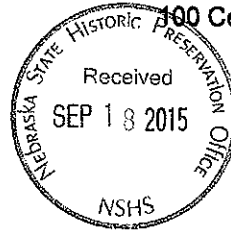




U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**NEBRASKA DIVISION**

September 18, 2015



400 Centennial Mall North  
Room 220  
Lincoln, NE 68508  
(402)742-8460

Mr. L. Robert Puschendorf  
Deputy State Historic Preservation Officer  
Nebraska State Historical Society  
P.O. Box 82554  
Lincoln, NE 68508

Dear Mr. Puschendorf:

The purpose of this letter is to coordinate with the Nebraska State Historic Preservation Office (SHPO) regarding Federal Highway Administration Nebraska Division's (FHWA) intent to programmatically address certain Section 4(f) uses and Section 4(f) exceptions in Nebraska.

The Department of Transportation Act of 1966 includes a special provision - Section 4(f) - which stipulates that FHWA cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless specific conditions apply.

Our agencies recently executed the *Programmatic Agreement Among the Federal Highway Administration, the Nebraska State Historic Preservation Officer, The Advisory Council on Historic Preservation and the Nebraska Department of Roads to Satisfy the Requirements of Section 106 for the Federal-Aid Highway Program in the State of Nebraska* (Section 106 PA). Per the Section 106 PA, the Nebraska Department of Roads (NDOR) Section 106 Professionally Qualified Staff (Section 106 PQS) is authorized by FHWA and SHPO to make "no potential to affect historic properties" and "no historic properties affected" determinations on a project-by-project basis. In accordance with the Section 106 PA, projects that will have no adverse effect or that will adversely affect historic properties will continue to be reviewed by both FHWA and the SHPO for Section 106 compliance.

According to 23 CFR 774.5, FHWA must inform the SHPO if we intend to make a Section 4(f) *de minimis* impact determination based on the SHPO's concurrence in the finding of "no adverse effect" or "no historic properties affected".

In addition, there are two Section 4(f) exceptions listed in 23 CFR 774.13 that require consultation with the SHPO. These exceptions are:

1. work to restore, rehabilitate, or maintain transportation facilities that are on or eligible for the register. This exception requires a Section 106 determination of "no adverse effect" and verification from the SHPO that they do not object to this FHWA Section 106 determination; and,
2. archaeological sites when the site is important chiefly because of what can be learned by data recovery and when the site has minimal value for preservation in place. This

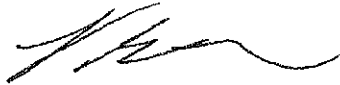
exception requires verification from the SHPO that they do not object to the FHWA determination that a site has minimal value for preservation in place.

This letter requests SHPO concurrence with FHWA's intent to:

1. apply a *de minimis* determination under Section 4(f) to historic properties with a Section 106 determination of "no historic properties affected" or "no adverse effect", as established by the terms of the Section 106 PA;
2. apply a Section 4(f) exception for work to restore, rehabilitate, or maintain transportation facilities that are on or eligible for the register with a Section 106 determination of "no historic properties affected" or "no adverse effect", as established by the terms of the Section 106 PA;
3. apply a Section 4(f) exception to archaeological sites when the NDOR Section 106 PQS determines that an archaeological site does not warrant preservation in place, and said determination is in compliance with the Section 106 PA. This determination would be recorded on both the appropriate NDOR Section 106 Tier review form and within the NDOR Section 4(f) Exception form.

If you have any questions or require further information, please feel free to contact either myself or coordinate with Scott Stapp of my office at 402-742-8465. We thank you for your assistance efficiently delivering the federal-aid program.


Sincerely yours,



Melissa Maiefski  
Program Delivery Team Lead

By the following signature, the SHPO acknowledges it has been notified of the intent of the FHWA to make a *de minimis* finding based on Section 106 determinations of effect as outlined above, and that the SHPO does not object to the application of Section 4(f) exceptions (a) and (b), as outlined above.

CONCUR:

  
\_\_\_\_\_  
Nebraska State Historic Preservation Officer

Date: 9/22/15