Harlan County

Franklin County

Ragan, NE

Decker Ave

R Rd

S Rd

T Rd

U Rd

V Rd

W Rd

Franklin-Harlan Rd

723 Rd

722 Rd

721 Rd

4

44

Begin Project
N-4
MM 17.73

End Project
N-4
MM 25.75

18.00

19.00

20.00

21.00

22.00

23.00

24.00

25.00

26.00

Ragan

183

42

Project Location

SD

MN

WY

IA

NE

CO

KS

MO

NAIP 2014 Harlan County Aerial Imagery

Nebraska Department of Roads
Project Number: STP-4-3(107)
CN: 71097

Legend

- Project Location
- NDOR Reference Posts
- 1/4 Mile Environmental Study Area
- County Boundary

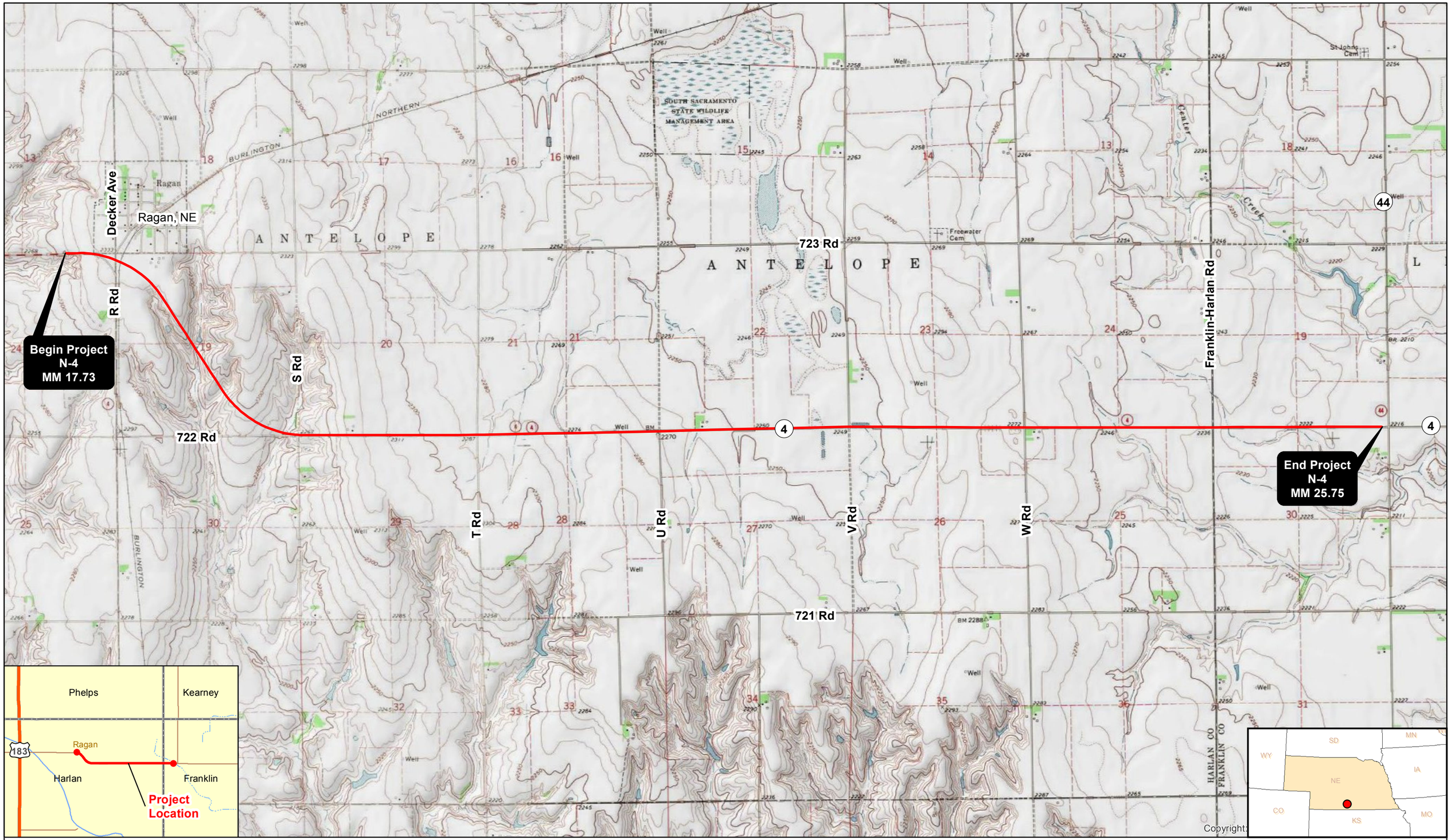
0 0.5 1 Miles

Map Scale = 1:30,000

N W E S

PROJECT LOCATION MAP

Ragan - Jct N-44
Harlan and Franklin Counties, Nebraska



USGS Topographic Imagery

Nebraska Department of Roads
Project Number: STP-4-3(107)
CN: 71097

0 1 Miles

1:30,000

N

PROJECT LOCATION
TOPOGRAPHIC MAP

Ragan - Jct N-44
Harlan and Franklin Counties, Nebraska

Section 4(f) Initial Assessment Form

May 29, 2015

Project Name	Project Number
Ragan - Jct N-44	STP-4-3(107)
Control Number	**Date Completed**
71097	February 24, 2016
Project Location *(Town, County)*	**Name of Preparer**
Ragan, Harlan and Franklin Counties, Nebraska	Chase Jelden Alfred Benesch & Company

The following form was developed as an initial assessment of potential Section 4(f) properties within a project area. The number of each question block corresponds directly to the NDOR Section 4(f) Guidance section with the same number. **One Initial Assessment Form per PROJECT must be included as an attachment to the CE Form or incorporated into the appropriate chapter in the EA/EIS.**

NOTE: At the time the Section 4(f) Initial Assessment Form is filled out, the Section 106 process must be sufficiently complete that historic properties have been identified. A Section 106 Finding of Effect *(No Adverse Effect, Adverse Effect)* must be completed prior to determining whether the project results in a 'use' of an historic property. All Section 106 determinations and findings must be made and documented by NDOR Professionally Qualified Staff (PQS).

1. Identification of Section 4(f) Properties

A. *For historic properties*, based on the NDOR Section 106 Tier Review Form, are there properties that are listed or eligible for listing on the National Register of Historic Places?

☐ Yes ☒ No ☐ N/A (Section 106 Tier I)

If Yes, provide the name, Finding of Effect, and any other pertinent information from the Section 106 review for each identified property.

B. Are there existing or planned parks, recreation areas, or wildlife/waterfowl refuges present within a ¼ mile of the project area?

☐ Yes ☒ No

C. In consultation with the online resources identified in the Section 4(f) Guidance, list the **resources** used to determine if parks, recreation areas, or wildlife/waterfowl refuges are present.

- Google Earth
- Nebraksa Game and Parks Commission:http://maps.outdoornebraska.gov/PublicAccessAtlas/
- Harlan County GIS website: http://harlan.gisworkshop.com/
- Franklin County GIS website: http://franklin.gisworkshop.com/
- Lower Republican Natural Resources District: http://www.lrnrd.org/
- Comprehensive plans were not found for Harlan County or Franklin County.

D. Identify all potential Section 4(f) parks, recreation areas, and wildlife/waterfowl refuges *(include property name(s)*, *location(s) along project, etc.)*.

If No parks, recreation areas, or wildlife/waterfowl refuges are present, AND no historic properties need consideration from 1.A., indicate in the box below that no potential Section 4(f) properties are present. DOCUMENTATION IS COMPLETE.

No potential Section 4(f) properties are present.

---

2. Applicability Criteria for Section 4(f) Parks, Recreation Areas, and Wildlife/Waterfowl Refuges (not Historic Properties)

A. List all properties from 1.D. that are (1) NOT publicly owned, or (2) NOT privately owned and leased to a public entity, for a Section 4(f) protected purpose, and how this was determined.

B. List all properties from 1.D. that are NOT open to the public, and how this was determined. (This does NOT apply to wildlife/waterfowl refuges.)

C. List all properties from 1.D. that are considered multiple-use properties, and what those uses are.

D. List all properties from 1.D. that were NOT called-out in 2.A. or 2.B.; **these properties will be carried forward in the Section 4(f) process. Also be sure to carry forward any multiple-use properties from 2.C. or historic properties from 1.A. that have temporary or permanent right-of-way acquisition or vibratory effects.** If no properties are carried forward, note below and DOCUMENTATION IS COMPLETE.

3. Determination of Section 4(f) Use

A. Is there a potential *use* of the Section 4(f) applicable properties from 2.D. above? Will the properties be impacted by the project, including access restrictions? (See Guidance Section 3 for definition of *use*.)

☐ Yes ☐ No Is there a potential *permanent* use?

☐ Yes ☐ No Is there a potential *temporary* use (including exceptions)?

☐ Yes ☐ No Is there a potential *constructive* use?

Any Yes: complete the appropriate Section 4(f) analysis for each impacted property

No: state impact avoidance measures below, then DOCUMENTATION IS COMPLETE

B. List impact avoidance measures (for "No" answer only). If justification is needed to support a "No" answer in 3.A., describe below.

NDOR Reviewer Approval Signature: Date:

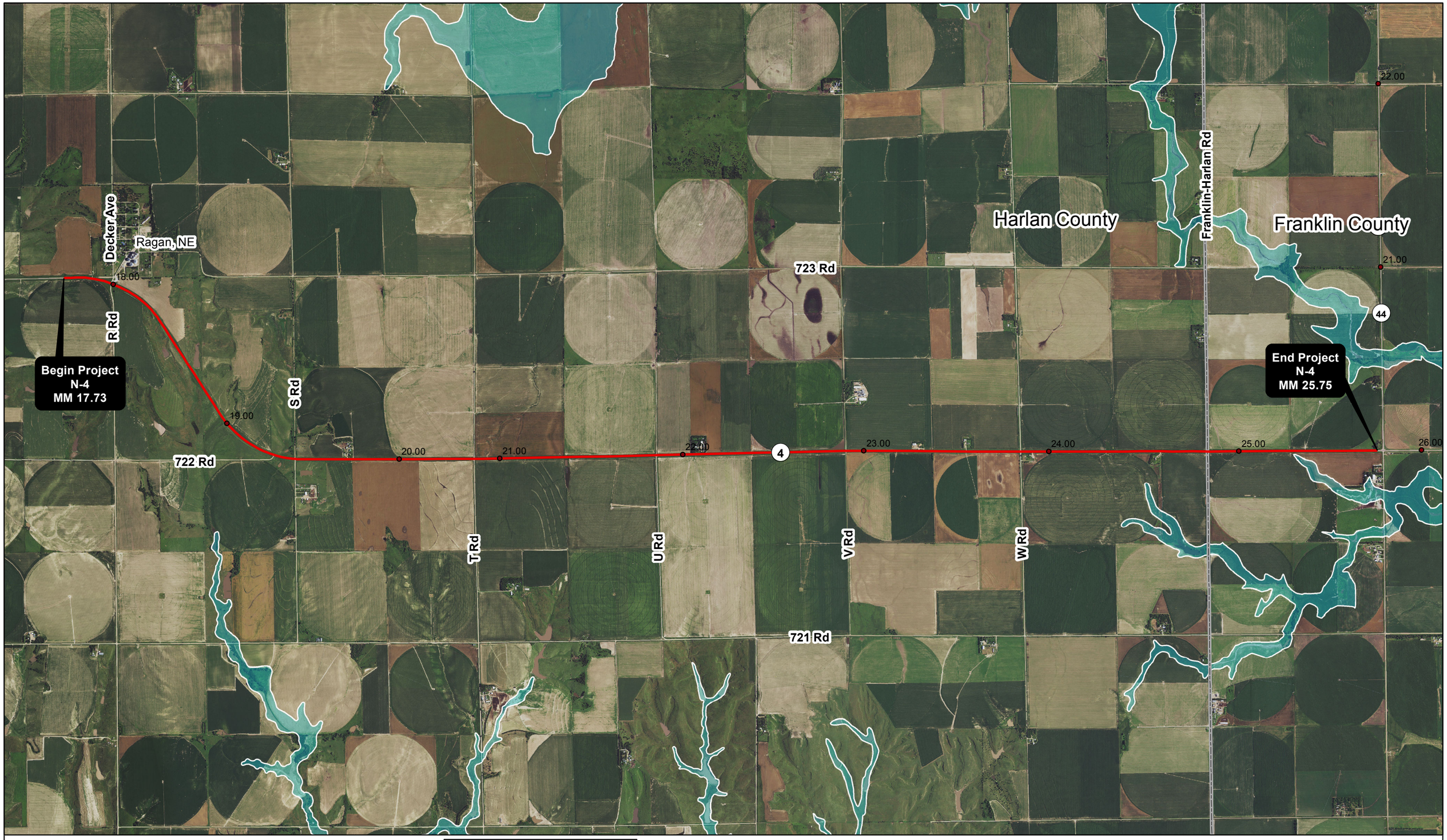
Wendy J. Austin

Digitally signed by Wendy J. Austin
DN: cn=Wendy J. Austin, o=Nebraska Department of Roads, ou=Environmental Documents Unit, email=wendy.austin@nebraska.gov, c=US
Date: 2016.05.09 11:46:29 -05'00'

FHWA Environmental Signature: Date:

FHWA signature is only required in the following circumstances:

- If the property is leased
- If the property is considered multiple-use
- If the Official(s) with Jurisdiction claims that the property is NOT significant



NAIP 2014 Harlan County Aerial Imagery

Nebraska Department of Roads
Project Number: STP-4-3(107)
CN: 71097

Legend

- Project Location
- NDOR Reference Posts
- 1% Annual Chance Flood Hazard

0 0.5 1 Miles

Map Scale = 1:30,000

N W E S

FLOODPLAIN MAP

Ragan - Jct N-44
Harlan and Franklin Counties, Nebraska

Wetlands PQS Memorandum

DATE 1/13/2016

TO Shannon Sjolie, NDOR EDU

FROM Kimberly Baker, NDOR EPU

SUBJECT Wetlands PQS Memo
Project No: STP-4-3(107)
Control No: 71097
Project Name: Ragan – Jct. N-44

☒A wetland delineation was completed September 8-11, 2014
Or
☐A desktop review was completed on

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

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

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

Describe resources, <u>potential</u> impacts and anticipated permit type (*Include estimated permanent wetland impacts (acres). If known, also provide estimated temporary wetland impacts (acres), estimated channel impacts (linear feet/acres), special wetland areas, cause of impacts, and any Nationwide Permit information.*): N/A

Cowardin Class Impacted (*Select all that apply*)
☐ Palustrine ☐ Riverine ☐ Lacustrine ☒ Not Applicable

Describe any coordination conducted to date with officials/agencies (*Include: Any coordination with USACE)*: N/A

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

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

☒ All wetlands/waters within the project area that are not permitted for impacts will be marked on the 2W aerial sheets for the contractor as avoidance areas.

Select one of the following:

☒ 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)

☐ The project qualifies under Nationwide Permit # Non-notifying Nationwide Permit Number. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

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

Project Description:

This 3R (Resurfacing, Restoration and Rehabilitation) project will resurface 7.62 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 will be used to widen the roadway 2 feet left and right, resulting in a 28 foot wide surfaced top. After the widening, the roadway will be resurfaced with asphalt.
Scope details include:

- Grading beyond the hinge point will be required for the following work:
  - Drives and intersections
  - Mailbox turnouts
  - Earth shoulder construction

  An RSAP analysis was performed for the existing culverts within the fixed obstacle clear zone and it is not cost effective to extend them. These culverts will be used in place. No work to other culverts is required.
- The existing asphalt will be milled prior to resurfacing.
- Asphalt patching operations will be performed prior to resurfacing.
- Existing surfaced driveways and intersections will be resurfaced.
- Shoulder rumble stripes will be constructed
- Rock or gravel will be placed behind driveways and intersections to match the new asphalt.
- Mailbox turnouts will be constructed.
- The existing earth shoulders will be brought up to match the new asphalt. Fill beyond the hinge point will be required to blend earth shoulder construction to foreslopes. Foreslope flattening is not required.

- The trench widening operation will remove material adjacent to the existing surfacing. This trench will be filled with recycled material.
- Project surveying and staking will be required.
- Areas disturbed during construction will be stabilized utilizing methods of erosion control as shown in the Storm Water Pollution Prevention Plan (SWPPP).
- Permanent pavement markings will be applied to all new surfacing.
- Access to adjacent properties will be maintained during construction but may be limited at times due to phasing requirements.
- This project will be constructed under traffic with lane closures controlled with approved temporary traffic control.

Biological Assessment PQS Memorandum

DATE	10/13/2015
TO	Shannon Sjolie, NEPA Project Manager
Cc	Kim Baker, EPU Project Manager
FROM	Melissa Marinovich, T&E Species Biologist
SUBJECT	Ragan – Jct. N-44; STP-4-3(107); CN 71097 Threatened & Endangered Species Concurrence

The biological assessment final approval on: **10/13/2015**

Threatened and Endangered Species Effect Determination:

☐ The Project(s) will have "No Effect" to all state or federally listed species or their designated critical habitat (Level 1).

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

☐ This BA required FHWA Review and Approval.

FHWA Concurrence Date:

☐ This BA required further consultation with the resource agencies (Level 2).

USFWS Concurrence Date:

NGPC Concurrence Date:

☐ Unique conservation conditions were developed and are included below (Level 3).

☐ A "May Affect, Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: (Level 3).

Additional Coordination with Other Tribal or Federal Agencies:

Description of Coordination:

Bald and Golden Eagle Protection Act:

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

Migratory Bird Treaty Act:

NDOR has developed an Avian Protection Plan (APP) to reduce conflicts between construction of NDOR projects and the laws governing migratory birds. This procedure is designed to protect and conserve avian populations and reduce avian conflicts through changes in project scheduling (i.e. tree clearing outside of primary nesting period), increased migratory bird surveys, and changes in project construction timelines. NDOR will utilize its APP to reduce conflicts with migratory birds on this project.

Fish and Wildlife Coordination Act:

A wetland determination has been completed for this project. Based on current project design, there will be no wetland or stream channel impacts on this project. This project will not require a Section 404 permit from the Corps of Engineers; therefore, coordination under the FWCA is not required.

Conservation Conditions: *Responsible Party for conservation condition shown in parentheses.*

Listed below are the required Conservation Conditions that apply to this project. These measures are not subject to change without the prior written approval of the Federal Highway Administration. **Copy and paste the conditions listed below verbatim in the NEPA document, the Green Sheet, and in the contract documents:**

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)

Whooping Crane:

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

OR

WC-2 If construction activities occur during Whooping Crane migration periods (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16), NDOR trained personnel, or a qualified biologist, will conduct surveys according to protocol at the following locations: ***Farm ponds near MM 14.0, MM 14.9, MM 16.3, MM 17.8, MM 19.3*** (*location of suitable habitat*). **(prior to the start of daily construction activities)**. If species are present the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume **(also not initiate work if species is found in the morning survey)**. Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):

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

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

AND

WC-3 Herbaceous species used for re-seeding within ¼ mile of the following 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).

NDOR PQS Project Review Memo
Section 106 - Tier II Project

Control Number 71097 Project Number STP-4-3(107) Review Date 11/24/15

Project Name Ragan - Jct N-44 Project Location Franklin and Harlan

Date of Project Description Reviewed 04/07/2015

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

THPO/Tribal Consultation? ☑ No ☐ Yes

THPO/Tribes(s): _____

Date Correspondence Sent: _____

THPO/Tribal response date: _____

THPO/Tribal comment:

CLG Consultation? ☑ No ☐ Yes

CLG: _____

Date Correspondence Sent: _____

CLG response date: _____

CLG comment:

Other Consulting Parties Identified:

n/a

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

Archeological Resources	**Above Ground Resources**
Are NRHP listed or eligible properties present within the APE? ☑ **No** ☐ **Yes**	**Are NRHP listed or eligible properties present within the APE?** ☑ **No** ☐ **Yes**
Please list:	**Please list:**

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

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

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

If Yes, describe:

Construction Commitments: ☐ No ☑ Yes

If Yes, detail here:

Sensitive Area:
There is a Sensitive Area on the east side of N-4 from MM 18.36 - 18.47. This area should 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, would occur beyond the existing ROW.

Project would result in no historic properties affected: ☐ No ☑ Yes

Tier II Project Evaluation Complete

Stacy Stupka-Burda

Digitally signed by Stacy Stupka-Burda
DN: cn=Stacy Stupka-Burda, o=NDOR, ou=Planning & Project Development, email=stacy.stupka-burda@nebraska.gov, c=US
Date: 2015.11.25 11:24:04 -06'00'

11/25/15

NDOR PQS Review

Date

Area of Potential Effects
Archeological Resources:
DIRECT: Horizontal APE- 20' beyond present ROW for construction activities, and up to 50' at stream crossings; Vertical APE- at or near present ground surface and up to 15' below present grade at stream crossings.
INDIRECT: No secondary or cumulative effects reasonably foreseeable.
Above Ground Resources:
The APE for considering direct physical impacts and indirect visual or atmospheric (auditory and vibratory) effects to structural and architectural historic resources includes construction areas mentioned in the project description, as well as an area extending 100 feet beyond the current Right-of-Way in the rural areas, and 25 feet from the pavement edge within the corporate limits of Ragan.

Nebraska Department of Roads

Planning and Project Development

Hazardous Materials Memorandum

Date: May 18, 2016

To: Wendy Austin, Highway Environmental/NEPA Specialist, Planning and Project Development

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

Subject: Hazardous Materials Review Memo for the NDOR Project Ragan – Jct N-44 (C.N. 71097).

Overview

A hazardous materials review (HMR) was completed by Alfred Benesch & Company for the Ragan – Jct N-44 project and approved by NDOR on May 13, 2016. A HMR was required for this project because the scope of work exceeds the project exemptions. The purpose of the HMR is to identify environmental concerns associated with hazardous materials and petroleum products which could potentially be encountered during the construction project. This memo summarizes the conclusions and applicable mitigation measures found in the HMR and assists the Environmental Documents manager in completing the Hazardous Materials section of the CE Determination Form for Federal-Aid Projects. The HMR can be found in the NDOR project file.

The project description updated on April 7, 2015 was used for this PQS memo. The HMR produced for this project used an older version of the project description. Changes to the project represented in the newer project description include removing the work associated with culverts and eliminating the need for additional property rights. The revised project description also added work for shoulder rumble stripes and filling beyond the hinge point. These changes have been reviewed as part of this PQS memo. Because these changes reduce the amount of excavation proposed, the conclusions of the HMR remain valid.

Hazardous Material Site Discussion

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.

Asbestos and Lead

The scope of work does not include bridge work, and therefore no asbestos survey or lead commitments are required. No asbestos or lead mitigation is required.

Unexpected Waste Commitment

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

Sincerely,

Will Packard 5/18/16

Name Date

Will Packard, Highway Environmental Specialist
Planning and Project Development
NDOR

Probable Class of NEPA Action Form

**Attach the DR 530 for an LPA project, DR-73 for a State project, and an aerial location map of the project which includes project start and end points.*

Date this DR-53 was Completed:	Control Number: *(NDOR Completes)*	Project No.: *(NDOR Completes)*
May 19, 2014	71097	STP-4-3(107)

Project Name:
Ragan - Jct N-44

☐ LPA Project ☒ State Project

Local Public Agency or NDOR District and County Project Located In:
NDOR District 7, Harlan and Franklin Counties

Answer the following questions: (*See Instructions*)	**Yes**	**No**
1. Would the project construct a new roadway on a new location?	☐	☒
a. If yes, would the new roadway have 4 or more lanes?	☐	☐
2. Would the project create a new access controlled freeway facility?	☐	☒
3. Would the project include a new interchange?	☐	☒
4. Is it likely the project would disturb any ground outside the existing paved roadway surface?	☒	☐
5. Is it likely the project would add capacity *(adding thru lanes to a road, fly-by lane, passing lane, auxiliary or turn lane that is > or = 1 mile in length)* to an existing roadway?	☐	☒
6. Is it likely the project would close a road, bridge, or access for more than 3 consecutive days?	☐	☒
7. Is it likely the project would disturb natural ground *(soil)* below or beyond existing fill material?	☒	☐
8. Is it likely the project would require the acquisition of right-of-way *(ROW)*, including permanent easements and/or temporary construction easements?	☒	☐
a. If yes, is it likely more than 1.5 acres per linear mile of ROW or easements would be needed?	☐	☒
b. If yes, is it likely farmland would be purchased?	☒	☐
c. Is it likely the project would require homes, businesses, or farms to be relocated?	☐	☒
9. Is it likely the project would change access control rights to an existing roadway?	☐	☒
10. Is there known public opposition or controversy related to this project or is it anticipated?	☐	☒
11. Is additional outreach proposed beyond the program hearing/meeting?	☐	☒
12. Are there any Section 4(f) properties *(including: publicly owned parkland, trail, wildlife refuge, or known historic properties)* present along or within 0.25 mile of the project?	☐	☒
a. If yes, is it likely the project would impact a Section 4(f) property?	☐	☐
13. Based on past experiences or to your knowledge, is the project adjacent to structures that are 50 years old or older, or are there any known historic structures in the project area?	☐	☒
14. Would the project affect an eligible historic bridge?	☐	☒
15. Based on past experiences or to the best of your knowledge, are there any State or Federally listed Threatened or Endangered Species or critical habitat within the project area?	☐	☒
16. Are any of the following water bodies located within the project limits? ☒ Creek or Stream Channel ☐ Lake ☐ River ☒ Drainage Ditch ☐ N/A		
a. If any water bodies are in the project limits, then how often is water present in them? ☐ Always present ☒ Sometimes present ☒ Rarely present ☐ N/A		
b. Is it likely the project would impact any of the following? *(Check all that apply)* ☒ Creek or Stream Channel ☐ Lake ☐ River ☒ Drainage Ditch ☐ N/A		

17. To your knowledge, do any of the following exist within or adjacent to the project limits? *(Check all that apply)*
    - ☐ Above or below ground storage tanks
    - ☐ Past chemical spills or releases
    - ☐ Operational and/or closed dump or landfill
    - ☐ Industrial or commercial areas
    - ☒ None known

18. Do any of the following statements describe areas within the project limits? *(Check all that apply)*
    - ☐ There is standing water in the project area.
    - ☐ There area areas that hold water longer after it rains and/or do not drain well.
    - ☐ There are areas that appear to be soggy or swampy.
    - ☒ There are known wetlands in the project area.
    - ☐ Wetland plants are located in the project area *(e.g., cattails, reed-canary grass)*

    a. If any boxes were checked in 18 above, is it likely any of those areas would be impacted by project construction? ☒ Yes ☐ No

19. I have attached an aerial location map to this form which shows the project location and contains enough detail for someone from the public to find the project site. ☒ Yes

Please add any additional comments to support the information in this form. *(*Include any public involvement that has occurred.)*

Document Preparer's Signature:

I certify the information in this form accurately reflects what I know about this project at this time.

Carla Ahlschwede	Carla Ahlschwede	5/19/14
(Print Name)	*(Signature)*	*(Date)*

NDOR Highway Environmental Biologist/NEPA Specialist

(Organization and Title)

(402) 479-4413	carla.ahlschwede@nebraska.gov
(Phone – include Area Code)	*(Email)*

The following is for NDOR Use Only

*Environmental Justice/Title VI/*LEP

Civil Rights Staff completes the following:

Does the study area contain high concentrations of low-income or minority populations when compared to the area surrounding the study area and/or the city/county as a whole? ☐ Yes ☒ No

Does 5% or greater, or 1,000 persons or greater, or the affected population primarily speak a language other than English and also speak English "less than very well"? ☐ Yes ☒ No

If yes to any of the questions above, please describe what kind of analysis is recommended for the project based on the project scope and project description. ☐ Yes ☐ No

Chris Hassler (Print Name) — Hwy Civil Rights Specialist (Signature and Title) — 5/21/14 (Date)

Civil Rights Staff Comments: *(Early Guidance for the Project Proponent)*

Noise and Air Study

Noise & Air Section completes the following:

Is a noise analysis warranted* *(Type I Project)*? ☐ Yes ☒ No

Is an air analysis warranted? ☐ Yes ☒ No

MSAT Analysis Level (Check one) ☐ 1 ☐ 2 ☐ 3

If yes, please identify the type(s) of analysis required.

* Note to Project Sponsor: If the vertical or horizontal alignment is changed, or if the design capacity is modified after DR-53 approval, reconsult with the Noise and Air staff.

Sean Schulz (Print Name) — Highway Biologist (Signature and Title) — 5-28-14 (Date)

Noise and Air Staff Comments: *(Early Guidance for the Project Proponent)*

Public Involvement

Public Involvement Coordinator completes the following:

Based on the NDOR PIP, the DR-53 Guidelines, or characteristics of the project scope, location or community, is additional outreach required beyond the project's program meeting or what is proposed? ☒ Yes ☐ No

If yes, what type of additional public involvement is recommended:

- ☒ Public Involvement Campaigns *(i.e., targeted mailings, new release, etc.)*
- ☐ Public Meeting
- ☐ Other

Sarah Kugler (Print Name) — Pub. Involvement Coordinator (Signature and Title) — 6/2/14 (Date)

Public Involvement Coordinator Comments: *(Early Guidance for the Project Proponent)*
Based on the current scope I recommend a public involvement campaign at this time. If the project scope changes, Public Involvement will need to be re-evaluated.

Probable Class of NEPA Action

NDOR Environmental Section completes the following:

NDOR has reviewed this form and recommends the following Probable Class of NEPA Action for this project:

- ☒ Programmatic Categorical Exclusion or Categorical Exclusion
- ☐ Environmental Assessment
- ☐ Environmental Impact Statement

Shannon Sjolie		Hwy Env Biologist	6/2/14
(Print Name)	*(Signature and Title)*		*(Date)*

NDOR Comments: *(Early Guidance for the Project Proponent)*

FHWA Concurrence on NDOR's Recommended Probable Class of NEPA Action for this project:

Molly Lamrouex	Digitally signed by Molly Lamrouex DN: cn=Molly Lamrouex, o=FHWA, ou=Nebraska Division, email=molly.lamrouex@dot.gov, c=US Date: 2014.06.04 09:04:34 -05'00'	
(Print Name)	*(Signature and Title)*	*(Date)*

FHWA concurrence is based on the information known at the time of coordination. This is the probable class of NEPA action and is subject to change as the proposed project progresses and more information is learned about the project, surrounding area, and impacted resources.

FHWA Comments: *(Early Guidance for the Project Proponent)*

From:	Stapp, Scott (FHWA)
To:	Kugler, Sarah
Cc:	Petracek, Sue; Bui, Tony; Austin, Wendy; Maiefski, Melissa (FHWA)
Subject:	RE: CN 71097; STP-4-3(107); Ragan-JCT N-44
Date:	Wednesday, June 08, 2016 4:25:26 PM

Hi Sarah,

Sorry about the delay. FHWA concurs with the public involvement approach discussed below.

Thanks,
Scott
P\ENV\Involve

From: Kugler, Sarah [mailto:sarah.kugler@nebraska.gov]
Sent: Wednesday, June 08, 2016 9:02 AM
To: Stapp, Scott (FHWA)
Cc: Petracek, Sue (FHWA); Bui, Tony; Austin, Wendy
Subject: RE: CN 71097; STP-4-3(107); Ragan-JCT N-44

Scott-

Have you had a chance to look at this?

Sarah R. Kugler
Public Involvement Manager/
Highway Commission Secretary
NDOR Communication Division
1500 Hwy 2
Lincoln, NE 68509-4759
402-479-4871 (phone)
402-479-3989 (fax)
sarah.kugler@nebraska.gov

From: Kugler, Sarah
Sent: Monday, May 16, 2016 8:23 AM
To: 'scott.stapp@dot.gov' <scott.stapp@dot.gov>
Cc: Petracek, Sue <sue.petracek@dot.gov>; Bui, Tony <tony.bui@nebraska.gov>
Subject: CN 71097; STP-4-3(107); Ragan-JCT N-44

Scott,

As shown in the DR-53 (attached), a targeted mailer was recommended by NDOR Public Involvement in summer of 2014 for the proposed *Ragan – Jct N-44* project. NDOR Public Involvement believes this outreach is no longer appropriate, per the Programmatic Agreement and Public Involvement Procedure.

The proposed 3R project would resurface approximately 7.62 miles of Nebraska Highway 4 (N-4) located in Franklin and Harlan Countries, starting at mile marker (MM) 7.73, approximately 0.26 miles west of Decker Avenue in Ragan, and extending east to MM 25.75, approximately 0.03 miles west of the junction of N-4 and Nebraska Highway 44 (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 proposed scope of work would include performing fly ash stabilization of the existing asphalt roadway, widening the roadway, and asphalt patching operations and milling prior to resurfacing with asphalt. Additional work may include resurfacing existing driveways and intersections, shoulder rumble stripes, shoulder work to match the new asphalt, trench widening, and permanent pavement markings.

Upon re-evaluation of the project, it has been noted that additional property rights would not be required for this project, there are no 4(f) or 6(f) defined properties within or adjacent to this project, no airports near or within the project area, no impacts to wetlands, nor were any civil rights issues identified. Access to adjacent properties would be maintained during construction, but may be limited at times due to phasing requirements. The project would be constructed under traffic with lane closures controlled with approved temporary traffic control. The project is anticipated to take approximately 55 working days and would take one construction season.

To reiterate, in June of 2014, NDOR Public Involvement had recommended that a targeted mailer be utilized for the above mentioned project; however, due to a re-evaluation of the proposed project, NDOR Public Involvement believes that the recommended outreach is no longer deemed necessary. No further public involvement is anticipated at this time.

Please let me know if you have any questions in regards to this project or our public involvement outreach.

Sarah R. Kugler
Public Involvement Manager/
Highway Commission Secretary
NDOR Communication Division
1500 Hwy 2
Lincoln, NE 68509-4759
402-479-4871 (phone)
402-416-7667 (mobile)
402-479-3989 (fax)
sarah.kugler@nebraska.gov

To: Shannon Sjolie, Highway Environmental Biologist/NEPA Specialist, NDOR
From: Chris Hassler, Highway Civil Rights Coordinator, NDOR
Date: 15 December 2015
RE: Civil Rights Analysis, CN 71097, STP-4-3(107), Ragan to Jct N-44

Civil Rights Analysis for CN 71097

Environmental Justice Regulatory Background and Methodology:

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

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

> *Adverse Effects* are defined as "the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of human-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities."
>
> A *Disproportionately High and Adverse Effect to Low-Income and Minority Populations* is defined as an adverse effect that:
>
> 1. is predominately borne by a minority population and/or a low-income population; OR
>
> 2. will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.

Minority is defined as a person who is:

1. Black: a person having origins in any of the black racial groups of Africa;

2. Hispanic or Latino: a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

3. Asian American: a person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent;

4. American Indian and Alaskan Native: a person having origins in any of the original people of North America, South America (including Central America), and who maintains cultural identification through tribal affiliation or community recognition; OR

5. Native Hawaiian and Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

A *Low-Income* person is defined as a person whose median household income is at or below the Department of Health and Human Services poverty guidelines. (*Note – The U.S. Department of Health and Human Services does not publish tabulations of the number of people below the DHHS poverty guidelines, which are a simplified version of the federal poverty thresholds. The federal poverty thresholds are used for calculating all official poverty population statistics, and are updated annually by the Census Bureau. The best approximation for the number of people below the DHHS poverty guidelines in a particular area is the number of persons below the Census Bureau poverty thresholds in that area.)*

A *Minority Population* is defined as any readily identifiable group of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.

A *Low-Income* population is defined as any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.

In a December 16, 2011, memorandum titled *Guidance on Environmental Justice and NEPA*, the FHWA laid out a basic methodology for performing Environmental Justice analysis. NDOR has adopted, and FHWA has approved, an Environmental Justice methodology which follows the basic framework of the 2011 memorandum, but expands upon a few vague or undefined concepts. NDOR Environmental Justice methodology is as follows:

1. Using localized census tract data and other relevant information sources, data is gathered and readily identifiable groups or clusters of minority or low-income persons in the EJ study area are listed. Small clusters or dispersed populations are not overlooked. Study area data is also compared with the data of larger, identifiable areas (census tracts, cities, counties,

NDOR districts, etc.) to determine the proportion of minority and low-income persons present in the study area.

2. Minority and low-income populations are identified where:

   (a) A readily identifiable group or cluster of minority or low-income persons is located in the EJ study area (for example, a low-income housing complex, or a workplace of mostly minority persons); OR

   (b) The minority or low-income population of the study area exceeds 50 percent; OR

   (c) The minority or low-income population percentage of the affected area is *meaningfully greater* than the minority population percentage in the general population or other appropriate unit of geographic analysis. The *meaningfully greater* standard is fact-dependent and requires professional judgment, but in most cases *meaningfully greater* is about 6%-8% or above.

3. If minority and/or low-income populations are not present in the EJ study area, the analysis is concluded.

4. If minority and/or low-income populations are present in the EJ study area, potential disproportionately high and adverse effects of the proposed project are examined. If none are identified, the analysis is concluded.

5. If minority and/or low-income populations are present in the EJ study area, and potential disproportionately high and adverse effects of the proposed project have been identified, proposed mitigation will be considered. Commonly, the application of effective mitigation techniques can reduce or eliminate adverse effects that might otherwise fall disproportionately upon minority and low-income populations.

6. Finally, the analysis concludes with a determination that the proposed project either will or will not result in disproportionately high and adverse effects to minority and low-income populations. State transportation agencies lack the regulatory authority to make a final determination in cases where potential disproportionately high and adverse effects to minority and/or low-income populations exist. In the event that potential disproportionately high and adverse effects to minority and low-income populations are anticipated, even when mitigation is expected to reduce or eliminate the effects, the analysis and determination must be forwarded to the FHWA for comment, revision, and approval.

Project Location and Description

This project is located in Franklin and Harlan Counties, and is adjacent to the Village of Ragan. In Franklin County, this project is contained entirely within a one census tract, Tract 9646. Harlan County is comprised of only one census tract, and therefore comparisons between tracts and Harlan County

cannot be made. The project area in Harlan County is therefore studied at the county subdivision, or voting district level. In Harlan County, this project is located in Antelope and Scandinavia Townships.

This project will resurface 7.62 miles of N-4 located in Franklin and Harlan Counties, starting 0.26 miles west of Decker Avenue in Ragan, and extending east to 0.03 miles west of the junction of N-4 and N-44. There will be no detour for this project.

Examination of Study Area Population: Census Data and Other Observations

The Environmental Justice data for this project is as follows:

Area	Minority Population*	Hispanic Population	Population Below the Poverty Level**
Tract 9646 Franklin County	2.3%	1.1%	10.6%
Antelope Township Harlan County	3.6%	3.6%	4%
Scandinavia Township Harlan County	0%	0%	71%
Village of Ragan	0%	0%	1.7%
Franklin County	2.5%	1%	14.5%
Harlan County	2.3%	1.3%	11.8%

*Data on minority and Hispanic persons collected from 2010 Decennial US Census, Summary File 1, Table P5.
**Data on low-income persons collected from American Community Survey 2010-2014 5-Year Estimates, Table S1701.

The Limited English Proficiency data for this project is as follows:

Area	% of Population that Speaks ONLY English*	Languages Other Than English Spoken by 5% or Greater of the Total Population**	Population of Area Age 5 or Greater
Tract 9646 Franklin County	97.1%	None	1,289
Antelope Township Harlan County	100%	None	149
Scandinavia Township Harlan County	100%	None	93
Village of Ragan	100%	None	58

*All data from American Community Survey 2010-2014 5-Year Estimates, Table B16001.
** These figures reflect the population of an area that speaks a language other than English, and also speaks English "Less than Very Well."

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 areas in which this project is located are mostly English-speaking. 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.

Adverse Effects to Minority and/or Low-Income Populations

The following project information is relevant:

There will be no detour for this project.

There will be no right-of-way acquisition for this project.

Access to adjacent properties will be maintained.

There will be no isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community.

There will be no restrictions of access to essential services.

There will 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.

Conclusions

A low-income population was identified in Scandinavia Township, in Harlan County. However, there will be no disproportionately high and adverse human health or environmental effects visited upon minority and low-income populations, as defined in FHWA Order 6640.23A, for the reasons cited in the previous section of this document.

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.