

Appendix F – Environmental Clearance

October 28, 2021

Cliff Ehrlich
Chief of Environmental Services
Kansas Department of Transportation, Bureau of Right of Way
700 SW Harrison St.
Topeka, KS 66603

DELIVERED VIA ELECTRONIC MAIL

RE: Environmental Assessment Concurrence
APAC Stanley Landfill, Permit 487
Stilwell, Johnson County

Dear Mr. Ehrlich,

The Kansas Department of Health and Environment, Bureau of Waste Management (KDHE-BWM) and the Kansas Department of Transportation, Bureau of Right of Way (KDOT-ROW) have been coordinating on the environmental assessment for the modification of 167th street adjacent to the APAC Stanley Landfill. The APAC Stanley Landfill is a Construction and Demolition (C&D) landfill permitted by KDHE-BWM. This letter communicates KDHE-BWM's concurrence regarding general terms needed to satisfy an environmental assessment for this KDOT project. The specific points on which KDHE and KDOT have agreed are as follows:

1. Monitoring Wells will be relocated prior to the start of construction to a suitable location outside the Project Area of Maximum Disturbance. These locations will be coordinated by APAC and their engineer with KDHE.
2. KDOT will purchase Right-of-Way and establish Access Easements according to relevant protocol. These will not adversely impact the Waste Limits or operations of the facility.
3. No waste, soil cover, or other landfill infrastructure, beyond what has been explicitly concurred on in this letter, will be disturbed during construction. Any disturbances beyond what has been agreed upon must be coordinated with KDHE.
4. APAC and KDOT will coordinate with KDHE to preserve the existing restrictive covenant on the permitted property.
5. APAC will submit a request to transfer portions of their permitted property before any change in ownership of the currently permitted property occurs. This request shall include:
 - a. A survey identifying the property remaining under permit 487 after transfer.
 - b. A description of the prospective owner of the transferred property.
 - c. A broad description of any anticipated use of the transferred property, including alterations to the land and the construction of permanent structures.
 - d. A description of facility operations that may be affected by the transfer of property, if any, including closure and post-closure activities.
 - e. An application for non-significant permit modification.

It is understood that details regarding some or all the points above will be expanded on by future coordination between APAC, KDOT, and KDHE. If you have any questions, you may contact Will Fraundorfer at 785-291-3745 or at Wilhelm.Fraundorfer@ks.gov.

Mr. Cliff Ehrlich
October 28, 2021
Page 2 of 2

Sincerely,



Mindy Bowman, P.E.
Chief, Solid Waste Section
Kansas Department of Health and Environment, Bureau of Waste Management

C: Jaime Wilson, John Truong, Heather Merritt, Will Fraundorfer, Wally Mack, Dan Jones (APAC)



6425 SW 6th Avenue
Topeka KS 66615

phone: 785-272-8681
fax: 785-272-8682
kshs.culturalresources@ks.gov

Laura Kelly, Governor
Jennie Chinn, Executive Director

KSR&C # 21-06-082
July 14, 2021

Terry Blackwell
KDOT
Via Email

Re: 69-46 KA-5700-02
NHPP-A670(002)
Johnson County

We have reviewed the project description and plans received July 14, 2021 along with earlier submissions regarding project 69-46 KA-5700-02 in accordance with 36 CFR Part 800. This project will consist of the addition a thru lane along US-69 in each direction and advance acquisition of Right of Way and Utility in Johnson County. Following an architectural review of structures in the project area, the SHPO has determined that the project will not adversely affect any property listed or determined eligible for listing in the National Register. As this is a design/build project, we request that any changes or newly identified structures that will be impacted by this project be submitted to our office for comment and review.

Thank you for giving us the opportunity to comment on this proposal. Please refer to the Kansas State Review & Compliance number (KSR&C#) listed above on any future correspondence. Please submit any comments or questions regarding this review to Lauren Jones at lauren.jones@ks.gov.

Sincerely,

Jennie Chinn
State Historic Preservation Officer

Patrick Zollner
Director, Cultural Resources Division
Deputy State Historic Preservation Officer

KSR&C # 21-06-082

August 25, 2021

Cliff Ehrlich, Chief
Environmental Services Section
Kansas Department of Transportation
Eisenhower State Office Building
Topeka, KS 66612

Via Email

Re: 69-46 KA-5700-02
NHPP-A670(002)
Johnson County

Staff review of the above referenced project has been completed at the Phase II level. Pursuant to 36 CFR 800.4, we concur with the finding of no historic properties affected for the above referenced undertaking. We therefore have no objection to implementation of the project.

Sincerely yours,

Jennie Chinn
State Historic Preservation Officer



Handwritten signature of Timothy Weston, with the initials 'TW' written below the name.

Patrick Zollner
Director, Cultural Resources Division
Deputy State Historic Preservation Officer



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Kansas Ecological Service Office
2609 Anderson Avenue
Manhattan, Kansas 66502

In Reply Refer to:
FWS/IR05/IR07

July 6, 2021

Chris Eichman
Kansas Department of Transportation

RE: KDOT KA-5700-02, Johnson Co.

FWS Tracking # 2021-CPA-0446

Dear Mr. Eichman:

This is in response to your email requesting concurrence with a determination of effect on the northern long-eared bat (*Myotis septentrionalis*), Mead's milkweed (*Asclepias meadii*), and western prairie fringed orchid (*Platanthera praeclara*) from the construction of Kansas Department of Transportation's Project No. KA-5700-02. This project is a "design build" that will increase the current capacity of US-69 by expanding the highway, interchanges, and stream crossing structures. The final plans and construction details will be developed by the approved contractor. The project is located on US-69, beginning 0.4 miles south of the US-69/West 179th Street intersection and ending north 0.25 miles of the US-69/103rd Street intersection in Johnson County, Kansas.

Pursuant to Section 7(a) (2) of the ESA, the Kansas Department of Transportation (KDOT) (authorized by the Federal Highways Administration) has determined the proposed project may affect, but is not likely to adversely affect, the federally-listed threatened northern long-eared bat. Given the project description, and lack of hibernacula/maternity roost location data in the project area, we concur with this determination. In addition, KDOT has determined that the project will have no effect on Mead's milkweed or western prairie fringed orchid.

No further coordination with the Service is required pursuant to the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) for this project. Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered. Until the ongoing project is complete, we recommend that you contact this office every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project is current.

Thank you for this opportunity to comment this proposed project. If we can be of any further assistance, please contact Ms. Michele McNulty, of this office, at michele_mcnulty@fws.gov.

Sincerely,

Michele McNulty
For

Jason Luginbill
Field Supervisor

cc: KDWP, Pratt, KS (Ecological Services)

INTERIOR REGION 5
MISSOURI BASIN

KANSAS, MONTANA*, NEBRASKA, NORTH DAKOTA,
SOUTH DAKOTA

*PARTIAL

INTERIOR REGION 7
UPPER COLORADO RIVER BASIN

COLORADO, NEW MEXICO, UTAH, WYOMING

From: Chris Eichman [KDOT]
Sent: Friday, June 18, 2021 3:56 PM
To: KansasES, FW6
Subject: NLEB Informal Consultation for KA-5700-02 in Johnson County
Attachments: [Boundary Map - 69-46 KA-5700-02.pdf](#); [2021-05-26_KA-5700-02_boundary_V2.kmz](#)

Mr. Luginbill,

Please find the attached aerial map and KMZ showing location of the above mentioned project. The boundaries in the map and KMZ represent the maximum limits of construction for the project. This project is a “design build” that will increase the current capacity of US-69 by expanding the highway, interchanges, and stream crossing structures. The final plans and construction details will be developed by the approved contractor. The project is located on US-69 starting 0.4 miles south of the US-69/W 179th Street intersection and ending north 0.25 miles of the US-69/103rd Street intersection in Johnson County. The Let date for the project is 4/3/2022 and construction should begin within 2 months and it should be completed by December 2024.

It is the opinion of KDOT that this project will have no effect (NE) on the critical habitat of the Mead’s Milkweed (*Asclepias meadii*) and Pallid Sturgeon (*Scaphirhynchus albus*). The Kansas Biological Survey Land Cover maps show the project area being comprised of Urban Residential, Urban Commercial/Industrial, Urban Open Land, Urban Woodland, Agricultural (corn, soybeans, winter wheat), and Warm-Season Grassland within the existing KDOT right of way. There are no other Federal T&E listed species that have any potential to be impacted by this project.

There will be no trees removed within 0.25 mile of any known occupied hibernacula or within 150 feet of known occupied maternity roost trees. Because of these conditions this *project* meets the NLEB 4d rule and it is KDOT’s opinion that this project is not likely to adversely affect (NLAA) the NLEB. Please let us know if you concur with our assessment which will allow summer tree clearing and KDOT can meet current Let dates.

Please copy KDOT Environmental Permits email with you response at the following email address: KDOT#RoW.EnvPermits@ks.gov

Please let us know if there is any information we can get you to assist in your review.

Thank you,



Chris Eichman | Environmental Program Administrator
O: 785-506-9275 | F: 785-296-6946
Chris.Eichman@ks.gov

Kansas Department of Transportation
Bureau of Right of Way-Environmental Service section

700 S.W. Harrison ST, 14th Floor
Topeka, KS 66603

From: Chris Eichman [KDOT]
Sent: Friday, June 18, 2021 3:56 PM
To: Environmental Services, KDWPT [KDWPT]
Cc: Pounds, Samantha [KDWPT]
Subject: KDOT Exempted Project KA-5700-02 in Johnson County
Attachments: [Boundary Map - 69-46 KA-5700-02.pdf](#); [2021-05-26_KA-5700-02_boundary_V2.kmz](#)

Krystal,

As per the Programmatic Agreement between KDWPT and KDOT, the scope of the anticipated construction activities for this project do not meet any of the Environmental Review Criteria and will be exempted.

Attached is a copy of the project boundary Map and KMZ showing location for review. The boundaries on the map and KMZ represent the maximum limits of construction activity of this project. This project is a Design Build and the final plans/construction details will be developed by the approved contractor. The project is located in Sections 1, 2, 11, 12, 13, 14, 24 -T13S-R24E, Sections 19, 30, 31-T13S-R25E, and Sections 6, 7, 18, 19, 30 -T14S-25E in Johnson County.

Please let me know if there are any questions.

Thank you,

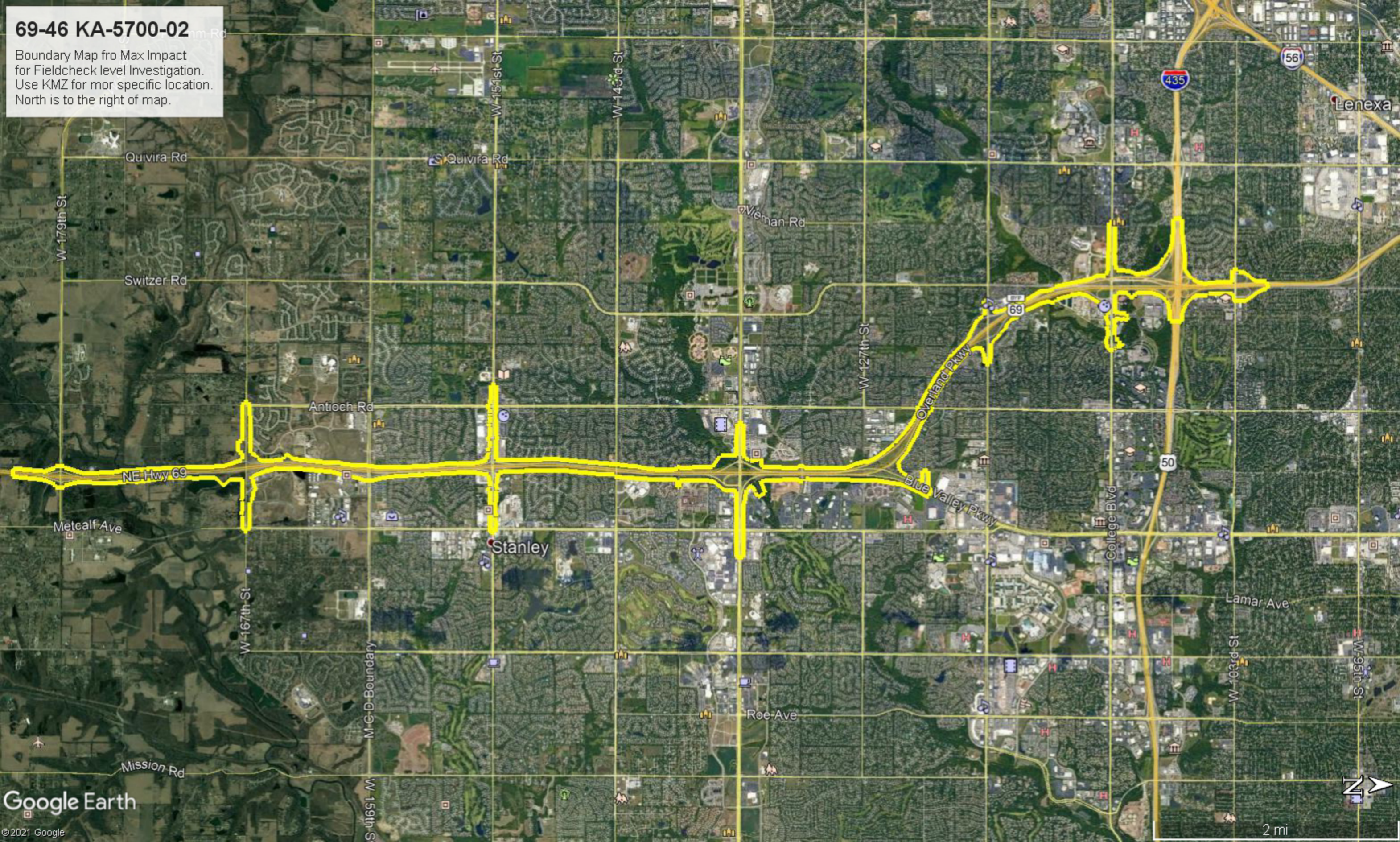


Chris Eichman | Environmental Program Administrator
O: 785-506-9275 | F: 785-296-6946
Chris.Eichman@ks.gov

Kansas Department of Transportation
Bureau of Right of Way-Environmental Service section
700 S.W. Harrison ST, 14th Floor
Topeka, KS 66603

69-46 KA-5700-02

Boundary Map from Max Impact
for Fieldcheck level Investigation.
Use KMZ for mor specific location.
North is to the right of map.



Chris Eichman [KDOT]

From: Cliff Ehrlich [KDOT]
Sent: Monday, November 1, 2021 3:01 PM
To: Chris Eichman [KDOT]
Subject: FW: KDWP Review, Track 20200933-5 -- KDOT Proj #69-46 KA-5700-02, US. 69 highway expansion (Johnson Co)

Chris,
Please add this as a PDF in the Offline documents for Wildlife. We do not need to worry about the tracking number/annual renewal since we Exempted this but want to have it on record.
Thanks,

Cliff A. Ehrlich | Kansas Department of Transportation

From: Steve Rockers [KDOT] <Steve.Rockers@ks.gov>
Sent: Monday, November 1, 2021 1:29 PM
To: Brandon Yarbrough <byarbrough@HNTB.com>; Cliff Ehrlich [KDOT] <Cliff.Ehrlich@ks.gov>
Cc: Craig Cogan <ccogan@HNTB.com>
Subject: FW: KDWP Review, Track 20200933-5 -- KDOT Proj #69-46 KA-5700-02, US. 69 highway expansion (Johnson Co)

fyi

Steve Rockers, P.E. | Kansas Department of Transportation-Road Design
785.296.1004 | steve.rockers@ks.gov

From: Eddy, Zac [KDWP] <Zac.Eddy@KS.GOV>
Sent: Monday, November 1, 2021 10:55 AM
To: Steve Rockers [KDOT] <Steve.Rockers@ks.gov>
Subject: KDWP Review, Track 20200933-5 -- KDOT Proj #69-46 KA-5700-02, US. 69 highway expansion (Johnson Co)

Steve Rockers,

We have reviewed the Environmental Assessment (EA) for the proposed U.S. 69 Modernization and Expansion Project ("69 Express") to occur in Overland Park, Johnson County, Kansas. Project details were reviewed for potential impacts to critical wildlife habitats, current state-listed threatened or endangered species and species in need of conservation, as well as Kansas Department of Wildlife and Parks managed areas for which this agency has administrative authority.

We understand the preferred construction alternative will construct express toll lanes along the existing U.S. Highway 69 corridor to improve travel service. The EA indicates minor impacts to parks and recreation facilities may occur. We note that some impacts may occur to native deciduous forests. If avoidance of forest

clearing is infeasible, we encourage the project sponsors to offset lost forested acreage. We also provide the following comments and general recommendations. When applicable:

- **Avoid impacts to existing streams and rivers, adjacent riparian zones, wetlands, and native prairie and woodland areas.**
- **Minimize all bank or instream activity, particularly during general fish spawning season (March 1 – Aug. 31).**
- **Incorporate principles of low impact development (LID), such as permeable asphalt pavement, porous concrete, swales, bioretention, or raingardens. More info on LID: <https://www.epa.gov/nps/urban-runoff-low-impact-development>.**
- **Implement and maintain standard erosion control Best Management Practices during all aspects of construction by installing sediment barriers (wattles, filter logs, rock check ditches, mulching, or any combination of these) across the entire construction area to prevent sediment and spoil from entering aquatic systems. Barriers should be maintained at high functioning capacity until construction is completed and vegetation is established. For more information on erosion BMPs go to: <http://www.kdheks.gov/stormwater/#construct>.**
- **Reseed disturbed areas with native warm-season grasses, forbs, and trees.**

Results of our review indicate there will be no significant impacts to crucial wildlife habitats; therefore, no special mitigation measures are recommended. The project will not impact any public recreational areas, nor could we document any potential impacts to currently-listed threatened or endangered species or species in need of conservation. No Department of Wildlife and Parks permits or special authorizations will be needed if construction is started within one year, and no design changes are made in the project plans. Permits may still be required from other agencies. We recommend consultation with all other applicable regulatory authorities which, among others, may include Kansas Department of Health and Environment, Kansas Department of Agriculture-Division of Water Resources, and the U.S. Army Corps of Engineers.

Since the Department's recreational land obligations and the State's species listings periodically change, if construction has not started within one year of this date, or if design changes are made in the project plans, the project sponsor must contact this office to verify continued applicability of this assessment report. For our purposes, we consider construction started when advertisements for bids are distributed.

Please consider this email our official review for this project. Thank you for the opportunity to provide these comments and recommendations. Please let me know if you have any questions or concerns about the preceding information.

Please direct all review materials electronically to kdwpt.ess@ks.gov to streamline the review process for all parties.

Thank you.



--

Zac Eddy | *Terrestrial Ecologist*

Kansas Department of Wildlife and Parks

512 SE 25th Ave. | Pratt, KS 67124

(620) 672-0788 | ksoutdoors.com



August 12, 2021

Mr. Mark Wendt
Kansas Department of Transportation
Bureau of Right of Way-Environmental Service Section
Dwight D. Eisenhower State Office Building
700 S.W. Harrison Street
Topeka, Kansas 66603-3745

RE: Farmland Protection Policy Act (FPPA) Request

Dear Mr. Wendt:

We received the information that you provided regarding lane additions along US-69 in Johnson County, Kansas, KDOT Project # 69-46 KA-5700-02.

The Agriculture and Food Act of 1981 (Public Law 97-98) includes provisions for the Farmland Protection Policy Act (FPPA) in Subtitle 1 of Title XV, Sections 1539-1549. This Act is intended to minimize the impact of Federal programs on unnecessary and irreversible conversion of prime and important farmland to nonagricultural uses.

Please find enclosed Form AD-1006, Farmland Conversion Impact Rating. Please note that parts II, IV, and V have been completed by Natural Resources Conservation Service (NRCS). Please complete Parts VI and VII, then return a completed copy by email to: KS.NRCS.ER.FPPA@usda.gov.

If you have any questions or concerns regarding FPPA or Form AD-1006, please contact Jeffrey A. Hellerich, State Soil Scientist, by phone at 785-823-4564 or email jeffrey.hellerich@usda.gov.

Sincerely,

KAREN A. WOODRICH
State Conservationist

Enclosure

cc:

Jeffrey A. Hellerich, State Soil Scientist, NRCS, Salina, Kansas
Brian K. Nester, Soil Scientist, NRCS, Salina, Kansas
Bruce K. Wells, Assistant State Conservationist for Field Operations, NRCS, Emporia, Kansas

FARMLAND CONVERSION IMPACT RATING

PART I (To be completed by Federal Agency)		Date Of Land Evaluation Request July 9, 2021			
Name of Project 69-46 KA-5700-02 Johnson County		Federal Agency Involved Federal Hwy. Adm.			
Proposed Land Use Highway Right of Way		County and State Johnson County, KS.			
PART II (To be completed by NRCS)		Date Request Received By NRCS 07/09/2021		Person Completing Form: Brian Nester	
Does the site contain Prime, Unique, Statewide or Local Important Farmland? <i>(If no, the FPPA does not apply - do not complete additional parts of this form)</i>		YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	Acres Irrigated 542	Average Farm Size 154
Major Crop(s) Soybeans	Farmable Land In Govt. Jurisdiction Acres: 299,907 % 97.7	Amount of Farmland As Defined in FPPA Acres: 263,288 % 85.7			
Name of Land Evaluation System Used Johnson County	Name of State or Local Site Assessment System None	Date Land Evaluation Returned by NRCS 08/13/2021			
PART III (To be completed by Federal Agency)		Alternative Site Rating			
		Site A	Site B	Site C	Site D
A. Total Acres To Be Converted Directly		9.9			
B. Total Acres To Be Converted Indirectly		0			
C. Total Acres In Site		9.9			
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland		1.7			
B. Total Acres Statewide Important or Local Important Farmland		8.2			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted		0.00376			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value		88%			
PART V (To be completed by NRCS) Land Evaluation Criterion Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)		49			
PART VI (To be completed by Federal Agency) Site Assessment Criteria <i>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106)</i>		Maximum Points	Site A	Site B	Site C
1. Area In Non-urban Use		(15)	15		
2. Perimeter In Non-urban Use		(10)	10		
3. Percent Of Site Being Farmed		(20)	20*		
4. Protection Provided By State and Local Government		(20)	0		
5. Distance From Urban Built-up Area		(15)	0		
6. Distance To Urban Support Services		(15)	0		
7. Size Of Present Farm Unit Compared To Average		(10)	10*		
8. Creation Of Non-farmable Farmland		(10)	10*		
9. Availability Of Farm Support Services		(5)	5		
10. On-Farm Investments		(20)	20*		
11. Effects Of Conversion On Farm Support Services		(10)	0		
12. Compatibility With Existing Agricultural Use		(10)	0		
TOTAL SITE ASSESSMENT POINTS		160	90	0	0
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	49	0	0
Total Site Assessment (From Part VI above or local site assessment)		160	90	0	0
TOTAL POINTS (Total of above 2 lines)		260	139	0	0
Site Selected: A		Date Of Selection 07/09/21		Was A Local Site Assessment Used? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
Reason For Selection: KDOT Right of Way = 14.3 Acres = 3.0 Acres Prime Farmland + 11.30 Acres Farmland of Statewide Importance * Worst Case Scenarios					
Name of Federal agency representative completing this form: Mark Wendt, KDOT Environmental Services				Date: 07/09/21	