

**PROGRAMMATIC AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, WYOMING DIVISION
AND
THE WYOMING DEPARTMENT OF TRANSPORTATION
REGARDING THE PROCESSING OF ACTIONS CLASSIFIED AS CATEGORICAL
EXCLUSIONS FOR FEDERAL-AID HIGHWAY PROJECTS**

THIS PROGRAMMATIC AGREEMENT (“Agreement”) made and entered into by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION (“FHWA”) and the STATE of WYOMING, acting by and through its DEPARTMENT OF TRANSPORTATION (“WYDOT”) hereby provides as follows:

I. PARTIES

The Parties to this Agreement are the Federal Highway Administration (“FHWA”) and the Wyoming Department of Transportation (hereinafter “WYDOT”).

II. PURPOSE

The purpose of this Agreement is to authorize WYDOT to determine on behalf of FHWA whether a project or action (i.e. right-of-way relinquishments) qualifies for a Categorical Exclusion (CE) specifically listed in 23 CFR 771.117 (Appendix A and B). This Agreement also authorizes WYDOT to certify to FHWA that an action not specifically listed in 23 CFR 771.117 but meeting the CE criteria in 40 CFR 1508.4 and 23 CFR 771.117(a), qualifies for a CE if there are no unusual circumstances that require the preparation of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).

This Agreement applies to all WYDOT and Local Public Agencies projects overseen by WYDOT using Federal-aid funds under the Federal-Aid Highway Program.

This Agreement supersedes the September 26, 2018 Programmatic CE agreement between FHWA and WYDOT.

III. AUTHORITIES

This Agreement is entered into pursuant to the following authorities:

- A. National Environmental Policy Act, 42 U.S.C. 4321 - 4370
- B. Moving Ahead for Progress in the 21st Century Act, P.L. 112-141, 126 Stat. 405, Sec. 1318(d)
- C. Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, 129 Stat. 1312, Sec. 1315 (Dec. 4, 2015)

- D. Infrastructure Investment And Jobs Act (Bipartisan Infrastructure Law – BIL), Public Law No. 117-58, 135. Stat. 1517 (11-15-2021)
- E. 40 CFR parts 1500 - 1508
- F. DOT Order 5610.1C
- G. 23 CFR 771.117

IV. RESPONSIBILITIES

A. WYDOT is responsible for:

1. Ensuring the following process is completed for each project or action that qualifies as:
 - a. CE's listed in Appendix A (23 CFR 771.117(c)) and Appendix B (23 CFR 771.117(d)), that do not exceed the thresholds in Section IV (A) (1) (b) below, WYDOT may make a CE approval on behalf of FHWA. WYDOT will identify the applicable listed CE, ensure any conditions or constraints are met, verify that unusual circumstances do not apply, address any other environmental requirements, and complete the review with a signature evidencing approval. No separate review or approval of the CE by the FHWA Division Office is required (WYDOT CE1 and CE2).
 - b. CE's listed in Appendices A and B that exceed the following thresholds may not be approved by WYDOT. WYDOT may certify to FHWA that the action qualifies for a CE (WYDOT CE3). An action requires FHWA division office CE review and approval based on WYDOT certification if the action:
 - i. **Right-of-Way** - Involves acquisitions (fee interest, perpetual easement) of more than a minor amount of right-of-way.
 - a. A minor amount of right-of-way is defined as not causing displacement of owners or tenants and personal property from residences, commercial or non-profit establishments or farms.
 - b. Examples of minor amounts of right-of-way acquisition include low cost strip acquisitions, and corner acquisitions that do not affect permanent structures.
 - ii. **Traffic Disruptions** - Involves substantial traffic disruption, including the use of a temporary access, or the closure of existing road, bridge, or ramps unless the use of such facilities satisfy the following conditions:
 - a. Provisions are made for access by local traffic and are so posted;
 - b. Through-traffic dependent businesses will not be adversely affected;
 - c. The detour or ramp closure, to the extent possible, will not interfere with any local special event or festival;

- d. The temporary road, detour or ramp closure does not substantially change the environmental consequences of the action, and;
 - e. There is no substantial controversy associated with the temporary access, detour, or ramp closure.
- iii. **Access Control** - Involves an Interchange Justification Report (IJR) or major revisions to access on the interstate;
- iv. **Historic Preservation Act** - Results in a determination of adverse effect on historic properties pursuant to Section 106 the National Historic Preservation Act (54 U.S.C. § 306108);
- v. **Section 4(f)** - Requires the use of properties protected by Section 4(f) of the Department of Transportation Act (49 U.S.C. 303/23 U.S.C § 138) that cannot be documented with an FHWA *de minimis* determination, or a programmatic Section 4(f) evaluation other than the programmatic evaluation for the use of historic bridges;
- vi. **Section 6(f)** - Requires the acquisition of lands under the protection of Section 6(f) of the Land and Water Conservation Act of 1965 (54 U.S.C. § 200305), the Federal Aid in Fish Restoration Act (16 U.S.C. 777-777k, 64 Stat. 430), the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i; 50 Stat. 917), or other unique areas or special lands that were acquired in fee or easement with public-use money and have deed restrictions or covenants on the property;
- vii. **US ACOE** - Requires a U.S. Army Corps of Engineers Section 404 (33 U.S.C. § 1344) Standard (Individual) Permit or Section 408 Permit (33 U.S.C 408);
- viii. **Flood Plains** - Requires work encroaching on a regulatory floodway or work affecting the base floodplain (100-year flood) elevations of a water course or lake, pursuant to Executive Order 11988 and 23 CFR §650 subpart A;
- ix. **Wild and Scenic Rivers** - Requires construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in, the National Wild and Scenic Rivers System administered by the U.S. Department of the Interior and U.S. Department of Agriculture;
- x. **Noise** – Is defined as a “Type I project”, per 23 CFR 772.5, requiring a noise assessment;
- xi. **Threatened and Endangered Species** - "May Affect, Is Likely to Adversely Affect" federally listed, or proposed or designated critical habitat or projects with impacts subject to the conditions of the Bald and

Golden Eagle Protection Act, except those projects included in a programmatic ESA consultation;

- xii. **Protective Land Acquisition** - Includes acquisition of land for hardship or protective purposes, or early acquisition pursuant to Federal acquisition project (23 U.S.C. 108(d));
 - xiii. **Air Quality** - The project does not qualify under “exempt projects” listed in 40 CFR 93.126 or does not conform to the State Implementation Plan which is approved or promulgated by the U.S. Environmental Protection Agency in air quality non-attainment area;
 - xiv. **STIP** - Is not included in or is inconsistent with the statewide transportation improvement program (STIP), and in applicable urbanized areas, the transportation improvement program; or
 - xv. **Tribal** - Requires Tribal consultation as requested by any Tribe.
- c. FHWA Division Office will approve all actions before the project commences. WYDOT may not approve actions not specifically listed as CEs in 23 CFR 771.117 but meet the requirements of a CE under 40 CFR 1508.4 and 23 CFR 771.117(a). Instead, WYDOT may certify that an action will not result in significant environmental impacts if WYDOT concludes that the action qualifies for a CE and the action does not involve unusual circumstances that warrant the preparation of an EA or EIS.
- i. If requested by the FHWA Division Office, WYDOT shall provide a copy of the CE documentation prepared for the action(s) in accordance with Section V of this Agreement.
 - ii. If any project requires a Section 4(f) *de minimis* determination or programmatic evaluation, WYDOT shall submit the 4(f) documentation for FHWA Division Office determination and approval prior to completion of the CE.
 - iii. WYDOT will request notice to proceed with acquisition of right-of-way, or construction from FHWA once WYDOT has submitted the signed CE.
 - iv. The FHWA Division Office’s objection to a WYDOT certification may not constitute a disapproval of the action but signifies that FHWA will need to engage in project-specific review to verify that the certification is adequate, which may include consultation with other agencies.
2. Provide a list of FHWA approved CE’s, pursuant to this Agreement to the FHWA Division Office annually and allow the Division Office ten (10) business days to either agree that some or all certifications are a basis for FHWA’s approval of a CE

for these actions, or to object to the certification(s). The list of actions certified will contain the following information:

