

**FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT**

**IMPROVEMENTS TO INTERSTATE 35:
FARM-TO-MARKET 3002 TO MILE MARKER 1/MERLE WOLFE ROAD
COOKE COUNTY, TEXAS AND LOVE COUNTY, OKLAHOMA**

CSJs 0194-01-010, 0194-02-081, 0194-02-092, 0195-01-087, 0195-01-111, 0195-01-119, AND
0903-15-100

INTRODUCTION

The Federal Highway Administration (FHWA) has determined, in accordance with 23 CFR §771.119 and §771.121, that the Interstate 35 (I-35) located in Cooke County, Texas and Love County, Oklahoma, will not have a significant impact on the human or natural environment. This Finding of No Significant Impact (FONSI) for the Selected Build Alternative is based on the December 2020 Final Environmental Assessment (EA). The August 2020 Draft EA was approved by FHWA for public involvement on August 19, 2020. A public hearing was held on September 15, 2020 and the comment period ended on September 30, 2020. The Selected Build Alternative is now considered the Selected Build Alternative.

The Texas Department of Transportation (TxDOT) proposes to reconstruct and widen 21.6 miles of Interstate 35 (I-35) from near Farm-to-Market Road (FM) 3002 in southern Cooke County, Texas, north to Merle Wolfe Road in Love County, Oklahoma.

The Selected Build Alternative proposes to widen existing I-35 to eight lanes (four lanes in each direction) following the existing alignment. The proposed typical section will include four, 12-foot-wide travel lanes and 10-foot wide inside and outside shoulders in each direction. There will be a fixed concrete barrier in the median of I-35 to separate each direction of travel. The Selected Build Alternative for the roadway will require a new bridge at the Red River.

Additionally, the proposed Selected Build Alternative will convert the existing non-continuous, two-way frontage roads (currently one lane in each direction) to continuous, one-way frontage roads (two lanes in each direction). New one-way frontage roads will connect with existing one-way frontage roads located in Gainesville. Within Oklahoma, the existing US 77 will be tied to the existing southbound mainlanes to serve as a southbound frontage road within the Oklahoma portion of the proposed project, no other frontage roads are proposed in this area. All cross streets will retain access to the frontage roads. Access to O'Brien Street to the I-35 frontage road in Valley View will be closed due to their proximity to a proposed entrance ramp to I-35. The inner frontage road lane will be 12 feet wide, and the outer frontage road lane will be 14 feet wide to accommodate bicycles. Continuous sidewalks will be built on both the east and west sides of the frontage road through the Cities of Gainesville and Valley View to improve pedestrian mobility. Within Gainesville, crosswalks and signals will be installed at certain interchanges to increase safe pedestrian access across I-35. The design speed along the frontage roads will be 40 miles-per-hour (mph). A turnaround is proposed south of the Texas/Oklahoma state line to enable vehicles traveling on the

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northbound frontage road to connect to the southbound, one-way frontage road to remain in Texas. Access will also be provided to allow existing northbound frontage road travelers to continue into Oklahoma on the two-way frontage road bridge.

Crossovers providing east-west access within the proposed project limits will be constructed approximately every 1.5 miles and Texas U-turns (U-turn lanes that allow motorists to turn around at intersections without stopping at a signal and without impeding cross traffic) will be implemented for the intersections of FM 1202, Corporate Drive, the Burlington Northern Santa Fe (BNSF) rail line crossing, U.S. Highway (US) 82, FM 51/California Street, FM 1306/CR 218, and FM 922.

Construction Phasing of the Selected Alternative

The Selected Alternative will be constructed in two phases. The first phase will implement two of the improvements: 1) constructing one additional travel lane in each direction to create a six-lane facility and 2) converting the two-way frontage roads to one-way frontage roads. All bridges, including the proposed new Red River Bridge, will be built during the first phase of construction.

The second phase will construct one additional travel lane in each direction of I-35 to increase the facility's capacity from six to eight lanes. The bridges built in the first phase will accommodate the 8-lane ultimate design but will be striped out for the 6-lanes interim until the ultimate facility is built.

The December 2020 Final EA has been independently evaluated by the FHWA and determined to adequately and accurately discuss the need, purpose, alternatives, environmental issues, impacts, and appropriate mitigation measures of the proposed I-35 project. This document provides enough evidence and analysis for determining that an Environmental Impact Statement (EIS) is not required. The December 2020 EA is incorporated by reference into this decision document.

PROJECT BACKGROUND

The existing I-35 corridor between FM 3002 and Merle Wolfe Road is primarily rural in nature, with the exception of areas within the cities of Gainesville and Valley View, near the Texas Travel Information Center, and the WinStar World Casino and Resort. The existing transportation facility consists of four, 12-foot wide mainlanes (two lanes in each direction). The outside paved shoulders of the mainlanes are 10 feet wide, and the inside shoulders are four feet wide. The center medians vary from grassy swales ranging up to 36 feet wide, to areas with only retaining walls.

The existing facility also includes semi-continuous, two-way frontage roads that have two 11-foot wide travel lanes and one-foot wide shoulders on either side. In Gainesville, existing frontage roads have already been converted to one-way roads with a 12-foot wide inside lane, and a 14-foot wide outside lane. The existing facility's mainlanes are separated from the frontage roads by grassy ROW areas that vary in width.

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Within the proposed project limits, there are six highway interchanges, five interchanges with arterial streets, one major river crossing over the Red River, and one railway (BNSF) that crosses underneath I-35. The portion of existing two-way I-35 frontage roads between FM 1202 and the BNSF railway crossing north of Gainesville were converted to one-way frontage roads as a separate project by the City of Gainesville.

The need for the proposed project is presented in the EA and is based upon existing and anticipated conditions of the project area. The roadway's capacity is inadequate to safely meet current and future local and regional traffic volumes, resulting in congestion, and reduced mobility on this stretch of highway. Traffic volumes along I-35 within the proposed project limits are expected to increase substantially between 2015 and 2045 according to 2015 data from TxDOT's Transportation Planning and Programming Division (TxDOT 2015). The 2015 average annual daily traffic (AADT) volumes along I-35 within the proposed project limits is currently 56,300 vehicles. By 2045, AADT volumes within the proposed project limits are expected to increase to 92,350 vehicles. From 2015 to 2045, this 45 percent increase in AADT volumes along the I-35 corridor will represent a meaningful increase in travel demand.

Based on 2015 traffic data, the percentage of trucks traveling within the proposed project limits during peak hours are approximately 20.4 percent. Presently, a high percentage of trucks during peak-hour traffic contribute significantly to traffic congestion throughout the corridor. Because the corridor is an important north-south route for the distribution of goods throughout the United States (U.S.), trucks are expected to continue to make up a high percentage of the peak-hour traffic within the proposed project limits.

Second, population growth often leads to increased traffic volumes and demand both regionally and locally, as is the case of the I-35 project area. From a regional perspective, the areas that will experience the largest population growth from 2010 to 2040 (in terms of percent increase) will be the City of Denton and Denton County, both of which will be immediately south of the proposed project limits. The City of Denton is expected to grow 137.05 percent from 2010 to 2040, while Denton County is projected to grow by 103.48 percent during that same period. In addition, the City of Sanger (also in Denton County) is expected to increase 91 percent from 2010 to 2040. Tarrant and Denton County and the City of Denton are forecasted to grow at a rate (42.59 percent and 101.13 percent, respectively) from 2010 to 2040.

Cooke County, Love County, and the Cities of Gainesville and Valley View are growing at a slower pace than the more urbanized cities and counties to the south of the proposed project limits along the I-35 corridor. However, the overall population growth regionally, particularly within the counties and cities noted above, currently contributes and will continue to increase travel demand along I-35 within Cooke County and southern Love County.

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Third, the roadway design standards have changed since initial construction of the I-35 corridor. The existing horizontal and vertical geometry does not meet current design standards for a 70-mph design speed. Additionally, at least three curves along I-35 within the proposed project limits do not meet current TxDOT design standards. One curve, located south of California Street in the City of Gainesville, has a radius of 1,885 feet, which only meets a 65-mph design speed. Located just south of the Red River, the second curve has a radius of 1,400 feet, which only meets a 60-mph design speed. A reverse curve, at the Denton County line, also does not conform to design standards and only meets the minimum required radius.

Additionally, several intersections and interchanges within the proposed project limits have outdated configurations and inadequate entrance and exit ramp lengths. Configurations north of Hockley Creek Road, County Road (CR) 218, and FM 1202 are the result of outdated two-way frontage road operations. Current intersection design and short ramp configurations do not safely support high-speed traffic movements, and the short ramps do not provide adequate distance for comfortable acceleration onto the mainlanes and deceleration onto the frontage roads.

Finally, the frontage roads in the I-35 corridor are currently not meeting safety standards. According to TxDOT accident records, approximately 843 accidents have occurred within the proposed project limits since 2010. Of these accidents, approximately 71 percent were non-injury; 12 percent were possible injury; 11 percent were injury/non-incapacitating; 4 percent were injury-incapacitating; 2 percent were fatal; and 0.4 percent was reported as “unknown.”

The TxDOT Roadway Design Manual states that the preferred operation for frontage roads is one-way because one-way frontage roads are safer than two-way frontage roads (TxDOT 2014). With traffic forecasts projecting increased traffic over time, the need to convert to one-way frontage roads is recommended and benefits from converting could be smoother traffic flow, improved safety at entrance and exit ramps, improved intersection safety and efficiency, a more unified statewide frontage road system and meet driver expectations by implementing consistency to the local frontage roads.

The purposes of the proposed project, or solutions to the needs, as identified in the EA, are to improve mobility, add capacity, accommodate economic development opportunities (north and south of the proposed project), and improve the safety for existing and future travelers in the region by widening the roadway from two lanes to four lanes, constructing frontage roads throughout the project limits where they do not currently exist, changing two-way frontage roads to one-way frontage roads, and correcting design deficiencies.

The I-35 improvement project was developed in accordance with the National Environmental Policy Act (NEPA) of 1969, Council on Environmental Quality (CEQ) Regulation for Implementing the Procedural Provisions of the NEPA (40 CFR §1500-§1508), FHWA Environmental Impact and Related Procedures

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(23 CFR §771), Public Involvement Rules (43 TAC Chapter 2), and other related federal and state requirements.

REVIEW OF THE EA

TxDOT completed the EA in August 2020, and the FHWA indicated in a letter dated August 19, 2020, that the EA was Satisfactory for Further Processing. The EA considered and analyzed the potential social, economic, and environmental impacts associated with the proposed improvements I-35 within the proposed project area. The potential impacts studied include direct, indirect, and cumulative impacts of the proposed project.

The potential impacts include direct, indirect and cumulative impacts of the project. Direct effects are defined by the CEQ regulations (40 CFR §1508) as being “caused by the action and occur at the same time and place.” Indirect effects are defined as effects that are “caused by an action and occur later in time or farther removed in distance, but are still reasonably foreseeable,” and may “include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” Cumulative impacts are the incremental impacts that the project’s direct or indirect effects have on a resource in the context of the myriad of other past, present, and future effects on that resource from unrelated activities.

Six preliminary alternatives and one alternative for the BNSF rail realignment were taken into consideration and were presented in the feasibility study located on file at the Wichita Falls District Office. The two alternatives discussed in the EA are:

1. Proposed Selected Build Alternative (Alternative 2); and
2. No-Recommended Build Alternative.

The Proposed Selected Build Alternative

The proposed Selected Build Alternative proposes to widen existing I-35 to eight lanes (four lanes in each direction) following the existing alignment. The proposed typical section will include four, 12-foot-wide travel lanes and 10-foot wide inside and outside shoulders in each direction. There will be a fixed concrete barrier in the median of I-35 to separate each direction of travel. The Selected Build Alternative for the roadway will require a new bridge at the Red River.

Additionally, the proposed Selected Build Alternative will convert the existing non-continuous, two-way frontage roads (currently one lane in each direction) to continuous, one-way frontage roads (two lanes in each direction). New one-way frontage roads will connect with existing one-way frontage roads located in Gainesville. There will be no changes to the frontage roads within the Oklahoma portion of the proposed project, nor will there be any new frontage roads proposed in this area. All cross streets will retain access

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to the frontage roads. Access from O'Brien Street to the I-35 frontage road in Valley View will be closed due to their proximity to a proposed entrance ramp to I-35. The inner frontage road lane will be 12 feet wide, and the outer frontage road lane will be 14 feet wide to accommodate bicycles. Continuous sidewalks will be built on both the east and west sides of the frontage road through the Cities of Gainesville and Valley View to improve pedestrian mobility. Within Gainesville, crosswalks and signals will be installed at certain interchanges to increase safe pedestrian access across I-35. The design speed along the frontage roads will be 40 mph. A turnaround is proposed south of the Texas/Oklahoma state line to enable vehicles traveling on the northbound frontage road to connect to the southbound, one-way frontage road to remain in Texas. Access will also be maintained to allow travelers on the proposed northbound one-way frontage road, south of the state line, to continue northbound on the existing two-way frontage road to cross into Oklahoma.

Crossovers providing east-west access within the proposed project limits will be constructed approximately every 1.5 miles and Texas U-turns (U-turn lanes that allow motorists to turn around at intersections without stopping at a signal and without impeding cross traffic) will be implemented for the intersections of FM 1202, Corporate Drive, the BNSF rail line crossing, U.S. Highway (US) 82, FM 51/California Street, FM 1306/CR 218, and FM 922.

No-Recommended Build Alternative

The No-Recommended Build Alternative represents the case in which the proposed improvements to I-35 between FM 3002 in Cooke County and Mile Marker 1/Merle Wolfe Road in Love County will not be constructed. The No-Recommended Build Alternative is the baseline condition for comparison against potential impacts under the Selected Build Alternative. Under the No-Recommended Build Alternative, all other improvements on the 2019-2022 Statewide Transportation Improvement Program (STIP), the 2021 Unified Transportation Program (UTP), and the ODOT Federal Fiscal Year (FFY) 2020-2023 STIP will still be implemented.

Support Rationale

Implementation of the Selected Alternative will meet the public's need for increased capacity and provide for long-term management of future traffic needs throughout the region. Additionally, the Selected Alternative will upgrade the existing infrastructure to meet current FHWA, TxDOT and Oklahoma Department of Transportation (ODOT) design standards for interstates, bridges, and frontage roads, in addition to improving roadway safety.

The No-Recommended Build Alternative will not require additional ROW or displacement of residences or businesses, while the Selected Build Alternative will require 124 acres of additional ROW and potential displacement of six commercial structures. The Selected Build Alternative is in Cooke and Love Counties, which are located in areas designated as attainment or unclassifiable for all National Ambient Air Quality

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Standards (NAAQS); therefore, the transportation conformity rules do not apply. The Selected Build Alternative will permanently impact approximately 103.74 acres of infrequently maintained vegetation, including 53.76 acres of woods. No riparian habitat or wetlands will be affected. This alternative will also improve mobility by: increasing capacity; maintaining access to all existing neighborhoods, community facilities, businesses, and commercial areas; and ensuring that community cohesion remains intact by not dividing, separating, or isolating any neighborhood or community. No disproportionate adverse effect on any minority or low-income population will result from construction. The project area does contain any Waters of the U.S. After coordination with the U.S. Army Corps of Engineers (USACE), it was determined that all jurisdictional waters will be permitted under a single Individual Permit, which will be processed through the Tulsa USACE as the leading USACE district. Jurisdictional determination and the potential impacts to Waters of the U.S. will be submitted to the Tulsa USACE for verification. Once the verification and the extent of impacts has been determined, mitigation alternatives for compensation of the impacts will be identified and evaluated. Sections of the Selected Build Alternative is located within the 100-year floodplain. It does not affect prime farmland or farmland of state or local importance. This Alternative does have a small effect on surface water runoff quality by increasing impervious cover. The results of the noise analysis indicate that while there will be traffic noise impacts, noise abatement measures will be feasible and reasonable in three locations; therefore, abatement measures are proposed for this project. The proposed project may result in the direct impact to vegetation, including threatened and endangered species habitat, and water resources. The potential for impacts to threatened and endangered species related to the proposed project was coordinated with Texas Parks and Wildlife Department (TPWD). In accordance with the regulatory requirements of Section 106 of the National Historic Preservation Act (NHPA) and the terms of the First Amended Programmatic Agreement, Individual project coordination with Texas State Historical Preservation Office (SHPO) is not required. Coordination with the Oklahoma Historical Society (SHPO) was initiated and concluded with no objections. The proposed project will not impact any parks located within the study area, outside of the Lake Texoma USACE property. In Oklahoma the proposed project will require 5.6 acres of easement from the Love Valley Wildlife Management Area (WMA) at Lake Texoma. The Love Valley WMA is located within the Lake Texoma Fee Area and is owned by the USACE and leased to Oklahoma Department of Wildlife (ODWC). Field studies determined that 3.2 acres of the Lake Texoma property could be characterized as bottom land hardwood forest and the other 2.4 acres will be urban low intensity (a gravel roadway and disturbed upland grasses adjacent to the gravel roadway). The road is not accessible to the general public and can only be accessed through the water plant and cannot be used for access to the Red River for fishing, boating, bird watching, or any other uses. In addition, there are no picnic tables or other recreational facilities on the property that could be used by the general public; therefore, it has been determined that the Section 4(f) will not be required. This Alternative is consistent

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with local environmental laws and regulations. All permits from regulatory agencies will be obtained prior to construction of the project.

As noted, the EA examines the direct, indirect, and cumulative impacts of the project and identifies potential impacts of special concern to include: (a) displacements, (b) historic resources, and (c) indirect and cumulative project effects on the community (land use), vegetation, wetlands, water quality, and air quality impacts due to the current forecasted pace of development in the area.

The EA concludes:

1. The Selected Build Alternative best meets the need and purpose of the project with the least amount of impacts to the resource areas.
2. The proposed project will be compatible with other proposed and on-going Cooke County, Love County, City of Gainesville and City of Valley View projects.
3. The proposed project will have no significant impacts on the quality of the human or natural environment.
4. TxDOT recommends a Finding of No Significant Impact for the I-35 Improvement project.

TxDOT's and ODOT recommendation for the selection of the Selected Build Alternative was developed from a process that involved public input and coordination with federal, state, and local government agencies.

PUBLIC INVOLVEMENT

Public involvement is an integral and critical component of the NEPA project development process. Public involvement efforts were developed and exercised to incorporate all the different types of stakeholders and their needs, from safety to mobility to environmental concerns. The public involvement team for the I-35 Improvement project included representatives from the TxDOT Wichita Falls District, the TxDOT Environmental Affairs Division, and the environmental and engineering consultants.

Public Meeting

As part of the NEPA public involvement process, TxDOT held three open house public meetings, one Meeting of Affected Property Owners (MAPO), and one virtual public hearing for the proposed project.

The first open house was held on Thursday, February 5, 2015, from 5:30 p.m. to 7:30 p.m., at the First United Methodist Church, 214 South Denton Street, Gainesville, Texas, 76240. The 2015 open house was a casual, come-and-go event which provided citizens an opportunity to learn about the project as well as provide input on the need and purpose for improvement to I-35, the evaluation and screening of alternatives, and a preliminary schematic of the Preferred Build Alternative. In order to reach out to Environmental

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Justice populations (English and Spanish) postcards were distributed at public/low-income housing complexes in the project area, the TLG Language Resources and Training Academy, places of worship that offer services in Spanish, Gainesville Municipal Building, Cooke County Library, Love County Library, the American Red Cross-Denison, WIC State Agency Area Office, the Gainesville Economic Development Corp., and the Cooke County Office. Over 400 citizens attended this event.

A Meeting of Affected Property Owners (MAPO) was held on September 30, 2015 for the property owners affected by the two-mile extension of the proposed project into Oklahoma. The MAPO was held in an open house format at the Thackerville School Cafeteria. Two public officials and 15 from the general public were in attendance. The purpose of the open house was to distribute additional project information regarding the extension of the project limit from mile marker 1 to mile marker 3 and allow the public an opportunity to provide input on the proposed project. No written comments were received, most verbal comments were regarding the location of proposed ROW acquisitions. For more details on the MAPO contact the Wichita Falls District. Note; project limits were revised back to mile marker 1 in October 2019 and the public was informed of the change at the February 27, 2020 public meeting.

A second, open house public meeting was held on September 28, 2017. The purpose of the 2017 public meeting was to present to the public and collect comments on the proposed changes in the realignment of the BNSF rail line within the Valley View section of the project since the 2015 open house and on the proposed changes in access at 3rd Street in Valley View, Texas. Approximately 212 citizens attended the public meeting. While the public meeting was conducted in English, interpreters or document translators were in attendance at the meeting and the notice offered special accommodations were available, at request, for those whose primary language isn't English. Public hearing materials were provided in English and Spanish.

The third public meeting was held on February 27, 2020 at the Bob Andrew Agricultural Center in Valley View, Cooke County, Texas. A total of 193 members of the general public attended the meeting, along with six elected officials. While the public meeting was conducted in English, interpreters or document translators were in attendance at the meeting and the notice offered special accommodations were available, at request, for those whose primary language isn't English. Public hearing materials were provided in English and Spanish. The purpose of the 2020 meeting was to present to the public and collect comments on the removal of the BNSF rail line realignment from the project design and the proposed changes in the roadway design within the Valley View section of the project since the 2017 public meeting. Additionally, proposed changes in access at O'Brien Street in Valley View, Texas were presented, and comments were collected. The meeting provided residents and business owners with information regarding the need and purpose for the project, identification of the proposed design, and the primary benefits and constraints associated with the project. Attendees and other interested individuals were provided an opportunity to

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comment in writing on the project. Some of the concerns raised by community members in written comments included:

- Concerns over traffic, primarily at FM 922 where BNSF realignment was removed;
- Conversion of two-way frontage roads to one-way frontage roads; and
- Concerns about ramp design.

For more details on the Public Meetings or the MAPO please see the *Public Meeting/Hearing Summary Reports* located on the project website at <http://www.txdot.gov/inside-txdot/projects/studies/wichita-falls/i35-cooke-county.html> and on file at the Wichita Falls District office.

Stakeholder Involvement

Coordination occurred with federal, state, and local governmental agencies including the Oklahoma SHPO, Texas Historical Commission (THC), TPWD, Oklahoma USACE- Lake Texoma, Oklahoma Department of Environmental Quality (ODEQ), Kickapoo Tribe, Chickasaw Nation, the Cities of Gainesville and Valley View and Cooke County. As part of the public involvement process, federal, state, local public officials and the public were invited to attend the public hearing.

Public Hearing

Satisfactory for Further Processing from FHWA was signed August 19, 2020. The hybrid in-person/virtual public hearing was held on September 15, 2020 on the TxDOT website. Following the virtual public hearing, the presentation was available for viewing until September 30, 2020 on the project website. Additionally, TxDOT provided an in-person option on September 15, 2020 at the TxDOT Area Office at 2615 W. Highway 82, Gainesville, Texas 76240. The purpose of the public hearing was to solicit public comments and input, as well as allow the opportunity for public to provide verbal testimony regarding the proposed roadway improvements via a project phone line. Based upon the sign-in sheets, 40 citizens and 1 elected official attended the hearing. A preliminary design schematic with typical sections for the proposed alternative, exhibit boards, fact sheet, presentation, environmental constraints map, right-of-way pamphlets, and the draft EA were available for the public to download and view at the project website listed above. While the in-person option was conducted in English, interpreters or document translators were available at request for those whose primary language isn't English (no requests were made). Public hearing had an English and Spanish virtual room and the presentation and materials were provided in English and Spanish. A pre-recorded presentation with both audio and video components was given by TxDOT and the environmental consultant, and one verbal comment was made via the project phone line.

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Media Coordination

The public hearing was announced and advertised through a variety of methods. Twenty-three days prior to the hearing, TxDOT made extensive efforts to announce the hearing through mailings and published advertisements. Copies of the Public Notice announcing the hearing time, location and purpose were mailed to public officials on August 24, 2020, and on August 25, 2020 to a list of property owners adjacent to the proposed ROW and residents who may be directly affected by changes in access. Public Notices were published in newspapers with local and city-wide circulation, including the *Weekly News of Cooke County* on August 26, 2020 and *the Gainesville Daily Register* on August 27, 2020. A summary of the public hearing and copies of the schematic layout showing the location and design, the draft environmental assessment, and other information related to the project are on file and have been made available for public review at the TxDOT Area Office located at 2615 W. Highway 82, Gainesville, Texas 76240.

Summary of Comments

A total of twenty-one (21) comments were made; one (1) verbal comment was received on the voice line and twenty (20) written comments. Ten (10) comments received were regarding the proposed ROW in front of the Martindale Feed Mill. The concern was that additional ROW as proposed will impact operation activities at the front of the mill. As such, TxDOT has reviewed the frontage road design next to the Martindale Feed Mill and has adjusted the frontage road design to fit within the existing ROW; therefore, avoiding ROW impacts to the mill. Other comments received were regarding the conversion of two-way frontage roads to one-way frontage roads (did not want the one-way frontage roads), need for intersection improvements with the frontage road and FM 922 due to trains blocking the intersection, questions about impacts to business and traffic noise, and the roadway crossing over Spring Creek. As a whole, most citizens agreed that something needs to be done about congestion along I-35 and felt the roadway should be expanded, but that the conversion of the frontage road from a two-way to one-way should not be done.

Each comment was considered and responded to in a Public Hearing Summary Report, which has been published on the TxDOT website <http://www.txdot.gov/inside-txdot/projects/studies/wichita-falls/i35-cooke-county.html>.

MITIGATION COMMITMENTS

Most potential impacts associated with the construction of the Selected Build Alternative are proposed to be avoided or minimized, as documented in the EA. The design and construction of the I-35 Improvement project will incorporate measures to minimize harm to the environment, as described below.

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Land Use

The Selected Build Alternative will convert approximately 124 acres of land to transportation use. The proposed roadway ROW is comprised of mostly agricultural land. Overall, the Selected Build Alternative is anticipated to have some indirect effects on future land use and is consistent with regional and local plans.

Mitigation commitment: No mitigation is required or recommended.

Relocations and Right-of-Way Acquisition

The Selected Build Alternative will require approximately 124 acres of additional ROW. While the Selected Alternative will displace six commercial properties, two are abandoned, two have already been acquired and relocated (without loss of jobs to their employees) under the early acquisition process. The last two displacements are gas stations. One gas station, the proposed ROW will impact the pumps, but not the building. During early acquisition discussion, it appears that the property owner will likely relocate the gas pumps elsewhere on the property, thus not impacting any employees.

Mitigation Commitment: Access to residences or use of any commercial, industrial or public area will be maintained at all times during and after project construction. All ROW acquisitions have been and will be conducted in accordance with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* and the *Uniform Relocation Act Amendments of 1987*.

The TxDOT and ODOT Relocation Office will also aid to displaced businesses and nonprofit organizations to aid in their satisfactory relocation with a minimum of delay and loss of earnings. The proposed project will proceed to construction only when all displaced families have been provided the opportunity to relocate to decent, safe, and sanitary housing. The available structures must also be open to persons regardless of race, color, religion, or nationality, and be within the financial means of those individuals affected.

Environmental Justice (EJ)

Demographic characteristics within the study area consist of 29.6 percent minority race and/or ethnicity. This percentage represents a larger share of minorities when compared to the region, but a smaller share of minorities when compared to the City of Gainesville. Approximately 22.6 percent of the households in the demographic study area earn an annual income of \$24,999 or less per year. The largest age groups in the study area are children (26.7 percent), followed by the elderly (13.5 percent), and approximately 14.9 percent of the population in the study area has a disability, with the most common disability being ambulatory. The study area is forecasted to grow 18.4 percent between 2010 and 2040, which represents a slower growth rate compared to other regions in Texas. Overall, the Selected Build Alternative is not anticipated to change the demographic distribution of people in the study area.

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Mitigation Commitment: All ROW acquisitions already completed and to be initiated will be conducted in accordance with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970* and the *Uniform Relocation Act Amendments of 1987*.

Soils and Farmland

The intent of the Farmland Protection Policy Act (FPPA) is to minimize impacts that federal programs could have on the unnecessary and irreversible conversion of farmland to nonagricultural uses. The Natural Resources Conservation Services (NRCS) uses a land evaluation and site assessment (LESA) system to establish a farmland conversion impact rating score for proposed sites of federally funded projects. The NRCS-CPA-106 Forms was sent to the NRCS in Cooke and Love Counties on June 15, 2015 for further coordination and to total the final score for the proposed project. An additional letter was sent to Cooke County NRCS on April 23, 2019 with the revisions to the build alternative. Since a response was not received from the Cooke County NRCS within 30 days of the April 2019 letter, additional coordination is not required. Coordination with Love County concluded that the score ranked below 160, at 93.5 points; therefore, no additional coordination was needed.

Mitigation Commitment: No mitigation is required or recommended.

Vegetation

Construction activities associated with the proposed project permanently and temporarily impact approximately 1,140 acres of vegetation within existing and proposed ROW. Vegetation communities include row crops, maintained grasses, unmaintained grasses and unmaintained woody vegetation. No special habitat features, or unusual vegetation, as defined by the TxDOT- TPWD Memorandum of Understanding (MOU) will be impacted by the proposed project. The vegetated portions of the existing and proposed ROW will be converted to maintained ROW or cleared, graded and paved to accommodate construction.

Mitigation Commitment: During construction, clearing of vegetation throughout the project corridor will be avoided or minimized, where possible, for construction of the proposed project and establishment of clear zones. Unavoidable vegetation impacts will be appropriately re-vegetated in accordance with Executive Order 13112 on invasive species and the Executive Memorandum on beneficial landscaping.

Wildlife

The Selected Build Alternative will require construction work within existing and proposed ROW. During construction, some animals could potentially be injured or killed by construction equipment or vehicles. However, the habitat within existing and proposed ROW is not unique to Cooke County or Love County, to this area of the counties, or rare in the counties. Any wildlife living therein is likely to move to other

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areas of the same habitat and similar habitat value; therefore, no adverse permanent impact to wildlife is anticipated with the proposed project.

Mitigation Commitment: Adjacent wildlife habitats will be protected from stormwater runoff by implementing best management practices (BMPs) under the Stormwater Pollution Prevention Plan (SW3P), which will provide erosion and sedimentation control in Texas and Oklahoma.

Migratory Birds

Migratory birds are known to nest within the bridges under existing I-35, based on field observations of these structures. If migratory birds are encountered onsite during construction, every effort will be made to avoid protected birds, active nests, eggs, and/or young. In the case that a bird could nest in a structure to be affected by construction, the contractor will remove all old migratory bird nests between October 1 and February 15 from any structure where work will be done. In addition, the contractor will be prepared to prevent migratory birds from building nests between February 15 and October 1. Trees planned for removal in the project ROW will be inspected for migratory birds and their nests before construction. If migratory birds or their nests are observed, measures will be taken to avoid harm to migratory birds, their nests, eggs or young.

Mitigation commitment: Migratory birds are protected by the federal Migratory Bird Treaty Act. Many birds commonly use bridges and culverts for nesting. The nesting season for most bird species extends from March 1 to August 31. The project was surveyed for migratory bird nests in 20109. Although no nests were observed, the survey is valid only until the 2020 nesting season (beginning March 1). The Resident Engineer shall contact the TxDOT or ODOT Biologist if any bird use of the existing structures is observed, within Texas or Oklahoma. If birds are observed then painting, repair, retrofit, rehabilitation or demolition of the existing bridge/structures shall be conducted between September 1, and February 28, when migratory bird nests are not occupied. The bridges may be protected from new nest establishment prior to March 1, by means that do not result in bird death or injury. Options include the exclusion of adult birds from suitable nest sites on or within a structure by the placement of weather-resistant polypropylene netting with 0.25-inch or smaller openings, prior to March 1. Methods other than netting must be pre-approved by the TxDOT or ODOT Biologist.

Threatened and Endangered Species

Databases of sensitive species maintained by the U.S. Fish and Wildlife Service (USFWS) and TPWD were reviewed to determine if state and/or federally-listed threatened or endangered species occur or have historically occurred within the proposed project study area.

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The TXNDD was reviewed on August 17, 2020 (date on which data was provided by TPWD), to assess the potential for rare, threatened, or endangered species to occur within 10 miles of the Build Alternative. There have been no other recorded sightings of any federally- or state-listed species of Cooke County and Love County within close proximity of the proposed project area. Qualified biologists performed initial field investigations in February 2015 and March 2019 where it was determined that the study area contained potential habitat for one federal-listed endangered species, the interior least tern.

Mitigation Commitment: TxDOT will complete the interior least tern species surveys and any necessary coordination with USFWS and TPWD prior to construction.

Essential Fish Habitat (EFH)

No tidally influenced waters exist within the proposed project area; therefore, no EFH will be adversely affected.

Mitigation Commitment: No mitigation is required or recommended.

Cultural Resources***Historic Structures***

In compliance with the Section 106 Programmatic Agreement (PA-TU), a TxDOT historian determined project activities have no potential for adverse effects. The area of potential effect (APE) for the proposed project is 150 feet from the new ROW on I-35. Individual project coordination with Texas SHPO is not required. Coordination with the Oklahoma Historical Society-SHPO was initiated on December 15, 2014 and concluded January 2016 with no objections.

Mitigation Commitment: No mitigation is required or recommended.

Archeological Resources

Terrestrial Archeological studies were completed on the Texas side of the area of potential effects (APE) in October 2019. The Report for Archeological Survey reported that while the proposed project will have direct effects resulting from ground-disturbing construction activities within the APE, no previously recorded sites or historic resources were identified within the defined survey areas. Intensive archeological investigation resulted in a negative finding for the presence of cultural materials within the survey limits. Therefore, no further work is recommended for any portion of the APE within the survey project areas

Survey and additional review of background information was completed for the portion of the APE in Oklahoma; these investigations did not identify any archeological sites within this portion of the APE. Coordination with the Oklahoma Historic Society-SHPO was initiated on December 15, 2014 and

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concluded with a finding that no archeological historic properties will be affected within the Oklahoma portion of the APE January 2016.

Mitigation Commitment: In the event that unanticipated archeological deposits are encountered during construction, work in the immediate area will cease and TxDOT archeological staff will be contacted to begin discovery procedures.

Parkland and Section 4(f)/6(f) Properties

The proposed project will require approximately 3 acres along the frontage road will be acquired from Gainesville ISD where Gainesville High School is located. The acquisition will not affect access to the school, nor its functional use for education and recreational purposes. The construction of continuous, one-way frontage roads will change travel patterns to and from a number of public facilities. However, the Build Alternative will not permanently deny access to or prevent the use of any community facility or service. Neither a Section 4(f) nor a Section 6(f) evaluation is required.

The proposed project will not impact any parks located within the study area, outside of the Lake Texoma USACE property. In Oklahoma the proposed project will require 5.6 acres of easement from the Love Valley WMA at Lake Texoma. The Love Valley WMA is located within the Lake Texoma Fee Area and is owned by the USACE and leased to ODWC. Field studies determined that 3.2 acres of the Lake Texoma property could be characterized as bottom land hardwood forest and the other 2.4 acres is considered urban low intensity (a gravel roadway and disturbed upland grasses adjacent to the gravel roadway). The road is not accessible to the general public and can only be accessed through the water plant and cannot be used for access to the Red River for fishing, boating, bird watching, or any other uses. In addition, there are no picnic tables or other recreational facilities on the property that could be used by the general public; therefore, it has been determined that the Section 4(f) will not be required.

Leonard Park, David's Park and the Love Valley WMA have not received funding from the U.S. Department of the Interior Land and Water Conservation Act. Therefore Section 6(f) will not apply.

Mitigation Commitment: No mitigation is required or recommended.

Waters of the U.S. including Wetlands

Potential jurisdictional waters of the U.S. within the study area of the Selected Build Alternative included five perennial streams, 10 intermittent streams, and 22 ephemeral streams, comprising 12,777 linear feet. Detailed design, including design for the new Red River Bridge, is currently not available. Therefore, full impacts within the ROW are assumed, but will likely be reduced once a more detailed design becomes available. Permitting with the USACE for the Build Alternative will not take place until completion of the design. The Build Alternative lies within both the USACE Fort Worth and Tulsa Districts.

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Mitigation Commitment: All impacts will be authorized by the USACE Tulsa District under an Individual Permit for the whole project. TxDOT and ODOT will comply with USACE issued permits and conditions.

Water Quality

The Build Alternative could result in short-term (construction-related) and long-term water quality impacts. An increase in impermeable surface resulting from additional pavement could lead to direct water quality impacts by increasing stormwater runoff. Surface water runoff from roadways frequently contains automobile pollutants and municipal trash and debris. In addition, increasing impermeable surface area, the Build Alternative could also affect surface water quality at stream and river crossings. Construction will cause soil disturbances and result in water quality impacts by temporarily increasing the level of suspended particles in stormwater runoff.

The proposed project drains to and is within 5 miles (linear miles, as the bird files) of, within the watershed of, or drain to an impaired assessment unit of the Elm Fork of the Trinity River. This unit is listed as threatened/impaired for bacteria. Therefore, coordination with TCEQ will be required.

The Red River is listed in the ODEQ's 2016 Oklahoma 303(d) List of Impaired Waters. The proposed project drains to and is within five miles and within the same watershed of assessment unit OK311100010190_00, segment OK311100010190, Red River (ODEQ 2016). This unit is listed as threatened/impaired for turbidity, enterococcus, and sulfates. Therefore, coordination with ODEQ will be required.

Mitigation Commitment: The proposed project will comply with TCEQ's Texas Pollutant Discharge Elimination System (TPDES) Construction General Permit. A SW3P will be implemented, and a construction site notice will be posted on the construction site. A Notice of Intent (NOI) will be required. TxDOT must also obtain a copy of ODEQ's Construction General Permit (ODEQ Permit Number OKR100000), develop and implement a SW3P and complete and submit a Notice of Intent to the ODEQ. Additionally, an Inspection Request (DEQ Form 606-009) will be required prior to the issue of a Notice of Termination once the construction site has reached final stabilization.

TPDES and Oklahoma Pollutant Discharge Elimination System (OPDES) requirements will be met by implementing approved erosion controls, sediment controls, and post-construction total suspended solids controls. All temporary erosion controls, such as silt fences and rock berms, will comply with TxDOT and Oklahoma Department of Transportation (ODOT) standard specifications and will be in place, according to the construction plans, prior to commencement of construction activities and will be inspected on a regular basis.

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Groundwater

No adverse effects to the quality and quantity of groundwater in the project area are expected. Subsurface water will not be required.

Mitigation Commitment: TxDOT and ODOT will ensure that any existing wells encountered during construction or located on properties potentially requiring acquisition will be sealed utilizing currently accepted methods to protect local groundwater quality.

Floodplains

Portions of the proposed project area are located within a FEMA designated 100-year floodplain. The hydraulic design of the Build Alternative will be prepared in accordance with current TxDOT and FHWA design policies and procedures. The facility will permit the conveyance of the 100-year flood, inundation of the roadway being acceptable, without causing significant damage to the facility, stream, or other property. The Build Alternative will not increase the base flood elevation to a level that will violate applicable floodplain regulations or ordinances.

Mitigation Commitment: Coordination with the local Floodplain Administer will be required. Design will be compliant with requirements to prevent flooding.

Coastal Zone Management

The proposed project is not located within the designated Texas Coastal Management Zone; therefore, coordination with the Coastal Zone Management Agency is not required.

Mitigation Commitment: No mitigation is required or recommended.

Noise

A noise analysis was performed in accordance with TxDOT's *Guidance: Traffic Noise Policy Implementation (2019)*. Existing and predicted traffic noise levels were modeled at receiver locations that represent land use activity areas adjacent to the proposed project that might be impacted by traffic noise and potentially benefit from feasible and reasonable noise abatement. A total of three noise barriers were found to be reasonable and feasible for the proposed project. Noise barriers were not reasonable and feasible for the remaining impacted representative receivers, and abatement is not proposed for those locations.

Mitigation Commitment: Noise barriers are proposed for the project and noise workshops will need to be conducted prior to construction. Barriers voted for will be designed and constructed as required to achieve noted noise reduction modeled.

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To minimize construction noise, provisions will be included in the plans and specifications that require the contractor to make every reasonable effort to minimize construction noise through abatement measures such as work-hour controls and proper equipment maintenance.

Air Quality

The proposed project is located in Cooke and Love Counties, which are located in areas designated as attainment or unclassifiable for all NAAQS; therefore, the transportation conformity rules do not apply.

The projected design year (2045) traffic volumes within the project limits are expected to be approximately 92,350 average annual daily traffic (AADT). A prior TxDOT modeling study and previous analyses of similar projects demonstrated that it is unlikely that a carbon monoxide standard will ever be exceeded as a result of any project with an AADT below 140,000. The AADT projections for the project do not exceed 140,000 vehicles per day; therefore, a Traffic Air Quality Analysis was not required.

A qualitative Mobile Source Air Toxics (MSAT) assessment was conducted relative to the various alternatives of MSAT emissions and has acknowledged that the Build Alternative may result in increased exposure to MSAT emissions in certain locations, although the concentrations and duration of exposures are uncertain, and because of this uncertainty, the health effects from these emissions cannot be estimated. While vehicle miles traveled (VMT) is expected to rise, MSAT levels are expected to decline as a result of regulations. In addition, on a regional basis, EPA's vehicle and fuel regulations, coupled with fleet turnover, will over time cause substantial reductions that, in almost all cases, will cause region-wide MSAT levels to be significantly lower than today.

Mitigation Commitment: During construction, the contractor will be required to follow applicable regulations and ordinances to reduce impacts to air quality, including dust suppression procedures in construction and layover areas and construction equipment shut down when not in use to reduce air pollution emissions.

Hazardous Materials

Regulated facilities that will intersect with the Build Alternative, will be acquired through ROW acquisition. The acquisition of hazardous material sites/facilities will present a liability risk to TxDOT. Additional investigations may be required at sites determined to be of "high risk." Should any unanticipated hazardous materials and/or petroleum contamination be encountered during construction, it will be handled according to applicable federal and state regulations and TxDOT standard specifications.

An environmental investigation may be necessary for the active CES SWD Oil and Gas Well Pad site located within the proposed ROW. Additional investigations are recommended for the eight (8) "high risk" sites within the proposed ROW, prior to construction, to determine the potential of encountering hazardous

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materials contamination. The eight sites are Enhanced Powder Coating, Nation Supply Division/CO, Polley, Hilltop Conoco/Truck Stop, Gainesville Truck Stop, Sherman Wire Company, Horizon C Store 4 and Alan Richey Property/Warehouse.

Additional studies may also be warranted within the existing or proposed TxDOT/ODOT ROW, adjacent to the areas identified during the visual survey, to determine the potential for offsite migration of contaminants onto TxDOT/ODOT ROW. If contamination exists, TxDOT and ODOT will develop appropriate soils and/or groundwater management plans for activities within the identified areas.

Mitigation Commitment: The contractor will respond appropriately to prevent, minimize, and control the spill of hazardous materials in the construction staging area. Should hazardous materials/substances be encountered, the authorities will be notified, and steps will be taken to protect personnel and the environment. If necessary, the plans, specifications, and estimates will include provisions for the appropriate soil and/or groundwater management plans for activities within the contaminated area. In addition to the demolition and renovation of bridges and overpasses within project area, three properties of potential concern were identified that will require the demolition of facilities within the proposed ROW: the Dairy Farmers of North America (North), Exxon Gas Station (Gainesville southbound), and Conoco Gas Station (Gainesville southbound). The buildings may contain asbestos containing materials or lead-based paint. Asbestos and lead-based paint inspections, specification, notification, license, accreditation, abatement and disposal, as applicable, will comply with federal and state regulations. Asbestos issues will be addressed during the ROW process prior to construction.

Summary of Indirect and Cumulative Impacts

An indirect and cumulative analysis was conducted for the proposed project in accordance TxDOT's (FHWA approved) *Guidance: Indirect Impacts Analysis and Cumulative Impacts Analysis Guidelines (2019)*. The need and purpose of the proposed project does include accommodating economic development (north and south of the proposed project; however, it was determined a full induced growth analysis was not warranted. Slow long-term growth trends within the project area, limited points of new access, the general lack of development demand within the project area, and physical barriers such as floodplains and the BNSF railroad line located east of the roadway suggest that the proposed project will not induce growth in and of itself but rather will facilitate traffic movement more quickly and safely to other more developed areas north and south of the project. This finding was coordinated with and approved by TxDOT Environmental Affairs Division (ENV) on April 29, 2020.

In accordance with TxDOT guidance, the cumulative impacts analysis focused on resources anticipated to be substantially impacted by the proposed project (either directly or indirectly), as well as resources that

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will be affected to any degree by the proposed project and are also considered at risk or in poor or declining health.

The proposed project may result in the direct impact to vegetation, including threatened and endangered species habitat, and water resources. The proposed project will not result in indirect impacts to any resource. It is possible that construction of the proposed project could result in the cumulative impact to habitat for vegetative habitat for one federal listed endangered species, three state threatened, and three Species of Greatest Conservation Need; however, adverse impacts to these species are considered unlikely due to the limited nature of potential habitat disturbance. The potential for impacts to threatened and endangered species related to the proposed project was coordinated with TPWD.

MONITORING OR ENFORCEMENT

All commitments and conditions of approval stated in the EA (Chapters 5 through 9) and this FONSI will be implemented and monitored by TxDOT, ODOT and other appropriate state, federal and local agencies to ensure compliance.

SUMMARY

The following table summarizes the environmental effects of the Selected Build Alternative and committed mitigation measures.

Summary of Environmental Constraints and Mitigation Commitments*

<i>Environmental Constraints</i>	<i>Unit</i>	<i>Impacts</i>	<i>Mitigation Commitment</i>	<i>State(s) Responsible</i>
Land Use				
Land use impact	Yes / No	Yes	The Selected Build Alternative will convert approximately 124 acres of land to transportation use. The proposed roadway ROW is comprised of mostly agricultural land. Overall, the Selected Build Alternative is anticipated to have some indirect effects on future land use and is consistent with regional and local plans. No mitigation is required or recommended.	-
Socioeconomics				
Community cohesion	Effect	None	No mitigation is required or recommended.	-
Minority, low-income populations	Effect	None		-
ROW Acquisition and Displacements				
Land to be acquired	Acres	124	Access to residences or use of any commercial, industrial, or public area will be maintained at all times during and after project construction. Early	Texas and Oklahoma

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Environmental Constraints	Unit	Impacts	Mitigation Commitment	State(s) Responsible
Total displacements	Number	6	ROW acquisitions have been conducted in Texas and Oklahoma, and all future acquisitions will be conducted, in accordance with the <i>Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970</i> and the <i>Uniform Relocation Act Amendments of 1987</i> .	
Vegetation				
Mowed and Maintained - Existing ROW	Acres	499.823	During construction, clearing of vegetation throughout the project corridor will be avoided or minimized, where possible, for construction of the proposed project and establishment of clear zones. Unavoidable vegetation impacts will be appropriately re-vegetated in accordance with Executive Order 13112 on invasive species and the Executive Memorandum on beneficial landscaping.	Texas and Oklahoma
Mowed and Maintained - Proposed ROW	Acres	505.654		
Woody Vegetation	Acres	53.76		
Row Crops	Acres	27.993		
Tallgrass Prairie	Acres	47.861		
Floodplain Herbaceous	Acres	2.115		
Wildlife and Endangered Species				
Wildlife	Effect	None	Adjacent wildlife habitats will be protected from stormwater runoff by implementing BMPs under the SW3P, which will provide erosion and sedimentation control in Texas and Oklahoma.	Texas and Oklahoma
Migratory birds	Effect	None	Migratory birds are protected by the federal Migratory Bird Treaty Act. Many birds commonly use bridges and culverts for nesting. The nesting season for most bird species extends from March 1 to August 31. The project was surveyed for migratory bird nests in 20109. Although no nests were observed, the survey is valid only until the 2020 nesting season (beginning March 1). The Resident Engineer shall contact the TxDOT or ODOT Biologist if any bird use of the existing structures is observed, within Texas or Oklahoma. If birds are observed then painting, repair, retrofit, rehabilitation or demolition of the existing bridge/structures shall be conducted between September 1, and February 28, when migratory bird nests are not occupied. The bridges may be protected from new nest establishment prior to March 1, by means that do not result in bird death or injury. Options include the exclusion of adult birds from suitable nest sites on or within a structure by the placement of weather-resistant polypropylene netting with 0.25-inch or smaller openings, prior to March 1. Methods other than netting must be pre-approved by the TxDOT or ODOT Biologist.	Texas and Oklahoma
Threatened and Endangered Species	Effect	None	TxDOT will complete the interior least tern species surveys and any necessary coordination with USFWS and TPWD prior to construction.	Texas
Essential fish habitat	Effect	None	No mitigation is required or recommended.	-
Cultural Resources				
Archaeological resources	Effect	None	If unanticipated archaeological deposits are encountered during construction, work in the immediate area will cease and TxDOT or ODOT archaeological staff will be contacted to begin discovery procedures.	Texas and Oklahoma
Historical resources	Effect	None	No mitigation is required or recommended.	-

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Environmental Constraints	Unit	Impacts	Mitigation Commitment	State(s) Responsible
Sections 4(f) & 6(f)	Effect	None		-
Water Resources				
Jurisdictional stream impacts	Acres	5.96	All impacts will be authorized by the USACE Tulsa District under an Individual Permit for the whole project.	Texas
Jurisdictional wetland impacts	Acres	0.0		Texas
Pollution Discharge Elimination System (PDES)	Effect	Yes	The proposed project will comply with TCEQ's Pollutant Discharge Elimination System Construction General Permit. A Storm Water Pollution Prevention Plan (SW3P) will be implemented, and a construction site notice will be posted on the construction site. A Notice of Intent will be required. TxDOT must also obtain a copy of ODEQ's Construction General Permit (ODEQ Permit Number OKR100000), develop and implement a SW3P and complete and submit a Notice of Intent to the ODEQ. Additionally, an Inspection Request (DEQ Form 606-009) will be required prior to the issue of a Notice of Termination once the construction site has reached final stabilization. TPDES and OPDES requirements will be met by implementing approved erosion controls, sediment controls, and post-construction total suspended solids controls. All temporary erosion controls, such as silt fences and rock berms, will comply with TxDOT and ODOT standard specifications and will be in place, according to the construction plans, prior to commencement of construction activities and will be inspected on a regular basis.	Texas and Oklahoma
Impaired waters (Section 303(d))	Effect	Yes	Design and construction of the proposed project will promote minimal earth disturbances to lessen the potential for excessive erosion and sedimentation. Development of an SW3P for TxDOT and ODOT will include best management practices (BMPs) such as silt fencing, inlet protection barriers, hay bales, and seeding and sodding of un-vegetated areas. BMPs will be maintained and remain in place during and after construction, until the project area has been stabilized.	Texas and Oklahoma
Floodplains	Acres	52.9	No mitigation is required or recommended.	-
Groundwater	Effect	None		-
Coastal resources	Effect	None		-
Air Quality				
Air Quality	Effect	None	During construction, the contractor will be required to follow applicable regulations and ordinances to reduce impacts to air quality, including dust suppression procedures in construction and layover areas and construction equipment shut down when not in use to reduce air pollution emissions.	-

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Environmental Constraints	Unit	Impacts	Mitigation Commitment	State(s) Responsible
MSATs	Effect	Yes	A qualitative Mobile Source Air Toxics (MSAT) assessment was conducted relative to the various alternatives of MSAT emissions and has acknowledged that the Build Alternative may result in increased exposure to MSAT emissions in certain locations, although the concentrations and duration of exposures are uncertain, and because of this uncertainty, the health effects from these emissions cannot be estimated. While vehicle miles traveled (VMT) is expected to rise, MSAT levels are expected to decline as a result of regulations. In addition, on a regional basis, EPA's vehicle and fuel regulations, coupled with fleet turnover, will over time cause substantial reductions that, in almost all cases, will cause region-wide MSAT levels to be significantly lower than today. No mitigation is required or recommended.	-
Noise				
Noise walls	Yes / No	Yes	Noise barriers are proposed for the project and noise workshops will need to be conducted prior to construction. To minimize construction noise, provisions will be included in the plans and specifications that require the contractor to make every reasonable effort to minimize construction noise through abatement measures such as work-hour controls and proper equipment maintenance.	Texas
Hazardous Materials				
Hazardous waste sites	Effect	Yes	The contractor will respond appropriately to prevent, minimize, and control the spill of hazardous materials in the construction staging area. Should hazardous materials/substances be encountered, the authorities will be notified, and steps will be taken to protect personnel and the environment. If necessary, the plans, specifications, and estimates will include provisions for the appropriate soil and/or groundwater management plans for activities within the contaminated area. In addition to the demolition and renovation of bridges and overpasses within project area, three properties of potential concern were identified that will require the demolition of facilities within the proposed ROW: the Dairy Farmers of North America (North), Exxon Gas Station (Gainesville southbound), and Conoco Gas Station (Gainesville southbound). The buildings may contain asbestos containing materials or lead-based paint. Asbestos and lead-based paint inspections, specification, notification, license, accreditation, abatement and disposal, as applicable, will comply with federal and state regulations. Asbestos issues will be addressed during the ROW process prior to construction.	Texas and Oklahoma

***Note: All commitments will be included in the Environmental Permits, Issues, & Commitments (EPIC) sheets.**

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FHWA has reviewed all of the relevant documents and materials and all of the previous environmental studies and findings. Based upon our own independent review and analysis, we find that the I-35 Improvement project EA analyzed and considered all the relevant potential environmental impacts and issues. FHWA concurs with the findings made in the EA in that: (1) The Selected Build Alternative identified in the document best meets the need and purpose of the project without significant impacts to the resource areas, and (2) the Selected Build Alternative will have no significant impacts on the quality of the human or natural environment under NEPA. The proposed project is consistent with TxDOT's FY 2019-2022 STIP and TxDOT's 2021 UTP, as well as the ODOT FFY2020-2023 STIP. Funding for the proposed project is reasonably available.

Based upon our own agency review and consideration of the analysis and evaluation contained in the EA for this project, and after further careful consideration of all social, economic, and environmental factors, including input from the public involvement process, FHWA hereby approves the issuance of a Finding of No Significant Impact for the I-35 Improvement project.

As to project mitigation, TxDOT and ODOT are hereby required to ensure completion of all mitigation outlined above and set out specifically in this FONSI. TxDOT and ODOT are also required to ensure that any and all local, state, or federal permit requirements and conditions are met and otherwise complied with.

The signatory below issues their NEPA approvals for only that portion of the project that falls only within their state boundary.

DocuSigned by:

*Michael T Leary*Date 12/16/2020

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Planning and Program Development Director

Federal Highway Administration – Texas Division