



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

CE Review Level: (Check boxes that apply)

- 1     2     3     Re-evaluation

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

Appendix: B

Paragraph: 22

Project Name:

Stamford East & West

Project Number:

STP-89-3(106)

Control Number:

70838

Location Map Attached:

Location and Study Area:

The Project is located on Nebraska Highway 89 (N-89) in Furnas and Harlan counties, starting 0.13 mile east of N-46, at N-89 mile marker (MM) 52.23, and extending east to MM 58.85, 0.71 mile west of the Republican River. The Environmental Study Area is confined to the length of this project (6.55 miles) plus a half mile on either end along N-89 (MM 52.23 to MM 58.85) including the existing and any additional 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 extended to 0.1 mile, and for Section 4(f) resources, 0.25 mile beyond ROW.

Begin Point(s):

MM 52.23

End Point(s):

MM 58.85

Highway Number, Street, etc.:

Nebraska Highway 89 (N-89)

Project Description:

This 3R (Resurfacing, Restoration and Rehabilitation) project would resurface 6.62 miles of N-89 located in Furnas and Harlan counties, starting 0.13 mile east of N-46, at MM 52.23, and extending east to MM 58.85, 0.71 mile west of the Republican River. Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

The existing roadway on this segment of N-89 consists of two 12-foot-wide asphalt lanes and 6-foot-wide earth shoulders.

This 3R and DR-5 (New and Reconstructed Rural State Highway) project consists of performing a hydrated lime slurry stabilization of the asphalt roadway and overlaying the hydrated lime slurry stabilization with asphaltic concrete. The growth from this strategy would be used to widen the roadway two feet left and right, resulting in a 28-foot-wide surfaced top. The asphaltic concrete overlay would be placed on top of the 28-foot

top resulting in a grade raise. The hydrated lime slurry stabilization, roadway widening, and resurfacing with asphalt includes the areas currently occupied by the railroad tracks at MM 58.77.

Prior to the hydrated lime slurry stabilization, existing railroad crossing surface would be removed and replaced with a full depth asphalt patch with subgrade preparation. The roadway where existing bridges are scheduled to be replaced with concrete box culverts (S089 05267, S089 05367, and S089 05581) would be built with a Surface on Subgrade Preparation and to DR-5 standards. Mailbox turnouts would be resurfaced and/or constructed. Existing guardrail would be updated to current standards and the existing guardrail at MM 52.70 would be replaced with a cable guardrail on the right side only. Existing culvert ends with headwalls within the lateral and fixed obstacle clear zone would be extended or replaced with flared end sections, whichever is applicable. Structure Numbers S089 05267, S089 05367, and S089 05581 would be replaced with concrete box culverts. Structure Number S089 05737 would be repaired.

NDOR standard practice is that timber pile structures are not widened and, in the case of the replacement of Structure Numbers S089 05267, S089 05367, and S089 05581, a cost-effective analysis determined that replacement with a concrete box culvert was the best alternative.

Scope details include:

- Grading beyond the hinge point would be required for the following work:
  - Culverts
  - Guardrail
  - Mailbox turnouts
  - Earth shoulder construction
  - Removal of old substructure
  - Roadway grading for culvert extensions
  - Flattening foreslopes
  - Drives and intersections
  - Superelevation corrections – A majority of the locations average from 1.25 in. - 5 in., however from approximately MM Sta. 58.62 to 58.80 the superelevation change would average 6 in. with a maximum of 12 in. at the location of the proposed railroad crossing removal.
- Extending culvert ends beyond the lateral clear zone.
- Guardrail
  - Remove and replace guardrail with grading beyond the hinge point.
- Bridges (Structure Numbers S089 05267, S089 05367, and S089 05581) would be replaced with concrete box culverts.
- The bridge (Structure Number S089 05737) would undergo repairs including Class 5 milling to remove asphalt overlay (full removal), partial and full depth deck repairs, asphalt overlay with membrane, concrete repair, and updating bridge rails. The existing guardrail would be removed and replaced.
- Asphalt patching operations would be performed prior to resurfacing.
- Existing surfaced driveways and intersections would be resurfaced.
- Rock or gravel would be placed behind driveways and intersections to match the new asphalt.
- Mailbox turnouts would be constructed.
- Surfacing would be placed under the guardrail.
- The existing earth shoulders would be brought up to match the new asphalt.
- The trench widening operation would remove material adjacent to the existing surfacing. This trench would be filled with recycled material.
- Additional project surveying and staking would be required.
- Areas disturbed during construction would be stabilized utilizing methods of erosion control as shown in the Storm Water Pollution Prevention Plan (SWPPP).
- Permanent pavement markings would be applied to all new surfacing.
- Additional property rights would not be required to build this project.

- Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.
- This Project would be constructed with the use of both a detour and under traffic with lane closures controlled with approved temporary traffic control.

Termini are based on limits identified by NDOR pavement management system and previous construction projects on this segment of highway.

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:

March 15, 2015

Subsequent Phase:

Construction

Estimated Cost (\$):

6,869,000

If the action qualifies for (c)(23), identify the federal portion (\$):

N/A

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

**BLACK** text indicates an all level question, **BLUE** text indicates a Level 2 threshold question, and **GREEN** text indicates the question is required for Level 2 and 3 reviews but does not constitute a threshold.

If a Level 1 threshold is exceeded, answer the corresponding Level 2 questions (**BLUE**) within the subject section, as well as all **GREEN** questions. If any Level 2 threshold is exceeded, the project shall be processed as a Level 3 review requiring approval by FHWA.

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

## Right of Way and Property Impacts

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

Yes (2)     No (1)     N/A

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

Yes (3)     No (2)     N/A

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

N/A

1.4 Estimated Acres of Permanent ROW/Easements:

N/A

1.5 Estimated Acres of Temporary ROW/Easements

N/A

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

Yes (3)     No (2)     N/A

1.7 If Yes, describe the displacements.

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

2.2 Will the action result in an Individual Section 4(f) Evaluation?

Yes (3)     No (2)     N/A

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

The Stamford Ball Field and Stamford City Park are located approximately 0.10 mile and 0.20 mile north of the Project in the Village of Stamford. The Project's scope does not extend outside of the existing right-of-way and would not permanently incorporate or temporarily occupy any portion of the properties, nor would the Project result in a constructive use. Additionally, traffic and access to the parks would be maintained throughout the duration of construction.

2.4 Section 4(f) Mitigation:

N/A

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

Yes (1)     No (1)     N/A

3.2 Will the action result in a conversion of a Section 6(f) property?

Yes (2)     No (1)     N/A

3.3 Describe resources, impacts, replacement lands (*if applicable*), and the coordination conducted with officials/agencies (*including FHWA*):

According to the Nebraska Game and Parks Commission (12/3/2013 email), the Stamford Ball Field is a Section 6(f) property, but given the scope of the Project and location of the ball field, the Project would not impact the property.

3.4 Section 6(f) Mitigation:

N/A

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## Other Non-Threshold Property Impacts

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

Yes  No

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

Yes  No  Unknown

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

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

Yes  No

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

Yes  No

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

Yes  No  N/A

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

A buried phone cable and a water transmission pipeline not shown in the survey are suspected to be located within the Project limits. At this time it is not anticipated that Federal funds nor the project contractor would be used to relocate utilities.

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 shall be required if: (1) federal funds are used for the utility work; or (2) the Project construction contractor is responsible for the work. If this utility work is identified during final design, the Project sponsor shall initiate the reevaluation prior to Project letting. If the work is identified during construction, the Project sponsor shall initiate the reevaluation prior to 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 or National Recreational River Segment, 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.

