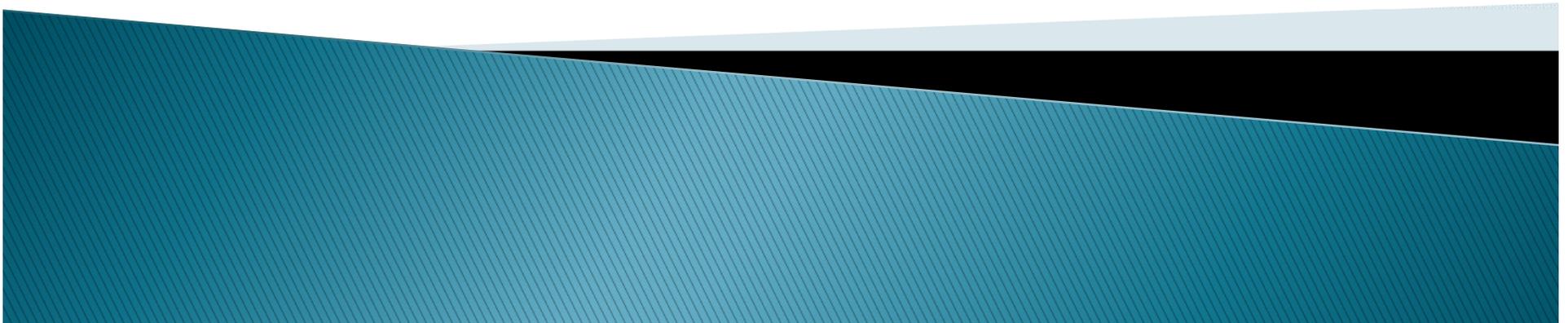


# CE Smart Form

Form Administration & Project Information

Jon Barber

NDOR Hwy Environmental Program Manager



# Smartform Headings

- ▶ Form Administration & Project Information
  - Jon Barber
- ▶ ROW and Property
  - Caitlin Fitzpatrick
- ▶ Water & Ecological
  - Ryan Walkowiak
- ▶ Human & Social
  - Shannon Sjolie
- ▶ Other Impacts, Indirect & Cumulative, Mitigation, Attachments
  - Carmen Pellish



# Form Administration

»» Project Selection  
Opening Page

# Form Administration

- ▶ Selecting “Paragraph” and “Activity” demonstrates the project’s suitability as a CE in accordance with 23 CFR 771.117.

requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of this section.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of this section.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) of this section.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility’s capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

(d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval unless otherwise authorized under an executed

# Project Information

- » General  
Project Description  
Purpose and Need

# Project Information

- ▶ Selecting “Appendix” and “Paragraph” demonstrates the project’s CE level in accordance with the 2015 Programmatic Agreement.

- If the project includes a roundabout, coordinate with FHWA to determine appropriate class of action.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings if the project meets the constraints listed in 23 CFR 771.117(e).

Based on previous experience with similar actions, examples may include:

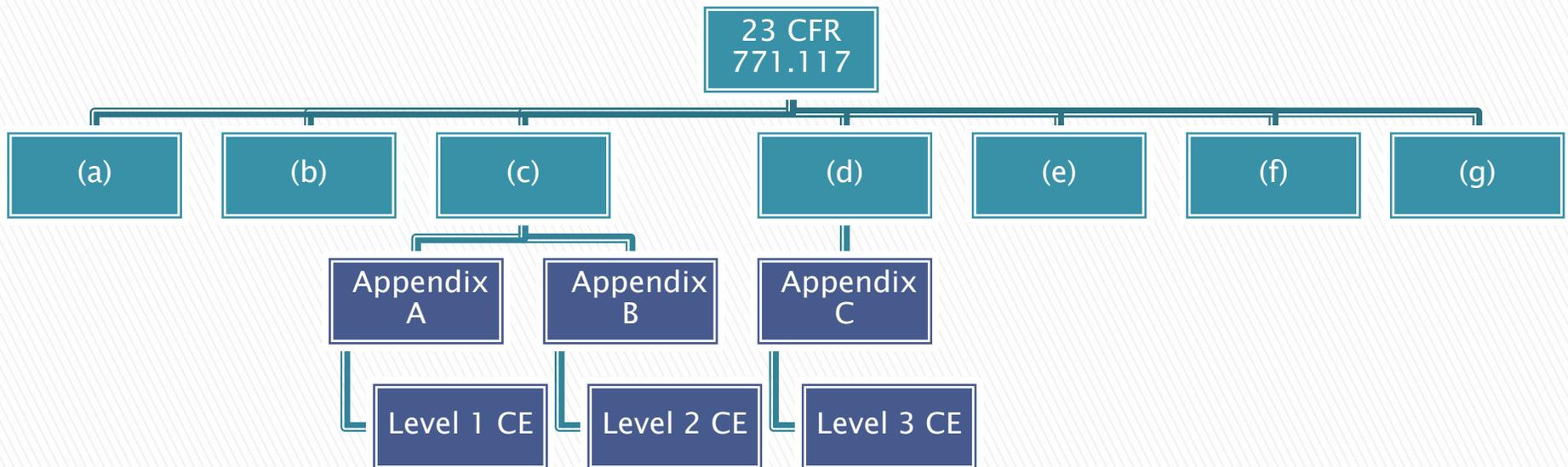
- Construction of associated pedestrian crossings, grade-separated pedestrian crossings, and connecting pathways.
- Other project types based on past experience with similar actions with concurrence from FHWA.

## **Level 2 CE Action Impact Thresholds**

The environmental resources listed below require documentation to illustrate that no significant impacts will occur. The Level 2 classification cannot be applied to projects when any of the thresholds below are exceeded:

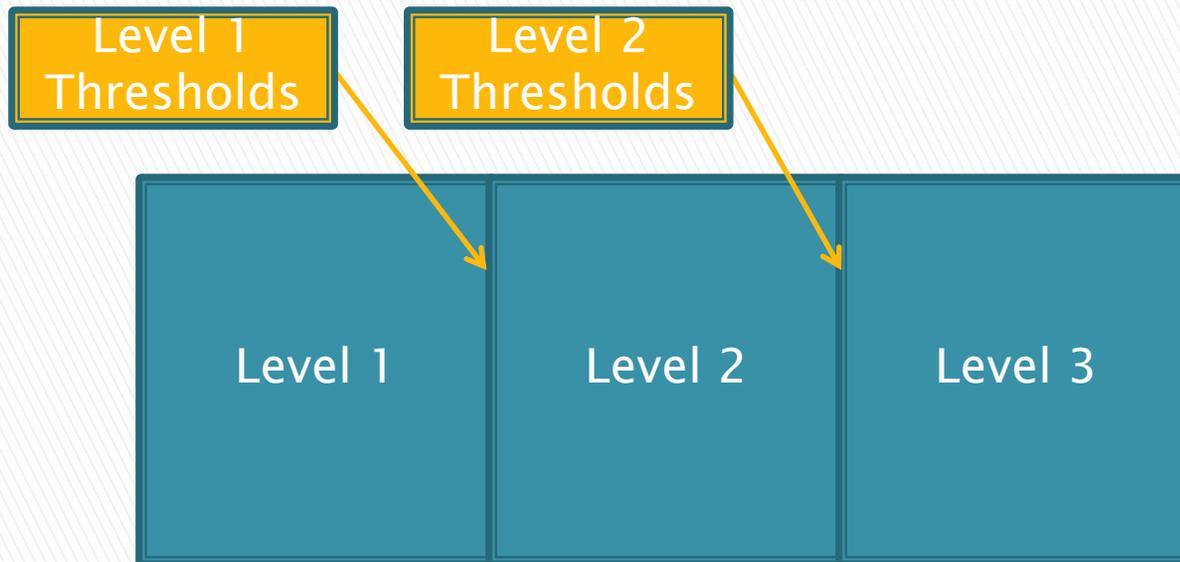
# Project Information

- ▶ Appendix A and B (Level 1 and 2 CE) in the 2015 PA correspond to the CFR's (c) listed activities.
- ▶ Appendix C (Level 3 CE) in the 2015 PA corresponds to the CFR's (d) listed activities.



# Project Information

- ▶ Per the 2015 PA, the CE Level is additionally defined by the exceedance of thresholds.
- ▶ The “Recommended CE Level” is auto-populated by the thresholds that are exceeded throughout the Smart Form.
- ▶ Thresholds are defined in the 2015 PA.



# Project Information

- ▶ The “Override CE Level” allows the form user to change the CE Level from the recommended.
- ▶ Downgrading will require NDOR Manager approval.
  - Explain in form why proposing a downgrade of CE Level.



**NO DOWNGRADING FOR YOU!**

# Project Information

- ▶ Location and Study Area
  - Give a brief description of location
  - Include a brief description of the environmental study area; established based on the area potentially impacted by the project.
- ▶ STIP – Estimated Costs
  - Obtained from NDOR STIP website
  - Provide the date of the most recently approved STIP
- ▶ Subsequent Phase
  - Subsequent funded project phase as provided by Program Management shown in the fiscally constrained TIP/STIP.

If the action qualifies as a (c)(23), identify Federal Portion



# Project Information

- ▶ Project Description
  - Obtained from Design or Design Consultant
  
- ▶ Purpose and Need
  - Clearly identify and describe the underlying problem or deficiency
  - Required for:
    - Level 3 projects
    - Projects that require a Nationwide Permit 23
    - Projects that require Section 4(f) Programmatic Evaluations





# Right-Of-Way & Property Impacts

➤➤ ROW & Easements

# What Is Needed to Begin?

- ▶ Find ROW amounts:
  - Temporary amounts
  - Permanent amounts
- ▶ Are there any temporary or permanent easements?
  - How many acres?
- ▶ Are there any relocations anticipated?



# Right of Way (ROW) & Easements:

- ▶ Can be temporary or permanent easements, or ROW
- ▶ Examples include:
  - Any new or temporary acquired land for construction purposes
  - Construction easements
  - Utility relocations
  - Trails



Section 1-Right of Way and Easements

1.1 Will the action require the acquisition of new temporary or permanent right-of-way (including easements)?

Yes

No

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

Level 1

Yes

No

Describe the acquisitions in 1.3 and put the appropriate amounts in 1.4 and 1.5

Describe the acquisitions in 1.3 and put the appropriate amounts in 1.4 and 1.5

1.6 Will action result in any residential or nonresidential displacements?

1.6 Will action result in displacements?

Yes

No

Yes

No

Level 3

Level 2

Level 3

Level 2

# ROW & Property Impacts

»» Section 4(f)

# Section 4(f) Refresher...

- ▶ Section 4(f) properties are: planned or existing publicly owned parks; public recreation areas; wildlife and waterfowl refuges; or any significant historic sites (including historic bridges eligible for listing on the National Register of Historic Places) officially designated as such by a Federal, State or Local agency



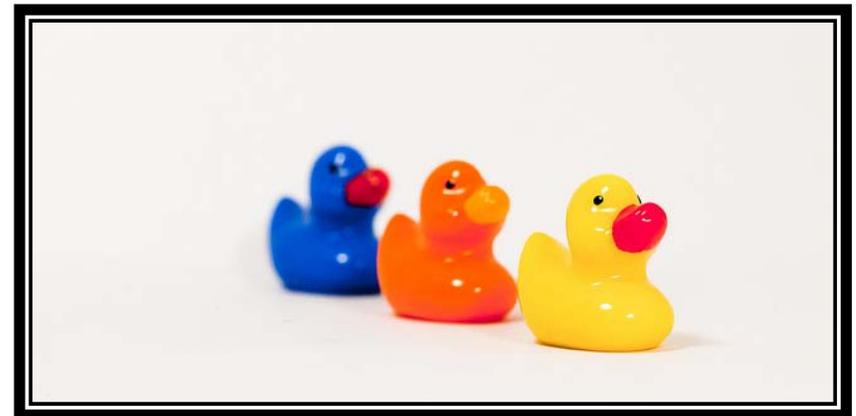
# Section 4(f) Use...

- ▶ A use of Section 4(f) Resources occurs:
  - When land is permanently incorporated into a transportation facility
  - When there is a temporary occupancy of land that is adverse in terms of the statutes preservation purpose
  - When there is constructive use of a Section 4(f) property

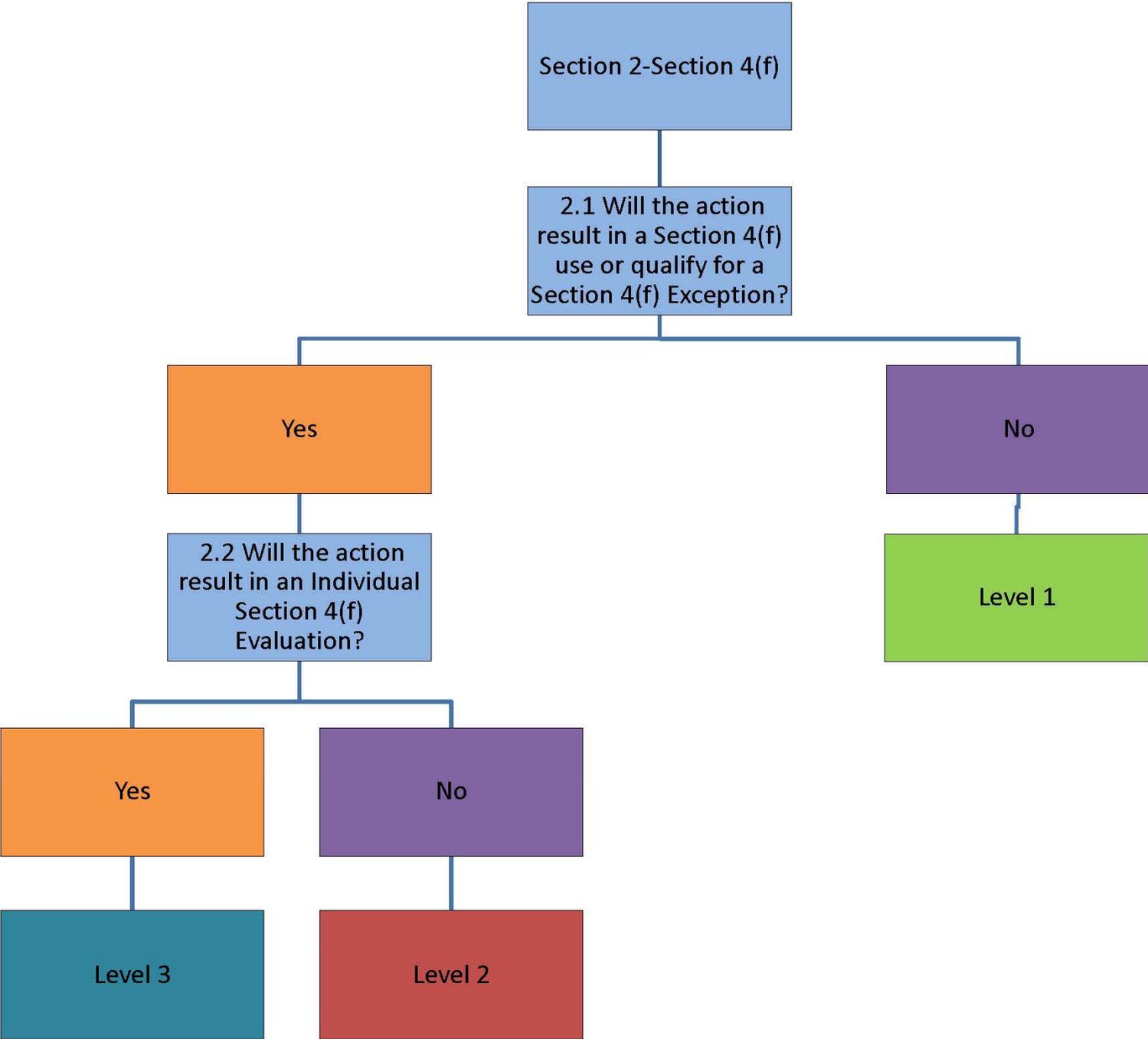


# What is Needed to Begin?

- ▶ Is the 4(f) Initial Assessment Completed?
- ▶ If a 4(f) Property is present, is the proper coordination complete?
  - Has the letter from the Official with Jurisdiction been obtained?
  - Has the *de minimis* or Exception form been approved by NDOR & FHWA?



- ▶ If Section 4(f) coordination is needed, it now exceeds a Level 1 Threshold and would require, at the least, Level 2 or even Level 3 Documentation







# ROW & Property Impacts

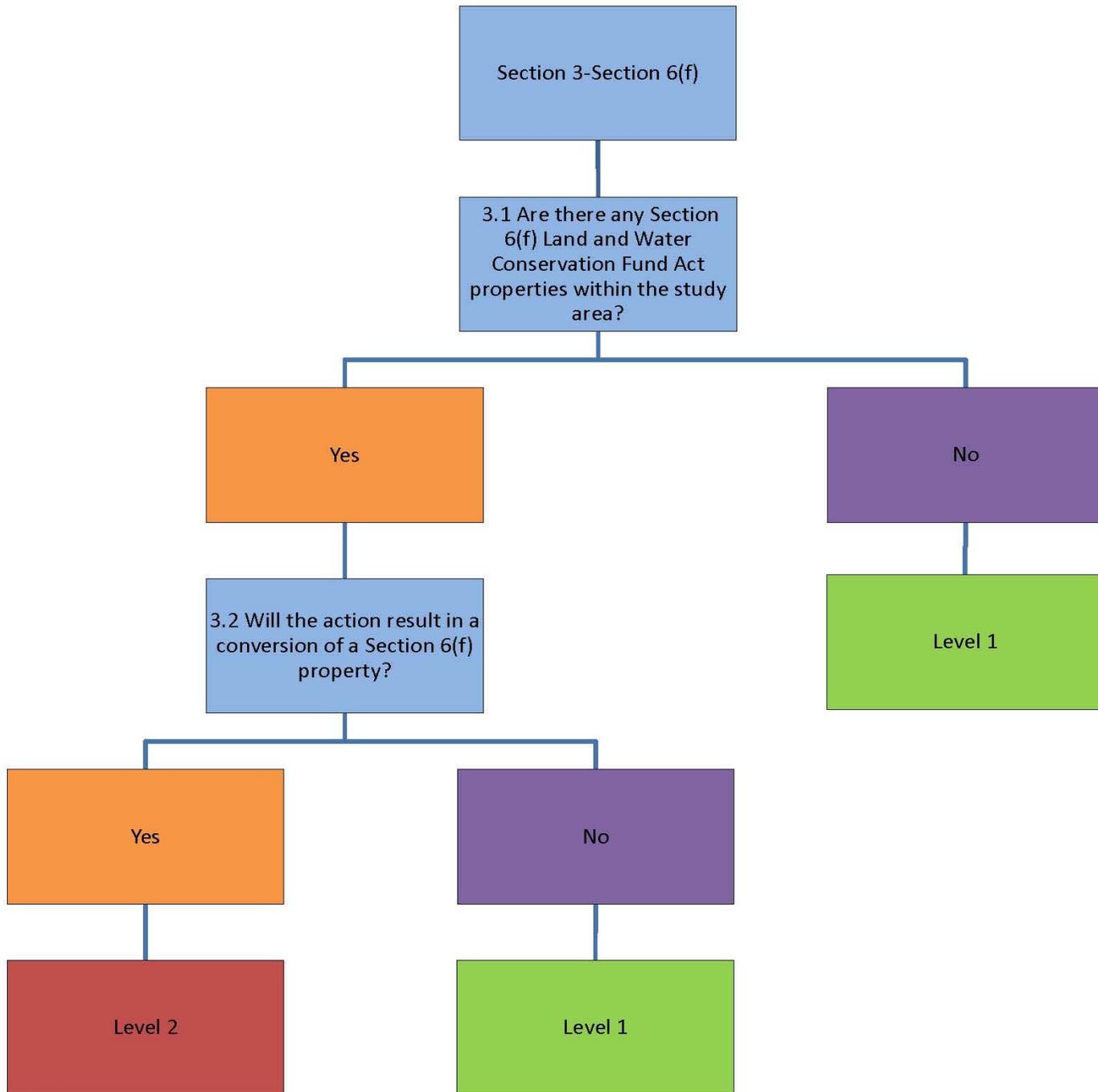
»» Section 6(f)

# Section 6(f)

- ▶ The Land and Water Conservation Fund (LWCF) is a Federal program to conserve irreplaceable lands and to improve outdoor recreation opportunities throughout the nation.
- ▶ Section 6(f) of the LWCF contains strong provisions to protect Federal investments and the quality of its financially-assisted resources.



- ▶ If there are no Section 4(f) Resources within the study area, then a search for Section 6(f) resources is not necessary.
- ▶ The Nebraska Game & Parks Commission can assist in determining if LWCF's were used on a given property.



# ROW & Property Impacts

»» Non-Threshold Impacts

# Non-Threshold Impacts

- ▶ Review sections that are not identified within the Programmatic Agreement, but were important to analyze per project.



# Federal & Tribal Lands

- ▶ The NEPA practitioner must check land ownership, to determine whether or not the project occurs on, or directly adjacent to federal or tribal lands.



# Federal & Tribal Lands:

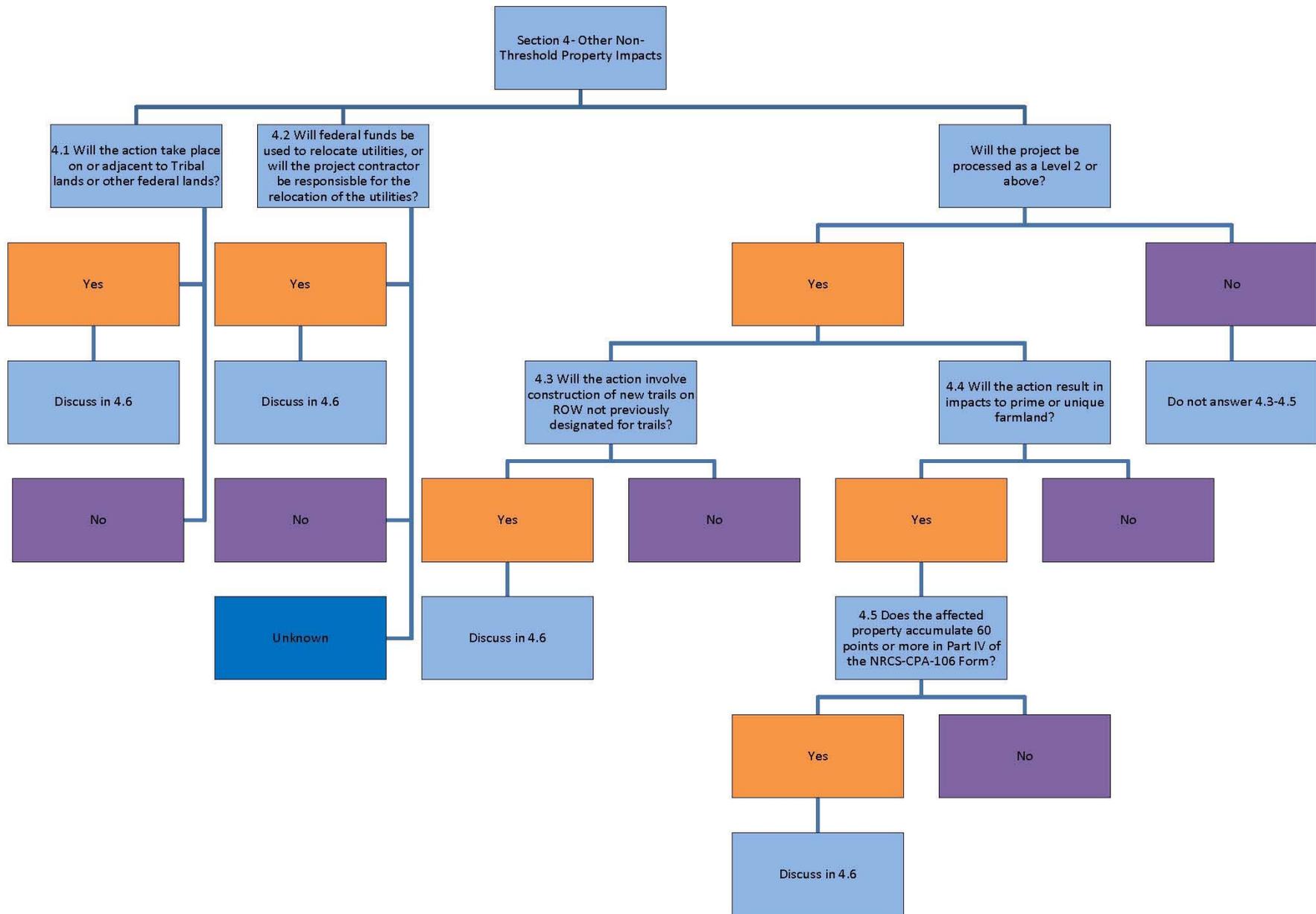
## ▶ Examples of Federal Lands in Nebraska:

- Halsey National Forest
- Offutt AFB
- Valentine National Wildlife Refuge

## ▶ Examples of Federally Recognized Tribal Land in Nebraska:

- Winnebago Tribe of Nebraska
- Omaha Tribe of Nebraska
- Santee Sioux Nation

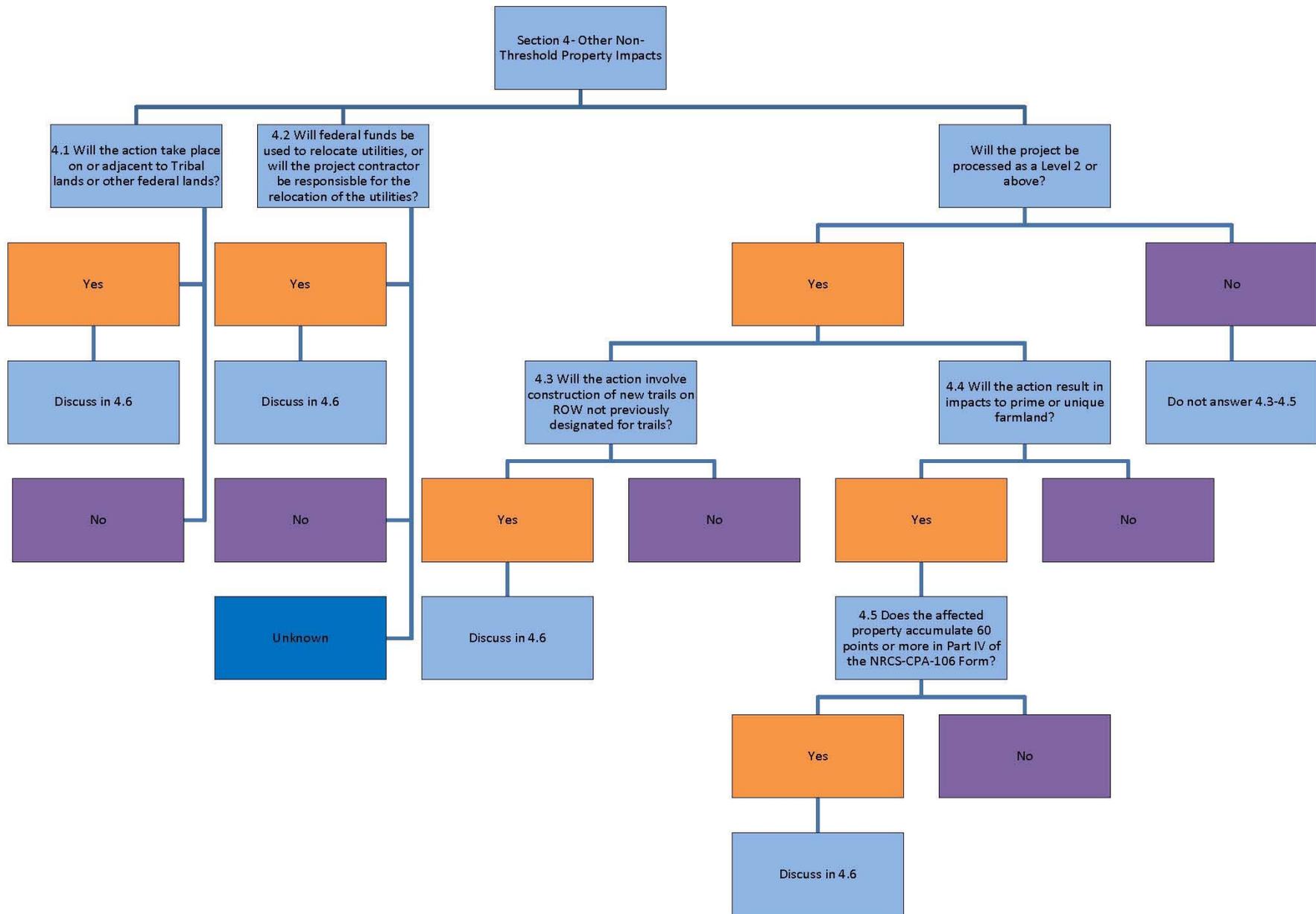




# Utilities:

- ▶ If any federal funds are used to relocate utilities, or if the project contractor will be responsible for utility relocation, the relocation is considered a Federal Action and is subject to NEPA.





# Utilities Continued...

- ▶ After NEPA, if a determination is made that the project contractor will relocate utilities, or that federal funds will be used for utility relocation, the practitioner shall coordinate with appropriate NDOR resource specialists and initiate a re-evaluation of the CE Determination.



# IMPORTANT!

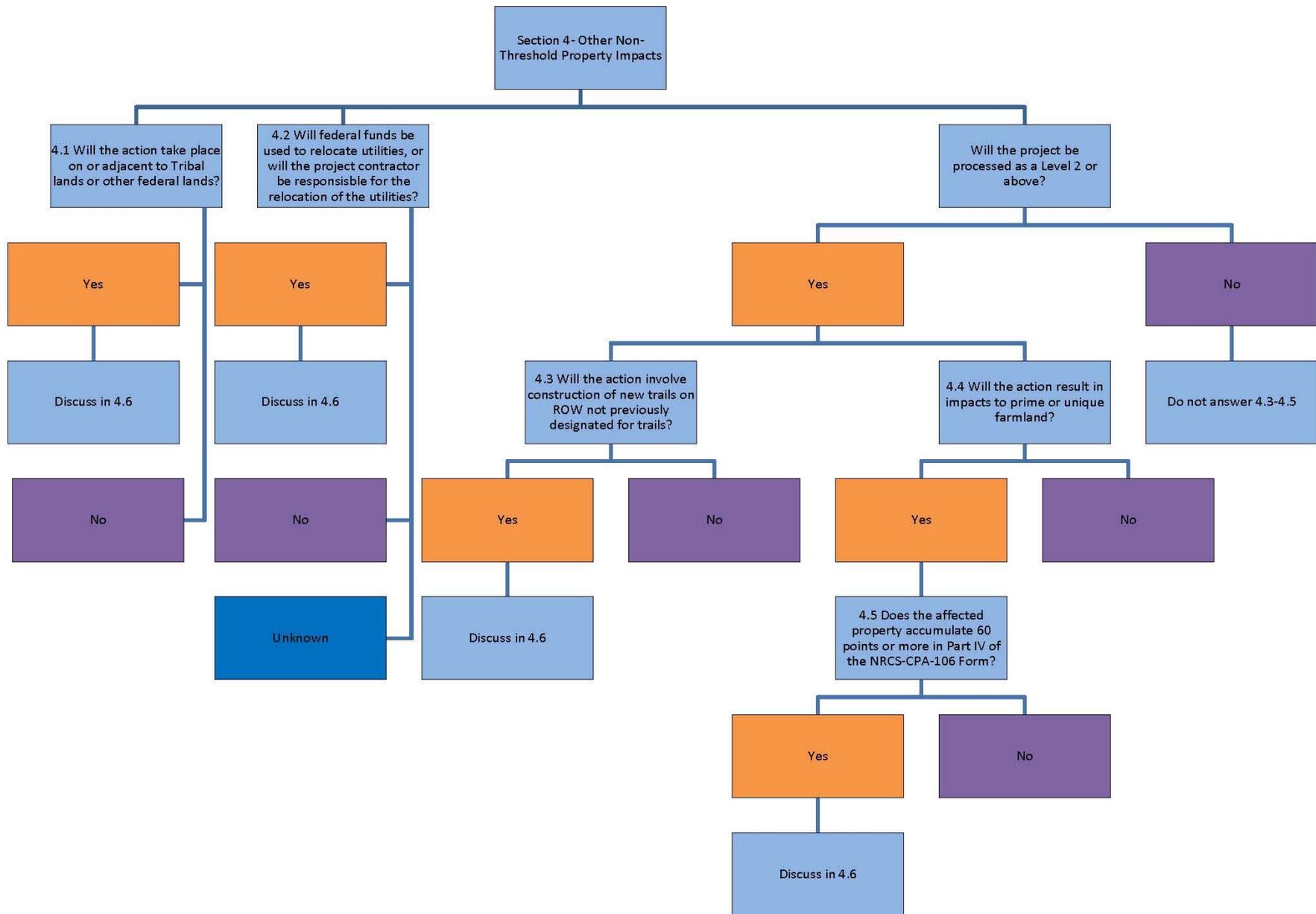
- ▶ Question 4.3 and 4.4 **MUST** be answered for all Level 2 and Level 3 CE Documentation



# Trails:

- ▶ If the project will construct a new trail on ROW that was not previously designated for trail use, coordination with adjacent landowners is required.
- ▶ Sarah Kugler, NDOR's Public Involvement Specialist, should be contacted to determine proper outreach methodology.

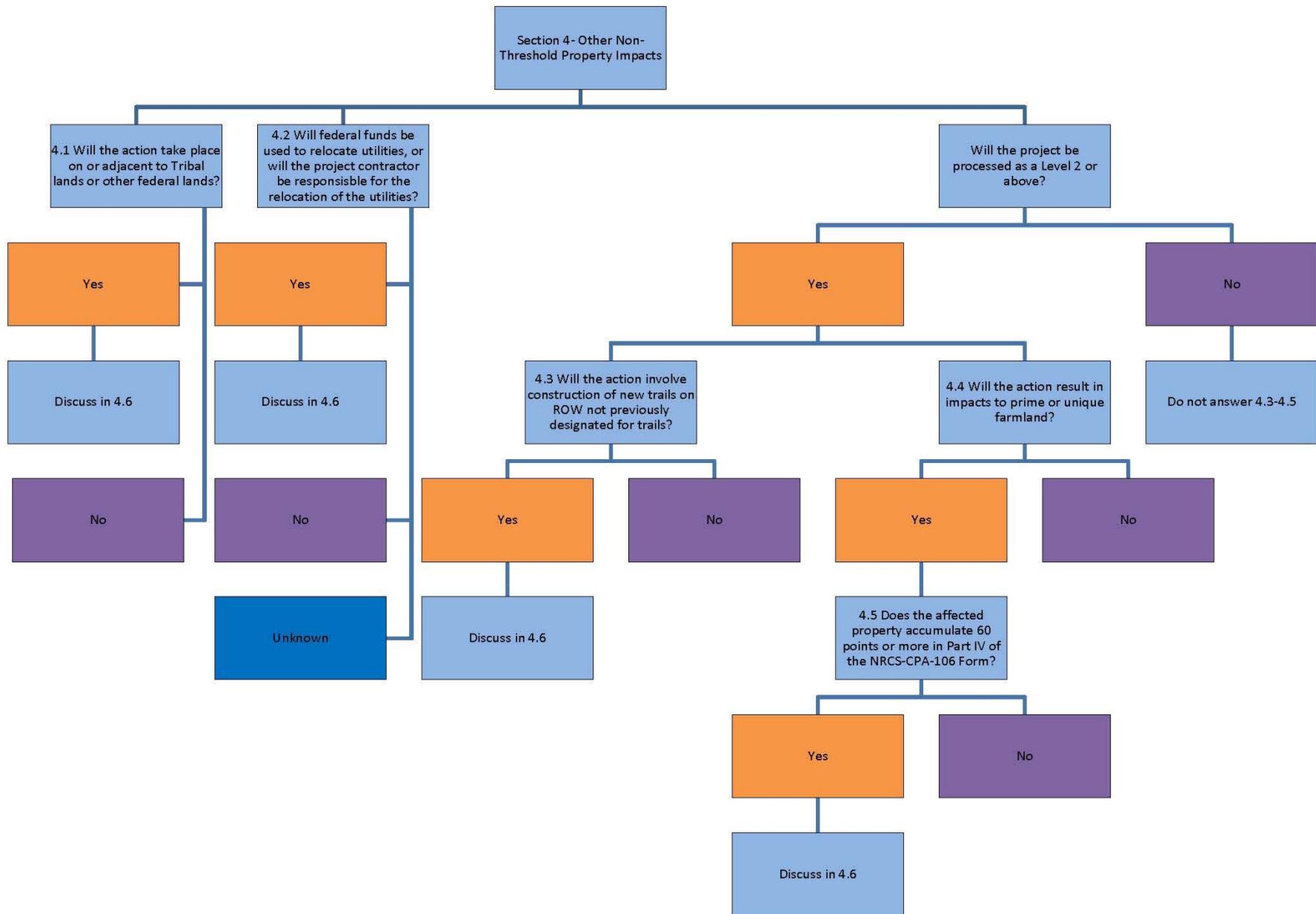




# Farmlands:

- ▶ If ROW is being taken and there is the potential to convert prime or unique farmland to non-farmland use, a NRCS-CPA-106 form and checklist must be completed.













- **Historic Properties**
  - **HazMat**
  - **Traffic Noise**
  - **Air Quality**
  - **Roadway**
  - **Traffic Disruption**
  - **Access Disruption**
- **Environmental Justice**
- **Public Involvement**

# Human & Social Resources

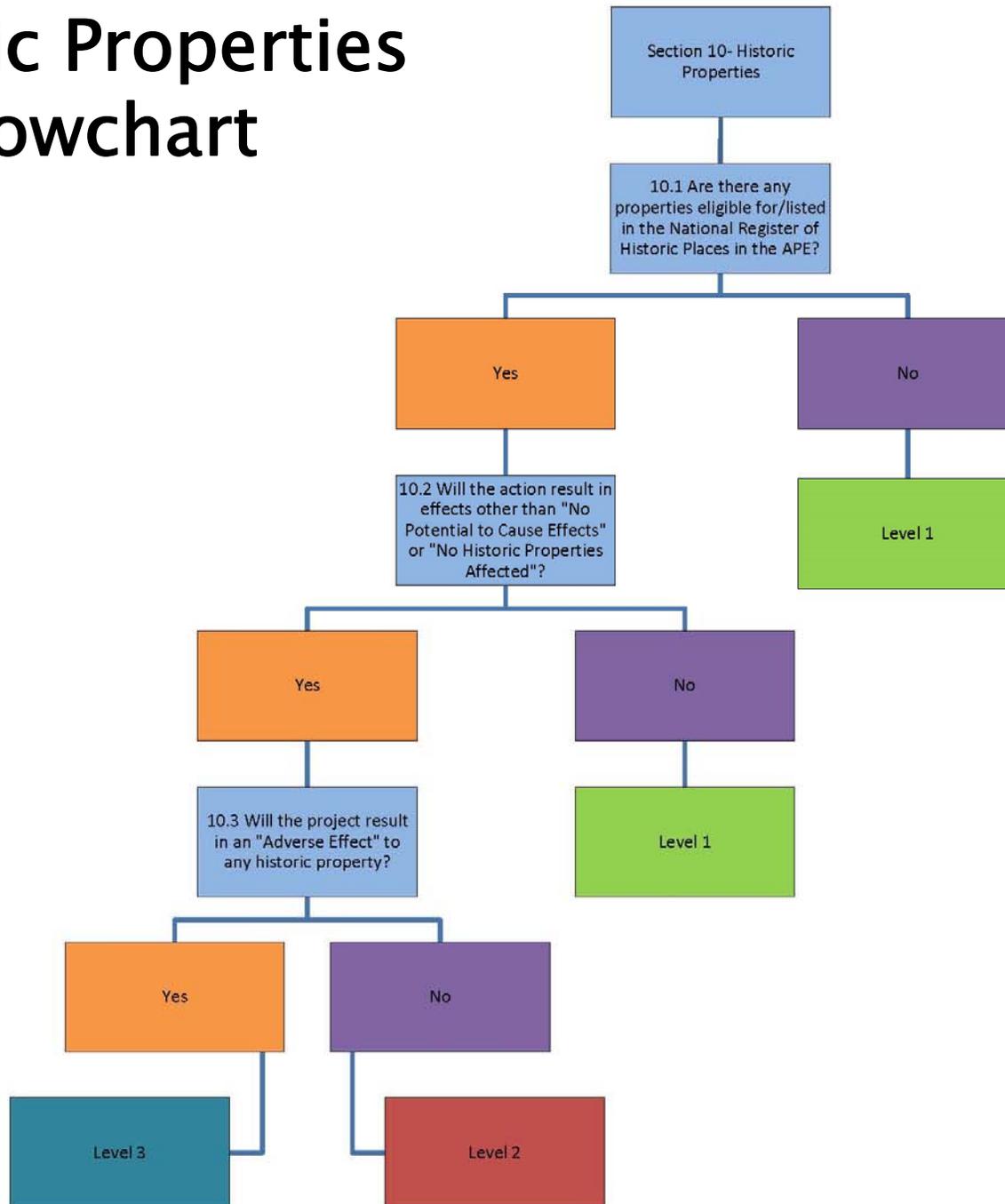
# Historic Properties

The Section 106 Programmatic Agreement (PA) procedures and associated tools will be used for Section 106 compliance for all projects.

- Level 1 must be either a “No Potential to Cause Effects” or “No Historic Properties Affected” determination
- Level 2 cannot result in an “Adverse Effect” to any historic property (No Adverse Effect)
- An “Adverse Effect” elevates the project to a Level 3 or higher



# Historic Properties Flowchart



# Tier I Section 106 PQS Memo



## NDOR PQS Project Review Memo Section 106 - Tier I Project No Potential to Cause Effects to Historic Properties

Control Number \_\_\_\_\_ Project Number \_\_\_\_\_ Review Date \_\_\_\_\_  
Project Name \_\_\_\_\_ Project Location \_\_\_\_\_

Date of Project Description Reviewed \_\_\_\_\_  Project Description Attached  Tier I Project

THPO/Tribal Consultation?  No  Yes

THPO/Tribes(s): \_\_\_\_\_

Date Correspondence Sent: \_\_\_\_\_

THPO/Tribal response date: \_\_\_\_\_

THPO/Tribal comment: \_\_\_\_\_

CLG Consultation?  No  Yes

CLG: \_\_\_\_\_

Date Correspondence Sent: \_\_\_\_\_

CLG response date: \_\_\_\_\_

CLG comment: \_\_\_\_\_

**Please Note: For the criteria below to be valid, any all ground disturbance would be limited to the depth of the existing fill material. Ground disturbance would not exceed the depth of the existing fill material.**

Check all that apply:

- 1. Guardrail and bridge rail repair and replacement. Conditions: In kind repair/replacement.
- 2. Traffic Signals, intersection lighting, pedestrian signals, underpass lighting, or railroad lighting within existing right-of-way. Conditions: In kind repair/replacement.
- 3. Maintenance and replacement of highway signs on existing poles, new sign installation within existing fill material.
- 4. Crack sealing, pothole repair, overlaying, milling, resurfacing, installation of rumble strips, and pavement marking. Conditions: This activity does not include actions on brick streets or brick highways. The maintenance or rehabilitation is limited to the existing surfaced areas with only minimal surface expansion, is the same as the existing vertical and horizontal alignments of the roadway, no ditching or drainage work is included. All staging areas can be limited to existing paved or previously disturbed surfaces only (eg. surfaces with little to no vegetation due to previous disturbance). Any and all ground disturbance is limited to existing fill material and will not exceed the depth of the existing fill material.
- 5. Repair/Maintenance of right-of-way fencing, limited to repair/replacing fence wire and fence posts only on existing fence post locations. Condition: If any grading is required for access or installation of fencing, this authority does not apply.
- 6. Improving existing bicycle and pedestrian lanes and paths on their existing alignments. Conditions: Any and all ground disturbance is limited to existing fill material locations only, not to exceed the depth of the fill material.
- 7. Acquisition of scenic easements.
- 8. Approvals for disposal of excess right-of-way or for joint or limited use of the right-of-way for right-of-way previously purchased with federal funds, provided no properties over 50 years old are located on within the property.
- 9. Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels, as long as those parcels do not contain properties over 50 years old.
- 10. Improvements to existing maintenance facilities, rest areas (excluding I-80 rest areas), and truck weigh stations less than 50 years old. Condition: Any and all ground disturbance is limited to existing fill material locations only, not to exceed the depth of the existing fill material.
- 11. Repair/Replacement of at-grade railroad crossing gates, lights, signs, and the rail crossing driving surface. Condition: work is limited to in kind replacement/repair with any and all ground disturbance limited to existing fill material locations only, not to exceed the depth of the existing fill material.
- 12. Grants for training, education and research programs which do not involve construction.
- 13. Purchase of equipment or materials which do not involve construction.
- 14. Visual Bridge Inspections.

EXAMPLE

NDOR PQS Review

# Tier II Section 106 PQS Memo



## NDOR PQS Project Review Memo Section 106 - Tier II Project

Control Number \_\_\_\_\_ Project Number \_\_\_\_\_ Review Date \_\_\_\_\_

Project Name \_\_\_\_\_ Project Location \_\_\_\_\_

Date of Project Description Reviewed \_\_\_\_\_

Project Results in no historic properties affected  No  Yes  Tier II Project

THPO/Tribal Consultation?  No  Yes

THPO/Tribes(s): \_\_\_\_\_

Date Correspondence Sent: \_\_\_\_\_

THPO/Tribal response date: \_\_\_\_\_

THPO/Tribal comment: \_\_\_\_\_

CLG Consultation?  No  Yes

CLG: \_\_\_\_\_

Date Correspondence Sent: \_\_\_\_\_

CLG response date: \_\_\_\_\_

CLG comment: \_\_\_\_\_

Other Consulting Parties Identified:

--

APE considered is consistent with 36 CFR 800.16(d):  Yes

### Archeological Resources

Are NRHP listed or eligible properties present within the APE?

No  Yes

Please list:

### Above Ground Resources

Are NRHP listed or eligible properties present within the APE?

No  Yes

Please list:

Is Temporary Easement Required from ANY Historic Property Listed Above?  No  Yes

Is Permanent Easement Required from ANY Historic Property Listed Above?  No  Yes

Is Right of Way Required from ANY Historic Property Listed Above?  No  Yes

If Yes, describe:

EXAMPLE

# Tier II Section 106 PQS Memo

---

Construction Commitments:  No  Yes

---

If Yes, detail here:

---

Project would result in no historic properties affected:  No  Yes

---

Tier II Project Evaluation Complete

---

---

NDOR PQS Review

---

Date

EXAMPLE

# Tier III Section 106 PQS Memo



## NDOR PQS Project Review Memo Section 106 - Tier III Project

Control Number \_\_\_\_\_ Project Number \_\_\_\_\_ Review Date \_\_\_\_\_  
Project Name \_\_\_\_\_ Project Location \_\_\_\_\_  
Date of Project Description Reviewed \_\_\_\_\_

Project Effect Recommendation \_\_\_\_\_  Tier III Project

THPO/Tribal Consultation?  No  Yes

THPO/Tribes(s): \_\_\_\_\_

Date Correspondence Sent: \_\_\_\_\_

THPO/Tribal response date: \_\_\_\_\_

THPO/Tribal comment: \_\_\_\_\_

CLG Consultation?  No  Yes

CLG: \_\_\_\_\_

Date Correspondence Sent: \_\_\_\_\_

CLG response date: \_\_\_\_\_

CLG comment: \_\_\_\_\_

Other Consulting Parties Identified:

APE considered is consistent with 36 CFR 800.16(d):  Yes

### Archeological Resources

Are NRHP listed or eligible properties present within the APE?

No  Yes

Please list:

### Above Ground Resources

Are NRHP listed or eligible properties present within the APE?

No  Yes

Please list:

Is Temporary Easement Required from ANY Historic Property Listed Above?  No  Yes

Is Permanent Easement Required from ANY Historic Property Listed Above?  No  Yes

Is Right of Way Required from ANY Historic Property Listed Above?  No  Yes

If Yes, describe:

**EXAMPLE**

# Tier III Section 106 PQS Memo

Construction Commitments:  No  Yes

If Yes, detail here:

Project would result in: \_\_\_\_\_

Provide narrative supporting "no adverse effect" finding or detail efforts to avoid an "adverse effect" finding:

If an "adverse effect" detail mitigation:

## Section 4(f)

Does a Significant archeological site located within the APE of this project warrant preservation in place?  No  Yes

If yes, archeological site number: \_\_\_\_\_

NDOR PQS Review

Date

EXAMPLE

# Previous SHPO concurrence



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**NEBRASKA DIVISION**

December 26, 2012

100 Centennial Mall North  
Room 220  
Lincoln, NE 68508  
(402)742-8460

In Reply Refer To:  
HDA-NE

L. Robert Puschendorf  
Deputy State Historic Preservation Officer  
Nebraska State Historical Society  
P.O. Box 82554  
Lincoln, NE 68508

1212-157-01  
CD  
X  
SFN  
X  
20130103

Dear Mr. Puschendorf:

**Project STP-84-6(106), CN 31891  
Hartington West  
Cedar County  
Cultural Resources Evaluation**

Please review this document on historic resources for the subject project as required under Section 106 of the National Historic Preservation Act of 1966 as amended and implementing regulations at 36 CFR Part 800.

An evaluation of the potential for cultural resources, both archeology and standing structures, is included below and in enclosures.

**Project Description:**

This 3R (Resurfacing, Restoration and Rehabilitation) project would resurface 7.89 miles of N-84 located in Cedar County, starting just west of the Norwegian Bow Creek Bridge at mile marker (MM) 34.14, and extending east to MM 42.03, the junction of N-84 and N-57 (Enclosure 1). Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

***MM 34.14 to MM 41.90***

The existing roadway on this segment of N-84 consists of two 12 foot wide asphalt lanes and 5 foot wide earth shoulders.

***MM 41.90 to MM 42.03***

The existing roadway on this segment of N-84 consists of two 12 foot wide asphalt lanes and 10 foot wide shoulders, of which 8 feet is paved with asphalt.

EXAMPLE

# Hazardous Materials (HazMat)

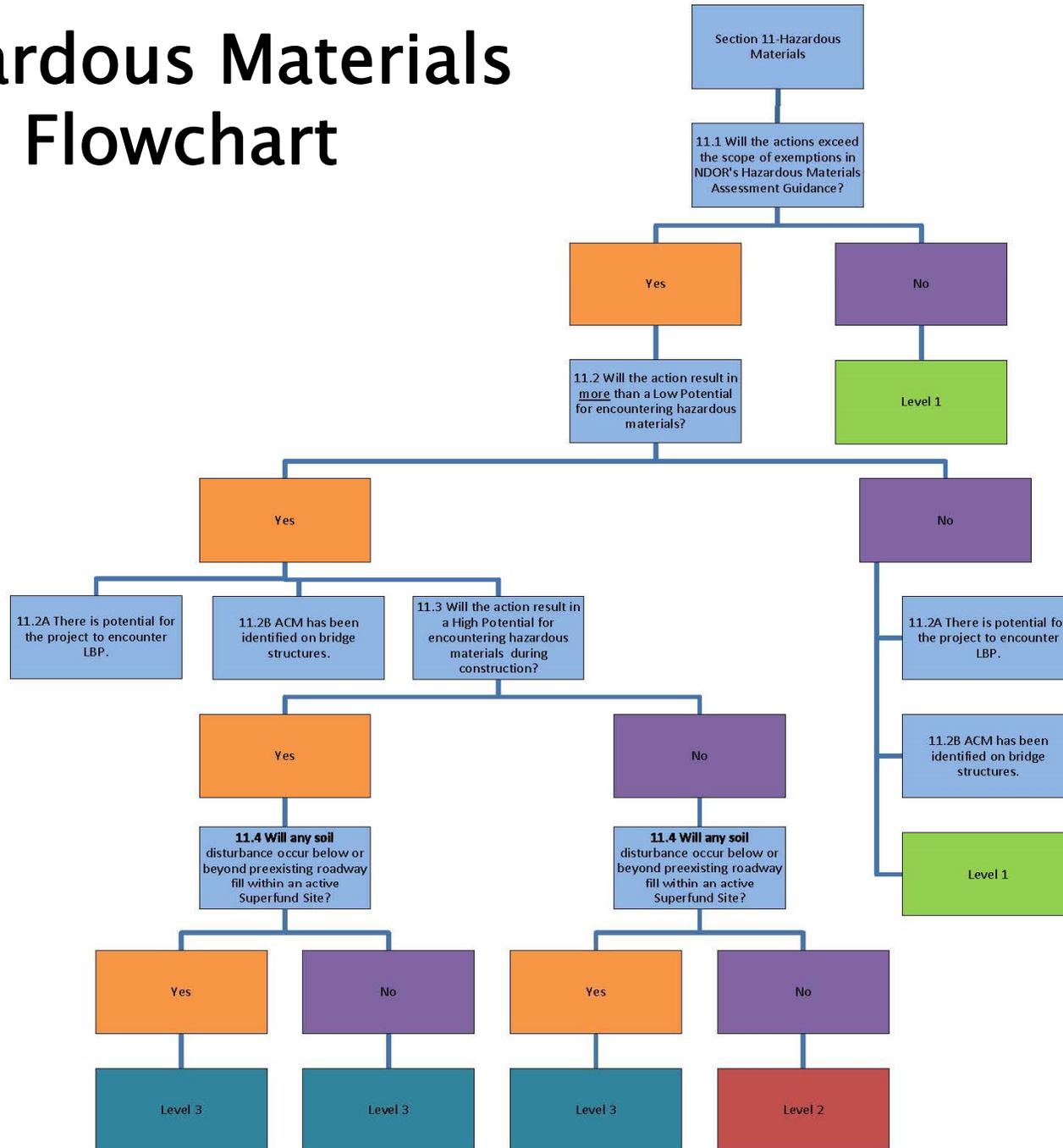
Level 1 Actions – low potential

Level 2 Actions – more than a low potential

Level 3 Actions – high potential



# Hazardous Materials Flowchart



# Hazardous Materials PQS Memo



## Hazardous Materials Memorandum

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**Date:** August 10, 2015

**To:** Ryan Walkowiak, Highway Environmental/NEPA Specialist, Planning and Project Development

**From:** Will Packard, Highway Environmental Specialist, Planning and Project Development

**Subject:** Hazardous Materials Review Memo for the NDOR Project Stamford East & West (C.N. 70838).

### Overview

A hazardous materials review (HMR) was completed by HDR for the Stamford East & West project and approved by NDOR on August 10, 2015. The purpose of the HMR is to identify environmental concerns associated with hazardous materials and petroleum products which could potentially be encountered during the construction project. This memo summarizes the conclusions and applicable mitigation measures found in the HMR and assists the Environmental Documents manager in completing the Hazardous Materials section of the CE Determination Form for Federal-Aid Projects.

### Hazardous Material Sites and Impacts

The HMR identified one facility within the hazardous materials study area where a release had occurred. The petroleum release was related to an underground storage tank. Based on shallow excavations for NDOR construction and distance from the facility to the project, there is a low potential of encountering contamination during construction. In addition, no Superfund sites were identified near the project.

### Asbestos

Structure Numbers S089-05267, S089-05367, S089-05581 and S089-05737 have been tested for the presence of asbestos. The results were found to be negative; therefore, it is unlikely that these structures contain asbestos. This negative result relieves the contractor from National Emission Standards for Hazardous Air Pollutants (NESHAP) reporting requirements, and NDOR will complete the NESHAP reporting for this contract. No asbestos commitments are required.

EXAMPLE

# Traffic Noise

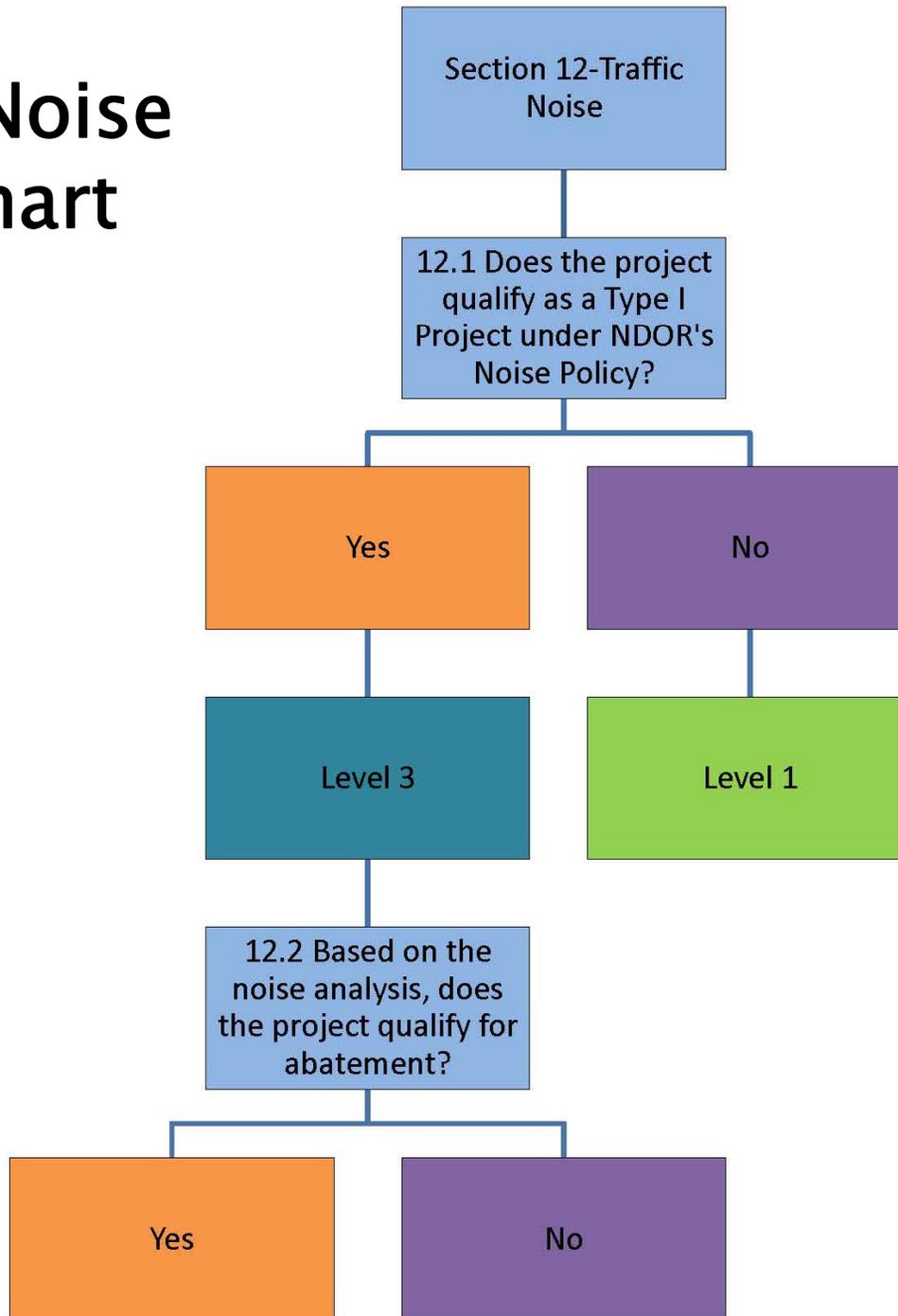
Not a Type 1 – Can be either Level 1 or 2

Type 1 – Level 3

**\*\*The NDOR Noise Specialist will indicate in the DR-53 if a noise analysis is required\*\***



# Traffic Noise Flowchart



# Noise Study Determination



## Noise Study Determination Memo

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**Date:** July 7, 2015

**To:** Ryan Walkowiak, Highway Environmental/NEPA Specialist, Planning and Project Development

**From:** Will Packard, Highway Environmental Specialist, Planning and Project Development

**Subject:** Noise study determination memo for the NDOR project Ansley to Mason City (C.N. 61560) in Custer County, NE

The NDOR Noise Section staff has reviewed project description for the Ansley to Mason City project to determine if a noise study is warranted. Based on the materials reviewed, this project does not fit the definition of a Type I project and is therefore exempt from a noise study.

Sincerely,

A handwritten signature in black ink that reads "Will Packard".

7/7/15

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

Will Packard, Highway Environmental Specialist  
Planning and Project Development  
NDOR

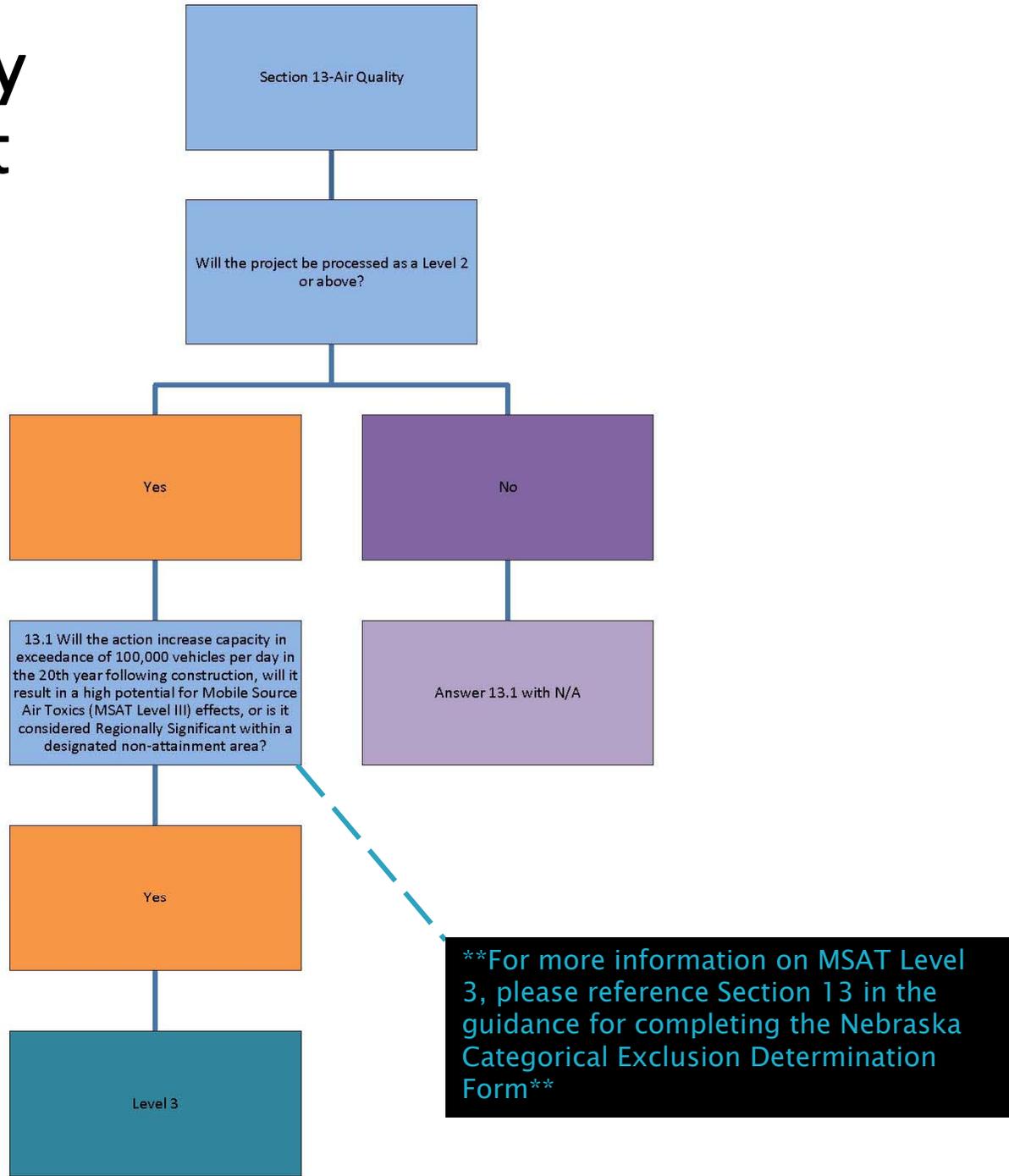
EXAMPLE

# Air Quality

- For Level 1 and Level 2 Actions, the project cannot:
  - Increase capacity in exceedance of 100,000 vehicles per day (vpd) in the 20<sup>th</sup> year following the project construction
  - Result in high potential for Mobile Source Air Toxics (MSAT) effects (MSAT Level 3), or
  - Be considered Regionally Significant within a designated non-attainment area
- If the project will exceed the above-mentioned thresholds, the project must be processed as a Level 3 CE or higher



# Air Quality Flowchart



# Roadway

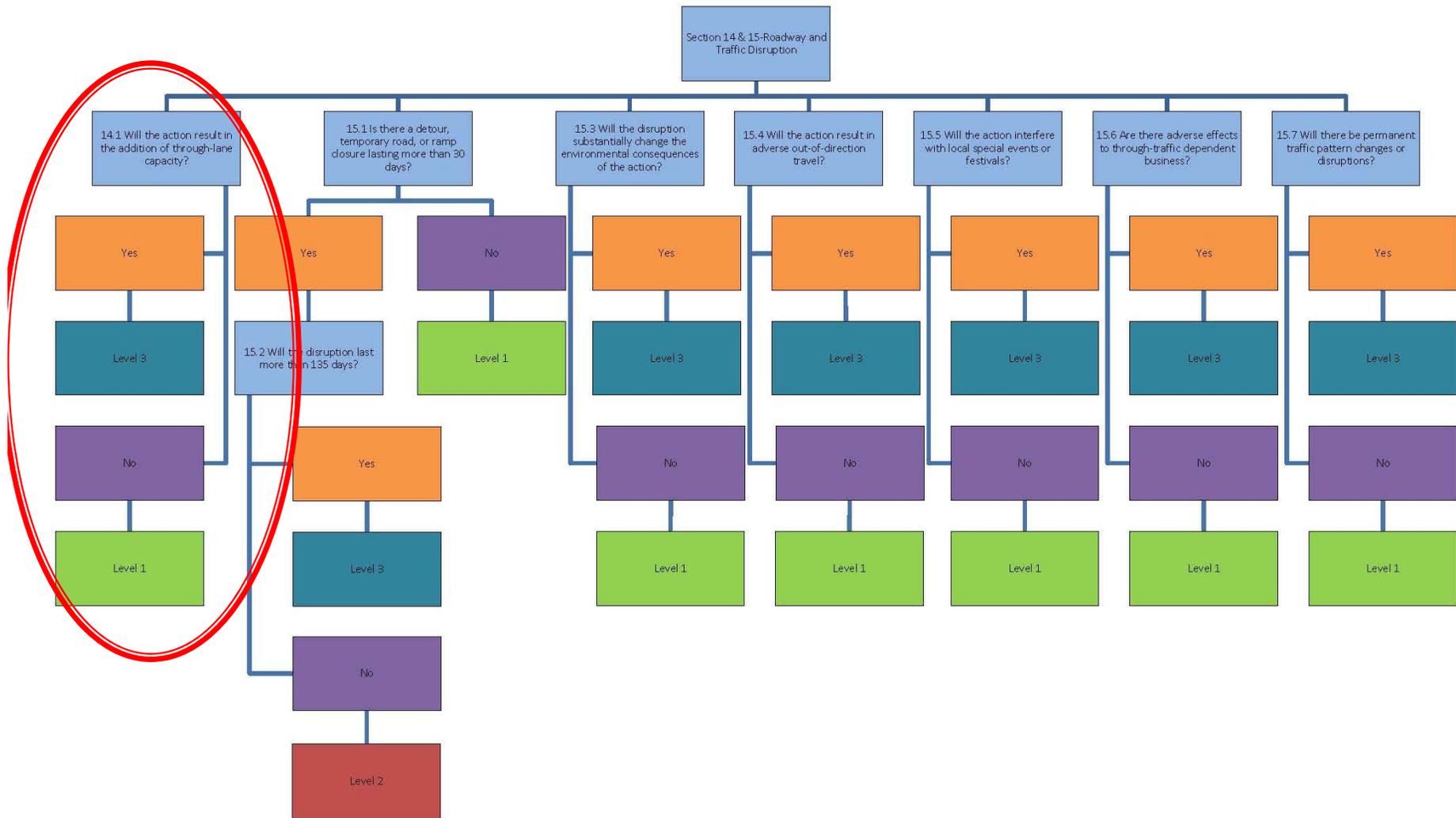
Level 1 & 2 actions cannot add through-lane capacity which is defined by:

*“Right turn lanes and auxiliary lanes less than a mile in length, or center turn lanes (regardless of length) are not considered capacity-adding activities.”*

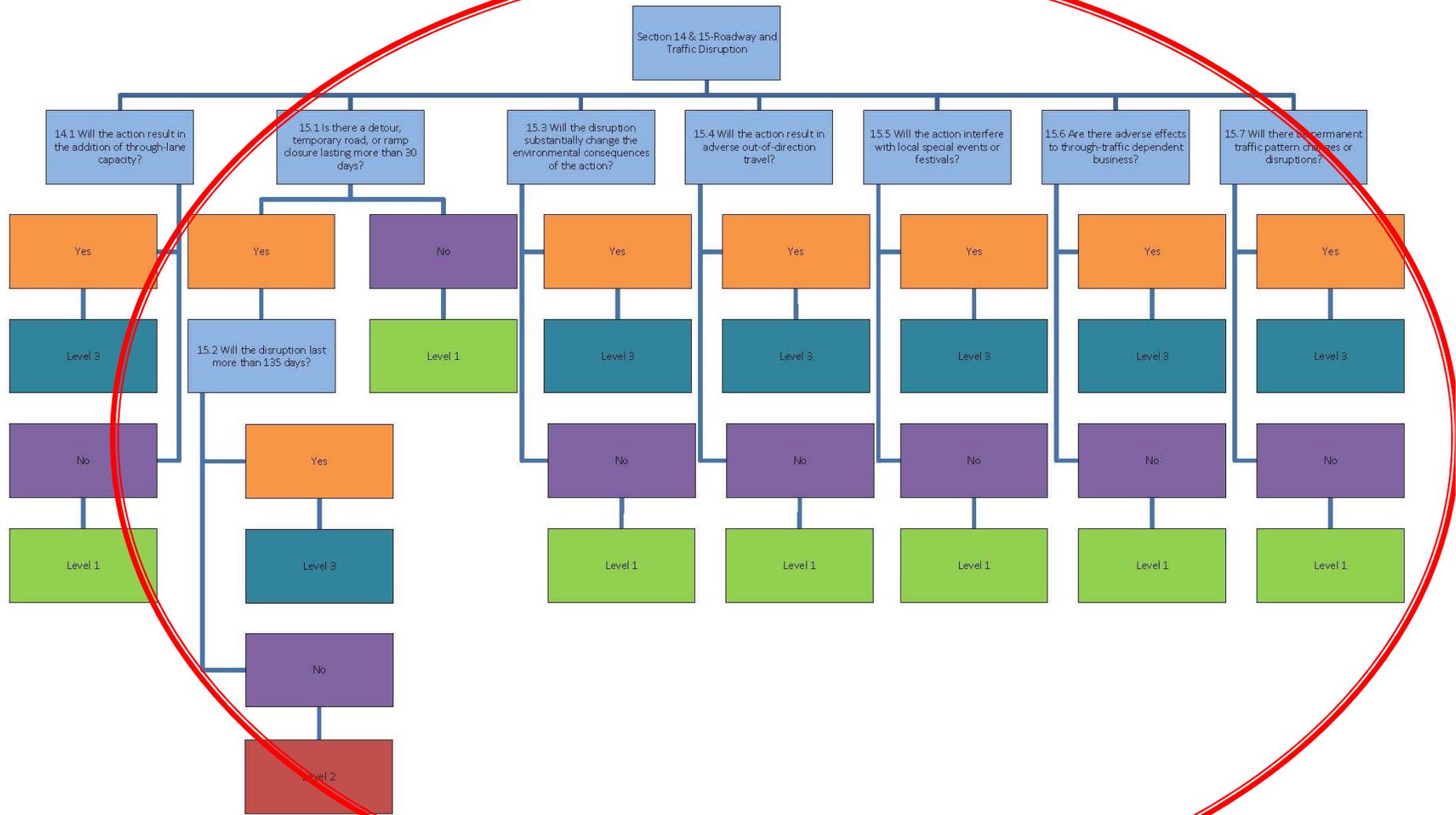
– Exceeding this would elevate CE to Level 3 or higher



# Roadway & Traffic Disruption Flowchart

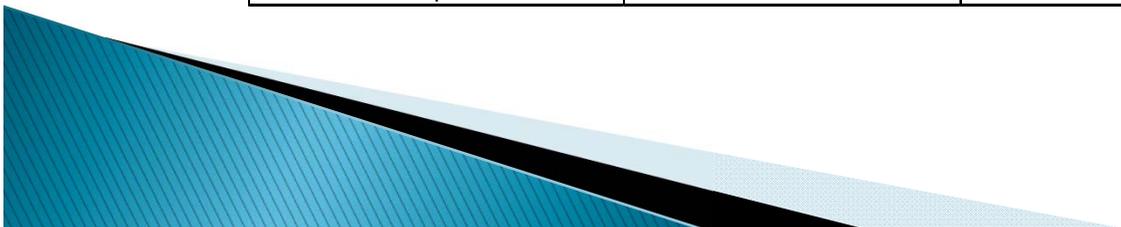


# Roadway & Traffic Disruption Flowchart

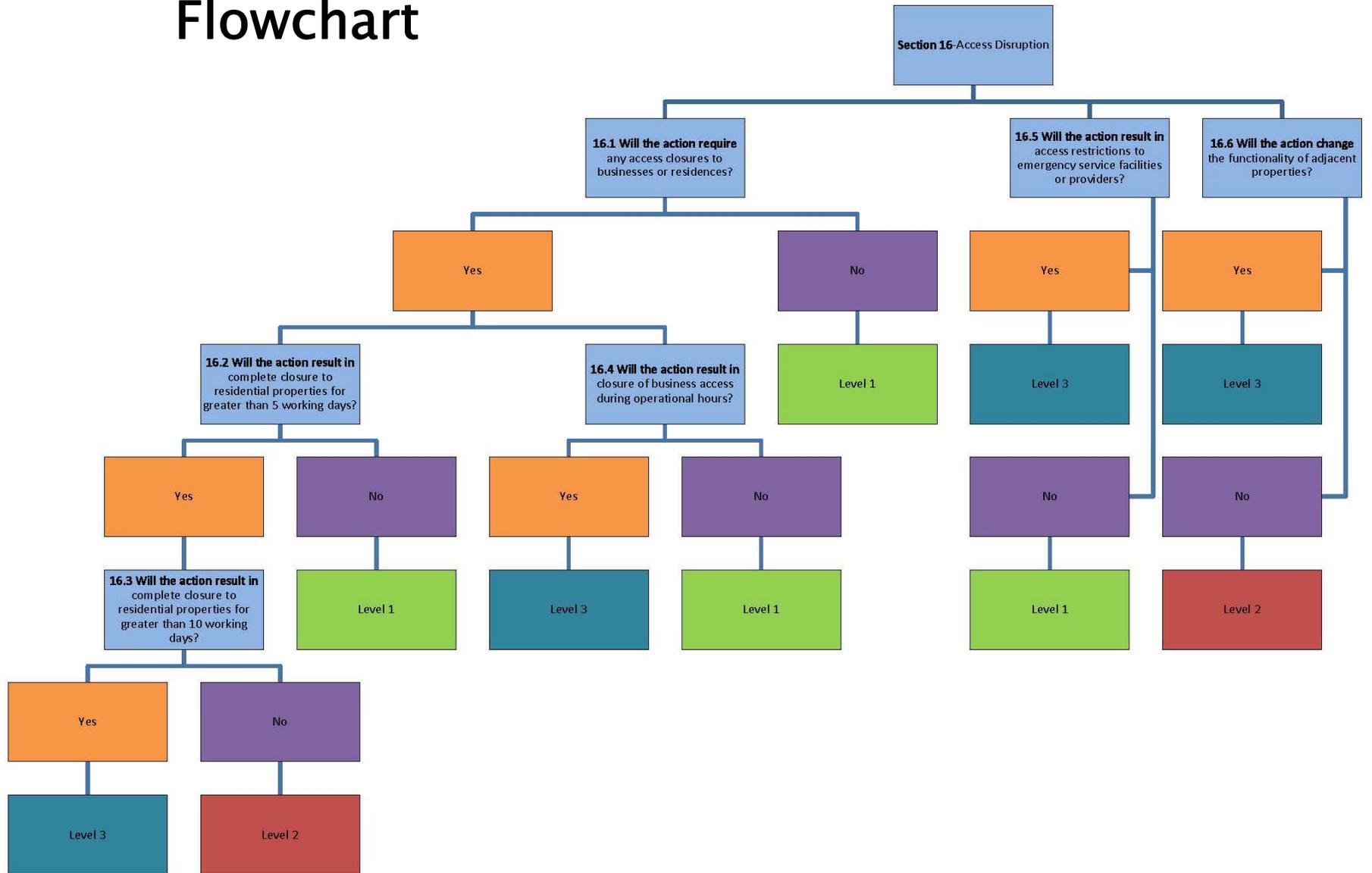


# Traffic Disruption

Category	Level 1 Criteria	Level 1 Threshold Limit	Level 2 Criteria	Level 2 Threshold Limit	Level 3 or Above (EA/EIS) Criteria
Traffic Disruption	Minor traffic disruptions including temporary road, detour or ramp closures less than 30 working days	Minor traffic disruptions greater than 30 working days	Minor traffic disruptions greater than 30 working days AND less than 135 working days	Major traffic disruptions including temporary road, detour or ramp closures greater than 135 working days	Major traffic disruptions greater than 135 working days
	Out-of-direction travel is less than 5 miles in urban areas or 25 miles in rural areas, no effect on businesses, no interference with local event or festival, no environmental consequence of disruption	—	—	Out-of-direction travel is greater than 5 miles in urban areas or 25 miles in rural areas, impacts to businesses, interference with local events or festivals, additional environmental consequences of disruption	Out-of-direction travel is greater than 5 miles in urban areas or 25 miles in rural areas, impacts to businesses, interference with local events or festivals, additional environmental consequences of disruption



# Access Disruption Flowchart



# Access Disruption

Category	Level 1 Criteria	Level 1 Threshold Limit	Level 2 Criteria	Level 2 Threshold Limit	Level 3 or Above (EA/EIS) Criteria
<b>Access Disruptions</b>	Closure to residential properties less than 5 days	Closure exceeds 5 days	Closure to residential properties greater than 5 days AND less than 10 days	Closure exceeds 10 days	Closure to residential properties greater than 10 days
	No closure of business access during operational hours or no access restrictions to emergency service facilities or providers			Closure of business access during operational hours or access restrictions to emergency service facilities or providers, changes to functional utility	Closure of business access during operational hours or access restrictions to emergency service facilities or providers, changes in access control that result in change to the functional utility of adjacent properties.



# Environmental Justice

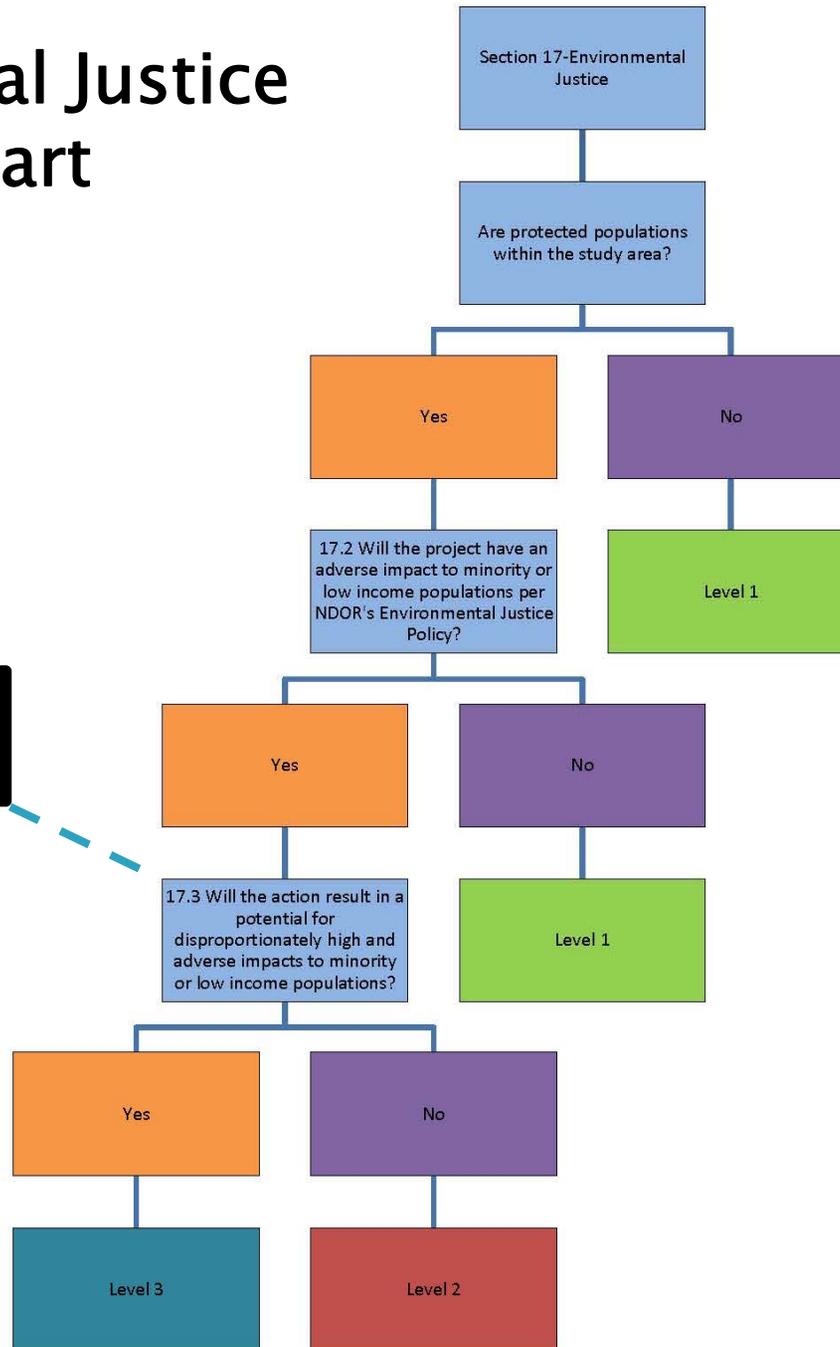
Level 1 – no adverse effect

Level 2 – no potential for disproportionately high and adverse effect

Level 3 or higher – project results in the potential for disproportionately high and adverse effect



# Environmental Justice Flowchart



Mitigating for impacts cannot lower document level from a 3.

# Environmental Justice – Civil Rights Memo

To: NEPA Specialist, NDOR  
From: Highway Civil Rights Specialist, NDOR  
Date: 3 September 2015  
RE: Civil Rights Analysis, CN 78910, STP-1-23(456), NEPAville North and South

## Civil Rights Analysis for CN 78910

### Environmental Justice Regulatory Background and Methodology:

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, was signed on February 11, 1994, and requires that, to the extent practicable and permitted by law, low-income or minority populations may not receive disproportionately high and adverse human health or environmental effects as a result of a proposed project. Federal agencies must take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of federal projects on the health or environment of low-income and minority populations. Also, representatives of any low-income or minority populations in the community that may be affected by a project must be given the opportunity to be included in the impact assessment and public involvement process.

On June 14, 2012, FHWA issued Order 6640.23A, *Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, which established policies and procedures for the FHWA and state transportation agencies to use in complying with Executive Order 12898. The Order provided definitions for multiple terms and concepts applicable to this analysis.

*Adverse Effects* are defined as “the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of human-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community’s economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.”

A *Disproportionately High and Adverse Effect to Low-Income and Minority Populations* is defined as an adverse effect that:

1. is predominately borne by a minority population and/or a low-income population;  
OR
2. will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.

# Public Involvement

NDOR has developed Public Involvement Procedures, which have been approved by FHWA.

Level 1 and 2 CE – no unresolved controversy

Level 3 CE – involves unresolved controversy



# Public Involvement Review Memo

To: NDOR Environmental  
From: Sarah Kugler, Public Involvement Manager, NDOR  
Date: 20 August 2015  
RE: Public Involvement Summary Report, STP-15-3(115), N-91 North, CN 32132

## Public Involvement Outreach Requirements for Public Information Packet: C.N. 32132, STP-15-3(115), N-91 North

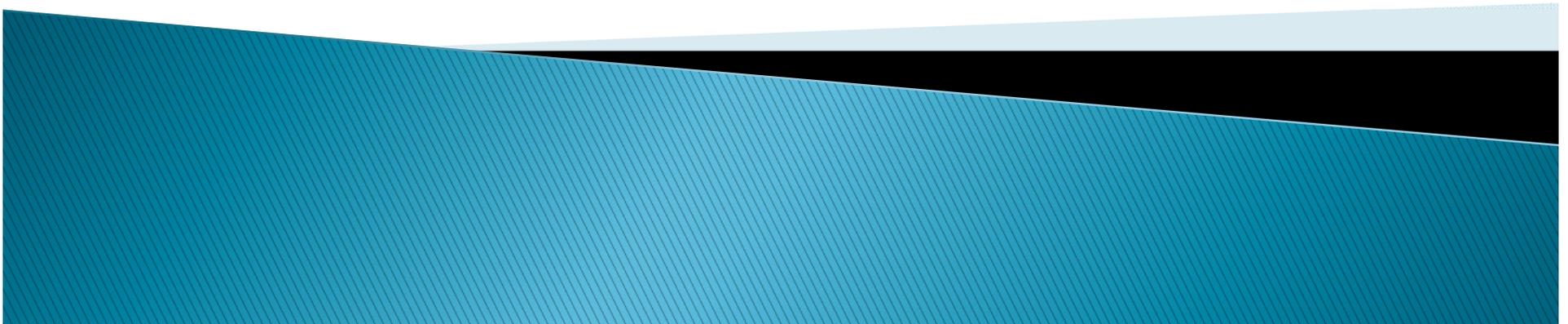
Based on an analysis of the project scope, the civil rights analysis, and discussion with the Nebraska Department of Roads (NDOR) District 3 Engineer, Kevin Domogalla, NDOR utilized a Project Information Packet, with a 30-day comment period, to inform the public of the proposed project and solicit input regarding the project. A total of 121 mailing packets were sent to a database of citizens directly adjacent to Nebraska Highway 15 from Mile Marker (MM) 134+64 to MM 126+56. Mailing packets were also sent out to a list of 46 businesses, stakeholders, and other interested parties. Since a portion of this traffic included heavy truck traffic, the Nebraska Trucking Association (NTA) was included in our database. The packet included a cover letter detailing the project, a map of the proposed project and/or detour, a fact sheet, and a pre-paid postage comment form. A legal notice was published in the *Colfax County Press* and the *Stanton Register*, both Nebraska Press Association certified newspapers, on June 10, 2015 and June 24, 2015. Information regarding the project was also placed on the NDOR website located on the "Highway Projects" page. Additional information may be made available upon request.

NDOR Public Involvement received 7 comments during the specified comment period (June 10, 2015 – July 10, 2015), outlined below.

COMMENT	RESPONSE
Summarize each comment	Summarize each response

# Water and Ecological Resources

Wild and Scenic/Nationwide Rivers Inventory  
Floodplain/Floodway  
Wetlands/Waters of the U.S.  
Impaired Waters/MS4/NPDES  
Threatened and Endangered Species



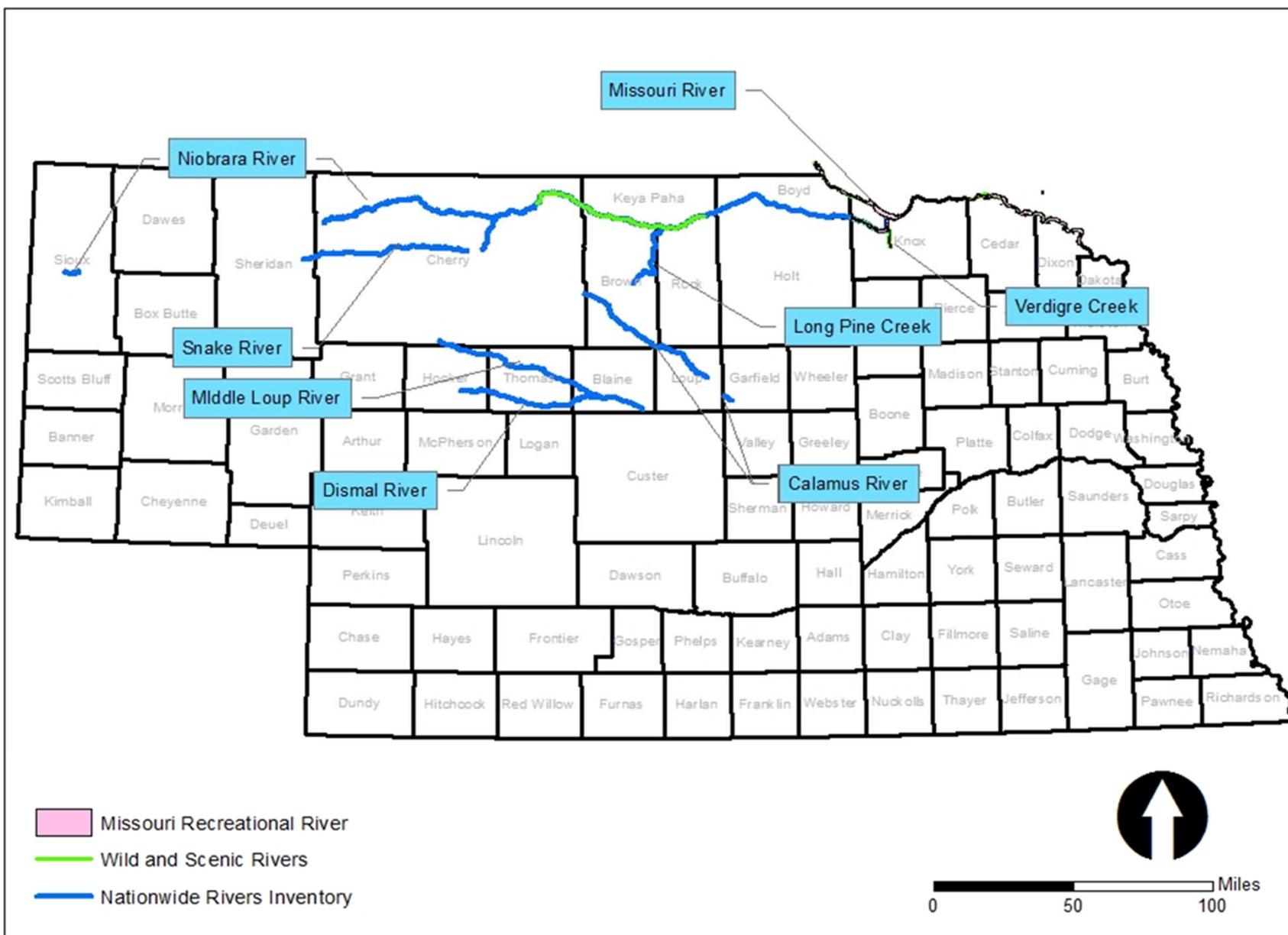
# Water and Ecological Resources

»» Wild and Scenic Rivers

# The Resources

- ▶ Wild and Scenic Rivers
  - Segments of Niobrara and Missouri Rivers
  - Found at [Rivers.gov](http://Rivers.gov)
- ▶ National Recreational Rivers
  - A Subset of Wild and Scenic Rivers
- ▶ Nationwide Rivers Inventory
  - 10 segments throughout Nebraska
  - Found at [National Park Service](http://National Park Service)





- ▶ Projects within 0.25 miles of federally-listed rivers, or within a corridor of 1.5 miles up or downstream of their tributaries
  - *This has not changed from the old CE form*
- ▶ Coordination with the Agency with Jurisdiction must be completed for projects crossing, or impacting federally-listed rivers

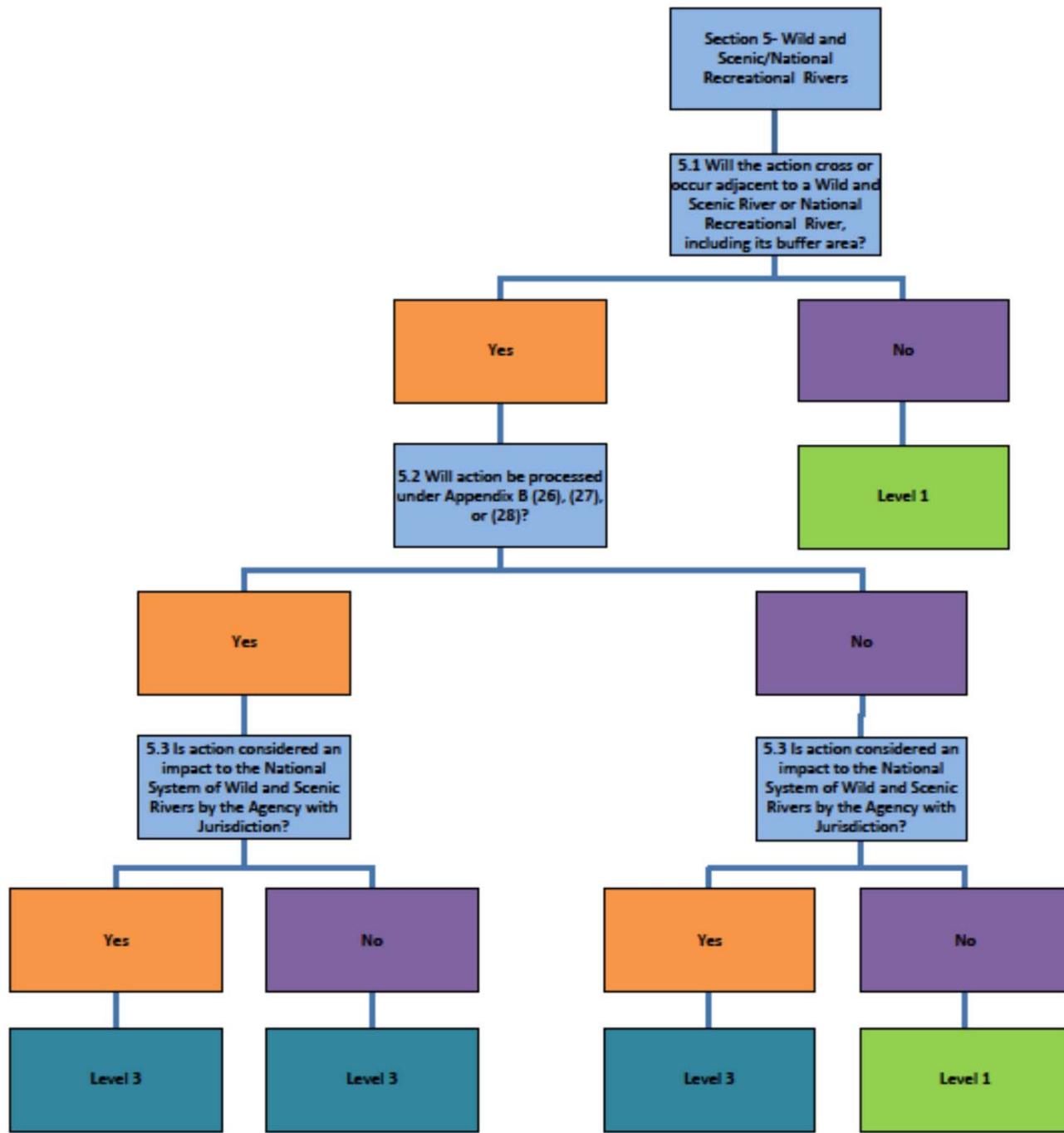


**NOTE:** If Yes, the proposed action can be processed as a Level 1 [all Appendix A categories] or a Level 2 Action [Appendix B categories other than (26), (27), and (28)], if the Agency with Jurisdiction has determined the action will not result in an impact.



- ▶ **B(26):** Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes, if the project meets the constraints listed in 23 CFR 771.117(e).
- ▶ **B(27):** Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints listed in 23 CFR 771.117(e).
- ▶ **B(28):** Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade crossings if the project meets the constraints listed in 23 CFR 771.117(e).





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

- ▶ Fully describe what is going on:
  - Water resource and its location along the project
  - What work will be causing the impact?
  - What is the extent of the impact?
  - Who was the Agency with Jurisdiction?
  - When was the coordination completed?
  - What was the outcome of the coordination?



## 5.5 Wild and Scenic River Mitigation:

- ▶ Include Wild & Scenic River commitments in this section
- ▶ Commitments will auto-populate in 23.1







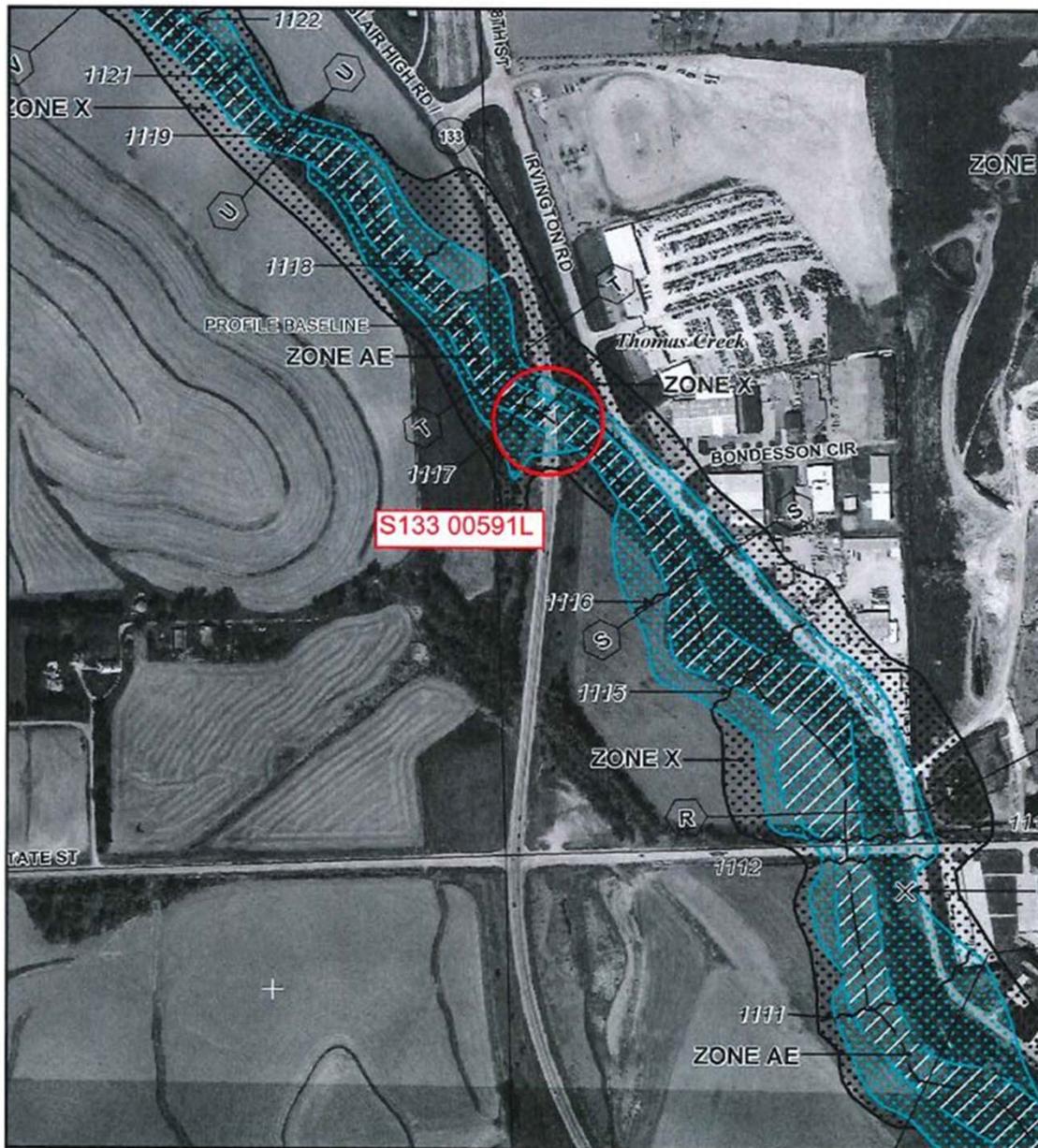
# Water and Ecological Resources

»» Floodplain / Floodway

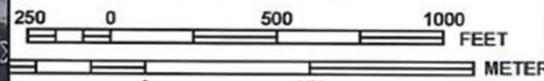
# The Resources

- ▶ Floodplain
  - Low-lying ground that is subject to flooding
- ▶ Floodway
  - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood, without cumulatively increasing the water surface elevation more than a designated height.





MAP SCALE 1" = 500'



NFP

PANEL 0204H

**FIRM**

FLOOD INSURANCE RATE MAP

DOUGLAS COUNTY,  
NEBRASKA  
AND INCORPORATED AREAS

PANEL 204 OF 360

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
OMAHA, CITY OF	315274	0204	H

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.



MAP NUMBER  
31055C0204H

EFFECTIVE DATE  
DECEMBER 2, 2005

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at [www.msc.fema.gov](http://www.msc.fema.gov)

# The Resources

- ▶ Information will be provided by:
  - Coordination with NDOR Roadway Hydraulics and Permits acquired by the Environmental Permits Unit (State projects)
  - The Local Public Agency's Design Consultant will provide design and acquire permits for floodplains (Local Projects)
  - A Floodplain Encroachment Memo is necessary when in a floodplain/floodway



# Floodplain / Floodway

## Encroachment

- ▶ Activity or construction within the floodplain/floodway

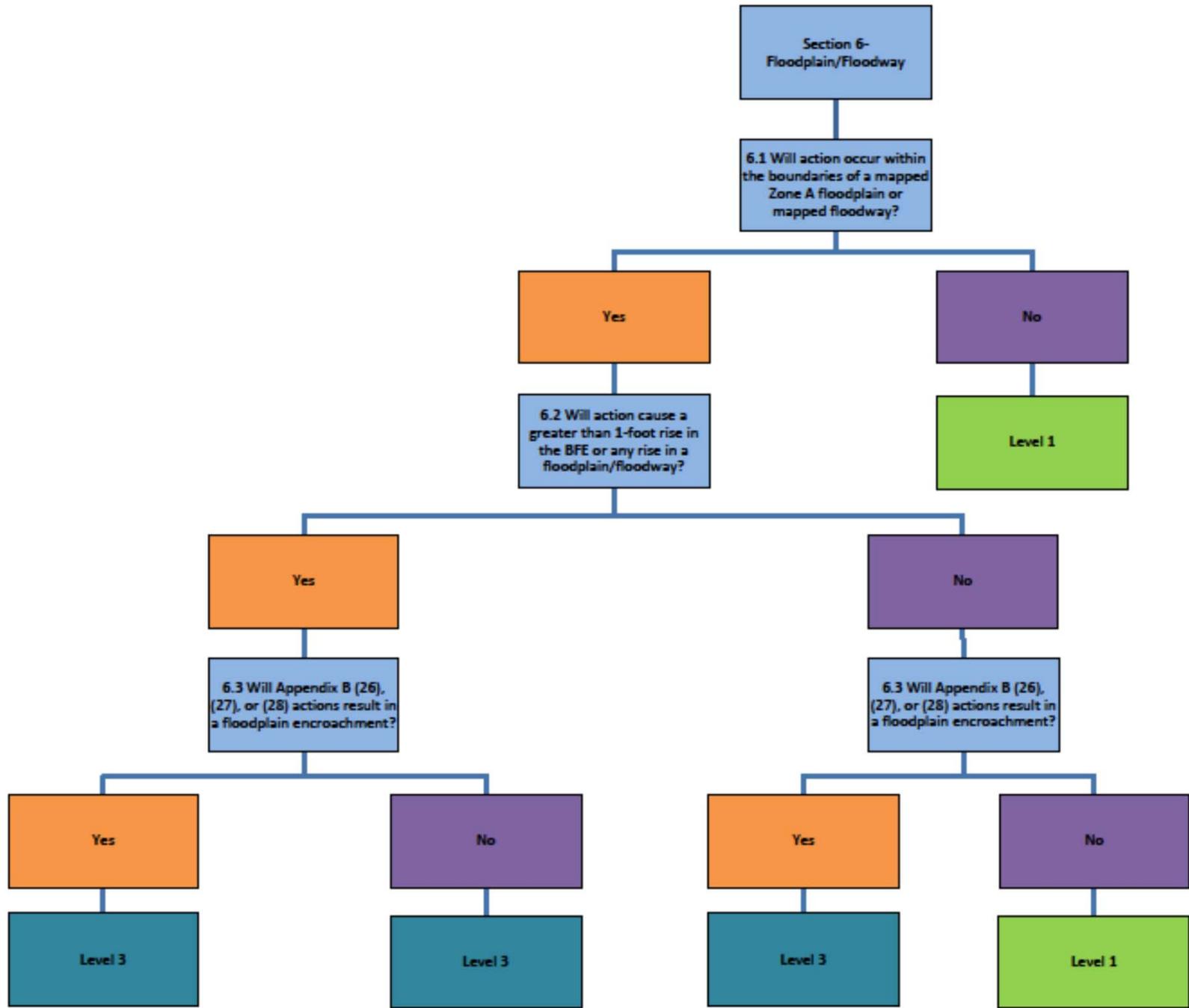
## Functionally Dependent

- ▶ Bridge or culvert that is in place because of the floodplain/floodway
  - Typically not parallel encroachments

## Open Space

- ▶ Land that does not directly touch a natural body of water
  - E.g. Flood control detention ponds





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

- ▶ Fully describe what is going on:
  - What is the resource?
  - Where is the resource?
  - Who has jurisdiction?
  - What, if any, are the impacts?
  - What coordination has taken place?
  - Status of floodplain permit/application



## 6.5 Floodplain/Floodway Mitigation

- ▶ If a permit is required but not yet available
- ▶ Any other commitment(s) that result from coordination
- ▶ Commitments will auto-populate in 23.1

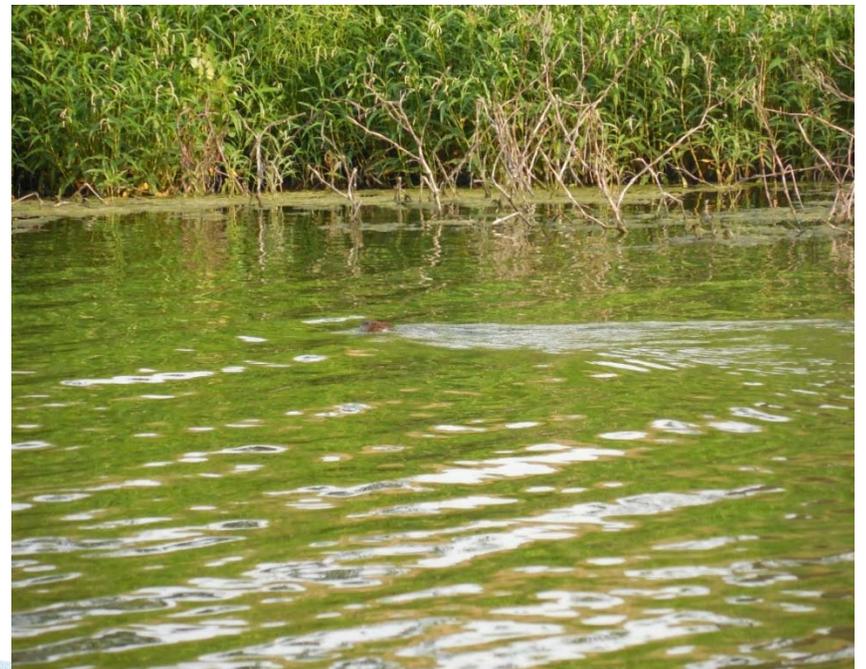


# Water and Ecological Resources

- » Wetlands and Waters of the U.S.

# The Resource

- ▶ Section 404 of the Clean Water Act and Nebraska State Title 117:
  - Wetlands, streams, lakes, etc.
- ▶ Information will be obtained from the Wetlands PQS Memo for State projects
  - Impacts, permits, mitigation, etc.





# Memorandum

- Standardized memos will be provided for all future state projects.
- Memos will include all information needed to fill out Section 7 and question 20.2.

DATE [Click here to enter a date.](#)  
TO [Click here to enter text., NDOR EDU](#)  
FROM [Click here to enter text., NDOR EPU](#)  
SUBJECT Wetland Memo  
Project No: [Click here to enter text.](#)  
Control No: [Click here to enter text.](#)  
Project Name: [Click here to enter text.](#)

A wetland delineation was completed on [Click here to enter a date.](#)  
Or  
 A desktop review was completed on [Click here to enter a date.](#)

Are there wetlands, stream channels, or other waters within the study area?  
 Yes  No

Will the action result in wetland impacts in accordance with Section 404 of the Clean Water Act and/or Nebraska State Title 117?  
 Yes  No  Not Applicable

If the project is processed with a Nationwide Permit, is a Pre-construction Notification required?  
 Yes  No  Not Applicable

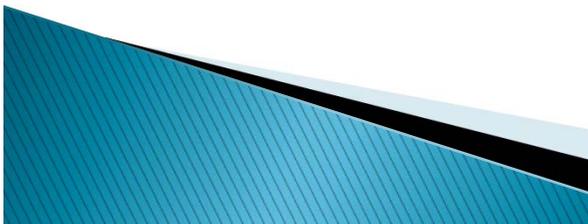
Describe resources, potential impacts and anticipated permit type: [Click here to enter text.](#)

Describe any coordination conducted to date with officials/agencies: [Click here to enter text.](#)

Wetlands/Waters of the U.S. Mitigation  
 On-Site/Permittee Responsible  USACE Approved Mitigation Bank Site  Not Applicable

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.



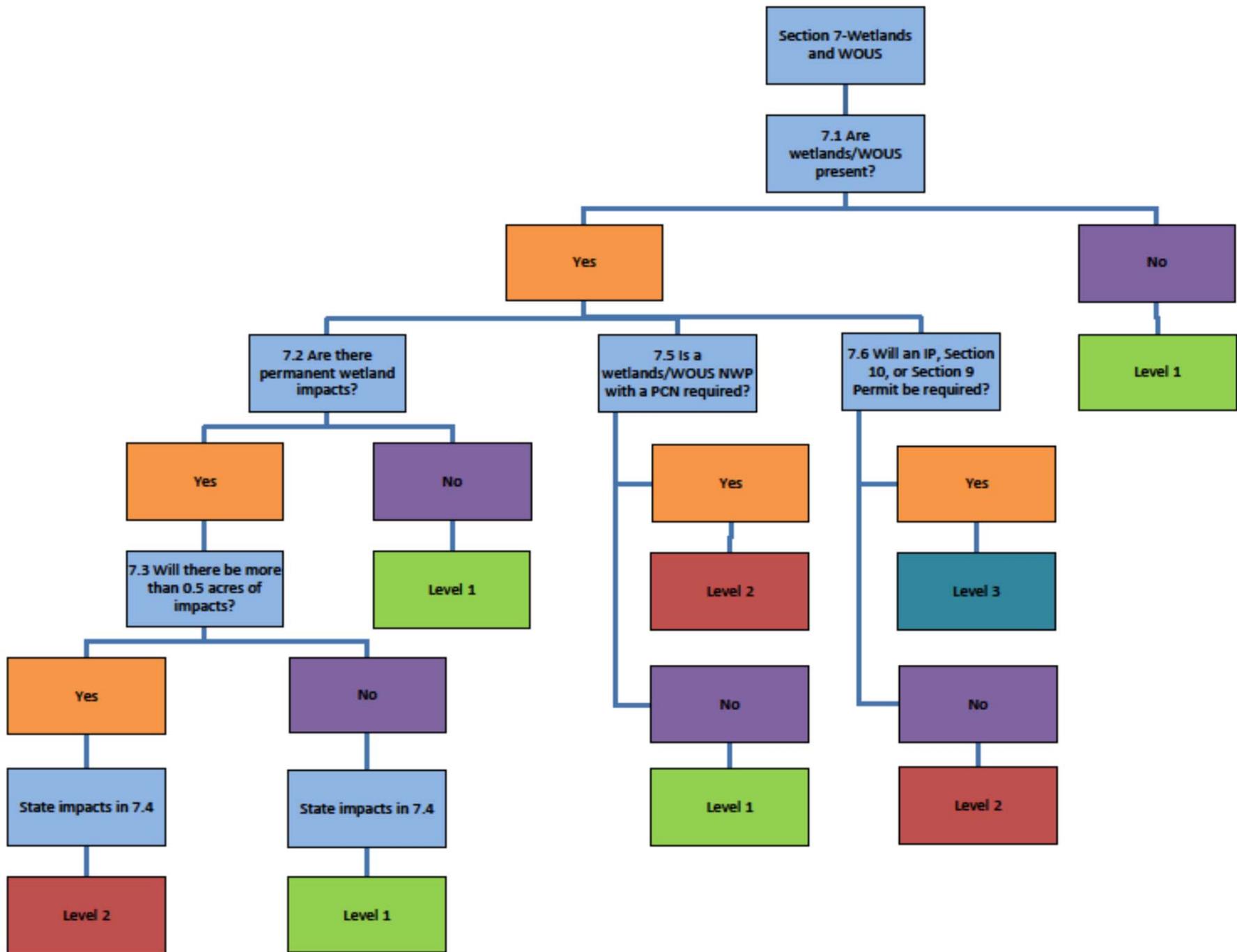
## ▶ Wetland and Channel Impacts

- Temporary Wetland/Channel
- Permanent Wetland/Channel
- Acres and/or linear feet of stream impacts

## ▶ Nationwide Permit (NWP) status and status of Preconstruction Notification (PCN) will be provided by the Wetlands PQS

- If the project doesn't have wetland impacts it may still have channel impacts that would require a NWP





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

- ▶ Describe the channel and wetland type
- ▶ Impacts: wetland acres, channel acres and linear feet
- ▶ Coordination that took place with Army Corps of Engineers and/or U. S. Coast Guard



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

- ▶ Include language from the PQS Memo commitments that result from coordination
- ▶ Commitments will auto-populate in 23.1





# Water and Ecological Resources

- » Impaired Waters, Section 402, and MS4

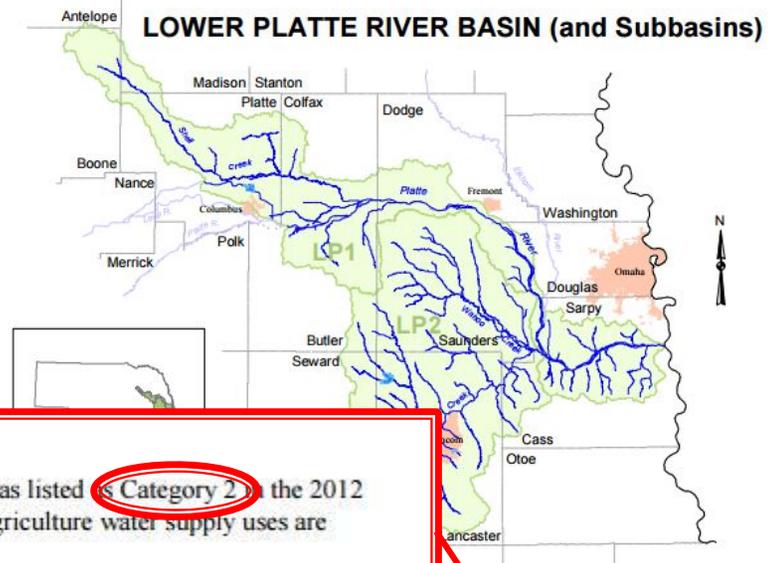
# The Resources

- ▶ Impaired Waters – Nebraska Department of Environmental Quality (NDEQ) 303(d) program
- ▶ Municipal Separate Storm Sewer System (MS4) Permit
- ▶ National Pollutant Discharge Elimination System (NPDES) Storm Water Permit
- ▶ Section 8 consists of non-threshold questions only



▶ Category 5 waters only

- NDEQ Water Quality Integrated Report



*LP1-L0200: Fremont Lake No. 15 (Victory) (SRA)* – This waterbody was listed as **Category 2** in the 2012 IR. Data collected in 2012 determined this waterbody’s recreation and agriculture water supply uses are being met. This waterbody will remain in Category 2.

201, 10200202 and 10200203

The Lower Platte River Basin includes 126 designated stream segments and 75 designated lakes/reservoirs.

Waterbody Type	Primary Contact Recreation	Aquatic Life CA <sup>1</sup>	Aquatic Life CB <sup>1</sup>	Aquatic Life WA <sup>1</sup>	Aquatic Life WB <sup>1</sup>	Water Supply – Public Drinking	Water Supply – Ag	Water Supply – Ind.	Aesthetics
Lakes	75	0	1	74	0	0	75	2	75
Streams	16	0	1	13	112	2	120	1	126

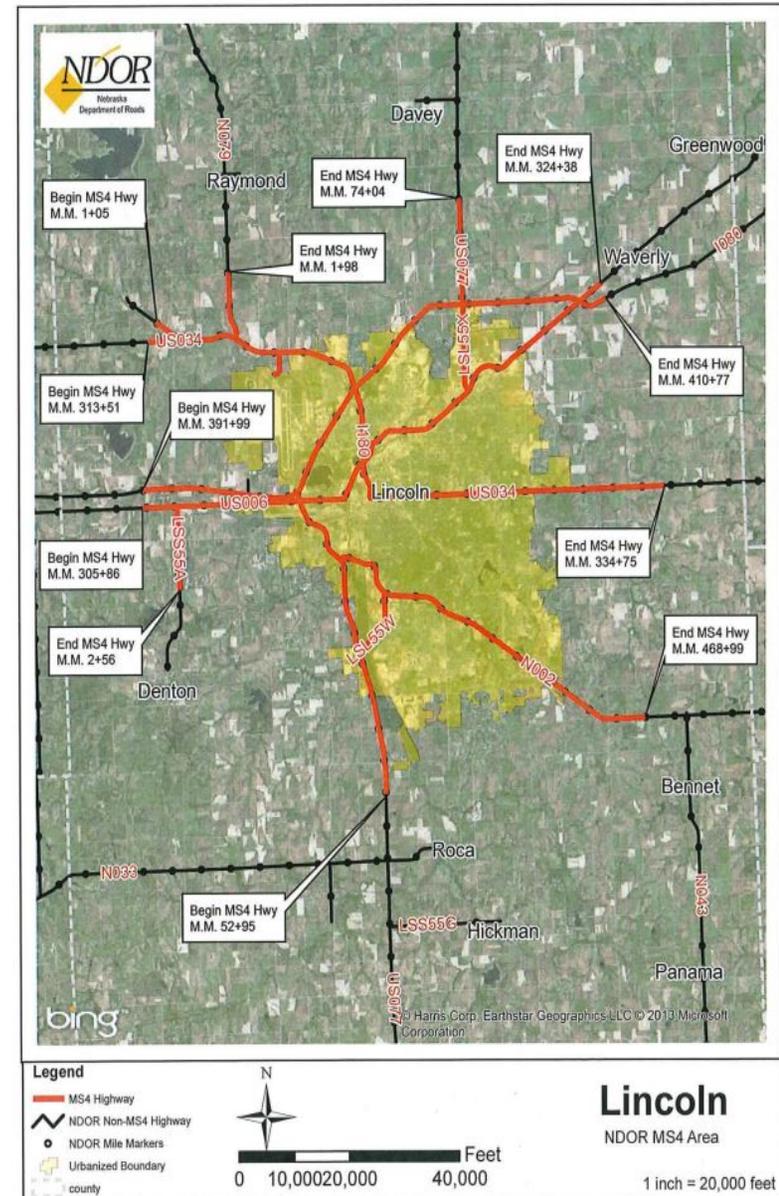
<sup>1</sup> CA = Coldwater Class A, CB = Coldwater Class B, WA = Warmwater Class A and WB = Warmwater Class B

**Delisting/ Changes from 2012 IR**

The following are waters and or parameters that were delisted – removed from category 5 or other significant changes from the 2012 Integrated Report (IR).

*LP1-L0200: Fremont Lake No. 15 (Victory) (SRA)* – This waterbody was listed as Category 2 in the 2012 IR. Data collected in 2012 determined this waterbody’s recreation and agriculture water supply uses are being met. This waterbody will remain in Category 2.

- ▶ Include MS4 highways outside of the city limits
- ▶ Communities can be found in the Drainage and Erosion Control Manual Appendix O
  - [Transportation.nebraska.gov](http://Transportation.nebraska.gov)



# NPDES Permits

- ▶ Information can be obtained from NDOR's Roadside Stabilization Unit, for State projects
  - Storm Water Pollution Prevention Plans (SWPPP) are required for 1 acre or greater, of ground disturbance
- ▶ Permits are typically not acquired until after approval of the CE document



Section 8- Impaired Waters,  
NPDES/SWPPP, and MS4

8.1 Are there any impaired waters (Category 5) within or adjacent to (0.5 mile) the project study area?

Yes

Describe the resource and where it is encountered in 8.4; commitment in 8.5

No

8.2 Does the project occur within an MS4 community?

Yes

Describe in 8.4; commitment in 8.5

No

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

Yes

Describe in 8.4; commitment in 8.5

No

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

### ▶ Impaired Waters

- What is the resource; what are the activities taking place at the water; what are the potential impacts; is coordination needed?

### ▶ MS4 Coordination

- Only required with MS4 Communities

### ▶ NPDES Permits

- Acres of disturbance (if available), Storm Water Permit status, coordination



## 8.5 Impaired Waters, Section 402, and MS4 Mitigation

- ▶ Add applicable standard commitments for 8.1–8.3
  - E.g. “There are Category 5 impaired waters in the project study area; Best Management Practices shall be reviewed and developed as necessary during the erosion control review process. If mitigation is required for impaired waters, it shall be captured in the project’s erosion control plan sheets and special provisions. (NDOR Roadside Stabilization Unit)”
- ▶ Commitments that result from coordination
- ▶ Commitments will auto-populate in 23.1



# Water and Ecological Resources

» Threatened and Endangered Species

# The Resource

- ▶ Endangered Species Act (Section 7)
  - State and Federally listed species and their critical habitat
  - Information provided in a memo by NDOR Threatened and Endangered Species Professionally Qualified Staff (PQS)





## Biological Assessment Memorandum

- ▶ Standardized memos will be provided for all future state projects
- ▶ Memo will include all information needed to fill out Section 9

DATE [Click here to enter a date.](#)

TO [REDACTED], NEPA Project Manager

Cc [REDACTED], EPU Project Manager

FROM [REDACTED], T&E Species Biologist

SUBJECT [Click here to enter text.](#); [Click here to enter text.](#); CN Threatened & Endangered Species Concurrence

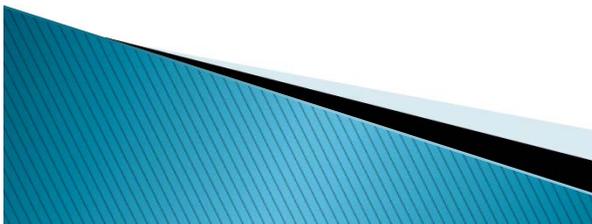
The biological assessment final approval on: [Click here to enter a date.](#)

### Threatened and Endangered Species Effect Determination:

- The Project(s) will have "No Effect" to all state or federally listed species or their designated critical habitat (Level 1).
- A "May Affect, Not Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: [REDACTED].
  - This BA required FHWA Review and Approval.  
FHWA Concurrence Date: [Click here to enter a date.](#)
  - This BA required further consultation with the resource agencies (Level 2).  
USFWS Concurrence Date: [Click here to enter a date.](#)
  - NGPC Concurrence Date: [Click here to enter a date.](#)
  - Unique conservation conditions were developed and are included below (Level 3).
- A "May Affect, Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: [REDACTED] (Level 3).

Additional Coordination with Other Tribal or Federal Agencies: [Click here to enter text.](#)

Description of Coordination: [REDACTED]

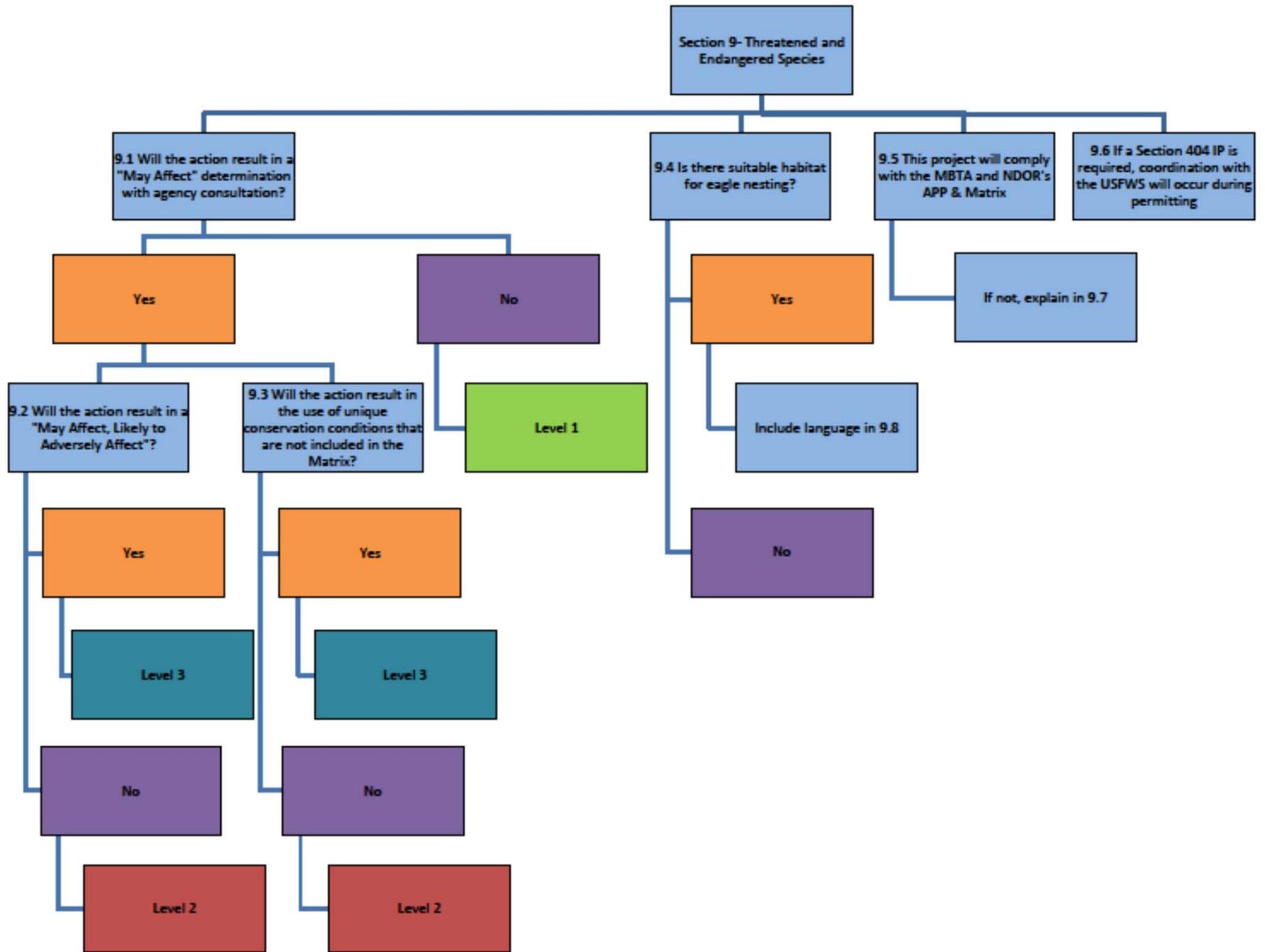


- ▶ A determination of “No Effect” and “May Affect” can be Level 1, Only if no further coordination with wildlife agencies is required
- ▶ Find the determination on the T&E Memo provided by NDOR PQS
- ▶ Unique Conservation Conditions would be project specific
  - E.g. Salt Creek Tiger Beetle, Salt Creek Tiger Beetle Critical Habitat and Saltwort:
    - Double layers of erosion control silt fencing will be installed at MM 398.39 surrounding any area of soil disturbance to ensure no sediment enters adjacent saline wetlands during construction. (Environmental, Design)
- ▶ Conservation Conditions are provided by NDOR PQS and wildlife agencies



- ▶ All NDOR projects that have gone through an environmental review will comply with Migratory Bird Treaty Act via the NDOR Avian Protection Plan
  
- ▶ Will need information from Wetlands PQS to complete coordination with the US Fish and Wildlife Service (FWS)
  - A Section 404 Individual Permit requires coordination with the FWS, under the Fish and Wildlife Coordination Act





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

- ▶ Determination of Effect to T&E Species
- ▶ Species/critical habitats effected
- ▶ Describe coordination that took place
- ▶ Date of FHWA approval if applicable



## 9.8 Species Mitigation

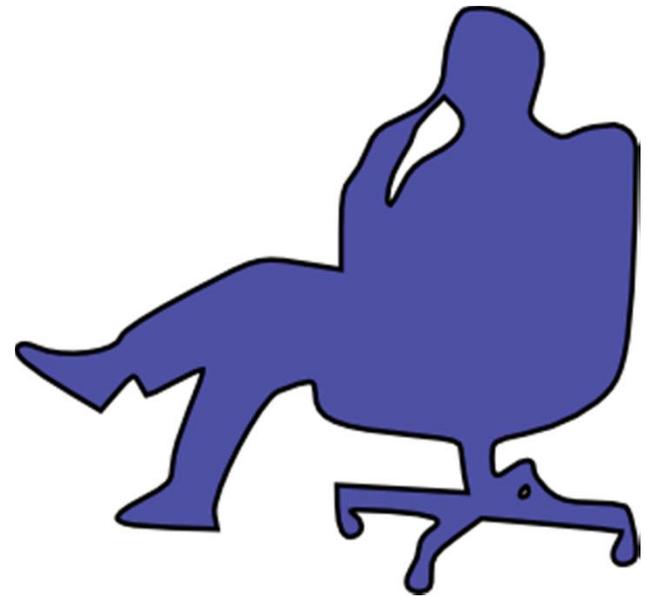
- ▶ Include all Conservation Conditions provided by the NDOR PQS
- ▶ *Be sure not to miss the unique conservation commitments*
- ▶ Commitments will auto-populate in 23.1



Questions?

Comments?

*Deep Thoughts?*









# Other Impacts

»» Section 20–Contract Provisions

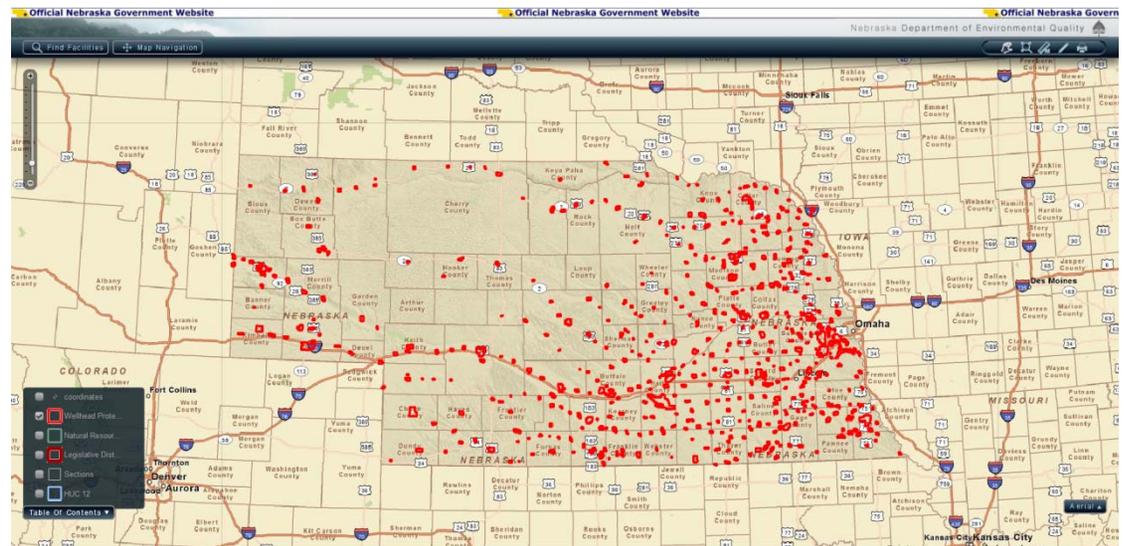
Section 22–Additional Comments

# Section 20– Contract Provisions

## ▶ 20.1 Wellhead Protection Areas

- NDEQ Interactive Map:

<http://deqims2.deq.state.ne.us/deqflex/DEQ.html>



# Section 20– Contract Provisions

## ▶ 20.2 General Conditions for Nationwide Permits

### **Nationwide Permit General Conditions**

**Note:** To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer.

**1. Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

**2. Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

# Section 20– Contract Provisions

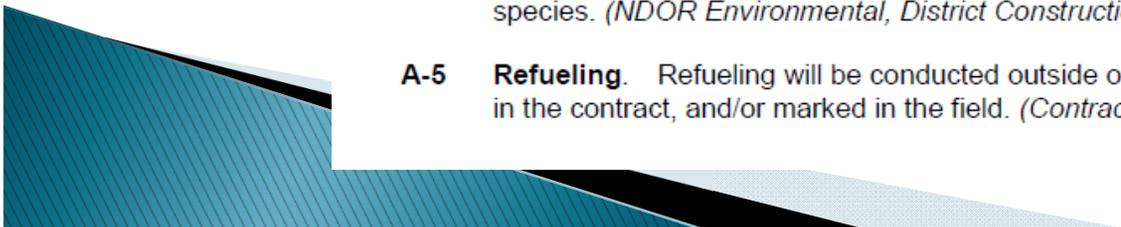
- ▶ 20.3 Federal Aviation Administration (FAA)  
Form 7460–1
  - Is there an airport within 2 miles?



# Section 20– Contract Provisions

- ▶ 20.4 General Conservation Conditions from the Matrix PA
  - Example:

- 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)*









# Indirect and Cumulative Impacts

»» Section 21

# Indirect Impacts

- ▶ Are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. (40 CFR § 1508.8)



# Cumulative Impacts

- ▶ The impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR § 1508.7)



# Indirect and Cumulative Impacts

- ▶ Sources of information that may be used to determine past, present or reasonably foreseeable actions in Nebraska may include, but are not limited to:
  - Long Range Transportation Plans, STIP, TIPs (in MPO areas)
  - Platted developments
  - Local or regional comprehensive land use plans
  - Federal Land Management Plans (if within or adjacent to federal lands)
  - Species Recovery Plans
  - Nebraska Historical Society publications  
(<http://nlc1.nlc.state.ne.us/docs/pilot/pubs/historical.html>)



# Mitigation

»» Section 23

# Section 23–Mitigation

## ▶ Answers:

- Who
- What
- Where
- When

- ▶ Section 4(f)
- ▶ Section 6(f)
- ▶ Utilities
- ▶ Wild and Scenic/National Recreational Rivers
- ▶ Floodplain/Floodway
- ▶ Wetlands/ WOUS
- ▶ Impaired Waters
- ▶ MS4
- ▶ NPDES/SWPPP
- ▶ Threatened and Endangered Species
- ▶ Historic Properties
- ▶ Hazardous Materials
- ▶ Traffic Noise
- ▶ Air Quality
- ▶ Traffic Management (Traffic and Access Disruption)
- ▶ Environmental Justice
- ▶ Public Involvement/LEP
- ▶ Wellhead Protection
- ▶ Federal Aviation Administration
- ▶ Borrow Commitment

# Project Specific Mitigation

- › Section 4(f) and 6(f)
- › Wild and Scenic Rivers /NRI
- › Wetlands
- › Threatened and Endangered Species
- › Historic Properties
- › Hazardous Materials
- › Noise
- › Air Quality
- › Civil Rights

## Northern Long-Eared Bat:

- NLEB-1** Tree clearing, bridge deck joint replacements over the bridge deck, bridge/>5-ft box-culvert removal activities will be scheduled to occur between October 1<sup>st</sup> – March 31<sup>st</sup> 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 1<sup>st</sup> – September 30<sup>th</sup>), NDOR personnel will perform surveys prior to the start of these activities at the following locations: MM 23.77 (STA. 761.83) (location of suitable habitat). If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

## Small White Lady's Slipper:

- SWLS-A** Areas of suitable habitat within NDOR ROW adjacent to the Project Limits shall be marked on the Plans and in the field as "SENSITIVE AREA – DO NOT DISTURB." All Contractor activities including, but not limited to, borrow, haul roads, stockpiling, staging, parking, and material storage will be located outside suitable habitat. Additionally, vehicles and machinery shall not be driven within areas of suitable habitat. (Design, Contractor, NDOR Environmental)
- SWLS-B** Areas with known existing populations, as identified in a survey during the blooming season prior to construction, shall be marked on the Plans, in the field, and protected with approved barriers (such as orange construction fence) as "SENSITIVE AREA – DO NOT DISTURB." NDOR Environmental personnel will verify areas of fencing installation with the Contractor prior to installation to avoid any impacts to the species and oversee fencing construction. (Design, Contractor, NDOR Environmental)

## 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).

Sincerely,



Name

7/21/15

Date

Will Packard, Highway Environmental Specialist  
Planning and Project Development  
NDOR

# Example Commitment Guidance

- › Utilities
- › Floodplain/Floodways
- › Impaired Waters
- › MS4
- › NDPES/SWPPP
- › Traffic Disruption
- › Access Disruption
- › Wellhead Protection
- › Airports
- › Public Involvement



# Attachments



# Required Attachments

- ▶ Project Maps (project location)
- ▶ Section 4(f) Initial Assessment
- ▶ NDOR Wetland Memo and wetland location maps
- ▶ NDOR Threatened and Endangered Species PQS Memo
- ▶ Section 106 PQS Memo
- ▶ Hazardous Materials PQS Memo
- ▶ Traffic Noise and Air Quality Memo or approved DR-53
- ▶ Civil Rights Analysis Memo or approved DR-53
- ▶ Public Involvement Memo or approved DR-53



# Project Specific Attachments

- ▶ Project Maps (detour routes, Section 4(f), wellhead, etc.)
- ▶ Section 4(f) Exceptions, *de minimis*, etc.
- ▶ Section 6(f) Documentation
- ▶ Wild and Scenic/National Recreational Rivers Documentation
- ▶ Floodplain Permits (or Certifications) and FIRM Maps
- ▶ Wetland location maps
- ▶ T&E Agency Coordination Memos
- ▶ SHPO, THPO, and CLG Coordination
- ▶ Other items that do not fit in a specified section