- a. WYDOT project number and a project name; including the route number or facility name where the project will occur;
 - b. Identify the CE action listed in the regulation, or if the action is not listed in 23 CFR 771.117, identify the process as “CE not categorized”;
 - c. Consultations or technical analyses that are pending (if applicable); and
 - d. Whether the project includes a 4(f) *de minimis* or programmatic evaluation.
3. Consulting with FHWA Division Office for actions that involve unusual circumstances (23 CFR §771.117(b)), to determine the appropriate class of action for environmental analysis and documentation. WYDOT may decide or FHWA Division Office may require additional studies to be performed prior to making a CE approval, or the preparation of an EA or EIS.
 4. Meeting applicable documentation requirements in Section V for WYDOT CE approvals on FHWA’s behalf and WYDOT CE certifications to FHWA, applicable approval and re-evaluation requirements in Section VI, and applicable quality control/quality, monitoring, and performance requirements in Section VII.
 5. Relying only upon employees directly employed by WYDOT to make CE approvals or certifications submitted to FHWA under this Agreement. WYDOT may not delegate its responsibility for CE approvals or certifications to third parties (i.e., consultants, local government staff, and other State agency staff).
 6. WYDOT will maintain a staff, and consultants that are qualified, capable, and current on NEPA to fulfill the responsibilities stated in this Agreement.

B. The FHWA Division Office is responsible for:

1. Providing timely advice and technical assistance on CEs to WYDOT, as requested.
2. Providing timely input and review of CE’s. FHWA Division Office will approve a CE based on the project documentation and certifications prepared by WYDOT under this Agreement.
3. Overseeing the implementation of this Agreement in accordance with the provisions in Section VII, including applicable monitoring and performance provisions.
4. Providing timely coordination and consultation on environmental laws, regulations, and executive orders; including Section 4(f) programmatic and *de minimis* and temporary occupancy determinations; all formal Endangered Species Act (ESA)

consultations, except those included in a programmatic ESA consultation; all Section 106 Memorandums of Agreement; and government-to-government consultation with Native American Tribes.

V. DOCUMENTATION OF WYDOT CE APPROVALS AND CERTIFICATIONS

- A. For WYDOT CE approvals and WYDOT CE certifications to FHWA for approval, WYDOT shall insure that it fulfills the following responsibilities for documenting the project-specific determinations made:
1. For actions listed in Appendix A and B, WYDOT should identify the applicable action, ensure any conditions specified in FHWA regulation are met, verify that unusual circumstances do not apply, address all other environmental requirements and complete the review with a WYDOT signature evidencing approval.
 2. In addition, for actions listed in 23 CFR 711.117 (d), WYDOT shall prepare documentation that supports the CE determination and that no unusual circumstances exist that would make the CE approval inappropriate.
 3. Three levels of CE documentation will be used by WYDOT depending on the type of project or action being proposed.
 - a. CE1 - WYDOT Batched CE
 - i. These are predominantly listed in 771.117 (c) and infrequently listed in 771.117(d). Based on experience, FHWA has determined these do not result in significant natural or human environmental impacts; therefore, do not require NEPA approval by the FHWA.
 - ii. That will be processed with WYDOT batch CE template.
 - b. CE2 - WYDOT Approved CE
 - i. These do not meet the requirements of a CE1 may processed as a CE2. For WYDOT to approve an action as a CE2, it may not exceed the thresholds in Section IV (A)(1)(b) or include any unusual circumstances, unless agreed to by FHWA Division Office.
 - ii. WYDOT will review all NEPA requirements and summarize the results using the WYDOT Categorical Exclusion Template. CE2 actions do not require NEPA approval by the FHWA Division Office.
 - iii. When approving a CE2, WYDOT will certify the following: *"This project meets the definition for a Categorical Exclusion under 23 CFR 771.117(a), does not involve unusual circumstances as defined under 23 CFR 771.117 (b), does not require preparation of an Environmental Impact Statement or Environmental Assessment, qualifies for a Categorical Exclusion under 23 CFR 771.117(c) or 23 CFR 771.117(d) and does not exceed the threshold criteria listed in the Programmatic Agreement between FHWA and WYDOT Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects."*
 - c. CE3 - FHWA Division Office Approved CE

- i. CE's that do not meet the criteria of a CE1 or CE2 may be reviewed, documented, and recommended for FHWA Division Office approval as a CE3 by WYDOT.
 - ii. For WYDOT to recommend an action for approval as a CE3, WYDOT will review all NEPA requirements and summarize the impacts on the WYDOT CE template.
 - iii. FHWA Division Office review and approval of CE3 documents will be based on the certified WYDOT CE template and any supporting documentation. WYDOT will provide this information for each approval request.

