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

CE Review Level:

☐ 1 ☒ 2 ☐ 3 ☐ Re-evaluation

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

Appendix: B

Paragraph: 22

Project Name:

Alma South Bridges

Project Number:

NH-183-1(117)

Control Number:

71180

Location and Study Area:

This project would be located at two structures on US Highway 183 (US-183) in Harlan County located south of the south corporate limits of Alma, Nebraska.

The Environmental Study Area is confined to the two structures (mile marker (MM) 0.64 and MM 5.94) plus 200 feet on either end along US-183 including the existing right-of-way (ROW), plus 50 feet beyond ROW for most of the project length, and extending to 150 feet beyond the ROW at bridges and culverts for wetlands. For Hazardous Materials the study area extends to 0.1 mile, and for Section 4(f) properties, 0.25 mile from the project limit centerline.

The logical termini are based on limits identified by NDOR's Bridge Inventory and Rating System, Bridge Division, District 7, and previous construction projects on this segment of highway.

Begin Point(s): 0.64; 5.94

End Point(s): 0.64; 5.94

Highway Number, Street, etc.: US-183

Project Description:

This 3R (Resurfacing, Restoration and Rehabilitation) project would repair the bridge over the Republican River on US-183 in Harlan County at MM 5.94, located 0.62 miles south of the south corporate limits of Alma. The project would also resurface the bridge structure at MM 0.64, located along US-183 approximately 0.64 miles north of the Nebraska/Kansas state border.

The existing roadway segment along US-183 consists of two 12-foot wide concrete driving lanes and 10-foot shoulders of which 10-foot is surfaced. The structure S183 00594 spanning the Republican River is a 713-foot long x 44-foot wide prestressed girder bridge. S183 00064 spanning Prairie Dog Creek is a 198-foot long x 46-foot wide prestressed girder bridge.

S183 00064
Partial Depth Deck Repair. Segmental Joint Seal. Resurface with asphalt with membrane from end of bridge approach to end of bridge approach. Seal concrete rails and overhangs. There would be a grade raise.

S183 00594
Replace abutments and grade beams on piles to provide expansive bearings. Repair concrete girders. Seal concrete rails and overhangs. Full and partial depth deck repairs. An asphalt overlay with membrane from end of paving to end of paving, there would be a grade raise.

Scope details include:
• Grading within the hinge point may be required for the following work: Abutment repairs, new bridge approaches, guardrail removal and replacement, sanitary sewer and valve box relocation
• 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).
• Rumble strips would be constructed on the resurfaced shoulders.
• Permanent pavement markings would be applied to all new surfacing.
• No additional property rights would be required to build this project.
• This project would be constructed under traffic with lane closures controlled with approved temporary traffic control.
• A temporary traffic signal would be required.

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	$948,000

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

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

Right of Way and Property Impacts

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

☐ Yes (2) ☒ No (1) ☐ N/A

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

☐ Yes (2) ☒ No (1) ☐ N/A

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

Structure S183 00594 crosses over Harlan County Reservoir. The U.S. Army Corps of Engineers is the agency with jurisdiction over the lake, which is open to the public year round and provides opportunities for camping, boating, water skiing, fishing, and hunting. The project would not result in a use of any land from the reservoir and would not permanently or temporarily affect access to any recreational activities. All work would be confined to the existing ROW and no work under the structure would occur within the water.

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

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

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

☐ Yes ☒ No

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

☐ Yes ☒ No

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

☐ Yes ☐ No ☒ N/A

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

Structure S183 00594 crosses over Harlan County Reservoir. The U.S. Army Corps of Engineers (USACE) is the agency with jurisdiction over the lake. Coordination with the Kansas City USACE has occurred and further information can be found in Section 7-Wetlands/WOUS, Section 9-Threatened and Endangered Species, and Section 22.1-Additional Comments: Historic Properties.

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 will be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor will initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor will initiate the reevaluation prior to the 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:

Two Zone A floodplains are encountered by the project. S183 00064 crosses the Prairie Dog Creek floodplain at MM 0.64. S183 00594 crosses the Republican River floodplain at MM 5.94.

Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit. NDOR has acquired the proper floodplain permits from the City of Alma for S183 00594, and has certified that the construction activities would be in compliance with the State of Nebraska floodplain regulations. S183 00064 was added after the permit was acquired for S183 00594. NDOR would acquire the proper floodplain permits for S183 00064, and would 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:

Due to the scope or work, the project would not impact wetlands, Waters of the U.S. or the Harlan County Reservoir.

The Harlan County Reservoir is managed by the USACE. In February 2016, NDOR started coordination with the Section 408 Coordinator, Kansas City District, USACE, to determine if a Section 408 permit was needed for the Alma South Bridge project. They was sent a project description as well as a set of bridge plans.

In April 2016, through a phone call with the Kansas City District USACE, it was decided that the Alma South Bridge project is not subject to 408 coordination. A letter documenting their decision was drafted. The letter is currently routing through the office.

The Operations Project Manager at Harlan County Lake (USACE) has also been involved with these discussions. It is NDOR's understanding that when the Kansas City office sends out their letter, it will be sent to the Operations Project Manager as well as to NDOR.

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?

[X] Yes [ ] No

8.2 Does the project occur within a MS4 community?

[ ] Yes [X] No

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

[X] 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:

The project crosses two Category 5 impaired waters. The first is Prairie Dog Creek (Segment Number RE2-10300) at MM 0.64. Prairie Dog Creek was listed as Category 5 in the 2012 Water Quality Integrated Report (2012 IR). This waterbody's recreational use was impaired for E. coli and aquatic life use was impaired for low Dissolved Oxygen. Data collected in 2012 determined the aquatic life use is being met but the water would remain in Category 5.

The second impaired water, Republican River (Segment Number RE2-10000), is located at MM 5.94.This waterbody was listed as Category 4A in the 2012 IR. The Republican River's recreational use was impaired for E. coli. An E. coli Total Maximum Daily Load (TMDL) was approved 3/05. Data collected in 2012 determined this waterbody's aquatic life use is being impaired for Selenium. The river was placed in Category 5.

Highways that have stormwater outfalls discharging into receiving waters for which TMDLs or other water quality requirements have been established, and where NDOR has been assigned a waste load allocation in the TMDL, may be subject to additional water quality treatment requirements. In addition, receiving water bodies that have a treatment standard based on TMDLs may require more stringent analysis and treatment regimens. Additional information on the TMDL program and 303(d) list is provided on the NDEQ Website: (http://www.deq.state.ne.us/SurfaceW.nsf/Pages/TMDL).

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

There are Category 5 impaired waters in the project study area; BMPs shall be reviewed and developed as necessary during the erosion control review process. If mitigation is required for impaired waters, it shall be captured in the project erosion control plan sheets and special provisions. (NDOR Roadside Stabilization Unit)

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

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

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

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

[ ] Yes (3) [X] No (2)

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

[ ] Yes (3) [X] No (2)

NDOR PQS Determination Date:	USFWS Concurrence Date:	NGPC Concurrence Date:
4/5/2016	3/11/2016	3/16/2016

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

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

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

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

☒

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

☐ Coordination Required ☒ N/A

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

The project, as proposed has been determined to "May Affect, Not Likely to Adversely Affect" the following listed species with the implementation of conservation conditions: Northern Long-Eared Bat, River Otter, Whooping Crane. The project would have "no effect" to all other state or federally listed species or their designated critical habitat.

The USACE for Harlan Reservoir were contacted regarding the proposed project. The reevaluated biological document was sent to the USACE on March 4, 2016. A concurrence was received verbally on a phone call by NDOR on April 5, 2016. See additional information in the file.

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

Northern Long-Eared Bat:
NLEB-1 Bridge deck joint replacements over the bridge deck, bridge removal activities will be scheduled to occur between October 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)
OR
NLEB-2 If bridge deck joint replacement over the bridge deck, or removal of bridge structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: along the length of the bridge (S183 00594) over the Republican River and Harlan County Lake, and any adjacent woodlands. If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

River Otter:
RO-1 A qualified biologist will survey according to protocol no more than 10 days prior to construction at Structure S183 00594. If no active den sites are found, then the project can proceed. If active den sites are found, NDOR Environmental Section will notify the District and will consult with the USFWS, NGPC, and FHWA. If species are present the District will notify the Contractor to stop work within 1/2 mile of the active den until NDOR Environmental completes consultation. (NDOR Environmental, District Construction, Contractor)

RO-3 Bridge deck debris will be captured and/or contained to prevent material from falling below the structures S183 00064 & S183 00594. (District, Contractor)

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: along the length of the bridge (S183 00594) at the Republican River Channel (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 location: Republican River channel 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)

Bald and Golden Eagle Protection Act:
Suitable Bald 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 bald eagles are nesting in the area, consultation with NGPC and

USFWS will be required. Eagle roosting surveys will be conducted if construction occurs between October 1 and January 31.

* 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:

3/10/2016

Has coordination occurred with SHPO?

☒ Yes ☐ No

SHPO Concurrence Date:

9/2/2014

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:

12/11/2015

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

No hazardous materials or petroleum related facilities were identified within 0.1 miles of the Alma South Bridge Project. The scope of bridge work does not require an asbestos survey and no painted components were identified on the bridge structure. No asbestos or lead mitigation is required. There is a low potential of encountering contamination during the project. No further investigation is necessary.

11.6 Hazardous Materials Mitigation:

If contaminated soil, water or hazardous materials are encountered, all work within the immediate area of the discovered hazardous material must stop until NDOR/Federal Highway Administration (FHWA) is notified and a plan to dispose of the hazardous materials has been developed. The NDEQ shall then be consulted and a remediation plan developed for this project. The potential also 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. (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.

15.9 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)

16.8 Substantial Access Disruption Mitigation:

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

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

☐ Yes (1) ☒ No (1)

NDOR Highway Civil Rights Specialist Determination Date:

4/13/2016

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

In general, the areas in which this project is located have lower or consistent populations of minority, Hispanic, and low-income persons when compared to the county. No businesses or organizations likely to be predominately used by minority or low-income populations were identified in the vicinity of the project. In no instance is any minority, Hispanic, or low-income population of the block group or the city meaningfully greater than the corresponding figures for Harlan County. 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.

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

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.

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. Due to the nature of the work, additional public outreach would not occur during the NEPA phase.

The approved DR-53 indicated that no public involvement was needed and to notify NDOR Communications if there was a scope change. S183 00064 was added to the project and NDOR Communications was notified. The determination of no public involvement needed remains valid.

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."*

22.1 **Additional Comments**:

Section 10-Historic Properties: Consultation with the archeologist with the USACE Kansas City District regarding the SHPO concurrence on "no historic properties affected" occurred on September 2, 2014. The project description was updated to include a second bridge structure, S183 00064, on November 2, 2015. The USACE concurred with the recommendation that the project effect recommendation remains "no historic properties affected".

The Alma Municipal Airport is located approximately two miles northeast of S0183 00594. Coordination with the Nebraska Department of Aeronautics (NDA) occurred on May 31, 2016. The NDA had no objection to the project, provided the height of any equipment used in the project (or any antennae installed on the equipment) does not exceed any local airport's Height Restriction Zoning. Coordination can be found in the project file.

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 will be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor will initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor will initiate the reevaluation prior to the 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:
There are Category 5 impaired waters in the project study area; BMPs shall be reviewed and developed as necessary during the erosion control review process. If mitigation is required for impaired waters, it shall be captured in the project erosion control plan sheets and special provisions. (NDOR Roadside Stabilization Unit)

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

General Conservation Conditions from the Matrix PA:

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

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

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

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

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

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

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

website), where species survey protocol can be found, to estimate the level of effort and timing requirements for surveys.

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

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

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

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

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

Northern Long-Eared Bat:
NLEB-1 Bridge deck joint replacements over the bridge deck, bridge removal activities will be scheduled to occur between October 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)
OR
NLEB-2 If bridge deck joint replacement over the bridge deck, or removal of bridge structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: along the length of the bridge (S183 00594) over the Republican River and Harlan County Lake, and any adjacent woodlands. If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

River Otter:
RO-1 A qualified biologist will survey according to protocol no more than 10 days prior to construction at Structure S183 00594. If no active den sites are found, then the project can proceed. If active den sites are found, NDOR Environmental Section will notify the District and will consult with the USFWS, NGPC, and FHWA. If species are present the District will notify the Contractor to stop work within 1/2 mile of the active den until NDOR Environmental completes consultation. (NDOR Environmental, District Construction, Contractor)

RO-3 Bridge deck debris will be captured and/or contained to prevent material from falling below the structures S183 00064 & S183 00594. (District, Contractor)

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: along the length of the bridge (S183 00594) at the Republican River Channel (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 location: Republican River channel 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)

Bald and Golden Eagle Protection Act:
Suitable Bald 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 bald eagles are nesting in the area, consultation with NGPC and USFWS will be required. Eagle roosting surveys will be conducted if construction occurs between October 1 and January 31.

Hazardous Materials Mitigation:
If contaminated soil, water or hazardous materials are encountered, all work within the immediate area of the discovered hazardous material must stop until NDOR/Federal Highway Administration (FHWA) is notified and a plan to dispose of the hazardous materials has been developed. The NDEQ shall then be consulted and a remediation plan developed for this project. The potential also 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. (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 time during construction but may be disrupted temporarily at times due to construction activities, but will not be closed. (Contractor)

Public Involvement Mitigation:
A minimum of one news release shall go to all local and area media, and be posted on the NDOR

website, prior to the start of construction work. (NDOR District, NDOR Communication)

Additional Mitigation:
Airport:
Because of the proximity to the Alma Municipal Airport in Alma, the height of any equipment used in the construction of the project (or any antennae installed on the equipment) shall not exceed the local airport's Height Restriction Zoning. Any Contractor involved in the project shall use the Notice Criteria Tool available at https://oeaaa.faa.gov/oeaaa/external/portal.jsp . If required, the Contractor shall file a 7460-1 Form with the Federal Aviation Administration (FAA). The form shall be required if the Contractor uses any equipment over 200' tall, or the equipment breaks a 100:1 slope from a public-use airport. This includes any trucks or equipment used during the construction of the project. NDOR's Roadway Design Division shall verify clearance for permanent construction in the controlled zone from the Nebraska Department of Aeronautics (NDOA) and FAA. NDOR's Roadway Design Division shall identify those contracts that shall require the special provision concerning the Contractor's responsibility to gain FAA and NDOA clearance for temporary encroachments due to construction operations. NDOR's Plans, Specification & Estimates (PS&E) / Contracts shall include the special provision in the appropriate project contracts. (Contractor)

Borrow Site:
Any material needed will 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.

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: Carmen Pellish

Organization: NDOR-Environmental Documents

Phone: (402) 479-4413

Email: carmen.pellish@nebraska.gov

Signature: Digitally signed by Carmen Pellish DN: cn=Carmen Pellish, o=NDOR Environmental, ou=NEPA Specialist, email=carmen.pellish@nebraska.gov, c=US Date: 2016.05.20 15:12:01 -05'00'

Date: 5/13/2016

Reviewed by Project Sponsor:

Name: JARED WURTELE

Organization: NDOR- ROADWAY DESIGN

Title: ENGINEER II

Signature:

Date: 5/23/2016

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

NDOR Environmental NEPA Specialist Signature:

Digitally signed by Carrie Wencel
DN: cn=Carrie Wencel, o=NDOR - EDU, ou=NEPA Specialist, email=carrie.wencel@nebraska.gov, c=US
Date: 2016.07.06 08:05:02 -05'00'

Date:

NDOR Environmental Documents Manager Signature *(Level 2 and 3 Requirement)*:

Digitally signed by Jon Barber
Date: 2016.07.06 14:16:06 -05'00'

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: