

**Federal Railroad Administration  
Finding of No Significant Impacts (FONSI)  
For  
33rd and Cornhusker Viaduct Project  
(also referred to as North 33rd and Cornhusker Project)**

In May 2024, the Federal Highway Administration (FHWA), in coordination with the Nebraska Department of Transportation (NDOT) and City of Lincoln/Lancaster County Railroad Transportation Safety District (RTSD), prepared an Environmental Assessment (EA) for the 33rd and Cornhusker Viaduct Project (also known as the North 33rd and Cornhusker Project) to evaluate potential impacts to the human and natural environment in accordance with the National Environmental Policy Act (NEPA). FHWA published an errata sheet to the EA in response to public comments and completed a Finding of No Significant Impacts (FONSI) in May 2025. The Federal Railroad Administration (FRA) received an application from the City of Lincoln for final design, right-of-way acquisition, and construction funding for the 33rd and Cornhusker Viaduct Project. FRA's funding is through the Railroad Crossing Elimination Program for Fiscal Years 2023–24 (application received in September 2024). FRA has reviewed the EA and supporting documentation to support its action under NEPA (approval of grant funding).

The FHWA EA described the railroad crossing separation portion of the overall project as follows:

The BNSF Railway (BNSF) railroad corridor contains three at-grade crossings within northeast Lincoln between N. 27th Street and N. 48th Street. These crossings are located at N. 33rd Street south of Cornhusker Highway (U.S. Highway 6 (US-6)), Adams Street at approximately N. 35th Street, and N. 44th Street south of Cornhusker Highway. The RTSD is proposing to eliminate the at-grade crossings at N. 33rd Street and Adams Street by improving the roadway network in this area and constructing a grade separation across the BNSF railroad tracks at N. 31st Street, just south of Cornhusker Highway. The existing at-grade crossing at N. 44th Street would remain open to vehicle, bicycle, and pedestrian traffic and would be improved to comply with the Americans with Disabilities Act (ADA) requirements.

The City of Lincoln/RTSD's funding application describes the FRA project as follows:

The City of Lincoln, along with the Lincoln/Lancaster County Railroad Transportation Safety District (RTSD), proposes eliminating two at-grade railroad crossings at N. 33rd Street and Adams Street near Cornhusker Highway (U. S. Highway 6 [U.S. 6]) and building a new bridge structure over the rail corridor. A third at-grade crossing at N. 44th Street would remain open to vehicular and pedestrian traffic but would be improved to comply with Americans with Disabilities Act (ADA) requirements. This \$114 million project will improve safety outcomes by eliminating two at-grade crossings that have resulted in 20 accidents with six fatalities in recent years. It will reduce vehicular congestion and emissions due to up to 3.6 hours of idling due to trains (65 pre-pandemic; 48 post-pandemic) crossing the two intersections daily. Those blockages create unacceptable delays and necessitate

rerouting for first responders and emergency services. The new viaduct will increase reliability and efficiency of rail operations between Hobson Yard and Havelock Yard while reducing environmental burdens on the surrounding community and improving multimodal connectivity through sidewalk and trail improvements.

Based on the application from the City of Lincoln/RTSD, transportation improvements in northern Lincoln are needed because of the high volume of vehicle and train traffic near the BNSF rail corridor between N. 27th and N. 48th Streets. The FRA project is critical to address safety and access concerns at the at-grade crossings, accommodate existing and future traffic to reduce congestion along roadways crossing the rail corridor, and improve multimodal connectivity in northern Lincoln.

Although FRA was not originally involved with the FHWA NEPA process, FRA designated FHWA as the lead Federal agency for the environmental review process, including NEPA and applicable federal laws in July 2025. Pursuant to 49 United States Code (U.S.C.) § 304a(c), also known as the Department of Transportation Act, FRA reviewed the FHWA environmental documentation (EA/FONSI) and concluded FRA's federal action, as described above, is substantially the same as the action evaluated in FHWA's EA (May 2024). In addition, FRA determined the FHWA documentation is sufficient and meets the standards for an adequate EA under NEPA (42 USC §§ 4321 et seq.) and the FHWA/FTA/FRA joint regulations implementing NEPA (23 Code of Federal Regulations [CFR] Part 771). The FHWA environmental documentation also supports the conclusion under Section 4(f) of the Department of Transportation Act (49 U.S.C. § 303) and the FHWA/FTA/FRA joint regulations (23 CFR Part 774) that the FRA project will result in use of Section 4(f) properties.

The project is expected to result in *de minimis* impacts to Fleming Fields Recreation Sports Park, 34th and Madison Park, Huntington Trail, Dietrich Trail, and 33rd Street Trail. 45th and Gladstone Park requires a temporary occupancy exception, which Lincoln Parks and Recreation concurred with in January 2025. A Land and Water Conservation Fund (LWCF)/Section 6(f) conversion for impacts to 34th and Madison Park is required. This 1.8-acre park would be reduced in size by approximately one-tenth of an acre. Currently listed as a commitment in the FHWA Final EA/FONSI, Wilderness Hills Park is the identified Section 6(f) replacement property now under construction. NDOT and the City of Lincoln will incorporate expected National Park Service (NPS) and Nebraska Game and Parks Commission (NGPC) approvals in any future required re-evaluations.

Pursuant to 36 CFR § 800.2(a)(2), FRA designated FHWA the lead Federal agency for compliance with Section 106 of the National Historic Preservation Act (NHPA; 54 USC § 306108) and its implementing regulations (36 CFR Part 800). The FHWA EA described that the project would have no effect to cultural, historic, or archaeological resources in the Area of Potential Effects (APE), as no historic properties were identified. NDOT recommended a project effects determination of no historic properties affected and FHWA concurred with this determination in February 2023. The undertaking has been reviewed under the programmatic agreement entitled *Programmatic Agreement Among the Federal Highway Administration, the Nebraska State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Nebraska Department of Roads to Satisfy the Requirements of Section 106 for the Federal*

*Aid Highway Program in the State of Nebraska (February 2023)* and meets the requirements to be considered a Tier II Project. FRA confirmed that no changes to the project or conditions related to the historic environment warrant consultation with the State Historic Preservation Officer (SHPO).

Pursuant to 50 CFR § 402.7, FRA designated FHWA the lead Federal agency for compliance with Section 7 of the Endangered Species Act (ESA; 16 USC § 1536). NDOT, on behalf of FHWA, evaluated the potential effects of the overall project on federally listed species and critical habitat under Section 7. The biological assessment for this project was initially reviewed through NDOT's *Programmatic Agreement Among the FHWA, U.S. Fish and Wildlife Service (USFWS), NDOT, and Nebraska Game and Parks Commission (NGPC) for the Determination of Effects to State and Federal Listed Species from the Federal-Aid Highway Program (January 2017)* in September 2022, and determined that with implementation of conservation conditions, the project "may affect but is not likely to adversely affect" eastern black rail and northern long-eared bat (NLEB) and would have "no effect" to all other state- or federally listed species or their designated critical habitat. The determination received concurrence from USFWS and NGPC in October 2022. In 2023, NDOT re-evaluated the project due to reclassification of NLEB from threatened status to endangered, and due to the proposal to list tri-colored bat (TCB) as an endangered species. NDOT reinitiated consultation for NLEB per guidance from USFWS and NGPC in May 2023 via the *FHWA, FRA, FTA Programmatic Consultation for Transportation Projects Affecting Northern Long-eared Bat or Indiana Bat Determination Key* within the USFWS's Information Planning and Consultation (IPaC) tool. NDOT received a no effect consistency letter from IPaC and USFWS in December 2023. Due to the lack of suitable habitat and a negative bat survey on the two-bridge sized structure on the project, the project would not jeopardize continued existence of TCB. FRA re-evaluated the determination based on current information about the FRA project and biological environment and confirmed that no new species effects were identified and additional consultation with USFWS is not warranted.

FRA has carefully considered the project record and is adopting and incorporating by reference FHWA's EA and additional errata documentation. Based on the analysis therein, FRA has determined that its action will have no foreseeable significant impact on the quality of the human or natural environment provided it is implemented in accordance with the environmental commitments identified in FHWA's Final EA (pages 47 to 60) and adopted by FRA. FRA, relying on FHWA's evaluation as the lead Federal agency, has also satisfied requirements under the NHPA, ESA, DOT Act, and other applicable laws.

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Stephanie B. Perez  
Chief, Environmental Review Division  
Office of Environmental Program Management  
Federal Railroad Administration

Sept. 5, 2025  
Date