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| **ENVIRONMENTAL COMMITMENTS** | Structure Replacement, Construct Wildlife Crossing Structure, Grading, Aggregate Base, HMA, Guardrail & Incidentals  **Project No. PCN**    SOIB-7-085(109)125 22041  badge3  **85**  **Prepared by**  **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**  **BISMARCK, NORTH DAKOTA**  <http://www.dot.nd.gov>/  **DIRECTOR**  **Thomas K. Sorel**  **PROJECT DEVELOPMENT DIRECTOR**  **Robert Fode, P.E.**  **Principal Author: KLJ**  **Environmental Reviewer: NDDOT**  **Current Date (2/2019)** |

**23 USC § 409**

**NDDOT Reserves All Objections**

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1. Introduction

North Dakota Department of Transportation (NDDOT) Project Number SOIB-7-085(109)125 (PCN 22041) is associated with a larger overall proposal by the NDDOT and Federal Highway Administration (FHWA) to expand US Highway 85 between Interstate 94 and the Watford City Bypass (McKenzie County Road 30). As part of this larger overall proposal, the NDDOT and FHWA prepared an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). The Final EIS/Record of Decision (ROD) identified 56 environmental commitments intended to offset and/or minimize project related impacts. Many of these environmental commitments are applicable to construction of Project Number SOIB-7-085(109)125 (PCN 22041).

The purpose of this document is to highlight commitments applicable to Project Number SOIB-7-085(109)125 (PCN 22041), identify roles and responsibilities, and provide instruction to the Project Engineer for compliance. In addition to the commitment identified in this document, all NDDOT standard specifications, plan notes and special provisions, and state and federal regulations still apply.

1. Definitions

**Qualified Paleontologist:** A qualified paleontologist is defined as an individual with a graduate degree in paleontology or geology who is proficient and experienced in recognizing, identifying, documenting, and collecting fossils in the field. The North Dakota Geological Survey (NDGS) maintains a list of individuals that are certified as qualified paleontologists and can readily obtain North Dakota State Paleontological Permits. The NDGS also maintains a list of individuals that currently hold curation agreements with the North Dakota State Fossil Collection.

**Qualified Biologist:** A biologist is considered qualified if they have obtained a four-year degree in a natural sciences field from an accredited university and is active in a professional environmental organization.

1. Commitments

The environmental commitments identified in the Final EIS/ROD are listed below, each having the same commitment number as identified in the Executive Summary and Chapter 7 of the Final EIS/ROD. Environmental commitments that are not relevant to Project Number SOIB-7-085(109)125 (PCN 22041) have been omitted. Following each commitment is a narrative detailing how implementation of the commitment is to be achieved and the responsible entity or entities in terms of compliance.

Commitment #1: *All areas temporarily disturbed by construction would be restored.*

* + This commitment is addressed within the plan documents through the incorporation of permanent seeding and grading details. In addition, a plan note (EN-10 in Section 6) requiring restoration of all temporarily impacted wetlands has been included. Compliance with this commitment is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #2: *Two lanes of traffic along US Highway 85 and reasonable construction access for all residences, businesses, and public lands would be maintained. Temporary signage pertaining to roads, businesses, and public facilities would be installed during construction as necessary.*

* + This commitment is a provision in the plan notes (704-P02 in Section 6) and is the responsibility of the Contractor. The two instances where traffic would be reduced to one lane would be during the milling and paving operation at the north and south project termini. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #3: *Borrow sites, waste sites, gravel source locations, and staging areas identified by the contractor (i.e., not included in Final EIS/ROD) would be approved through the NDDOT Material Source Approval Process. This process is followed to obtain environmental clearance on these sites to comply with all federal and state laws and regulations that govern the protection of wetlands, threatened and endangered species, and cultural resources. Material sources include rock riprap and material from commercial sources, and any other area of planned ground-disturbing activities, such as staging area(s), plant site(s), stockpile area(s), waste site(s), and haul road(s). These sites would not be permitted on any federal or public lands or within the bighorn sheep lambing areas located adjacent to the project corridor.*

* + The Contractor is responsible for submitting the Material Source Approval Request(s) to the NDDOT. The NDDOT is responsible for ensuring that any Material Source Approval Requests received from the Contractor are in compliance with this commitment.

Commitment #4: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041).*

Commitment #5: *Waste material would be disposed of in accordance with state and federal laws, and in a manner that avoids impacts on water channels and riparian areas.*

* + This commitment is covered by the NDDOT Standard Specifications for Road and Bridge Construction (October 2014) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #6: *Paleontological monitoring would occur through the Badlands area, with paleontological monitors following earth-moving equipment and examining excavated sediments and road cuts for evidence of significant fossil resources. In the event that significant fossils are uncovered, work would be halted within 100 feet of the discovery site until the fossils are assessed and mitigation measures are discussed amongst the NDDOT, a qualified paleontologist, and an authorized agency representative for resources located on public land. If located on private land, the landowner would be included in the assessment and mitigation. Outside of the Badlands area, all other areas through the Sentinel Butte and Golden Valley formations and Coleharbor Group, where excavation and expansion of road cuts would occur, would be spot-check inspected (i.e., windshield survey for bedrock) once during excavation and once after excavation is completed. Where bedrock is identified, the area would be surveyed on-foot and visually inspected for fossils of any kind.*

* + The NDDOT/Project Engineer are responsible for contracting the services of a qualified paleontologist to perform paleontological monitoring during project construction. Paleontological monitoring is required for all earth moving activities associated with Project Number SOIB-7-085(109)125 (PCN 22041) that disturb previously undisturbed soil and bedrock. Paleontological monitors will follow earth-moving equipment and examine excavated sediments and road cuts for evidence of significant fossil resources (i.e., all vertebrate fossils and rare/uncommon non-vertebrate fossils).
  + In the event that significant fossils are uncovered, the NDDOT or Project Engineer will halt all work within 100 feet and notify the NDDOT. The NDDOT, qualified paleontologist, and an authorized agency representative for resources located on public land, will assess the site and determine what, if any, mitigation measures would be required. If located on private land, the landowner will be included in the assessment and mitigation. Work within the area will not resume until approval has been granted by the NDDOT.
  + A note has been included in the plans alerting the Contractor to this commitment.

Commitment #7: *Temporary mailboxes would be supplied during construction as necessary.*

* + This commitment is covered by the NDDOT Standard Specifications for Road and Bridge Construction (October 2014) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #8: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041).*

Commitment #9: *Temporary and/or permanent replacement fencing would be provided, as necessary, to maintain existing fencing connectivity. Apart from wildlife fencing associated with wildlife crossings, fencing installed on USFS-managed lands would meet or exceed specifications provided by the USFS in Appendix B of the Final EIS/ROD.*

* + This commitment is reflected in the fencing details in the plans which have been approved by the USFS. The Project Engineer is responsible to verify the contractor complies with this commitment. Please refer to Commitment #13 for additional stipulations pertaining to range infrastructure.

Commitment #10: *Roadway design plans pertaining to USFS-managed lands, including permanent erosion control measures, would be submitted to the USFS for review prior to construction and a preconstruction field review with the USFS would occur to review design plans and stipulations with the contractor and NDDOT.*

* + The NDDOT has coordinated with the USFS and provided them a copy of the plans for review and comment.
  + A plan note (108-P03 in Section 6) has been included requiring the Contractor to invite the USFS to the preconstruction conference.

Commitment #11: *The contractor would remain apprised of fire danger conditions and follow applicable fire restrictions and safe fire practices, including fire stipulations for USFS-managed lands provided by the USFS in Appendix B of the Final EIS/ROD.*

* + This commitment has been included as a Special Provision (SP 810(14)) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #12: *The Medora and McKenzie Grazing Associations would be informed of respective impacted USFS grazing allotments prior to construction.*

* + Construction of Project Number SOIB-7-085(109)125 (PCN 22041) will impact one grazing allotment under the management of the McKenzie County Grazing Association. The NDDOT has notified the McKenzie County Grazing Association of the project. No further action is required for fulfillment of this commitment.

Commitment #13: *Unless otherwise noted within this EIS, all range infrastructure (e.g., fences, gates, water developments) would remain functional during and upon completion of construction.*

* + This commitment has been included as a plan note (752-P03 in Section 6) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment. Please refer to Commitment #9 for additional stipulations pertaining to fencing.

Commitment #14: *Timing of construction activities would be limited in proximity to the Theodore Roosevelt National Park (TRNP)  –  North Unit. Timing restrictions would extend from reference point (RP) 126 to RP 130. In this area, regular construction activities (i.e., all activities except pile driving) would be limited to 8 am to 10 pm central time (7 am to 9 pm mountain time). Pile driving activities in this area would be limited to 8 am to 7 pm central time (7 am to 6 pm mountain time). Certain construction activities may require work outside of these times. The contractor would be required to notify the NDDOT prior to working outside of the established times, and the NDDOT would notify the National Park Service (NPS). Should construction fall behind schedule, sustained 24-hour construction may be required. In the event that sustained 24-hour construction becomes necessary, the NDDOT would coordinate with NPS prior to commencing this schedule. Prior to developing the Special-Use Permit for temporary construction activities on NPS-managed lands, discussions would be had regarding extenuating circumstances that may necessitate 24-hour construction and additional conditions that may accompany 24-hour construction.*

* + This commitment has been included as a plan note (100-P02 in Section 6 and 622 in Section 170) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #15: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041)*.

Commitment #16: *A noxious weed management plan would be implemented during construction and re-seeded areas would be maintained until such time that the vegetation is consistent with surrounding undisturbed areas and the site is free of noxious weeds. Any state- or county-listed noxious weeds identified on USFS-managed lands along the project corridor would be controlled in coordination with the USFS in compliance with the 2007 DPG Noxious Weed Management Project EIS.*

* + The requirement for the Contractor to prepare a noxious weed management plan has been included as a Special Provision (SP 758(14)). The Project Engineer is responsible to verify the contractor complies with this commitment.
  + Following project completion, the NDDOT is responsible for providing eradication and control of noxious weeds (see Commitment #56) and should do so in coordination with the USFS for areas occurring within USFS easements.

Commitment #17: *All construction equipment and vehicles to be used on USFS- or NPS-managed lands would be pressure washed and free of noxious weeds and plant propagules (i.e., seeds and vegetative parts that may sprout) prior to entrance onto the project site. This would include equipment and vehicles intended for off-road as well as on-road use, whether they are owned, leased, or borrowed by the contractor or any subcontractor. Cleaning of vehicles and equipment would occur off-site.*

* + This commitment has been included as a Special Provision (SP 758(14)) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #18: *The seed mixture for the Badlands area (i.e., RP 121.4 to RP 130.0) would be developed in coordination with the NDDOT, FHWA, USFS, NPS, and Tribal Consultation Committee (TCC). The seed mixture for USFS-managed lands outside of the Badlands area would be in accordance with USFS Seed Mixture #37-28A Scenario #13. The seed mixture for all other areas would follow the NDDOT Standard Specifications for Road and Bridge Construction, and may include a pollinator component.*

* + A Badlands seed mixture has been developed and is identified in the plans as the “Seeding Class III.” This seed mixture is to be used by the Contractor for all permanent seeding associated with Project Number SOIB-7-085(109)125 (PCN 22041). The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #19: *The TRNP – North Unit Entry Sign would be removed (intact) and reset in accordance with a Special Provision of the Construction Specifications that would be drafted for the sign.*

* + Plan documents contain a Special Provision (SP 760(14)) for removing and resetting the TRNP  –  North Unit Entry Sign. This Special Provision requires the Contractor to develop a relocation plan to be reviewed and approved by the NDDOT, Project Engineer, and NPS.

Commitment #20: *Long-term, fixed lighting associated with staging areas between RP 126 and 130 would consist of downcast, shielded lighting. Lighting would not be in use 24 hours per day unless NDDOT obtains permission from the NPS for limited duration 24-hour lighting. Short-term, fixed and/or mobile lighting would not consist of downcast, shielded lighting. This lighting would be limited to the duration of construction activities, as described above.*

* + This commitment has been included as a plan note (100-P03 & 100-P04 in Section 6) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #21: *Visual screening (e.g., slatted chain link fencing) would be installed prior to construction along the western- and northern-most sides of the Long X Bridge staging areas. Visual screening would be an earth-tone color.*

* + This commitment has been included as a plan note (752-P01 in Section 6) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #22: *A grinding technique (similar to Next Generation Concrete Surface treatments) would be implemented on the new Long X Bridge to minimize noise.*

* + This commitment is identified in a Special Provision (SP 769(14)) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #23: *Prior to commencement of bridge removal activities under Option LX-3, a demolition plan would be submitted by the contractor to the NDDOT for review and approval. Removal activities would not commence until approval of the demolition plan has been received from the NDDOT. If the bridge is adopted, the State Historic Preservation Office (SHPO) would also review and approve the demolition plan. All portions of the existing bridge that extend above the river bottom would be removed and disposed of at an approved facility or salvaged. Debris and water used during concrete sawing would be prevented from falling into the river to the extent practicable. Debris and temporary fill material would be removed from the river channel to the extent practicable.*

* + Specific requirements pertaining to removal and adoption of the Long X Bridge have been included as a plan note (202 in Section 170) and are the responsibility of the Contractor. The NDDOT/Project Engineer are responsible for coordinating with the SHPO and ensuring the Contractor’s demolition plan accounts for all applicable environmental commitments identified in this document.

Commitment #24: *The streamgage located on the Long X Bridge would continue to be operational during construction activities. Under Option LX-3, coordination with the US Geological Survey (USGS) and NDSWC would occur during final design to incorporate necessary design features into the plan set and/or contract provisions for the relocation.*

* + A plan note (EN-9 in Section 6) has been included requiring the Contractor to coordinate with the USGS a minimum of two weeks prior to beginning demolition of the existing bridge. The USGS is responsible for removal of the gauge from the existing bridge and installation of the gauge on the new bridge.

Commitment #25: *During the use of any causeway or bypass, water flow would be maintained by installing temporary culverts or by leaving part of the channel open.*

* + This commitment has been included as a plan note (EN-3 in Section 6) and is the responsibility of the Contractor. In addition, as part of the 404-permitting process, an additional commitment has been added requiring the Contractor to maintain a minimum open channel width of 50 feet. This requirement is identified in Section 75 of the plans as well as in SP 759(14). The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #26: *Sandblasting and painting for Options LX-1 and LX-2 would include full containment of the bridge during sandblasting to facilitate collection, removal, and disposal of the existing paint and sandblasting materials. Containment would remain in-place during the application of the new paint system.*

* + The Selected Alternative identified in the ROD did not include Options LX-1 or LX-2; therefore, this commitment is not applicable.

Commitment #27: *Rock riprap and box culvert bottoms would be buried to minimize impacts on channels and riparian corridors.*

* + This commitment is reflected in the plan documents.

Commitment #28: *During final design, wetland and Other Waters impacts would be refined, and additional avoidance and minimization measures would be analyzed. Unavoidable permanent impacts would be mitigated for in accordance with Executive Order 11990 and Section 404 of the Clean Water Act. Wetland mitigation is anticipated to be accomplished through the creation of wetland mitigation site(s) and/or mitigated at a wetland mitigation bank. Mitigation would be determined during final design and permitting.*

* + During final design of Project Number SOIB-7-085(109)125 (PCN 22041), the NDDOT avoided and minimized impacts on wetlands and Other Waters to the extent practicable. A Section 404 permit has been obtained for Project Number SOIB-7-085(109)125 (PCN 22041). No wetland mitigation is required.

Commitment #29: *The NDDOT would coordinate with the North Dakota Game and Fish Department (NDGF) during final design of the bighorn sheep wildlife underpass. The NDDOT would coordinate with the NDGF, USFS, and NPS during final design of the wildlife fencing and associated features.*

* + During final design of Project Number SOIB-7-085(109)125 (PCN 22041), the NDDOT coordinated with the NDGF regarding the bighorn sheep wildlife underpass.
  + There is no wildlife fencing or associated features associated with Project Number SOIB-7-085(109)125 (PCN 22041); therefore, that portion of this commitment is not applicable.

Commitment #30: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041).*

Commitment #31: *The NDDOT Utility Engineer or consultant would request that utility companies install line markers (bird diverters) on overhead utility lines to be raised, lowered, and/or moved to reduce the risk of flight collisions for birds, including the whooping crane. The utility company would determine the type, number and placement/spacing of the line markers and may conclude that the placement of line markers is not feasible in certain situations.*

* + The NDDOT has coordinated with the affected utility companies and requested that bird diverters be installed on the affected utility lines. The affected utility company will make the final decision on whether or not bird diverters are installed.

Commitment #32: *A field survey for raptor nests would be completed during the breeding and nesting season in North Dakota (February 1 to August 15) in accordance with the Eagle and Raptor Aerial Nest Survey Report and Biological Evaluation (BE) that were developed for the project. If any nests are found, appropriate minimization measures (such as timing restriction and avoidance buffers) would be implemented.*

* + The NDDOT/Project Engineer are responsible for contracting the services of a qualified biologist to conduct preconstruction pedestrian field surveys for eagle and raptor nests. The survey will be conducted within a 1-mile buffer from the limits of construction and will be completed during March 15 – May 1 to coincide with the breeding and nesting season and to be completed prior to leaf-out of trees. Surveys will be completed once annually for each year of construction. Entering onto private property for the purpose of completing these surveys is not permitted. Private property located within the 1-mile buffer will be visually surveyed to the extent practicable from NDDOT right of way (ROW)/easements.
  + If active eagle or raptor nest are identified within the 1-mile buffer, avoidance and timing restrictions will vary between USFS-managed lands and non-USFS-managed lands as follows:
    - USFS-managed Lands: Any active eagle or raptor nests found on USFS-managed lands will be avoided during the breeding and nesting period in accordance with the USFS Land and Resource Management Plan (LRMP) for the Dakota Prairie Grasslands. Please refer to the following table for guidance on the minimum distances and dates recommended by the LRMP to minimize disturbance of raptors. The guidelines may be modified for the species listed in the table as well as for raptor species not listed after coordination with the USFS. The USFS will account for the type, source, frequency, and duration of disruption, as well as the extent of screening topography and vegetation in relation to the location of the active eagle or raptor nest when determining an acceptable avoidance area. Coordination with the US Fish and Wildlife Service (USFWS) will also occur if active bald or golden eagle nests are discovered within the survey area on USFS lands.

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| **RAPTORS** | **MINIMUM DISTANCE (Miles)** | **AVOIDANCE DATE RANGE** |
| Bald Eagle Nest | 1 | February 1 to July 31 |
| Bald Eagle Winter Roost | 1 | November 15 to March 1 |
| Golden Eagle Nest | 0.5 | February 1 to July 31 |
| American Peregrine Falcon Nest | 1 | February 1 to July 31 |
| Prairie Falcon Nest | 0.25 | April 1 to July 31 |
| Merlin Nest | 0.5 | April 1 to August 15 |
| Ferruginous Hawk Nest | 0.5 | March 1 to July 31 |
| Burrowing Owl Nest | 0.25 | April 15 to August 31 |

* + - Non-USFS-managed Lands: If active bald or golden eagle nests are discovered within the survey area, the USFWS will be contacted by the Project Engineer to determine the appropriate avoidance buffer or timing restriction in accordance with the National Bald Eagle Management Guidelines. Avoidance buffers ranging from 330 feet up to 1 mile may be needed to avoid impacts depending on the work activities (e.g., a larger avoidance buffer will be needed for pile driving activities compared to clearing and grading) and presence of visual screening, such as topography or vegetation. For all other raptor nests discovered during surveys on non-USFS-managed lands, direct impacts on nests (e.g., nest/tree removal) must be avoided.
  + The NDDOT is responsible for compliance with this commitment; however, a note has been included in the plan documents alerting the Contractor to the commitment and potential timing implications.

Commitment #33: *If construction activities occur during the migratory bird nesting and breeding season in North Dakota (between February 1 and July 15), work areas would be mowed and/or grubbed prior to the nesting and breeding season. If mowing and/or grubbing is not completed prior to the nesting and breeding season, a qualified biologist would conduct preconstruction surveys to check the status of existing and historical nests and search for new nests, for migratory birds, including raptors, and their nests within the work areas. If active nests are identified, the NDDOT would coordinate with the USFWS prior to commencement of work to determine any measures necessary to minimize harm. In addition, the NDDOT Standard Special Provision for the Migratory Bird Treaty Act would be included with the Construction Specifications. This Special Provision includes stipulations pertaining to nests during construction activities involving bridges, box culverts, and structural plate culverts.*

* + The NDDOT/Project Engineer are responsible for contracting the services of a qualified biologist to perform any necessary surveys. A plan note (EN-18 in Section 6) identifying Contractor responsibilities pertaining to this commitment has been included. This plan note also outlines the process to follow in the event an active migratory bird nest is identified within the project corridor. In addition to the plan note, the NDDOT Standard Special Provision for the Migratory Bird Treaty Act (SP 004(14)) has been included.

Commitment #34: *To minimize potential impacts on sharp-tailed grouse breeding habitat, spring surveys of known leks (i.e., breeding sites) identified in the BE that was prepared for the project would be conducted prior to commencement of construction activities. If a lek site is determined to be active, all construction activity within 1 mile of the active lek site would be suspended for the first two hours of daylight beginning at sunrise for the time period of May 1 to June 15.*

* + One previously identified sharp-tailed grouse lek is located within 1 mile of Project Number SOIB-7-085(109)125 (PCN 22041). The NDDOT/Project Engineer are responsible for contracting the services of a qualified biologist to perform the required spring lek surveys. Entering onto private property for the purpose of completing these surveys is not permitted. The known lek site is located on public property under the management of the USFS. A datafile containing the location of the previously identified lek site can be obtained from the NDDOT Environmental and Transportation Services Division.
  + A plan note (EN-16 in Section 6) has been included alerting the Contractor to this commitment.

Commitment #35: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041)*.

Commitment #36: *Equipment that was last used outside of North Dakota or within a Class I infested waterbody would be inspected by the NDGF prior to being placed within waters of the state (as defined in NDCC Chapter 60-01-01) to minimize the risk of spreading aquatic nuisance species.*

* + This commitment is applicable to all work occurring within the Little Missouri River. Compliance with this commitment is the responsibility of the Contractor and a plan note (EN-11 in Section 6) has been added altering them to the requirement.

Commitment #37: *To minimize impacts on fish during the spawning period, work the South Branch of the Green River, Little Missouri River, and Spring Creek would not occur between April 15 and June 1, except within coffer dams installed outside of this timeframe.*

* + This commitment, as it pertains to the Little Missouri River, has been included as a plan note (EN-1 in Section 6) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment. The South Branch of the Green River and Spring Creek are not associated with Project Number SOIB-7-085(109)125 (PCN 22041); therefore, that portion of this commitment is not applicable.

Commitment #38: *In the event that any threatened or endangered species are identified within 1 mile of construction activities, the contractor would be required to notify the project engineer immediately. The project engineer would then cease all construction activities; establish a minimum 0.5-mile avoidance area; and immediately notify and coordinate with the USFWS, FHWA, and NDDOT. The contractor would not resume work within the avoidance area until the project engineer has confirmed with the agencies that work may proceed (i.e., either species have left the area or approved minimization measures have been implemented). A threatened and endangered species poster or pamphlet would be provided on all job sites.*

* + This commitment has been included as a plan note (EN-14 in Section 6) and is the responsibility of the Contractor and Project Engineer. The Project Engineer is responsible for coordinating with the NDDOT and resource agencies, as appropriate. The NDDOT is responsible for providing the Contractor with threatened and endangered species posters or pamphlets for display at the job site.

Commitment #39: *To minimize impacts on the bighorn sheep during lambing season, construction activities from approximately RP 124.1 to RP 126.4 would be limited to an area generally defined by ROW/easement or the surface of the roadway, inslopes, and ditches from April 1 to July 15.*

* + For Project Number SOIB-7-085(109)125 (PCN 22041), no work may occur outside of the proposed NDDOT ROW/easements between April 1 and July 15. This commitment has been included as a plan note (EN-15 in Section 6) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #40: *To minimize impacts on fish species, instream riverine water flow would be maintained at baseline depth during construction to allow fish passage.*

* + This commitment has been included as a plan note (EN-2 in Section 6) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #41: *The NDGF and NDDOT would coordinate to monitor the effectiveness and manage the wildlife crossings. In addition, the NDDOT, NDGF, NPS, and USFS would coordinate to maintain the wildlife fencing and associated features.*

* + The NDDOT and NDGF have entered into an MOA stipulating that the NDGF will monitor constructed wildlife crossings for a period of five years to determine usage and success. No agreements have been put in place for maintenance of wildlife fencing or associated features. For Project Number SOIB-7-085(109)125 (PCN 22041), no further action is required for fulfillment of this commitment.

Commitment #42: *The area near the wildlife underpass at RP 126.1 within the NDDOT easement would be cleared of woody vegetation to improve sight lines for bighorn sheep as they approach the underpass.*

* + Clearing of woody vegetation near the wildlife underpass at RP 126.1 is the responsibility of the USFS.

Commitment #43: *For each construction phase, impacts on woody vegetation would be assessed and recorded during construction. The NDDOT would coordinate with the NDGF to determine future mitigation needs and methods.*

* + The Project Engineer is responsible for maintaining an accurate inventory of trees removed in conjunction with the project. Plan documents contain a note (EN-13 in Section 6) requiring the Contractor to mark all trees scheduled for removal and notify the Project Engineer a minimum of seven working days prior to removal to allow adequate time to complete an accurate tree count.
  + The Project Engineer is responsible for identifying, counting, and measuring the diameter at breast height (DBH) of all trees scheduled for removal. Trees and saplings with a DBH less than 1 inch can be counted using a representative plot density estimation. The Project Engineer is responsible for maintaining an accurate record of tree removal, which will be provided to the NDDOT upon request or project completion.
  + The NDDOT is responsible for coordinating with the NDGF to determine mitigation means and methods.

Commitment #44: *An inadvertent discovery plan would be developed for the project prior to construction that would outline procedures and requirements in the event that cultural resources are discovered during construction.*

* + Procedures and requirements in the event that cultural resources are discovered during construction are covered by the NDDOT Standard Specifications for Road and Bridge Construction (October 2014) and are the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with these requirements.

Commitment #45: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041)*.

Commitment #46: *Under Option LX-3, in accordance with the Bridge Adoption Program (23 U.S.C. 144), the Long X Bridge was made available for adoption and advertised for 30 days. If no successful adoption occurs, an MOA containing alternate mitigation measures has been signed between the FHWA, NDDOT, and SHPO. The MOA and related documentation, developed in consultation with the SHPO and consulting parties (i.e., TCC), would be filed with the Advisory Council on Historic Preservation (ACHP) at the conclusion of the consultation process.*

* + The NDDOT has formalized an adoption agreement MOA with an adoptee for the southern truss segment of the Long X Bridge. The NDDOT is responsible for ensuring that documentation is filed with the ACHP, as necessary.

Commitment #47: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041)*.

Commitment #48: *State Form Number 17987 Asbestos Notification of Demolition and Renovation form would be submitted to the North Dakota Department of Health (NDDH) at least 10 working days prior to demolition of the South Branch of the Green River Bridge and Spring Creek Bridge, and renovation or removal of the Long X Bridge. In addition, all regulated “asbestos containing materials (ACMs) identified at the Long X Bridge would be removed by properly certified and licensed individual(s), and an asbestos management/removal plan would be developed prior to renovation or removal. All waste ACMs would be properly disposed of in an approved landfill, in accordance with local, state, and federal regulations. Confirmation on whether or not the materials covering the communication box and conduit on the Long X Bridge are ACMs and proper removal of these materials prior to renovation or removal of bridge would be coordinated with the owner of the utilities prior to implementation of the project.*

* + A plan note (107 in Section 170) disclosing the known presence of asbestos and alerting the Contractor to the requirement to submit State Form Number 17987 has been added to the plans. The Contractor is responsible for submitting this form to the NDDH a minimum of 10 days prior to beginning demolition of the Long X Bridge. The Contractor is responsible for ensuring all known ACMs are properly removed and disposed of in accordance with state regulations. The South Branch of the Green River and Spring Creek are not associated with Project Number SOIB-7-085(109)125 (PCN 22041); therefore, that portion of this commitment is not applicable.

Commitment #49: *All hazardous wastes generated as a result of the project would be handled in accordance with the Resource Conservation and Recovery Act (RCRA) Subtitle C waste management program and the requirements and regulations of the NDDH.*

* + This commitment is covered by the NDDOT Standard Specifications for Road and Bridge Construction (October 2014) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #50: *If the contractor encounters abnormal conditions (e.g., presence of barrels, obnoxious odors, excessively hot earth, smoke) during construction that indicate the presence of hazardous materials or toxic wastes anywhere the contractor performs work, the contractor would immediately suspend the work and notify the project engineer. The contractor would continue construction in other areas of the project, but would not resume work in the area of the abnormal condition, unless directed to by the project engineer.*

* + This commitment is covered by the NDDOT Standard Specifications for Road and Bridge Construction (October 2014) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #51: *Lead-based paint associated with the Long X Bridge would be properly removed or stabilized prior to renovation or removal of the structure and disposed of at an off-site facility approved for lead waste.*

* + This commitment has been included as a plan note (107 in Section 170) and is the responsibility of the Contractor. The Project Engineer is responsible to verify the contractor complies with this commitment.

Commitment #52: *Upon funding and the initiation of final design, the NDDOT would coordinate with utility companies to minimize impacts on utilities, avoid known sensitive resources (i.e., cultural resources, wetlands, USFS-designated sensitive plant populations), and coordinate ROW and easement acquisition activities.*

* + The NDDOT is responsible for compliance with this commitment. The NDDOT has coordinated ROW and easement acquisition activities with affected utility companies to minimize impacts on utilities and avoid known sensitive resources.

Commitment #53: *Any utility relocations that occur outside of NDDOT ROW or USFS easements would be required to obtain individual state and federal approvals, as necessary. This would include obtaining a ROW permit from the NPS for any relocations occurring on NPS-managed lands.*

* + Permitting and environmental clearance for utility relocations outside of NDDOT ROW or USFS easements is the responsibility of the utility provider. The intent of this commitment was to inform the reader and interested parties that the EIS only covered utility relocations occurring within NDDOT ROW and USFS easements.

Commitment #54: *Any* *USFS-designated sensitive plant species or USFS-designated watch plant species observed during construction would be reported to the USFS.*

* + This commitment has been included as a plan note (EN-21 in Section 6) and is the responsibility of all parties on site. The Project Engineer will be responsible for coordinating with the USFS in the event a USFS-designated sensitive plant species or USFS-designated watch plant species are observed on USFS-managed lands during construction.

Commitment #55: *This commitment is not relevant to Project Number SOIB-7-085(109)125 (PCN 22041)*.

Commitment #56: *The NDDOT would be responsible for the control of noxious weeds within NDDOT ROW/easements after construction of the project.*

* + The NDCC requires the NDDOT to provide for eradication and control of noxious weeds on NDDOT land. This commitment is a continuation of existing practices and is the responsibility of the NDDOT after construction. See Commitment #16 and #17 for Contractor responsibility pertaining to the control of noxious weeds during construction.