



Biological Evaluation Form

Main CSJ: 0353-03-100

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Date of Evaluation: February 28, 2019

Project has no Federal nexus.

Proposed Letting Date: January 2022

Project not assigned to TxDOT under the NEPA Assignment MOU

District(s): Fort Worth

County(ies): Tarrant

Roadway Name: State Highway (SH) 114

Limits From: Farm-to-Market Road (FM) 1938

Limits To: Dove Road

Project Description: The Fort Worth District of the Texas Department of Transportation proposes to add continuous two-lane frontage roads along State Highway (SH) 114 from Farm-to-Market Road (FM) 1938 (Davis Blvd) to Dove Rd to increase connectivity along this travel corridor, located in the City of Southlake, Town of Westlake, and Town of Trophy Club, Tarrant County, Texas. Additionally, the proposed project includes the reversal of the existing entrance and exit ramps from the "Diamond Configuration" to an "X Configuration" to increase mobility and safety along the SH 114 mainlanes and frontage roads. Along with these improvements, U-Turn lanes will be added along SH 114 for both eastbound and westbound directions at Kirkwood Blvd and on the west side of Dove Road.

Additional right-of-way will be needed along certain areas of the project, and it is anticipated that the needed right-of-way will be dedicated by the City of Southlake. In other areas, the project will be designed such that no additional right-of-way will be needed. In total the proposed project is located on 113.23 acres of existing right-of-way, 4.64 acres of proposed right-of-way, and 5.70 acres of temporary construction easements.

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 16, 2014, and executed by FHWA and TxDOT.

Endangered Species Act (ESA)

Yes Is the action area of the proposed project within the range of federally protected species?

Yes Did the USFWS IPaC system identify any endangered species that may occur or could potentially be affected by the proposed project activities?

Date that the [IPaC system](#) was accessed: December 18, 2018

No Is the action area of the proposed project in suitable habitat of federally protected species?

*Explain:

No potentially suitable habitat for federally protected species is located within the proposed project area, as verified by a qualified biologist. Please see Attachment 6 of the Supplemental Attachments.

Resources consulted or activities conducted to make effect determination (if applicable):



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- TPWD County List USFWS Critical Habitat Maps Species Expert Consulted
- Aerial Photography Coastal Areas Maps Site Visit
- Topographic Map Species Study Conducted Karst Zone Maps
- Ecological Mapping System of Texas (EMST) Natural Diversity Database (NDD)

Other:

-USFWS Official Species list
 -Site Visit Conducted on September 11, 2018 and December 12, 2018.

Migratory Bird Treaty Act (MBTA)

- Yes Is there potential for nesting birds to be present in the project action area during construction?
- No Were active nests identified during the site survey?
- Yes Will BMPs will be incorporated to protect migratory bird nests?

Comments:

One inactive bird nest was observed during the December 2018 site visit, outside the typical migratory bird nesting season (generally April-October) (See Photo 24 in Attachment 20 of the Supplemental Attachments).

This project will comply with applicable provisions of the Migratory Bird Treaty Act (MBTA) and Texas Parks and Wildlife Code Title 5, Subtitle B, Chapter 64, Birds. It is the department’s policy to avoid removal and destruction of active bird nests except through federal or state approved options. In addition, it is the department’s policy to, where appropriate and practicable:

- use measures to prevent or discourage birds from building nests on man-made structures within portions of the project area planned for construction, and
- schedule construction activities outside the typical nesting season.

Bald and Golden Eagle Protection Act (BGEPA)

- No Does the proposed project have the potential to impact Bald or Golden Eagles?

Comments:

No potentially suitable nesting habitat was observed within or adjacent to the project area, as verified by a qualified biologist. Additionally, no eagle nests, or past presence of nests, were observed during the September 2018 or December 2018 site visits.

Fish and Wildlife Coordination Act (FWCA)

- Yes Does the project have impacts on one or more Waters of the U.S. or wetlands?
- Yes Is the project covered by a Nationwide Permit?
- No Is the project covered by an Individual Permit from the USACE?



Comments:

According to current plans, the proposed project is anticipated to result in permanent impacts to Kirkwood Branch at Crossing #1 and an unnamed tributary to Kirkwood Branch at Crossing #2, illustrated on the Potential Waters of the U.S. figure found in Attachment 17 of the Supplemental Attachments. Proposed impacts to waters of the U.S. would likely be authorized by the use of Nationwide Permit 14 with no Pre-Construction Notification.

Crossing #3 exists entirely within a culvert within the project area. No extension of the culvert at Crossing #3 is anticipated. Therefore, the construction of the proposed project will have no impacts on this water feature.

Executive Order 13112 on Invasive Species

Yes Would the proposed project be in compliance with EO 13112?

Comments:

This project is subject to and will comply with federal Executive Order 13112 on Invasive Species. The department implements this Executive Order on a programmatic basis through its Roadside Vegetation Management Manual and Landscape and Aesthetics Design Manual.

Executive Memorandum on Environmentally and Economically Beneficial Landscaping

No Would landscaping be included in the proposed projects?

Comments:

This project is subject to and will comply with the federal Executive Memorandum on Environmentally and Economically Beneficial Landscaping, effective April 26, 1994. The department implements this Executive Memorandum on a programmatic basis through its Roadside Vegetation Management Manual and Landscape and Aesthetics Design Manual.

Farmland Protection Policy Act (FPPA)

Yes Would the project require new ROW or permanent easements (Do not include temporary easements)?

No Is the project located in a "non-urbanized area" that contain areas mapped as prime, unique, statewide important or locally important farmland by the NRCS Web Soil Survey or Census Bureau?

Comments:

Although the project would require new ROW, the entirety of the proposed project is located within an urbanized area. See Attachment 19 in the Supplemental Attachments.

General Comments

See the attached "0353-03-100_SH_114_Supplemental_Attachments_02.28.2019".pdf for additional information.



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Findings

Endangered Species Act (ESA)

No suitable habitat was observed for any federally listed species. Therefore, there would be no effect on federally listed species. However, measures to avoid harm to any threatened and endangered species would be taken should they be observed during construction of the proposed project. Coordination with the USFWS would not be required. The USFWS IPaC website was accessed on December 18, 2018.

Essential Fish Habitat (EFH)

Tidally influenced waters do not occur within the project action area. Coordination with National Marine Fisheries Service is not required.

Coastal Barrier Resources Act (CBRA)

This project is not located within a designated CBRA map unit. Coordination with the U.S. Fish and Wildlife Service (USFWS) is not required.

Marine Mammal Protection Act (MMPA)

Marine mammals are protected under the Marine Mammal Protection Act (MMPA). The Texas coast provides suitable habitat and is within range of several marine mammals including the West Indian Manatee (*Trichechus manatus*), and bottlenose dolphin (*Tursiops truncatus*).

The project area does not contain suitable habitat for marine mammals. Coordination with NMFS is not required.

Migratory Bird Treaty Act (MBTA)

The Migratory Bird Treaty Act (MBTA) states that it is unlawful to kill, capture, collect, possess, buy, sell, trade, or transport any migratory bird, nest, young, feather, or egg in part or in whole, without a federal permit issued in accordance within the Act's policies and regulations.

A site survey did not identify active nests within the project action area. While no impact to migratory birds is expected, TxDOT will take all appropriate actions to prevent the take of migratory birds, their active nests, eggs, or young should they be discovered on the project site. Direction to contractors is provided on the standard EPIC sheet.

Bald and Golden Eagle Protection Act (BGEPA)

The proposed project does not have the potential to impact Bald or Golden Eagles.

Fish and Wildlife Coordination Act (FWCA)

The Fish and Wildlife Coordination Act (FWCA) of 1958 requires that federal agencies obtain comments from USFWS and TPWD. This coordination is required whenever a project involves impounding, diverting, or deepening a stream channel or other body of water.

The proposed project is authorized under a Section 404 of the Clean Water Act Nationwide Permit; therefore, no coordination under FWCA would be required.

Executive Order 13112 on Invasive Species (EO 13112)



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Re-vegetation of disturbed areas would be in compliance with the Executive Order on Invasive Species (EO 13112). Regionally native and non-invasive plants will be used to the extent practicable in landscaping and re-vegetation.

Executive Memorandum on Beneficial Landscaping

Landscaping is not part of the proposed project. If revegetation is needed, disturbed areas would be revegetated according to TxDOT's standard practices, which to the extent practicable, complies with Executive Memorandum on Environmentally and Economically Beneficial Landscaping. Direction to contractors is provided on the standard EPIC sheet.

Farmland Protection Policy Act (FPPA)

Coordination with the National Resources Conservation Service (NRCS) for FPPA would not be required because the project is not located in areas mapped as prime, unique, statewide or locally important nor is it located in an "urbanized area" identified by the NRCS Web Soil Survey or Census Bureau.



Suggested Attachments

Aerial Map (with delineated project boundaries)

USFWS T&E List

TPWD T&E List

Species Impact Table

NDD EOID List and Tracked Managed Areas (Required for TPWD Coordination)

NOAA EFH Mapper Printout

USFWS CBRA Mapper Printout

EMST Project MOU Summary Table (Required for TPWD Coordination)

TPWD SGCN List

FPPA Documentation

NRCS Web Soil Survey Map

Census Bureau Urbanized Area Map

Landscaping Plans

Photos (Required for TPWD Coordination)

Previous TPWD Coordination Documentation (if applicable)