

Appendix L - Draft EA Comments and Responses

Comments received during the Public Comment Period for the Environmental Assessment. Official Agency and Tribal responses are included at the end.

General Comments:

Comment: I have reviewed the environmental assessment for the 69 Express Project and I support and approve the preferred alternative for the 69 Express Project because Express Toll Lanes (ETL) will improve safety and reduce congestion on U.S. 69 from I-435 to 179th St.

Response: Thank you for reviewing the EA document and submitting your comment. We appreciate you taking your time to provide feedback.

Comment: Trusting you to do the best for us! Please tell us what changes you've made from public suggestions.

Response: The U.S. 69 Expansion Project has evolved over time as a result of frequent, extensive outreach to people who use or rely on the corridor between 103rd and 179th Streets. In addition to years of outreach connected to previous studies regarding how to improve U.S. 69, in the last 15 months, the Project Team has, among other efforts, interviewed community leaders, held focus groups with corridor users, undertaken multiple statistically valid surveys and conducted multiple online and in-person community briefings and public meetings. As a result, a number of significant design changes have been made in the project, including but not limited to the following:

- Express Toll Lanes (ETLs) - This solution was developed in response to public demand for a faster, cheaper and more lasting solution to U.S. 69 congestion.
- Equity Strategies - Although people were willing to consider Express Toll Lanes as a solution, they also wanted to make sure that the lanes did not cause unforeseen issues for lower-income or disadvantaged motorists. As a result, an Equity committee has been set up to identify what issues, if any, may arise and to develop solutions to them to be implemented before the ETLs open in 2025.
- Noise Wall Design Standards - Corridor residents identified noise as a major concern. As a result of their input, KDOT policy decisions have resulted in noise walls being proposed in a greater number of locations and, if approved by those affected, will be built as part of the project to minimize noise impacts.
- Design and Alignment Changes - Area residents and travelers throughout the community engagement process have identified areas of concern

where, if possible, they would like to see design changes to minimize local impacts or to improve safety, access or other desired outcomes. Some examples include:

- At 139th Street, design changes were made to provide desired bike/ped accommodations and to address local safety concerns;
 - Corridor users were concerned about the ease and safety of accessing the Express Toll Lanes to and from Blue Valley Parkway, so direct access was designed into the facility; and,
 - Federal funding was sought and secured in response to local need for improved, safer 167th Street access to and from U.S. 69.
- Finally, it's important to note that U.S. 69 improvements will be built using Design-Build, an alternative project delivery approach. Design-Build allows the project to be completed on the fastest possible schedule.

Comment: The Environmental Assessment omits the Best Alternative, namely a High Occupancy Vehicle (HOV) approach. The HOV approach readily complies with the Kansas constitution and laws whereas the toll selection process is highly questionable. The document has an insufficient Environmental Justice Analysis. The analysis should include the disadvantaged as well as minorities using the toll road in addition to just those affected individuals living in the immediate vicinity of Highway 69.

Response: As discussed in Alternatives Screening Memo (Appendix B of the EA) a wide universe of alternatives and combinations of alternatives was considered for this project. While screening of HOV lanes was not documented as part of the screening process they were determined to not meet the Purpose and Need of the project while developing the Initial Alternatives. From a vehicle occupancy standpoint, according to data from the Mid-American Regional Council, in Johnson County, Kansas light duty vehicles (cars/vans/light trucks) carry on average 1.67 people. KDOT and the project team determined that the average vehicle occupancy was too low for HOV lanes to effectively reduce congestion to levels that would meet the Purpose and Need. Additionally, many jurisdictions across the country have found that the cost of HOV enforcement – whether tolled or untolled – is so high in terms of detection equipment and law enforcement that it makes HOV lanes an impractical strategy. Many HOV lanes are being converted to HOT (high-occupancy toll) lanes. HOT are not allowable under Kansas Law, because the Law does not allow any free passage. Based on these experiences with HOV facilities across the country and the effectiveness of HOV lanes to reduce congestion, they were not carried through as a viable alternative.

The Draft EA was submitted to the Federal Highway Administration (FHWA) in November of 2021 to undergo a Legal Sufficiency Review. This review conducted by FHWA's legal counsel determined that the document and processes used during the NEPA process (including public involvement) met the requirements of current laws and Executive Orders. These current laws and Executive Orders include those related to Environmental Justice (EJ), FHWA determined that the documentation of EJ related impacts was appropriate and concurred with the findings.

Comment: This project, and the selection KDOT has recommended, does not serve the people of Overland Park, or the surrounding communities. It is putting a band-aid on a larger design problem. Putting in express toll lanes is not the answer to alleviate the traffic and safety issues. Delays will still happen, and the users of this highway will pay the cost. Traditional widening with correct design is what is needed. Think about it like this, if the original design was done by KDOT, and the issues we are having today are because of design issues, how can we trust their proposal that Express Toll lanes will solve our issues? And who pays the consequences when KDOT is inevitably wrong, and traffic is still horrible even after the Express Toll Lanes are installed? Not KDOT...their funds will be used elsewhere.

Think about it like this - KDOT admitted during the selection process that this project was the #1 priority for the state of Kansas, yet they didn't allocate the appropriate funds to it, and forced Overland Park to accept the Express Toll Lane. Why would they do that? So the residents and users of the highway can subsidize KDOT's budget for the rest of Kansas.

This isn't the way, and when this Express Toll Lane fails, KDOT and the design companies should be held accountable.

Response: Thank you for your comments and feedback regarding the U.S. 69 Project. The Alternatives Screening Memo (Appendix B of the EA) outlines a wide universe of alternatives and combinations of alternatives that was considered for this project. This analysis included a Traditional Widening alternative alongside the Express Toll Lane alternative as Reasonable Alternatives. The analysis found that the Express Toll Lane alternative was better at addressing the Purpose and Need (congestion, safety, sustainability, corridor flexibility and regional growth), had a smaller environmental footprint and lower overall construction and lifecycle costs than the Traditional Widening alternative.

Environmental

Comment: From what we understand, in order to offset the additional impervious surface and loss of approximately 30 acres of median grass area, the plan is to use streambank credits to allow for mitigation outside of the construction area. It is our understanding that there are not any current any ways to do this and keep the mitigation within Overland Park. We feel that any streambank credit and mitigation offsets should be used in Overland Park where the impact will be felt. Our main suggestion would be to set up a mitigation bank in Overland Park specifically for this project to guarantee the offsets remain in OP. There is more than enough land in need within OP to use the credits created within the scope of this project.

Response: Mitigation bank credits will be purchased to mitigate impacts to jurisdictional wetlands and streams. Additional impervious surfaces along 167th Street will be mitigated per City of Overland Park Stormwater Best Management Practices. KDOT will be utilizing detention basins throughout the corridor to avoid increases in stormwater runoff due to the reduction in median grass area necessary to accommodate the project improvements.

For jurisdictional wetlands and streams the U.S. Army Corp of Engineers typically prefers credits be purchased within the same watershed as the project, at a maximum of the 8 Digit HUC area. Should credits not be available in a bank within the 8 digit HUC area or no bank exists the preference is to purchase in the next closest bank with availability but at a higher ratio.

Equity

Comment: We would like to see additional information regarding tolling equity and how this project will address the issue of equity. Will the project include tolling equity or will there be offsets considered?

Response: The EA outlines tolling equity and Environmental Justice concerns for the project in Chapter 3, section 3.1.4. The toll rate to use the ETLs will be displayed prior to vehicles entering the ETLs to allow travelers the opportunity to decide if they choose to take the express lane or stay in the toll-free general-purpose lanes. Based on this operational model, neither the cost of tolls, nor other direct or indirect impacts, would be “predominantly borne” by EJ populations due to the availability of toll-free general purpose lanes in the same corridor. Moreover, because transit vehicles will be permitted to use the express lanes at a discounted toll rate, opportunities exist for EJ populations to access similar trip reliability benefits that do not require vehicle ownership or include the cost of using the ETLs.

Additionally, KDOT is establishing an Equity Committee as part of the Project Advisory Committee that will serve to determine the best strategies to provide project benefits and equity for all users of the corridor.

Traffic and Safety

Comment: There is some discussion about whether building the road helps alleviate current traffic concerns but can also lead to the sprawl and additional traffic in the future. We would like to see some data that references the additional traffic projected in the future and the corresponding air pollution load that would occur with the new traffic created due to sprawl.

Response: Appendix E of the EA - Draft Break-In-Access found on the project website details the projected changes in traffic under the No Build and Preferred Alternative scenarios. This can be found on the project website. <https://www.69express.org/wp-content/uploads/2021/12/Appendix-E--Draft-Break-In-Access.pdf>

The EA contains an analysis of air quality impacts under the No Build and Preferred Alternative scenarios. This analysis is in Chapter 3, section 3.4.1. The analysis considers the entire Kansas City Metro region with its results. This analysis shows lower Greenhouse Gas emissions under the Preferred Alternative over the No Build.

Comment: We did not see the issue of safety addressed to our satisfaction. How will this project increase the safety of users of the highway as well as the safety of the users of the feeder streets?

Response: The project Purpose and Need identified congestion related crashes (rear end, speed differential related) on U.S. 69 as its primary focus for safety improvements. The reduction in congestion along U.S. 69 under the Preferred Alternative will lead to a reduction in congestion related crashes. Reductions in congestion on U.S. 69 will take stress of local roads as fewer vehicles will utilize them to avoid congestion on U.S. 69, this will reduce the potential of crashes from congestion on local roads.

Examples of improvements that are expected to reduce crashes on U.S. 69 outside of reducing congestion are; shifting the southbound entrance ramp at Blue Valley Parkway from the left to right side of U.S. 69 as well as the use of auxiliary lanes at key locations throughout the corridor.

Improvements in traffic operations on U.S. 69 is expected to reduce congestion on local roads. Additionally, improvements to ramp terminals at

several interchanges and improvements to bike lanes and trails will have a positive impact on the safety of the local roads.

Noise Comments

Comment: Although the noise barrier walls are not planned between 151st and 159th, I think they should be. The noise levels have increased tremendously since we moved in east of Lowell at 156th four years ago. The notion the money is not there is outrageous. Stop giving our county away to developers and start caring for the residents of this community. With BluHawk at 159th the traffic keeps increasing and will become worse as BluHawk develops. With the infrastructure funding etc, I would think OP would take advantage of costs and funding now vs later. The state seems to have extra \$\$\$.

Response: The traffic noise study did identify noise walls in this area, but since construction of this project is from 151st Street to 103rd Street, the noise walls south of 151st Street will not be built until the highway expands in that area.

Comment: I did hear Cameron McGown state that a noise wall was previously constructed on the West side of 69 highway north of 119th St. While there is a wall 866 feet to the north of 119th St. on the west, it does nothing to help mitigate the traffic noise, in particular, deceleration and acceleration noise of 69 highway traffic near 119th street. The noise often exceeds 60 dba at my residence to the west (southeast corner of 119th and Switzer in Nottingham Forest). Was that noise even studied? Did it take into account Jake Brake noise? What solution can be proposed to mitigate the 60 dba noise to the west of 69 highway north of 119th street?

Response: The limits of the current noise study were extended north and south of 119th St. far enough to identify all traffic noise impacts resulting from the US 69 project. FHWA and KDOT noise policies define a noise impact for residences as an average of at least 66 dBA during the loudest hour.

The FHWA Traffic Noise Model does not consider jake braking in its noise calculations due to the sporadic use of them and the difficulty in mitigating the noise through any measure other than restricting the use of them. Local ordinances are typically used to restrict jake brakes. Jake breaking is prohibited in OP and by Kansas state statute. OPPD does enforce it within City limits. We encourage residents to call the non-emergency number to report it: 913-895-6300.

Noise abatement measures are considered when noise impacts (defined as an average of 66 dBA or more) are identified.

Comment: I am concerned that the noise wall proposed for North of 119th street on the East side of the highway will amplify the noise of that northbound traffic back to the West. In particular semi-trucks that use Jake brakes as they head down the hill towards College Blvd. (which is constant at night and getting much worse). Can you provide any study data that indicates the construction of the East wall north of 119th street will not increase noise reverberation to the West? The Jake Braking easily exceeds 60 dba at my residence now (1500 feet to the west of 69 highway off 119th St.). It vibrates the walls at my house sometimes.

Response: Construction of a noise barrier on the opposite side of the highway from a receiver will not result in a substantial increase in highway traffic noise levels. If 100 percent of noise was reflected and unabated, the noise increase is theoretically limited to 3 dBA (the result of doubling noise energy), which is considered barely perceptible to the human ear. In practice, however, not all of the acoustical energy reflects back to the receiver, as some is blocked by vehicles on the roadway, reflected to points other than the receiver, scattered by ground coverings, and some energy is lost due to the longer path it must travel. Attempts to conclusively measure this reflective increase have rarely shown an increase of greater than 1 or 2 dBA, an increase not perceptible to the human ear.

Comment: Since I live 1500 feet to the west of 69 highway. Will I be invited to the neighborhood meeting? Again, my address is below if you need to check. I am concerned about the increase in noise. As such, I think I am impacted.

Response: Noise meetings will be open to the public and due to current levels of COVID cases, these meetings will be all virtual. We certainly invite you to attend one of these meetings. More information on the meetings can be found here: <https://www.69express.org/noise-study/>

Comment: If I understand your map of people affected and by noise levels in Nottingham Forest South NAS #11 noise barriers will not help us on Goodman Street between Hemlock and 138th street even though traffic noise has become ever increasing and very loud as we are on top of a hill not in the valley along 69 highway. Is my assumption correct?

Response: A noise wall is recommended for construction on the west side of U.S. 69 south of 135th Street. FHWA's Traffic Noise Model was used to predict the effectiveness of the noise walls. While the noise wall may provide some reduction of noise for these homes, it is not predicted to be a 5 decibel reduction, defined by FHWA and KDOT's noise policies as a "Benefit". Noise walls are typically only effective for a few hundred feet.

Comment: What is the State and Overland Park going to do to stop the excessive engine braking noise along the 69 highway corridor? My understanding is engine braking is not permitted however there is no signage etc. to let truck drivers know this and no enforcement.

Response: Engine braking is prohibited in OP and by Kansas state statute. OPPD does enforce it within City limits. We encourage residents to call the non-emergency number to report it: 913-895-6300.

Comment: What are the plans to educate those who will vote for noise abatement?

Response: Since the last public meeting on December 8th, we have been planning a series of 6 meetings to discuss the recommended noise walls from the noise study. Four of the meetings will focus on a specific geographical area, and 2 meetings will cover all locations in case some residents are unable to attend the location-specific meeting of interest to them. The format of these meetings will include a brief presentation up front to present the general findings and then reserve an hour or more for Q&A with members of the project team. Due to the rise in COVID cases recently, these meetings will be virtual. Additionally, there is a lot of new content related to the noise study and the upcoming meetings available now on the project website here: [Noise Study – 69 Express](#)

Comment: Any dates set for when noise ballots go out?

Response: We are stuffing envelopes currently and plan to send out ballots by mail this week. For your awareness, letters and ballots will be sent to the Benefitted Receptors, or property owners and tenants at locations that may benefit from the recommended noise walls. They will not be sent to all residents. However, we encourage attendance at the meetings by anyone who is interested and will be publicizing the meetings in the media, social media, and on the website to spread awareness.

Comment: How can we help with the noise voting process? We are willing to go door to door if needed.

Response: We would encourage you to notify residents in your HOAs that some of them should be expecting letters and ballots in the near future, and please direct anyone interested to the website for information. Please encourage residents to attend one of the virtual meetings with the project team, and, as always, feel free to reach out to the team directly with any questions.

Comment: Is the FHWA TNM model available and can be easily shared? Weather and trees significantly impact the noise from the highway. I've always been curious what factors influence this, and I would also be curious to see how noise extends into our neighborhood. The threshold was met in our neighborhood, so I'm just asking for this to learn from.

Response: The Noise Study found in the [link](#) provides information on how the noise model was developed and what the results mean. The actual noise model is built from scratch based on FHWA guidelines and requirements. That base model can be found by googling FHWA TNM 2.5, but the results and findings are provided in the 193 page report. Weather, particularly variables like wind speed and cloud cover, can have a significant impact on the traffic noise levels at residences. Temperature and humidity can also affect noise levels though usually to a much lesser extent. The use of the FHWA Traffic Noise Model allows for a consistent comparison of noise levels and effectiveness of noise abatement measures across the state and country using “average” conditions (e.g. wind speeds less than 12 mph).

Trees, while providing a visual barrier, are generally not very effective at blocking noise. It typically takes about 100 feet of dense trees to reduce noise just a few decibels. Additionally, they lose almost all effectiveness when leaves fall in the winter. The FHWA Traffic Noise Model does allow for modeling trees to reflect how they reduce noise, but it is only recommended where they are very dense and non-deciduous.

Comment: The current sound barrier walls on 69 & 435 Highways are very unattractive, utilitarian and have reduced the image of beautiful Overland Park.

Please form a committee to search for a company that supplies much better options. I suggest investigating who built the barrier walls along Phoenix highways. Their presence enhances and improves the corridor and highlights the landscape in addition to utility. Well worth an added expense to keep our city tip top!

Response: Thank you for your comment regarding the noise walls visual appeal. The current design of the noise walls is consistent with other noise walls in Overland Park and was selected to balance cost, long-term maintenance, and to best reduce noise for impacted receptors.

Comment: Now that many of us have had a chance to speak about the information you put out on noise walls, it was almost to a person who questioned that “70% of those benefited receptors have to vote in favor of it.” A vote for anything in this country, including elected officials only takes any percentage over 50% to pass or reject as a majority Your 70 percent requirement is certainly a made up number by

someone or some committee who may be unaffected by whether a noise wall is erected or not. Or simply you do not want to spend the money along a large section of Overland Park. Your noise study certainly indicated walls are needed in certain areas of Hwy 69 and they should be erected anyway. The 70% should immediately be changed to a simple majority vote as is customary. We all await to see what you do about changing this arbitrary decision before proceeding.

The second issue with the “70% of those benefited receptors have to vote in favor of it,” is this. Do you mean 70% of returned ballots or 70% of all ballots mailed out to benefited receptors? Surely it is not the latter as all benefit receptors are not homeowners but rather people who move in and out of apartment building, etc. and may indeed just toss the envelope.

Response: The 70% approval for the noise wall is part of KDOT’s statewide noise policy, approved by the Federal Highway Administration, and applies to every noise study across the state. The investment in noise walls is a significant one, and KDOT believes there should be more than a simple majority for wanting them. Votes and ballots are collected and tallied per wall, so some walls may be wanted, while other walls may not.

Your next question regarding votes returned, it is the 70% of the ballots received based on each wall.

Visual Comments:

Comment: My house faces 69 hwy. Currently there are trees that hide the freeway. When the wall is built the trees will be destroyed and all I will see out my front window is a tall concrete wall. My house will depreciate and I really do not want to be looking at a wall. Will there be compensation for devaluation of property?

Response: Thank you for your question regarding the U.S. 69 Project. The intent is to build noise walls within the ROW that is owned by KDOT. This means that:

- Trees located in the ROW may be trimmed or removed so that walls can be constructed.
- The canopies of trees located on private property but overhanging KDOT ROW may be trimmed as needed to allow wall construction.
- Trees located on private property required to build a noise wall (limited to just a few locations) would be addressed after the land is acquired by KDOT for construction. Likely these would be trimmed or removed. In such a case, there will be multiple opportunities for the property owner to

discuss the ROW or easement acquisition with KDOT and to arrive at appropriate compensation.

ROW boundaries currently are being identified and will be available for review at a planned ROW meeting this spring.

Section 4(f) Comments:

Comment: Why is the 139th Street underpass not addressed at all in this submission? This road as one of the few on-road, non-interchange crossings of 69 Highway and considered a bike route by the City of Overland Park and frequently used by cyclists.

Response: The 139th Street Bike Route was not included in the 4(f) determination because it is an On-Road Bike Route within the project study limits, designated by painted markings within the vehicular lane. On-road bike routes are considered primarily transportation uses and therefore do not qualify under Section 4(f).

Comment: The Tomahawk Creek trail is frequently utilized by bike commuters as it offers cyclists their only safe option to cross under both 69 Highway and Interstate 435 without a 6 mile detour. What concrete steps will be taken to minimize the disruption and downtime to this trail? The worksheet only offers vague statements about scheduling and preventative safety mechanisms.

Response: Anticipated construction activities will require some closures of the Tomahawk Creek Trail as is indicated in the worksheets. Specific dates and durations for trail closures are not stated in the 4(f) worksheets in part because of the design-build delivery model being used to construct the U.S. 69 improvements. Under this delivery model, contractor-designer teams will compete to determine who will construct the project. As part of that selection process, the competing teams will be scored based on their approach to handling traffic - including bike and pedestrian traffic - through construction. Teams that provide a traffic handling plan that promotes safety for both the traveling public and for their workers, limits the number of and durations of closures, and provides logical detour routes will be scored more favorably. Additionally, once the design-build team is selected, there will be coordination meetings with the City on when, and how long, the trails will be impacted.

Comment: We would like to see additional information regarding the impact to parks and bike/talk trails and the associated quality of life of the residents that use those facilities during construction. There was mention of several parks and sections of trail that will be closed "temporarily" during the construction process, but that temporary closure could be months of time. How will that impact the residents/families/neighborhoods that use those parks and trails and are there any

ways to mitigate the loss during construction, such as the creation of new parks/trails in the area similar to an offset?

Response: The temporary closure of parks/trails/bike facilities during construction is necessary to safely construct the project. These closures will be kept to a minimum to limit disruption to public use as much as possible. During closures detours will be provided for trails and bike routes. Coordination with the City of Overland Park Parks Department will be ongoing throughout the construction phase of the project to minimize impacts from closures.

Comment: We encourage the highway project to incorporate more new bike/walk trail mileage into the construction project and all of this new trail follow the bike/trail linkage plan within the Overland Park Bike Master Plan. The expansion of bike/walk trails should be incorporated at the same rate as vehicular infrastructure, in order to guarantee that residents have a more complete way to engage in active transportation within OP.

Response: The project is consistent with the current Overland Park Bike Master Plan and enhances existing facilities through rehabilitation due to construction activities. Facilities at cross street arterials will be improved where interchange improvements are being made. Additionally, the existing sidewalk on the north side of College Boulevard will be upgraded to a hike/bike trail and a new hike/bike trail will be added on the south side of College Boulevard.

Public Comment Process

Comment: We have prepared a formal document of specific defects, but there appears to be no way to transmit our review/comments. We followed the website instructions for comment submittal, but we ended up with this form that does not appear to allow attachments. It is possible we overlooked some key part of the instructions.

This e-mail constitutes formal notification that KDOT's public comment process is defective. KDOT should deploy a proper mechanism to receive formal and in-depth documents from interested affected members of the public.

KDOT would be wise to extend the comment review period for the Highway 69 environmental assessment as the current process frustrates submittal of well documented concerns. We also note that the December holidays and recent COVID perturbations have compacted the normal review period. Kindly provide a proper e-mail address to submit our formal comments.

Response: Emails with attachments can be sent to Info@69Express.org. The public involvement process included multiple ways to engage the public and submit comments and feedback through public meetings, social media, email, and the project website. Legal Sufficiency Review conducted by FHWA determined that the document and processes used during the NEPA process (including public involvement) met the requirements of current laws and Executive Orders and that adequate notice and time was given to gather public comment.

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

Stephen Rockers
Kansas Department of Transportation
700 SW Harrison St
Topeka, KS 66603-3745
Email: Steve.Rockers@ks.gov

December 30, 2021

RE: U.S 69 Corridor Modernization and Expansion Project (KDOT # 69-46 KA-5700-02)

Mr. Rockers:

Thank you for notifying us of the posting of the Environmental Assessment for the above noted project.

As stated previously, permitting will be required from the Kansas Department of Agriculture Division of Water Resources Water Structures Program and DWR has met with the design/build team regarding these permitting requirements. The Water Structures program looks forward to continued involvement as this project proceeds.

Sincerely,

A handwritten signature in blue ink that reads "Laura L. Moody". The signature is written in a cursive style.

Laura L Moody
Environmental Reviews
Kansas Department of Agriculture
Division of Water Resources
(785) 564-6674
KDA.EnvironmentalReview@ks.gov
<http://agriculture.ks.gov/dwr>

KSR&C No. 21-06-082
January 14, 2022

Steve Rockers, P.E.
U.S. 69 Express Project Director
Kansas Department of Transportation
Via Email

RE: U.S. 69 Express Environmental Assessment (EA)
KDOT Project No. 69-46 KA-5700-02
Johnson County

Dear Mr. Rockers:

In accordance with 36 CFR 800, the Kansas State Historic Preservation Office has reviewed your letter dated December 22, 2021, announcing availability of the project's Environmental Assessment (EA). Our office has no role in the NEPA process, but we have been involved with this project through Section 106 consultation. According to our records, archeological survey has been completed and we have concluded that no historic structures are situated within the APE. As this is a design/build project, our office has requested that any changes be submitted to our office for comment and review.

We look forward to working with you on this project and will await further correspondence as it progresses. If you have questions or need additional information regarding these comments, please contact Tim Weston at 785-272-8681 (ext. 214) or Lauren Jones at 785-272-8681 (ext. 225).

Sincerely,

Jennie Chinn, Executive Director and
State Historic Preservation Officer



Patrick Zollner
Deputy SHPO



**EASTERN SHAWNEE
CULTURAL PRESERVATION DEPARTMENT**

70500 East 128 Road, Wyandotte, OK 74370

January 10, 2022

Kansas Department of Transportation
700 S.W. Harrison Street
Topeka, KS 66603-3745

RE: KDOT Project Number: 69-46 KA-570 0-02, Overland Park, Johnson County, Kansas

Dear Mr. Rockers,

The Eastern Shawnee Tribe has received your letter regarding the above referenced project(s) within Johnson County, Kansas. The Eastern Shawnee Tribe is committed to protecting sites important to Tribal Heritage, Culture and Religion. Furthermore, the Tribe is particularly concerned with historical sites that may contain but not limited to the burial(s) of human remains and associated funerary objects.

As described in your correspondence, and upon research of our database(s) and files, we find our people occupied these areas historically and/or prehistorically. However, the project proposes **NO Adverse Effect** or endangerment to known sites of interest to the Eastern Shawnee Tribe. Please continue project as planned. However, should this project inadvertently discover an archeological site or object(s) we request that you immediately contact the Eastern Shawnee Tribe, as well as the appropriate state agencies (within 24 hours). We also ask that all ground disturbing activity stop until the Tribe and State agencies are consulted. Please note that any future changes to this project will require additional consultation.

In accordance with the NHPA of 1966 (16 U.S.C. § 470-470w-6), federally funded, licensed, or permitted undertakings that are subject to the Section 106 review process must determine effects to significant historic properties. As clarified in Section 101(d)(6)(A-B), historic properties may have religious and/or cultural significance to Indian Tribes. Section 106 of NHPA requires Federal agencies to consider the effects of their actions on all significant historic properties (36 CFR Part 800) as does the National Environmental Policy Act of 1969 (43 U.S.C. § 4321-4347 and 40 CFR § 1501.7(a)). This letter evidences NHPA and NEPA historic properties compliance pertaining to consultation with this Tribe regarding the referenced proposed projects.

Thank you, for contacting the Eastern Shawnee Tribe, we appreciate your cooperation. Should you have any further questions or comments please contact our Office.

Sincerely,

Paul Barton, Tribal Historic Preservation Officer (THPO)
Eastern Shawnee Tribe of Oklahoma
(918) 666-5151 Ext:1833

From: [Steve Rockers \[KDOT\]](#)
To: [Brandon Yarbrough](#)
Cc: [Craig Cogan](#); [Cliff Ehrlich \[KDOT\]](#); [Javier Ahumada](#); [Cameron McGown](#)
Subject: FW: Agency Coordination - EA for U.S. 69 Modernization and Expansion Project (69Express), Johnson County, Kansas
Date: Wednesday, December 29, 2021 10:49:41 AM

fyi

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

From: Tener, Scott (FAA) <scott.tener@faa.gov>
Sent: Wednesday, December 29, 2021 10:33 AM
To: Steve Rockers [KDOT] <Steve.Rockers@ks.gov>
Subject: RE: Agency Coordination - EA for U.S. 69 Modernization and Expansion Project (69Express), Johnson County, Kansas

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Thank you for the opportunity to comment on the EA for the subject project. We do not have any comments.

[Airspace Considerations](#)

The project may require formal notice and review for airspace considerations under 14 CFR Part 77, *Safe, Efficient Use, and Preservation of the Navigable Airspace*. To determine if you need to file with FAA, go to <http://oeaaa.faa.gov> and click on the "Notice Criteria Tool" found at the left-hand side of the page.

Several items may need to be checked such as any structures, towers, poles, objects, and temporary construction equipment that exceed the notice criteria. For projects involving long routes, multiple locations will need to be checked. We recommend checking the route at 1-mile intervals and at increases in elevation.

If after using the tool, you determine that filing with FAA is required, we recommend a 120-day notification to accommodate the review process and issue our determination letter. Proposals may be filed at <http://oeaaa.faa.gov>. More information on this process may be found at: <http://www.faa.gov/airports/central/engineering/part77/>

Please let me know if you have any questions,

Scott Tener
Environmental Specialist

FAA Central Region Airports Division
901 Locust St., Room 364

Kansas City, Missouri 64106-2325
T 816.329.2639 | F 816.329.2611
<http://www.faa.gov/airports/central/>

From: Brandon Yarbrough <byarbrough@HNTB.com>
Sent: Tuesday, December 28, 2021 10:53 AM
To: Tener, Scott (FAA) <scott.tener@faa.gov>
Cc: Steve Rockers [KDOT] <Steve.Rockers@ks.gov>; Cliff Ehrlich (Cliff.Ehrlich@ks.gov) <Cliff.Ehrlich@ks.gov>; Ahumada, Javier (FHWA) <javier.ahumada@dot.gov>; Cameron McGown <CMcGown@HNTB.com>
Subject: Agency Coordination - EA for U.S. 69 Modernization and Expansion Project (69Express), Johnson County, Kansas

Attached you will find the official notification of the opening of the Agency and Public Comment Period for the Environmental Assessment for the U.S. 69 Expansion Project in Johnson County, Kansas. As a Participating Agency this is your opportunity to review and provide comment on the Environmental Assessment. We ask for your comments within 30 days of receipt of this correspondence.

If you would like a paper copy, please respond to this email.

Please submit comments to Steve Rockers at KDOT (Steve.Rockers@ks.gov).

Brandon Yarbrough, AICP
Project Manager - Planning
Transportation Planning and Policy Group
Tel (816) 527-2007 Cell (319) 269-9645

HNTB CORPORATION
715 Kirk Drive, Kansas City, MO 64105 | www.hntb.com

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you are NOT the intended recipient and receive this communication, please delete this message and any attachments. Thank you.

From: [Cordes, Zackary \[KDWP\]](#)
To: [Steve Rockers \[KDOT\]](#)
Cc: [Brandon Yarbrough](#)
Subject: KDWP Review: 20200933-6 US Highway 69 Expansion in Overland Park (Johnson)
Date: Monday, January 3, 2022 12:14:19 PM
Attachments: [image002.jpg](#)

Steve Rockers,

We have reviewed the information for the proposed U.S. 69 Modernization and Expansion Project, 69 Express, in Overland Park, Johnson County, Kansas. The project was 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.



Zack Cordes | *Ecologist*

Kansas Department of Wildlife and Parks

512 SE 25th Ave. | Pratt, KS 67124

T: (620) 672-0822 | ksoutdoors.com

C: (785) 410-9652 | chickadeecheckoff.com