Appendix F

Endangered and Threatened Species Coordination

Biological Assessment
NDOR PQS Memorandum

Project Name: **BNSF, Bridgeport** Project Number: **RRZ-TMT-26-1(161)** Control Number: **51299**

The biological assessment final approval on: **7/17/2024**

Date of Project Description used for this review: 4/18/2024

Threatened and Endangered Species Effect Determination:

☐ The Project(s) will have "No Effect" to all state or federally listed species or their designated critical habitat (CE Level 1).

☒ A "May Affect, Not Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: **Swift Fox**

Northern long-eared bat (NLEB) was evaluated through the Northern Long-eared Bat Range wide Determination Key on IPaC. This project received a "No Effect" consistency letter from the USFWS for NLEB on 7/17/2024

☒ This BA did NOT require FHWA Review and Approval.

☐ This BA required FHWA Review and Approval.

FHWA Approval Date:

☒ This BA did NOT require further consultation with the resource agencies.

☐ This BA required further consultation with the resource agencies (CE Level 2).

USFWS Concurrence Date: Click here to enter a date.

NGPC Concurrence Date: Click here to enter a date.

☐ Unique conservation conditions were developed and are included below (CE Level 3).

☐ A "May Affect, Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: (CE Level 3).

Additional Coordination with Other Tribal or Federal Agencies: N/A

Description of Coordination: N/A

Bald and Golden Eagle Protection Act:
This project was also reviewed for potential impacts to bald and golden eagles. It has been determined that suitable habitat does exist within 0.5 miles of the Environmental Study Area. NDOT will utilize the Bald Eagle Survey Protocol to determine when a survey for nests and/or roosts should be conducted. If nest(s) are present within 0.5 miles of the project area, NDOT will notify the Nebraska Game and Parks Commission and United States Fish and Wildlife Service, and construction will not commence prior to their approval.

Migratory Bird Treaty Act:

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

Fish and Wildlife Coordination Act:
A wetlands delineation was completed on 9/18/2019. Based on the wetland delineation, there is no anticipated impacts or need for a Nationwide Permit. Therefore, coordination through the Fish and Wildlife Coordination Act is not anticipated.

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

Listed below are the required Conservation Conditions that apply to this project. These measures are not subject to change without the prior written approval of the Federal Highway Administration. **Copy and paste the conditions listed below verbatim in the NEPA document, the Green Sheet, and in the contract documents:**

A-1 **Changes in Project Scope**. If there is a change in the project scope, the project limits, or environmental commitments, the Highway Project Manager shall coordinate with the NDOT Environmental Section to evaluate potential impacts prior to implementation. Environmental commitments are not subject to change without prior written approval from the NDOT Environmental Section. *(District Construction)*

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

A-3 **Early Construction Starts**. Contractor requests for early construction starts must be coordinated by the Project Construction Engineer with the NDOT Environmental Section for approval to ensure avoidance of listed species sensitive lifecycle timeframes. Early start requests may require consultation with the USFWS and NGPC. Agency coordination time will vary depending on species and project location. *(District Construction, Contractor)*

A-4 **T&E Species**. If federal or state listed species are observed during construction, the Highway Project Manager will contact NDOT Environmental Section to determine if additional species conservation conditions would be required prior to continuing project construction activities. Contact NDOT Environmental for a reference of federal and state listed species. Coordination with the USFWS and NGPC may be required depending on the species identified and construction activities. *(NDOT Environmental, District Construction, Contractor)*

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

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

For activities outside the project limits, the contractor should refer to the Nebraska Game and Park Commission website to determine which species ranges occur within the off-site area. The contractor should plan accordingly for any species surveys that may be required to approve the use of a borrow site, or other off-site activities. The contractor should review the T&E Matrix agreement (on NDOT's website), where species survey protocols can be found, to estimate the level of effort and timing requirements for surveys.

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

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

A-8 **Post Construction Erosion Control.** Erosion control activities carried out by NDOT Maintenance or others after construction is complete, but prior to project close-out, shall adhere to any standard conservation conditions for species designated for the project limits during construction. *(NDOT Maintenance, District Construction, Contractor)*

S-1 **Fencing**. When project-related fence construction/relocation work is required to be done prior to the start of construction, and if the fence work occurs outside urban or cropland areas that are not within swift fox or mountain plover range, then fencing can be installed/relocated at any time using the following criteria:

a. the fencing is temporary in nature and/or consists of only hand-driven posts
b. the work does not compact the soils (ex. through the use of heavy equipment) or cause soil disturbance beyond the driving of posts
c. within the **whooping crane** migration corridor, work occurring within a half of a mile of wetlands or perennial waters will occur between the hours of 10:00 am to 4:00pm when the work is between March 6 – April 29 or October 9 – November 15

If the fencing work cannot meet these criteria, then NDOT Right-of-Way Division shall coordinate with NDOT Environmental Section prior to the completion of Right-of-way negotiations.

S-2 **Platte River Depletions**. To the maximum extent practical, efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a

depletion, NDOT (during design) and the Contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general, the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) diverted water that will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet. (*NDOT Roadway Design, Contractor*)

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

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

S-5 **Species Surveys.** If species surveys are required during the construction phase of the project (including pre-construction surveys), results will be sent by NDOT Environmental Section to the USFWS, NGPC, and if applicable the USACE. (*NDOT Environmental, District Construction*)

S-6 **Permanent LED Lighting (<u>NDOT Design Commitment</u>):** Only LED roadway luminaries listed on the NDOT "Nebraska Qualified Material Vendors List" will be considered for use on Nebraska highway lighting projects. Proposed changes to the following LED lighting requirements would require resource agency (USFWS and/or NGPC) coordination and approval prior to installation:

- Nominal CCT – 3000 +/- 300 K
- BUG Ratings – Maximum nominal Backlight (N/A), Uplight (0), Glare (N/A)
- Lumen Output – N/A

Any proposed changes to the listed requirement(s) must be presented to the NDOT Environmental Section for Agency Coordination and approval.

Swift Fox:

SF-1 Two weeks prior to the start of construction, a qualified biologist <u>shall</u> survey the environmental study area according to protocol to determine if active swift fox den sites are present. If an active den with young is located and it is outside the project limits, then a buffer zone shall be established around the den and all construction activities shall avoid the buffer until the den is abandoned. If an occupied den with or without young is identified within the project limits or staging areas, NDOT shall immediately coordinate with the NGPC to determine how to proceed. A buffer zone shall be established around the den and all construction activities shall avoid the buffer until NDOT gives approval to enter the buffer area. Between April 1 and August 31, the buffer zone shall be 250 yards around the active den site; other times of the year, the buffer shall be 100 yards around the active den site. (*NDOT Environmental*)

SF-2 Fencing shall be designed for wildlife safety and wildlife friendly passage with a bottom wire at least 16" from the ground. If different fencing design is required for safety or access control,

additional coordination with resource agencies shall be required. (NDOT Design, NDOT Environmental)

SF-3 Fence posts shall not be placed within potential den sites that appear to have animal activity. If fence posts cannot avoid potential den sites that appear to have animal activity, NDOT Environmental will be notified and will re-initiate consultation with resource agencies. Work will not commence until agency concurrence is received. . (Contractor)

Bald and Golden Eagle Protection Act

- Suitable **Bald Eagle** nesting and/or roosting habitat exists within 0.5 miles of the Environmental Study Area. If construction will begin between February 1 and April 15, a nest survey must be completed at least 1 but not more than 14 days prior to construction. If construction will begin between April 15 and October 1, a nest survey completed in March is sufficient, as nests will likely already be constructed if nesting will occur that year. However, a nest survey may be completed anytime during this timeframe, as long as it is completed prior to construction. If bald eagles are nesting in the area, consultation with NGPC and USFWS will be required prior to beginning construction activities. Eagle roosting surveys will be conducted if construction occurs between October 1 and January 31. *(NDOT Environmental, Contractor)*

- Suitable **Golden Eagle** nesting and/or roosting habitat exists within 0.5 miles of the Environmental Study Area. If construction will begin between February 1 and April 15, a nest survey must be completed at least 1 but not more than 14 days prior to construction. If construction will begin between April 15 and October 1, a nest survey completed in March is sufficient, as nests will likely already be constructed if nesting will occur that year. However, a nest survey may be completed anytime during this timeframe, as long as it is completed prior to construction. If golden eagles are nesting in the area, consultation with NGPC and USFWS will be required prior to beginning construction activities. *(NDOT Environmental, Contractor)*

NDOT Construction Project Managers should contact NDOT Environmental at 402-479-4419 or Matthew.greiner@nebraska.gov at least 30 days prior to construction start to schedule any required surveys.

Matthew Greiner

NDOR PQS Reviewer

7/17/2024

Date

This(These) Project(s) has(have) been reviewed under the programmatic agreement entitled Programmatic Agreement Among the Federal Highway Administration, U.S. Fish and Wildlife Service, Nebraska Department of Transportation, and Nebraska Game and Parks Commission for the Determination of Effects to State and Federal Listed Species From the Federal-Aid Highway Program (March 2023) and meet stipulations included in this agreement.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Nebraska Ecological Services Field Office
9325 B South Alda Rd., Ste B
Wood River, NE 68883-9565
Phone: (308) 382-6468 Fax: (308) 384-8835

In Reply Refer To: 07/17/2024 18:33:34 UTC
Project code: 2024-0103161
Project Name: 51299 BNSF, Bridgeport

Federal Nexus: yes
Federal Action Agency (if applicable): Federal Highway Administration

Subject: Record of project representative's no effect determination for '51299 BNSF, Bridgeport'

Dear Matthew Greiner:

This letter records your determination using the Information for Planning and Consultation (IPaC) system provided to the U.S. Fish and Wildlife Service (Service) on July 17, 2024, for '51299 BNSF, Bridgeport' (here forward, Project). This project has been assigned Project Code 2024-0103161 and all future correspondence should clearly reference this number. **Please carefully review this letter.**

Ensuring Accurate Determinations When Using IPaC

The Service developed the IPaC system and associated species' determination keys in accordance with the Endangered Species Act of 1973 (ESA; 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and based on a standing analysis. All information submitted by the Project proponent into IPaC must accurately represent the full scope and details of the Project.

Failure to accurately represent or implement the Project as detailed in IPaC or the Northern Long-eared Bat Rangewide Determination Key (Dkey), invalidates this letter. ***Answers to certain questions in the DKey commit the project proponent to implementation of conservation measures that must be followed for the ESA determination to remain valid.***

Determination for the Northern Long-Eared Bat

Based upon your IPaC submission and a standing analysis, your project has reached the determination of "No Effect" on the northern long-eared bat. To make a no effect determination, the full scope of the proposed project implementation (action) should not have any effects (either positive or negative), to a federally listed species or designated critical habitat. Effects of the action are all consequences to listed species or critical habitat that are caused by the proposed

action, including the consequences of other activities that are caused by the proposed action. A consequence is caused by the proposed action if it would not occur but for the proposed action and it is reasonably certain to occur. Effects of the action may occur later in time and may include consequences occurring outside the immediate area involved in the action. (See § 402.17).

Under Section 7 of the ESA, if a federal action agency makes a no effect determination, no consultation with the Service is required (ESA §7). If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required except when the Service concurs, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat [50 CFR §402.02, 50 CFR§402.13].

Other Species and Critical Habitat that May be Present in the Action Area

The IPaC-assisted determination for the northern long-eared bat does not apply to the following ESA-protected species and/or critical habitat that also may occur in your Action area:

- Monarch Butterfly *Danaus plexippus* Candidate
- Pallid Sturgeon *Scaphirhynchus albus* Endangered
- Piping Plover *Charadrius melodus* Threatened
- Western Prairie Fringed Orchid *Platanthera praeclara* Threatened
- Whooping Crane *Grus americana* Endangered

You may coordinate with our Office to determine whether the Action may affect the animal species listed above and, if so, how they may be affected.

Next Steps

Based upon your IPaC submission, your project has reached the determination of “No Effect” on the northern long-eared bat. If there are no updates on listed species, no further consultation/ coordination for this project is required with respect to the northern long-eared bat. However, the Service recommends that project proponents re-evaluate the Project in IPaC if: 1) the scope, timing, duration, or location of the Project changes (includes any project changes or amendments); 2) new information reveals the Project may impact (positively or negatively) federally listed species or designated critical habitat; or 3) a new species is listed, or critical habitat designated. If any of the above conditions occurs, additional coordination with the Service should take place to ensure compliance with the Act.

If you have any questions regarding this letter or need further assistance, please contact the Nebraska Ecological Services Field Office and reference Project Code 2024-0103161 associated with this Project.

Compliance with Nebraska Nongame and Endangered Species Conservation Act Federally listed species protected under the Endangered Species Act are also state-listed under the Nebraska state statute, the Nebraska Nongame and Endangered Species Conservation Act. To determine if the proposed project may affect state-listed species, the Service recommends that the

project proponent contact the Nebraska Game and Parks Commission (NGPC) Planning and Program Division located at 2200 North 33rd Street Lincoln, Nebraska 68503-0370. To request an environmental review from the NGPC, visit their Environmental Review website at http://outdoornebraska.gov/environmentalreview/ for instructions.

Action Description
You provided to IPaC the following name and description for the subject Action.

1. Name

51299 BNSF, Bridgeport

2. Description

The following description was provided for the project '51299 BNSF, Bridgeport':

> This proposed Project involves constructing a viaduct at the location where U.S. Highway 26 (US-26)/Nebraska Highway 92 (N-92) crosses the BNSF Railway's (BNSF) railroad tracks west of the City of Bridgeport, Morrill County, Nebraska. The existing at-grade crossing is located west of the intersection of Recreation Road and Fifth Street (US-26/N-92) in the City of Bridgeport. The proposed Project would close the existing at-grade BNSF railroad crossing, 089-081-B, at US-26/N-92 mile marker 60.92 and would construct a new viaduct. The proposed viaduct would diverge from the existing highway alignment at about J Street on the east, pass to the south of the two electrical substations west of the railroad tracks, and reconnect to the existing US-26/N-92, approximately 0.4 mile west of the existing US-26/N-92 at-grade crossing.
> The proposed Project would involve constructing a new, two-lane grade-separated viaduct to carry US-26/N-92 over the existing BNSF single mainline track plus future mainline tracks. The existing at-grade crossing of the railroad tracks would be removed. The proposed viaduct is anticipated to consist of a pier and abutment configuration. Proposed viaduct sections would generally be 54 feet wide and would likely include two 12-foot-wide through lanes with 10-foot-wide shoulders, a 7-foot-6-inch-wide sidewalk on the north side of the viaduct, a 1-foot-4-inch bridge rail on the south side, and a 1-foot-wide bridge rail between the westbound traffic lane and the sidewalk. In addition, roads at the viaduct ends would need to be reconstructed to provide access to nearby residences and businesses. The viaduct would conform to BNSF design standards and would provide adequate vertical clearance of 23 feet 4 inches for continued use of the BNSF mainline and siding tracks. The bridge length would accommodate the existing single mainline track plus an additional two future mainline tracks. Viaduct approach grades of three to five percent are expected. As a result, multiple access points to adjacent properties would be eliminated from US-26/N-92, reducing cross-traffic conflicts and allowing traffic to flow more smoothly.
> During construction of the proposed Project, two separate and temporary hard-surfaced roads would be constructed, which would run along the north side of the existing road at the points where the realigned US 26/N 92 would tie back into the existing highway. Between the tie-in points, the existing US-26/N-92 pavement and the existing railroad crossing would be utilized to handle traffic during construction. The viaduct and a majority of the new roadway could be constructed without affecting traffic on existing US-26/N-92, thus minimizing the time traffic would need to run on the temporary roads. Access to the residential neighborhood

located north of US-26/N-92 would be maintained via I Street and 4th Street. For homes which abut US-26/N-92, the contractor would work with residents prior to construction activities to maintain access via temporary roads or phased paving. Access to Recreation Road would be maintained for vehicular traffic and recreational vehicles via temporary roads or phased paving, thus no detour route for Recreation Road would be required. Furthermore, a detour would not be feasible because the length of the only possible detour route would exceed 38 miles and would substantially affect the businesses located to the west of the railroad tracks. In addition, the proposed Project would maintain access to the Bridgeport State Recreation Area (SRA) and adjacent businesses at all times and would accommodate ingress and egress to and from a public street throughout construction. This may require the phased construction of new driveways and connections to existing streets to allow access from the public street during construction.
Once construction is complete, the old US-26/N-92 pavement would be left in place to provide access to the businesses and electrical substations on the..

The approximate location of the project can be viewed in Google Maps: https://www.google.com/maps/@41.669304100000005,-103.11186656769125,14z

DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the Endangered northern long-eared bat (Myotis septentrionalis). Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for those species.

QUALIFICATION INTERVIEW

1. Does the proposed project include, or is it reasonably certain to cause, intentional take of the northern long-eared bat or any other listed species?

   Note: Intentional take is defined as take that is the intended result of a project. Intentional take could refer to research, direct species management, surveys, and/or studies that include intentional handling/encountering, harassment, collection, or capturing of any individual of a federally listed threatened, endangered or proposed species?

   No

2. The action area does not overlap with an area for which U.S. Fish and Wildlife Service currently has data to support the presumption that the northern long-eared bat is present. Are you aware of other data that indicates that northern long-eared bats (NLEB) are likely to be present in the action area?

   Bat occurrence data may include identification of NLEBs in hibernacula, capture of NLEBs, tracking of NLEBs to roost trees, or confirmed NLEB acoustic detections. Data on captures, roost tree use, and acoustic detections should post-date the year when white-nose syndrome was detected in the relevant state. With this question, we are looking for data that, for some reason, may have not yet been made available to U.S. Fish and Wildlife Service.

   No

3. Does any component of the action involve construction or operation of wind turbines?

   Note: For federal actions, answer ‘yes’ if the construction or operation of wind power facilities is either (1) part of the federal action or (2) would not occur but for a federal agency action (federal permit, funding, etc.).

   No

4. Is the proposed action authorized, permitted, licensed, funded, or being carried out by a Federal agency in whole or in part?

   Yes

5. Is the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), or Federal Transit Administration (FTA) funding or authorizing the proposed action, in whole or in part?

   Yes

6. FHWA, FRA, and FTA have completed a range-wide programmatic consultation for transportation- related actions within the range of the Indiana bat and northern long-eared bat.

   Does your proposed action fall within the scope of this programmatic consultation?

   Note:If you have **previously consulted** on your proposed action with the Service under the NLEB 4dRule, answer 'no' to this question and proceed with using this key. If you have **not yet consulted** with the Service on your proposed action and are unsure whether your proposed action falls within the scope of the FHWA, FRA, FTA range-wide programmatic consultation, please select "Yes" and use the FHWA, FRA, FTA Assisted Determination Key in IPaC to determine if the programmatic consultation is applicable to your action. Return to this key and answer ‘no’ to this question if it is not.

   No

7. Are you an employee of the federal action agency or have you been officially designated in writing by the agency as its designated non-federal representative for the purposes of Endangered Species Act Section 7 informal consultation per 50 CFR § 402.08?

   Note: This key may be used for federal actions and for non-federal actions to facilitate section 7 consultation and to help determine whether an incidental take permit may be needed, respectively. This question is for information purposes only.

   No

8. Is the lead federal action agency the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC)? Is the Environmental Protection Agency (EPA) or Federal Communications Commission (FCC) funding or authorizing the proposed action, in whole or in part?

   No

9. Is the lead federal action agency the Federal Energy Regulatory Commission (FERC)?

   No

10. Have you determined that your proposed action will have no effect on the northern long-eared bat? Remember to consider the effects of any activities that would not occur but for the proposed action.

    If you think that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, answer “No” below and continue through the key. If you have determined that the northern long-eared bat does not occur in your project’s action area and/or that your project will have no effects whatsoever on the species despite the potential for it to occur in the action area, you may make a “no effect” determination for the northern long-eared bat.

    Note: Federal agencies (or their designated non-federal representatives) must consult with USFWS on federal agency actions that may affect listed species [50 CFR 402.14(a)]. Consultation is not required for actions that will not affect listed species or critical habitat. Therefore, this determination key will not provide a consistency or verification letter for actions that will not affect listed species. If you believe that the northern long-eared bat may be affected by your project or if you would like assistance in deciding, please answer “No” and continue through the key. Remember that this key addresses only effects to the northern long-eared bat. Consultation with USFWS would be required if your action may affect another listed species or critical habitat. The definition of Effects of the Action can be found here: https://www.fws.gov/media/northern-long-eared-bat-assisted-determination-key-selected-definitions

    Yes

PROJECT QUESTIONNAIRE

Will all project activities by completed by November 30, 2024?

No

IPAC USER CONTACT INFORMATION

Agency: Nebraska Department of Transportation
Name: Matthew Greiner
Address: 1500 Nebraska Parkway
City: Lincoln
State: NE
Zip: 68502
Email matthew.greiner@nebraska.gov
Phone: 4024794419

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

Memorandum

DATE 3/13/2025

TO Justin Luther, FHWA Program Delivery Team Lead
File

FROM Matthew Greiner, NDOT Environmental Specialist III

SUBJECT Evaluation of the Proposed Species Monarch Butterfly (*Danaus Plexippus*) and Suckley's cuckoo bumble bee (*Bombus Suckleyi*)
BNSF, Bridgeport; CN 51299; RRZ-TMT-26-1(161)
Threatened & Endangered Species Concurrence

NDOT/FHWA is evaluating impacts to the proposed threatened species monarch butterfly (proposed December 10th, 2024) and proposed endangered species Suckley's Cuckoo Bumble Bee (proposed on December 16th, 2024) on the project BNSF, Bridgeport RRZ-TMT-26-1(161), CN 51299 for as endangered. Under section 7(a)(4) of the endangered species act each federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This project was initially reviewed through NDOT's Programmatic Agreement Among the FHWA, USFWS, NDOT, and NGPC for the Determination of Effects to State and Federal Listed Species from the Federal-Aid Highway Program on 7/17/2024. It was determined that the project "May Affect, but is not likely to Adversely Affect Swift Fox or their habitat with the implementation of conservation conditions.

Suckley's Cuckoo Bumble Bee

Suckley's cuckoo bumble bee (*Bombus suckleyi*), an obligate social parasite, primarily relies on host species to raise its larvae while adults feed on nectar. This species' range predominantly covers western North America, with Nebraska marking the most southeastern extent. Historically, only three sightings of Suckley's cuckoo bumble bee have been recorded in Nebraska: one each in Dawes and Sioux Counties, and one in Lancaster County in 1892. Despite extensive surveys by citizen science initiatives such as the Bumble Bee Atlas, the species has not been detected in the state since 1999-2001, suggesting possible extirpation.

This project is located within/near the town of Bridgeport, Nebraska (See attached map). The scope of this project includes construction of an overpass over the BNSF Railroad in Bridgeport, Nebraska. The project limits are within an urban location / hayed field near the Western Area Power Administration (WAPA) power station in Bridgeport, Nebraska. This field could offer marginal habitat for Suckley's cuckoo bumble bee when flowering resources are available, however, it is regularly hayed. The species has not been detected in Nebraska for over 20 years and has only been seen in Nebraska 3 times since 1892. Given that this project is impacting a relatively small amount of marginal habitat for the species and that the species is not likely present or extremely rare in Nebraska, this project would not jeopardize the continued existence of Suckley's Cuckoo Bumble Bee. NDOT/FHWA will re-evaluate the project for impacts to the Suckley's Cuckoo Bumble once it is listed as endangered under the ESA.

Monarch Butterfly

The monarch butterfly (*Danaus plexippus*) is common throughout the United States in Nebraska. The larvae of the Monarch butterfly are obligates of *Asclepias spp.* and closely related species. The adults feed on nectar from a variety of flowering plants.

This project is located within / near the town of Bridgeport, Nebraska (See attached map). The scope of this project includes construction of an overpass over the BNSF Railroad in Bridgeport. The product limits are within a rural location / hayed field near the WAPA Power station in Bridgeport, Nebraska. The hayed field could offer marginal habitat for monarch butterflies through the presence of nectar resources for adults and milkweed for larvae. However, given the small amounts of impacts associated with this project in potentially suitable habitat for monarch butterflies, this project would not jeopardize the continued existence of the monarch butterfly. NDOT has submitted an application to the monarch butterfly national candidate conservation agreement with assurances (CCAA) and is awaiting approval. Once NDOT is fully enrolled within the monarch butterfly CCAA, NDOT/FHWA will re-evaluate the impacts of this project on Monarch butterflies.
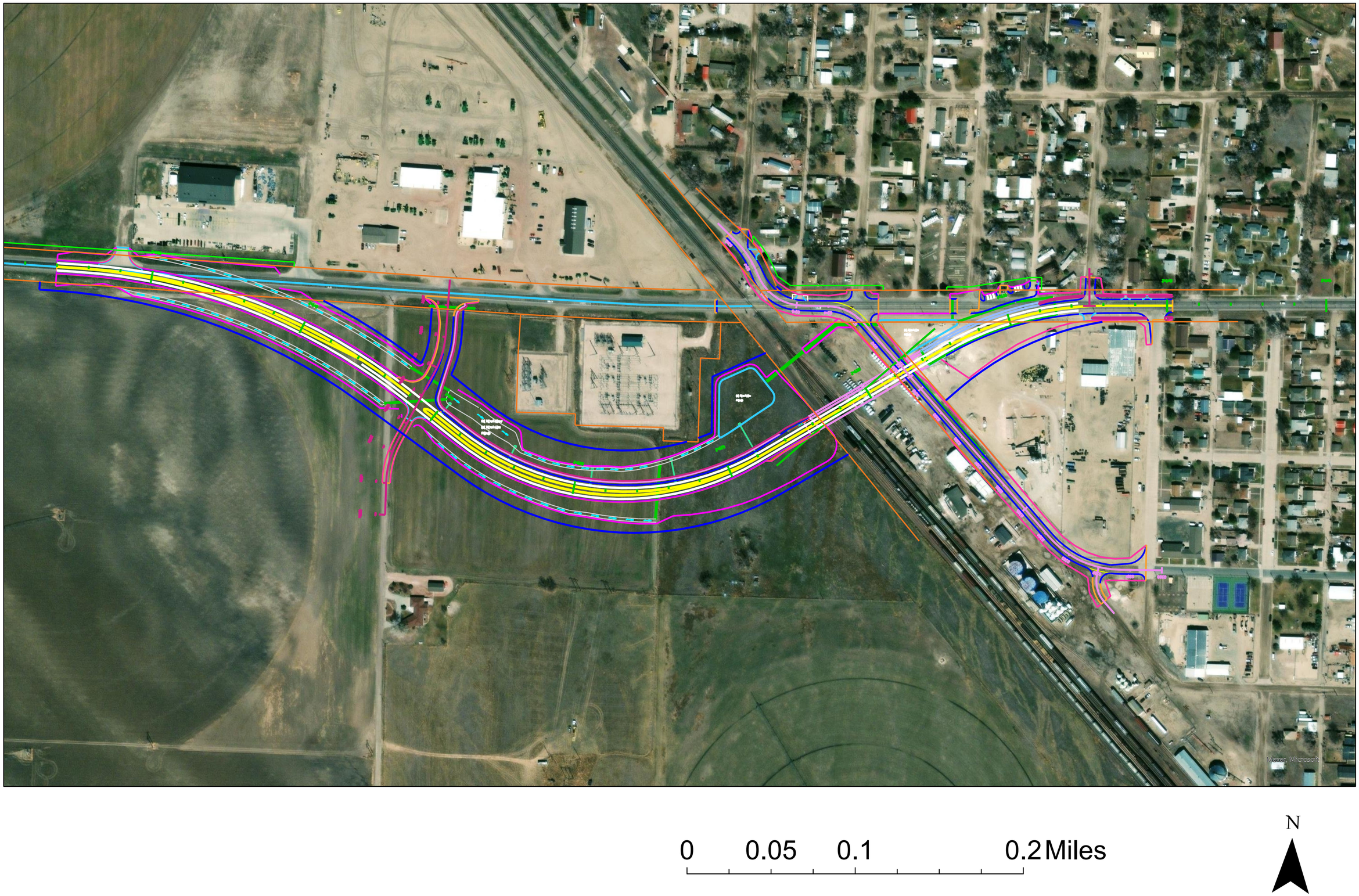
Figure 1. BNSF Bridgeport ; CN 51299