APPENDIX F

THREATENED & ENDANGERED SPECIES COORDINATION/CONCURRENCE

NDOR
Nebraska
Department of Roads

Memorandum

DATE	1/21/14
TO	Local Public Agency
FROM	Zach Cunningham, HWY Environmental Biologist
THRU	Jeffrey Soula - Local Projects Section
SUBJECT	168th St., West Center - Q St., Omaha, STPC-3811(1), 22209 & 168th St., & West Center - Pacific St., Omaha, STPC-3811(2), 22210 Threatened & Endangered Species Concurrence

The attached concurrence package signed on 1/21/14 by NDOR is the documentation required for threatened & endangered species concurrence in the NEPA document.

The project, as proposed has been determined to have "**no effect**" to all state or federally listed species or their designated critical habitat.

Below are the Conservation Conditions and survey protocol (if applicable) that will be required for this project. They must be included verbatim in the "green sheet" **and** NEPA document.

General Conservation Conditions for All Projects (Responsible Party for the measure is found in parentheses):

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

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

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

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

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

A-6 **Restricted Activities**. The following project activities shall, to the extent possible, be restricted to between the beginning and ending points (stationing, reference posts, mile markers, and/or section-township-range references) of the project, within the right-of-way designated on the

project plans: borrow sites, burn sites, construction debris waste disposal areas, concrete and asphalt plants, haul roads, stockpiling areas, staging areas, and material storage sites.

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

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

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

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

Project Name: 168th St., West Center - Q St., Omaha & 168th St., & West Center - Pacific St., Omaha
Updated 1/2/13
Federal-aid Number: STPC-3811(1) & STPC-3811(2)
Control Number: 22209 & 22210

Overview of Effects and Required Conservation Conditions

Threatened and Endangered Species Effect Determination:

☒ This project will have "no effect" to all listed species and their habitats.
**If an IPLE was written to justify the no effect determination, the BA is sent to FHWA for concurrence.*

☐ A "may affect, not likely to adversely affect" determination is made for the following species/critical habitat with the conservation conditions listed below *(and will have "no effect" on all other listed species, except for any listed in the 3rd check box)*:

☐ A "may affect, likely to adversely affect" determination is made for the following species/critical habitat with the conservation conditions listed below *(and will have "no effect" on all other listed species, except for any listed above)*:

Platte River Flow Depletions and Borrow:
If the excavation of borrow sites will occur within the Platte River Basin and result in open water that could constitute a depletion to the Platte River system, upstream of the Loup confluence, the Nebraska Department of Natural Resources will be contacted. If a borrow site will result in a depletion to the Platte River system, downstream of the Loup confluence, NDOR will coordinate with the Nebraska Game and Parks Commission.

Migratory Bird Treaty Act:
NDOR has developed an Avian Protection Plan (APP) to reduce conflicts between construction of NDOR projects and the laws governing migratory birds. This procedure is designed to protect and conserve avian populations and reduce avian conflicts through changes in project scheduling (i.e. tree clearing outside of primary nesting period), increased migratory bird surveys, and changes in project construction timelines. NDOR will utilize its APP to reduce conflicts with migratory birds on this project.

Bald and Golden Eagle Protection Act:
This project was also reviewed for potential impacts to bald and golden eagles. NDOR believes the project site does not have appropriate habitat for eagles. Due to the lack of suitable habitat and information that there are no known bald eagle nests within the project area, NDOR has determined that there will be no impact to these species.

Fish and Wildlife Coordination Act:
This project will result in less than ½ acre of wetland impacts and less than 100 feet of stream channel impacts. A Section 404 permit will be required from the US Army Corps of Engineers.

Conservation Conditions: *Responsible Party for conservation condition shown in parentheses.*

Listed below are the required Conservation Conditions that apply to this project. These measures are not subject to change without the prior written approval of the Federal Highway

Administration. **Copy and paste the conditions listed below verbatim in the NEPA document, the Green Sheet, and in the contract documents:**

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The overall Biological Assessment package was prepared by:

Signature	Printed Name	Title and Agency/Firm	Date
	Zach Cunningham	Biologist/NDOR	1/21/14

Approved by the following qualified NDOR biologist:

Signature	Printed Name	Date
Mary Schroer	MARY SCHROER	1/21/14

☐ Check if FHWA signature required *(NDOR Environmental use only)*.
Approved by FHWA Environmental *(FHWA signature only needed when an Individual Project Level Evaluation, modified Conservation Conditions, or Individual BA is required.)*:

Signature	Printed Name	Date

☐ Check if USFWS and/or NGPC concurrence is required *(NDOR Environmental use only)*.

☐ Check if the project occurs on federal or tribal land *(NDOR Environmental use only)*.
If yes, provide federal or tribal agency name: _____

Sent: Tuesday, April 15, 2014 1:53 PM
To: Soula, Jeffrey; Fitzpatrick, Caitlin
Cc: Barber, Jon
Subject: Reevaluation - 168th St., West Center - Q St., Omaha, STPC-3811(1), 22209 & 168th St., & West Center - Pacific St., Omaha, STPC-3811(2), 22210

I have reevaluated the project: 168th St., West Center - Q St., Omaha, STPC-3811(1), 22209 & 168th St., & West Center - Pacific St., Omaha, STPC-3811(2), 22210 due to the recent proposed federal listing of the northern long-eared bat.
The NDOR Activity Checklist indicated that clearing and grubbing, bridge work, culvert work, and removal of structures and obstructions will be included as part of this project. These activities have the potential to impact northern long-eared bats.
The project, as proposed has been determined to "**may affect, not likely to adversely affect**" the **northern long-eared bat**, and will have "no effect" to all other state or federally listed species.

Below are the conservation conditions that must be included for this project.

Northern Long-Eared Bat:

NLEB-1 Tree clearing, bridge deck joint replacements over the bridge deck, bridge/>5-ft box-culvert removal activities will be scheduled to occur between October 1st – March 31th to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

OR

NLEB-2 If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge/>5-ft box-culvert structures occurs during the northern long-eared bat maternal roosting period (April 1st – September 30th),NDOR or a qualified biologist will perform surveys prior to the start of these activities at the following locations: __length of project_ (location of suitable habitat). If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

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