# 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:

Niobrara River South

Project Number:

STP-87-4(118)

Control Number:

51508

Location and Study Area:

The Project is located on Nebraska Highway 87 (N-87) in Box Butte and Sheridan counties, starting 0.29 mile northeast of the intersection of N-87 and State Link 7E (L-7E) and extending northeast to 0.53 mile north of the Niobrara River. The Environmental Study Area is confined to the length of this project (14.97 miles) plus a half mile on either end along N-87 including the existing right-of-way (ROW) plus 50 feet beyond ROW for most of the project length, and extending 150 feet beyond ROW at the bridges and culverts for wetlands and most other resources. For hazardous materials the study area extended to 0.10 mile, and for Section 4(f) resources 0.25 mile beyond ROW.

Termini are based on limits identified by NDOR pavement management system, District 5 and previous construction projects on this segment of highway.

Begin Point(s): MM 16.15

End Point(s): MM 31.12

Highway Number, Street, etc.: N-87

Project Description:

This project would resurface 14.97 miles of N-87 located in Box Butte and Sheridan Counties, starting 0.29 mile northeast of the intersection of N-87 and L-7E at MM 16.15, and extending northeast to MM 31.12, 0.53 mile north of the Niobrara River. Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

The existing roadway on this segment of N-87 consists of two 12-foot-wide asphalt lanes and 6-foot-wide shoulders, of which 2 feet is paved with asphalt.

The improvements on this project consist of milling of existing pavement, resurfacing the roadway and surfaced shoulders with asphalt, superelevation correction, constructing granular subdrains, and constructing earth shoulders. The bridge (Structure Number S087 03059) would undergo repairs including partial depth deck repairs, asphalt overlay with membrane and piles would be painted.

Scope details include:

- Trench widening for the incorporation of beveled edges on the surfacing for enhanced safety.
- Rumble strip construction.
- Clearing and grubbing of non-woody vegetation.
- Grading within the hinge point would be required for the following work:
- Correction of superelevation of approximately 3 inches
- Mailbox turnouts
- Earth shoulder construction
- Drives and intersections
- Granular subdrains
- There are 39 culverts along this roadway segment. As-built plans indicate that existing culverts meet the lateral obstacle clear zone for this segment and no impacts are anticipated.
- One bridge (S087 03059) would undergo repairs including partial depth deck repair, asphalt overlay with membrane, and the piles would be painted.
- Guardrail
- Remove and replace guardrail
- Surfacing under guardrail
- The existing asphalt would undergo cold milling and then be resurfaced with asphalt.
- Superelevation correction would be included on multiple horizontal curves
- Asphalt patching operations would be performed prior to resurfacing.
- Existing surfaced driveways and intersections would be resurfaced.
- Rock or gravel would be placed behind driveways and intersections to match the new asphalt.
- Mailbox turnouts would be constructed.
- The existing earth shoulders would be brought up to match the new asphalt.
- 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 and existing sign and posts will be replaced.
- No additional property rights would be required to build this project.
- Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.
- This project would be constructed 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 | $5,448,000 |

**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

**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 are used for the utility work; or (2) the project construction contractor is responsible for the work. If this utility work is identified during final design, the project sponsor shall initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor shall initiate the reevaluation prior to commencing utility work. (NDOR Environmental, NDOR District)

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

## Water and Ecological Resources:

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

☐ Yes* ☒ No ☐ N/A

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

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

☒ Yes (1) ☐ No (1) ☐ N/A

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

6.2 Will the action cause a greater than 1-foot rise in the Base Flood Elevation (BFE), any rise in a floodplain that potentially impacts an adjacent structure, or any rise in a floodway?

☐ Yes (3) ☒ No (1) ☐ N/A

6.3 Will the actions reviewed under Appendix B, Paragraphs (26), (27), and (28) result in a floodplain encroachment other than functionally dependent uses or actions that facilitiate open space use?

☐ Yes (3) ☐ No ☒ N/A

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

The Project is located within the boundaries of the Zone A floodplains of the Niobrara River and one unnamed tributary of Box Butte Creek. The Zone A floodplain of the unnamed tributary crosses the project near MM 22.76. The Niobrara River is located at MM 30.58 and Structure No. S087 03059. Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit. NDOR would acquire the proper floodplain permits, and certify that the construction activities would be in compliance with the State of Nebraska floodplain regulations.

6.5 Floodplain/Floodway Mitigation:

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

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

[X] 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) [X] No (1)

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

[ ] Yes (2) [ ] No (1) [X] 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) [X] 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) [X] N/A

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

No wetland or Waters of the U.S. impacts are anticipated for this Project. A wetland delineation was performed along the Project August 25-27, 2014.

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

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

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

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

[ ] Yes [X] 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:

A NPDES permit would be acquired and a SWPPP would be developed for the Project.

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 percent revegetated. At that time, the Notice of Termination shall be filed. (NDOR Environmental)

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

☐ Yes (2) ☒ No (1)

NDOR PQS Determination Date:

11/13/2015

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 may affect, but is not likely to adversely affect, finescale dace, northern redbelly dace, and swift fox. The Project would have no effect to all other state or federally listed species or their designated 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)

Finescale Dace & Northern Redbelly Dace:
FSD,NRBD-2 Bridge deck debris will be captured and/or contained to prevent material from entering the channel. (District, Contractor)

FSD,NRBD-4 Woody vegetation and shrub plantings within 100 feet of the Niobrara channel shall be limited to the same native shrub species as occurs in adjacent habitat. No tree species that will reach a height over 6 feet shall be used in the re-vegetation plan within 100 feet of the channel. (NDOR Environmental, District, Contractor)

FSD,NRBD-5 Any upland soil disturbances will be designed to avoid or minimize sedimentation. (Design, Contractor)

Swift Fox:
SF-1 Up to a year prior to construction, NDOR or a qualified contractor may survey for potential swift fox den sites within the project's environmental study area. Any potential den sites that are not in use by any species may be covered with 2" by 4" weld-wire fencing and adequately secured to the ground. Two weeks prior to the start of construction, a qualified biologist shall survey the environmental study area according to protocol to determine if active swift fox den sites are present. If an active den with young is located and it is outside the project limits, then a buffer zone shall be established around the den and all construction activities shall avoid the buffer until the den is abandoned. If an occupied den with or without young is identified within the project limits or staging areas, NDOR shall immediately coordinate with the NGPC and notify FHWA (if applicable) to determine how to proceed. A buffer zone shall be established around the den and all construction activities shall avoid the buffer until NDOR gives approval to enter the buffer area. Between April 1 and August 31 the buffer zone shall be 250 yards around the active den site; other times of the year, the buffer shall be 100 yards around the active den site. (NDOR Environmental)

Bald and Golden Eagle Protection Act:
Suitable Golden Eagle nesting and/or roosting habitat exists within 0.5 miles of the Environmental Study Area. If construction will begin between February 1 and April 15, a nest survey must be completed at least 1 but not more than 14 days prior to construction. If construction will begin between April 15 and October 1, a nest survey completed in March is sufficient, as nests will likely already be constructed if nesting will occur that year. However, a nest survey may be completed anytime during this timeframe, as long as it is completed prior to construction. If golden eagles are nesting in the area, consultation with NGPC and USFWS will be required.

* 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:

4/13/2016

Has coordination occurred with SHPO?

☐ Yes ☒ No

Has coordination occurred with THPO?

☐ Yes ☒ No

Has coordination occurred with CLG?

☐ Yes ☒ No

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

☒ Yes (1) ☐ No (1)

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:

3/31/2016

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

No hazardous materials sites were identified within the hazardous materials study area.

11.6 Hazardous Materials Mitigation:

If contaminated soils and/or water or hazardous materials are encountered, then all work within the immediate area of the discovered hazardous material would stop until NDOR/FHWA is notified and a plan to dispose of the Hazardous Materials has been developed. Then DEQ shall be consulted and a remediation plan would 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 DEQ would be contacted for consultation and appropriate actions be taken. The contractor is required by NDOR's Standard Specification section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws. (Contractor)

The bridge structure (Structure Number S087 03059) would be repaired and include partial depth deck repairs, asphalt overlay with membrane, and piles would be painted. There is potential for lead based paint to be found on the bridges painted components. If the method of removal of the components generates paint debris, the waste shall be handled in accordance with NDOR's Standard Specification for Highway Construction Section 732 (Lead-based Paint Removal) and Title 128, Nebraska Hazardous Waste Regulations. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractors implementation plan efforts shall be documented in Environmental Compliance and Oversight Database (ECOD). (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:

N/A

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

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

☐ Yes (1) ☒ No (1)

NDOR Highway Civil Rights Specialist Determination Date:

6/9/2014

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

The study area does not contain protected populations.

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

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

18.2 Public Involvement Mitigation:

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

N/A

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 are used for the utility work; or (2) the project construction contractor is responsible for the work. If this utility work is identified during final design, the project sponsor shall initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor shall initiate the reevaluation prior to commencing utility work. (NDOR Environmental, NDOR District)

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

**Floodplain/Floodway Mitigation:**
Floodplain permits will be required for the project action. Floodplain permits shall be acquired from the appropriate local Floodplain Administrator(s), in accordance with Nebraska Floodplain regulations, prior to the construction obligation phase. (NDOR Environmental)

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

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

**Impaired Waters, Section 402, and MS4 Mitigation:**
Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMPs) including devices every 14 days minimum and after every precipitation event of 0.5 inch or greater as per the requirements in the General Construction Storm Water Permit. Any BMP adjustments and repairs are to occur within 7 days of the inspections to ensure that water quality is being protected to the maximum extent practicable. The SWPPP shall be maintained and discharge points shall be monitored by the NDOR District Staff until the site is 70 percent revegetated. At that time, the Notice of Termination shall be filed. (NDOR Environmental)

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

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

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

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

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

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

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

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

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

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

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

**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)

Finescale Dace & Northern Redbelly Dace:
FSD,NRBD-2 Bridge deck debris will be captured and/or contained to prevent material from entering the channel. (District, Contractor)

FSD,NRBD-4 Woody vegetation and shrub plantings within 100 feet of the Niobrara channel shall be limited to the same native shrub species as occurs in adjacent habitat. No tree species that will reach a height over 6 feet shall be used in the re-vegetation plan within 100 feet of the channel. (NDOR Environmental, District, Contractor)

FSD,NRBD-5 Any upland soil disturbances will be designed to avoid or minimize sedimentation. (Design, Contractor)

Swift Fox:
SF-1 Up to a year prior to construction, NDOR or a qualified contractor may survey for potential swift fox den sites within the project's environmental study area. Any potential den sites that are not in use by any species may be covered with 2" by 4" weld-wire fencing and adequately secured to the ground. Two weeks prior to the start of construction, a qualified biologist shall survey the environmental study area according to protocol to determine if active swift fox den sites are present. If an active den with young is located and it is outside the project limits, then a buffer zone shall be established around the den and all construction activities shall avoid the buffer until the den is abandoned. If an occupied den with or without young is identified within the project limits or staging areas, NDOR shall immediately coordinate with the NGPC and notify FHWA (if applicable) to determine how to proceed. A buffer zone shall be established around the den and all construction activities shall avoid the buffer until NDOR gives approval to enter the buffer area. Between April 1 and August 31 the buffer zone shall be 250 yards around the active den site; other times of the year, the buffer shall be 100 yards around the active den site. (NDOR Environmental)

Bald and Golden Eagle Protection Act:
Suitable Golden Eagle nesting and/or roosting habitat exists within 0.5 miles of the Environmental Study Area. If construction will begin between February 1 and April 15, a nest survey must be completed at least 1 but not more than 14 days prior to construction. If construction will begin between April 15 and October 1, a nest survey completed in March is sufficient, as nests will likely already be constructed if nesting will occur that year. However, a nest survey may be completed anytime during this timeframe, as long as it is completed prior to construction. If golden eagles are nesting in the area, consultation with NGPC and USFWS will be required.

**Hazardous Materials Mitigation:**
If contaminated soils and/or water or hazardous materials are encountered, then all work within the immediate area of the discovered hazardous material would stop until NDOR/FHWA is notified and a plan to dispose of the Hazardous Materials has been developed. Then DEQ shall be consulted and a remediation plan would 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 DEQ would be contacted for consultation and appropriate actions be taken. The contractor is required by NDOR's Standard Specification section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws. (Contractor)

The bridge structure (Structure Number S087 03059) would be repaired and include partial depth deck repairs, asphalt overlay with membrane, and piles would be painted. There is potential for lead based paint to be found on the bridges painted components. If the method of removal of the components generates paint debris, the waste shall be handled in accordance with NDOR's Standard Specification for Highway Construction Section 732 (Lead-based Paint Removal) and Title 128, Nebraska Hazardous Waste Regulations. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractors implementation plan efforts shall be documented in Environmental Compliance and Oversight Database (ECOD). (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 due to 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:

There is a Sensitive Area on this project between MM 23.12 and MM 23.23 (south side only). This area shall be identified on plans as a Sensitive Area to be avoided. Any new rights-of-way or easement acquisitions, however minimal, between MM 23.12 and MM 23.23 (south side only), shall be avoided. 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 in the Sensitive Area. (NDOR Environmental)

Borrow Site:
Any material needed shall be provided by the Contractor. The Contractor shall try to obtain borrow from an upland site to prevent depletion issues. If the borrow site is within a depletion area of concern, the Contractor shall coordinate with the appropriate agencies and NDOR to offset or minimize impacts. The Contractor shall obtain all environmental clearances and permits required for the borrow site prior to obtaining borrow material for the project. (Contractor)

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

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

Paragraph: (c)

Activity: 22

Prepared by: Brian Goss

Organization: HDR

Phone: (402) 399-4933

Email: Brian.Goss@hdrinc.com

Signature: Brian Goss

Date: 5/26/2016

**Reviewed by Project Sponsor:**

Name: Jacqueline Baird, PE

Organization: Nebraska Dept. of Roads

Title: Engineer III

Signature: Jacqueline Baird

Date: 6/22/16

**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:

Digitally signed by Carmen Modrcin
DN: cn=Carmen Modrcin, o=NDOR Environmental, ou=NEPA Specialist, email=carmen.modrcin@nebraska.gov, c=US
Date: 2016.06.22 09:44:40 -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: