Tonya Huber

From: Cremer, David (FHWA) <david.cremer@dot.gov>
Sent: Wednesday, October 9, 2024 9:45 AM
To: Tonya Huber
Cc: Brockmann, Todd (FHWA)
Subject: RE: Cat Ex_CHSB Pavement Resiliency & Restoration Ph1_Oglala_FHWA OTT_NEPA_092923

Good Morning Tonya-

The Federal Highway Administration Office of Tribal Transportation (FHWA OTT) has reviewed the provided information and made the following conclusions:

The Oglala Sioux Tribe (Pine Ridge Indian Reservation) Road Project: "Pavement Resiliency & Restoration Ph1", that was documented with an FHWA National Environmental Policy Act (NEPA) Categorical Exclusion (CE) on September 29, 2023, should be updated to reflect the current information:

***Current* Project Description:**
"Asphalt Pavement Replacement on BIA 41, Sections 65 and 70 will include blading 10-feet of topsoil from the existing road edge into a windrow, removing the existing asphalt by milling to be recycled and reused in the new asphalt pavement, salvaging the base course for reuse, recompacting the existing subgrade in-place, placing geotextile separator fabric, 4 to 6-inches salvaged base course topped with tri-axial geogrid, 4-inches of base course, and 3 to 4-inches asphalt concrete pavement. All replacement areas will be the same width except, BIA 41, Section 70 will be widened 4-feet to add a 2-foot shoulder each side. The existing subgrade is wider than the existing asphalt and will support the extra width without needing to regrade the road. The road alignment and profiles will not be changed. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched."

"Asphalt Pavement Overlay on BIA 2, Section 25 will include blading 10-feet of topsoil from the existing road edge into a windrow, repairing existing soft spots by removing the existing damaged surface, recompacting the subgrade, adding base course to strengthen, and topping the existing double chip seal with 3 to 4-inches of asphalt concrete pavement. The existing road alignment and profile will not change. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched."

***UPDATED* Project Description**
"Asphalt Pavement Replacement on BIA 41, Sections 65 and 70 will include blading ***12***-feet of topsoil from the existing road edge into a windrow, removing the existing asphalt by milling to be recycled and reused in the new asphalt pavement, salvaging the base course for reuse, recompacting the existing subgrade in-place, placing geotextile separator fabric, 4 to 6-inches base course topped with geogrid, 4-inches of base course, and 3 to 4-inches asphalt concrete pavement. All replacement areas will be the same width except, BIA 41, Section 70 will be widened ***8***-feet to add a ***4***-foot shoulder each side. The existing subgrade is wider than the existing asphalt and will support the extra width without needing to regrade the road. The road alignment and profiles will not be changed. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched."

"Asphalt Pavement Overlay on BIA 2, Section 25 will include blading ***12***-feet of topsoil from the existing road edge into a windrow, repairing existing soft spots by removing the existing damaged surface, recompacting the subgrade, adding base course to strengthen, and topping the existing double chip seal with 3 to 4-inches of asphalt concrete pavement. The existing road alignment and profile will not change. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched."

After reviewing the provided information, the FHWA OTT has determined that the studies, analysis, conclusions and mitigations/commitments found in the Federal Highway Administration Office of Tribal Transportation (FHWA OTT) Categorical Exclusion (CE: 9/29/2023) are still valid and accurate. Except for the change noted here, the FHWA OTT CE is still valid.

This update pertains only to the information, Scope of Work and Project description submitted for review. Any changes to the Scope of Work should be reviewed by FHWA and evaluated for additional environmental impacts. The environmental commitments and mitigations listed in the document are not subject to change without approval from FHWA.

With NEPA and other applicable environmental requirements completed, you are now approved to proceed with Final Design, any rights-of-way acquisition needed, Approval of Final PS&E, advertisement for construction, and construction once any rights-of-way (if needed) are acquired. You should maintain this documentation and any supporting project environmental documentation in your Official Project File for future reference during any Project or Process reviews.

If you have any questions or comments, please contact me.

David Cremer
Environmental Specialist and NEPA Coordinator
FHWA-Office of Tribal Transportation
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http://flh.fhwa.dot.gov/programs/ttp/

From: Tonya Huber <tonya.huber@kljeng.com>
Sent: Wednesday, October 9, 2024 10:11 AM
To: Cremer, David (FHWA) <david.cremer@dot.gov>
Subject: RE: Cat Ex_CHSB Pavement Resiliency & Restoration Ph1_Oglala_FHWA OTT_NEPA_092923

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi David,
Thanks for getting back to me and my answers are below.

Thank You.

Tonya Huber, PE
605-872-5024 Direct
18 E. Main St., Ste 229
Rapid City, SD 57701
kljeng.com

From: Cremer, David (FHWA) <david.cremer@dot.gov>
Sent: Wednesday, October 9, 2024 6:55 AM
To: Tonya Huber <tonya.huber@kljeng.com>
Subject: RE: Cat Ex_CHSB Pavement Resiliency & Restoration Ph1_Oglala_FHWA OTT_NEPA_092923

Good Morning Tonya-

I have three quick questions:

1. Is the work and the ground disturbance for the expanded shoulders (and deeper blading) still in the area that was reviewed for the Cat Ex (which is likely contingent on the next question) yes
2. Will all the work for the expanded shoulders (and deeper blading) be relegated to areas that have already been significantly disturbed? yes
3. Do you see any changes or additional impacts to any of the resources identified and analyzed in the original Cat Ex (9/29/23), due to these changes, that need to be addressed? No changes, all work will be completed within the existing road embankment and top with no work in the ditches.

It appears that was how (at least first two questions) the decisions for the Biological and Cultural Resources were made originally.

Thanks for taking a look at this. Please send me your reply when you get a chance.

David Cremer
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From: Tonya Huber <tonya.huber@kljeng.com>
Sent: Tuesday, October 8, 2024 2:20 PM
To: Cremer, David (FHWA) <david.cremer@dot.gov>
Subject: FW: Cat Ex_CHSB Pavement Resiliency & Restoration Ph1_Oglala_FHWA OTT_NEPA_092923

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi David,
We are resubmitting this grant application for Nationally Significant Federal Lands and Tribal Projects. Attached is the original cat ex and also attached are some minor changes. The main change is increasing the shoulder width to 4 ft instead of 2 ft and the topsoil striping from 10 ft to 12 ft.
Let me know if you want me to resubmit the cat ex.

Thank You.

Tonya Huber, PE
KLJ
605-872-5024 Direct
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Rapid City, SD 57701
kljeng.com

From: Cremer, David (FHWA) <david.cremer@dot.gov>
Sent: Friday, September 29, 2023 1:51 PM
To: Tonya Huber <tonya.huber@kljeng.com>
Cc: Brockmann, Todd (FHWA) <todd.brockmann@dot.gov>; David Kelly <ostroads@gmail.com>
Subject: Cat Ex_CHSB Pavement Resiliency & Restoration Ph1_Oglala_FHWA OTT_NEPA_092923

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

This e-mail and attached checklist documents compliance with NEPA and other environmental requirements for the project. Please keep a copy of it with your project files.

Regarding the following project: **CHSB Pavement Resiliency & Restoration, Ph 1 2311-00354 (0002 (20, 25, 30, 35, 45) & 0041 (60, 65, 70)**

Project Description:
The Oglala Sioux Tribe proposes the following maintenance projects. Asphalt Pavement Replacement on BIA 41, Sections 65 and 70 will include blading 10-feet of topsoil from the existing road edge into a windrow, removing the existing asphalt by milling to be recycled and reused in the new asphalt pavement, salvaging the base course for reuse, recompacting the existing subgrade inplace, placing geotextile separator fabric, 4 to 6-inches salvaged base course topped with tri-axial geogrid, 4-inches of base course, and 3 to 4-inches asphalt concrete pavement. All replacement areas will be the same width except, BIA 41, Section 70 will be widened 4-feet to add a 2-foot shoulder each side. The existing subgrade is wider than the existing asphalt and will support the extra width without needing to regrade the road. The road alignment and profiles will not be changed. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched.

Asphalt Pavement Overlay on BIA 2, Section 25 will include blading 10-feet of topsoil from the existing road edge into a windrow, repairing existing soft spots by removing the existing damaged surface, recompacting the subgrade, adding base course to strengthen, and topping the existing double chip seal with 3 to 4-inches of asphalt concrete pavement. The existing road alignment and profile will not change. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched.

Crack and Chip Sealing on BIA 2, Section 20, 30, 35, and 45 and BIA 41, Section 60 will include routing and sealing the existing cracks in asphalt surface, followed by chip seal, and pavement striping.

Guide signage for the Crazy Horse Scenic Byway will be added to BIA 2, from BIA 41 to BIA 27, and BIA 41, from 2.4 miles south of BIA 2 to the north Reservation line.

Purpose and Need:
The purpose of the project is to improve and maintain usability of roads along or connected to the Crazy Horse Scenic Byway (CHSB).

Signage for the Crazy Horse Scenic Byway will occur on BIA 2, from BIA 41 to BIA 27, and BIA 41, from 2.4 miles south of BIA 2 to the north Reservation line, all within Oglala Lakota County in the Pine Ridge Reservation.

Asphalt Pavement Replacement - BIA 41, Sections 65 and 70 have deteriorated existing asphalt pavement with ruts, cracks, and potholes. Section 70's asphalt pavement is narrow and has graded shoulders. The existing asphalt pavement requires rehabilitation and replacement and widening to include 2' asphalt shoulders which will improve safety of the traveling public, maintain usability, and to keep pavement from further deterioration.

Asphalt Pavement Overlay - BIA 2, Section 25 has an existing double chip seal surface which easily develops potholes which are a safety risk to traveling public. The 12-mile section needs to have an asphalt pavement overlay, which will be a more resilient surface than double chip seal.

Crack and Chip Sealing - BIA 2, Section 20, 30, 35, and 45 require asphalt spot leveling, minor patch repairs, and crack and chip sealing. BIA 41, Section 60 requires crack sealing and chip sealing to maintain and preserve the existing asphalt pavement surface.

Environmental Compliance:
The project is funded, in whole or in part, by funds through the Tribal Transportation Program (TTP). TTP funds are provided to the Oglala Sioux Tribe in accordance with the *Tribal Transportation Program Agreement between the Oglala Sioux Tribe and the United States Department of Transportation*. In accordance with this agreement, the Tribe is responsible for project development, permit acquisition, contract management, construction, and construction oversight.

The expenditure of TTP funds constitutes a Federal action subject to compliance under the National Environmental Policy Act (NEPA). This NEPA CE represents the environmental compliance documentation prepared and submitted to FHWA by the Oglala Sioux Tribe.

NEPA:
The FHWA has determined that the projects meet the requirements of a Categorical Exclusion (CE) as defined in 23 CFR 771.117(a) and does not involve unusual circumstances as described in 23 CFR 771.117(b). The project is categorically excluded from further NEPA analysis because it meets these requirements and falls within the following action(s) of 23 CFR 771.117: (c)(22) projects, as defined in 23 USC 101, that would take place entirely within the existing operational right-of-way.

Cultural Resources:
This project will not go beyond the existing, highly disturbed, roadway area. FHWA has determined that this project *does not have the potential to affect historic properties or resources*.

To avoid unforeseen impacts, any archaeological or historical artifacts or remains discovered during construction shall be left intact and undisturbed, all work in the area shall stop immediately, and the Oglala Sioux Tribal Historic Preservation Office (THPO) and the FHWA TTP Environmental Coordinator shall be notified of the discovery pursuant to 36 CFR 800.13. Construction operation may resume upon notification from the THPO and FHWA.

Biology:
This project will not go beyond the existing, highly disturbed, roadway area. FHWA has determined that this project *will not affect* any federally listed threatened or endangered species.

If any Migratory Bird Treaty Act protected bird with an active nest is observed before or during construction, the USFWS should be contacted immediately, and measures should be taken to protect the nest.

Section 4(f)
The Section 4(f) regulation was considered as a part of the review for this project and it was determined that Section 4(f) does not apply. This Project does not use a Section 4(f) property.

Waters of the U.S.:
Due to the nature and location of the project, there will be no impacts to any "Waters of the U.S." generated. Therefore, neither a Clean Water Act Section 401 Water Quality Certification, nor a Clean Water Act Section 404 permit will be required.

Floodplain:
This project does not involve changes or impacts to a floodplain. Water flow, drainage, and/or retention will not be impacted by the subject project.

Water Quality:
The project does not lie within the boundary of a US designated sole source aquifer. Because the disturbed area does not exceed one acre, a permit does not need to be acquired per the National Pollutant Discharge Elimination System (NPDES). Proper management, handling and disposal of waste and hazardous materials will meet the requirements of all federal, state, and local agencies. The subject project does not involve construction of a structure over a navigable waterway or involve impacts to Waters of the US.

Prime or Unique Farmland
The project site does not include prime or unique farmland, or other farmland of statewide or local importance as identified by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS).

Hazardous Waste and Materials
The project area will have no impact on hazardous materials, contamination, toxic chemicals, gasses and radioactive substances that exceed regulatory thresholds and which could affect the health or safety of occupants or conflict with the intended use of the subject property.

Construction equipment will be inspected daily for leaks. Leaking equipment will be removed from the project site until repaired and spills will be cleaned up.

Leaking equipment will be removed from the project site until it is repaired. Spills will be properly addressed and cleaned.

All fuels, oils, lubricants, and hydraulic fluids will be kept in sealed storage containers or facilities that are located within the construction area.

Air Quality:
The proposed project is located within an "attainment" area, therefore; the project site is in conformance with the State Implementation Plan.

There will be some dust generated during construction. Dust control measures such as wetting construction areas will be implemented to minimize fugitive dust.

Noise Quality:
Project activities may disturb wildlife in the very short-term due to increased human activity and by the variable noise. Since construction activities are normally limited to a small area and during daylight hours when animals are less mobile, the impacts would be minimal. These noises would be temporary in nature and would be further controlled by limiting construction hours to normal daylight hours or as determined by Tribal representatives.

When occurring near residences, construction shall take place at times of the day so that the noise and light will least disturb residents.

Socio-Economics and Environmental Justice Impacts

Executive Order 12898 (published in the Federal Register on February 11, 1994) requires federal agencies to identify and address disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low income populations.

The pavement replacement, pavement restoration, and sealing will improve road conditions. Traffic is maintained via flaggers and pilot car. Two-way traffic is opened at night and on construction non-work days. Emergency vehicles have access at all times.

The improved facilities will only create a positive impact to the many low income, minority families that use them to access the facilities. No adverse effects related to environmental justice or socio-economics are expected.

Mitigations and Environmental Commitments:
Construction crews will limit unnecessary idle times on diesel-powered engines, implement dust control measures during land clearing and other related activities, and cover loads during transport.

Construction equipment will be inspected daily for leaks. Leaking equipment will be removed from the project site until repaired and spills will be cleaned up.

When occurring near residences, construction shall take place at times of the day so that the noise and light will least disturb residents.

The school system and affected residents will be notified at least 30 days prior to the start of work.

Temporary access will be allowed at all times for the duration of the project for emergency vehicles and residents.

Traffic control provisions will be made to accommodate any local special event or festivals.

If any Migratory Bird Treaty Act protected bird with an active nest is observed before or during construction, the USFWS should be contacted immediately, and measures should be taken to protect the nest.

To avoid unforeseen impacts, any archaeological or historical artifacts or remains discovered during construction shall be left intact and undisturbed, all work in the area shall stop immediately, and the Oglala Sioux Tribal Historic Preservation Office (THPO) and the FHWA TTP Environmental Coordinator shall be notified of the discovery pursuant to 36 CFR 800.13. Construction operation may resume upon notification from the THPO and FHWA.

Permits Required

- Any applicable Tribal, state, or local permits

Summary:
This clearance pertains only to the Scope of Work and Project description submitted for review. Any changes to the Scope of Work should be reviewed by FHWA and evaluated for additional environmental impacts. The environmental commitments and mitigations listed in the document are not subject to change without approval from FHWA.

With NEPA and other applicable environmental requirements completed, you are now approved to proceed with Final Design, any rights-of-way acquisition needed, Approval of Final PS&E, advertisement for construction, and construction once any rights-of-way (if needed) are acquired. You should maintain this documentation and any supporting project environmental documentation in your Official Project File for future reference during any Project or Process reviews.

If you have any questions or comments, please contact me.

Thank you.

David Cremer
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http://flh.fhwa.dot.gov/programs/ttp/



TTP Environmental Checklist/Categorical Exclusion

Tribe Name: Oglala Sioux Tribe	**Is Project on an approved TTIP?** Yes
Project Name/Number: CHSB Pavement Resiliency & Restoration, Ph 1 2311-00354	**NTTFI Route No. and Section:** 0002 (20, 25, 30, 35, 45) & 0041 (60, 65, 70)

SECTION 1: PROJECT DETAILS

A. Purpose and Need: Briefly describe what the transportation problems are that need to be addressed and why. Do not provide solutions to the problems in this section.

The purpose of the project is to improve and maintain usability of roads along or connected to the Crazy Horse Scenic Byway (CHSB).

Signage for the Crazy Horse Scenic Byway will occur on BIA 2, from BIA 41 to BIA 27, and BIA 41, from 2.4 miles south of BIA 2 to the north Reservation line, all within Oglala Lakota County in the Pine Ridge Reservation.

Asphalt Pavement Replacement - BIA 41, Sections 65 and 70 have deteriorated existing asphalt pavement with ruts, cracks, and potholes. Section 70's asphalt pavement is narrow and has graded shoulders. The existing asphalt pavement requires rehabilitation and replacement and widening to include 2' asphalt shoulders which will improve safety of the traveling public, maintain usability, and to keep pavement from further deterioration.

Asphalt Pavement Overlay - BIA 2, Section 25 has an existing double chip seal surface which easily develops potholes which are a safety risk to traveling public. The 12-mile section needs to have an asphalt pavement overlay, which will be a more resilient surface than double chip seal.

Crack and Chip Sealing - BIA 2, Section 20, 30, 35, and 45 require asphalt spot leveling, minor patch repairs, and crack and chip sealing. BIA 41, Section 60 requires crack sealing and chip sealing to maintain and preserve the existing asphalt pavement surface.

B. Project Description: Briefly describe project including location, limits, design elements, and construction activities. Describe how the proposed project will address the needs described above. Use Continuaton Sheet, if necessary. Attach maps, aerials, photos, etc. to help visualize the project.

Asphalt Pavement Replacement on BIA 41, Sections 65 and 70 will include blading 10-feet of topsoil from the existing road edge into a windrow, removing the existing asphalt by milling to be recycled and reused in the new asphalt pavement, salvaging the base course for reuse, recompacting the existing subgrade inplace, placing geotextile separator fabric, 4 to 6-inches salvaged base course topped with tri-axial geogrid, 4-inches of base course, and 3 to 4-inches asphalt concrete pavement. All replacement areas will be the same width except, BIA 41, Section 70 will be widened 4-feet to add a 2-foot shoulder each side. The existing subgrade is wider than the existing asphalt and will support the extra width without needing to regrade the road. The road alignment and profiles will not be changed. Rumble strips will be added, pavement striping, replacement of signage if needed, and topsoil replaced and seeded, fertilized, and mulched.

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Crack and Chip Sealing on BIA 2, Section 20, 30, 35, and 45 and BIA 41, Section 60 will include routing and sealing the existing cracks in asphalt surface, followed by chip seal, and pavement striping.

Guide signage for the Crazy Horse Scenic Byway will be added to BIA 2, from BIA 41 to BIA 27, and BIA 41, from 2.4 miles south of BIA 2 to the north Reservation line. See the attached Crazy Horse Scenic Byway Map.

C. Independent Utility and Logical Termini

■ The project complies with NEPA requirements related to connected actions and segmentation (i.e. the project must have independent utility, connect logical termini when applicable, be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made and not restrict further consideration of alternatives for other reasonably foreseeable transportation improvements). [23 CFR 771.111(f)]

SECTION 2: ENVIRONMENTAL RESOURCE EVALUATIONS

All applicable environmental requirements were evaluated for this Environmental Checklist and are identified below.

A. Right of Way

Will the project involve right of way acquisitions or easements? ☐ Yes ■ No

If yes, will a right of way action by the BIA be required? ☐ Yes ■ No

If yes, the BIA may have additional environmental requirements. Please contact the FHWA Environmental Specialist for further guidance.

B. Cultural Resources

■ Section 106 compliance is complete - select appropriate finding:

■ No Potential to Affect Historic Properties ☐ No Historic Properties Affected

☐ No Historic Properties Adversely Affected ☐ Adverse Effect

Has consultation with SHPO and/or THPO been completed? ☐ Yes ■ No

If yes, date(s) of concurrence _____, and attach the letter(s) to this document.

Provide further discussion as needed.

All work occurs on the top of existing roadway.

Are there other Tribes with ancestral ties to lands in or near the project area? ☐ Yes ■ No

If yes, list the Tribes and describe results of consultation efforts.

C. Wetlands

- Wetlands (Executive Order #11990)

Will construction activities take place in wetlands? ☐ Yes ■ No

If yes:

- What is the estimated permanent loss of wetlands, if any? _____ acres
- Are there any practical alternatives to the proposed construction in wetlands (i.e. can the wetlands be avoided while still meeting the purpose and need of the project)? ☐ Yes ☐ No
- Does the project include all practicable measures to minimize harm to the wetlands? ☐ Yes ☐ No

Provide further discussion as needed.

D. Floodplains

- Floodplains (Executive Order #11988)

  ☒ No Floodplain Encroachment ☐ No Significant Encroachment ☐ Significant Encroachment

  If in floodplain, are there practicable alternatives avoiding the floodplain? ☐ Yes ☐ No

  Provide further discussion as needed.

E. Biology

- Section 7 (Federal Endangered Species Act) Consultation Findings (Effect determination). Note: these webpages are helpful in identifying federally-listed species IPAC and NOAA Section 7 Mapper.

  ☒ No Effect

  ☐ May Affect, Not Likely to Adversely Affect. If applicable, FWS Concurrence Date: _____

  If applicable, NMFS Concurrence Date:_____

  ☐ May Affect, Likely to Adversely Affect. If so, FWS Biological Opinion Date: _____

  NMFS Biological Opinion Date: _____

  ☐ Programmatic Biological Opinion held by Partner Agency; File Number _____ Date 9-28-2023

  Provide further discussion as needed.

- Essential Fish Habitat (Magnuson-Stevens Act) Findings (Effect determination):

  ☒ No Effect ☐ No Adverse Effect ☐ Adverse Effect and consultation with NMFS

  Provide further discussion as needed.

- Migratory Bird Treaty Act
  - Will the project potentially impact migratory birds? ☐ Yes ☒ No
  - What actions will be taken to avoid migratory bird impacts, if any (e.g. vegetation clearing restricted to outside of migratory bird nesting periods, surveying for migratory bird nests prior to initiating construction, etc.)?

- Bald and Golden Eagle Protection Act
  - Will the project potentially impact eagles? ☐ Yes ☒ No
  - What actions will be taken to avoid eagle impacts, if any (Following the USFWS' National Bald Eagle Management Guidelines is recommended)?

F. Section 4(f) Transportation Act (23 CFR 774) and Section 6(f) Land and Water Conservation Act (36 CFR 59)

- Section 4(f) regulation was considered as a part of the review for this project and a determination was made:
  - ☒ Section 4(f) does not apply (*Project does not use a Section 4(f) property, or it meets one or more of the exceptions listed in* 23 CFR 774.13.*)*
  - ☐ Section 4(f) applies, select level of evaluation from below:
    - ☐ De Minimis
    - ☐ Programmatic Evaluation (types of Programmatic Evaluations):
      Select one if applicable _____
    - ☐ Individual: ☐ Legal Sufficiency Review complete ☐ HQ Coordinator Review Complete

- Section 6(f)—Does the project involve property purchased with Land and Water Conservation Funds?
  - ☒ No, Section 6(f) does not apply. No additional documentation required.
  - ☐ Yes ☐ Documentation of approval from National Park Service Director has been received for the conversion/and replacement of 6(f) property.

G. Farmland Protection Policy Act of 1981

Does prime or unique farmland, or land of statewide or local importance exist within the project area (check the Natural Resources Conservation Service (NRCS) link to search for prime or unique farmland in the project area; you also may need to contact the appropriate state/local soils agency to make this determination)?

☐ Yes ☒ No

If the project has the potential to convert important farmland to non-farm use, coordinate with your local NRCS office (a land evaluation and site assessment may be required). Attach relevant coordination documentation to this form.

H. Coastal Zone

Coastal Zone Management Act of 1972

☒ Not in Coastal Zone ☐ Coastal Permit Required

☐ Consistent with Federal, State, and Local Coastal Plans ☐ Federal Consistency Determination

Provide further discussion as needed.

I. Hazardous Waste and Materials

- Are hazardous materials or contamination exceeding regulatory thresholds (as set by U.S. EPA, Tribe, State County, etc.) present in the project area? ☐ Yes ☒ No
- If yes, is the nature and extent of the hazardous materials or contamination fully known? ☐ Yes ☐ No
  If no, briefly discuss the plan for securing information:

J. Wild & Scenic Rivers

- Are there Wild & Scenic River designations in the project area? Check the National Wild and Scenic Rivers System.
  ☐ Yes ■ No
- Describe any impacts. (Attach the full evaluation if applicable).

K. Ancillary Sites (Materials, Disposal, Staging, Etc.)

- Will the project plans require the use of specific ancillary sites (e.g. materials sources, disposal sites, staging areas, etc.), or will these sites be left to the contractor to select?
  ☐ Required by Plans ■ Selected by Contractor
- If required by project plans, have the ancillary sites been included in all assessments of environmental impacts and consultations with appropriate agencies? ☐ Yes ☐ No
  If no, please explain.

The contractor will be required to obtain permissions from landowners and copies sent to OSTDOT.

L. Air Quality

- Is the project in a "nonattainment" or "maintenance" area designated under the Clean Air Act (EPA Green Book)?
  ☐ Yes ■ No
  If yes, is the project consistent with air quality goals for the area? ☐ Yes ☐ No
- Even if the project is not in a "nonattainment" or "maintenance" area, how will general air quality concerns such as construction-related airborne dust be eliminated or reduced?

Water application during construction will be used to control dust.

M. Socioeconomics and Environmental Justice

- Will the project result in disproportionately high and adverse human health or environmental effects on minority populations and/or low-income populations (FHWA Environmental Justice page)? ☐ Yes ■ No
- Will construction activities substantially disrupt normal traffic patterns (including access to businesses, community facilities, and accessibility of emergency vehicles)? ☐ Yes ■ No

If yes to either, please explain how these impacts will be mitigated.

The pavement replacement, pavement restoration, and sealing will improve road conditions. Traffic is maintained via flaggers and pilot car. Two-way traffic is opened at night and on construction non-work days. Emergency vehicles have access at all times..

N. Noise

- Will the project significantly change the horizontal or vertical alignment of a road? ☐ Yes ■ No
- Will the project increase the number of through-traffic lanes on a road? ☐ Yes ■ No

If yes to either of the above questions, are there sensitive noise receptors (see FHWA guidance) located near the project? ☐ Yes ☐ No If yes, please explain how increased noise, if any, will be abated:

O. Other Relevant Environmental Considerations/Approvals

- Are there other relevant environmental considerations or approvals needed for this project? ☐ Yes ☒ No
  If yes, please describe.

P. Permits

1. Section 404 of the Clean Water Act
   Will there be impacts to Waters of the US: ☐ Yes ☒ No
   If yes, approval anticipated:
   ☐ Nationwide Permit ☐ Individual Permit

2. Section 401 of the Clean Water Act approval anticipated:
   ☐ Certification ☐ Waiver ☒ N/A

3. Section 402 of the Clean Water Act
   Will the project involve 1 acre of ground disturbance or more? ☐ Yes ☒ No
   If yes, a National Pollutant Elimination System (NPDES) permit is required as well as the development of a Storm Water Pollution Prevention Plan (SWPPP) to be included in the final design.

4. Sections 9 and 10 of the Rivers and Harbors Improvement Act
   Will the project involve construction of a structure over a navigable waterway? ☐ Yes ☒ No
   If yes, a Bridge Permit from the U.S. Coast Guard will be required.

5. List below other permits required for the project.

None

SECTION 3: Environmental Commitments

List all environmental commitments for the project in this section, or attach additional documentation as necessary. The list should include any mitigations, permit conditions, or other commitments that were required or agreed to during environmental analyses, coordination, and consultation with relevant agencies.

Construction crews will limit unnecessary idle times on diesel-powered engines, implement dust control measures during land clearing and other related activities, and cover loads during transport.

Construction equipment will be inspected daily for leaks. Leaking equipment will be removed from the project site until repaired and spills will be cleaned up.

When occurring near residences, construction shall take place at times of the day so that the noise and light will least disturb residents.

The school system and affected residents will be notified at least 30 days prior to the start of work.

Temporary access will be allowed at all times for the duration of the project for emergency vehicles and residents.

Traffic control provisions will be made to accommodate any local special event or festivals.

If any Migratory Bird Treaty Act protected bird with an active nest is observed before or during construction, the USFWS should be contacted immediately, and measures should be taken to protect the nest.

To avoid unforeseen impacts, any archaeological or historical artifacts or remains discovered during construction shall be left intact and undisturbed, all work in the area shall stop immediately, and the Oglala Sioux Tribal Historic Preservation Office (THPO) and the FHWA TTP Environmental Coordinator shall be notified of the discovery pursuant to 36 CFR 800.13. Construction operation may resume upon notification from the THPO and FHWA.

SECTION 4: TYPE OF DOCUMENTATION: Use the information in this section to help determine the applicable documentation and clearance type for the project (CE, EA or EIS). Please note that this is used for planning purposes only. The final decision for level of documentation is made by FHWA after consultation and coordination.

A. Categorical Exclusions Defined (23 CFR 771.117[a]).

FHWA regulation 23 CFR 771.117(a) defines categorical exclusions as actions which:

- do not induced significant impacts to planned growth or land use for the area;
- do not require the relocation of significant numbers of people;
- do not have a significant impact on any natural, cultural, recreational, historic or other resources;
- do not involve significant air, noise, or water quality impacts;
- do not have significant impacts on travel patterns; or
- do not otherwise, either individually or cumulatively, have any significant environmental impacts.

☒ Checking this box certifies that project meets the above definition for a Categorical Exclusion (if not, an EA or EIS will be required).

B. Unusual Circumstances (23 CFR 771.117[b]).

FHWA regulation 23 CFR 771.117(b) provides that any action which normally would be classified as a CE but could involve *unusual circumstances* requires the Department to conduct appropriate environmental studies to determine if the CE classification is proper. Unusual circumstances include actions that involve:

- Significant environmental impacts;
- Substantial controversy on environmental grounds;
- Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
- Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

All of the above unusual circumstances have been considered in conjunction with this project. (Please select one.)

☒ Checking this box certifies that **none of the above conditions apply** and that the project qualifies for a Categorical Exclusion.

☐ Checking this box certifies that unusual circumstances **are involved**. However, the appropriate studies/analysis have been completed, and it has been determined that the CE classification is still appropriate.

C. Check applicable categorical exclusions from the drop-down menu(s) below. For full text of CEs, click here.

Select a Categorical Exclusion:

(c)(22) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way.

Select additional Categorical Exclusion, if needed:

(c)(26) Modernize a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders or auxiliary lanes.

D. If categorical exclusions (c)(26), (c)(27), or (c)(28) were selected above, do any of the following circumstances apply?

☐ **Yes** ☒ **No** ☐ **N/A**

(1) An acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements;
(2) An action that needs a bridge permit from the U.S. Coast Guard, or an action that does not meet the terms and conditions of a U.S. Army Corps of Engineers nationwide or general permit under section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899;
(3) A finding of "adverse effect" to historic properties under the National Historic Preservation Act, the use of a resource protected under 23 U.S.C. 138 or 49 U.S.C. 303 (section 4(f)) except for actions resulting in *de minimis* impacts, or a finding of "may affect, likely to adversely affect" threatened or endangered species or critical habitat under the Endangered Species Act;
(4) Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions;
(5) Changes in access control;
(6) A floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths); or construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers.

SECTION 5: Certification

This approval pertains only to the scope of work and project described above. Any changes to the scope of work should be evaluated for additional environmental impacts and reviewed by FHWA. The environmental commitments listed in the document are not subject to change without approval from FHWA.

Based on the information obtained during the environmental review process and included in this checklist, the project is determined to be a Categorical Exclusion pursuant to the National Environmental Policy Act and is in compliance with all other identified environmental laws, regulations, and Executive Orders.

Concurrence: By signing, you acknowledge you have authority to sign this document on behalf of the Tribe/Consortium, agree with the descriptions and assessments described within, and will insure the identified environmental commitments will be fulfilled and appropriate permits obtained.

Tribe/Consortium representative Name:	David Kelly
Title:	Director, Oglala Sioux Tribe Department of Transportation
Signature:	David A. Kelly
Date:	9-28-2023

Approval:

FHWA representative Name:	David E. Cremer
Title:	TTP Environmental Protection Specialist
Signature:	DAVID E CREMER Digitally signed by DAVID E CREMER Date: 2023.09.29 14:49:39 -05'00'
Date:	9/29/23

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