- B. WYDOT will maintain a project record for CE approvals it makes on FHWA's behalf and each CE submitted to FHWA for approval. This record should include at a minimum:
 - 1. Any checklists, forms, or other documents and exhibits that summarize the consideration of project effects and unusual circumstances;
 - 2. A summary of public involvement complying with the requirements of FHWA-approved public involvement policy (WYDOT Public Involvement Handbook);
 - 3. Any stakeholder communication, correspondence, consultation, or public meeting documentation;
 - 4. The name and title of the document approver and the date of WYDOT's approval or FHWA's final approval; and
 - 5. For cases involving re-evaluations, any documented re-evaluation (when required) or a statement that a re-evaluation was completed for the project (when documentation is not necessary).

- C. Any electronic or paper project records maintained by WYDOT will be provided to FHWA division office upon request. WYDOT will retain those records, including all letters and comments received from governmental agencies, the public, and others for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve WYDOT of its project or program recordkeeping responsibilities under 2 CFR § 200.333 or any other applicable laws, regulations, or policies.

VI. NEPA APPROVALS AND RE-EVALUATIONS

- A. WYDOT's CE approvals may only be made by the Environmental Services Manager or qualified Environmental Services Supervisor.

- B. WYDOT shall prepare re-evaluations on CE documents based on the circumstances described below.

1. If there is a change at any time in the project lifecycle, the scope or location of the project, or new impacts may occur that were not previously considered in the CE.
2. If major steps to advance the action (e.g. authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications and estimates) have not occurred within three (3) years after the CE was approved by FHWA Division Office or WYDOT.

The purpose of the re-evaluation is to ensure that all CE determinations remain valid pursuant to 23 CFR §771.129 and NEPA. WYDOT shall document the outcome of any re-evaluation and include it in the project file. This documentation will be available to FHWA upon request. Typically, batched CEs (CE1s) do not require re-evaluations for changes that are within the broad scope and milepost limits indicated in the CE. FHWA Division Office will be responsible for review and concurrence on re-evaluations of CE3s.

WYDOT may re-evaluate a project by completing the current FHWA approved re-evaluation form.

VII. QUALITY CONTROL/QUALITY ASSURANCE, MONITORING & PERFORMANCE

A. WYDOT Quality Control & Quality Assurance

WYDOT will conduct regular quality control and quality assurance activities to ensure that CE approvals and CE submissions to FHWA Division Office for approval are made in accordance with applicable law and this Agreement.

B. WYDOT Performance Monitoring and Reporting.

1. The FHWA Division Office and WYDOT will cooperate in monitoring performance under this Agreement and work to assure quality performance.
2. Annually, and upon request, WYDOT will submit to FHWA Division Office (electronically or hard copy) a report summarizing its performance under this Agreement. The report will identify any areas where improvement is needed and what measures WYDOT is taking to implement those improvements. The report will include a description of actions taken by WYDOT as part of its quality control efforts under Section VII (A).

C. FHWA Oversight and Monitoring

1. Monitoring by FHWA will include consideration of the technical competency and organizational capacity of WYDOT, as well as WYDOT's performance of its CE processing functions. Performance considerations include, without limitation, the quality and consistency of WYDOT's CE approvals, CE submissions to FHWA Division Office for approval, adequacy and capability

of WYDOT staff and consultants, and the effectiveness of WYDOT's internal CE approval process.

2. FHWA Division Office may conduct one or more program reviews as part of its oversight activities, during the term of this Agreement. WYDOT shall prepare and implement a corrective action plan to address any findings or observations identified in the FHWA Division Office review. WYDOT should draft the corrective action plan within 45 days of FHWA Division Office finalizing its review. The results of that review and corrective actions taken by WYDOT shall be considered at the time this Agreement is considered for renewal.
3. Nothing in this Agreement prevents FHWA from undertaking other monitoring or oversight actions, including audits, with respect to WYDOT's performance under this Agreement. The FHWA Division Office may require WYDOT to perform other quality assurance activities, including other types of monitoring, as may be reasonably required to ensure compliance with applicable Federal laws and regulations.
4. WYDOT agrees to cooperate with FHWA in all oversight and quality assurance activities.

