ENVIRONMENTAL BULLETIN

A routine publication providing environmental-related guidance to NDOT District Staff and Contractors

NEBRASKA
DEPARTMENT OF TRANSPORTATION

SPRING 2021

IN THIS ISSUE

Documenting a Change Order Environmental Review

The NDOT Construction Project Manager is responsible for initiating the Change Order process. When a Change Order is initiated, it is reviewed against the Contract, Green Sheets and Right of Way commitments to determine the level of environmental review necessary to implement the change. The Change Order Environmental Review Form NDOT194 (COERF) must be completed and decisions documented in the Change Order prior to processing the Change Order. When the COERF is completed, it must be filed in OnBase (NDOT's document management software), at the following location: "NDOT DIST Change Order – Supporting Docs."

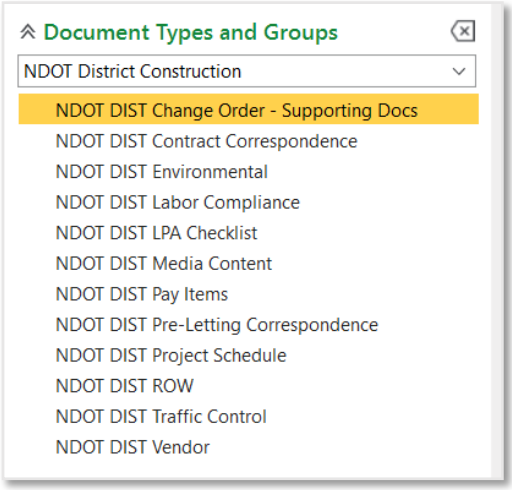

Figure 1 - OnBase Location for COERF

FOR MORE INFORMATION
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Roadside Development and Compliance Unit

T&E Species and MBTA Updates

Threatened and Endangered Species

In December 2020, the Nebraska Game and Parks Commission (NGPC) officially delisted river otter. The recovery of this dynamic mammal is a conservation success for Nebraska. NDOT and contractors have been an essential part of that story by implementing our conservation conditions on our construction projects across the state. Over the years, NDOT has conducted hundreds of river otter pre-construction surveys and responded to calls from contractors that have observed river otter near projects. Due to the delisting's calendar date, 2021, construction contracts will still contain river otter conservation conditions. However, as the river otter has been delisted, those conservation conditions are no longer required. If you have any questions, please feel free to reach out to NDOT biologists. See below for contact information.

NGPC has also listed two new species in Nebraska: The timber rattlesnake and the thick-billed longspur.

- The timber rattlesnake has a small range in southeastern Nebraska, primarily in Jefferson, Gage, Pawnee, Nemaha, and Richardson counties. As the name implies, timber rattlesnakes commonly use rocky outcroppings in wooded areas, but these snakes will use grassland areas. Timber rattlesnakes are found in the same region as the western massasauga rattlesnake and will likely require similar conservation conditions in construction contracts. Both snake species are venomous and should not be handled.

- The thick-billed longspur is a small songbird that inhabits the shortgrass prairies of the Nebraska panhandle. The thick-billed longspur nests in light to moderately grazed shortgrass prairie and typically nests from mid-March to mid-August. The thick-billed longspur uses much of the same region as the mountain plover and will likely have similar conservation conditions in construction contracts.

More information on these species can be found at the NGPC website: http://outdoornebraska.gov/listingaction/

In December 2020, the US Fish and Wildlife Service (USFWS) listed the eastern black rail, a small marsh bird. The eastern black rail occasionally uses wetlands in the central Great Plains but is considered a rare bird in Nebraska. Due to this species' limited occurrences, conservation conditions for the eastern black rail will be unlikely.

NDOT, USFWS, NGPC, and the Federal Highway Administration are working to finalize the newly listed species' conservation conditions. NDOT will distribute that information when it becomes available.

Migratory Bird Treaty Act

Over the last six months, several news articles have discussed potential changes to the Migratory Bird Treaty Act (MBTA). As currently written, the MBTA does not allow the purposeful or incidental take of migratory birds, eggs, or young. Take refers to the killing, hunting, harassment, or injury of over 1,100 different avian species. In 2017, the US Fish Wildlife Service proposed a change to the MBTA (Federal memorandum opinion 37050 or the "M-Opinion") that would allow "incidental" take of birds, eggs, or young that was previously barred in the MBTA. If enacted, the proposed change would be a substantial departure from the previous interpretation of the MBTA. The M-Opinion was challenged in Federal court and was struck down in August 2020. With the change in Administration, the US Fish and Wildlife Service has announced that it will no longer be pursuing the changes outlined in the M-Opinion. NDOT will continue to monitor any potential changes to the MBTA. As a general practice, NDOT will continue to use the Avian Protection Plan to minimize impacts to migratory birds. Contractors should review the APP and contact NDOT Biologists if they have additional questions.

FOR MORE INFORMATION

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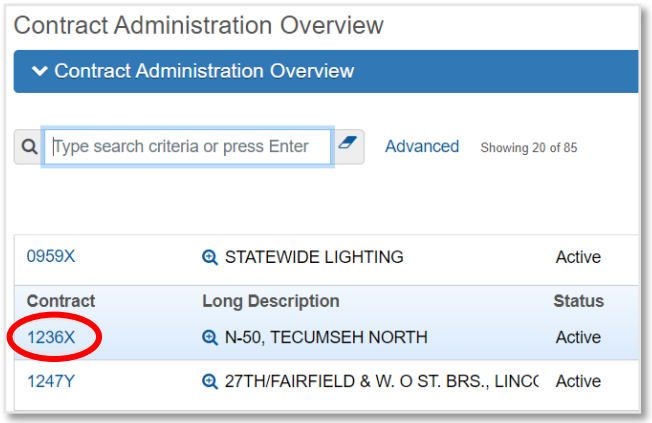
How to Clear the Environmental Commitment Checklist - Recurring Contract Time in AASHTOWare Project

The Environmental Commitment Checklist is a one-time project report for documenting environmental commitments during construction. This is done in addition to any required stormwater inspections. The Checklist should be reviewed prior to the start of construction to ensure commitments are understood by project staff and contractors. Documentation should be provided throughout the project as commitments are completed. At the end of construction, the Checklist must be finalized and submitted using the ECODatabase Inspection Tool.

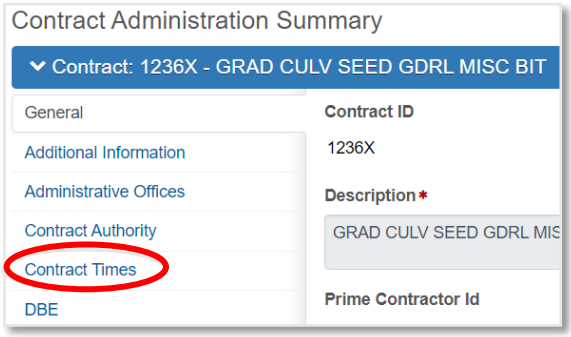
Once the ECOD report submitted, the Project Manager will need to clear the Environmental Commitment Checklist – Recurring Contract Time in AASHTOWare Project. Project Managers will perform the following:

Log into AASHTOWare and follow the below navigation:

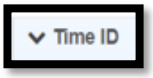
1. From the Dashboard under 'Contract Administration Overview', select the blue hyperlink 'Contract' of the applicable Contract.



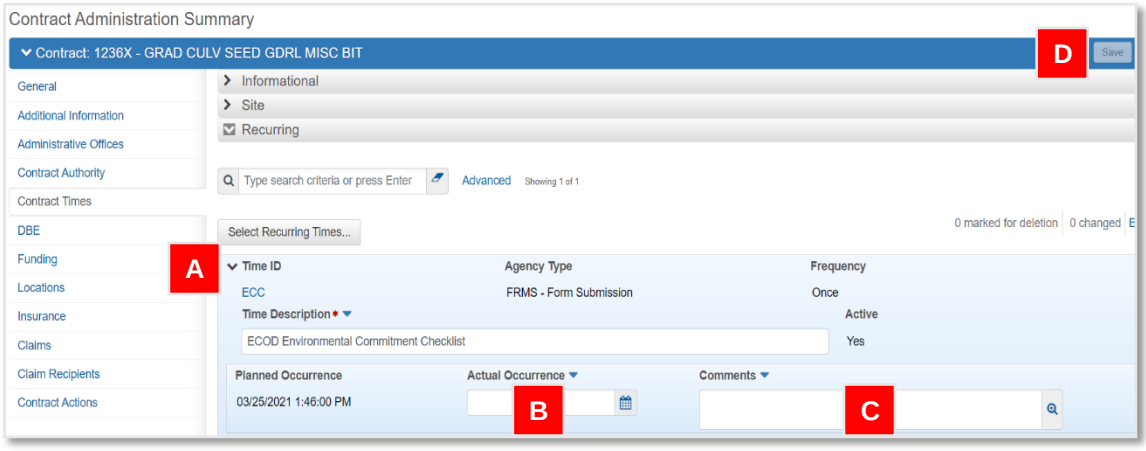
2. From the left-side tabs, select 'Contract Times.'



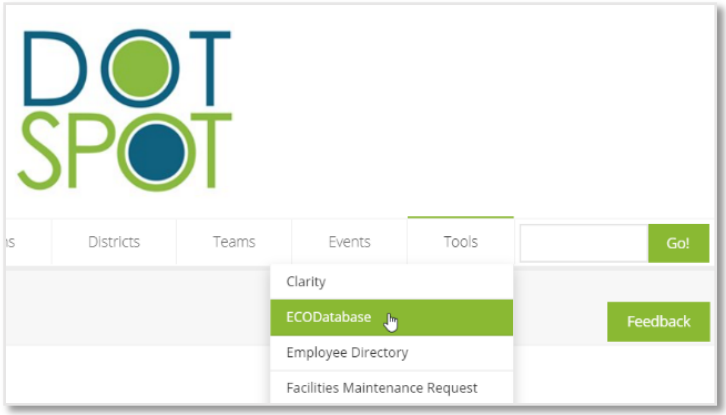
3. You will see a list of 3 types of Contract Times (Informational/Site/Recurring). Scroll down to the bottom of the list under 'Recurring' and locate the 'ECC' Recurring Time.

4. Lastly, follow the sequence below to clear the Recurring Contract Time.
   A. Click the arrow next to 'Time ID' to expand the row 

   B. In the 'Actual Occurrence' field enter the date that the Environmental Commitment Checklist was completed and submitted in ECOD.
   C. Comments are optional. For example, 'ECOD report was submitted.'
   D. Click 'Save.'



This and other ECOD resources can be found on DOTSPOT (NDOT Internal Website) in the following location:



FOR MORE INFORMATION
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New Silt Fence Special Provision

Section 816 in the Standard Specifications for Highway Construction is void and superseded by the following. You will find this special provision starting in the May 2021 letting.

816.01 -- Description

This work consists of installing, maintaining and removing the silt fence at locations shown in the contract and at locations as approved or determined by the Engineer. The installation, maintenance and removal shall be in accordance with these Specifications, the special provisions, and the contract.

816.02 -- Material Requirements

1. All silt fence material shall be selected from the Department's Approved Products List.
2. Silt Fence Posts
   a. The silt fence posts shall be studded "T" steel posts with a minimum weight of 1.25 lbs/foot (37 Kg/m), except as stated below. Previously used studded "T" steel posts are acceptable. Posts shall be visually inspected for acceptance by the Engineer.
   b. Wooden posts shall be used for Coir Silt Fence. The wooden posts shall be derived from hardwood tree species. Posts shall be visually inspected for acceptance by the Engineer.
3. Zip ties shall be UV stabilized, black with a 50 lb (22 Kg) minimum tensile strength. Zip ties shall be visually inspected for acceptance by the Engineer.

816.03 -- Construction Methods

1. The silt fence shall be installed and in good working condition prior to any grading or excavation operations and as needed throughout the construction process. The silt fence installation shall not exceed the amount required for the current construction season.
2. Silt Fence may be installed in the ground by either of the two methods listed below.
   a. Trenching Method
      (1) The Contractor shall excavate a trench to the depth, width, and length shown in the contract.
      (2) The Contractor shall place the silt fence in the trench and pin it as shown in the contract.
      (3) Wire staples shall be used for anchoring the silt fence.
      (4) The Contractor shall backfill the trench, compact the soil, and attach the fabric to the posts as shown in the contract. The posts shall be driven until firm.
   b. Slicing Method
      (1) The Contractor shall install silt fence by mechanically slicing the material into the soil.
      (2) The Contractor shall compact the soil and attach the fabric to the posts as shown in the contract. The posts shall be driven until firm.
4. Silt Fence installed in below water conditions.
   a. Trenching is not required.
   b. Fold a 6 inch (150 mm) flap toward the sediment source and pin as shown in the contract. Install the stakes as for a dry installation. Attach the fabric to the posts with zip ties or other approved methods and secure it from slipping down the post.
5. All silt fence splice joints shall be overlapped a minimum of 6 feet (1.8 m).
6. The Contractor shall remove sediment that accumulates near the silt fence during construction and disposed of as waste excavation, used as salvaged topsoil, or placed in an on-project upland location.
   a. Sediment removal shall be initiated when sediment depth has reached one-half the height of the above ground portion of the silt fence or as directed by the Engineer in conjunction with silt fence repairs.
   b. Sediment shall be removed to approximately 6 inches (150 mm) from the face of the silt fence.

c. Each time sediment is removed, the silt fence shall be repaired to a good working condition. Good working condition includes fabric repair, retrenching, post repair, tie replacement, and any associated handwork.

7. The Contractor shall maintain the silt fence in good working condition throughout the life of the construction project. Upon completion of the project silt fence shall be removed from locations as specified by the Engineer, or as described in the Contract.
   a. During construction, Silt Fence that becomes weathered and brittle shall be replaced as determined by the Engineer.
   b. Silt fence that is subject to removal shall be cut off at ground level and shall remain the property of the Contractor for disposal.
   c. Silt fence posts from removed fence shall remain the property of the Contractor and may be reused on other installations.
   d. Any accumulated sediment shall be removed and disposed of as waste excavation, used as salvaged topsoil, or placed at an on-project upland location.
   e. Locations where sediment has been removed shall be seeded and mulched or covered with erosion control as defined elsewhere in the Standard Specifications and as specified by the Engineer.
   f. Any permanent seeding or erosion control measures damaged during the removal of the silt fence shall be restored.

816.04 -- Method of Measurement

1. Silt fence will be measured by the length of the silt fence in linear feet (meter).
2. Removal of sediment from the silt fence and all associated hand work will be measured based on linear feet of silt fence.
3. Silt fence removal will be measured by the length of the silt fence removed in linear feet (meter).

816.05 -- Basis of Payment

1. **Pay Item** — **Pay Unit**

Fabric Silt Fence “Low Porosity”	Linear Foot (LF) [Meter (m)]
Fabric Silt Fence “High Porosity”	Linear Foot (LF) [Meter (m)]
Fabric Silt Fence “Low Profile”	Linear Foot (LF) [Meter (m)]
Fabric Silt Fence “Coir Fiber”	Linear Foot (LF) [Meter (m)]
Remove Silt Fence	Linear Foot (LF) [Meter (m)]
Silt Fence Cleanout	Linear Foot (LF) [Meter (m)]

2. All silt fence repairs, such as fabric repair, tie replacement, retrenching, splicing, and associated handwork are subsidiary to the appropriate silt fence item.
3. Payment will be made for silt fence that is required to replace material that has exceeded its life and is determined by the Engineer to be necessary in a location.
4. Payment is full compensation for all work described in this Section.

FOR MORE INFORMATION
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