5.2 For actions processed under Appendix B categories (26), (27), or (28), a Level 3 review will be required.

Level 3 Required

5.3 Is the action considered an impact to the National System of Wild and Scenic Rivers by the Agency of Jurisdiction?

Yes (3)     No     N/A

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

N/A

5.5 Wild and Scenic River Mitigation:

N/A

**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 is located within the boundaries of the Zone A floodplain of Sappa Creek and its tributaries. The Zone A floodplain of the Sappa Creek and its tributaries crosses the Project at Structure Numbers S089 05267, S089 05367, S089 05581 and from MMs 56.33 to 57.82. Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit.

6.5 Floodplain/Floodway Mitigation

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

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

Yes (1)     No (1)

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

Yes (1)     No (1)     N/A

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

Yes (2)     No (1)     N/A

7.4 Estimated Permanent Wetlands Impacts:

0.01 acre

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:

Permanent impacts to PEMA/C wetlands would be approximately 0.013 acre and permanent stream channel impacts would be approximately 20 feet. Permanent impacts are less than 0.10 acre and therefore would not require mitigation. Temporary wetland (PEMA/C) impacts would be approximately 0.001 acre. This Project would be permitted as Nationwide Permit #3(a)(c) non-notifying.

After the review the wetlands impacts by NDOR Professionally Qualified Staff, an addition (M.M. 58+73 to M.M. 58+85) was added to the east end of the project. This additional length was captured in the delineation and no additional wetlands or Waters of the U.S. were found in the area. No additional impacts would result from the added length of the project.

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)

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

The Project qualifies under Nationwide Permit #3(a)(c). The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

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

Yes     No

8.2 Does the project occur within a MS4 community?

Yes     No

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

Yes     No

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

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

Impaired segments of Beaver Creek and Sappa Creek are located within 0.5 mile of the Project study area but do not intersect the Project at any point. The beneficial uses of Warmwater Aquatic Life Class B, Agricultural Class A, Recreation, and Aesthetics have been assigned to the Project segment of Beaver Creek. The beneficial uses of Warmwater Aquatic Life Class B, Agricultural Class A, and Aesthetics have been assigned to the Project segment of Sappa Creek. The 2014 Water Quality Integrated Report lists the Beaver Creek segment as impaired for Recreation and Aquatic Life. The pollutants of concern are E. coli for Recreation and are unknown for Aquatic Life. The Sappa Creek segment is listed as impaired for Aquatic Life. The pollutant of concern is Selenium. Both Beaver Creek and Sappa Creek are listed as Category 5 because a total maximum daily load (TMDL) has not yet been established.

A NPDES permit would be acquired and a SWPPP would be developed for the Project. (NDOR Environmental)

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

There are Category 5 impaired waters in the Project study area; BMPs 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)

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

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

Yes (2)     No (1)     N/A

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

Yes (3)     No (2)     N/A

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

Yes (3)     No (2)     N/A

NDOR PQS Determination Date:

September 9, 2015

USFWS Concurrence Date:

N/A

NGPC Concurrence Date:

N/A

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

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

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

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

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

Coordination Required       N/A

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

The Project may affect, but is not likely to adversely affect, northern long-eared bat. The Project would have no effect to all other state or federally listed species or their designated critical habitat.

After the review for effects by NDOR Professionally Qualified Staff, an addition (M.M. 58+73 to M.M. 58+85) was added to the east end of the project. The area within the 0.12-miles added was included in the ½-mile buffer reviewed for this project. The additional work of track removal would also be covered in activities already reviewed for this project and would not change the effect determination. The project would not require any further evaluation for T&E and the effect determination has not changed.

9.8 Species Mitigation:

**Northern Long-Eared Bat (Harlan County Only)**

**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 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

**OR**

**NLEB-2** If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: Structure Numbers S089-05367, S089-05581, and S089-05737. If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

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

**Human and Social Resources**

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

Yes (1)     No (1)

**10.2** Will the action result in Section 106 effects other than a “No Potential to Cause Effects” or a “No Historic Properties Affected” determination?

Yes (2)     No (1)     N/A

**10.3** Will the project result in an “adverse effect” to any historic property?

Yes (3)     No (*No adverse effect*) (2)     N/A

**10.4** Historic Property Determination

NDOR PQS Determination Date:

No historic properties affected

August 8, 2015

SHPO Concurrence Date:

N/A

THPO Concurrence Date:

N/A

CLG Concurrence Date:

N/A

10.5 List Eligible Resources, Impacts, and Coordination:

The Area of Potential Effect (APE) for archaeological properties and standing structures was chosen to adequately identify any historic properties that may be potentially altered by this undertaking which includes both 3R and DR-5 project activities.

NDOR completed a review of the Project August 8, 2015 and concluded that no National Register eligible or listed properties are located within the APE, nor are any of the four bridges located along the Project identified as eligible. NDOR completed a supplemental review on September 14, 2015 due to changes in the Project description and concluded that the original determination of “no historic properties affected” remained appropriate.

After the review for effects by NDOR Professionally Qualified Staff, an additional 0.12 miles (M.M. 58+73 to M.M. 58+85) was added to the east end of the project (3/11/2016). Since the APE had only gone to M.M. 58.79, NDOR staff requested that HAP extend the APE to encompass the new project limits and to provide a supplemental evaluation.

The APE now extends to M.M. 59.09. The extended APE was the subject of a previous archeological survey; no archeological sites were identified during the previous survey. There are no above ground resources located within the extended APE. Both railroad crossings were included within the original APE.

No additional consultation is required. The original project effect recommendation of no historic properties affected (Tier II, 08/08/15) remains appropriate.

10.6 Historic Properties Mitigation:

N/A

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

Yes (1)     No (1)

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

Yes (2)     No (1)     N/A

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

Yes     N/A

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

Yes     N/A

11.3 Will the action result in a High Potential for encountering hazardous materials during construction?

Yes (3)     No (2)     N/A

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

Yes (3)     No (2)     N/A

NDOR PQS Determination Date:

March 1, 2016

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

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.

Structures S089 05267, S089 05367, S089 05581, and S089 05737 were tested for the presence of asbestos. The results were found to be negative; therefore, it is unlikely that these structures contain asbestos.

11.6 Hazardous Materials Mitigation:

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

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

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

Yes (3)     No (1)     N/A

12.2 Based on the noise analysis, does the project qualify for abatement?

Yes  No  N/A

12.3 Summarize the results of the noise analysis:

N/A

12.4 Noise Mitigation:

N/A

**13.1 Air Quality** – Will the action increase capacity in exceedance of 100,000 vehicles per day in the 20<sup>th</sup> 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

13.2 Air Quality Comments:

N/A

13.3 Air Quality Mitigation:

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)  N/A

15.2 Will the action result in major traffic disruption requiring detours, temporary roads, or ramp closures that are greater than 135 working days?

Yes (3)  No (2)  N/A

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

Yes (3)  No (1)  N/A

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)     N/A

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

Yes (3)     No (1)     N/A

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

Yes (3)     No (1)     N/A

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

Yes (3)     No (1)     N/A

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

15.8 Traffic Disruption Comments:

The Project would require the closure of County Road C for approximately 50 working days (75 calendar days) while work is performed on Structure No. S089 05581 immediately west of the road. Only the road going north would be closed; the private drive to the south would remain open.

15.9 Traffic Disruption Mitigation:

With the exception of the detour for County Road C, 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 135 working days. (Contractor)

The detour must create less than 5 miles of adverse (*out-of-direction*) travel within an urban environment and less than 25 miles in a rural setting with access provisions for local traffic. The detour shall be signed and in place for the closure of County Road C. (NDOR District, Contractor)

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

Yes (1)     No (1)     N/A

16.2 Will the action result in complete closure to residential properties for greater than 5 working days?

Yes (2)     No (1)     N/A

16.3 Will the action result in complete closure to residential properties for greater than 10 working days?

Yes (3)     No (2)     N/A

16.4 Will the action result in closure of business access during operational hours?

Yes (3)     No (1)     N/A

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

Yes (3)     No (1)     N/A

16.6 Will the action change the functionality of adjacent properties?

Yes (3)     No (2)     N/A

16.7 Access Disruption Comments:

N/A

16.8 Substantial Access Disruption Mitigation:

Access to adjacent properties shall be maintained at all times during construction but may be disrupted temporarily at times due to construction activities, but will not be closed. (Contractor)

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

Yes (1)     No (1)     N/A

17.2 Will the project have an adverse impact to minority or low income populations per NDOR's Environmental Justice Policy?

Yes (2)     No (1)     N/A

17.3 Will the action result in a potential for disproportionately high and adverse impacts to minority or low income populations?

Yes (3)     No (2)     N/A

NDOR Highway Civil Rights Specialist Determination Date:

March 8, 2016

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

The Civil Rights Analysis was originally reviewed on January 29, 2015 and had the following finding: Despite the presence of a low-income population in the Village of Stamford, there would be no disproportionately high and adverse human health or environmental effects on minority and low-income populations, as defined in FHWA Order 6640.23A, for the following reasons: a) there would be no detour for this Project, b) the right-of-way needs for this Project are minimal and would not extend into the Village of Stamford, c) access to adjacent businesses and residences would be maintained, d) there would be no isolation, exclusion or separation of low-income individuals within a given community or from the broader community, e) there would be no restrictions of access to essential services, and f) there would be no relocations or building removal.

No Limited English Proficiency (LEP) outreach is required for this Project because, in the areas surveyed, none of the data indicates the presence of an LEP population that reaches the NDOR LEP outreach triggers of 5 percent or 1,000 persons.

Following the addition of the small detour a second review was completed on March 8, 2016 and the following determination was made: The addition of a detour route would be an adverse effect to the low-income population of the Village of Stamford, the effect would not be disproportionately high and adverse. The detour route is about 2 miles total length, but the length of the 'out-of-direction' travel is less than a quarter of a mile. The detour route largely travels through agricultural land and is adjacent to only 4 -5 households of the estimated 92 household in the Village of Stamford (2010- 2014 ACS 5-year estimate, table S1101). This location is very rural (Harlan County, in which Stamford is located, has only a population of 3,423, as of the 2010 census) and N-89 has a small estimated volume of traffic (about 745 vehicles per day). Increased traffic congestion or commute times are therefore not anticipated for the low-income population of the Village of Stamford.

17.5 Protected Population Mitigation:

N/A

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

Based on an analysis of the Project scope and a civil rights analysis, a targeted mailer in the form of a public notification, and the NDOR website, were used as outreach tools for public involvement on this Project. The public notification included mailing a cover letter, project notification sheet, and maps to a distribution list of 22 citizens and businesses adjacent to Nebraska Highway 89 (N-89), from mile marker (MM) 52.23 to MM 58.73, as well as citizens and businesses adjacent to the proposed detour route on 711 Road. Additionally, 35 public and private agencies with potential interest in the Project were also included in the distribution list, including the Nebraska Truck Association. Project information was placed on the NDOR website. Comments were not solicited, however, the public was notified that they could direct any questions or comments to Sarah Kugler, NDOR Public Involvement Manager, or Kurt Vosburg, NDOR District 7 Engineer. No comments were received.

