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

CE Review Level:

[X] 1 [ ] 2 [ ] 3 [ ] Re-evaluation

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

Appendix: A

Paragraph: 22

Project Name:

Ragan - Jct N-44

Project Number:

STP-4-3(107)

Control Number:

71097

Location and Study Area:

The project is located along Nebraska Highway 4 (N-4) in Harlan and Franklin Counties. The project starts near the town of Ragan in Harlan County at Mile Marker (MM) 17.73 and extends east to MM 25.75 which is 0.03 miles west of the intersection of N-4 and Nebraska Highway 44 (N-44) in Franklin County, Nebraska.

The Environmental Study Area (ESA) consisted of a 0.25 mile buffer around the centerline of the project. For hazardous materials, the study area consisted of a 0.1 mile buffer from the centerline of the project. For wetlands and Waters of the U.S. (WOUS), the study area consisted of the right-of-way (ROW) plus an additional 150 feet beyond the ROW at water conveyance structures (WCS) with wetlands or WOUS.

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

Begin Point(s): MM 17.73

End Point(s): MM 25.75

Highway Number, Street, etc.: Nebraska Highway 4 (N-4)

Project Description:

This 3R (Resurfacing, Restoration and Rehabilitation) project would resurface 8.02 miles of N-4 located in Franklin and Harlan Counties, starting at mile marker (MM) 17.73, 0.26 miles west of Decker Avenue in Ragan, and extending east to MM 25.75, 0.03 miles west of the junction of N-4 and N-44. 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-4 consists of two 12 foot wide asphalt lanes and 6 foot wide earth shoulders.

The improvements on this project consist of performing fly ash stabilization of the existing asphalt roadway. The growth from this strategy would be used to widen the roadway 2 feet left and right, resulting in a 28 foot wide surfaced top. After the widening, the roadway would be resurfaced with asphalt.

Scope details include:
• Grading beyond the hinge point would be required for the following work:
- Drives and intersections
- Mailbox turnouts
- Earth shoulder construction
• The existing asphalt would be milled prior to resurfacing.
• Asphalt patching operations would be performed prior to resurfacing.
• Existing surfaced driveways and intersections would be resurfaced.
• Shoulder rumble strips would be constructed.
• Rock or gravel would be placed behind driveways and intersections to match the new asphalt.
• Mailbox turnouts would be constructed.
• The existing earth shoulders would be brought up to match the new asphalt. Fill beyond the hinge point would be required to blend earth shoulder construction to foreslopes. Foreslope flattening is not required.
• The trench widening operation would remove material adjacent to the existing surfacing. This trench would be filled with recycled material.
• 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.
• Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.
• This project would be constructed under traffic with lane closures controlled with approved temporary traffic control.

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

N/A

Action is identified in the Current STIP Date:	Subsequent Phase:	Estimated Cost *($)*:
5/25/2016	Construction	$4,103,000

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

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

Right of Way and Property Impacts

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

☐ Yes (2) ☒ No (1) ☐ N/A

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

☐ Yes (2) ☒ No (1) ☐ N/A

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

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

Other Non-Threshold Property Impacts

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

☐ Yes ☒ No

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

☐ Yes ☒ No ☐ Unknown

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

N/A

4.7 Describe Mitigation for Above Non-Threshold Resources:

Utility relocation or replacement is not anticipated for the project. If utility relocation or replacement is required in a later phase of the project, a reevaluation shall be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor 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 either one of the above two conditions does not apply, later relocation or replacement of utilities shall be coordinated through NDOR and the Contractor per NDOR's Standard Specifications for Highway Construction, Subsection 105.06. Any environmental permits required for these utility relocations or replacements shall be the responsibility of the Utility. (NDOR District, Utility Provider(s))

Water and Ecological Resources:

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

☐ Yes* ☒ No ☐ N/A

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

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

☐ Yes (1) ☒ No (1) ☐ N/A

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

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

☒ Yes (1) ☐ No (1)

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

☐ Yes (1) ☒ No (1)

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

☐ Yes (2) ☐ No (1) ☒ N/A

7.4 Estimated Permanent Wetlands Impacts:

N/A

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

☐ Yes (2) ☐ No (1) ☒ N/A

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

☐ Yes (3) ☐ No (2) ☒ N/A

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

Approximately 1.50 acres of PEMA wetlands, one stream channel, and five ponds were delineated during the wetland and WOUS investigation, which took place from September 8 to September 11, 2014. The majority of the wetlands observed were located in the road ditches of N-4.

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 uplands areas. (Contractor, NDOR District)

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

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

☐ Yes ☒ No

8.2 Does the project occur within a MS4 community?

☐ Yes ☒ No

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

☒ Yes ☐ No

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:

There would be greater than 1 acre of soil disturbance for this project, therefore a SWPPP must be obtained prior to construction. Soil disturbance would be limited to the existing ROW.

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (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% re-vegetated. At that time the Notice of Termination with NDEQ for the General Construction Storm Water Permit and completion of the SWPPP responsibilities shall be filed. (NDOR Environmental)

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

☐ Yes (2) ☒ No (1)

NDOR PQS Determination Date:

10/13/2015

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

☒ 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, as proposed, has been determined to "May Affect, Not likely to Adversely Affect" the following species with the implementation on conservation conditions: Whooping Crane. The project will have "No Effect" on all other state or federally listed species or their designated critical habitat.

9.8 Species Mitigation:

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

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

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

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

OR

WC-2. If construction activities occur during Whooping Crane migration periods (Spring migration: March 10 - May 10; and fall migration: September 16 - November 16), NDOR trained personnel, or a qualified biologist, will complete surveys according to protocol at the following locations: Farm ponds near MM 14.0, MM 14.9, MM 16.3, MM 17.8, MM 19.3 (locations of suitable habitat) (prior to the start of daily construction activities). If species are present the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume (also not initiate work if species is found in the morning survey). Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):
- Construction activities are limited to the hours from 10:00 a.m. to 4:00 p.m. (CST) during the migration period, unless morning survey indicates Whooping Cranes are
not present.
- If a whooping crane is observed during the survey within 1/2 mile of the project, but departs the area (further than 1/2 mile from the project) then work can resume.
Document this departure according to protocol.

AND

WC-3. Herbaceous species used for re-seeding within ¼ mile of the following locations: MM 14.0, MM 14.9, MM 16.3, MM 17.8, MM 19.3 (location of suitable habitat) will be native grass or forb species. Native shrub or woody species used in restoration should reach no more than 4 feet in height at maturity. (Design, NDOR Environmental)

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

*

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

Human and Social Resources

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

☐ Yes (1) ☒ No (1)

10.4 Historic Property Determination

No Historic Properties Affected

NDOR PQS Determination Date:

11/25/2015

Has coordination occurred with SHPO?

☐ Yes ☒ No

Has coordination occurred with THPO?

☐ Yes ☒ No

Has coordination occurred with CLG?

☐ Yes ☒ No

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

☒ Yes (1) ☐ No (1)

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

☐ Yes (2) ☒ No (1)

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

☐ Yes ☒ N/A

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

☐ Yes ☒ N/A

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

☐ Yes (3) ☒ No (1)

NDOR PQS Determination Date:

5/18/2016

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

The HMR identified one former unlicensed landfill within the town of Ragan that is situated approximately 0.34 miles from the project area. No releases of hazardous materials have been reported. Due to the depth of groundwater at the site (estimated at over 100 feet) and the distance of the site to the proposed project, there is a low potential for the site to impact the project. In addition, no Superfund sites were identified near the project.

11.6 Hazardous Materials Mitigation:

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

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

☐ Yes (3) ☒ No (1) ☐ N/A

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

☐ Yes (3) ☒ No ☐ N/A

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

☐ Yes (3) ☒ No (1) ☐ N/A

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

☐ Yes (2) ☒ No (1)

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

☐ Yes (3) ☒ No (1)

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

☐ Yes (3) ☒ No (1)

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

☐ Yes (3) ☒ No (1)

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

☐ Yes (3) ☒ No (1)

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

☐ Yes (3) ☒ No (1)

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

15.8 Traffic Disruption Comments:

This project would be constructed under traffic with lane closures controlled with approved temporary traffic control.

15.9 Traffic Disruption Mitigation:

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

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

☐ Yes (1) ☒ No (1)

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

☐ Yes (3) ☒ No (1)

16.6 Will the action change the functionality of adjacent properties?

☐ Yes (3) ☒ No (1)

16.7 Access Disruption Comments:

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 to do construction activities, but shall not be closed. (Contractor)

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

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

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

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

NDOR Highway Civil Rights Specialist Determination Date:

12/15/2015

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

In general, the areas in which this project is located have lower or consistent populations of minority, Hispanic, and low-income persons when compared to Franklin and Harlan Counties. However, Scandinavia Township does contain a percentage of low-income persons that is greater than 50%, and is also meaningfully greater than the corresponding percentage for Harlan County.

The project site itself is sparsely populated. No businesses, residences, or organizations likely to be used predominantly by minority or low-income persons are located on the project site.

The following project information is relevant:
- There would be no detour for this project.
- There would be no right-of-way acquisition for this project.
- Access to adjacent properties would be maintained.
- There would be no isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community.
- There would be no restrictions of access to essential services.
- There would be no relocations or building removal.

Based on these project considerations, there are no anticipated adverse effects to the low-income population in Scandinavia Township.

A low income population was identified in the Scandinavia Township, in Harlan County. However, there would be no disproportionately high and adverse human health or environmental effects vested upon minority and low-income populations, as defined in FHWA Order 6640.23A.

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

Limited English Proficiency (LEP) Analysis - No 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% or 1,000 persons.

Due to the nature of the work, additional public outreach during the NEPA phase is not needed. This project has been disclosed in the District Program Hearings as well as through the public involvement efforts in conjunction with the development of the STIP.

18.2 Public Involvement Mitigation:

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

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

☐ Yes ☒ No

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

Contract Provisions Required

20.1 Wellhead Protection Special Provisions

☐ Yes ☒ No

20.2 General Conditions for Nationwide Permit

Nationwide Permit: N/A

☐ Yes ☒ No

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

☐ Yes ☒ No

20.4 General Conservation Conditions from the Matrix PA

☒ Yes ☐ No

T&E General Conditions:

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

Federal Highway Administration. (District Construction, Contractor)

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

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

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

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

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

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

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

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

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

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

21.1 No Indirect or Cumulative Impacts

[X]

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

21.3 Cumulative Impacts:

One other known project, N-44 - N-10 (CN 71168, FY 2022), is in the vicinity of the Ragan - Jct N-44 project. The Ragan - Jct N-44 project is a 3R project which would not require right-of-way acquisition and does not result in a detour. Additionally, construction of the two projects would not overlap in their timing since the Ragan - Jct N-44 project has construction scheduled for 2017, while the N-44 - N-10 project is scheduled for construction in 2022. Based on the project scope, the project would not substantially impact human or natural environment resources.

Based on the above considerations, cumulative impacts resulting from the Ragan - Jct N-44 project are not anticipated.

23.1 **Project Mitigation**:

Mitigation for Above Non-Threshold Resources:
Utility relocation or replacement is not anticipated for the project. If utility relocation or replacement is required in a later phase of the project, a reevaluation shall be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor 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 either one of the above two conditions does not apply, later relocation or replacement of utilities shall be coordinated through NDOR and the Contractor per NDOR's Standard Specifications for Highway Construction, Subsection 105.06. Any environmental permits required for these utility relocations or replacements shall be the responsibility of the Utility. (NDOR District, Utility Provider(s))

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

No wetland impacts are anticipated for this project; however, if impacts are found during design, the

required permits shall be obtained prior to letting. NDOR Environmental shall reevaluate the project for the change in impacts. All wetlands within the project area shall be marked on the project plans and on the Green Sheet for the Contractor as avoidance areas. (NDOR Design, NDOR Environmental)

Impaired Waters, Section 402, and MS4 Mitigation:
Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (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% re-vegetated. At that time the Notice of Termination with NDEQ for the General Construction Storm Water Permit and completion of the SWPPP responsibilities shall be filed. (NDOR Environmental)

General Conservation Conditions from the Matrix PA:

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

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

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

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

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

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

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

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

designated critical habitat. (NDOR Environmental, District Construction, Contractor).

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

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

Species Mitigation:
S-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)

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

OR

WC-2. If construction activities occur during Whooping Crane migration periods (Spring migration: March 10 - May 10; and fall migration: September 16 - November 16), NDOR trained personnel, or a qualified biologist, will complete surveys according to protocol at the following locations: Farm ponds near MM 14.0, MM 14.9, MM 16.3, MM 17.8, MM 19.3 (locations of suitable habitat) (prior to the start of daily construction activities). If species are present the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume (also not initiate work if species is found in the morning survey). Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):
- Construction activities are limited to the hours from 10:00 a.m. to 4:00 p.m. (CST) during the migration period, unless morning survey indicates Whooping Cranes are
not present.
- If a whooping crane is observed during the survey within 1/2 mile of the project, but departs the area (further than 1/2 mile from the project) then work can resume.
Document this departure according to protocol.

AND

WC-3. Herbaceous species used for re-seeding within ¼ mile of the following locations: MM 14.0, MM 14.9, MM 16.3, MM 17.8, MM 19.3 (location of suitable habitat) will be native grass or forb species. Native shrub or woody species used in restoration should reach no more than 4 feet in height at maturity. (Design, NDOR Environmental)

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

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

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

Substantial Access Disruption Mitigation:
Access to adjacent properties shall be maintained at all times during construction but may be disrupted temporarily at times to do construction activities, but shall not be closed. (Contractor)

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

Additional Mitigation:
Historic Properties Mitigation:
There is a Sensitive Area on the east side of N-4 from MM 18.36 - 18.47. This area shall be identified on plans as a Sensitive Area. No grading or project activities, including but not limited to, work, staging, borrowing, stockpiling, or storing material and/or equipment, shall occur beyond the existing ROW. (NDOR Design, NDOR Environmental)

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

Paragraph: (c)

Activity: 22

Prepared by: Zach Kresl, Environmental Scientist II

Organization: Alfred Benesch & Company

Phone: (402) 333-5792

Email: zkresl@benesch.com

Signature:

Date: 6/17/2016

Reviewed by Project Sponsor:

Name: TYLER SCHMIDT

Organization: NDOR

Title: UNITHEAD - OVERLAY ROADWAY DESIGN

Signature:

Date: 6-20-16

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

NDOR Environmental NEPA Specialist Signature:

Luke Pitts Digitally signed by Luke Pitts Date: 2016.06.20 10:44:35 -05'00'

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: