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

CE Review Level: *(Check boxes that apply)*

☐ 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:

Jackson West

Project Number:

NH-STP-20-7(115)

Control Number:

31817

Location Map Attached:

☒

Location and Study Area:

United States Highway 20 (US-20) and State Spur 26A (S26A) located in Dixon and Dakota Counties.

The Environmental Study Area is confined to the length of this project (13.85 miles) plus 200 feet on either end along US-20 (MM 408.71 to MM 422.56) and 1.29 miles of S26A (MM 0.00 to MM 1.29) including the existing right-of-way (ROW) and areas of new 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 extended 0.10 mile, and for Section 4(f) resources 0.25 mile beyond ROW.

The logical termini are based on limits identified by NDOR's pavement management system and previous construction projects on this segment of highway.

Begin Point(s):	End Point(s):	Highway Number, Street, etc.:
MM 408.71 MM 0.00	MM 422.56 MM 1.29	US-20 S26A

Project Description:

This project would resurface 13.85 miles of US-20 located in Dixon and Dakota Counties, starting 0.20 miles west of the east junction of US-20 and Nebraska Highway 9 (N-9), at mile marker (MM) 408.71, and extending east to MM 422.56, on the east edge of the City of Jackson. The S26A segment starts at the junction with US-20 at MM 0.00 and extends south to MM 1.29, the north city limits of Waterbury. Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

The existing roadway on this segment of US-20 consists of two 12 foot wide asphalt lanes and 10 foot wide shoulders, of which 8 feet is paved with asphalt. There are two sections where 12 foot wide passing lanes are provided, both in the westbound direction, (MM 412.71 to MM 413.49 and MM 416.30 to MM 417.04). A 275 foot westbound right turn lane and 275 foot eastbound left turn bypass lane are in place at the junction of US-20 and N-12 (MM 418.25).

There is a Historic Marker and pull off site along the shoulder of US-20 located at MM 420.88.

The existing roadway on this segment of S26A consists of two 12 foot wide asphalt lanes and 9 foot wide shoulders, of which 1.5 feet is paved with asphalt.

The improvements on this project consist of the following; milling the roadway, resurfacing the roadway with asphalt, concrete curb repair and curb ramps in Jackson, bridge repairs, and removing the guardrail for replacement.

Scope details include:

• Grading beyond the hinge point would be required for the following work:

- Guardrail
- Bridges
- Drives and intersections
- Shoulder widening and/or surfacing
- Curb Ramps

• Grading beyond the hinge point may be required for the following work (Roadway Design verified this determination at Plan-in-Hand):

- to correct taper rates and storage lengths for the westbound offset right turn lane at US-20 and N-12
- to build an offset right turn lane at the intersection of US-20/Hwy. 12.
- to correct the exit taper for the climbing lane near MM 416.24
- to correct the geometrics of the historical marker turn out at MM 420.88

• There are forty-five culverts along this segment that could impact the project. As-built plans indicate that existing culverts are outside of the fixed obstacle clear zone and no impacts are anticipated at this time; however, a final determination was made at Plan-in-Hand. The following work would be required:

- One drive pipe maybe lowered near MM 415.91.

• Guardrail

- Remove and replace guardrail with grading beyond the hinge point.

• Structure S020 41820 would be repaired including an overlay, updating of bridge rails, and concrete repairs. The existing guardrail would be removed and replaced.

• Structure S020 41914 would be repaired including partial and full depth deck repairs, an overlay, replacement of expansion joints, sealing of concrete bridge rails, and encasing girder ends. The existing guardrail would be removed and replaced.

• Structure S020 42020 would be repaired including partial and full depth deck repairs, an overlay and sealing

of bridge rail. The existing guardrail would be removed and replaced.

• Structure S020 42073 would receive scour mitigation including inlet and outlet repairs with sheetpile curtain walls and flowable fill, grading and rip rap.

• Structure S020 42144 would be repaired including partial and full depth deck repairs, an overlay, seal of bridge rail, and replacing expansion joints. The existing guardrail would be removed and replaced.

• Concrete pavement repairs would be made prior to resurfacing.

• The existing asphalt would be milled prior to resurfacing.

• Asphalt patching operations would be performed prior to resurfacing.

• Existing surfaced driveways and intersections would be resurfaced.

• Rock or gravel would be placed behind driveways and intersections to match the new asphalt.

• Surfacing would be placed under the guardrail.

• The existing earth shoulders would be brought up to match the new asphalt.

• Project surveying and staking would be required.

• Areas disturbed during construction would be stabilized utilizing methods of erosion control.

• Rumble strips would be constructed on the resurfaced shoulders.

• Permanent pavement markings would be applied to all new surfacing.

• Additional property rights would not be required to build this project.

• Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.

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

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

N/A

Action is identified in the Current STIP Date:	Subsequent Phase:	Estimated Cost *($)*:
March 15, 2016	Construction	$8,133,000.00

If the action qualifies for (c)(23), identify the federal portion (*$*): N/A

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

BLACK text indicates an all level question, **BLUE** text indicates a Level 2 threshold question, and **GREEN** text indicates the question is required for Level 2 and 3 reviews but does not constitute a threshold.

If a Level 1 threshold is exceeded, answer the corresponding Level 2 questions (**BLUE**) within the subject section, as well as all **GREEN** questions. If any Level 2 threshold is exceeded, the project shall be processed as a Level 3 review requiring approval by FHWA.

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

1.2 Will the action result in acquisition of greater than 2 acres per linear mile *(estimated)* or the removal of major property improvements?

☐ Yes (3) ☐ No (2) ☒ N/A

1.3 Describe type of property required for ROW and/or potential impacts to major property improvements:

N/A

1.4 Estimated Acres of Permanent ROW/Easements:

N/A

1.5 Estimated Acres of Temporary ROW/Easements

N/A

1.6 Will the action result in any residential or nonresidential displacements?

☐ Yes (3) ☐ No (2) ☒ N/A

1.7 If Yes, describe the displacements.

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

2.2 Will the action result in an Individual Section 4(f) Evaluation?

☐ Yes (3) ☐ No (2) ☒ N/A

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

Five properties that are eligible for Section 4(f) protection were identified in the Section 4(f) Initial Assessment. No impacts to these properties are anticipated. All work would be confined to the existing ROW and access to the properties would be maintained at all times.

2.4 Section 4(f) Mitigation:

N/A

3.1 **Section 6(f)** – Are there any Section 6(f) Land and Water Conservation Fund Act properties (36 CFR 59) within the study area?

☐ Yes (1) ☐ No (1) ☒ N/A

3.2 Will the action result in a conversion of a Section 6(f) property?

☐ Yes (2) ☐ No (1) ☒ N/A

3.3 Describe resources, impacts, replacement lands *(if applicable)*, and the coordination conducted with officials/agencies *(including FHWA)*:

N/A

3.4 Section 6(f) Mitigation::

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 or National Recreational River Segment, 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.

5.2 For actions processed under Appendix B categories *(26), (27),* or *(28)*, a Level 3 review will be required.

☐ Level 3 Required

5.3 Is the action considered an impact to the National System of Wild and Scenic Rivers by the Agency of Jurisdiction?

☐ Yes (3) ☐ No ☒ N/A

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

N/A

5.5 Wild and Scenic River Mitigation:

N/A

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 facilitate open space use?

☐ Yes (3) ☐ No ☒ N/A

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

Dixon County does not have FEMA floodplain mapping and does not participate in the National Flood Insurance Program (NFIP). State Minimum Standards require NDOR to complete the certification of all potential floodplains. NDOR's Bridge and/or Roadway Hydraulics Section would confirm that the project conforms to State of Nebraska floodplain regulations. A permit is not required.

Six Zone A floodplains are encountered by the project within Dakota County. Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit. NDOR would acquire the proper floodplain permits, and 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)

Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit. Dixon County does not participate in floodplain mapping, and a floodplain permit is not required. NDOR shall certify that the construction activities are in compliance with the State of Nebraska floodplain regulations. (NDOR Roadway/Bridge Hydraulics, NDOR Environmental)

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) ☐ N/A

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:

0.03 acres

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:

Permanent impact to wetlands has been estimated at 0.03 acres. Approximately 50 feet of channel is expected to be permanently impacted. It is anticipated that this project would qualify under a Nationwide Permit (NWP) 3(a)(b). The project was reevaluated for a change in project description on March 30, 2016 and there were no changes to the original determination.

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)

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. (NDOR Design, NDOR Environmental)

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

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:

N/A

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (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?

☐ Yes (2) ☒ No (1) ☐ N/A

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) ☒ N/A

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) ☒ N/A

NDOR PQS Determination Date:	USFWS Concurrence Date:	NGPC Concurrence Date:
3/30/2016	N/A	N/A

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:

A "May Affect, Not Likely to Adversely Affect" determination has been made for the following species/critical habitat with the conservation conditions listed below: Northern Long-Eared Bat.

9.8 Species Mitigation:

Northern Long-Eared Bat:

NLEB-1 Tree clearing, bridge deck joint replacements over the bridge deck, bridge/>5-ft box-culvert 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 tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert 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: structures with bridge joint replacement (S020 42144, S020 41914). 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)

* 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)

10.2 Will the action result in Section 106 effects other than a "No Potential to Cause Effects" or a "No Historic Properties Affected" determination?

☐ Yes (2) ☒ No (1) ☐ N/A

10.3 Will the project result in an "adverse effect" to any historic property?

☐ Yes (3) ☐ No *(No adverse effect)* (2) ☒ N/A

10.4 Historic Property Determination

No Historic Properties Affected

NDOR PQS Determination Date:

10/28/2015

SHPO Concurrence Date:

N/A

THPO Concurrence Date:

10/28/2015

CLG Concurrence Date:

N/A

10.5 List Eligible Resources, Impacts, and Coordination:

DX00-025-Matthew McMullen Farmhouse, DK00-162-Patrick Twohig Farmstead, and DK04-003-St. Patrick's Catholic Church are present within the Area of Potential Effects (APE). No impacts are anticipated because no ROW would be acquired and access to the properties would remain open at all times.

The Ponca Tribe of Nebraska was contacted regarding this project on 9/24/2015 and no comments were received within the 30 day comment period.

The project was reevaluated for a change in project description on March 30, 2016. There were no changes to the determination and Section 106 does not need to be reinitiated.

10.6 Historic Properties Mitigation:

N/A

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) ☐ N/A

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

11.3 Will the action result in a High Potential for encountering hazardous materials during construction?

☐ Yes (3) ☐ No (2) ☒ N/A

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

☐ Yes (3) ☐ No (2) ☒ N/A

NDOR PQS Determination Date:

7/28/2015

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

There are several facilities where releases have occurred listed in the Hazardous Materials Report (HMR). All facilities were considered to be a low potential to impact the project based on minimal soil disturbance, distance from the facility to the project and status of the site (i.e. no further remedial action designation by NDEQ). One superfund site (Willis Pyrolizer) exists adjacent to the project near MM 418.44. However, the status is listed as inactive and soil disturbance beyond the preexisting roadway fill would not occur next to the facility.

The scope of bridge work will not disturb suspect asbestos containing material. There is potential lead-based paint on the girders of structure S020 41914 and the scope of work (encasing girder ends) may generate paint waste.

The project was reevaluated for a change in project description on March 30, 2016 and there were no changes to the original determination.

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 (NDOR District, Contractor).

The Jackson West project includes encasing girder ends on Bridge Structure S020 41914. There is potential for lead-based paint to be found on this bridge structure. If lead-based paint is being removed in a manner that would create waste debris (i.e. sandblasting, abrasive removal, scraping), the Contractor shall remove the paint in accordance with NDOR's Standard Specification for Highway Construction Section 732 (Lead-based Paint Removal) and Title 128, Rules and Regulation Governing Hazardous Waste Management in Nebraska. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractors implementation plan efforts shall be documented in ECOD system. (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

12.2 Based on the noise analysis, does the project qualify for abatement?

☐ Yes ☐ No ☒ N/A

12.3 Summarize the results of the noise analysis:

N/A

12.4 Noise Mitigation:

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

13.2 Air Quality Comments:

N/A

13.3 Air Quality Mitigation:

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) ☐ N/A

15.2 Will the action result in major traffic disruption requiring detours, temporary roads, or ramp closures that are greater than 135 working days?

☐ Yes (3) ☐ No (2) ☒ N/A

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

☐ Yes (3) ☒ No (1) ☐ N/A

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) ☐ N/A

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

☐ Yes (3) ☒ No (1) ☐ N/A

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

☐ Yes (3) ☒ No (1) ☐ N/A

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

☐ Yes (3) ☒ No (1) ☐ N/A

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

15.8 Traffic Disruption Comments:

N/A

15.9 Traffic Disruption Mitigation:

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

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

☐ Yes (1) ☒ No (1) ☐ N/A

16.2 Will the action result in complete closure to residential properties for greater than 5 working days?

☐ Yes (2) ☒ No (1) ☐ N/A

16.3 Will the action result in complete closure to residential properties for greater than 10 working days?

☐ Yes (3) ☐ No (2) ☒ N/A

16.4 Will the action result in closure of business access during operational hours?

☐ Yes (3) ☒ No (1) ☐ N/A

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

☐ Yes (3) ☒ No (1) ☐ N/A

16.6 Will the action change the functionality of adjacent properties?

☐ Yes (3) ☐ No (2) ☒ N/A

16.7 Access Disruption Comments:

N/A

16.8 Substantial Access Disruption Mitigation:

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

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

☒ Yes (1) ☐ No (1) ☐ N/A

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

☐ Yes (2) ☒ No (1) ☐ N/A

17.3 Will the action result in a potential for disproportionately high and adverse impacts to minority or low income populations?

☐ Yes (3) ☐ No (2) ☒ N/A

NDOR Highway Civil Rights Specialist Determination Date:

12/2/2013

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

In general, the areas through which this project travels have low populations of minority, Hispanic, and low-income persons, especially when compared to the counties. However, a few figures require further analysis.

Dixon County Census Tract 9778 reports meaningfully greater populations of minority and Hispanic persons when compared with Dixon County generally. However, like in the LEP analysis, these figures reflect the presence of the City of Wakefield and the Village of Emerson in the far southern portion of Tract 9778. Wakefield, for example, has a minority population of about 35.6% and a Hispanic population of about 33.6%. The Village of Waterbury, which is adjacent to the project site within Tract 9778, has a reported minority population of 1.4% and a Hispanic population of 1.4%.

Additionally, block-level US Census data does not indicate any concentrations or populations of minority persons on the project site in Dixon and Dakota Counties. The project area is almost entirely unpopulated outside of the Villages of Waterbury and Jackson.

For these reasons, there would be no disproportionately high and adverse human health or environmental effects visited upon minority and low-income populations, as defined in USDOT Order 5610.2(a). These protected populations are not present in the project area.

17.5 Protected Population Mitigation:

N/A

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

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 will not occur during the NEPA phase.

The areas through which this projects travels are mostly English-speaking. In the areas surveyed, none of the data indicates the presence of an LEP population that reaches the NDOR LEP outreach triggers of 5% or 1,000 persons, with the exception of Dixon County Census Tract 9778.

A closer look at Tract 9778 reveals that the Spanish-speaking LEP population almost entirely resides in the far southern portion of the tract, a great distance from the project area, within the City of Wakefield. Wakefield has a Spanish-speaking LEP population of about 26.9%, and contains almost all of the LEP population within Tract 9778. By comparison, the remaining cities and villages in Tract 9778 have very low LEP populations (Concord – 1.4%; Allen – 1.1%; Dixon – 0%), and the Village of Waterbury, in the vicinity of the project site, has no reported LEP population.

For these reasons, no LEP outreach is recommended for this project.

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 ☐ N/A

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

19.2 Unresolved Controversy Comments:

N/A

Contract Provisions Required

20.1 Wellhead Protection Special Provisions

☒ Yes ☐ No

20.2 General Conditions for Nationwide Permit

☒ Yes ☐ No Nationwide Permit: 3

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

☐ Yes ☒ No

20.4 General Conservation Conditions from the Matrix PA

☒ Yes ☐ No

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."

21.2 Indirect Impacts and Mitigation:

N/A

21.3 Cumulative Impacts:

Two other projects are adjacent to the Jackson West project in the Five-Year Program (FY2016-2021).

The section west of this project on US-20 is 32137_NH-20-6(110)_North of Dixon-South of Martinsburg and is programmed to be let in 2018. 32137 is a resurfacing project with two structure removals and replacements. The section north of this project on N-9 is 32238_STP-9-4(118)_E. Jct. US-20-N-12 and is programmed to be let in 2018. 32238 is anticipated to be a 3R resurfacing project with two bridge replacements. The scope of work has not yet been finalized on 32238. There are no anticipated cumulative impacts due to the Jackson West project in conjunction with the additional projects referenced above. Construction for the individual projects has been scheduled such that there would be adequate time between projects to prevent interference with local traffic patterns. 31817 and 32137 would be constructed under traffic and the constuction of 32238 is yet to be determined. There are minor impacts anticipated for wetlands/waters, no impacts anticipated for threatened and endangered species and no impacts to Section 4(f) properties for the Jackson West project. There are no negative long-term socioeconomic impacts anticipated as access to residences or businesses would only be limited during construction. There are however, long term benefits to motorist due to roadway improvements.

22.1 **Additional Comments**:

The project is adjacent or within the Village of Martinsburg, Village of Waterbury, and Village of Jackson wellhead protection areas.

23.1 **Project Mitigation**:

Utilities:

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:

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)

Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit. Dixon County does not participate in floodplain mapping, and a floodplain permit is not required. NDOR shall certify that the construction activities are in compliance with the State of Nebraska floodplain regulations. (NDOR Roadway/Bridge Hydraulics, NDOR Environmental)

Wetlands:

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)

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. (NDOR Design, NDOR Environmental)

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

Impaired Waters, MS4, and NPDES/SWPPP:

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)

Threatened and Endangered Species:

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

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

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

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

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

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

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

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

A-7 Waste/Debris. Construction waste/debris will be disposed of in areas or a manner which will not

adversely affect state and/or federally listed species and/or designated critical habitat. (Contractor)

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

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

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

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

Northern Long-Eared Bat:

NLEB-1 Tree clearing, bridge deck joint replacements over the bridge deck, bridge/>5-ft box-culvert 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 tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert 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: structures with bridge joint replacement (S020 42144, S020 41914). 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)

Traffic Disruption:

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)

Access Disruption:

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

Public Involvement:

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)

Wellhead Protection Areas:

A portion of the project has been identified as being located within or adjacent to the Villages of Martinsburg, Waterbury, and Jackson's Wellhead Protection Areas. 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)

Borrow and Staging:

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

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: 2016.03.30 14:09:59 -05'00'

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:

Digitally signed by Carrie Wencel
DN: cn=Carrie Wencel, o=Nebraska Department of Roads, ou=Highway Environmental Biologist/ NEPA Specialist, email=carrie.wencel@nebraska.gov, c=US
Date: 2016.03.30 14:22:23 -05'00'

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

Digitally signed by Jon Barber
DN: cn=Jon Barber, o=NDOR, ou=Environmental Documents Unit, email=jon.barber@nebraska.gov, c=US
Date: 2016.04.01 10:08:34 -05'00'

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: