# FEDERAL HIGHWAY ADMINISTRATION

## FINDING OF NO SIGNIFICANT IMPACT
## AND
## SECTION 4(f) *DE MINIMIS* IMPACT FINDING
## FOR
## TIER 2, SEGMENT 1
## COUNCIL BLUFFS INTERSTATE SYSTEM IMPROVEMENTS PROJECT
## POTTAWATTAMIE COUNTY, IOWA AND DOUGLAS COUNTY, NEBRASKA
## PROJECT NUMBER: IM-080-1(318)0—13-78

The Federal Highway Administration (FHWA) has determined that this project will not have any significant impact on the human and natural environment. This Finding of No Significant Impact is based on the attached Environmental Assessment (EA), which has been independently evaluated by FHWA and determined to adequately and accurately discuss the purpose and need for the project, its environmental impacts, and appropriate mitigation measures. It provides sufficient evidence and analysis for determining that an Environmental Impact Statement is not required. The FHWA takes full responsibility for the accuracy, scope, and content of the attached EA.

6/14/07
Date

Michael LaPietra
For Division Administrator
Federal Highway Administration

# FEDERAL HIGHWAY ADMINISTRATION

## Finding of No Significant Impact for Segment 1 of the Council Bluffs Interstate System Improvements Project In Council Bluffs, Iowa, Pottawattamie County and Omaha, Nebraska, Douglas County

This Finding of No Significant Impact (FONSI) documents compliance with the National Environmental Policy Act of 1969 (NEPA) and all other applicable environmental laws, Executive Orders, and related requirements.

### Background

The Federal Highway Administration (FHWA), Iowa Department of Transportation (Iowa DOT), and Nebraska Department of Roads (NDOR) are evaluating potential alternatives for proposed improvements to the Council Bluffs Interstate System (CBIS) in the Omaha/Council Bluffs metropolitan area. Overall, the proposed improvements to the CBIS (CBIS Improvements Project) include five segments encompassing approximately 18 mainline miles of interstate and 14 interchanges along Interstate 80 (I-80), Interstate 29 (I-29), and Interstate 480 (I-480).

In 2001, FHWA, Iowa DOT, and NDOR initiated the CBIS Improvements Project, involving a study of long-term, broad-based transportation improvements along I-80, I-29, and I-480. The agencies decided to conduct the environmental study process in two stages, using a tiered approach.[1]

The Tier 1 Environmental Impact Statement (EIS), issued in September 2005, reported the results of the evaluation completed for the CBIS Improvements Project. Tier 1 consisted of examining the area's transportation needs, developing alternatives to satisfy those needs, and evaluating the alternatives' potential impacts on the human and natural environment. In the Tier 1 EIS, the range of alternatives developed and analyzed for the CBIS Improvements Project included the Construction Alternative, consisting of reconstruction of all or part of the CBIS. The Tier 1 EIS identified the Construction Alternative as the preferred alternative based on the determination that only this alternative would satisfy the current and projected transportation needs of the CBIS, as defined in the purpose and need section of the Tier 1 EIS.

The Tier 1 evaluation determined that an additional I-80 bridge would be required to handle the traffic projected to use I-80. Based on the alternative analysis completed in Tier 1, the new I-80 bridge will be designed to be located immediately north of and parallel to the

[1] "'Tiering' refers to the coverage of general matters in broader environmental impact statements . . . with subsequent narrower statements or environmental analyses . . . incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared" (40 CFR 1508.28).

existing bridge. The U.S. Coast Guard (USCG) required that the piers of the new bridge align with those of the existing bridge in the Missouri River floodplain. The subsequent Record of Decision (ROD), signed on October 26, 2005, confirmed the preferred alternative, and the Construction Alternative became the selected alternative for Tier 1 of the CBIS Improvements Project.

Tier 2 consists of evaluating individual segments within the CBIS Improvements Project. FHWA, Iowa DOT, and NDOR recommended five segments of independent utility[2] for evaluation as individual projects during the Tier 2 phase. Segment 1 is located primarily in Nebraska along I-80, from just east of the I-80/I-480/U.S. Highway 75 (U.S. 75) system interchange in Omaha to a point in Iowa just east of the I-80 Missouri River bridge. The Tier 1 evaluation determined that the Tier 2 evaluation would address detailed impacts associated with construction of the bridge and the rest of Segment 1.

## Description of Proposed Action

The proposed improvements for Segment 1 include constructing a new five-lane westbound I-80 Missouri River bridge north of the existing bridge, widening I-80 to provide five westbound lanes and four eastbound lanes from 24th Street in Omaha to the two I-80 Missouri River bridges, and reconstructing the bridge carrying Riverview Boulevard in Omaha over I-80. In addition, an interim modification of eastbound and westbound I-80 would occur in Council Bluffs to tie the Segment 1 improvements to the existing I-80/I-29 West System interchange. A future project for Segment 2 in Council Bluffs would reconstruct the interchange and support five eastbound and five westbound lanes connecting to the eastbound and westbound I-80 Missouri River bridges, respectively.

## Issues Investigated and Decisions Made in Tier 2

The existing interstate corridor through Segment 1 is constrained by physical as well as natural features. A number of residences and boundaries of parks and recreational areas are located close to the existing right-of-way (ROW). Consequently, the preliminary design focused on trying to remain within the existing ROW to the maximum extent possible. The use of retaining walls and other design features was considered for expanding capacity while minimizing the need for new ROW. The design also had to account for existing overpasses and underpasses in Nebraska, and a determination was needed as to whether those structures would also need to be rebuilt. The Tier 1 evaluation established that an additional I-80 bridge would be located immediately north and parallel to the existing bridge, and Tier 2 determined the design of the five-lane bridge structure.

[2] FHWA regulations outline general principles to be used when framing a highway project. One of the principles is independent utility (23 CFR 771.111(f)), meaning that a project must be usable and must be a reasonable expenditure even if no additional transportation improvements are made in the area.

Other key design issues included the following:

- Potential Section 4(f) properties[3] – The Segment 1 Project required the unavoidable acquisition of narrow strips of land of two properties (Deer Hollow Park and Omaha's Henry Doorly Zoo (Zoo)), but the design of the Segment 1 Project accounted for widening of I-80 without jeopardizing the function of these areas. Acquisition of property from the Western Historic Trails Center (WHTC) for the Segment 1 Project was avoided by a design modification.
- Kenefick Park – This private park, located on private land of Lauritzen Gardens in Omaha, was designed and constructed in recent years on a hill north of I-80 and hosts two Union Pacific Railroad (UPRR) steam locomotives. The design of the Segment 1 Project accounted for widening of I-80 without jeopardizing the integrity of the structure supporting the locomotives.
- Buildings for Warren Industries, Inc. and the I-80 Pump Station in Council Bluffs – Retaining walls were designed to minimize impacts on these buildings, located just north of the existing I-80 Missouri River bridge and roadway.
- Riverview Boulevard overpass – During Tier 2, three variations were considered for rebuilding the Riverview Boulevard overpass across I-80 in Omaha. To maintain service and minimize impacts on Zoo property, the variation selected was to construct a new overpass in phases at a location similar to that of the existing overpass.

East of the Missouri River, the Build Alternative for Segment 1 also includes an interim transition to tie the Segment 1 improvements to the existing I-80/I-29 West System interchange. This interim transition is required until the improvements in Segment 2 are implemented. To address constraints of the existing I-80/I-29 West System interchange, which can handle only two eastbound lanes, the interim modification would provide three eastbound I-80 lanes east of the 13th Street interchange in Nebraska and across the I-80 Missouri River bridge to Iowa, transitioning to two lanes at the West System interchange. The median of the existing I-80 bridge would be removed so that the bridge could support up to five eastbound lanes, but only three lanes would be open to traffic until the Segment 2 improvements have been completed. Upon completion of the Segment 2 improvements, all five eastbound lanes across the bridge would be opened to traffic.

Both the No-Build Alternative and the Build Alternative were carried forward for detailed study and analysis. The No-Build Alternative served as a baseline for comparing the impacts of the Build Alternative. The CBIS Improvements Project applicants, Iowa DOT and NDOR, identified the Build Alternative as the preferred alternative based on its ability to

[3] The environmental regulations for applying Section 4(f) to transportation project development can be found in 23 CFR 771.135. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—which authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period of 2005 to 2009—replaces the term "Section 4(f)" with "Section 303" (referring to 49 USC 303, the current section of the Federal code dealing with "Section 4(f)" issues). However, this EA retains the term "Section 4(f)" in keeping with current guidance from FHWA and the state transportation departments.

meet the project purpose and need as well as input from the public and resource agencies. Based on public comment and agency review input, the agencies have selected the Build Alternative for final design and construction.

### Notice of Environmental Assessment Availability

Tier 2 NEPA requirements for Segment 1 have been addressed in an Environmental Assessment (EA). The EA was prepared and copies were provided to 28 selected Federal and state resource/regulatory agencies for their review and comment. In addition, notice of the availability of the EA was forwarded to state and areawide clearinghouses on November 3, 2006. A notice of the public availability of the EA and a public hearing for the Segment 1 Project was published in the *Omaha World Herald* and *Council Bluffs Daily Nonpareil* on November 4 and 21, 2006, and in *El Perico* (a Spanish-language newspaper published weekly for the Omaha and Council Bluffs areas) on November 16 and 30, 2006.

### Review and Comment Period

Following publication of the EA, Federal and state resource/regulatory agencies and the public were given an opportunity to comment on the proposed action. Resource/regulatory agencies were invited to submit their comments in letters addressed to Iowa DOT. Agency letters are provided in Attachment A and are summarized below in the Agency Comments section. The public was invited to attend a public hearing for the Segment 1 Project, held at Bancroft Elementary School in Omaha on December 6, 2006. A summary of the hearing is provided below in the Public Hearing section. A review and comment period was established for receipt of comments on the proposed action, with an expiration date of December 22, 2006.

### Agency Comments

Agency comment letters received during the review and comment period are included in Attachment A (response letters issued by Iowa DOT are also included in the attachment) and are summarized as follows (with responses in italics):

- U.S. Department of Agriculture, Natural Resources Conservation Service, November 13, 2006 – "Project as described is cleared of Farmland Protection Policy Act (FPPA) concerns."

- U.S. Army Corps of Engineers (USACE), November 27, 2006 – Construction should be located "outside the floodway" of the Missouri River. If construction occurs in a floodplain, "the design should ensure that the 100-year water surface elevation … is not increased relative to pre-project floodway conditions." "[I]t is recommended that a Conditional Letter of Map Revision be prepared and submitted to the Federal Emergency Management Agency (Region VII) to review and approve that the proposed construction is in compliance with the National Flood Insurance Program. Your plans should be coordinated with the U.S. Environmental Protection Agency, … the U.S. Fish and Wildlife Service, the Nebraska Game and Parks Commission, …

the Iowa Department of Natural Resources … [, and] the Nebraska and Iowa State Historic Preservation Offices…. If construction activities involve any work in waters of the United States, a Section 404 permit may be required." *See Attachment A for response letter submitted to USACE.*

- USCG, November 28, 2006 – "[W]e are concerned with wetland impact[s] and mitigation within the abutments of the proposed bridge. We will require Water Quality Certification from both States [with the bridge permit application]." Other comments requested referenced memoranda when the bridge permit application is submitted. *See Attachment A for response letter submitted to USCG.*

- Nebraska State Historical Society, December 12, 2006 – Requirements under "Section 106 of the National Historic Preservation Act and implementing regulations [have] been fulfilled" for the portion of the Segment 1 Project in Nebraska.

- Metropolitan Area Planning Agency (MAPA), December 14, 2006 – "MAPA finds the project to be consistent with the area-wide planning and forwards favorable comment to the applicant."

- Federal Transit Administration (FTA), December 19, 2006 – "FTA requests that the Metro Area Transit (MAT) agency, which provides transit service within these two counties, be involved in all planning activities for the CBIS Segment 1 project." *MAT was provided a copy of the Segment 1 EA and will be invited to participate in planning activities for the Segment 1 Project.*

- Nebraska Department of Environmental Quality, December 19, 2006 – "The Nebraska Department of Environmental Quality (NDEQ) has reviewed the… project. We have no comments [on activities] that would fall under the jurisdiction of our programs."

- Iowa Department of Natural Resources (Iowa DNR), January 12, 2007 – "A DNR floodplain permit will be needed [if a second bridge will be built at the proposed site.] There are no registered underground storage tank/leaking underground storage tank projects in the vicinity of this project." *Iowa DOT and NDOR are aware of the requirement for a floodplain development permit for work on both sides of the Missouri River and have submitted permit applications to Iowa DNR and the City of Omaha.*

- U.S. Department of Interior (USDOI), January 24, 2007 – "The Department has reviewed the Environmental Assessment and *de minimis* Section 4(f) finding" and agrees that the "two Section 4(f) properties identified as [minimally] affected by this project are Deer Hollow Park and the Henry Doorly Zoo…." However, "[t]here is [not sufficient documentation] that indicates that [coordination occurred with] the owner/manager responsible for the Western [Historic] Trails Center (WHTC) … [to determine the] significance for the small portion of property to be taken in this project." "The Department agrees that the use of the *de minimis* Section 4(f) finding

appears appropriate for the consideration of the impacts to the WHTC and to the other two properties." The Department notes that they "concur with the *de minimis* finding as long as agreement is reached" with the owner/manager of the properties. *See Attachment A for response letter submitted to USDOI.*

- Federal Aviation Administration (FAA), January 31, 2007 – FAA "has no comments regarding environmental matters." "However, …you will need to consider whether or not the project will require formal notice and review from an airspace standpoint." "…if any part of the project exceeds notification criteria under Federal Aviation Regulation (FAR) Part 77, notice should be filed at least 30 days prior to the proposed construction date." *The distance from the construction site to the nearest airport (Eppley Airfield in Omaha) is approximately 21,700 feet. The site is not along the departure or approach paths and is at an angle of approximately 10 degrees from the closest runway (18/36). The new bridge would be installed adjacent to the existing bridge at the same height (approximately 80 feet) above the Missouri River. The total height of the cranes used is likely to be less than 200 feet, and any lighting or signs placed on the bridge would also be less than 200 feet high. Bluffs are adjacent to the bridge on the Nebraska approach. Consequently, it is unlikely that FAA notification will be required. However, final design and construction plans are underway and will provide the details necessary to determine if a formal notice and review is required. If required, notification will be provided in accordance with FAR Part 77, Objects Affecting Navigable Airspace.*

### Public Hearing

A public hearing was held on December 6, 2006, at Bancroft Elementary School in Omaha from 7:30 to 8:00 p.m. The hearing followed an informal open house discussion from 6:00 to 7:30 p.m. The public hearing was attended by 119 people, including an Omaha councilman and personnel representing the City of Omaha, the City of Council Bluffs, and MAPA. During the hearing, the public had the opportunity to comment verbally and in writing. After the hearing, the public was invited to send written comments to NDOR. Verbal comments received at the public hearing are summarized as follows (with NDOR responses noted in italics):

- The consensus was in favor of the Segment 1 Project, primarily because current traffic delays are expected to get worse with the current interstate configuration.
- The majority of those who provided verbal comments were Nebraska residents who were concerned with current noise and vibration levels and the projected increase in noise levels as a result of expanding the interstate. They were concerned that no new noise walls were planned as part of the Segment 1 Project. *NDOR had analyzed existing and future noise levels and documented many residences currently experiencing noise levels above noise abatement criteria. Future traffic noise levels would likely increase by approximately 2 to 3 decibels. However, the evaluation of the effectiveness and cost of noise walls determined that they were not feasible and reasonable at all locations evaluated.*

- One speaker from Omaha recommended that there should be a prohibition on the use of Jake Brakes® along this portion of the interstate. *Because the interstate is within the city limits of Omaha and Council Bluffs, NDOR has no jurisdiction to ban the use of these brakes. A city ordinance regulating the use of these brakes would need to be enforced by the City of Omaha Police Department.*
- An Omaha councilman requested more information on the timing of construction for this and other major NDOR projects and indicated to the public that eminent domain acquisition of ROW would be done only as a last resort. *NDOR provided preliminary timeframes for construction at the hearing and reiterated that a negotiation with property owners for fair market value is the first step in the acquisition process.*
- Another speaker indicated that air pollution was bad at times because of idling trucks from traffic jams. *The interstate expansion is planned to decrease traffic congestion and idling, a major source of emissions.*
- One speaker noted that there are lenses of groundwater in layers beneath their house, and this feature needs to be considered when designing and constructing the interstate. *The potential presence of groundwater is being addressed in the design of the roadway and bridge.* The speaker owns properties at several locations near the interstate and indicated that the windows rattle from the noise, and vibrations have caused cracks in a garage. *Air-propagated noise can cause windows to rattle and houses to shake, depending on the loudness of the noise and the proximity to the source. Ground settling and other factors independent of road construction and traffic noise can also cause cracking of foundations and other structural impacts. The District 2 Construction Engineer will be available upon request prior to the start of construction to record the condition of foundations and walls at residences near the interstate. This documentation will be used to determine any damages caused by interstate construction.*
- A resident in the area southeast of Riverview Boulevard and I-80 had a safety concern based on past incidents of accidents when vehicles left the interstate ROW, proceeded through a topographically low area, and entered the neighborhood. The resident requested consideration of a wall to prevent this from happening in the future with a widened interstate. *The Segment 1 Project would involve the installation of a retaining wall south of I-80 extending from Riverview Boulevard to Funston Avenue. The retaining wall should decrease the potential for accidents entering the neighborhood.*

Nine written comments were received at and following the public hearing. Many of the written comments were the same as the verbal comments noted above. New comments are summarized as follows:

- Property owners in Omaha near the interstate indicated that current noise impacts and the prospect of additional traffic and noise along I-80 make it difficult for homeowners to get fair market prices when selling or renting their homes. Some owners also noted that noise walls are more prevalent in western Omaha than east of I-480. *The noise model indicated that many residences in the Nebraska portion of*

*Segment 1 near I-80 currently experience noise levels in excess of noise abatement criteria but would incur an increase of only approximately 2 to 3 decibels between today and 2030. However, traffic noise is an unavoidable impact that cannot be reasonably mitigated through the construction of noise walls in this area because of the rolling topography and close proximity to the interstate. Fair market value considers the location of property as well as environmental conditions. For example, the same home would cost less along an arterial street compared to a cul de sac. Noise walls are more common in western Omaha because residences are farther away from the interstate and the terrain is flatter.*

- An Omaha resident noted that the Veterans Memorial Bridge (also known as the South Omaha Bridge) project is scheduled to begin in 2007 and the I-80 Missouri River bridge associated with the CBIS Improvements Project is scheduled for construction beginning in 2008. Concern was expressed for vehicles accessing Omaha's Henry Doorly Zoo and Rosenblatt Stadium for the College World Series and Omaha Royals games. Another resident noted that the two projects should be planned so as to not impact neighborhoods and main roads for long periods of time. *NDOR is coordinating on both projects to minimize traffic conflicts. There will be approximately 1 year when the Veterans Memorial Bridge will be closed to traffic. Most of the traffic across the Missouri River in this area is expected to travel on the I-80 Missouri River bridge. Based on traffic data, NDOR has determined that diversion of traffic to I-80 would not cause a significant increase in I-80 volumes. Two lanes of traffic would be maintained on I-80 during the Segment 1 Project. The only time that the I-80 Missouri River bridge would be closed to traffic as part of planned construction activities is when girders from the Riverview Boulevard bridge would be removed and girders for the new bridge installed during four night-time closures. Consequently, planned detours through neighborhoods would be only for a limited time frame. During construction of the Segment 1 Project, NDOR would coordinate with the City to maintain efficient traffic flow to and from Omaha's Henry Doorly Zoo and Rosenblatt Stadium.*

- Three Omaha homeowners near the interstate noted structural problems purported to be caused by vibration attributed to the interstate and that the problems would be worsened by expanding the interstate closer to their property. One of the owners requested a survey of his or her property and compensation for property damage caused by construction of the 10th Street Bridge. Two of the property owners are on the southeast corner of South 9th Street north of I-80. *The two properties closest to the interstate on South 9th Street are planned to be acquired at fair market value, and the homeowners would be relocated according to the Uniform Act as described in detail in Section 3.2.4 of the EA. If a negotiated price cannot be agreed upon, the properties would not be acquired through condemnation.*

- An Omaha resident is concerned that the planned Riverview Boulevard bridge may be too narrow and could present a hazard to buses, fire trucks, or ambulances because of the narrowness of the bridge and the potential to fall off the bridge. *The new bridge would have the same width (30 feet) as the existing bridge and would accommodate emergency vehicles and buses. Falling hazards would be reduced because the*

*existing 30-inch-high tubular protective barriers would be replaced with 42-inch-high concrete bridge rails.*

- One property owner with rental property adjacent to the interstate in Omaha provided some property ownership corrections to the data presented at the hearing. The owner indicated concern with moving a road closer to his or her house that is adjacent to the entrance to the undeveloped portion of Deer Hollow Park south of I-80. The owner is also concerned that the field behind the house is considered park land, but accidents on I-80 sometimes cause vehicles to leave the interstate ROW and fall into the park; the owner noted that the traffic noise and accident potential to the park should be minimized with safety and sound barriers. *The access road between the house and I-80 is currently not planned to be relocated. Although the land west of the property was identified as a component of Deer Hollow Park, it is a former remnant of the park divided from the current improved park land north of I-80. The Omaha Parks, Recreation, and Public Property Department maintains the property, but currently has no plans to develop the property for park or recreational activities, thus minimizing the potential for noise or accidents in park land. The proposed roadway design incorporates flatter side slopes to better allow errant drivers to re-correct their path. Retaining walls are proposed around the 16th Street bridge to eliminate ROW acquisition in this area and would provide more protection to the houses from errant vehicles.*

- An Omaha resident indicated a concern with traffic routing along Vinton Street and recommended Martha Street as an alternative because it is wider and has ready access to an interstate ramp on Martha Street along I-480. *Alternative routes are being determined to improve traffic flow and mitigate the travel of large trucks through neighborhood streets. In addition, traffic control along the detour routes is also being considered.* Ground stability was noted as a concern for the resident located near the top of a hill by the Missouri River; installation of the three tier-walls planned needs to be done to prevent ground instability that can cause structural damage to homes. *NDOR's design and plans for emplacement of retaining walls has accounted for the ground stability problems in the area.* The resident noted another concern that the proposed wildflower ground cover would cause weeds and require spraying by adjacent landowners. The property owner recommended that grass or sod be placed on the top tier. *Sod can be used in areas directly adjacent to residential lawns.* Bancroft Elementary School traffic is bad and could become worse because of increased traffic in the area. *There would be only a marginal difference in the increase of traffic caused by additional lanes on 1-80 because the traffic lights on 13th Street would meter the traffic that can reach the 10th Street and Riverview Boulevard area at one time. The pedestrian walkway across the bridge would be constructed on the west side of the bridge to improve pedestrian access (and decrease traffic delays) to and from Bancroft Elementary School.*

- An Omaha resident noted concern that even if noise barriers are not constructed, additional landscaping should be done with trees to improve the scenery and potentially reduce noise levels. *NDOR is in the process of determining what type of landscaping would enhance this gateway location.*

## New Information and Clarifications

Since publication of the EA and the public hearing, there have been some changes in the design based on agency and public comments. In addition, statements in the EA have been clarified based on comments received. These changes and clarifications are discussed below:

- Figures 2-2A and 2-2B have been revised to show the updated boundary of the preliminary impact area. The area of new ROW needed has decreased from 7.97 to 5.61 acres, with boundary reductions primarily to avoid the former Riverview Meadows Landfill northeast of the Riverview Boulevard bridge, to minimize impacts on Omaha's Henry Doorly Zoo property, and to avoid acquisition of WHTC property. Close-up views of Omaha's Henry Doorly Zoo and the Riverview Boulevard bridge (see Figure 3-7) and the WHTC (see Figure 3-8) are also included in this FONSI.

- Figure 2-2C was developed to show that five eastbound lanes would eventually be opened on the existing I-80 bridge. All eastbound lanes would be connected to the West System interchange during Segment 2 construction.

- Comments concerning traffic noise and stability concerns received during and subsequent to the public hearing have resulted in increasing the number of potential residential relocations in Nebraska from three (discussed in Section 3.2.3 of the EA) to four. The two residences on the southeast corner of South 9$^{th}$ Street north of I-80 will be provided a fair market offer for acquisition and relocation. If an agreement cannot be reached with the owners, the properties would not be acquired through condemnation. Two residences south of I-80 on South 19$^{th}$ Street Circle are planned to be acquired. The residence adjacent to the interstate would be acquired through negotiation or condemnation, but the other residence on South 19$^{th}$ Street Circle would be either acquired through negotiation or protected with a retaining wall. Revised Figure 3-1 shows the potential relocations.

- At the time of EA publication, a wetland delineation had been performed for wetlands in Nebraska beneath the existing and future I-80 Missouri River bridges, but the delineation report was being prepared and needed to be reviewed by NDOR before the results could be publicly released. The report was completed in January 2007 (HDR, January 2007), and the delineated boundary included 2.58 wetland acres instead of the estimated 2.34 acres reported in the EA (discussed in Section 3.3.1). Design of the new I-80 Missouri River bridge, including pier dimensions and locations, has continued subsequent to issuance of the EA. The potential permanent impact area for wetlands has been determined to be only 0.06 acre (HDR, February 23, 2007), which is much smaller than the area of delineated wetlands.

- In the discussion of Section 4(f) and Section 6(f) resources in the EA (see Section 3.8, page 3-26), the text noted that "The preliminary impact area is approximately 10 feet north of a nature trail (the closest recreational resource) in the WHTC." Although Figure 3-8 indicated that the nature trail near the potential future ROW was unmarked, the Section 3.8 text should also have noted that the trail was not marked nor is it defined as a trail in the latest version of the WHTC plan. Because the WHTC

is considered to be a multiple-use Section 4(f) property, only designated recreational resources are considered to be protected by Section 4(f). Nature trails southwest of the WHTC museum/center are considered to be Section 4(f) resources because they are marked and designated as trails in the WHTC plan.

Based on comments from USDOI, additional design review determined that no WHTC land would need to be acquired for the Segment 1 Project. Consequently, the boundary of the preliminary impact area has been changed to avoid the WHTC, as shown in revised Figure 3-8.

- NDOR has modified design of Riverview Boulevard to avoid disturbing the ground of residential property northeast of Riverview Boulevard and I-80. Consequently, there would be no potential impacts on the former Riverview Meadows Landfill, as previously identified in Section 3.11.3 of the EA. Revised Figure 3-7 shows the modified boundary of the preliminary impact area outside of residential property.

- In addition to the permits and approvals listed in Section 3.12 of the EA as being required for the Segment 1 Project, a permit granted by USACE under Section 10 of the Rivers and Harbors Act of 1899 will be required for the excavation/dredging or deposition of material in the Missouri River or any obstruction or alteration in a navigable water.

- Given that minority, racial, and low-income residents live near the Segment 1 Project (as determined through mapping of census data during the Tier 1 EIS), potential Environmental Justice impacts (as defined by Executive Order 12898 [59 Federal Register 7629]) were considered in the Tier 2 Segment 1 EA. Accordingly, a special effort was made to involve Hispanics by announcing the public hearing in a Spanish-language newspaper and providing a Spanish-language interpreter at the hearing.

  Environmental Justice impacts are typically associated with relocations, noise impacts, and air quality impacts that are determined to be disproportionately high and adverse to minorities, low-income, and other protected populations. The Segment 1 Project would involve widening on either side of the interstate to minimize property acquisition of all property owners, irrespective of Environmental Justice status. Noise levels would increase slightly on both sides of the interstate. Although noise walls in Segment 1 within Nebraska were determined to not be feasible and reasonable based on the approach defined in Appendix D of the EA, the methodology does not consider property value in the calculations. Thus, the findings are based independent of income-level or minority status. Air quality was also evaluated in the Segment 1 EA and was determined to be in compliance with air quality standards. The Segment 1 Project would lessen vehicle idling (a major source of air emissions) on the interstate through improved level of service for vehicular traffic. Consequently, the Segment 1 Project was determined to not have disproportionately high and adverse impacts on potential Environmental Justice populations.

## Basis for Finding of No Significant Impact

The Tier 1 EIS identified resources requiring additional analysis in Tier 2, and the list of resources evaluated in detail in the Tier 2 Segment 1 EA was expanded as warranted. Potential impacts on other resources were evaluated using a streamlining process, as recorded in Appendix A of the EA. The following human and natural environmental resources were evaluated in detail in the EA for effects they may incur as a result of the Segment 1 Project:

- Land Use
- Acquisitions and Displacements/Relocations
- Wetlands and Other Waters of the U.S.
- Floodplains
- Water Quality
- Threatened or Endangered Species
- Cultural Resources
- Section 4(f) and Section 6(f) Resources
- Noise
- Air Quality
- Regulated Materials

The EA documented the absence of significant impacts associated with the implementation of the Build Alternative. Therefore, the Segment 1 Project would not have a significant impact on the human or natural environment.

The Segment 1 improvements would encroach on two Section 4(f) properties in Omaha: Deer Hollow Park and Omaha's Henry Doorly Zoo. After consideration of impacts on these properties, FHWA proposed a *de minimis* impact finding (included as Appendix C of the EA). The only comment on the *de minimis* impact finding received during the comment period or the public hearing was from USDOI, which concurred with the finding on the condition that minimization and mitigation of impacts referenced in the finding be implemented in coordination with the managers of the properties. Consequently, representatives from the Omaha Parks, Recreation, and Public Property Department and Omaha's Henry Doorly Zoo signed correspondence noting their concurrence with the *de minimis* impact finding. The signed letters are included in Attachment B.

## Special Conditions for Location Approval

Several conditions, noted below, were identified for approval and will be implemented during the design process prior to construction:

- The Segment 1 Project lies inside the Federal Emergency Management Agency (FEMA)-designated floodway and 100-year floodplain of the Missouri River;

therefore, an Iowa DNR Sovereign Lands Construction Permit, an Iowa DNR Floodplain Development Permit, and a City of Omaha Floodplain Development Permit are required. Acquisition of the Sovereign Lands Construction Permit and the floodplain permit from Iowa DNR is underway, and the permit from the City of Omaha has been received.

- A National Pollutant Discharge Elimination System (NPDES) General Stormwater Discharge Permit for Construction will need to be obtained from Iowa DNR for construction in Iowa and from NDEQ for construction in Nebraska.

- A permit or permits from USACE are required for placement of dredged or fill material in wetlands or other waters of the U.S. In addition, a Section 10 permit from USACE will be required for the excavation/dredging or deposition of material in the Missouri River and any obstruction or alteration in a navigable water as part of pre-construction activities. Iowa DOT and NDOR are coordinating with USACE concerning bridge construction and the placement of piers in wetlands and the Missouri River. Based on the minor extent of wetland impacts, it appears that instead of an individual Section 404 Permit, the wetlands and waters of the U.S. impacts may be addressed under Nationwide Permits 14 and 33. Permit applications will be submitted to USACE for approval. The applications will account for minimization of potential impacts on pallid sturgeon coordinated through the U.S. Fish and Wildlife Service.

- A Section 9 Permit from USCG is needed for bridges and causeways constructed across navigable waters of the U.S. The Section 9 permit application has been started and will be submitted to USCG.

- Section 401 certification from Iowa DNR and NDEQ concerning the protection of surface water quality is required as part of the Section 9 Permit. The certification will be sought in conjunction with the Section 9 Permit. Section 401 certification will also be needed if an individual Section 404 Permit is required, but separate Section 401 certification will not be required if the Segment 1 Project is authorized under Nationwide Permits 14 and 33.

- Air Quality Construction Permits would be acquired by contractors if new emission units (such as a portable batch plant) are determined necessary.

- An Integrated Solid Waste Management Permit would be obtained by a demolition contractor if demolition of acquired houses would involve disposal of hazardous waste or a special waste (such as asbestos).

- Clearing and grubbing of trees near the Missouri River would be minimized to the area needed for construction and would occur from October to January to decrease the potential for impact on potential roost sites for bald eagles and Indiana bats, and on the bat's adjacent foraging habitat. This time frame also avoids the nesting period of bald eagles and other migratory birds. If bald eagles are observed roosting in trees

scheduled for removal, the trees would not be removed while bald eagles are occupying them.

- Erosion from construction activities and using measures to minimize impacts on Missouri River water quality (issues that are typically addressed in the Stormwater Pollution Prevention Plan required for the NPDES construction permit) will be controlled to avoid adverse impacts on pallid sturgeon, lake sturgeon, and sturgeon chub. Coordination with USFWS is ongoing concerning bridge construction under the Section 9 permit and protection of the aforementioned fish species. The coordination may result in additional guidance to be implemented, such as when construction can occur within the Missouri River.

- A sanitary sewer main runs parallel to the levee in Nebraska beneath the existing I-80 bridge. Approval is required by the City of Omaha for levee ROW access needed for construction of the new I-80 bridge. Because of heavy vehicle traffic (such as cranes) that may cross the levee, the City has concerns that the sewer main could be damaged. Coordination will continue with the City for its approval of plans for bridge construction and protection of the levee.

### New References

59 Federal Register 7629. February 11, 1994. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

HDR. January 2007. Wetland Delineation Report. Interstate 80 Westbound Bridge Over the Missouri River and BNSF, Missouri River Bridge – 24th Street Bridge, Omaha. Douglas County, Nebraska, Pottawattamie County, Iowa. Prepared for NDOR.

HDR. February 23, 2007. Meeting Minutes Concerning Permitting Activities for the Proposed I-80 Westbound Bridge between representatives of USACE, Iowa DOT, NDOR, and HDR. Prepared for NDOR.

## LEGEND

- PROPOSED FREEWAY PAVEMENT
- PROPOSED LOCAL ROADWAY PAVEMENT
- PROPOSED BRIDGE
- PROPOSED TEMPORARY PAVEMENT
- PROPERTY LINE
- PROPOSED WALL /BARRIER
- PRELIMINARY IMPACT AREA
- LANE DESIGNATION AND FLOW
- PROPOSED ROAD CLOSURE
- TRAFFIC SIGNAL LOCATION
- STOP SIGN LOCATION

N

0 600

SCALE IN FEET

75 480 80 75

10th St.

16th St.

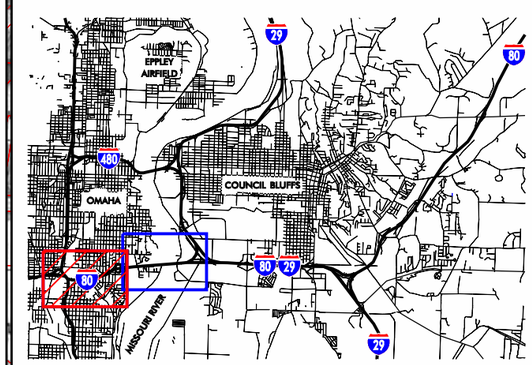
13th St.

20th St.

24th St.

ROSENBLATT STADIUM

HENRY DOORLY ZOO




KEYMAP

PRELIMINARY PLAN
NOT FINAL – SUBJECT TO CHANGE

Sources:
1. Aerial Photography – MAPA 2004
2. Concept and Proposed ROW Needs in Iowa – HDR /CH2M HILL /HGM Consultant Team, December 2005
3. Concept and Proposed ROW Needs in Nebraska – Nebraska Department of Roads, December 2005
4. Property Parcel in Iowa – Pottawattamie County Assessor's Office, 2004
5. Property Parcel in Nebraska – Douglas County Assessor's Office, 2004

Iowa Department of Transportation

NDOR Nebraska Department of Roads

80 SEGMENT 1 – BUILD ALTERNATIVE

Sheet 1 of 2

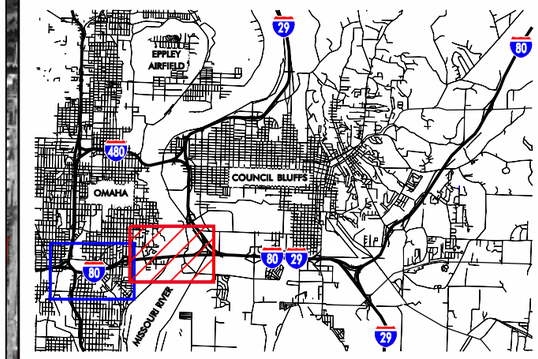
Council Bluffs, IA, Omaha, NE Interstate System Improvements

Date
February 2007

Figure
2–2A

## LEGEND

- PROPOSED FREEWAY PAVEMENT
- PROPOSED LOCAL ROADWAY PAVEMENT
- PROPOSED BRIDGE
- PROPOSED TEMPORARY PAVEMENT
- PROPERTY LINE
- PROPOSED WALL /BARRIER
- PRELIMINARY IMPACT AREA
- LANE DESIGNATION AND FLOW
- PROPOSED ROAD CLOSURE
- TRAFFIC SIGNAL LOCATION
- STOP SIGN LOCATION




KEYMAP

N

0 600

SCALE IN FEET

MISSOURI RIVER

10th St.

RIVERVIEW BLVD.

LAURITZEN GARDENS

KENEFICK PARK

HENRY DOORLY ZOO

MATCHLINE

SEGMENT 1

SEGMENT 2

WESTERN HISTORIC TRAILS CENTER

29

80

Sources:
1. Aerial Photography – MAPA 2004
2. Concept and Proposed ROW Needs in Iowa – HDR /CH2M HILL /HGM Consultant Team, December 2005
3. Concept and Proposed ROW Needs in Nebraska – Nebraska Department of Roads, December 2005
4. Property Parcel in Iowa – Pottawattamie County Assessor's Office, 2004
5. Property Parcel in Nebraska – Douglas County Assessor's Office, 2004

PRELIMINARY PLAN
NOT FINAL – SUBJECT TO CHANGE

Iowa Department of Transportation

NDOR Nebraska Department of Roads

80 SEGMENT 1 – BUILD ALTERNATIVE

Sheet 2 of 2

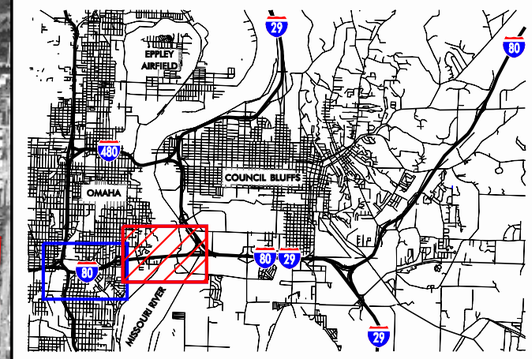
Council Bluffs, IA, Omaha, NE Interstate System Improvements

Date
February 2007

Figure
2–2B

## LEGEND

- PROPOSED FREEWAY PAVEMENT
- PROPOSED LOCAL ROADWAY PAVEMENT
- PROPOSED BRIDGE
- PROPERTY LINE
- PROPOSED WALL /BARRIER
- LANE DESIGNATION AND FLOW
- TRAFFIC SIGNAL LOCATION
- STOP SIGN LOCATION




KEYMAP

N

0 600

SCALE IN FEET

MISSOURI RIVER

10th St.

RIVERVIEW BLVD.

LAURITZEN GARDENS

KENEFICK PARK

HENRY DOORLY ZOO

MATCHLINE

SEGMENT 2 UNDER DESIGN

SEGMENT 1

SEGMENT 2

WESTERN HISTORIC TRAILS CENTER

29

80

Sources:
1. Aerial Photography – MAPA 2004
2. Concept and Proposed ROW Needs in Iowa – HDR /CH2M HILL /HGM Consultant Team, December 2005
3. Concept and Proposed ROW Needs in Nebraska – Nebraska Department of Roads, December 2005
4. Property Parcel in Iowa – Pottawattamie County Assessor's Office, 2004
5. Property Parcel in Nebraska – Douglas County Assessor's Office, 2004

PRELIMINARY PLAN
NOT FINAL – SUBJECT TO CHANGE

Iowa Department of Transportation

NDOR Nebraska Department of Roads

80 SEGMENT 1 BUILD ALTERNATIVE AND SEGMENT 2 – Sheet 1 of 1

Council Bluffs, IA, Omaha, NE Interstate System Improvements

Date
May 2007

Figure
2–2C


600 300 0 600 Feet

Scale

Sources:
1. Aerial Photography - MAPA, 2004
2. Potential Relocations - NDOR, 2006

Iowa Department of Transportation

NDOR Nebraska Department of Roads

**Potential Relocations**
**Segment 1**

Council Bluffs Interstate System Improvements Project
Council Bluffs, IA and Omaha, NE

DATE
March 2007

FIGURE
3-1

Z:\Projects\IDOT\339-134_CB_Interstate\Software\ArcGIS\ArcView81\MXD\CBIS_Segment1_Potential_Relocations.mxd\march07\jcm

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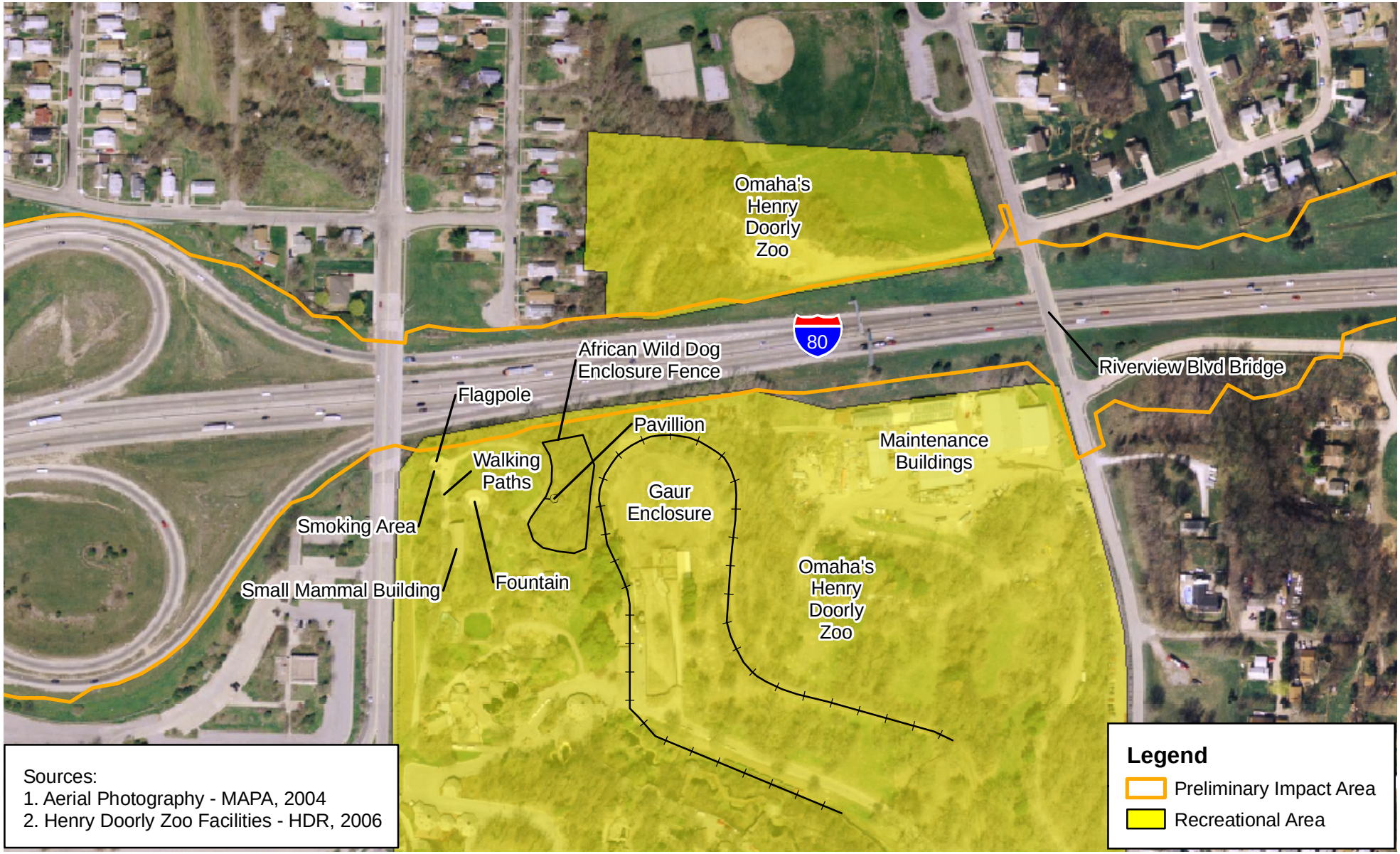



300 150 0 300
Feet
Scale

Iowa Department of Transportation

NDOR Nebraska Department of Roads

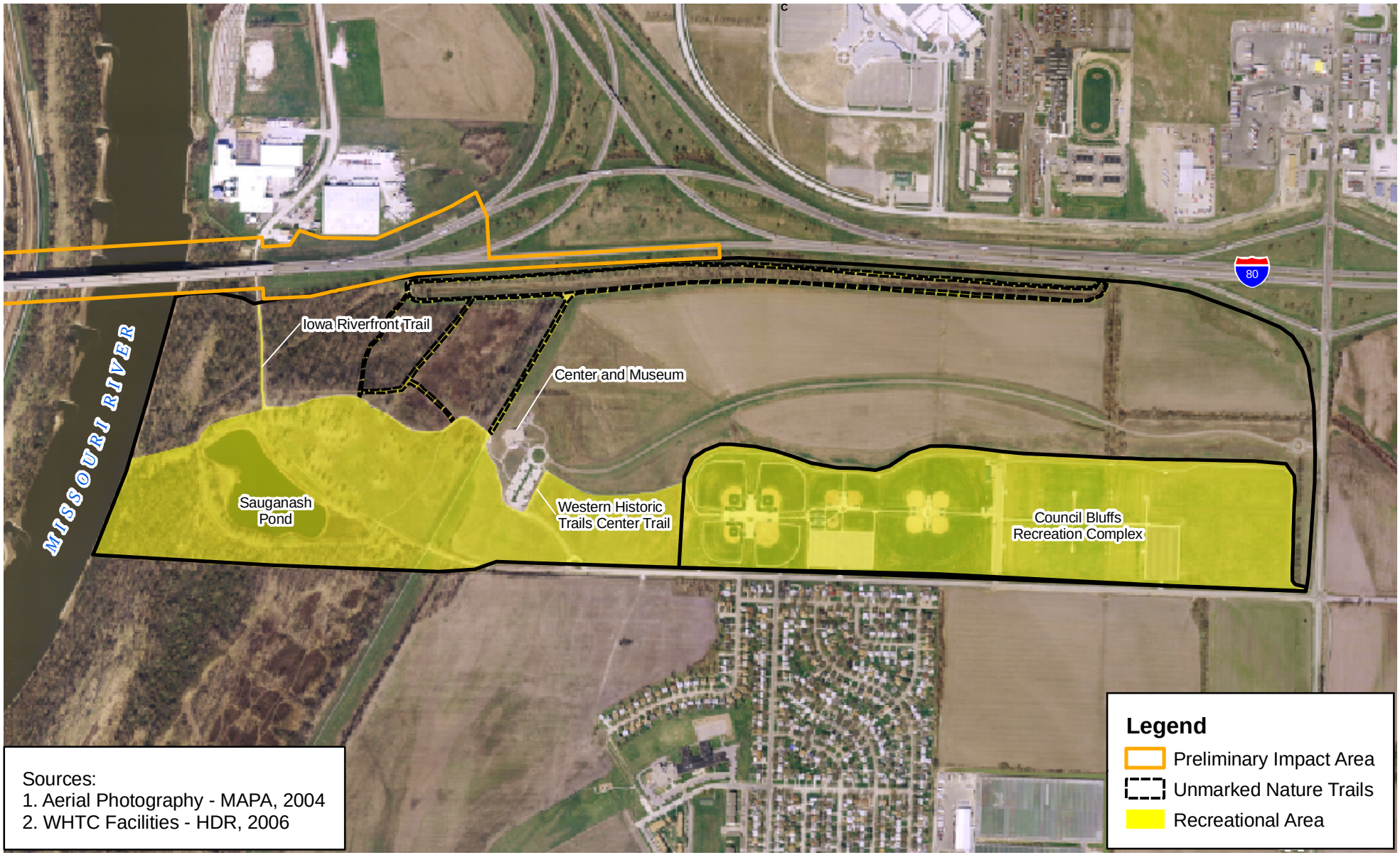
**Omaha's Henry Doorly Zoo**
**Segment 1**

Council Bluffs Interstate System Improvements Project
Council Bluffs, IA and Omaha, NE

DATE
March 2007

FIGURE
3-7

Z:\Projects\IDOT\339-134_CB_Interstate\Software\ArcGIS\ArcView81\MXD\CBIS_Segment1_Western_Historic_Trails_Center.mxd\march07\jcm




Sources:
1. Aerial Photography - MAPA, 2004
2. WHTC Facilities - HDR, 2006

1,000 500 0 1,000
Feet
Scale

Iowa Department of Transportation

NDOR Nebraska Department of Roads

**Western Historic Trails Center**
**Segment 1**

Council Bluffs Interstate System Improvements Project
Council Bluffs, IA and Omaha, NE

DATE
March 2007

FIGURE
3-8

# ATTACHMENT A
# AGENCY COMMENT LETTERS ON ENVIRONMENTAL ASSESSMENT

SAS

RECEIVED
NOV 16 2006
OFFICE OF LOCATION & ENVIRONMENT

# Iowa Department of Transportation

November 3, 2006

Subject: Council Bluffs Interstate System (CBIS) Improvements Project
National Environmental Policy Act (NEPA) Document for Tier 2 Segment 1
Douglas County, Nebraska and Pottawattamie County, Iowa
Iowa DOT Project Number IM-080-1(318)0—13-78
NDOR Project Numbers IM-80-9(886), IM-80-9(888), & IM-80-9(889)

To Designated Addressee:

The Iowa Department of Transportation (Iowa DOT), in coordination with the Federal Highway Administration (FHWA), Nebraska Department of Roads (NDOR), and the Cities of Council Bluffs, Iowa, and Omaha, Nebraska, has contracted with HDR Engineering Inc. to prepare the Tier 2 NEPA Environmental Assessment (EA) for Segment 1 of the CBIS Improvements Project.

This letter transmits one or more copies of the EA. The Iowa DOT is soliciting comments on the document during the comment period which ends December 22, 2006; please postmark your comments by that date and forward them to:

James Rost
Director, Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010
Telephone (515) 239-1225

Please feel free to call me at (515) 233-7977 if you have any questions or concerns about this project.

Sincerely,

Kris Riesenberg

Kris Riesenberg
IOWA DEPARTMENT OF TRANSPORTATION

Project as described is cleared of Farmland Protection Policy Act (FPPA) concerns.

State Conservationist — Date: NOV 10 2006

Enclosure: EA

cc: Donna Matulac – Iowa DOT – Office of Location & Environment
John Carns – Iowa DOT – District 4
Len Sand – NDOR
Tim Weander – NDOR – District 2

NOV 7 2006

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

REPLY TO
ATTENTION OF

November 27, 2006



Planning, Programs, and Project Management Division

Mr. James Rost
Director, Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, Iowa 50010

Dear Mr. Rost:

The U.S. Army Corps of Engineers, Omaha District (Corps) has reviewed your letter dated November 3, 2006 regarding the Tier 2 NEPA Environmental Assessment for Segment 1 of the Council Bluffs Interstate System Improvements Project (Project No. IM-080-1(318)0-13-78) in Pottawattamie County, Iowa, and Douglas County, Nebraska. The Corps offers the following comments:

The Federal flood plain management criterion basically states that construction which could be damaged by floodwaters or which could obstruct floodflows should not be located in the 100-year flood plain. All construction should be designed to minimize potential harm to or within the flood plain. Higher levels of protection are encouraged to provide added safety. If the operation of the constructed facilities is considered critical during flood periods, the facilities should be protected from at least the 500-year flood.

If construction must occur in the flood plain, it must be located outside the floodway. If a floodway has not been determined and designated, the construction should be as far from the stream channel as possible. The goal of any construction in the flood plain is to achieve the highest level of flood protection with zero impact to adjacent property.

It should be ensured that the proposed project is in compliance with flood plain management criteria of Douglas and Pottawattamie Counties and the States of Nebraska and Iowa. As a minimum, the design should ensure that the 100-year water surface elevation of any stream affected that has a designated floodway is not increased relative to pre-project floodway conditions. If a designated floodway has not been identified then the design should ensure that the 100-year floodwater surface elevation is not increased by more than one-foot relative to pre-project conditions. It is desirable, however, that water surface elevations either remain the same or decrease as a result of this project.

Section 3.4 of the Environmental Assessment addresses the potential impacts to and within the established flood plains. The construction of the proposed project would include the filling of portions of the flood plain and the addition of a number of piers. Accordingly, it is recommended that a Conditional Letter of Map Revision be prepared and submitted to the Federal Emergency Management Agency (Region VII) to review and approve that the proposed construction is in compliance with the National Flood Insurance Program.

Your plans should be coordinated with the U.S. Environmental Protection Agency, which is currently involved in a program to protect ground water resources. If you have not already done so, it is recommended you consult with the U.S. Fish and Wildlife Service, the Nebraska Game and Parks Commission, and the Iowa Department of Natural Resources regarding fish and wildlife resources. In addition, the Nebraska and Iowa State Historic Preservation Offices should be contacted for information and recommendations on potential cultural resources in the project area.

If construction activities involve any work in waters of the United States, a Section 404 permit may be required. For a detailed review of permit requirements, preliminary and final project plans should be sent to:

U.S. Army Corps of Engineers
Wehrspann Regulatory Office
Attention: CENWO-OD-R-NE/Rabbe
8901 South 154th Street
Omaha, Nebraska 68138-3621

If you have any questions, please contact Ms. Kara Reeves at (402) 221-4639.

Sincerely,

for: Larry D. Janis, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

**Iowa Department of Transportation**
800 Lincoln Way, Ames, Iowa 50010 (515)239-1798

February 27, 2007

Mr. Larry D. Janis
Chief of Environmental, Economics, and Cultural Resources Section
Planning Branch
U. S. Army Corps of Engineers, Omaha District
106 South 15th Street
Omaha, Nebraska 68102-1618

Dear Mr. Janis:

This is in response to your November 27, 2006 letter to Mr. James Rost, Director, Office of Location and Environment, Iowa DOT, commenting on the Tier 2 Environmental Assessment (EA) and the proposed Section 4(f) *de minimis* impact finding for Segment 1 of the Council Bluffs Interstate System (CBIS) Improvements Project, Pottawattamie County, Iowa and Douglas County, Nebraska.

A summary of your key comments is provided below with our responses in italics:

"Construction should be located outside the floodway of the Missouri River. If construction occurs in a floodplain, the design should ensure that the 100-year water surface elevation is not increased relative to pre-project floodway conditions. It is recommended that a Conditional Letter of Map Revision be prepared and submitted to the Federal Emergency Management Agency (Region VII) to review and approve that the proposed construction is in compliance with the National Flood Insurance Program." *Section 3.4.3 of the EA noted that hydraulic modeling was performed showing a no-rise condition (there was no change to the Base Flood Elevation or the floodway boundary), and that the results were coordinated with the U.S. Army Corps of Engineers. The results were also coordinated with Iowa Department of Natural Resources. Consequently, this eliminates the need for a Conditional Letter of Map Revision.*

"Coordinate your plans with the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Nebraska Game and Parks Commission, the Iowa Department of Natural Resources, and the Nebraska and Iowa State Historic Preservation Offices." *These agencies have been involved in the project through scoping and receipt of the EA, and most of the agencies have been involved through the concurrence point process; see Section 5 of the EA for detailed information on agency interaction.*

"If construction activities involve any work in waters of the United States, a Section 404 permit may be required." *Sections 3.3.3 and 3.3.4 of the EA note the potential need for a Section 404 permit and the processes that would be followed. We met with*

*USACE on February 23, 2007 concerning permit requirements for the Segment 1 Project.*

If you have any questions on these responses or if you would like to arrange a meeting to discuss this issue, please contact Janet Vine at (515) 239-1467 or at janet.vine@dot.iowa.gov.

Sincerely,

James Rost, Director
Office of Location and Environment

cc:
Lisa Rold, Federal Highway Administration
Mike LaPietra, Federal Highway Administration
John Selmer, Iowa Department of Transportation

U.S. Department of Homeland Security

United States Coast Guard

Commander
Eighth Coast Guard District

1222 Spruce Street
St. Louis, MO 63103-2832
Staff Symbol: dwb
Phone: (314)269-2379
Fax: (314)269-2737
Email: eric.washburn@uscg.mil



16591.1/613.9 MOR
November 28, 2006

Mr. James Rost, Director
Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Subj: I-80 COMPANION BRIDGE, MILE 613.9, MISSOURI RIVER

Dear Mr. Rost:

We have completed our review of the Tier II, Segment I Environmental Assessment dated October 31, 2006 for the subject bridge. In your bridge permit application, we will require additional documentation that was referenced in this Environmental Assessment:

a. Pg 3-15: Threatened & Endangered Species Survey Technical Memorandum (CH2M HILL, January 2006).

b. Pg 3-15: Threatened & Endangered Species Biological Evaluation (Iowa DOT, May 2006)

c. Pg 3-7: Two Wetland Technical Memorandums (HDR, February 2006b & October 2006). Specifically, we are concerned with wetland impact and mitigation within the abutments of the proposed bridge.

d. We will require Water Quality Certification from both States.

If there are any questions, please contact Mr. Eric Washburn at the above telephone number.

Sincerely,

ROGER K. WIEBUSCH
Bridge Administrator
By direction of the District Commander

# Iowa Department of Transportation

800 Lincoln Way, Ames, Iowa 50010 (515)239-1798


Februrary 27, 2007

Mr. Roger K. Wiebusch
Bridge Administrator
U. S. Coast Guard
122 Spruce Street
St. Louis, Missouri 63103

Dear Mr. Wiebusch:

This is in response to your November 28, 2006 letter to Mr. James Rost, Director, Office of Location and Environment, Iowa DOT, commenting on the Tier 2 Environmental Assessment (EA) and the proposed Section 4(f) *de minimis* impact finding for Segment 1 of the Council Bluffs Interstate System (CBIS) Improvements Project, Pottawattamie County, Iowa and Douglas County, Nebraska.

A summary of your key comments is provided below with our responses in italics:

"We are concerned with wetland impacts and mitigation within the abutments of the proposed bridge." *Although potential wetland impacts would not occur from abutment placement, Section 3.3 of the EA (pages 3-7 and 3-8) indicates that potential wetland impacts could occur from construction of two proposed piers in Nebraska. Subsequent to the issuance of the EA, we have performed additional design to minimize impacts to wetlands and met with the U.S. Army Corps of Engineers on February 23, 2007 concerning permit requirements.*

"We will require Water Quality Certification from both States [with the bridge permit application]." *Section 3.12 of the EA noted likely permit requirements for the Segment 1 Project, including Section 401 Water Quality Certification and the Section 9 Permit of the U.S. Coast Guard.*

Other comments requested referenced memoranda when the bridge permit application is submitted. *The specified memoranda will be submitted with the Section 9 permit application.*

If you have any questions on these responses or if you would like to arrange a meeting to discuss this issue, please contact Janet Vine at (515) 239-1467 or at janet.vine@dot.iowa.gov.

Sincerely,

James Rost, Director
Office of Location and Environment

cc:
Lisa Rold, Federal Highway Administration
Mike LaPietra, Federal Highway Administration
John Selmer, Iowa Department of Transportation

NEBRASKA STATE HISTORICAL SOCIETY
1500 R STREET, P.O.BOX 82554, LINCOLN, NE 68501-2554
(402) 471-3270 Fax: (402) 471-3100 1-800-833-6747 www.nebraskahistory.org
Michael J. Smith, Director/CEO

December 12, 2006

James Rost
Director, Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Re: Council Bluffs Interstate System
Environmental Assessment
In reply refer to HP0302-108-01

Dear Mr. Rost:
In reply to your request for comments regarding the referenced project, please note that the Nebraska State Historic Preservation Officer has entered into a Memorandum of Agreement regarding effects. In our opinion, the process of Section 106 of the National Historic Preservation Act and implementing regulations has been fulfilled for the effects of this undertaking that are under the purview of the Nebraska State Historic Preservation Office.

We offer no further comments on the Environmental Assessment for this project.

Sincerely,

L.Robert Puschendorf,
Deputy State Historic Preservation Officer

Cc: Len Sand, Nebraska Department of Roads

Douglas County, NE
Bennington
Boys Town
Elkhorn
Omaha
Omaha City Council
Ralston
Valley
Waterloo
•
Sarpy County, NE
Bellevue
Gretna
La Vista
Papillion
Springfield
•
Washington County, NE
Arlington
Blair
Fort Calhoun
Herman
Kennard
Washington
•
Mills County, IA
Emerson
Glenwood
Hastings
Henderson
Malvern
Pacific Junction
Silver City
•
Pottawattamie County, IA
Avoca
Carson
Carter Lake
Council Bluffs
Crescent
Hancock
Macedonia
McClelland
Minden
Neola
Oakland
Treynor
Underwood
Walnut
•
Bellevue Public Schools
Council Bluffs Airport Authority
Council Bluffs Planning Commission
Golden Hills Resource Conservation & Development District
Iowa Western Community College
Metro Area Transit
Metropolitan Community College
Metropolitan Utilities District
Millard Public Schools
Millard Suburban Fire District
Omaha Airport Authority
Omaha Housing Authority
Omaha Planning Board
Omaha Public Power District
Papillion / La Vista Public Schools
Papio - Missouri River Natural Resources District
Pony Creek Drainage District
Ralston Public Schools
Valley Fire Protection District #5

**METROPOLITAN AREA PLANNING AGENCY**
2222 Cuming Street, Omaha, Nebraska 68102-4328
Phone (402) 444-6866 Fax (402) 342-0949
Email mapa@mapacog.org www.mapacog.org
In the MAPA Region 1-800-827-6866

MAPA
A Council of Governments

RECEIVED
DEC 18 2006
OFFICE OF LOCATION & ENVIRONMENT

December 14, 2006

James Rost
Director
Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

RE: MAPA CASE #2007-011 - IA-DOT
CBIS Improvement Project (ES)
Tier 2 Segment 1

Dear Mr. Rost:

Enclosed is a copy of the MAPA Board action concerning the project listed above. Thank you for the opportunity to review this project.

Sincerely,

Alene A. Ramsey
Administrative Services Director

AAR/drv

Enclosures

cc: Kris Riesenberg

OMAHA-COUNCIL BLUFFS METROPOLITAN AREA PLANNING AGENCY

RESOLUTION NUMBER 2007 - 014

WHEREAS, the members of the Omaha-Council Bluffs Metropolitan Area Planning Agency (MAPA) Board of Directors have been formally designated by their respective legislative bodies to act as the official representative in planning matters of mutual concern; and

WHEREAS, the following application has been submitted to MAPA in accordance with Executive Order 12372 for intergovernmental review and coordination; and

WHEREAS, MAPA has given due consideration to said project; therefore be it

RESOLVED, that MAPA finds the project to be consistent with area-wide planning and forwards favorable comment to the applicant.

MAPA CASE #2007-011 IA-DOT
CBIS Improvement Project (ES) Tier 2 Segment 1

PASSED this 14th day of December, 2006

John Abbott, Chairman
MAPA Board of Directors

U.S. Department
of Transportation
**Federal Transit
Administration**

REGION VII
Iowa, Kansas,
Missouri, Nebraska

901 Locust Street
Suite 404
Kansas City, MO 64106
816-329-3920
816-329-3921 (fax)

December 19, 2006

Mr. James Rost, Director
Office of Location and Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

RE: Tier 2 NEPA Environmental Assessment Documentation – FTA Comments for Segment 1 of Council Bluffs Interstate System (CBIS) Improvements Project Douglas County, Nebraska and Pottawattamie County, Iowa

Dear Mr. Rost:

We are responding to the letter from Kris Riesenberg dated November 3, 2006 requesting comments from the Federal Transit Administration (FTA) as part of the Tier 2 NEPA Environmental Assessment documentation for the CBIS Segment 1 project located in Douglas County, Nebraska and Pottawattamie County, Iowa.

FTA requests that the Metro Area Transit (MAT) agency, which provides transit service within these two counties, be involved in all planning activities for the CBIS Segment 1 project.

Thank you for inviting our comments for this project. If you have any questions, please call Mr. Mark Bechtel, FTA-Region VII, at (816) 329-3937.

Sincerely,

Cindy E. Terwilliger for

Mokhtee Ahmad
Regional Administrator

cc: Curt Simon, MAT
Michelle McEnany, Iowa DOT

Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Michael J. Linder
Director
Suite 400, The Atrium
1200 'N' Street
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Phone (402) 471-2186
FAX (402) 471-2909
website: www.deq.state.ne.us



December 19, 2006

James Rost, Director
Office of Location & Environment
Iowa Dept. of Transportation
800 Lincoln Way
Ames, IA 50010

RE: Council Bluffs Interstate System (CBIS) Improvements Project, National Environmental Policy Act (NEPA) Document for Tier 2 Segment 1, Douglas County, Nebraska and Pottawattamie County, Iowa, Iowa DOT Project Number IM-080-1(318)0-13-78, NDOR Project Numbers IM-80-9(886), IM-80-9(888), & IM-80-9(889)

Dear Mr. Rost:

The Nebraska Department of Environmental Quality (NDEQ) has reviewed the above referenced project. We have no comments regarding this project that would fall under the jurisdiction of our programs.

If you have questions about the permitting process, or any other questions, feel free to contact me at (402) 471-8697.

Sincerely,

Hugh Stirts, PhD
NEPA Coordinator

Fields of Opportunities

# STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES**
RICHARD A. LEOPOLD, DIRECTOR

January 12, 2007

RECEIVED
JAN 19 20..
OFFICE OF LOCATION & ENVIRONM...

James Rost
Director, Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Dear Mr. Rost:

This letter is in response to your November 3rd letter concerning the I80 Council Bluffs project. After a cursory review by our program staff, we have the following comments. You are welcome to visit our offices and conduct a more thorough review of our records.

A DNR floodplain permit will be needed for this site if part of the preferred alternative which includes building a second bridge is implemented.

There are no registered underground storage tank/leaking underground storage tank projects in the vicinity of this project.

It is our policy that companies and their consultants conduct their own review for these sites. If you need advice for locating relevant information, please call me at (515)281-7276.

Sincerely,

Christine Spackman

Christine Spackman
Business Assistance Coordinator

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

TAKE PRIDE IN AMERICA

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OFFICE OF LOCATION & ENVIRONMENT

ER 06/1141

Mr. Philip Barnes
Division Administrator
Federal Highway Administration
105 Sixth Street
Ames, Iowa 50010-6337

Dear Mr. Barnes:

As requested, the Department of the Interior (Department) has reviewed the Environmental Assessment and *de minimis* Section (4f) Finding for the **Tier 2 Segment 1 Council Bluffs Interstate System Improvements Project, Pottawattamie County, Iowa, and Douglas County, Nebraska.** The Department offers the following comments for your consideration.

**Section 4(f) Comments**

The Department has reviewed the Environmental Assessment and *de minimis* Section 4(f) finding for Tier 2 Segment 1 of the Council Bluffs Interstate System Improvements Project for the potential of impacts to properties that may be eligible for consideration under Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303). The two Section 4(f) properties identified as affected by this project are Deer Hollow Park and the Henry Doorly Zoo, both managed by the Omaha Parks, Recreation, and Public Property Department. We cannot immediately agree with the identification of these properties as the only Section 4(f) properties affected. The determination of a property as an eligible property depends upon certain criteria and consultation with the owner/manager of the affected property. There is nothing in this document that indicates that the owner/manager responsible for the Western Heritage Trails Center (WHTC) had indicated their determination of significance for the small portion of property to be taken in this project. We recognize that the National Park Service built the WHTC but then transferred ownership to the State of Iowa after completion. We realize that the Administrator for the Federal Highway Administration (FHWA) can make the determination but not without first considering the opinion of the landowner or manager of the property. The Department agrees that the use of the *de minimis* Section 4(f) finding appears appropriate for the consideration of the impacts to the WHTC and to the other two properties.

It appears that consultation is currently ongoing with the Omaha Parks, Recreation, and Public Property Department concerning mitigation for impacts associated with this project. We note that while letters asking for concurrence with these actions are included with the environmental assessment, none indicates that concurrence has been received. The Department tends to concur with the *de minimis* finding as long as agreement is reached.

The Department has a continuing interest in working with the FHWA, the Nebraska Department of Roads, and the Iowa Department of Transportation to ensure impacts to resources of concern to the Department are adequately addressed. For matters related to Section 4(f), please contact Regional Environmental Coordinator Nick Chevance, National Park Service, Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, telephone 402-661-1844.

We appreciate the opportunity to provide these comments.

Sincerely,

Mary Josie Blanchard

for Willie R. Taylor
Director, Office of Environmental
Policy and Compliance

cc:
Director James P. Rost
Office of Location and Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, Iowa 50010

Mr. Arthur Yonkey
Planning and Project Development Engineer
Nebraska Department of Roads
1500 Highway 2
Lincoln, Nebraska 68509-4795

Iowa Department of Transportation
800 Lincoln Way, Ames, Iowa 50010 (515)239-1798

Februrary 14, 2007

Mr. Willie R. Taylor
Director
Office of Environmental Policy and Compliance
U. S. Department of the Interior
Office of the Secretary
Washington, DC 20240

Dear Mr. Taylor:

This is in response to your January 24, 2007 letter to Mr. Philip Barnes, Division Administrator, Federal Highway Administration (FHWA), Iowa Division Office, commenting on the Environmental Assessment (EA) and the proposed Section 4(f) *de minimis* impact finding for Segment 1 of the Council Bluffs Interstate System (CBIS) Improvements Project, Pottawattamie County, Iowa and Douglas County, Nebraska. Figure 1 shows the overall CBIS project, which includes 5 segments encompassing approximately 18 miles of mainline interstate and 14 interchanges along I-80, I-29, and I-480. A Tier 1 Environmental Impact Statement was produced that addressed all 5 segments, and Tier 2 National Environmental Policy Act documents are currently being produced for Segments 1, 2, and 3.

In your letter you state that you cannot agree with the identification of Deer Hollow Park and the Henry Doorly Zoo as the only Section 4(f) properties affected in Segment 1. As described in the EA, the Iowa Department of Transportation (IDOT) and FHWA investigated properties and sites within the CBIS study area to determine which ones are eligible for protection under Section 4(f). The Western Historic Trails Center (WHTC), a multiple-use facility with recreational, interpretive, educational, and museum-related activities, was identified as a Section 4(f) resource. However, as shown on Figure 2 shows the recreational portion of the WHTC property protected by Section 4(f). The WHTC land north of the recreational area includes forest, cropland, drainageway, and restored prairie. None of the northern portion of the WHTC property is protected by Section 4(f) because it does not function for, and is not designated in the WHTC comprehensive plan as being for, significant park, recreation, or wildlife and waterfowl purposes, as stated in 23 CFR 771.35(d). The dashed lines on Figure 2 indicate a series of unmarked paths noted as trails by the WHTC, but the existing management plan does not specify them as trails.

Following distribution of the EA, as design has progressed and the impact area has been refined, we have determined that no acquisition of WHTC land for roadway right-of-way (ROW) is needed for Segment 1 of the CBIS Improvements Project. This design changes further supports our determination that there will be no direct use of WHTC land as part of the Segment 1 project. The potential for constructive use of WHTC property was evaluated in the EA on page 3-26 (Enclosure 1) and it was determined that building Segment 1 will not result in a constructive use of WHTC land. In summary, there will be no direct or constructive use of WHTC property with Segment 1 of the CBIS Improvements Project.

Your letter also states that the Department agrees that the proposed *de minimis* impact finding is appropriate for the WHTC and the other two properties (Deer Hollow Park and Henry Doorly Zoo). For clarification, we refer you to page 3-27 of the Segment 1 EA (Enclosure 2) which states that the proposed *de minimis* impact finding only applies to Deer Hollow Park and Henry Doorly Zoo. The impact finding was reproduced in Appendix C of the EA. Since at the time the EA was distributed, preliminary impacts to the WHTC were confined to portions of WHTC land that are not protected by Section 4(f), the proposed *de minimis* impact finding does not apply to the WHTC. Our recent determination that Segment 1 will not impact WHTC property confirms that the proposed *de minimis* impact finding does not apply to the WHTC.

Segment 2 of the CBIS Improvements Project is located in Iowa along I-80/I-29 from just west of the I-80/I-29 West System Interchange to just east of the I-80/I-29 bridge over Indian Creek. The proposed improvements in Segment 2 include reconstructing the existing I-80/I-29 West System Interchange and widening I-80/I-29 to support five eastbound and five westbound lanes connecting to the eastbound and westbound I-80 Missouri River bridges, respectively

Segment 2 will necessitate the acquisition of approximately 60 acres of land located in the northern portion of the WHTC property that is parallel to the interstate in Council Bluffs. Avoidance of the WHTC was considered during Tier 1 and determined to not be prudent because of operational and safety concerns. To minimize impacts to the WHTC, the decision was made in Tier 1 to locate the proposed I-80 Missouri River bridge north of the existing bridge, resulting in the need for a large retaining wall north of I-80. The acquisition results from the need to widen the existing interstate and rebuild the system interchange. The attached Figures 3 and 4 show the preliminary impact area of the preferred Build Alternative within WHTC property. The figures were developed in April 2006 and the preliminary impact area boundary is under revision to accommodate drainage. Because we are early in the Segment 2 design development process, we do not know the exact ROW needs at this time. As part of IDOT's design development process, the ROW acquisition area required at the WHTC will be minimized to the extent practicable while meeting the project's purpose and need.

Through our coordination of this project, we are aware that the WHTC property in Council Bluffs was conveyed by the National Park Service (NPS) to the State Historical Society of Iowa to operate and maintain. We also are aware that the conveyance specifically provides that written authorization from the NPS is required if WHTC land is to be used for other purposes. Therefore, although the portion of WHTC property that we need to acquire for the Segment 2 project is not subject to section 4(f), we recognize NPS' deed interest in this property and we will be requesting their authorization for the acquisition area described above.

If you have any questions or if you would like to arrange a meeting to discuss this issue, please contact Janet Vine at (515) 239-1467 or at janet.vine@dot.iowa.gov.

Sincerely,

James Rost, Director
Office of Location and Environment

cc:
Jerome Thompson, State Historical Society of Iowa
Nick Chevance, National Park Service
Lisa Rold, Federal Highway Administration
Mike LaPietra, Federal Highway Administration
John Selmer, Iowa Department of Transportation

U.S. Department
Of Transportation

**Federal Aviation Administration**

Central Region
Iowa, Kansas
Missouri, Nebraska

901 Locust
Kansas City, Missouri 64106-2325

January 31, 2007

Mr. James Rost
Director, Office of Location & Environment
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Dear Mr. Rost:

The FAA (Federal Aviation Administration) reviews other federal Agency environmental documents from the perspective of the FAA's area of responsibility; that is, whether the proposal will have affects on aviation and other FAA responsibilities. We generally do not provide comments from an environmental standpoint. Therefore, we have reviewed the material furnished with your letter dated November 3, 2006, concerning the proposed Council Bluffs Interstate System (CBIS) Improvements Project, NEPA Document for Tier 2 Segment 1, Iowa DOT Project Number IM-080-1(318)0-13-78, NDOR Project Numbers IM-80-9(886), IM-80-9(888), & IM-80-9(889), in Douglas County, Nebraska and Pottawattamie County, Iowa, and have no comments regarding environmental matters.

However, we remind you that you will need to consider whether or not the project will require formal notice and review from an airspace standpoint. The requirements for this notice may be found in Federal Aviation Regulations (FAR) Part 77, Objects Affecting Navigable Airspace. This regulation is contained under Subchapter E, Airspace of Title 14 of the Code of Federal Regulations. We would like to remind you that if any part of the project exceeds notification criteria under FAR Part 77, notice should be filed at least 30 days prior to the proposed construction date. Questions concerning this matter should be directed to Ms. Brenda Mumper at (816) 329-2524.

Sincerely,

Todd M. Madison, P.E.
Environmental Specialist

# ATTACHMENT B
# OTHER AGENCY LETTERS

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
John L. Craig, Director
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.dor.state.ne.us

August 18, 2006

Mr. Larry Foster
Omaha Parks and Recreation Department
1819 Farnam St Ste 701
Omaha NE 68183

Re: Project No. IM-080-1(318)0-13-78
Segment 1 – Council Bluffs Interstate System (CBIS) Improvements Project
NH-80-9(878), I-80, Missouri River to 24th Street in Omaha.
Section 4(f) *De Minimis* Finding for Deer Hollow Park

Dear Mr. Foster:

Deer Hollow Park, located adjacent to Interstate 80 (I-80) in Omaha, has been identified as a Section 4(f) property. Section 4(f) of the U.S. Department of Transportation (DOT) Act of 1966 provides special protection for certain properties such as public parks, recreation areas, wildlife or waterfowl refuges and historic sites. Deer Hollow Park is considered to be a public park subject to Section 4(f) provisions. Section 4(f) requires coordination with the officials with jurisdiction over the potentially affected resource.

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended existing Section 4(f) legislation at Section 138 of Title 23 and Section 303 of Title 49, United States Code, to simplify the processing and approval of projects that have only *de minimis* (trifling or minimal) impacts on lands protected by Section 4(f).

The improvements in Segment 1 of the CBIS Improvement Project would result in an encroachment on Deer Hollow Park property north and south of I-80. The encroachment results from the need to widen the existing Interstate from the Missouri River to 24th Street in Omaha to accommodate additional eastbound and westbound traffic lanes. Figure 1 shows the boundary of the park and the proposed preliminary impact area. The preliminary impact area consists of the approximate right-of-way (ROW) needs of the preferred alternative based on the preliminary design completed to date and includes the area where construction activities would occur.

The encroachment would result in the conversion of approximately 0.27 acre of Deer Hollow Park property to Interstate ROW; this equates to approximately 3.4 percent of the total Deer Hollow Park area. The land to be incorporated does not include any of the developed or recently renovated park recreational facilities. A row of ten 25-foot tall trees recently planted on the south boundary of the park north of I-80 may need to be removed and the fence separating the park from the Interstate may need to be relocated. A stormwater drain is located on the north end of the row of trees and may need to be replaced. In addition, 0.07 acre of the historic Omaha Park and Boulevard system (including five mature trees) that is still maintained by the Omaha Parks Department would also be permanently incorporated into the Interstate system.

The planned interstate improvements will have a minor impact on Deer Hollow Park and will not adversely impact the activities, features, attributes, and functions of Deer Hollow Park that qualify the park for protection under Section 4(f). Additionally, the Nebraska State Historic Preservation Office has concurred with a determination that the small amount of land to be incorporated into interstate ROW would result in no effect on the historic Omaha Park and Boulevard System. Based on these findings, the Federal Highway Administration (FHWA) had determined this is a *de minimis* impact.

As part of the design development process by the Nebraska Department of Roads (NDOR), the ROW acquisition area required at Deer Hollow Park has been minimized to the extent practicable without compromising the Project's ability to meet the purpose and need as well as safety standards. As the project progresses, NDOR plans to meet with the Omaha Parks and Recreation Department representatives to discuss design details. NDOR will work with the Omaha Parks and Recreation Department to identify suitable mitigation for impacted trees and fence.

An Environmental Assessment (EA) is being prepared for Segment 1 of the project. In accordance with recent guidance regarding public involvement in the Section 4(f) process, NDOR will seek signed concurrence from you (either via the signature block below or a comment letter by the Omaha Parks and Recreation Department) on the Section 4(f) *de minimis* finding. The proposed project to include the encroachment on Deer Hollow Park will be discussed at the public hearing on the EA.

If there are any questions, please contact me at (402) 479-4411.

Thank you.

Sincerely,

Leonard J. Sand
Highway Environmental Program Manager
Planning and Project Development Division

Omaha Parks and Recreation Department
Concurs with the Section 4(f) *de minimis* finding by FHWA

2/22/07
Date

LJS:P4-A1-2

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
John L. Craig, Director
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.dor.state.ne.us

August 18, 2006

Mr. Larry Foster
Omaha Parks and Recreation Department
1819 Farnam St Ste 701
Omaha NE 68183

Re: Project No. IM-080-1(318)0—13-78
Segment 1 – Council Bluffs Interstate System (CBIS) Improvements Project
NH-80-9(878), I-80, Missouri River to 24th Street in Omaha
4(f) *De Minimis* Finding for Omaha's Henry Doorly Zoo

Dear Mr. Foster:

Omaha's Henry Doorly Zoo (Zoo) located adjacent to Interstate 80 (I-80) in Omaha has been identified as a Section 4(f) property. Because the Omaha Parks and Recreation Department leases the former Riverfront Park property to the Zoo, both the Omaha Parks and Recreation Department and the Zoo are being asked for concurrence on a 4(f) *de minimis* finding for impacts of the CBIS Improvements Project (Project).

Section 4(f) of the U.S. Department of Transportation (DOT) Act of 1966 provides special protection for certain properties such as public parks, recreation areas, wildlife or waterfowl refuges, and historic sites. The uses or functions of the Zoo are as a conservation, research, recreation, and educational facility. Consequently, the Zoo is considered to be a recreational area subject to Section 4(f) provisions. Section 4(f) requires coordination with the officials with jurisdiction over the potentially affected resource.

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended existing Section 4(f) legislation at Section 138 of Title 23 and Section 303 of Title 49, United States Code, to simplify the processing and approval of projects that have only *de minimis* (trifling or minimal) impacts on lands protected by Section 4(f).

The improvements in Segment 1 of the Project would result in an encroachment on Zoo property north and south of I-80. The encroachment results from the need to widen the existing interstate from the Missouri River to 24th Street in Omaha to accommodate additional eastbound and westbound traffic lanes. The Nebraska Department of Roads (NDOR) has modified the design in this area to minimize right-of-way (ROW) impacts through the use of retaining walls north and south of I-80.

The encroachment would result in the conversion of approximately 0.89 acre of Zoo property (0.30 acre north of I-80 and 0.59 acre south of I-80). Figure 1 shows Zoo property boundaries near the interstate and the proposed preliminary impact area. The preliminary impact area consists of the approximate ROW needs of the preferred alternative based on the preliminary design completed to date and includes the area where construction activities would occur. In this area of the Zoo south of I-80, specific recreational features include animal exhibits, the railroad, walking paths, and a smoking area. Other Zoo features south of I-80 include a fence (with footers 4-foot deep to prevent dogs and other animals from burrowing underneath the fence and entering the Zoo), a flagpole, and maintenance buildings. Another feature in this area is a tunnel beneath I-80 connecting the north and south areas of the Zoo.

The Project is being designed to not affect the tunnel or maintenance buildings. NDOR will work with the Omaha Parks and Recreation Department and the Zoo to relocate the flagpole and fence, if necessary, to mitigate for the impacts of the Project. The planned interstate improvements will have a minor impact on the Zoo and will not adversely impact the activities, features, attributes, and functions of the Zoo, neither north nor south of the interstate, that qualify the Zoo for protection as a recreational area under Section 4(f). Based on these findings, the Federal Highway Administration (FHWA) has determined this is a *de minimis* impact. .

As the Project progresses, NDOR plans to meet with Omaha Parks and Recreation Department representatives to discuss design details. An Environmental Assessment (EA) is being prepared for Segment 1 of the Project. In accordance with recent guidance regarding public involvement in the Section 4(f) process, NDOR will seek signed concurrence from you (either via the signature block below or a comment letter by the Omaha Parks and Recreation Department) on the Section 4(f) *de minimis* finding. The proposed project to include the encroachment on Henry Dooley Zoo will be discussed at the public hearing on the EA.

If there are any questions, please contact me at (402) 479-4411.

Thank you.

Sincerely,

Leonard J. Sand
Highway Environmental Program Manager
Planning and Project Development Division

Omaha Parks and Recreation Department
Concurs with the Section 4(f) *de minimis* finding by FHWA

2/22/07
Date

LJS:P4-A3-4

cc: Dr. Lee Simmons, Omaha's Henry Doorly Zoo

Dave Heineman
Governor

STATE OF NEBRASKA
DEPARTMENT OF ROADS
John L. Craig, Director
1500 Highway 2 • PO Box 94759 • Lincoln NE 68509-4759
Phone (402)471-4567 • FAX (402)479-4325 • www.dor.state.ne.us

August 18, 2006

Dr. Lee Simmons
Omaha's Henry Doorly Zoo
3701 S 10th St
Omaha NE 68107

Re: Project No. IM-080-1(318)0-13-78
Segment 1 – Council Bluffs Interstate System (CBIS) Improvements Project
NH-80-9(878), I-80, Missouri River to 24th Street in Omaha
4(f) *De Minimis* Finding for Omaha's Henry Doorly Zoo

Dear Dr. Simmons:

Omaha's Henry Doorly Zoo (Zoo) located adjacent to Interstate 80 (I-80) in Omaha has been identified as a Section 4(f) property. Because the Omaha Parks and Recreation Department leases the former Riverfront Park property to the Zoo, both the Omaha Parks and Recreation Department and the Zoo are being asked for concurrence on a 4(f) *de minimis* finding for impacts of the CBIS Improvements Project (Project).

Section 4(f) of the U.S. Department of Transportation (DOT) Act of 1966 provides special protection for certain properties such as public parks, recreation areas, wildlife or waterfowl refuges, and historic sites. The Zoo functions as a conservation, research, recreation, and educational facility. Consequently, the Zoo is considered to be a recreational area subject to Section 4(f) provisions. Section 4(f) requires coordination with the officials with jurisdiction over the potentially affected resource.

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended existing Section 4(f) legislation at Section 138 of Title 23 and Section 303 of Title 49, United States Code, to simplify the processing and approval of projects that have only *de minimis* (trifling or minimal) impacts on lands protected by Section 4(f).

The improvements in Segment 1 of the Project would result in an encroachment on Zoo property north and south of I-80. The encroachment results from the need to widen the existing interstate from the Missouri River to 24th Street in Omaha to accommodate additional eastbound and westbound traffic lanes. The Nebraska Department of Roads (NDOR) has modified the design in this area to minimize right-of-way(ROW) impacts through the use of retaining walls north and south of I-80.

The encroachment would result in the conversion of approximately 0.89 acre of Zoo property (0.30 acre north of I-80 and 0.59 acre south of I-80). Figure 1 shows Zoo property boundaries near the interstate and the proposed preliminary impact area. The preliminary impact area consists of the approximate ROW needs of the preferred alternative based on the preliminary design completed to date and includes the area where construction activities would occur. In this area of the Zoo south of I-80, specific recreational features include animal exhibits, the railroad, walking paths, and a smoking area. Other Zoo features south of I-80 include a fence (with footers 4-foot deep to prevent dogs and other animals from burrowing underneath the fence and entering the Zoo), a flagpole, and maintenance buildings. Another feature in this area is a tunnel beneath I-80 connecting the north and south areas of the Zoo.

The Project is being designed to not affect the tunnel or maintenance buildings. NDOR will work with the Omaha Parks and Recreation Department and the Zoo to relocate the flagpole and fence, if necessary, to mitigate for the impacts of the Project. The planned interstate improvements will have a minor impact on the Zoo and will not adversely impact the activities, features, attributes, and functions of the Zoo, neither north nor south of the interstate, that qualify the Zoo for protection as a recreational area under Section 4(f). Based on these findings, the Federal Highway Administration (FHWA) has determined this is a *de minimis* impact.

As the Project progresses, NDOR plans to meet with Zoo representatives to discuss design details. An Environmental Assessment (EA) is being prepared for Segment 1 of the Project. In accordance with recent guidance regarding public involvement in the Section 4(f) process, NDOR will seek signed concurrence from you (either via the signature block below or a comment letter by the Zoo) on the Section 4(f) *de minimis* finding. The proposed project to include the encroachment on the Henry Doorly Zoo will be discussed at the public hearing on the EA.

If there are any questions, please contact me at (402) 479-4411.

Thank you.

Sincerely,

Leonard J. Sand
Highway Environmental Program Manager
Planning and Project Development Division

This office concurs with the Section 4(f) *de minimis* finding by FHWA

02/28/07
Date

LJS:P4-A5-6

cc: Larry Foster, Omaha Parks and Recreation Department

City of Omaha
Mike Fahey, Mayor

**Parks, Recreation &
Public Property Department**

Omaha/Douglas Civic Center
1819 Farnam Street, Suite 701
Omaha, Nebraska 68183-0701
(402) 444-5900
FAX (402) 444-4921

**Steven Scarpello**
Acting Director

October 30, 2006

Leonard Sand
P.O. BOX 94759
Lincoln, NE 68509

Dear Mr. Sand,

Re : Project No. IM-080-1(318) 0-13-78

The purpose of this correspondence is to acknowledge receipt of your letter dated October 13, 2006 regarding the above project and to present any currently known additional facts and information for consideration during the preparation of the Environmental Assessment (EA) associated with this project.

You have correctly identified that our Riverfront Trail will be impacted by the activities associated with this project. I look forward to working with you to insure public access to the trail can be both maximized and safely provide during the bridge improvements.

Additionally, I will be discussing your project with our Park Planning staff. At this point, I believe your assessment, that the project's impact is confined to the trail, is correct. I do want to be sure other park projects are not anticipated within this corridor during the extended time of your work and I will advise you if other impacts have been discovered.

Thank you for your recent letter and feel free to contact me if additional information is required.

Sincerely,

Larry N. Foster, Administrator
Parks, Recreation and Public
Property Department

CC Steve Scarpello
Paul Martin