18.2 Public Involvement Mitigation:

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

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

Yes     No     N/A

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

19.2 Unresolved Controversy Comments:

N/A

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**Contract Provisions Required**

20.1 Wellhead Protection Special Provisions

Yes     No

20.2 General Conditions for Nationwide Permit

Yes     No

Nationwide Permit: 3(a)(c)

20.3 Federal Aviation Administration (FAA) Form 7460-1

Yes     No

20.4 General Conservation Conditions from the Matrix PA

Yes     No

**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.”*

21.2 Indirect Impacts and Mitigation:

N/A

21.3 Cumulative Impacts:

Nine planned highway projects are located in Furnas and Harlan counties. Three are scheduled for letting the same year: Ragan – N-44 (CN 71097), Alma South Bridge (CN 71180), and Arapahoe South (CN 71139). The Ragan – N-44 project would resurface approximately 7.6 miles of US-283 east of Ragan. The Alma South Bridge project would repair the bridge over the Republican River on US-183. The Arapahoe South project would resurface approximately 11.6 miles of US-283 south of Arapahoe. The Ragan – N-44 and Arapahoe South projects would be constructed under traffic with lane closures controlled by approved temporary traffic control and would not result in cumulative impacts. The Alma South Bridge project may result in temporary road closures involving detours; however, the N-89 bridge approximately four miles west would allow access over the Republican River south of Orleans. Consequently, there would be no adverse cumulative impacts.

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22.1 Additional Comments:

N/A

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## 23.1 Project Mitigation:

### **Utilities:**

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 shall be required if: (1) federal funds are used for the utility work; or (2) the Project construction contractor is responsible for the work. If this utility work is identified during final design, the Project sponsor shall initiate the reevaluation prior to Project letting. If the work is identified during construction, the Project sponsor shall initiate the reevaluation prior to commencing utility work. (NDOR Environmental, NDOR District)

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

### **Floodplain/Floodway Mitigation:**

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

### **Wetlands/Waters of the U.S. Mitigation:**

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

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

The Project qualifies under Nationwide Permit #3(a)(c). The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

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

There are Category 5 impaired waters in the Project study area; BMPs 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)

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

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

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

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

**A-3 Early Construction Starts.** Request for early construction starts must be coordinated by the Project Construction Engineer with NDOR Environmental for approval of early start to ensure avoidance

of listed species sensitive lifecycle timeframes. Work in these timeframes will require approval from the Federal Highway Administration and could require consultation with the USFWS and NGPC. (District Construction, Contractor)

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

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

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

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

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

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

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

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

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

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

**Northern Long-Eared Bat (Harlan County Only)**

**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 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

**OR**

**NLEB-2** If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: Structure Numbers S089-05367, S089-05581, and S089-05737. If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

**Hazardous Materials Mitigation:**

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

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

**Traffic Disruption Mitigation:**

With the exception of the detour for County Road C, 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 135 working days. (Contractor)

The detour must create less than 5 miles of adverse (out-of-direction) travel within an urban environment and less than 25 miles in a rural setting with access provisions for local traffic. The detour shall be signed and in place for the closure of County Road C. (NDOR District, Contractor)

**Access Mitigation:**

Access to adjacent properties shall be maintained at all times during construction but may be disrupted temporarily at times due to construction activities, but will not be closed. (Contractor)

**Public Involvement Mitigation:**

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

**Borrow Site:**

Any material needed shall be provided by the Contractor. The Contractor shall try to obtain borrow from

an upland site to prevent depletion issues. If the borrow site is within a depletion area of concern, the Contractor shall coordinate with the appropriate agencies and NDOR to offset or minimize impacts. The Contractor shall obtain all environmental clearances and permits required for the borrow site prior to obtaining borrow material for the Project. (Contractor)

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

**Wellhead Protection**

A portion of the Project has been identified as being located within or adjacent to the Village of Stamford's Wellhead Protection Area. NDOR's Standard Specifications 107.01, 107.09 and 107.16 address the Contractor's responsibility to keep fully informed of, observe and comply with all federal, state and local laws and ordinances that affect the conduct of the work. (Contractor)

**The proposed project qualifies as a Categorical Exclusion under the following activity found in [23 CFR 771.117](#):**

Paragraph: c

Activity: 22

Prepared by:

Organization:

Kelly Farrell

HDR, Inc.

Phone:

Email:

(402) 399-1425

Kelly.Farrell@hdrinc.com

Signature:

Date:



March 31, 2016

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: