



## 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:  C

Project Name:

Elm Creek - Alda

Project Number:

ITS-NH-80-5(79)

Control Number:

42772

Location and Study Area:

The Environmental Study Area (ESA) is confined to the length of this project (multiple point locations) plus half a mile on either end along Interstate 80 (I-80) 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 the bridges and culverts for wetlands and most other resources. For regulated materials the study area is extended 0.10 miles, and for Section 4(f) resources 0.25 miles beyond ROW.

The construction would take place at the following locations (interchanges) along I-80: M.M. 257.04, 263.69, 272.64, 275.63, 279.92, 285.66, 291.39, 300.13, and 305.69

Termini are based on limits identified by NDOR pavement management system, District 4 and previous construction projects on this segment of highway.

Begin Point(s):

Multiple Locations

End Point(s):

N/A

Highway Number, Street, etc.:

I-80

**Project Description:**

This project would deploy automated gates and CCTV cameras on I-80 entrance ramps at the Elm Creek Interchange 257 at mile marker (MM) 257.04, the Odessa Interchange 263 at MM 263.69, the West Kearney Interchange 272 at MM 272.64, the East Kearney Interchange 275 at MM 275.63, the Minden Interchange 279 at MM 279.92, the Gibbon Interchange 285 at MM 285.66, the Shelton Interchange 291 at MM 291.39, the Wood River Interchange 300 at MM 300.13 and the Alda Interchange 305 at MM 305.69.

The West Kearney Interchange 272 would require four automated gates due to two separate lanes divided by a triangle median. The Elm Creek Interchange 257, West Kearney Interchange 272 and Shelton Interchange 291 would not require CCTV Camera installation due to existing units or units to be installed prior to this project. All interchanges are located within Buffalo and Hall Counties.

**Scope details include:**

- Installation of automated gates, post mounted signs, climbable truss towers, and control cabinets all with ground rods.
- Trenching or jacking of electrical conduit and installation of pull boxes.
- Cameras, new or existing, at these interchanges would be used for visually verifying operation of the gates.
- Construction activities may result in minor soil disturbance outside the hinge point.
- Project surveying and staking would be required.
- Areas disturbed during construction would be stabilized utilizing methods of erosion control.
- This project is located within a Municipal Separate Storm Sewer System (MS4) community. Post construction storm water management best management practices may be necessary. Additional consultation with the Roadside Stabilization Unit may be required.
- No additional property rights would be required to build this project.
- This project would be constructed under traffic with lane closures controlled by appropriate traffic control devices and practices.

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

**Purpose:**

The purpose of this project is to improve the reliability of the transportation system and perpetuate the mobility of the travelling public.

**Need:**

The need for this project is to promote efficient use of NDOR's roadway system by enabling traffic managers to manage access to roadways in a timely manner and therefore, improving roadway efficiency and promoting driver safety along key arterials within the State. Cameras enable traffic managers to monitor traffic and road conditions, identify and verify incidents and crash severity in near real-time.

Action is identified in the  
Current STIP Date:

Subsequent Phase:

Estimated Cost (\$):

3/15/2016

Construction

\$869,000

**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))*:

Eight potential properties are located within the study area (1/4 mile), three Wildlife Management Areas (WMA), four State Recreation Areas (SRA), and Alda DOR (former NDOR I-80 material source site open to public use). The project would have no use of any of the potential 4(f) properties because the project would be contained entirely within NDOR right-of-way, and access to adjacent land would not be impeded.

**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):

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 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.**

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

Yes (1)  No (1)

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

Yes (1)  No (1)

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

Yes (2)  No (1)  N/A

7.4 Estimated Permanent Wetlands Impacts:

0.02

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

Yes (2)  No (1)  N/A

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

Yes (3)  No (2)  N/A

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

A wetland delineation was completed on 8/4/2015 and found wetlands and waters of the U.S. in the study area. Based on the scope of work it is anticipated the project would impact approximately 0.02 acres of PEMA/C wetlands. The project would be permitted under a Non-Notifying Nationwide Permit 12.

There is an NDOR on-site wetland mitigation site located at the southeast corner of the interchange at M.M. 257.04. There would be no impacts to the mitigation site.

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)

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

The project qualifies under Nationwide Permit # 12. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

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

Yes  No

8.2 Does the project occur within a MS4 community?

Yes  No

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

Yes  No

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

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

The Wood River is listed as a Category 5 waterbody for aquatic life use impairment (Ammonia). It is not anticipated that the project would contribute to the impairment of the waterbody. The City of Kearney is a MS4 community.

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 projects erosion control plan sheets and special provisions. (NDOR Roadside Stabilization Unit)

Stormwater Treatment consideration is a condition of NDOR's Municipal Separate Storm Sewer System MS4) permit. Stormwater treatment requirements will be applied to this project if it meets the criteria outlined in Chapter Three (Stormwater Treatment within Municipal Separate Storm Sewer System MS4 Communities) of the NDOR Drainage Design and Erosion Control Manual. This determination and any necessary coordination with the MS4 community will be made during the design process. (NDOR Environmental)

Areas disturbed during construction will be stabilized utilizing NDOR approved erosion control methods. A Temporary Erosion Control Plan will be required by NDOR Standard Specifications for Highway Construction. (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)

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

Yes (3)  No (2)

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

Yes (3)  No (2)

NDOR PQS Determination Date:

12/3/2015

USFWS Concurrence Date:

11/25/2015

NGPC Concurrence Date:

11/23/2015

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 determination for this project was completed as part of a batched biological assessment due to similar scope and size:

Elm Creek - Alda, ITS-NH-80-5(79), 42772

Grand Island - Waco, ITS-NH-80-(162), 42773

District 5 Automated Gates, ITS-NH-80-1(194), 51553

District 6 Automated Gates, ITS-NH-80-4(145), 61606

A "may affect, not likely to adversely affect" determination was made for the following species: Interior Least Tern, Piping Plover, Whooping Crane and Whooping Crane Critical Habitat.

A "no effect" determination was made for all of other state and federally listed species and their critical habitats.

## 9.8 Species Mitigation:

S-2 Platte River Depletions. All efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a depletion, NDOR (during design) and the contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) any diverted water will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet.

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)

To eliminate potential indirect impacts to species sensitive to night-time lights:

- Except for work within fully developed, urbanized areas, nighttime work with lights is prohibited.

To eliminate potential noise and nighttime work impacts on interior least terns and piping plovers:

- Any work occurring in Buffalo County at the Elm Creek Interchange (MM 257.04) within ¼ mile of sandpit lakes or the Platte River should be done between August 15 – April 1. If work cannot be done during this time, steps shall be taken to avoid disturbing terns and plovers. While working, the contractor shall park their work vehicle(s) in a manner that would block the visibility of the stream, river, sand pit, or waterbody. Work is to be conducted as quickly and quietly as possible. Radios are to be turned off at the activity site.

To eliminate potential noise impacts on migrating whooping cranes:

- Any work occurring at the Wood River Interchange (MM 300.13) or Alda Interchange (MM 305.69) during Spring Migration: March 10 to May 10 or during Fall Migration: September 16 to November 16 shall be limited to daylight hours between 10:00 a.m. and 4:00 p.m.

To eliminate potential indirect impacts to whooping crane Critical Habitat:

- Construction activities will not be scheduled to occur at Elm Creek Interchange (MM 257.04), Odessa Interchange (MM 263.69), West Kearney Interchange (MM 272.64), East Kearney Interchange (MM 275.63), Minden Interchange (MM 279.92), Gibbon Interchange (MM 285.66), and Shelton Interchange (MM 291.39) in Buffalo County during Spring Migration: March 10 – May 10 or during Fall Migration: September 16 – November 16.
- Herbaceous species used for reseeding within ¼ mile of MM 248.56 in Dawson County 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.

Bald and Golden Eagle:

- 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 prior to beginning construction activities. (NDOR Environmental, Contractor)

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

## Human and Social Resources

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

Yes (1)     No (1)

10.4 Historic Property Determination

NDOR PQS Determination Date:

Has coordination occurred with SHPO?

Yes     No

Has coordination occurred with THPO?

THPO Concurrence Date:

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:

4/7/2016

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

A hazardous materials review (HMR) was completed by NDOR in April 2016. The HMR identified several facilities where past releases have occurred within the hazardous materials study area. Areas of trenching or boring for electrical conduit and pull box installation would occur outside the pre-existing roadway fill with an anticipated depth of excavation of up to 3 feet. The excavations for the installation of truss towers would be 4 to 8 feet deep but would occur at the center of the interchanges and within the pre-existing roadway fill. Groundwater is not anticipated to be encountered during construction. A majority of the facilities were existing or former gas stations where leaking underground storage tank investigations and remediation have occurred or are ongoing. All these sites were considered to be a low potential to impact the project given the distance from the location of the releases in relation to our project and excavations occurring beyond the pre-existing roadway fill are shallow.

One Superfund site (non-NPL) was identified at the southwest quadrant of the Alda Interchange. The 3D Investment Inc. site had a release of lead on the property had occurred in the past from battery breaking and shooting activities. Soil was excavated in 2001 and 2004 and disposed of offsite as a special waste (documented under IWM for the facility). According to NDEQ, small pockets of residual lead contamination are in the soils onsite. However, the nearest excavations for the installation of the gates are on the westbound on ramp over 200 feet from the property boundary and within the roadway fill material. Given the distance from the facility to construction and the shallow excavations within roadway fill material, there is a low potential of encountering contamination originating from this site during construction.

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

The project would be constructed under traffic with a large portion of the work taking place off of the roadway.

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:

The project would take place on and/or adjacent to the on-ramps to I-80 where there are no business or resident access points.

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:

4/11/2016

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

The scope of the project is so minor that, even if the project sites were located adjacent to minority or low-income populations, the possibility of disproportionately high and adverse effects to those populations simply does not exist.

There would 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, because the scope of the project is so minor as to preclude the possibility of adverse effects.

No Limited English Proficiency (LEP) outreach is required for this project because there will be no further public involvement activities for the LEP outreach to enhance.

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 Communications)

**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:

12

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/permited 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



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:

Twelve (12) projects were found to be in the same area as the Elm Creek to Alda (Anticipated Letting Date: 9/1/16) project (listed with anticipated letting date):

- 42775 Kearney Interchange Ramps - 8/31/17
- 42510 Kearney to Minden - 10/4/18
- 42673 Wood River to Platter River - 10/5/17
- 42571 Wood River N&S - 8/25/22
- 42462 North Chanel Platter River, Kearney – (already let) 11/19/15
- 42710 Gibbon Link - 8/31/17
- 42765 Shelton Link - 10/3/19
- 42766 Prosser Spur - 10/3/19
- 42756 Dawson Co. Line to Odessa - 10/3/19
- 42756A Dawson Co. Line to Odessa Crossovers - 4/11/19
- 42763 I-80 to Elm Creek - 10/3/19
- 42570 Wood River N&S – (already let) 10/8/15

Of the projects found, two have already let and would be constructed prior to this project and seven do not let until the fall of 2018 or later, so there would not be any overlap of construction activities. The remaining three projects have letting dates in the fall of 2017 and, based on this project taking less than one full construction season, would not result in any cumulative impacts with the Elm Creek to Alda project.

### 22.1 Additional Comments:

The project is within a section of the City of Kearney Wellhead Protection Area.

FAA:

There are two airports within 4 miles of project locations, the Kearney Municipal Airport (Kearney, NE) and the Aknux Airport (Prosser, NE). The Kearney Municipal Airport is approximately 3.2 miles from the interchange at M.M. 275.63 and 3.4 miles from the interchange at M.M. 279.92. The Aknux Airport is approximately 3.6 miles from the interchange at M.M. 300.13. Both airports have been contacted regarding the project. There are no anticipated conflicts with either of these airports.

### 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))

**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)

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

The project qualifies under Nationwide Permit # 12. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

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

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

Stormwater Treatment consideration is a condition of NDOR's Municipal Separate Storm Sewer System (MS4) permit. Stormwater treatment requirements will be applied to this project if it meets the criteria outlined in Chapter Three (Stormwater Treatment within Municipal Separate Storm Sewer System MS4 Communities) of the NDOR Drainage Design and Erosion Control Manual. This determination and any necessary coordination with the MS4 community will be made during the design process. (NDOR Environmental)

Areas disturbed during construction will be stabilized utilizing NDOR approved erosion control methods. A Temporary Erosion Control Plan will be required by NDOR Standard Specifications for Highway Construction. (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-2 Platte River Depletions. All efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a depletion, NDOR (during design) and the contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) any diverted water will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet.

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)

To eliminate potential indirect impacts to species sensitive to night-time lights:

- Except for work within fully developed, urbanized areas, nighttime work with lights is prohibited.

To eliminate potential noise and nighttime work impacts on interior least terns and piping plovers:

- Any work occurring in Buffalo County at the Elm Creek Interchange (MM 257.04) within ¼ mile of sandpit lakes or the Platte River should be done between August 15 – April 1. If work cannot be done during this time, steps shall be taken to avoid disturbing terns and plovers. While working, the contractor shall park their work vehicle(s) in a manner that would block the visibility of the stream, river, sand pit, or waterbody. Work is to be conducted as quickly and quietly as possible. Radios are to be turned off at the

activity site.

To eliminate potential noise impacts on migrating whooping cranes:

- Any work occurring at the Wood River Interchange (MM 300.13) or Alda Interchange (MM 305.69) during Spring Migration: March 10 to May 10 or during Fall Migration: September 16 to November 16 shall be limited to daylight hours between 10:00 a.m. and 4:00 p.m.

To eliminate potential indirect impacts to whooping crane Critical Habitat:

- Construction activities will not be scheduled to occur at Elm Creek Interchange (MM 257.04), Odessa Interchange (MM 263.69), West Kearney Interchange (MM 272.64), East Kearney Interchange (MM 275.63), Minden Interchange (MM 279.92), Gibbon Interchange (MM 285.66), and Shelton Interchange (MM 291.39) in Buffalo County during Spring Migration: March 10 – May 10 or during Fall Migration: September 16 – November 16.
- Herbaceous species used for reseeding within ¼ mile of MM 248.56 in Dawson County 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.

Bald and Golden Eagle:

- 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 prior to beginning construction activities. (NDOR Environmental, Contractor)

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

**Additional Mitigation:**

**WELLHEAD PROTECTION AREA**

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

**FEDERAL AVIATION ADMINISTRATION FORM 7460-1**

Because of the proximity to the Kearney Municipal Airport in Kearney and the Aknox Airport near Prosser, 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>. (Contractor)

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)

#### MATERIAL SOURCE 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 shall be followed.(Contractor)

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

Paragraph:

Activity:

Prepared by:

Organization:

Phone:

Email:

Signature:

Date:

**Reviewed by Project Sponsor:**

Name:

Organization:

Title:

Signature:

Date:

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

NDOR Environmental NEPA Specialist Signature:

Date:

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

Date:

FHWA Environmental Specialist (*Level 3 Requirement*):

Date:

**If the scope of work changes, existing conditions change, or applicable regulations change, NDOR shall reevaluate this determination in accordance with the *NDOR reevaluation procedures*.**

Reevaluation Approval (*if necessary*):

Date: