FINDING OF NO SIGNIFICANT IMPACT
KEARNEY EAST INTERCHANGE AND BYPASS

Pursuant to 42 USC Section 4332(2)(c) [Section102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, 42 USC Section 4321, *et seq.*]; the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500—1508); and the NEPA-implementing regulations of the Federal Highway Administration (FHWA) (23 CFR Part 771); FHWA analyzed the impacts of the Kearney East Interchange and Bypass in the *Final Environmental Assessment for East Interchange and Bypass, Kearney, Nebraska* (September 2010) (Final EA) and makes this finding of no significant impact (FONSI). Accordingly, FHWA hereby gives notice that it has approved the proposed construction of the Kearney East Interchange and Bypass (Project) in accordance with the preferred alignment, identified in the Final EA.

The interchange and bypass includes a new interchange at I-80 and Cherry Avenue, approximately 3 miles east of the Second Avenue interchange; a new 8.5-mile, four-lane, high-speed, access controlled bypass route offset approximately 200 feet to the west of the existing Cherry Avenue from I-80 to 78th Street, continuing on 78th Street west to N-10/N-40 junction; and grade-separated crossings of the North Channel of the Platte River, the Union Pacific Railroad tracks, and US 30.

FHWA is the federal lead agency for the Environmental Assessment, which was prepared in conjunction with the Nebraska Department of Roads (NDOR) and followed the 2001 *Nebraska Local Operating Procedures for Integrating NEPA/404 (*NEPA Merge). As part of the NEPA Merge Process, the Environmental Protection Agency (EPA), US Army Corps of Engineers (USACE), US Fish and Wildlife Service (USFWS), the Nebraska Game and Parks Commission (NGPC), and the Nebraska Department of Environmental Quality (NDEQ) were asked to concur on the purpose and need statement, alternatives carried forward, selected alternative, and the impact minimization strategies.

Though this project is of a type "normally" evaluated with an EIS (23 CFR Part 771.115 (a)), FHWA determined that this particular project was not expected to have significant impacts and determined that an EA would be the appropriate vehicle for review. The NEPA process for this Environmental Assessment (EA) included public outreach, preparation of a Draft EA, opportunity for public comments on the Draft EA, preparation of a Final EA with responses to comments on the Draft EA, public opportunity to comment on the Final EA in accordance with 23 CFR 771.119 (h), and publication of this FONSI with responses to the comments received on the Final EA.

I. PURPOSE OF AND NEED FOR THE PROPOSED ACTION

The City of Kearney (City), population 30,400 (Census Bureau, 2010b), is one of the fastest growing communities in Nebraska. Kearney is a regional trade center that provides employment, medical services, entertainment, manufacturing, shopping, and other business opportunities to the area. Kearney is presently served by a single interchange with I-80. Exit 272 is located directly south of the City and connects I-80 with Nebraska Highway 44 (N-44/Second Avenue). An indirect secondary access to the City from I-80 is provided at Exit 279, located approximately seven miles east of the City via Nebraska Highway 10 (N-10) and US 30. Currently, Kearney has outgrown its ability to be adequately served by a single interchange.

According to the 1997 report *The Kearney Plan, the Comprehensive Development Plan for Kearney, Nebraska (*1997 Kearney Plan*)*, year 2020* traffic projections on the existing system show most traffic channeling off I-80 to the Second Avenue corridor. This will produce Level of Service (LOS) F conditions on much of Second Avenue between the Union Pacific Railroad (UPRR) corridor and about 45th Street. These problems are compounded by the mixing of local and regional traffic created by a single interchange and discontinuities in the local traffic pattern (RDG et al., 1997).

An origin-destination study conducted in February 2000 concluded that almost 30 percent of trips entering Kearney did not stop in the City. A December 2009 review of the February 2000 origin-destination data concluded the 30 percent through-trips data is still valid. These 30 percent through-trips contribute to the congestion and future LOS of Second Avenue.

In addition, the Kearney Regional Airport is the third highest passenger airport for Nebraska and largest general aviation facility for central Nebraska pilots and businesses. It is home to approximately 60 aircraft and handles an estimated 30,000 operations per year, including corporate activity, training and pleasure flying. According to the City's website, the Kearney Regional Airport averages about 10,000 enplanements annually. The primary access to the Kearney Regional Airport is via Airport Road off US 30. Existing access to the Kearney Regional Airport can be described as indirect and requires a user to back track up to three miles to reach the facility.

The Nebraska Army National Guard is located in the Kearney Armory, adjacent to the Kearney Regional Airport. In February 2002, the Nebraska Army National Guard wrote a letter of support for a bypass east of Kearney (Refer to Appendix C – Draft EA Correspondence), stating that the proposed project would benefit national defense by providing high speed direct access to I-80 for use by the Army National Guard. The Army National Guard stated in the letter that "our national security posture will gain benefits by construction of the East Bypass as this enables the unit to rapidly respond to state of national guard unit call-ups by providing quick four-lane access to I-80." In December of 2009, NDOR contacted the Army National Guard regarding the proposed project and they have decided to remain neutral regarding the project (Refer to Appendix B – Final EA Correspondence).

The purpose of this project is to improve regional system linkages and enhance modal interrelationships and access to Kearney Regional Airport, Nebraska Army National Guard, and the industrial employment area east of the City. The need for the Project is based on a combination of factors:

1. Provide an alternative route for through-traffic that does not stop in Kearney. A study conducted for this EA found that approximately 30 percent of trips entering Kearney were through-trips. The alternative route would supplement Second Avenue as the primary north-south corridor and serve the needs and future traffic demands in Kearney and the surrounding area.
2. Connect industrial and new growth areas, and the Kearney Regional Airport to Interstate 80 (I-80) and United States Highway 30 (US 30). This is for employment access, delivery and distribution of goods and services from the industrial area, and direct access for the Nebraska Army National Guard facility to I-80.

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* *Based on the fact that most recent traffic volumes observed during 2009 in the study area are similar or slightly lower than the study year volumes in the IJR and Tech Memo documents (1999 and 2002 volumes respectively), the analysis, conclusions and recommendations documented in the Interchange Justification Report (IJR) and Technical Memo are still valid and applicable. Both the IJR and Technical Memo are attached to the Final EA.*

II. ALTERNATIVES CONSIDERED

A. Preliminary Planning and Corridor Studies

The 1997 report *The Kearney Plan, the Comprehensive Development Plan for Kearney, Nebraska* (1997 Kearney Plan) identified the need for improved regional transportation facilities within and around Kearney. According to the *Kearney Plan*, the airport and major industrial sites on the east side of Kearney should receive improved access to I-80 and US 30 for accelerated marketing and development. The 1997 Kearney Plan recommends constructing an "east side interchange and bypass" first:
"Kearney will need both eastside and westside interchanges by the year 2020. Of the two, an eastside interchange provides relatively more relief to the 2nd Avenue corridor, and should therefore be built first." – 1997 Kearney Plan conclusion statement.

Following the completion of the 1997 Kearney Plan, the City and NDOR began a project development process in 1999 that investigated several alternative corridors for the proposed Kearney Bypass. The process was concluded with a completed *Interchange Justification & East Bypass Study* Report (IJR) in October 2000 and the submittal to the FHWA for review and operational approval (Kirkham Michael, 2000). The IJR was reviewed by FHWA on July 5, 2001, pending the completion of the NEPA process. Subsequently, an executive summary of the IJR was prepared and submitted to FHWA in September 2010 addressing the current FHWA Interstate Access Policy. The IJR was conducted to determine design and operational acceptability of alternatives; final approval of the IJR will be considered by FHWA after the completion of NEPA.

In 2003, the City issued an update to the 1997 Kearney Plan, identifying several key transportation policies that must be followed to meet the current and future mobility needs. In general, the policy includes improving north-south routes through town to decrease exclusive dependence on the Second Avenue corridor and to provide routes and alternative modes for local trips to alleviate congestion on major arterials. Components of the program include:

- Constructing new interchanges to the east and west of Kearney,
- Providing improved access to the Kearney Regional Airport and major industrial sites for accelerated marketing and development,
- Constructing an east bypass to help divert through-trips and truck traffic out of downtown,

In accordance with The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), includes several provisions intended to enhance the consideration of environmental issues and impacts within the transportation planning process and encourages the use of the products from planning in the NEPA process. In light of this, information developed in the 1997 and 2003 Kearney Plan was incorporated into and relied upon in the development of the Final EA.

B. Alternatives Considered in the Environmental Assessment

Initially, 12 alternatives were considered and evaluated with a set of screening criteria. Six alternatives included a new I-80 interchange and bypass corridor, one added a new interchange on the west side of Kearney connecting to 30th Avenue, one included a new bypass corridor connected to an existing interchange at Nebraska Highway 10 (N-10), and three included improvements to local streets or traffic operations with no interchange or bypass. Bypass corridors, and the associated I-80 interchange location, generally follow existing road alignments to minimize Right-of-Way (ROW) acquisition and support the

existing transportation network in the City. A No Build Alternative was also included to provide a baseline for comparison of the other alternatives.

These initial alternatives were evaluated to identify a reasonable range of alternatives that could meet the purpose and need for the project. Two build alternatives were advanced for more detailed evaluation: Cherry Avenue Alternative and Antelope Avenue Alternative. The NDOR and FHWA considered environmental impacts for both build alternatives and the No Build Alternative, and included the results and recommendation for a Preferred Alternative in the 2007 Draft EA. The Draft EA, which was circulated for public and agency comments, identified Cherry Avenue Alternative as the Preferred Alternative (City of Kearney and NDOR, 2007).

Two public hearings were held to explain the alternatives and receive comments about the proposal. The first hearing focused on the results of the location study (i.e., the alignment), and the second on the preliminary design. The public expressed support for the Cherry Avenue Alternative over the Antelope Avenue Alternative. After consideration of the environmental analysis contained in the Draft EA and review and consideration of public and agency comments, NDOR confirmed Cherry Avenue Alternative as the Preferred Alternative (City of Kearney and NDOR, 2007). The Final EA, therefore, includes analysis of Cherry Avenue Alternative (the Build Alternative) and the No Build Alternative.

See Section 2 of the Final EA, and also Section IV of this FONSI, for more information on the alternatives considered but eliminated.

III. SUMMARY OF ENVIRONMENT EFFECTS FOR ALTERNATIVES CONSIDERED IN DETAIL IN THE FINAL EA.

A. No Action Alternative

The No Action Alternative would have no direct effect on biological resources, cultural resources, visual resources, farmland, Section 4(f) resources, or water resources resulting from construction-related activities and ground disturbance because no highway or interchange would be built. There would be no need for material sources or for disposal of waste materials nor would there be potential for encountering hazardous materials or for having petroleum or other releases from construction vehicles and equipment. The No Action Alternative would, however, have direct adverse effects on traffic congestion on Second Avenue in Kearney and regional transportation connectivity.

B. Selected Alternative

The expected impacts from the selected Cherry Avenue alternative are summarized in the table, below. Section 3.0 of the Final EA contains more in-depth analysis of possible impacts and measures to avoid and minimize harm.

Resource	Impact from Selected Cherry Avenue Alternative
Transportation	Improves regional and local travel. Improves access to destinations in east Kearney and improves travel conditions on Second Avenue by adding new interchange. Bypass route provides direct I-80 access to/from airport, Nebraska Army National Guard, and industrial area.
Land Use	Supports existing and future land use plans. Supports existing and future transportation network. Consistent with local land use and transportation plan.
ROW and Relocations	206 acres of new ROW required. Acquisition of three residences and partial acquisition of four center pivots.
Farmland	191 acres of farmland, including 62 acres of prime farmland, converted to roadway use. Federal Farmland Protection Act farmland conversion impact rating indicates no adverse impact to farmland.
Socioeconomics	Travelers to retail, lodging, and restaurants would benefit from reduced congestion on Second Avenue. Businesses in the industrial area would benefit from easier access for trucks, vendors, and employees. Archway Monument would benefit from direct I-80 access. People and businesses who use the Kearney Regional Airport would benefit through more direct access to the facility and decreased driving time/distance to reach the airport.
Env. Justice and Title VI	No impacts.
Noise	Three residences along bypass route affected by traffic noise.
Water Resources	Potential adverse effects to water quality, such as sedimentation, due to construction. This would be mitigated through standard best management practices (BMP), implementation of a Storm Water Pollution Prevention Plan, adherence to the National Pollution Discharge Elimination System Permits and compliance with required Clean Water Act permits. Adverse effects to Platte River depletions are not expected, but could occur due to contractor borrow sources. Adherence to mitigation measures developed for this project and compliance with the Platte River Recovery Implementation Program will negate or offset adverse impacts.
Waters of the US and Wetlands	10.94 acres affected, including 5.82 acres of wetlands and 5.12 acres of open water. Impacts will be mitigated in compliance with Clean Water Act Section 404 permits, Section 401 Certifications, and through mitigation strategies developed with the US Army Corps of Engineers and the Nebraska Department of Environmental Quality.
Wildlife, Vegetation, and Invasive Species	Some loss of wildlife habitat in riparian area mitigated through wetland replacement and implementation of conservation easements. Most of the project area is tilled agriculture that does not support quality habitat or vegetative communities.
Threatened and Endangered Species	May affect but not likely to adversely affect whooping crane. No effect to other threatened or endangered species. Impacts will be mitigated through the implementation of conservation conditions developed with concurrence from the US Fish and Wildlife Service and the Nebraska Game and Parks Department.
Hazardous Materials	Several sites of concern located near the alignment. Based on preliminary information, these sites are located outside of the construction area. Buildings to be demolished may contain asbestos or lead-based paint. During Final Design, the construction footprint will be re-checked for Hazardous Materials. Prior to construction, buildings will be tested for Hazardous Materials, and any Hazardous Materials identified would be properly handled and disposed of.
Visual Resources	New interchange bridge may obstruct long distance view of Archway Monument from I-80. Potential visual impacts to Stone School will be mitigated through vegetated berms and fencing.
Section 4(f) Resources	Although there are two Section 4(f) properties in the vicinity of the interchange, there will be no direct or constructive use of these properties. No other Section 4(f) resources exist in the study area.
Construction Impacts	Short-term impacts to water quality and air quality from ground disturbance and erosion during construction may occur, which would be minimized by implementing Best Management Practices to prevent erosion and suppress dust. Increased noise and disrupted access may disturb residents and business owners during construction, which would be mitigated by the requirement for Contractors to maintain access during construction and the implementation of special provisions pertaining to maintenance of equipment to decrease noise. In addition, construction will be limited to daylight hours where possible.
Cumulative Impacts	Alternative is consistent with future land use and development plans; no adverse impacts expected.

IV. COMMENTS AND CONCERNS

For a summary of public and agency comments received during the formulation of this project and the draft EA public hearing process, see Section 4.0 of the Final EA.

Per 23 CFR 771.119 (h), an additional public comment period for the Kearney East Interchange & Bypass Final EA was held from October 1, 2010 through November 1, 2010. Copies of the Final EA were available for public review at the Kearney City office (18 E. 22nd Street, Kearney, NE 68848), Kearney Public Library (2020 1st Avenue, Kearney, NE 68847), NDOR District 4 Office (211 N. Tilden Street, Grand Island, NE 68802), NDOR Central Complex (1500 Highway 2, Lincoln, NE 68502), and FHWA – Nebraska Division Office (Federal Building 220, 100 Centennial Mall North, Lincoln, NE 68508). The Final EA was also made available for review online at http://www.nebraskatransportation.org/projects/kearney-east/index.htm. During this public comment period, three (3) reviewing resource agency comments, one (1) non-profit corporation comment and four (4) citizen comments were received and are attached to this FONSI. Additionally, one (1) reviewing resource agency, the U.S. Fish and Wildlife Service provided their no-objection concurrence letter, which is also attached to this FONSI. NDOR written responses to these comments are also attached.

Below is a summary of comments received from the additional public and agency outreach for the Final EA and the response to comments:

1. Commenter: **Nebraska Department of Natural Resources (NDNR)**

   Comment: Impacts to the existing water rights due to the proposed project must be addressed following the agency procedures and guidelines.

   Response: As final design plans are developed, the exact impacts on the water rights in the Wood River drainage basin at the northwest end of the proposed project will be identified. Upon identification of the amount of property to be acquired, on which a water right exists, the NDNR form 'Notice of Change of Ownership/ Water Resources Update Notice' will be completed and submitted by NDOR to the NDNR office.

2. Commenter: **Nebraska Department of Natural Resources**

   Comment: Impacts to wells due to the proposed project must be coordinated with the agency and appropriate forms would need to be submitted to the agency.

   Response: Groundwater wells that are impacted by construction of the proposed project will be decommissioned in accordance with the NDNR regulations. Replacement of the wells impacted by the proposed project will be compensated through the Right-of-Way acquisition process.

3. Commenter: **Nebraska Department of Natural Resources**

   Comment: During project construction, if ground is disturbed in a regulated flood plain area, it will require a floodplain development permit and that coordination will need to occur with the City of Kearney Floodplain Administrator/ Chief Building Official.

   Response: Prior to start of the project construction, NDOR will contact the local Floodplain Administrator/ Chief Building Official to obtain the required floodplain development permit.

4. Commenter: **Nebraska Department of Health and Human Services**

   Comment: As long as the proposed project adheres to all State regulations and local ordinances, and does not impact any encroachment criteria to public drinking water wells or compromise Kearney's potable water system, they do not foresee issues affecting drinking water quality.

   Response: Any groundwater wells that are impacted by construction of the proposed project will be decommissioned in accordance with the Nebraska Health and Human Services Title 178 regulations and Nebraska Department of Natural Resources regulations.

5. Commenter: **US Fish and Wildlife Service**

   Comment: Reviewed the Final EA, including the selected alternative and impact minimization, and find that the project does not have any significant environmental impact upon the resources within the agency's jurisdiction.

   Response: Comment noted.

6. Commenter: **US Army Corps of Engineers 11/30/10 letter**

   Comment: Purpose & Need statement previously concurred on May 19, 2003 has changed. USACE believes that substantive changes to the Purpose & Need have negated their previous concurrence.

   Response: FHWA has determined the changes between the Purpose and Need from the Final EA and the Draft Environmental Assessment (DEA) are not substantive. The concept of need for regional connectivity and improved access to the Kearney Airport, Army National Guard facility, and the Industrial area permeated the DEA, but were not clearly spelled out in Section 1 of the DEA. The text in the Final EA has been enhanced to substantiate the regional transportation needs, access needs and to meet Purpose and Need guidelines, but the elements are consistent with what was found in the DEA. This was explained in a written response letter to the USACE, to which the USACE concurred that this justification regarding the Purpose and Need was acceptable.

7. Commenter: **US Army Corps of Engineers 11/30/10 letter**

   Comment: Have impacts to Waters of the U.S (WOUS) for both alternatives been avoided and minimized? Were the impacts to WOUS for both Cherry and Antelope Avenue based on the same level of detail? Has spanning, alignment shifts etc as related to Cherry and Antelope alternatives been considered? What are the current project impacts to WOUS for the Antelope and Cherry Avenue alternatives? The numbers listed in the wetlands and WOUS impact categories on pg 2.12 in Table 2.6 and page 3.32 of the EA are incorrect as they relate to jurisdictional WOUS. Please separate the impacts into two categories, non-jurisdictional aquatic impacts and jurisdictional impacts to WOUS. From the USACE's perspective, the Antelope Avenue alternative appears to be the Least Damaging Practicable Alternative (LEDPA).

   Identify in better detail why Antelope Avenue will not meet the project purpose and need. Was Antelope dismissed based on practicability (cost, logistics, technology)? USACE believes when the 404 (b)(1) guidelines are applied, the Antelope Avenue alternative addresses the purpose and need.

   Response: The Final EA identified that both the Cherry and Antelope Avenue alternatives met the purpose and need. The Antelope Avenue alternative was not carried forward for detailed

analysis in the Final EA because it was not compatible with the 1997 or 2003 Kearney Plans (see Section II A, above), it had higher residential and business impacts, and because it provided less direct access to the Army National Guard facility, the Kearney Regional Airport and the industrial area. In addition, the USACE concurred with the following statement on July 25, 2007: "We have reviewed the Draft Environmental Assessment, including the preferred alternative, and find that this project does not have any significant environmental impact upon the resources within our agencies jurisdiction" (See Appendix C of the Final EA).

Although the Cherry Avenue alternative was selected as the preferred alternative, the Final EA indicated that the Antelope Avenue alternative had less impact to WOUS. Based on the USACE's comments, FHWA and NDOR re-reviewed the Antelope Avenue alternative and the preferred (Cherry Avenue) alternative to determine if the expected acreage impacts to WOUS and waters of the state were accurately represented in the Final EA. During that review, it became apparent that the Antelope Avenue alignment would have additional impacts to the community and/or waters if selected due to new developments within that corridor.

The DEA identified the location for the Antelope Avenue alternative interchange at existing Antelope Avenue, between two existing open water sand pit lakes. It has since been identified that the Nebraska Firefighters Museum & Information Center had been constructed adjacent to the proposed interchange location as shown in the DEA. In order to avoid impacting the museum, the interchange alignment would need to be shifted west. This west shift placed the interchange in the open water sand pits, thereby increasing the impacts to WOUS and waters of the state. An alignment shift to the east was considered; however, the Great Platte River Archway is located east of Antelope Avenue and a proposed interchange location could not be shifted to the east without impacting the Archway. In order to minimize wetland impacts and also avoid the Firefighters Museum and the Archway, the interchange would need to be shifted further west towards Avenue *M/N*. An alternative on Avenue *M/N* was dismissed as not meeting the level 1 screening criteria originally identified in the DEA. This alternate required numerous relocations, high ROW cost, and was not compatible with the local land use plan.

Based upon the new Firefighters Museum being constructed within the footprint of the interchange as identified for the Antelope Avenue alternative and the additional social impacts that would be realized if the Antelope Avenue interchange were to be constructed as originally proposed, FHWA determined that any proposed interchange that would be constructed for an Antelope Avenue alternative would need to be shifted to avoid a take of the Museum. Based on this need and the rationale explained above, NDOR generated a new proposed location for an Antelope Avenue Interchange for comparative purposes in this FONSI. This location will be referred to as the "shifted Antelope Interchange".

For the overall study, impacts to waters of the state were calculated based on the 2007 wetland delineation. WOUS impacts were calculated based on the August 25, 2009 preliminary jurisdictional determination completed by the USACE. At the time the 2007 delineation and the August 2009 preliminary jurisdictional determination were completed, the shifted Antelope Interchange was not recognized and therefore the delineation did not cover the proposed shifted alignment as shown in the location map. In these areas, west of the Antelope Avenue interchange, aerial photo interpretation was used to digitize recognized wetland and water resource signatures for analysis and calculation of impacts for the shifted Antelope Interchange location.

A refined comparison of wetland and water resource impacts for each alternative, based on the shifted Antelope Interchange location, resulted in the Antelope Avenue Alternative having increased impacts over the Cherry Avenue alternative. Total WOUS for Antelope Avenue result

in 13.173 acres as compared to 6.100 acres for the Cherry Avenue alternative. When comparing WOUS and waters of the state impacts, the total impacts for Antelope Avenue result in 17.558 acres compared to 10.944 acres for the Cherry Avenue alternative.

The increase of expected impacts for an Antelope Avenue alternative result from the desire to avoid community and socioeconomic impacts that would occur if the Antelope Avenue interchange were left in the same location as identified when this alternative was considered but discarded from further review during the EA process.

Based upon the USACE letter, NDOR also reviewed both the Cherry Avenue and Antelope Avenue alignments to determine if further refinements could be made to minimize impacts. Based upon the level of design detail known at the time of this decision document, the acreages mentioned above take into account efforts to minimize impacts to WOUS and state waters while balancing the need to minimize social, economic, and other natural resource impacts. Construction of bridges to completely span the sand pits and the north channel of the Platte River to avoid waters was considered by NDOR, but determined not practicable due to the excessive additional costs ($20 million additional construction costs plus the cost associated with an additional building acquisition). During final design of the Cherry Avenue alternative, efforts will be made to minimize impacts to WOUS and state waters.

Furthermore, upon further review of the Antelope Avenue alternative, additional impacts that were not noted in the Final EA were identified north of U.S. Highway 30 (US-30) with the Antelope Avenue alignment, due to new property development within the corridor. Recent business developments in the area of Highway 30 and Antelope Avenue would require additional relocations due to viaduct construction, including the acquisition of approximately twelve businesses; eight more than originally identified in the DEA. Therefore, a total of approximately twelve businesses, five residences, one storage building and a partial acquisition of one center pivot could be affected by the Antelope Avenue alternative, compared to no businesses, three residences and partial acquisition of four center pivots for the Cherry Avenue alternative. No additional acquisitions would be required for the Cherry Avenue alternative from what is indicated in the Final EA.

Based upon further evaluation of the impacts associated with the Antelope Avenue alternative compared to those of the Cherry Avenue alternative, FHWA maintains that Cherry Avenue Alternative is the selected alternative and sufficient justification exists to discard the Antelope Avenue alternative. Information supporting this position was provided to the USACE via FHWA letter on December 20, 1010. The USACE responded with a letter concurring that there would be no significant impact to resources within their jurisdiction, dated December 28, 2010. In addition, the Corps also stated the following in their letter: "It is premature to make a LEDPA determination prior to the submittal of an applications and our 404(b)(1) evaluation. However, our preliminary evaluation indicates that the Cherry Avenue alternative may be the Least Damaging Practicable Alternative."

8. Commenter: **Economic Development Council of Buffalo County**, a non-profit corporation

   Comment: Supports the "Cherry Avenue Bypass" (i.e., the proposed Kearney East Bypass) project.

   Response: Comment noted

9. Commenter: **Property/Business Owner**

   Comment: Current project plans will devalue their property. Proposed relocation of their driveway will not work. The property owners have trust they will be adequately compensated for damages and expenses due to proposed project. (2 Comments Received)

   Response: In order to reduce the number of locations for potential traffic movement conflicts and to improve the efficiency of the highway, the bypass is being designed with managed access points along the highway as well as on intersecting public roads. As final design plans are developed, the exact location of proposed driveways will be determined based on sound engineering judgment with consideration to safety and minimum design standards. Impacts to properties will be minimized through the design process as much as possible. All acquisition and relocation activities will be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and the NDOR Right-of-Way Manual.

10. Commenter: **Property/Business Owner**

    Comment: Concerned about setback of the proposed 11th & Cherry Avenue intersection and its impact on his pivot operations.

    Response: Options to reduce impacts to the center pivots located east of the existing Cherry Avenue have been evaluated and based on the preliminary design information available, have been minimized to the extent possible; as final design plans are developed, impacts to pivot operations will be minimized as much as possible. Impacts to properties will be minimized through the design process as much as possible. All acquisition and relocation activities will be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and the NDOR Right-of-Way Manual. A determination will be made after the final design plans are developed as to the direct impacts to the operation of the pivot. An appraisal will be performed to valuate the requisite property for the project. The property owner will have the opportunity to accompany the appraiser during this process.

11. Commenter: **Property/Business Owner**

    Comment: Concerned about the borrow pits extending into his farmland rendering some of his property useless for farming and future development.

    Response: The original design concept required contractor to furnish borrow. In an attempt to minimize embankment haul costs, the Value Engineering (VE) Study recommended purchasing additional Right Of Way along the length of the project to provide the contractor a nearby borrow site that could then be resold. Restrictions by the Tri-State agreement regarding water use along the Platte River limits the exposure of groundwater in the area of this project. The Central Platte Natural Resources District requires any new water depletion source to obtain easements to retire existing irrigated land. A contractor proposing to excavate a deep borrow site adjacent to the site would be required to purchase additional land to offset the exposed water. As a result of the VE recommendation, potential borrow pit sites were shown on the Design Public Hearing display. After further analysis, it was determined that the excavation would result in ponding water and to excavate to the extent that would be necessary to drain the pits would not be cost effective. It was decided to return to the idea of contractor furnishing borrow. This means that the contractor will be required to acquire any rights to the material he/she supplies. The Project contractor will be

required to submit a Materials Source Site Identification and Evaluation Form to NDOR and USACE. NDOR will forward the Material Source Form to the USFWS, NGPC, NDNR, and HAP-NSHS for review and approval.

The Contractor shall try to obtain material from an upland site to prevent depletion issues. However, if the material site is located within the Platte River basin, and it is identified that it will pond water after excavation, NDOR will determine project related impacts by calculating the evaporated loss of water at the material site, by using the Natural Resource Conservation Service (NRCS) – US Department of Agriculture (USDA) Consumptive Use Calculator. Results of the impacts shall then be submitted to NDNR, and the project contractor will be responsible to offset the depletion impacts, in accordance to the Platte River Recovery Implementation Program (PRRIP).

The following project activities shall, to the extent possible, be restricted to 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. Any project related activities that occur outside of these areas must be environmentally cleared/permitted with the USFWS and NGPC 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 will not adversely affect state and/or federally listed species or designated critical habitat (NDOR Environmental, District Construction, Contractor).

12. Commenter: **Business Owner**

Comment: Doesn't like traffic re-routed around town and not have a chance for those travelers to see their businesses

Response: The Final EA addresses potential socioeconomic effects of the Kearney Interchange and Bypass in Section 3.4, Socioeconomic Conditions (starting on page 3.12). According to The Kearney Plan, new commercial development along the proposed bypass would be limited to avoid eroding the vitality of the Second Avenue corridor or increasing competition with businesses along Second Avenue. Coupled with the controlled access to the bypass facility, development of businesses that would compete with the commercial destinations along Second Avenue would be minimal. Travelers headed to specific in-town destinations along Second Avenue will continue to frequent those destinations. In fact, travelers headed to specific in-town destinations would benefit from the reduced congestion on Second Avenue created by the bypass. Although there will be a decrease in through-town traffic passing the destinations along Second Avenue, the impact to businesses from that loss of traffic is expected to be negligible.

While any socioeconomic impacts to the businesses along Second Avenue are expected to be negligible, there will be expected socioeconomic benefits to the Kearney regional economy due to

enhanced access to the Kearney Industrial Park, the regional airport, and possible tourism through enhanced access to the Great River Road Archway. In addition, the Economic Council of Buffalo County and the City of Kearney support the creation of the Bypass (see letters within the Appendix of the Final EA).

13. Commenter: **Business Owner**

Comment: Need to study more cost of building the bypass at the proposed location vs. other locations including the 30th Ave on the west side of Kearney.

Response: The Kearney Plan does indicate the need for both west side and east side interchanges. According to the plan, an east side interchange had a higher need than a west side interchange. A west side interchange along with improvements to local streets connecting to 30th Avenue was considered in this EA, but it was eliminated as a viable alternative because it would not provide direct, enhanced transportation connections to the Kearney Industrial Area, the Kearney Regional Airport or the Army National Guard Facility. Therefore, it would not meet the purpose and need for this study.

In addition, the cost of various alternatives was considered within the NEPA process, but cost was only one factor considered. When deciding upon alternatives to consider, the alternatives ability to meet the purpose and need, costs, social costs/benefits, and natural environmental costs/benefits were all reviewed. Based upon this balanced review of the alternatives, Cherry Avenue was selected. Please see Section 2 of the Final EA for more information.

14. Commenter: **Business Owner**

Comment: Prefers any impacted wetlands due to the project replaced in the Kearney area itself, rather than elsewhere like Grand Island.

Response: Based on the preliminary design detail available during the NEPA process, wetlands have been avoided to the extent possible, when balancing costs, social impacts, and other natural resource impacts. During final design of the Cherry Avenue alternative, efforts will be made to minimize impacts to WOUS and state waters. State water impacts and any needed mitigation will be coordinated through the Nebraska Department of Environmental Quality during final design. Any WOUS wetlands impacted will be mitigated in accordance with the requirements of the Section 404 permit, which will be obtained from the USACE once sufficient design detail is available to apply for a permit. Impacts to WOUS associated with this project are within the geographic service area of the NDOR Mormon Island wetland bank site, which means that this site may be a viable alternative for wetland mitigation. Specific locations for wetland mitigation and mitigation ratios will be determined in coordination with USACE during final design.

V. SUMMARY OF CHANGES TO THE FINAL EA

The following pages of errata include additions or alterations to the Final EA to clarify, further discuss or make text corrections. These changes are a result of public and agency comments and are provided below with reference to their pages from the Final EA. Final EA text to be deleted is shown as strikeout text (~~strikeout~~), and additions to the Final EA text are *italicized*.

Changes made to Executive Summary, Page ii

Approximately ~~12.6~~ *10.9* acres of wetlands and Waters of the US would be impacted by the Build Alternative. NDOR would obtain a Section 404 permit from the US Army Corps of Engineers (USACE) in accordance with the requirements of the Clean Water Act.

Changes made to 'Section 2.2.2 Screening Results', Page 2.9 'Table 2.5: Level 2 Screening Results'

TABLE 2.5: LEVEL 2 SCREENING RESULTS

CRITERIA	ALTERNATIVES		
	No Build	Cherry Avenue	Antelope Avenue
LOCAL/ENVIRONMENTAL IMPACTS			
ROW and Relocations (acres of ROW, number of relocations)	N/A	206 acres ROW required 3 residential relocations	196 acres ROW required ~~5~~ 12 commercial relocations, acquisition of one storage building 5 residential relocations
Wetlands and Waters of the US (acres affected)	N/A	~~10.41~~ *10.94*	~~11.55~~ *17.56*

This paragraph replaces the paragraph starting on page 2.10 and ending on page 2.11 in Section 2.2.2 Screening Results. This change is in response to USACE comments.

Environmental and social impacts of both the Cherry Avenue Alternative and Antelope Avenue Alternative were analyzed in the Draft EA. As presented in the Draft EA, both alternatives have environmental impacts but these impacts can be mitigated. The Cherry Avenue Alternative has less impact to existing businesses (fewer relocations) and is more compatible with local land use and transportation goals, but it would have greater wetland and farmland impacts as shown in Table 2.6. *A recent analysis has determined that the Antelope Avenue alternative's waters of the U.S. (WOUS) impacts were underestimated in the DEA due to new developments that require a shift of the Antelope Avenue alternative alignment. The DEA identified the location for the Antelope Avenue alternative interchange at existing Antelope Avenue, between two existing open water sand pit lakes. It has since been identified that the Nebraska Firefighters Museum & Information Center has been constructed adjacent to the proposed interchange location as shown in the DEA. In order to avoid impacting the museum, the interchange alignment would need to be shifted west. An alignment shift to the east was considered; however, the Great Platte River Archway is located east of Antelope Avenue and a proposed interchange location could not be shifted to the east without impacting the Archway. The interchange location was shifted west to avoid impacts to the Nebraska Firefighters Museum & Information Center while minimizing impacts to an additional residence. A west shift would place the interchange in the open water sand pits, thereby increasing the impacts to wetlands and waters of the U.S. Shifting further west of this location would potentially result in approximately the same amount of wetlands and waters of the U.S. impacts and additional Right-of-Way (ROW) impacts. In order to minimize wetland impacts, the interchange would need to be shifted west towards Avenue M/N. An alternative on Avenue M/N was dismissed as not meeting the level 1 screening criteria originally identified in the DEA by requiring*

numerous relocations, high ROW cost, and not compatible with the local land use plan. Construction of bridges to completely span the sand pits and the north channel of the Platte River to avoid wetland and waters of the US is not practicable due to cost. The Antelope Avenue Alternative affects more existing development, requires more relocations, is less compatible with existing and future land uses, and results in greater impacts to waters of the U.S. Based on the comparison of the adverse socioeconomic impacts and the lesser overall impacts to the waters of the U.S. and wetlands, the Cherry Avenue Alternative ~~also was~~ *will likely be* determined to be the least environmentally damaging practicable alternative under the requirements of the Clean Water Act. Table 2.6 summarizes the environmental impacts of the ~~two alternatives, which were also presented in Section 4.0 of the Draft EA (City of Kearney and NDOR, 2007)~~ *Cherry Avenue and Antelope Avenue Alternatives*. Note that the impact numbers presented in Tables 2.5 and 2.6 represent impacts of the Cherry Avenue and Antelope Avenue Alternatives at an equivalent level of design; since 2007, refinements to the Cherry Avenue Alternative have changed the footprint of that alternative and its subsequent impacts. Section 3 of this document presents the assessment of the Cherry Avenue Alternative based on a more refined alignment and limits of construction.

Changes made to 'Section 2.2.2 Screening Results', Page 2.11 'Table 2.6: Comparison of Environmental and Social Impacts of Cherry Avenue Alternative and Antelope Avenue Alternative'

TABLE 2.6: COMPARISON OF ENVIRONMENTAL AND SOCIAL IMPACTS OF CHERRY AVENUE ALTERNATIVE AND ANTELOPE AVENUE ALTERNATIVE

Resource	Impacts of Cherry Avenue Alternative	Impacts of Antelope Avenue Alternative
ROW and Relocations	206 acres of new ROW required. Acquisition of three residences and partial acquisition of four center pivots.	196 acres of new ROW required. Relocation of ~~four~~ *twelve* businesses, five residences, acquisition of one storage building, and partial acquisition of one center pivot.
Waters of the US and Wetlands	~~10.41~~ *10.94* acres affected, including ~~5.87~~ *5.82* acres of wetlands and ~~4.54~~ *5.12* acres of open water.	~~11.55~~ *17.56* acres affected, including ~~4.79~~ *4.69* acres of wetlands and ~~6.76~~ *12.88* acres of open water.

Changes made to 'Section 3.7.1 Surface Water', Page 3.25

The following information is appended to the last paragraph of the 'Section 3.7.1 Surface Water' on page 3.27, before the discussion of 'Impacts of No Build Alternative'. This change is based on comments received from Nebraska Department of Natural Resources (NDNR).

As final design plans are developed, the exact impacts on the water rights that exist in the Wood River drainage basin at the northwest end of the proposed project will be identified. Upon identification of the amount of property to be acquired for the proposed project, on which a water right exists, the Nebraska Department of Natural Resources (NDNR) form 'Notice of Change of Ownership/ Water Resources Update Notice' will be completed and submitted by NDOR to the NDNR office.

Changes made to 'Section 3.7.1 Surface Water' Page 3.27

The following mitigation measure is added to the 'Mitigation' subsection of the Section 3.7.1 on page 3.27.

NDOR will complete and submit the form 'Notice of Change of Ownership/ Water Resources Update Notice' to Nebraska Department of Natural Resources (NDNR) during the final design stage of the project, upon identification of property to be acquired for the proposed project, on which a water right exists .

Changes made to 'Section 3.8 Wetlands and Waters of the U.S.', Page 3.32

Impacts of the Build Alternative

The estimated impacted wetland areas for the Build Alternative are included in **Table 3.5**. The numbers presented here include refined wetland impact calculations that differ from those presented in the DEA. The impact numbers differ from those in **Table 3.5** of the DEA due to the following reasons:

-The design for both the preferred build alternative and the Antelope Avenue alternative have been refined since the original calculations were made, and the wetland impact calculations have been updated to reflect the refined designs.

-The footprint of the impacted area was increased to include anticipated construction impacts for both alternative alignments. These impacts include areas where the contractor would need to access outside of the limits of construction in order to build the project (i.e. areas within the interchange quadrants).

-Table 3.5 has been altered to contain only USACE jurisdictional wetlands and are listed as identified in the 2009 preliminary jurisdictional determination (see attached).

NDOR will continue to look for opportunities to minimize wetland impacts during final design.

Table 3.5: Wetland and Open Water Impacts for the Build Alternative

Feature ID	Description	Wetland Area Impact (acres)	Open Water Impact (acres)
Feature 1	Manmade wetland/open water area with fringe wetlands	0.46	0.56
Feature 2	North Channel Platte River and riparian wetlands	0.14	0.00
Feature 3*	Open water with fringe wetlands	~~0.19~~ *0.05*	~~2.02~~ *2.31*
Feature 4	Irrigation reuse pit	0.00	~~2.48~~ *0.16*
Feature 5	Wetland swale	0.04	0.00
Feature 7	Road ditch	~~0.33~~ *0.54*	0.00
~~Feature 8~~	~~Road ditch~~	~~0.15~~	~~0.00~~
Feature 9	Irrigation ditch	~~0.49~~ *0.16*	0.00
Feature 10	Road ditch	~~0.33~~ *1.29*	~~0.00~~ *0.21*
~~Features 10, 11, 12~~	~~Wetland swale/road ditch/ open water~~	~~3.42~~	~~0.21~~
Feature 11	*Road ditch*	*2.02*	*0.00*
Feature 12	*Wetland Swale*	*0.25*	*0.00*
Feature 15	Road ditch	0.31	0.00
Feature 16	Glenwood Park Creek, riparian wetlands, and oxbow	~~0.07~~ *0.14*	0.00

Table 3.5: Wetland and Open Water Impacts for the Build Alternative

Feature ID	Description	Wetland Area Impact (acres)	Open Water Impact (acres)
~~Feature 1A~~ *Preliminary Feature 2*	North Platte channel and riparian wetlands	~~0.07~~ *0.23*	~~0.87~~ *0.00*
Preliminary Feature 1	Sand borrow pit	~~0.07~~ *0.18*	~~0.42~~ *1.87*
Preliminary Feature 3	*Drainage ditch*	*0.02*	*0.00*
	TOTAL	~~6.06~~ *5.82*	~~6.56~~ *5.12*

* Feature 3 acreages were determined by measurements on Google Earth 2010.

The extension of First Street to Cherry Avenue, construction of the interchange, and construction of the bypass would impact ~~6.06~~ *5.82* acres of wetlands and an additional ~~6.56~~ *5.12* acres of open water. The impacts include 0.14 acres of the North Channel of the Platte River and 0.14 acres of sandpit lakes.

VI. COMMITMENTS AND CONDITIONS RELEVANT TO ISSUANCE OF A FINDING OF NO SIGNIFICANT IMPACT

These mitigation measures are listed below in their final version. Measures shown below in *italic* have been added in response to the additional 30 day public and agency Final EA review, which began on October 1, 2010. Changes made to mitigation measures that are purely to clarify the requirement, or to ensure compliance, have also been made and are not shown in italic. In addition to the mitigation measures listed below, the contractor will be required to comply with the *NDOR Standard Specifications for Highway Construction*. These standard specifications contain provisions and standard practices to maintain environmental quality compliance during construction.

The following mitigation measures shall be incorporated into the project construction documents. These mitigation measures supersede any of those identified in the Final EA. The following mitigation measures and commitments are not subject to modification without the prior written approval of the Federal Highway Administration.

Transportation Resources

- At-grade crossings of future intersecting trails and the bypass will be designed to allow safe bicycle crossings.
- NDOR will provide for future access at 56th Street to accommodate the City's extension of that street to the Airport terminal.
- During final design, NDOR will resubmit FAA form 7460-1 to the FAA and Nebraska Department of Aeronautics.

Right-of-Way and Socioeconomic Resources

- All acquisitions and relocations will comply fully with federal and state requirements, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
- Alignment shifts or design modifications (e.g., using retaining walls) will be considered during final design to minimize ROW requirements.
- Access to adjacent properties will be maintained by the contractor during construction.

- As final design plans are developed, the exact location of proposed driveways will be determined based on sound engineering judgment with consideration to safety and minimum design standards. Impacts to properties will be minimized through the design process as much as possible. The affected property owners will be contacted during the final design by the Design Team to coordinate any access changes to private driveway locations. All acquisition and relocation activities will be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and the NDOR Right-of-Way Manual.. This coordination shall be documented, and documentation shall be provided to FHWA with the Plans, Specification & Estimate (PS&E) submittal for review and approval.
- *As final design plans are developed, impacts to pivot operations will be minimized as much as possible. All acquisition and relocation activities will be carried out in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and the NDOR Right-of-Way Manual. A determination will be made after the final design plans are developed as to the direct impacts to the operation of the pivot. An appraisal will be performed to valuate the requisite property for the project. The property owner will have the opportunity to accompany the appraiser during this process.*
- Design elements will be included in the project plans to reduce potential impacts to the Stone School. These elements may include offsetting the roadway near the school, or realigning the Cherry Avenue and Coal Chute Road intersection. The project shall also include a landscaped earthen berm and fence to physically and visually separate the Stone School and the bypass. The project shall also provide a right-out driveway to Coal Chute Road from the Stone School. Such design elements shall be developed during final design, in coordination with Kearney Public Schools. This coordination shall be documented, and documentation shall be provided to FHWA with the Plans, Specification & Estimate (PS&E) submittal for review and approval.
- During the final design, NDOR will continue to coordinate with Kearney Public Schools to address the parking concerns. This coordination shall be documented, and documentation shall be provided to FHWA with the PS&E submittal for review and approval.
- NDOR shall coordinate with the property owner on the northeast corner of Avenue N and 78th Street to replace in-kind the 8 inch irrigation pipe and electrical wire crossing under 78th Street impacted by the project.
- The bypass alignment shall be designed to use as much of existing 78th Street ROW at Cherry Avenue as possible, given design restraints.

Noise

- Noise levels will be minimized by adhering to NDOR standard specifications for equipment. Construction activities will primarily be limited to daylight hours.

Water Resources and Wetlands

- Prior to the bidding process, NDOR shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP) and obtain a National Pollution Discharge Elimination System permit to address storm water and non-storm water runoff and erosion control during construction.
- Soil erosion will be minimized by using construction Best Management Practices (BMPs) such as silt fence and temporary seeding. The contractor will be required to obtain National Pollutant Discharge Elimination System permits and construct the project in accordance with the Storm Water Pollution Prevention Plan.
- Groundwater wells affected by the Build Alternative will be decommissioned in accordance to the *Nebraska Health and Human Services Title 178 regulations and Nebraska Department of Natural*

Resources regulations. Replacement of the wells impacted by the proposed project will be compensated through the Right-of-Way acquisition process.

- The Project contractor will be required to submit a Materials Source Site Identification and Evaluation Form to NDOR and USACE if project borrow is needed. NDOR will forward the Material Source Form to the USFWS, NGPC, NDNR, and HAP-NSHS for review and approval.
- The Contractor shall try to obtain material from an upland site to prevent depletion issues. However, if the material site is located within the Platte River basin, and it is identified that it will pond water after excavation, NDOR will determine project related impacts by calculating the evaporated loss of water at the material site, by using the Natural Resource Conservation Service – US Department of Agriculture Consumptive Use Calculator. Results of the impacts shall then be submitted to NDNR, and the project contractor will be responsible to offset the depletion impacts, in accordance to the PRRIP.
- NDOR will complete and submit the form 'Notice of Change of Ownership/ Water Resources Update Notice' to Nebraska Department of Natural Resources during the final design stage of the project, upon identification of property to be acquired for the proposed project on which a water right exists. *As final design plans are developed, the exact impacts on the water rights in the Wood River drainage basin at the northwest end of the proposed project will be identified.*
- *During final design, efforts will be made to minimize impacts to Waters of the US and state waters.*
- NDOR shall comply with the requirements of Section 404 of the Clean Water Act and will obtain a Section 404 permit from the US Army Corps of Engineers, *and a Section 401 Certification from the Nebraska Department of Environmental Quality. State water impacts and any needed mitigation will be coordinated through the Nebraska Department of Environmental Quality during final design* The specific type of 404 permit required for the project *and the associated mitigation strategies for waters of the US* will be determined as part of the joint review process with US Army Corps of Engineers during final design. *Documentation that the Section 404 permit and Section 401 Certification have been obtained, as well as documentation that appropriate coordination took place to address state water impacts shall be provided to FHWA with the Plans, Specification & Estimate (PS&E) submittal.*
- NDOR and the Contractor shall comply with the requirements of the Section 404 permit to mitigate for wetland losses caused by the Build Alternative. Impacts are within the geographic service area of the NDOR Morman Island wetland bank site. Specific locations and mitigation ratios will be determined in coordination with the USACE during final design.
- The contractor shall comply with standard specifications, including:
  - Standard Specification 104.08 – Final Cleanup.
  - Standard Specification 107.01(4)(e) – Legal Relations and Responsibility to the Public – Laws to be Observed – Environmental Quality Compliance.
  - Standard Specification 501.01(3) – Bituminous Pavement.

Vegetation

- The contractor shall comply with standard specifications, including:
  - Standard Specification 202.01(4)(d) – Clearing and Grubbing – Description – Trash, dead trees and vegetation in the ROW limits and beyond the limits of construction shall be disposed of by the contractor.
  - Standard Specification 107.01(6) Amended A-43-0210 – Legal Relations and Responsibility to the Public – Laws to be Observed.
  - Standard Specification 803.03 – Seeding – Construction Methods,
  - Standard Specification 805.00 – Mulch.

- Standard Specification 806.02(4)(c) – Sodding – Material Requirements.

Invasive Species

- NDOR will develop a seed mix to include native plant species during final design to be included in the project Specifications and used by the contractor on disturbed areas after construction.
- The contractor shall prevent 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.
- Appropriate mulching materials shall be applied and will not include brome hay. If sod is required, it will be free from all weeds, including noxious weeds.
- The contractor shall comply with standard specifications, including:
  - Standard Specification 202.01(4)(d) – Clearing and Grubbing – Description – Trash, dead trees and vegetation in the ROW limits and beyond the limits of construction shall be disposed of by the contractor.
  - Standard Specification 107.01(6) Amended A-43-0210 – Legal Relations and Responsibility to the Public – Laws to be Observed.
  - Standard Specification 803.03 – Seeding – Construction Methods.
  - Standard Specification 805.00 – Mulch.
  - Standard Specification 806.02(4)(c) – Sodding – Material Requirements.

Threatened and Endangered Species

General Conservation Conditions (Responsible Party in Parenthesis)

- All permanent seeding and landscaping shall use species and composition native to project vicinity as shown in the Plan for the Roadside Environment (NDOR Environmental, District Construction).
- If species surveys are required for this project, results will be sent by NDOR to the USFWS, NGPC, and if applicable USACE. FHWA will be copied on submittals (NDOR Environmental, District Construction).
- 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).
- 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).
- Conservation conditions are to be fully implemented within the project boundaries as shown on the plans (District Construction, Contractor).
- The following project activities shall, to the extent possible, be restricted to 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. Any project related activities that occur outside of these areas must be environmentally cleared/permitted with the USFWS and NGPC 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 will not adversely affect state and/or federally listed species or designated critical habitat (NDOR Environmental, District Construction, Contractor).

- 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).
- 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).
- 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).
- Refueling will be conducted outside of those sensitive areas identified on the plans, in the contract, and/or marked in the field (Contractor).
- If a survey, Natural Heritage Database, or other source identifies an occurrence within 1.0 mile of the project, since the year 1975, indirect effects of the activity will be analyzed. Indirect effects may include but are not limited to hydrologic changes (ditching, diking, etc.). If any indirect effects are identified that are not captured elsewhere in the Matrix, then May Affect (NDOR Environmental).

Whooping Crane

- Conservation Easements will be acquired prior to the award of the Build Alternative. Prior to the award of the Build Alternative, NDOR shall provide documentation to FHWA showing the Conservation Easements have been acquired.
- The contractor will limit all construction activities in the immediate area of the proposed I-80 interchange and for a distance of 0.5 mile north from I-80 along the Project to occur between 1 hour after sunrise to 1 hour before sunset from February 13 through May 16, and from October 1 through November 16. The USFWS will notify NDOR when all whooping cranes have migrated through the Central Flyway, thus suspending this timing restriction until the next migration season begins.
- Low mast/down-shielded, sodium vapor lighting will be used at the I-80 interchange as part of the Build Alternative. This design element shall be included in the Plans, Specification & Estimate (PS&E) submittal to FHWA for review and approval.
- To prevent lighting impacts to species while minimizing right-of-way takes and the removal of trees, the design of the light-shielding barrier at the interchange will consist of a concrete Jersey barrier and/or retaining walls as opposed to an earthen berm. This design element shall be included in the PS&E submittal to FHWA for review and approval.
- For activities in the range of the Whooping Crane, nighttime work with lights from March 10 through May 10 and September 15 through November 15th is prohibited. If nighttime work is required, request for approval should be initiated with NDOR Environmental Section at least 10 days prior to construction so consultation with USFWS, NGPC, and FHWA can be initiated. Approval from these agencies is required. (NDOR Environmental, District Construction, Contractor)

River Otter

- NDOR will utilize a qualified biologist to conduct a river otter survey along the Platte River and the North Channel of the Platte River no more than 10 days prior to construction following NGPC's "River Otter Survey Protocol". If active den sites are found, NDOR Environmental Section will notify District Construction and will consult with USFWS, NGPC, and FHWA. If species are present District Construction will notify the contractor to stop work within 0.25 mile of the active, and construction will not resume prior to their approval.

Migratory Birds

- Tree and brush cutting will be conducted outside of restricted timeframes unless surveys are performed prior to tree removal within restricted timeframes and areas are clear of nesting birds.
- The contractor will comply with standard specifications, including:
  - Standard Specification 107.01 – Legal Relations and Responsibility to the Public – Laws to be observed.
  - Special Provision – Environmental Commitment Document (B-3-0509).

Bald and Golden Eagle

- A bald eagle nest survey will be conducted in accordance with the NGPC "Bald Eagle Survey Protocol", before construction begins at the new interchange location. NDOR will conduct the survey. If the survey identifies nest(s) are present within 0.5 mile of the Project, NDOR will notify USFWS, NGPC, and FHWA, and construction will not resume prior to their approval.
- The contractor will comply with standard specifications, including:
  - Standard Specification 107.01 – Legal Relations and Responsibility to the Public – Laws to be observed.
  - Special Provision – Environmental Commitment Document (B-3-0509).

Hazardous Materials

- *Prior to construction, the construction footprint will be re-reviewed for Hazardous Materials to determine if new contaminants may be within the construction footprint. This review shall be documented, and documentation provided to FHWA for review and approval prior to the Plans, Specification & Estimate (PS&E) submittal.*
- If hazardous materials are encountered, the contractor shall stop construction immediately and notify NDOR's project manager to coordinate with Nebraska Department of Environmental Quality (402-471-2186 or 877-253-2603 Monday to Friday 8:00 AM to 5:00 PM) for further direction before resuming construction. The contractor may be directed by Nebraska Department of Environmental Quality to contact the Nebraska State Patrol (402-471-4545), Kearney Fire Department Hazardous Materials Response Team (911), and/or the Buffalo County Hazardous Materials Response Team (911). After hours or on holidays, the contractor will call the Nebraska State Patrol Dispatch Center.
- If hazardous materials are spilled or released during construction, the contractor shall contact NDOR's project manager to coordinate with Nebraska Department of Environmental Quality for further direction before resuming construction.
- The contractor shall keep records of actions taken during construction related to hazardous materials.
- The contractor shall survey and test any buildings, facilities and/or structures requiring demolition for the presence of asbestos-containing building materials, lead-based paint, polychlorinated biphenyl (PCB)-containing components, and mercury-containing switches prior to demolition. If asbestos-containing building materials, lead-based paint, PCB-containing components, and/or mercury-containing switches are discovered, the contractor shall conduct a monitoring program to ensure the safety of the construction workers and that demolition of the building, facility, and/or structures shall

comply with NDEQ Title 178, Chapter 22 and 23 requirements and other applicable local, state and federal regulations.

- The contractor shall follow appropriate laws regarding hazardous materials handling and disposal (Nebraska Administrative Code Title 178, Chapters 22 and 23) and NDOR Standard Specifications, including:
  - Standard Specification 732.01 – Lead-Based Paint Removal – Description.
  - Standard Specification 732.02 – Lead-Based Paint Removal – Material Requirements.
  - Standard Specification 732.01 - Lead-Based Paint Removal – Construction Methods.
  - Standard Specification 701.01 General Requirements – Description.
  - Standard Specification 203.01 – Removal of Structures and Obstructions – Description.
  - Standard Specification 203.02 – Removal of Structures and Obstructions – Construction Methods.
  - Standard Specification 203.03 – Removal of Structures and Obstructions – Method of Measurement.
  - Standard Specification 107.01 as Amended A-43-0210 – Legal Relations and Responsibility to the Public – Laws to be Observed.
  - NDOR Standard Specifications 732.01, 732.02, and 732.03 address contractor responsibilities for removal of lead-based painted structural steel.

Visual Resources

- Design elements will be included in the project plans to reduce potential impacts to the Stone School. These elements may include offsetting the roadway near the school, or realigning the Cherry Avenue and Coal Chute Road intersection. The project shall also include a landscaped earthen berm and fence to physically and visually separate the Stone School and the bypass. Such design elements shall be developed during final design, in coordination with Kearney Public Schools. This coordination shall be documented, and documentation shall be provided to FHWA with the Plans, Specification & Estimate (PS&E) submittal for review and approval.

Section 6(f) and Section 4(f) Properties

- The design of the Build Alternative shall include a light-diffusing barrier on the south side of the proposed I-80 interchange to shield the Wyoming Property from vehicle headlights. This design element shall be included in the Plans, Specification & Estimate (PS&E) submittal to FHWA for review and approval.

Historical and Archeological Resources

- In the event that cultural resources are encountered during construction activities of the Build Alternative, construction activities shall be stopped in and around the site of discovery and the SHPO will be contacted immediately. Construction will not be resumed until appropriate coordination is completed.

Air Quality and Greenhouse Gasses

- Fugitive dust shall be minimized by the use of construction Best Management Practices (BMPs) such as temporary seeding and the wetting of soil. Water used during construction shall be acquired from approved sources in accordance with NDOR specifications, and the contractor shall be responsible for all necessary permits.
- The contractor shall follow standard specifications for dust control on detours, haul roads, parking lots, staging areas, storage areas, and any area where soils are disturbed.

- In accordance with NDOR Standard Specifications, work shall be suspended when winds create an excessive amount of blowing dust.
- The contractor shall implement a fugitive dust control plan during construction, in accordance with the National Pollution Discharge Elimination System permit, the Storm Water Pollution Prevention Plan, and Standard Specifications.
- Contractors shall be required to adhere to NDOR equipment specifications and obtain permits in accordance with NDOR standard specifications.

Floodplains

- NDOR shall ensure compliance with local floodplain ordinances and regulations by obtaining permits/approvals from the City of Kearney Floodplain Administrator and the Buffalo County Floodplain Administrator during final design. Documentation that appropriate permits/approvals were received shall be provided with the Plans, Specification, & Estimate (PS&E) submittal to FHWA.

Utilities

- During final design, NDOR shall identify all utility impacts and coordinate utility relocation with the respective utility companies in accordance with the NDOR "Policy for Accommodating Utilities on State Highway Right-of-Way."
- *During final design, NDOR will coordinate with utility providers to minimize utility disruptions caused by construction to the extent possible. All identified utilities must be relocated to the extent practicable prior to construction activities.*
- NDOR will include in the plans and specifications the provisions that the contractor will be required to comply with the State's One-Call Notification System Act.
- NDOR shall coordinate with the property owner on the northeast corner of Avenue N and 78th Street to replace in-kind the 8 inch irrigation pipe and electrical wire crossing under 78th Street impacted by the project.
- The contractor shall comply with standard specifications, including:
  - Standard Specification 105.06 – Control of Work – Cooperation with Utilities.
  - Standard Specification 107.09 – Legal Relations and Responsibility to the Public – Preservation and Restoration of Property, Trees, Monuments, etc.
  - Standard Specification 107.12 – Legal Relations and Responsibility to the Public – Responsibility for Damage, Injury, or Other Claims.
  - Standard Specification 107.16 – Legal Relations and Responsibility to the Public – Contractor's Responsibility for Utility Property and Services.

Construction Impacts

- Soil erosion will be minimized by using construction Best Management Practices (BMPs) such as silt fence and temporary seeding. The contractor will be required to obtain National Pollutant Discharge Elimination System permits and construct the project in accordance with the Storm Water Pollution Prevention Plan.
- Fugitive dust will be minimized by the use of construction BMPs such as temporary seeding and the wetting of soil. Water used during construction shall be acquired from approved sources in

accordance with NDOR specifications, and the contractor shall be responsible for all necessary permits.

- Contractors shall be required to adhere to NDOR equipment specifications and obtain permits in accordance with NDOR standard specifications.
- Noise levels will be minimized by adhering to NDOR standard specifications for equipment. Construction activities will primarily be limited to daylight hours.
- Access to adjacent properties will be maintained by the contractor.
- The contractor shall comply with standard specifications, including:
  - Standard Specification 104.05 – Maintenance of Detours and Shooflies.
  - Standard Specification 107.01 – Legal Relations and Responsibility to the Public.
  - Standard Specification 301.02(1a, 1b) – General Requirements – Equipment.

Design Refinements in Response to Public and Agency Comments

- The bypass alignment shall be shifted north of 56th Street to reduce impacts to irrigation and electric utilities.

- The alignment of Pony Lake Road (intersection just north of interchange to the east) shall be shifted to reduce impacts to trees.

- Design elements will be included in the project plans to reduce potential impacts to the Stone School. These elements may include offsetting the roadway near the school, or realigning the Cherry Avenue and Coal Chute Road intersection. The project shall also include a landscaped earthen berm and fence to physically and visually separate the Stone School and the bypass. The project shall also provide a right-out driveway to Coal Chute Road from the Stone School. Such design elements shall be developed during final design, in coordination with Kearney Public Schools. This coordination shall be documented, and documentation shall be provided to FHWA with the Plans, Specification & Estimate (PS&E) submittal for review and approval. All potential design elements that may be realigned will remain within the study footprint of the EA.

- The bypass alignment shall be designed to use as much of existing 78th Street ROW at Cherry Avenue as possible, given design restraints.

- To prevent lighting impacts to species while minimizing right-of-way takes and the removal of trees, the design of the light-shielding barrier at the interchange will consist of a concrete Jersey barrier and/or retaining walls as opposed to an earthen berm. This design element shall be included in the Plans, Specification & Estimate PS&E submittal to FHWA for review and approval.

VI. CONCLUSION: FINDING OF NO SIGNIFICANT IMPACT

Based on FHWA's independent review of the Final EA, comments received from government agencies and the general public on the Final EA, as well as measures that NDOR has committed to take to prevent potentially adverse environmental impacts, the Administration has concluded that construction of the East Kearney Interchange and Bypass, as set forth in the Final EA as the preferred alternative, will not have a significant impact on the quality of the environment. Accordingly, a Finding of No Significant Impact is adopted and an Environmental Impact Statement will not be prepared.

The Final EA addressing this action is incorporated by reference. The document is on file and may be reviewed by interested parties at NDOR, 1500 Highway 2, Lincoln, Nebraska.

1-7-2011
Date

Joseph A. Werning
Nebraska Division Administrator
Federal Highway Administration
US Department of Transportation

CN-42103, S-10(51)
CN-42103A, 10-2(114)

STATE OF NEBRASKA

Dave Heineman
Governor

DEPARTMENT OF NATURAL RESOURCES
Brian P. Dunnigan, P.E.
Director

October 6, 2010

IN REPLY TO:

Greg Weinart
Nebraska Department of Roads
1500 Highway 2
PO Box 94759
Lincoln, NE 68509-4759

RE: Kearney East Bypass

Dear Mr. Weinart:

The Nebraska Department of Natural Resources has reviewed this proposed project and has the following comments:

Surface Water/Groundwater

The first enclosure shows the locations of surface water appropriations in green -- there is only one in the extreme northwest edge of the project area. It is assumed that a widening of the existing road would mean the reduction of this surface water right. The water right registration number is A-3886, and this number can be used to find more information here:
http://dnrdata.dnr.ne.gov/WaterRights/SelectSearchOptions.aspx.

If the water right is impacted by this proposed project, you must consult the water right owner. The owner would have options available to him. For technical assistance related to surface water issues, please call Beth Eckles at 471-0591.

The second enclosure shows the locations of registered groundwater wells along the project route. There are too many wells to list, so you should complete an analysis for groundwater well impacts by section for the project area. This can be done here: http://dnrdata.dnr.ne.gov/wellses/Menu.aspx. If a well is impacted by this proposed project, then the appropriate forms would need to be submitted to this agency. For technical assistance related to groundwater issues, please call Pam Bonebright at 471-0572.

Floodplain Management

The preliminary Buffalo County countywide floodplain maps will become effective on November 26, 2010. According to the preliminary map and as shown by the third enclosure, this

proposed project will cross three mapped floodplain areas. From south to north, the first crossing would be of the North Channel Platte River. The second is a very small crossing of a ditch west of the airport in Section 32 or 29; T9N; R15W. The third crossing is of Wood River in Section 13; T9N; R16W. Floodway is identified for the North Channel Platte River and Wood River crossings, but not for the small drainage ditch crossing. The floodplain management concern is that the design of the stream crossings will not take conveyance into consideration and will back up water, thereby inducing flood damages to adjacent properties. During project construction, if ground is disturbed in a regulated floodplain area, it will require a floodplain development permit. Since all three crossings appear to fall in the zoning jurisdiction of the City of Kearney, our records indicate that your local contact for these permits would be:

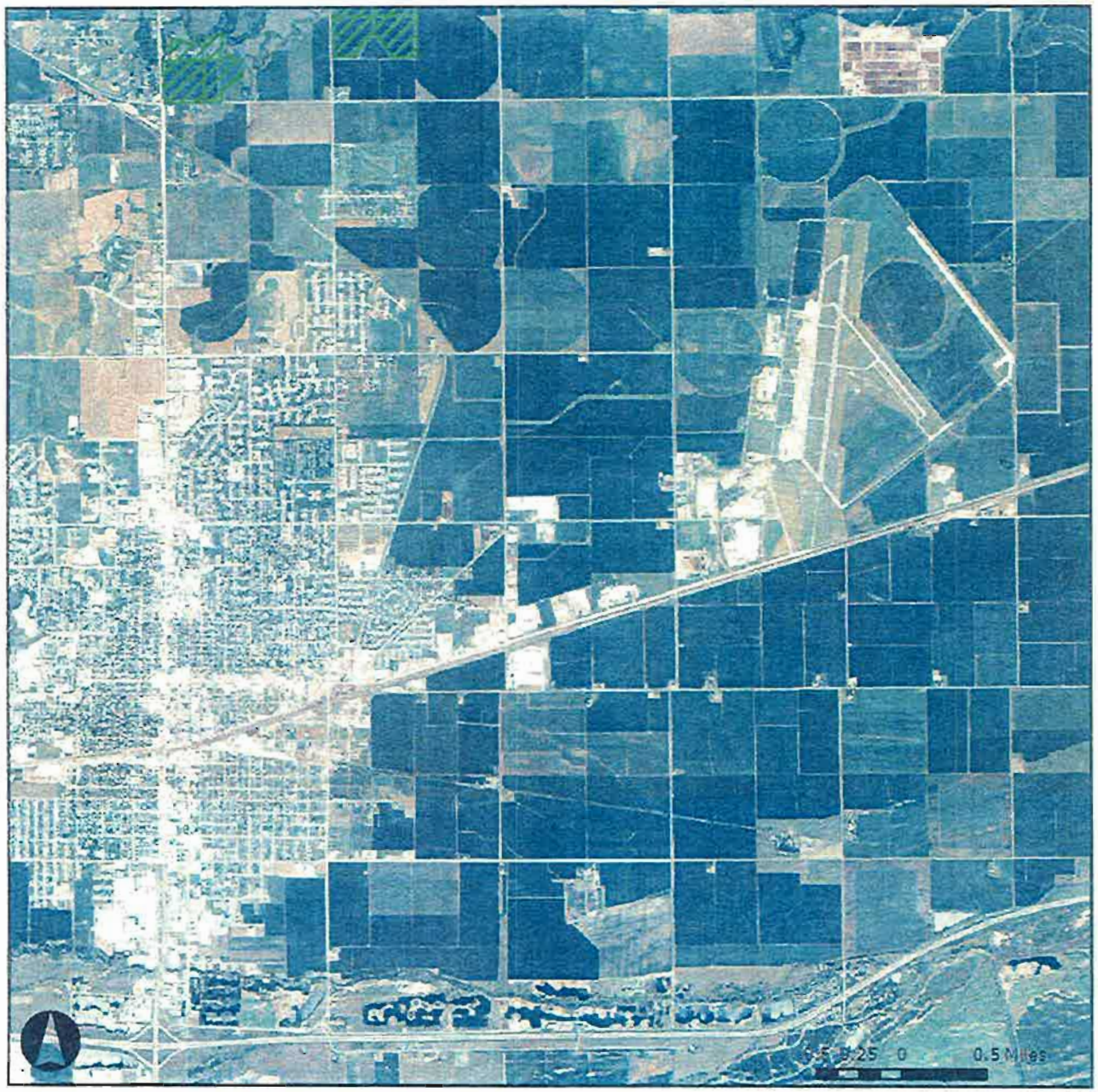
Max Richardson
Floodplain Administrator/Chief Building Official
P.O. Box 1180, 18 E. 22nd St.
Kearney, NE 68848
Telephone: (308) 233-3236

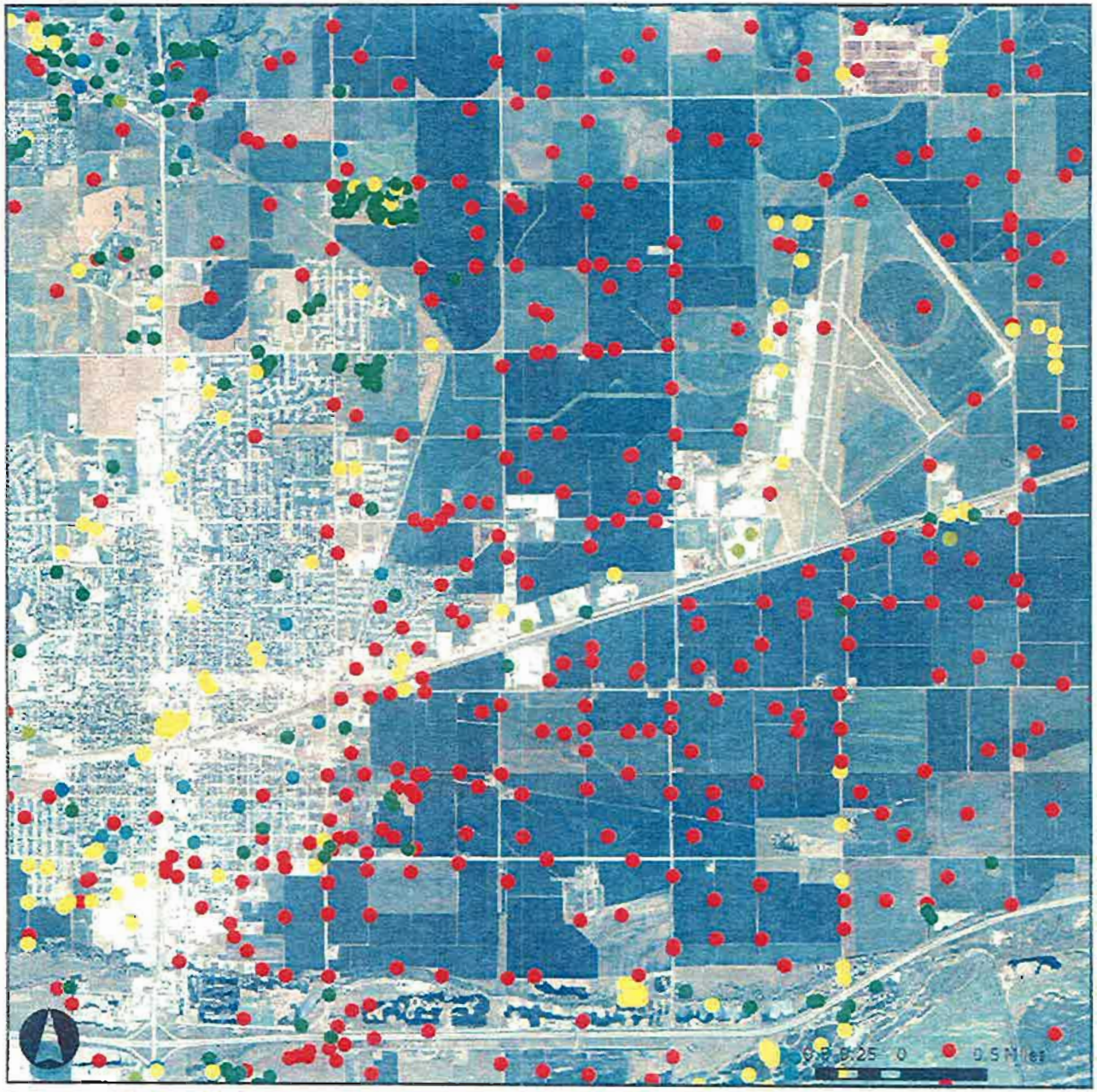
If you have any questions about this letter, please call me at 471-3957.

Sincerely,

Steve McMaster
Natural Resources Planner Coordinator

Enclosures
cc: Max Richardson, Kearney


0.5 0.25 0 0.5 Miles

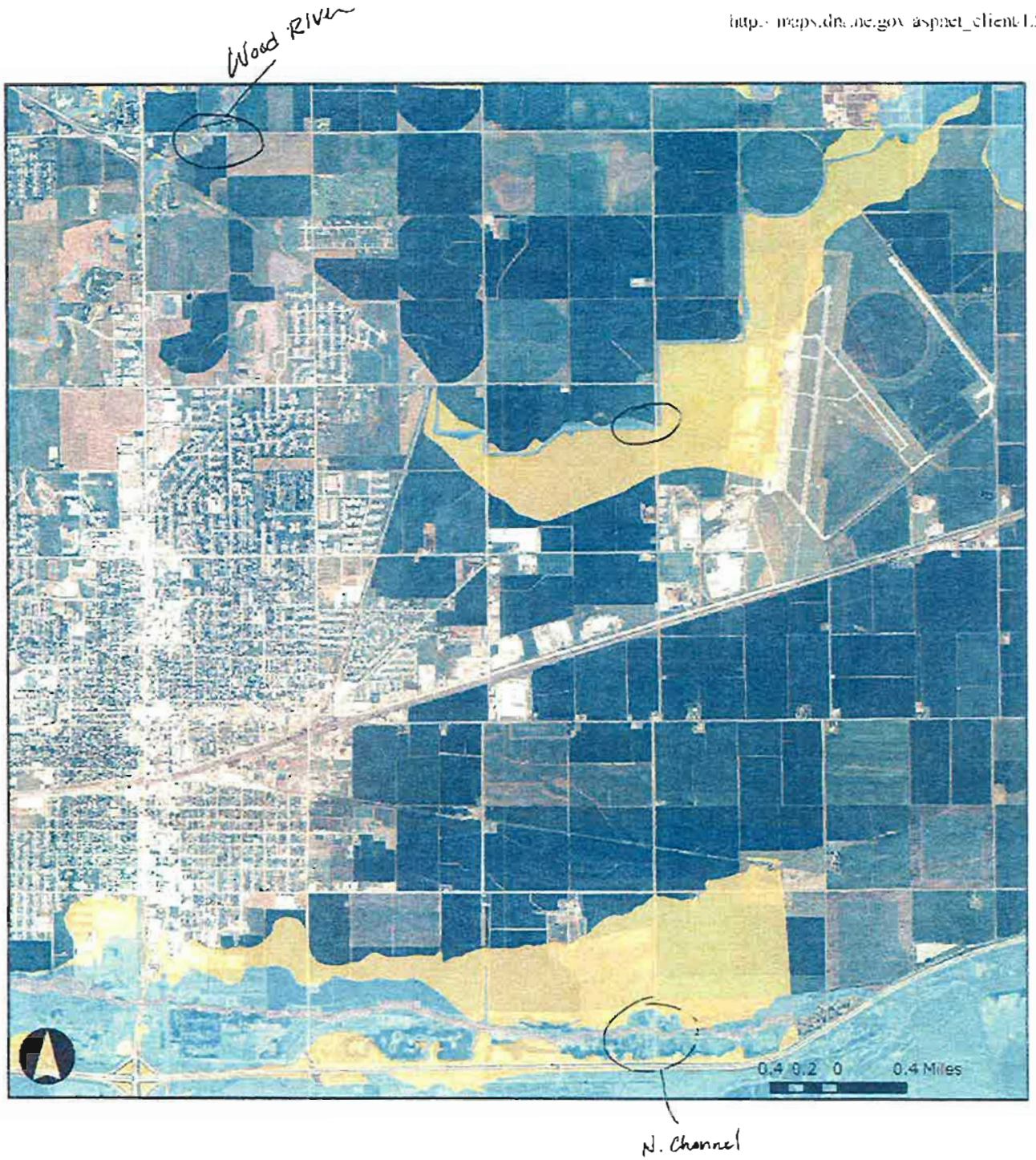

0.0 0.25 0 0.5 Miles

Registered GW Wells

- Commercial

Registered GW Wells (continued)

- Irrigation
- Public
- Unprotected PWS
- Domestic
- Stock Watering


Wood River
0.4 0.2 0 0.4 Miles
N. Channel

Draft Flood Zones

- A, AE, AO or AH
- Floodway
- 0.2 PCT Annual Flood Chance
- X Protected by Levee

Effective Flood Zones

- A, AE, AO or AH
- Floodway
- 0.2 PCT Annual Chance
- X Protected By Levee
- 1 PCT Future Conditions

From: Sand, Len
To: Barber, Jon
Subject: FW: RE: Kearney East By-Pass
Date: Tuesday, October 12, 2010 8:37:42 AM

Len Sand
Hwy Environmental Program Mgr
Planning & Project Development
1500 Highway 2, PO Box 94759
Lincoln NE 68509-4759
len.sand@nebraska.gov

From: Weinert, Greg
Sent: Tuesday, October 12, 2010 8:28 AM
To: Lenzen, Lou; Sand, Len; Egelhoff, Melissa
Subject: FW: RE: Kearney East By-Pass

From: McNulty, Steve
Sent: Friday, October 08, 2010 8:24 AM
To: Weinert, Greg
Subject: RE: Kearney East By-Pass

Dear Mr. Weinert,

It would appear that the Project discussed in the above-referenced correspondence, deals with construction within a Community setting. As long as the Project adheres to all State regulations and local ordinances, and does not impact any encroachment criteria to public drinking water wells or compromise Kearney's potable water system, the Department does not foresee issues affecting drinking water quality.

Sincerely,

Steve McNulty
Nebraska Department of Health and Human Services
Division of Public Health
Office of Water and Environmental Health
301 Centennial Mall South, PO Box 95026
Lincoln, NE 68509-5026
Phone: (402) 471-1006
Fax: (402) 471-6436

Final Environmental Assessment
Kearney East Interchange & Bypass
Project S-10(51)
Due: November 1, 2010

"We have reviewed the Final Environmental Assessment, including the selected alternative and impact minimization, and find that this project does not have any significant environmental impact upon the resources within our agency's jurisdiction."

Signed: _____

Title: Acting Nebraska Field Supervisor

Agency: U.S. Fish and Wildlife Service

Date: 11-1-2010

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE – WEHRSPANN
8901 SOUTH 154TH STREET, SUITE 1
OMAHA, NEBRASKA 68138-3635

REPLY TO
ATTENTION OF

https://www.nwo.usace.army.mil/html/od-rne/nehome.html

November 30, 2010

Raegan Ball
Federal Highway Administration
100 Centennial Mall North
Room 220
Lincoln, NE 68508

RE: 2002-10528-WEH / Buffalo County Kearney East Interchange and Bypass PN S-10(51), CN 42103

Dear Ms. Ball:

This letter pertains to the Request for Concurrence on the Preferred Alternative and Impact Minimization on the 2010 Final Environmental Assessment (EA) for the above referenced project. We appreciate the Federal Highway Administration and Nebraska Department of Roads personnel meeting with us on November 23, 2010 to discuss issues pertaining to the Final EA.

In order for the Corps to meet the principles and requirements of the Nebraska NEPA / 404(b)(1) merger process to facilitate the decision making process for a timely and defensible permit decision, we will need clarification on the following items:

A.) The purpose and need statement which we previously concurred with on May 19, 2003 has changed. This substantive change has negated the Corps' previous concurrence with the Purpose and Need and created issues which need to be resolved. Will the signatory agencies to the Nebraska Local Operating Procedures for Integrating NEPA / 404 Agreement be given an opportunity to review the new project purpose and need as a concurrence point? Additionally, the needs analysis associated with the addition of modal interrelationships to the purpose statement requires clarification. The EA lacks specific data supporting the modal interrelationship component of the need. It is requested for the 404 permit application, that any additional data and information you have that demonstrates present and future modal interrelationship needs and how and why this need is not currently met and will not be met in the future, be provided. Had the Corps had the opportunity to review the revised purpose and need before the revised EA was finalized, we would have identified this issue as well as other concerns we have. However, at this time, this is the most critical topic the Corps has relative to the purpose and need relative to our permit review.

B.) From the Corps' perspective, when the 404 (b)(1) guidelines are applied, the Antelope Avenue alternative addresses the purpose and need and is practicable, based on the information contained in the final EA. The statements below are taken from Section 2.2.3, pages 2.13 - 2.14, "Recommendation of the Preferred Alternative."

- "The Cherry Avenue Alternative *would meet the purpose and need better* than the Antelope Avenue Alternative." (Page 2.13)

- "Provide *more direct access* (as compared to the Antelope Avenue Alternative) to the growing industrial area and business parks on the east side of Kearney, and improve access to I-80 for major employers and their employees, vendors, suppliers, and visitors." (Page 2.14)

- "Provide *more direct access* (as compared to the Antelope Avenue Alternative) from I-80 to the Kearney Regional Airport, an important regional transportation feature." (Page 2.14)

- "Provide *more direct access* (as compared to the Antelope Avenue Alternative) to I-80 for the Nebraska Army National Guard Armory, and discontinue use of Second Avenue for deployments." (Page 2.14)

Please be aware that the LEDPA is not based on better meeting the project purpose or providing more benefits to access, but whether the alternative is practicable (which includes addressing the project purpose) and has the least amount of impact to waters of the U.S. Consideration can be given by the Corps to other **significant** adverse environmental consequences associated with the LEDPA in its determination.

C.) Please identify in better detail why Antelope Avenue will not meet the project purpose and need. The document contains information that does not support its dismissal in light of the revised project purpose and need. Although the Antelope Avenue alternative was carried forward and later dismissed, was this dismissal based on practicability (cost, logistics and technology)? If so, please explain your rationale.

D.) What are the current project impacts to waters of the U.S. (WOUS) for the Antelope Avenue and Cherry Avenue alternatives? The numbers listed in the wetlands and WOUS impact categories on page 2.12 in Table 2.6 and page 3.32 of the EA are incorrect as they relate to jurisdictional WOUS. The impacts listed in these categories include impacts to jurisdictional and non-jurisdictional wetlands and therefore do not accurately reflect impacts to WOUS. Please separate the impacts into two categories, non-jurisdictional aquatic impacts and jurisdictional impacts to WOUS.

E.) Were the impacts to WOUS for both Cherry Avenue and Antelope Avenue based on the same level of detail? Since both alternatives are practicable according to the Final EA, a wetland delineation is required for both alternatives so that we can make the Least Environmentally Damaging Practicable Alternative (LEDPA) determination required for our Individual Permit evaluation process.

F.) Have impacts to WOUS for both alternatives been avoided and minimized? Has spanning, alignment shifts, etc., as related to the Cherry Avenue and Antelope Avenue alternatives been considered? Please explain your rationale as it relates to the minimization options for both alternatives.

After reviewing the information provided in the 2010 Final EA, it appears that Antelope Avenue would meet the project purpose and need, is practicable, has considerably less impacts to WOUS (1 acre for the Antelope Avenue alternative compared to the 4.42 acres for the Cherry Avenue alternative) and costs approximately $2.3 million less than the Cherry Avenue alternative. From the Corps' perspective, the Antelope Avenue alternative appears to be the LEDPA.

If you have any questions or require any further clarifications on the above comments, please contact Phil Rezac or myself at the above address or call (402) 896-0896.

Sincerely,

John L. Moeschen
Nebraska State Program Manager

U.S. Department of Transportation
Federal Highway Administration

NEBRASKA DIVISION

100 Centennial Mall North
Room 220
Lincoln, NE 68508
(402)742-8460

December 20, 2010

Mr. John Moeschen
Nebraska State Program Manager
U.S. Army Corps of Engineers, Omaha District
Wehrspann Field Office
8901 South 154th Street
Omaha, NE 68138-3621

RE: 2002-10528-WEH / Buffalo County Kearney East Interchange and Bypass PN S-10(51), CN 42103

Dear Mr. Moeschen:

This letter is in response to the November 30, 2010 letter regarding the above-referenced project. We appreciate the chance to clarify and address the concerns and comments the United States Army Corps of Engineers (USACE) have pertaining to this project. We also appreciated the opportunity to discuss the concerns during a meeting at the Nebraska Department of Roads (NDOR) on December 8, 2010. This letter will address comments found in the November 30, 2010 letter as well as comments received during the December 8, 2010 meeting.

Purpose and Need

We do not regard the changes between the Purpose and Need found in the Final Environmental Assessment (FEA) and that found in the Draft Environmental Assessment (DEA) as substantive. The text in the FEA has been enhanced to substantiate the regional transportation needs and to meet Purpose and Need guidelines but the elements are consistent with what was found in the DEA, concurred with by USACE on May 19, 2003 and approved by FHWA on June 6, 2007. The revised Purpose and Need statement provides additional support related to regional connectivity, and enhanced access to the Kearney Regional Airport, industrial areas, and the Nebraska Army National Guard.

On page i in the Executive Summary of the DEA, referencing Purpose and Need, it states: Improve the operations of the area transportation system for its users; provide an alternative route to Second Avenue; improve movement of through traffic; provide more direct access to the regional airport and Army National Guard Unit.

The Purpose and Need found in the Final Environmental Assessment approved by FHWA on September 28, 2010 states:

The purpose of this Project is to improve regional system linkage and enhance modal interrelationships with Kearney Regional Airport, Nebraska Army National Guard, and the industrial area.

The need for the proposed action is based on a combination of factors as follows:

1. *Provide an alternative route for through-traffic that does not stop in Kearney. The alternative route would supplement Second Avenue as the primary north-south corridor and serve the needs and future traffic demands in Kearney and the surrounding area.*
2. *Connect industrial, new growth areas, and the Kearney Regional Airport to Interstate 80 (I-80) and United States Highway 30 (US30). This is for employment access, delivery and distribution of goods and services from the industrial area, and direct access for the Army National Guard facility to I-80.*

In particular, the Purpose and Need statement was enhanced to provide language more defensible for the elements consisting of regional connectivity and modal interrelationships. The City of Kearney is bisected by the mainline of the Union Pacific Railroad, which has approximately 140 trains per day; and the local businesses generate approximately 645 heavy truck movements per week into the industrial area. The Nebraska National Guard stated by letter February 25, 2002 that the armory has very poor over-the-road access to I-80 for large military trucks. The Kearney Regional Airport manager and the Buffalo County Economic Development Council support the proposed improvement based on the need for convenient higher speed access to the airport from I-80 (see letters dated October 20, 2009 and December 11, 2009).

Although both alternatives met the Purpose and Need for this project, Cherry Avenue was selected in comparison to the Antelope Avenue Alternative. Twelve alternatives (including no-build) were analyzed using a screening tool that was intended to eliminate alternatives with "fatal flaws" (see page 2.4 of the FEA). The only two alternatives that passed the "fatal flaw" screening were the Cherry Avenue alternative and the Antelope Avenue alternative. An additional screen was established to provide a more in-depth comparison of alternatives carried forward. The FEA identified that both the Cherry and Antelope Avenue alternatives were comparable in cost, local/environmental impacts, and mobility; however, the Antelope Avenue alternative was not compatible with the local land use plan (*The Kearney Plan, the Comprehensive Development Plan for Kearney, Nebraska 1999)*, and the local transportation plan (*City of Kearney Transportation Plan Update Final Report, 2004*), (pg 2.10, Table 2.5; Level 2 Screening Results). The Cherry Avenue alternative is consistent with the local land use plans and the local transportation plan by enhancing the modal interrelationships with the Kearney Regional Airport, Nebraska Army National Guard, and the industrial areas due to its location in proximity to these entities. *The Kearney Plan* identifies Antelope Avenue as a local road to support residential and commercial growth, whereas Cherry Avenue is identified as a route to support industrial uses and growth on the east side of Kearney. The Cherry Avenue alternative will also provide regional connections to serve the Kearney Regional Airport, industrial areas, and direct access for the Nebraska National Guard facility to I-80.

The project was discussed with the agencies and the public at public information meetings. A Draft EA was developed and provided to the agencies and the public for review and comment and the project was the subject of a public hearing. The agencies responses did not object to the identified preferred alternative and the public comments; in fact, showed general support for the Cherry Avenue Alternative. The USACE responded with a letter dated July 25, 2007, "We have reviewed the Draft Environmental Assessment, including the preferred alternative and find that this project does not have any significant environmental impact upon the resources within our agency's jurisdiction."

Wetland Impacts

Although the Cherry Avenue alternative was selected as the preferred alternative, the FEA indicated that the Antelope Avenue alternative had less impact to waters of the U.S. (WOUS). However, a recent analysis has determined that the Antelope Avenue alternative's WOUS impacts were underestimated due to new developments that require a shift of the Antelope Avenue alternative alignment.

The DEA identified the location for the Antelope Avenue alternative interchange at existing Antelope Avenue, between two existing open water sand pit lakes. It has since been identified that the Nebraska Firefighters Museum & Information Center has been constructed adjacent to the proposed interchange location as shown in the DEA. In order to avoid impacting the museum, the interchange alignment would need to be shifted west.

An alignment shift to the east was considered; however, the Great Platte River Archway is located east of Antelope Avenue and a proposed interchange location could not be shifted to the east without impacting the Archway. The interchange location was shifted west to avoid impacts to the Nebraska Firefighters Museum & Information Center while minimizing impacts to an adjacent residence. This west shift placed the interchange in the open water sand pits, thereby increasing the impacts to wetlands and waters of the U.S.

Shifting further west of this location would potentially result in approximately the same amount of wetlands and waters of the U.S. impacts and additional Right-of-Way (ROW) impacts.

In order to minimize wetland impacts, the interchange would need to be shifted further west towards Avenue M/N. An alternative on Avenue M/N was dismissed as not meeting the level 1 screening criteria originally identified in the DEA. This alternate required numerous relocations, high ROW cost, and was not compatible with the local land use plan. Construction of bridges to completely span the sand pits and the north channel of the Platte River to avoid wetland and waters of the US is not practicable due to additional cost.

Impacts to wetlands and water resources were calculated based on the 2007 wetland delineation. Jurisdictional wetland impacts as shown in Tables 1-5 were calculated based on the August 25, 2009 preliminary jurisdictional determination completed by the USACE. As previously identified, the Antelope Avenue alternative was shifted west due to the construction of the Nebraska Firefighters Museum & Information Center. At the time the 2007 final delineation was completed, the shifted alignment was not recognized and therefore the delineation did not cover the proposed shifted alignment as shown in the location map.

In these areas, west of the Antelope Avenue interchange, aerial photo interpretation was used to digitize recognized wetland and water resource signatures for analysis and calculation of impacts.

All impacts identified for the Antelope Avenue Alternative in the tables below were calculated based on the shifted interchange alignment, as shown in the attached location map.

Table 1 shows jurisdictional wetland and open water impacts for the Antelope Avenue Alternative. Table 2 shows non-jurisdictional wetland and open water impacts for the Antelope Avenue Alternative. See attached Figures 1.1 and 1.2 for aerial photos showing jurisdictional wetland and open water impacts for the Antelope Avenue Alternative.

Table 1 - Antelope Avenue Jurisdictional Impacts

Site	Wetland Impacts (ac.)	Open Water Impacts (ac.)
16	0.138	-
1A	0.201	-
PF1A	-	12.834
Total	**0.339**	**12.834**

Table 2 - Antelope Avenue Non-Jurisdictional Impacts

Site	Wetland Impacts (ac.)	Open Water Impacts (ac.)
14	-	-
15	0.308	-
2A	0.112	-
3A	0.263	-
4A	0.092	-
5A	2.110	-
6A	1.266	0.046
7A	0.188	-
Total	**4.339**	**0.046**

Table 3 shows jurisdictional wetland and open water impacts for the Cherry Avenue Alternative. Table 4 shows non-jurisdictional wetland and open water impacts for the Cherry Avenue Alternative. See attached Figures 2.1, 2.2, and 2.3 for aerial photos showing jurisdictional wetland and open water impacts for the Cherry Avenue Alternative.

Table 3 - Cherry Avenue Jurisdictional Impacts

Site	Wetland Impacts (ac.)	Open Water Impacts (ac.)
1	0.456	0.562
2	0.137	-
3	0.054	2.314
9	0.155	-
16	0.138	-
PF 1	0.181	1.872
PF2	0.230	-
Total	**1.351**	**4.749**

Table 4 - Cherry Avenue Non-Jurisdictional Impacts

Site	Wetland Impacts (ac.)	Open Water Impacts (ac.)
4	-	0.163
5	0.043	-
6	-	-
7	0.536	-
8	-	-
10	1.293	0.210
11	2.017	-
12	0.254	-
13	-	-
14	-	-
15	0.308	-
PF3	0.020	-
Total	**4.471**	**0.373**

Table 5 shows a comparison of wetland and water resource Impacts for each alternative.

Table 5 - Total Wetland/Water Resources Impacts by Alternative

USACE Jurisdiction Status	Impact Type	Alternative Alignment	
		Antelope Avenue	Cherry Avenue
Jurisdictional	Wetland	0.339	1.351
	Open Water	12.834	4.749
	Total	**13.173**	**6.100**
Non-Jurisdictional	Wetland	4.339	4.471
	Open Water	0.046	0.373
	Total	**4.385**	**4.844**
	Alignment Total	**17.558**	**10.944**

A refined comparison of wetland and water resource impacts for each alternative indicates that the Antelope Avenue alternative would result in increased impacts over the Cherry Avenue alternative in order to avoid taking the museum. Total jurisdictional impacts for Antelope Avenue result in 13.173 acres as compared to 6.100 acres for the Cherry Avenue alternative. When comparing Jurisdictional and Non-Jurisdictional wetland and water resources, the total impacts for Antelope Avenue result in 17.558 acres compared to 10.944 acres for the Cherry Avenue alternative.

All wetlands/Waters of the US impacted by the project will be mitigated in accordance with the 404 permit conditions.

Based on property development since the DEA, additional impacts that were not noted in the FEA would occur north of U.S. Highway 30 (US-30) with the Antelope Avenue alignment. The FEA indicated that the Antelope Avenue alternative would require the acquisition of four businesses, five residences, one storage building and partial acquisition of one center pivot. The four businesses required to be relocated would have been impacted by the construction of the viaduct that would span US-30 and the UPRR tracks. Recent business

developments in the area of Highway 30 and Antelope Avenue will require additional relocations due to the viaduct construction. The viaduct construction could require the acquisition of approximately twelve businesses; eight more than originally identified in the DEA. Therefore, a total of approximately twelve businesses, five residences, one storage building and a partial acquisition of one center pivot could be affected by the Antelope Avenue alternative, compared to no businesses, three residences and partial acquisition of four center pivots for the Cherry Avenue alternative. No additional acquisitions would be required for the Cherry Avenue alternative from what is indicated in the FEA.

After further evaluation of the impacts associated with the Antelope Avenue alternative compared to those of the Cherry Avenue alternative, we propose the Cherry Avenue alternative is the Least Environmentally Damaging Practicable Alternative, and would remain as the preferred alternative for this project.

If the USACE finds this justification acceptable and concurs with the impact minimization efforts disclosed in the FEA, please sign below and return to FHWA. If you have additional questions, please feel free to contact me at (402) 742-8473. Thank you.

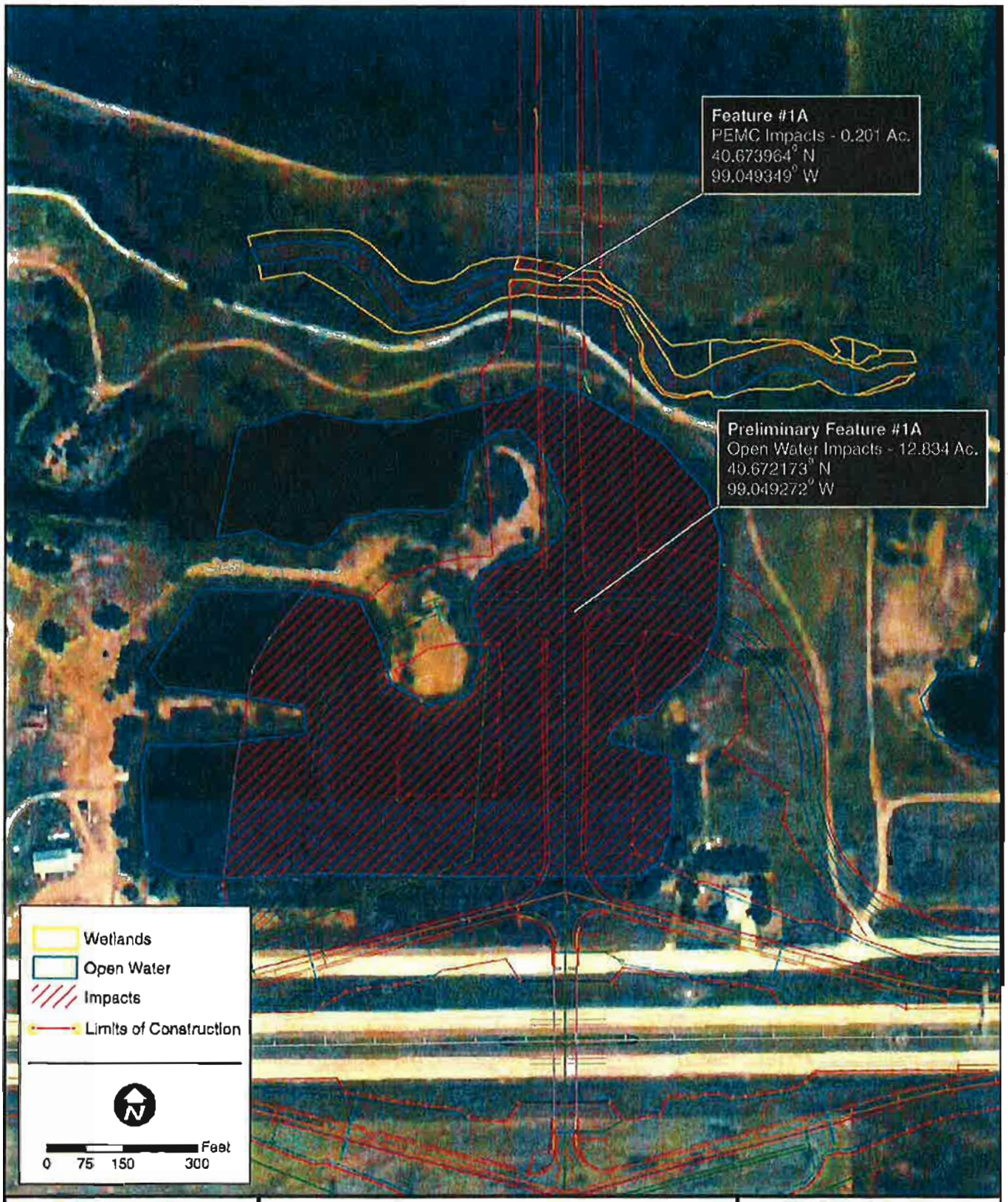
Sincerely,

Melissa Maiefski
Environmental Team Lead
Federal Highway Administration

_____ _____

Nebraska State Program Manager
U.S. Army Corps of Engineers

Date



NDOR
Nebraska Department of Roads

Kearney East Bypass
Antelope Avenue Alignment

PN S-10 (51) C.N. 42103A

Site Location
BUFFALO COUNTY
Aerial: 2009 FSA 1m

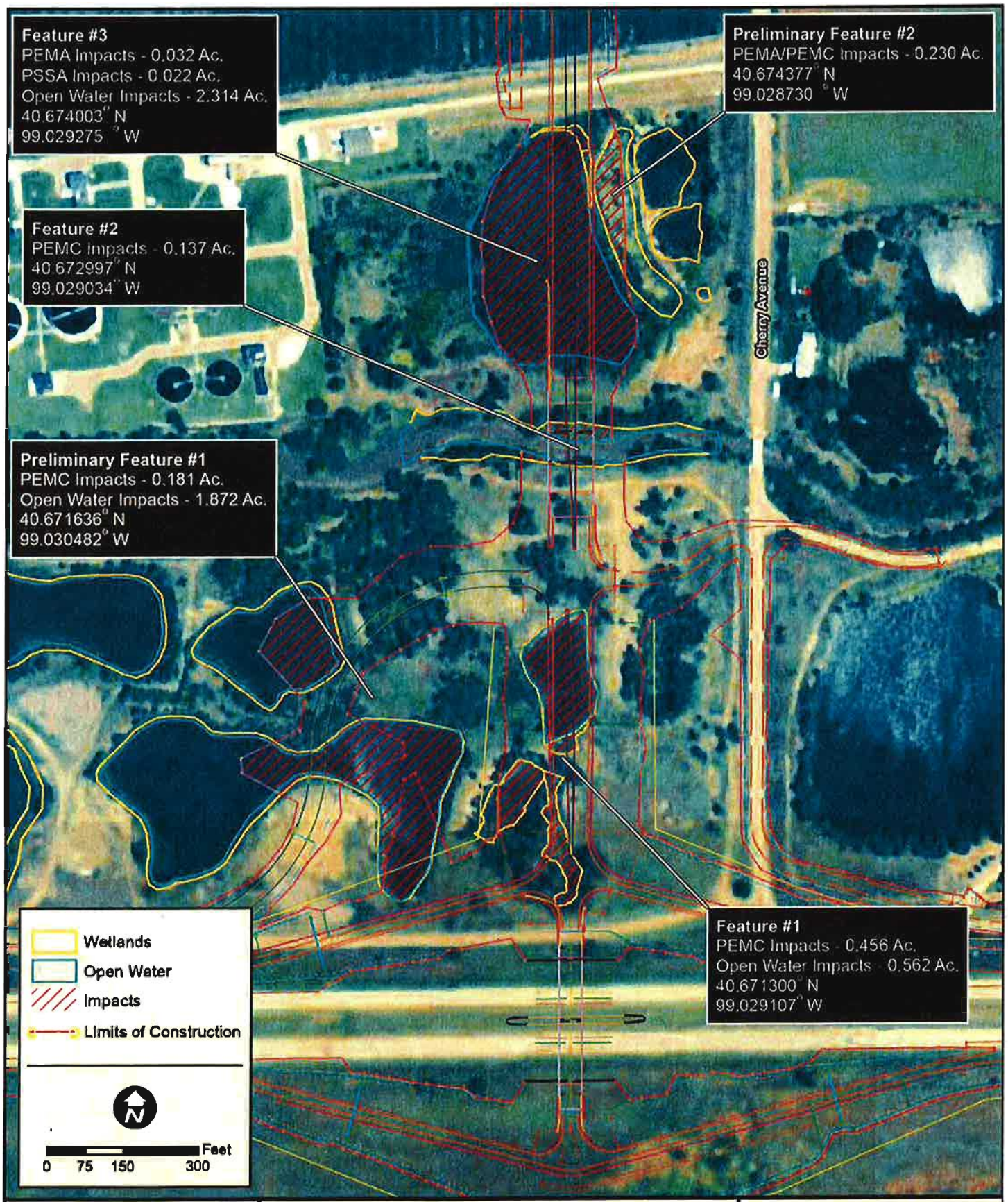
Figure 1.1

NDOR
Nebraska Department of Roads

Kearney East Bypass
Antelope Avenue Alignment
PN S-10 (51) C.N. 42103A

Site Location
BUFFALO COUNTY
Aerial: 2009 FSA 1m

Figure 1.2

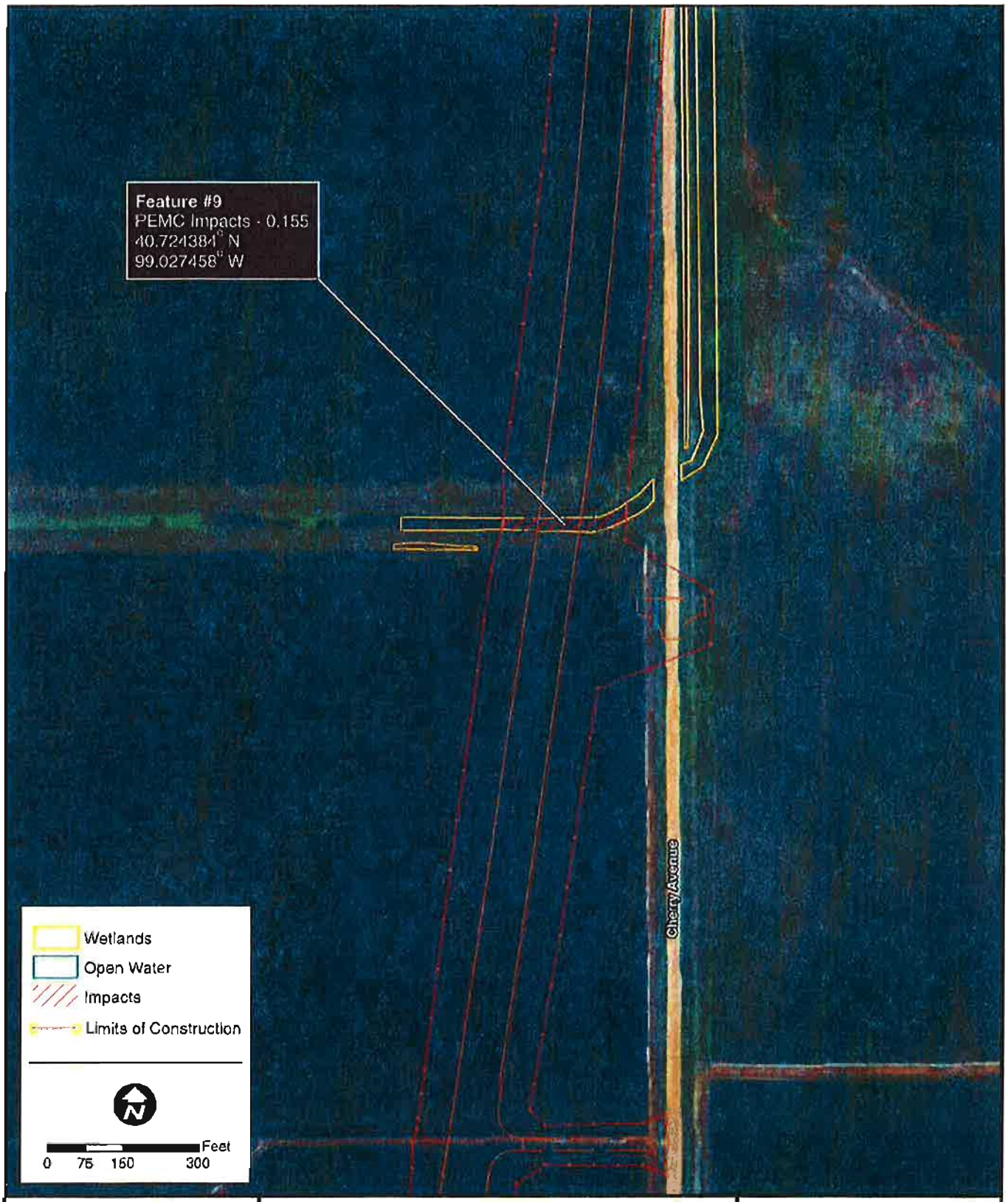


NDOR
Nebraska Department of Roads

Kearney East Bypass
Cherry Avenue Alignment
PN S-10 (51) C.N. 42103A

Site Location
BUFFALO COUNTY
Aerial: 2009 FSA 1m

Figure 2.1



NDOR
Nebraska Department of Roads

Kearney East Bypass
Cherry Avenue Alignment
PN S-10 (51) C.N. 42103A

Site Location
BUFFALO COUNTY
Aerial: 2009 FSA 1m

Figure 2.2

NDOR
Nebraska Department of Roads

Kearney East Bypass
Cherry Avenue Alignment
PN S-10 (51) C.N. 42103A

Site Location
BUFFALO COUNTY
Aerial: 2009 FSA 1m

Figure 2.3

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE – WEHRSPANN
8901 SOUTH 154TH STREET, SUITE 1
OMAHA, NEBRASKA 68138-3635

https://www.nwo.usace.army.mil/html/od-rne/nehome.html

REPLY TO
ATTENTION OF

December 28, 2010

Raegan Ball
Federal Highway Administration
100 Centennial Mall North
Room 220
Lincoln, NE 68508

RE: 2002-10528-WEH / Buffalo County Kearney East Interchange and Bypass PN S-10(51), CN 42103

Dear Ms. Ball:

We are in receipt of your December 20, 2010, letter regarding the above referenced project. Based on the supporting information contained in your letter and our review of the Final Environmental Assessment, including the selected alternative and impact minimization, we concur that this project does not have any significant environmental impact upon the resources within our agency's jurisdiction.

Information contained in the letter included updated tables for jurisdictional and non-jurisdictional impacts to Waters of the United States (WOUS) for the Cherry Avenue and Antelope Avenue alternatives. It was recently discovered that the Antelope Avenue alternative would have to be shifted west, due to the location of the Nebraska Fireman's Museum which opened in August of 2009. This alignment shift increased potential impacts to WOUS for the Antelope Avenue alterative.

The project purpose contained in the Final Environmental Assessment is, "to improve regional system linkage and enhance model interrelationships with Kearney Regional Airport, Nebraska Army National Guard and the industrial area." This statement will be considered by the Corps to be the applicant's project purpose. The overall project purpose, which the Corps will use to screen alternatives during our 404(b)(1) alternatives analysis will be "to accommodate current and future traffic through Kearney by facilitating traffic flow to the east and north side of Kearney."

It is premature to make a LEDPA determination prior to the submittal of an application and our 404(b)(1) evaluation. However, our preliminary evaluation indicates that the Cherry Avenue alternative may be the Least Environmentally Damaging Practicable Alternative.

Enclosed is the page 6 signature block from the FHWA letter sent to our office dated December 20, 2010. If you have any other questions, please contact me at the above address or call (402) 896-0896.

Sincerely,

Phil M. Rezac
Regulatory Project Manager
U.S Army Corps of Engineers

Enclosure

Copy Furnish:
NDOR (Owen)

developments in the area of Highway 30 and Antelope Avenue will require additional relocations due to the viaduct construction. The viaduct construction could require the acquisition of approximately twelve businesses; eight more than originally identified in the DEA. Therefore, a total of approximately twelve businesses, five residences, one storage building and a partial acquisition of one center pivot could be affected by the Antelope Avenue alternative, compared to no businesses, three residences and partial acquisition of four center pivots for the Cherry Avenue alternative. No additional acquisitions would be required for the Cherry Avenue alternative from what is indicated in the FEA.

After further evaluation of the impacts associated with the Antelope Avenue alternative compared to those of the Cherry Avenue alternative, we propose the Cherry Avenue alternative is the Least Environmentally Damaging Practicable Alternative, and would remain as the preferred alternative for this project.

If the USACE finds this justification acceptable and concurs with the impact minimization efforts disclosed in the FEA, please sign below and return to FHWA. If you have additional questions, please feel free to contact me at (402) 742-8473. Thank you.

Sincerely,

Melissa Maiefski
Environmental Team Lead
Federal Highway Administration

for John Moeschen
Nebraska State Program Manager
U.S. Army Corps of Engineers

12/29/2010
Date

Economic Development Council of Buffalo County
PO Box 607; Kearney, Nebraska 68848; 308-237-9346; 308-237-3103 fax
www.ci.kearney.ne.us

October 28, 2010

Greg Weinert
Public Hearings Officer
Nebraska Department of Roads
PO Box 94759
Lincoln, NE 68508-4759
greg.weinert@nebraska.gov
402-479-4871

Dear Mr. Weinert;

The Economic Development Council of Buffalo County would like to offer our support of the Cherry Avenue bypass project. As this office is responsible for marketing the data power park site, on behalf of the city of Kearney and the Nebraska Department of Economic Development, we find the direct access to the site from Interstate 80 to be a critical attribute to successful recruitment.

As you may know, data power park sites have strict criteria for development and the State of Nebraska has selected a property in our community that meets the majority standards for data park development. However, one limitation with the property is the ability to quickly route the many service personnel that maintain data power parks that will come from the Interstate. When selecting a location, data power park clients will evaluate system repair time and the speed of repair. As a number of support vendors will come from communities east and west of Kearney, the Cherry Avenue bypass certainly makes the site more desirable.

For the reasons above, as well as providing unlimited ancillary benefits to our other industries and community, we offer our support of the project.

Sincerely,

Darren R. Robinson
President
Economic Development Council of Buffalo County
Kearney, Nebraska
drobinson@buffalocountyedc.com
(308) 237-9346

RECEIVED
NOV 15 2010
COMMUNICATION DIVISION

CN- 42103 S-10(51)
Kearney - E. Bypass

Sir

I'm writing in regards to the Cheery Road and 78th Street truck by-pass. My wife and I live at 7840 Ave. N. The plan you have as of now will devalue our property greatly. The way you are planning to move our drive way will just simply not work and we will do everything in our power to stop you. Please come out and talk to us snd see for yourself how the plan will not work. Short of building us a new house.

Sincerly

Henry Compton
Betty Compton

RECEIVED
OCT 1 4 2010
COMMUNICATION DIVISION

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Monty W. Fredrickson, P.E., *Director - State Engineer*
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.transportation.nebraska.gov

December 16, 2010

Mr. and Mrs. Harry Compton
7840 Avenue N
Kearney NE 68847

RE: Project 10-2(114), CN 42103A
Kearney East Interchange and Bypass

Dear Mr. and Mrs. Compton:

This letter is in response to the comments you provided as public comment period for the Final Environmental Assessment of the Kearney East Interchange and Bypass.

In order to reduce the number of locations for potential conflict and to improve the efficiency of the highway, the bypass is being designed with managed access points along the highway as well as on intersection public roads. The access management policy requires the closure of your driveways that connect to 78th Street and Avenue N.

As final design plans are developed, the exact location of your proposed driveway from Avenue N will be determined with your input, while still meeting design policies. Prior to and during the right-of-way acquisition process, you will have an opportunity to provide input on your access. Impacts to your property will be minimized as much as possible and any impacts will be addressed in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Thank you for your input.

Sincerely,
ORIGINAL
Signed by:

Melissa Egelhoff, P.E.
Consultant Coordinator

ME/Z5-A1

xc: Mike Olson, Kirkham Michael
Wes Wahlgren, NDOR District Engineer
Greg Weinert, NDOR
Len Sand, NDOR
File

Double M Farms, Inc.
Dick Mercer
3385 E 11th St.
Kearney, Ne. 68847

Steve Mercer
Scott Mercer

308-234-9549

Chad Mercer
Karl Mercer

Greg Weinert
Public Hearings Officer
Nebraska Dept. of Roads
P.O. Box 94759
Lincoln, Ne. 68509-4759

Mr. Weinert;

10-28-2010

My name is Steve Mercer. I'm writing this comment letter in reference to the new Cherry Avenue by-pass being planned for the Kearney Area. Our family has owned and lived on the first tract of farm ground that will be empacted since the 1940's. We have seen the need for some relief of traffic off of 2nd avenue in Kearney for many years. Actually going back to the 1990's while I was serving on the Kearney Economic Development Committee, we discussed the need for a East Kearney By-Pass. So this something we don't want to stand against and see the need.

However we do have some concerns as the project has developed into more than what was proposed several years ago. It is going to run 200 foot onto our property for the full length of the farm in section 8-8-15, North to South, just short of 4,000 feet. This is leaving a 200 foot strip of irrigated farm ground now having a highway cutting it off from its water source and leaving it dryland. Dryland in this area, with the light soil, becomes unproductive. On the West side of the by-pass, the latest plans now show barrow pit areas extending well into the farmland. Taking away of this soil would then render this ground useless for both farming and future development. There could be the possibility of taking the soil from the 200 foot strip between the old Cherry and the New Cherry that could be excavated for fill and put back into wildlife habitate.

The other concern is on the East side of old Cherry avenue and 11th street with the setting back of the intersections to the East and creating new roads through the fields on that side that currently have pivots. I have worked with Ryan Omel in the Right-of-Way Division to have these more friendly to the property owner, but with no progress. First of all, these weren't on the first several sets of plans. They showed up when the State seemed to want to increase the cost of the project enough to get it shut down. They continue to be a major expense which looks like it should be delayed until after traffic counts are done after completion of the main road. Very little traffic will use the old N-S Cherry except for farm equipment during the growing season.

We also farm the tract NE of the 11th and Cherry intersection for Miracle Farms, on which we had a pivot installed several years ago. The new plan has the old Cherry intersections set back to the East and roads moved out into the fields. This we can reluctinly work with, but when the plans came back this summer, the new road cuts out through the field requiring us to take the boom off the pivot to miss the right-of-way. Yes this takes 40 foot off the irrigated corner, but this impacts the total 360 degrees around the field or about 8000 feet around the pivot that won't be irrigated now. We asked that the engineers increase the angle of the road but don't want to change it. The angle of the curve of the new road driven mostly by tractors, will be straigther than most exit ramps off the interstate. The engineers could at least put enough curve in the new roads to miss the end-gun on the overhang. We

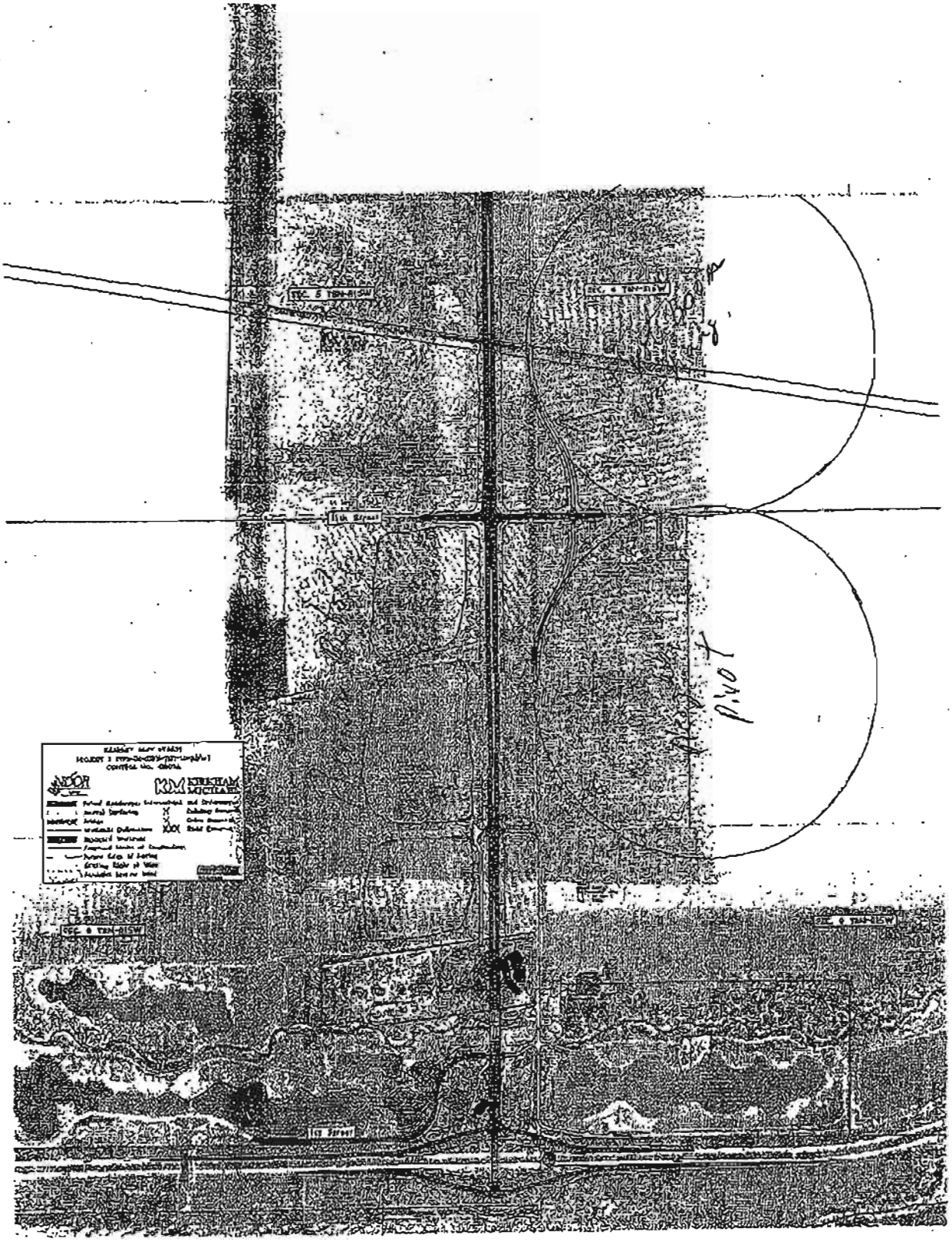
can leave the end-gun off as it comes by that corner but would still be able to irrigate the rest of the 360 degrees. This would require to straighten the new road to the West about 40 foot. It also impacts the neighbors pivot to the south in the same manner.

The engineers said that "this county road was designed with future Development in mind". The old Cherry right-of-way will still be there with utilites buried and power lines above that won't be moved so now two areas will be not be able to be development or farmed, just to grow weeds traffic will have to look around. We can understand the stack up lanes coming from the West because a lot of that traffic will go North or South. Very little will go on East or come from the East because it's a dead end road. It still looks that this expense could be delayed and see if traffic counts justify the destroying of good productive ground, which there is becoming less of every day.

We thank you for your time and hopefully an ear for our concerns that to us are major, but to others who don't understand irrigation and our farming practices, mean little. We don't want to hinder the project, just want to be treated fair and not have Government run over us with little consideration. Thank you.

Steve Mercer

President: Double M Farms, Inc
Owner: Arohview LLC
Tenant: Miracle Farms, Inc.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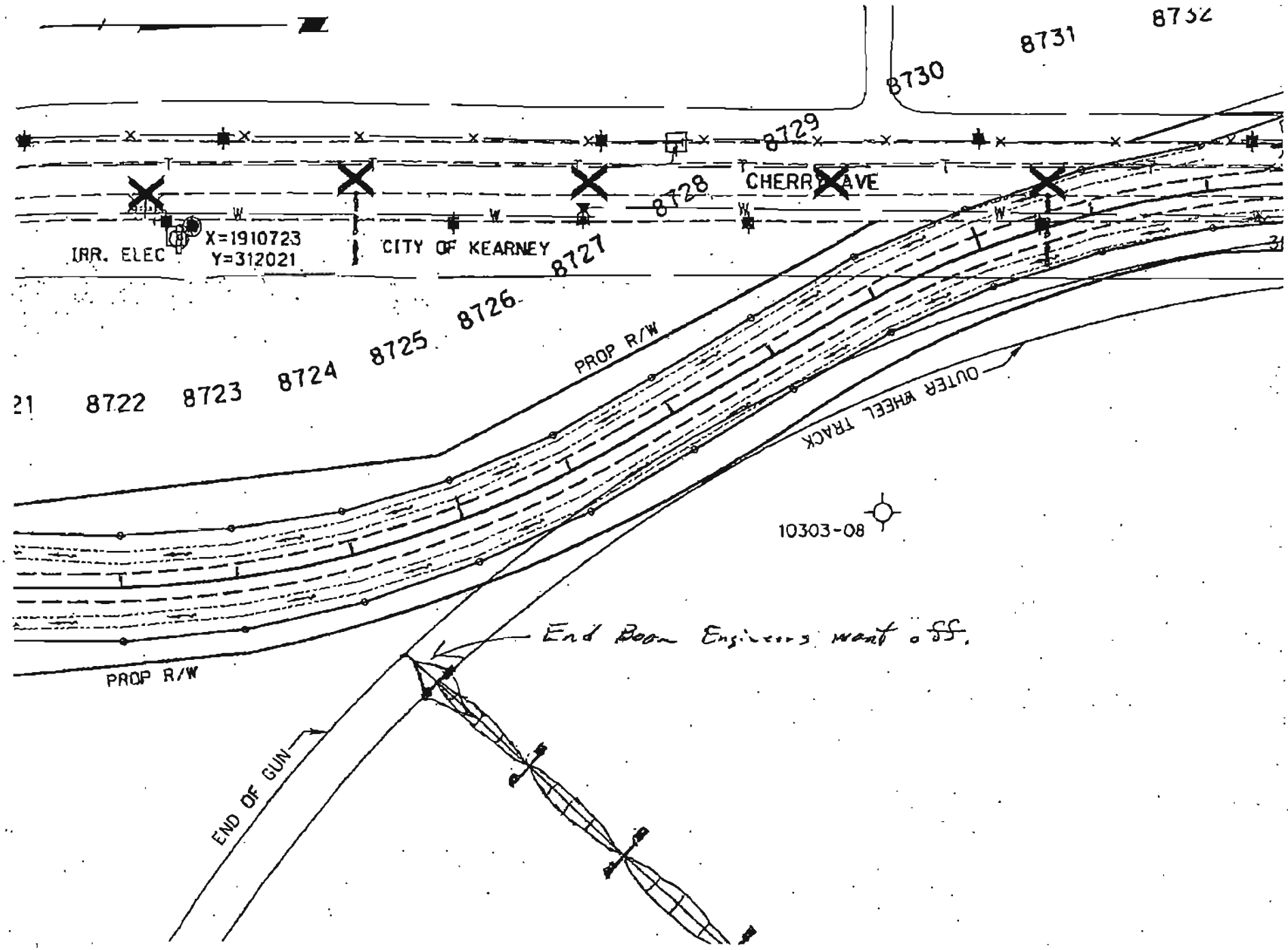
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Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Monty W. Fredrickson, P.E., Director – State Engineer
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402) 471-4567 • FAX (402) 479-4325 • www.transportation.nebraska.gov

July 12, 2010

Miracle Farms Inc.
c/o Monya & Daniel Hirschfeld
3606 Fourth Ave.
Kearney, NE 68847

Mr. & Mrs. Hirschfeld,

After exchanging phone calls with Steve Mercer regarding the path of the existing center pivot and the future alignment of the county road known as Cherry Avenue, I have requested for a blown-up copy of the plans to better highlight the situation on your property. This is in regards to the Kearney East Bypass project which I had contacted you previously about.

Enclosed are copies of the plans sheets for the project and blown-up and detailed cross sections indicating where the center pivot and road alignment meet. This will require the removal of the 38 foot long end boom on the center pivot or stops installed to stop the center pivot on either side of where the pivot would meet the new road alignment.

At this point I am completing my appraisal based on the current plans. I stated the concerns Steve Mercer raised about reducing the length of the pivot and trying to change the path of the county road to miss the center pivot, however, the road designers reminded me that this county road was designed with future development in mind and therefore, the alignment will not change.

Please contact me at 1-800-764-0422 or 402-479-4482 Monday through Friday from 6:30 a.m. until 3:00 p.m. if you have any further questions. Again, a right-of-way agent from NDOR will be in contact with you in the future once the approval for this project moves forward.

Sincerely,

Ryan J. Omel – Appraiser II
(Salaried Employee - exempt)
Nebraska Department of Roads – Right of Way Division

NEBRASKA
DEPARTMENT OF ROADS
www.transportation.nebraska.gov

Ryan Omel
Appraiser II
Right-of-Way Division

Dave Heineman
Governor

ryan.omel@nebraska.gov
o/c: (402)479-4482 1-800-764-0422
cell: (402)429-0768 fax: (402)479-3991

1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759

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Dave Heineman
Governor

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Phone (402)471-4567 • FAX (402)479-4325 • www.transportation.nebraska.gov

December 16, 2010

Mr. Steve Mercer
President, Double M Farms, Inc.
3385 E 11 St
Kearney NE 68847

RE: Project 10-2(114), CN 42103A
Kearney East Interchange and Bypass

Dear Mr. Mercer:

This letter is in response to the letter you provided as public comment for the Final Environmental Assessment of the Kearney East Interchange and Bypass. Thank you for your support of the project.

Potential borrow sites were previously shown on the public hearing display; however, Nebraska Department of Roads (NDOR) will require the contractor to furnish borrow for this project.

Through the design process, the alignment of proposed N-10 was shifted west of existing Cherry Avenue. This presented opportunities to: align the bypass at Coal Chute Road; provide a greater distance between the new roadway and the Stone School at Coal Chute Road; and allow the school access to remain off Coal Chute Road. In order to reduce the number of locations for potential conflict and to improve the efficiency of the highway, the bypass is being designed with managed access points along the highway as well as on intersecting public roads. This requires the realignment of existing Cherry Avenue at its intersection with 11th Avenue to the east to comply with NDOR's access policy.

These realigned intersections were presented at the Public Information Meeting held in April 2008 and at the Design Public Hearing held in October 2008. The realignments are necessary to create separation of intersections to meet access management policy. This policy is not based on traffic counts.

Options to reduce impacts to the center pivots located east of the existing Cherry Avenue have been evaluated; however, in order to meet design and access policies, the realigned intersections cannot be modified. Increasing the angles of the intersecting roads reduces the ability for drivers to see approaching traffic as they negotiate the intersection.

During final design, impacts to your property will be minimized as much as possible while meeting design standards. Impacts to your property will be addressed in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Thank you again for your input and support of the project.

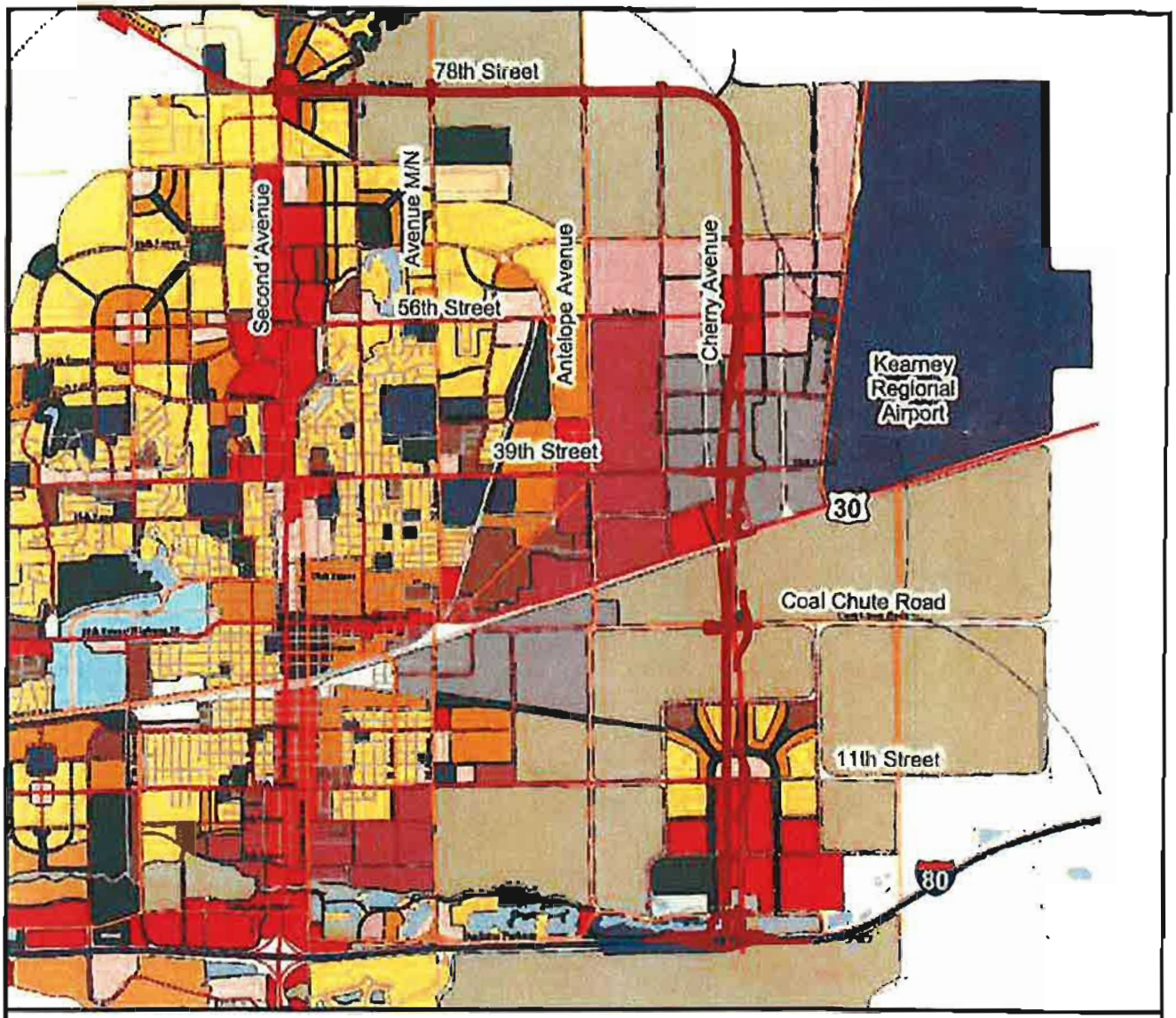
Sincerely,
ORIGINAL
Signed by:

Melissa Egelhoff, P.E.
Consultant Coordinator

ME/Z5-A3

Attachment

xc: Mike Olson, Kirkham Michael ✓
Wes Wahlgren, NDOR District Engineer
Greg Weinert, NDOR
Len Sand, NDOR
File



LEGEND

N

1 inch equals 1 mile

Source: THE KEARNEY PLAN (RDG Planning & Design, 2003)

- Build Alternative
- Conservation Reserve
- Rural Estates
- Low Density Residential
- Medium Density Residental
- High Density Residental
- Mixed Use 1
- Mixed Use 2
- Mixed Use 3
- Kearney Gateway Mixed Use
- Central Business District
- Business Park
- Light Industrial
- General Industrial
- UNK
- Civic
- Agriculture/Open
- Agriculture Preserve
- Park/Conservation Open Space
- Interstate 80
- Major Arterials
- Minor Arterials
- Collectors
- Proposed Streets

FHWA NDOR

FIGURE 3.3
CITY OF KEARNEY FUTURE LAND USE

East Interchange & Bypass Environmental Assessment Kearney, Nebraska
Project No: S-10(51), CN-42103

Egelhoff, Melissa

From: Weinert, Greg
Sent: Thursday, October 07, 2010 9:04 AM
To: Egelhoff, Melissa
Subject: FW: Kearney east bypass

Follow Up Flag: Follow up
Flag Status: Completed

From: Craig Peister [mailto:cpeister@actionloghomes.com]
Sent: Wednesday, October 06, 2010 9:03 AM
To: Weinert, Greg
Cc: Lenzen, Lou; Wahlgren, Wes
Subject: Kearney east bypass

Gentlemen:

Because I received the mailing concerning the bypass I will respond to you. I know it won't do any good but here it goes. I have been a business owner in Kearney for nearly 40 years. Our business is located very close to 2nd ave (highway 10&44). It doesn't make sense to me that anyone in business would want traffic re-routed around town and not have a chance for those travelers to see their business. Having said that , if this bypass is going to be built come hell or high water the current proposed locations makes no sense at all. I don't believe that there has been enough study in the cost for it in this location compared to another location. Being a business owner I don't care one bit about the Archway Monument as it was built on false information. I don't want a bypass to be built on flawed studies. Why hasn't any study been done for cost on locating the bypass west of Kearney at 30th Ave? There is all ready an overpass over the Interstate there, there has all ready been road improvements done on 30th Ave linking it all the way north through Kearney, it has a new overpass built over the railroad and would require a fraction of the cost. Can you provide me any sensible reasoning for Not placing the bypass at this location?.....

I would be happy to hear it. The east bypass is an agenda by those having property to sell in that area and would gain huge benefits from it. For instance the Arch, Cabalas' and owners of land that they purchased for the expressed reasoning of making a huge profit when the bypass was built. I wouldn't still be in business today by not making sound business decisions based on cost and what is gained by spending money on a new investment. This whole idea seems flawed from the start. Just because the government has agreed to subsidize this project doesn't mean that the state has to go crazy and just spend the money. Its' yours and mine tax payer money being spent. Contrary to Ben Nelson's thinking that this kind of money just falls from the sky. This is just another example of government wasting money before thinking.

Hear is another item in this proposal that disgusts me. In there you have to ruin some wet lands and the answer could be to move those wetlands to grand Island. What !! You just don't move an established wet land and the last I looked Grand Island has more ground water problems than anyone. If you destroy a natural wetland here than you better find or build (if you can) another one in our area. By the way there isn't any wet land that would come into play if you used the 30th Ave exit.

I'm sure you are thinking what do I know about and exit. Well probably nothing except that I see the government wasting money all the time and if they were in business for themselves they would be out of business flat broke. Much like they are right now.

Anyway thanks for listening and I'm sure you will hit the delete button as soon as you read this letter.

Craig Peister

Action Log Homes

Bitterroot Valley Log & Timber, Inc. Independent Dealer Manager
www.actionloghomes.com
cpeister@actionloghomes.com

308-237-5647(LOGS)

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Monty W. Fredrickson, P.E., *Director - State Engineer*
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.transportation.nebraska.gov

December 16, 2010

Mr. Craig Peister
110 Huron Dr
Kearney NE 68847

RE: Project 10-2(114), CN 42103A
Kearney East Interchange and Bypass

Dear Mr. Peister:

This letter is in response to the comments you provided as public comment period for the Final Environmental Assessment of the Kearney East Interchange and Bypass.

The Environmental Assessment addresses potential effects of a transportation project on a community and its quality of life in Section 3.4, Socioeconomic Conditions (Starting on page 3.12). In general, bypasses are found to have little effect on community economic conditions. Most travelers who would use the bypass would be traveling through the community and would continue through Kearney without stopping. The *Interchange Justification* Study report estimated that, for a proposed bypass, 30 percent of all trips entering Kearney were by travelers who did not stop in Kearney.

Additionally, according to *The Kearney Plan*, new commercial development along the proposed bypass would be limited to avoid eroding the vitality of the Second Avenue corridor or increasing competition with businesses along Second Avenue. Local travelers and travelers headed to specific in-town destinations would benefit from reduced congestion on Second Avenue. Table 2.5 on page 2.9 of the Environmental Assessment shows how the proposed bypass will reduce congestion on Second Avenue by improving its level of service.

Traffic flow in Kearney is hampered by a mixture of truck and automobile traffic. Because trucks, with less maneuverability and slower acceleration, tend to impede flow, the mixed traffic further contributes to congestion on 2nd Avenue. Separation of industrial and regional traffic streams from urban traffic would "improve the functioning of 2nd Avenue." Furthermore, *The Kearney Plan* conducted a future capacity analysis, which indicated that "an exclusive reliance on 2nd Avenue as the city's principal north-south through arterial will cause a severe failure of the traffic system." It stressed the need for additional north-south through routes in the future.

The Kearney Plan provides a "comprehensive improvement program that, if implemented, will provide the city with a balanced transportation network." Crucial to this is the development of one or two additional Interstate 80 interchanges, together with a bypass route for regional traffic around the city, which will relieve the channelization of all local and regional traffic along the 2nd Avenue corridor. In addition to the proposed interchanges and bypass, Kearney also plans to create an inner beltway and other roadway improvements which are intended to improve access into the city from developed industrial and developing residential areas on the periphery of the city. *The Kearney Plan* stresses the importance of preserving a successful downtown area and making improvements that will enhance the functioning and financial success of the district, and this has been integrated in the city's vision and comprehensive plan.

The Kearney Plan does indicate the need for both west side and east side interchanges. The east side interchange is a higher priority; however, a west side interchange is recommended to be on the City's "medium term agenda." Additionally, a west side interchange along with improvements to local streets connecting to 30th Avenue was considered in this Environment Assessment, but it did not meet the identified Purpose and Need for this project. The purpose includes improving regional system linkage and enhancing modal interrelationships with Kearney Regional Airport, Nebraska Army National Guard, and the industrial area. The need includes providing an alternative route for through-traffic that does not stop in Kearney as well as connecting industrial, new growth area, and the Kearney Regional Airport to Interstate 80 and US 30.

The Environmental Assessment provides a study of impacts to the environment, including wetland impacts. Federal agencies are required to protect wetlands by avoiding construction in wetlands whenever possible. Avoidance of the wetlands is attempted with design alternatives; however, this is not always practical due to issues such as increased property impacts, compromised design and increased project cost. Any wetlands impacted by the proposed project will be mitigated in accordance with the requirements of Section 404 of the Clean Water Act. NDOR will comply with Section 404 permit conditions specified by the United States Army Corps of Engineers (USACE). Impacts are within the geographic service area of the NDOR Mormon Island wetland bank site. Specific locations and mitigation ratios will be determined in coordination with USACE during final design.

Thank you for your input.

Sincerely,

ORIGINAL
Signed by:

Melissa Egelhoff, P.E.
Consultant Coordinator

ME/Z5-A4-5

xc: Mike Olson, Kirkham Michael
Wes Wahlgren, NDOR District Engineer
Greg Weinert, NDOR
Len Sand, NDOR
File

Greg A. Weinert, Public Hearings Officer

October 25, 2010

Patrick & Cheryl Winters
550 East 78th St.
Kearney, Ne. 68847
308 708-0446 308 226-7106

Communication Division
State of Nebraska, Department of Roads
P.O. Box 94759
Lincoln, NE 68509-4759

Re: Project No. 10-2(114)
Also Known As: Kearney East Bypass
Control No. 42103

Dear Mr. Weinert:

We have written this letter to provide you with our input and perspective relative to the above-referenced project and proposed frontage road running East and West and how it affects our property.

As presented to us, the project will effectively take roughly one-third of our land which will leave us with our residence and a little over an acre of ground North of the frontage road. We have been trying to sell our property but, with the uncertainty of this road project, we have had trouble finding any interested buyers. The project, as presented, will separate our front lawn from our orchard and irrigation well, cause us to have to remove and/or relocate our brick mail box, destroy more than 50 mature trees, remove our water hydrants, and destroy and/or remove about one-half of our asphalt driveway. The majority of our private driveway now becomes a public road way that will involve traffic including farm vehicles, trucks, combines, and other heavy farm equipment.

Obviously, in additional to the actual taking of a portion of our residential land, this taking will seriously devalue our residence and our land located North of the proposed frontage road and make useless the land located South of the frontage road. We trust that, if such project is to proceed, we will be adequately compensated for all damages and expenses that we will suffer.

Very truly yours,

By: _____
Patrick Winters

By: _____
Cheryl L. Winters

RECEIVED
OCT 26 2010
COMMUNICATION DIVISION

cc: Damon T. Bahensky, Esq.

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Monty W. Fredrickson, P.E., Director - State Engineer
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.transportation.nebraska.gov

December 16, 2010

Mr. and Mrs. Patrick Winters
550 E 78 St
Kearney NE 68847

RE: Project 10-2(114), CN 42103A
Kearney East Interchange and Bypass

Dear Mr. and Mrs. Winters:

This letter is in response to the comments you provided as public comment period for the Final Environmental Assessment of the Kearney East Interchange and Bypass.

In order to reduce the number of locations for potential conflict and to improve the efficiency of the highway, the bypass is being designed with managed access points along the highway as well as on intersecting public roads. The access management policy requires the relocation of your driveway; however, the design presented to you is not final. As final design plans are developed, the exact location of your proposed driveway will be determined with your input, while still meeting design policies. Prior to and during the right-of-way acquisition process, you will have an opportunity to provide input on your access. Impacts to your property will be minimized as much as possible and any impacts will be addressed in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

In some instances, Nebraska Department of Roads will consider early hardship acquisition of property, provided the situation meets a particular set of criteria. It is my understanding that you have been in contact with NDOR's Right-of-Way Division regarding early hardship acquisition.

If I can be of any additional assistance, please do not hesitate to contact me.

Sincerely,
ORIGINAL
Signed by:

Melissa Egelhoff, P.E.
Consultant Coordinator

ME/Z5-A2

xc: Mike Olson, Kirkham Michael
Wes Wahlgren, NDOR District Engineer
Greg Weinert, NDOR
Len Sand, NDOR
File

NEBRASKA DEPARTMENT OF ROADS
NOTICE OF HIGHWAY PUBLIC INVOLVEMENT

10-2(114) *Kearney East By-Pass*; CN 42103
Environmental Assessment Posted for Public Comments

The Nebraska Department of Roads (NDOR) announces that the Federal Highway Administration (FHWA) has approved an Environmental Assessment for public comments regarding the proposed Kearney East By-Pass project. The public has an opportunity to review this document and is encouraged to comment during a thirty-day period.

The document is available for review beginning October 1, 2010 on the NDOR website, http://www.roads.nebraska.gov/projects/kearney-east/index.htm. Physical copies of the document are available for review at the following locations: The Kearney Public Library, 2020 1st Ave, Kearney, NE; the City of Kearney offices, 18 East 22nd St., Kearney, NE; the NDOR District Four Headquarters, 211 N Tilden St., Grand Island, NE; the NDOR Central Headquarters, 1500 Highway 2, Lincoln, NE; and the Nebraska Division of the FHWA, 100 Centennial Mall North, Lincoln, NE.

Identified as NDOR Project **10-2(114)** ***Kearney East By-Pass***, the anticipated construction would be entirely in Buffalo County, Nebraska. The proposed project would connect Interstate 80 (I-80) to Nebraska Highways 10 (N-10) and 40 (N-40) on the north side of Kearney and be approximately 8.5 miles in length. Construction would include a new I-80 interchange, a new viaduct over the UPRR and US-30, a paved 4-lane roadway from I-80 to 56th Street and 2-lanes from 56th Street to the N-10 / N-40 intersection.

Acquisition of new right-of-way and Control of access rights would be required throughout the length of the project. The project would require the purchase of three residences; relocation assistance would be made available under State and Federal regulations.

Construction would impact wetlands and require appropriate mitigation. The department intends to establish replacement wetlands near the project or at the Mormon Island Wetlands Bank. Project mitigation would include conservation easements along the Platte River in the area of the proposed project and a barrier to shield vehicle lights at the south edge of the proposed I-80 interchange. This mitigation is intended to address potential impacts to whooping cranes and their critical habitat.

A Draft Environmental Assessment of the project, including a noise study report, was approved for circulation by the Federal Highway Administration on June 6, 2007. A public Hearing was held at the Platte River Road Archway Monument October 30, 2008. Comments from that public meeting were taken into consideration regarding the project.

An Environmental Assessment has been prepared for this project. It will be available for public review and comment for a minimum of thirty days or until November 1, 2010.

This public comment period is being held as a coordination and fact-gathering effort for the environmental review process under the National Environmental Policy Act (NEPA), as well as to provide information and receive input regarding the environmental impacts of this project. All citizens are invited to make remarks or statements. NDOR and FHWA will consider these comments in the future decision document.

Comments may be submitted to: Greg Weinert, Public Hearings Officer, Nebraska Department of Roads, P.O. Box 94759, Lincoln, NE 68509-4759; greg.weinert@nebraska.gov; voice telephone (402) 479-4871, TDD telephone (402) 479-3834, Fax (402) 479-3989. There is a direct email link from the NDOR website.

For further information regarding the proposed project, contact Lou Lenzen, NDOR Roadway Design, (402) 479-4719, lou.lenzen@nebraska.gov; or Wes Wahlgren, NDOR District Four Engineer, (402) 595-2534, wes.wahlgren@nebraska.gov.

Official Nebraska Government Website

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Kearney - East Bypass

Project #: STPD-IM-STPN-TMT-10-2-(114)
Control #: 42103A
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Project Contacts:

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These are LARGE PDF files; allow adequate time for them to open

Environmental Assessment (33M)

Technical Appendix for Environmental Assessment (107M)

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Proposed Construction: (Project Info Updated 9-2010)

The anticipated construction, located in Buffalo County, Nebraska, would connect Interstate 80 (I-80) to Nebraska Highways 10 (N-10) and 40 (N-40) on the north side of Kearney and be approximately 8.5 miles in length. Construction would include a new I-80 interchange, a new viaduct over the UPRR and US-30, a paved 4-lane roadway from I-80 to 56th Street and a 2-lane from 56th Street to the N-10 / N-40 intersection.