VIII. AMENDMENTS

If the parties agree to amend this Agreement, then FHWA and WYDOT may execute an amendment with new signatures and dates of the signatures. The term of the Agreement shall remain unchanged unless otherwise expressly stated in the amended Agreement.

IX. TERM, RENEWAL, AND TERMINATION

- A. This Agreement shall have a term of five (5) years, effective on the date of the last signature. WYDOT shall post and maintain an executed copy of this Agreement on its website, available to the public.
- B. This Agreement is renewable for additional five (5) year terms if WYDOT requests renewal and FHWA determines that WYDOT has satisfactorily carried out the provisions of this Agreement. In considering any renewal of this Agreement, FHWA will evaluate the effectiveness of the Agreement and its overall impact on the environmental review process.
- C. Either party may terminate this Agreement at any time only by giving at least 30 days written notice to the other party.
- D. Expiration or termination of this Agreement shall mean that WYDOT is not able to make CE approvals on FHWA's behalf.

Execution of this Agreement and implementation of its terms by both parties provides evidence that both parties have reviewed this Agreement and agree to the terms and conditions for its implementation. This Agreement is effective upon the date of the last signature below.

Name: Carlos Machado
Division Administrator, Wyoming Division
Federal Highway Administration

Date

Keith R. Fulton

11-8-2023

Name: Keith Fulton, P.E.
Title: Assistant Chief Engineer for Engineering and Planning
Wyoming Department of Transportation

Date

WYOMING ATTORNEY
GENERAL'S OFFICE

Madison Barber # *234644*
Madison Barber
APPROVED AS TO FORM
(11/6/23)

Appendix A: CEs listed in 23 CFR 771.117(c)

The following actions meet the criteria for CEs in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of 23 CFR § 771.117 and normally do not require any further NEPA approvals by the FHWA:

- (1) Activities that do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions that establish classes of highways on the Federal-aid highway system.
- (2) Approval of utility installations along or across a transportation facility.
- (3) Construction of bicycle and pedestrian lanes, paths, and facilities.
- (4) Activities included in the State's highway safety plan under 23 U.S.C. 402.
- (5) Transfer of Federal lands pursuant to 23 U.S.C. 107(d) and/or 23 U.S.C. 317 when the land transfer is in support of an action that is not otherwise subject to FHWA review under NEPA.
- (6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
- (7) Landscaping.
- (8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- (9) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):
 - (i) Emergency repairs under 23 U.S.C. 125; and
 - (ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:
 - (A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 U.S.C. 156 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities that themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives.

(21) Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses.

(22) Projects, as defined in 23 U.S.C. 101, which would take place entirely within the existing operational right-of-way. Existing operational right-of-way means all real property interests acquired for the construction, operation, or mitigation of a project. This area includes the features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access highway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power substations, transportation venting structures, and transportation maintenance facilities.

(23) Federally funded projects:

(i) That receive less than \$5,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) of Federal funds; or

(ii) With a total estimated cost of not more than \$30,000,000 (as adjusted annually by the Secretary to reflect any increases in the Consumer Price Index prepared by the Department of Labor, see www.fhwa.dot.gov or www.fta.dot.gov) and Federal funds comprising less than 15 percent of the total estimated project cost.

(24) Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

(25) Environmental restoration and pollution abatement actions to minimize or mitigate the impacts of any existing transportation facility (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) carried out to address water pollution or environmental degradation.

(26) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing lanes), if the action meets the constraints in paragraph (e) of 23 CFR § 771.117.

(27) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, if the project meets the constraints in paragraph (e) of 23 CFR § 771.117.

(28) Bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, if the actions meet the constraints in paragraph (e) 23 CFR § 771.117.

(29) Purchase, construction, replacement, or rehabilitation of ferry vessels (including improvements to ferry vessel safety, navigation, and security systems) that would not require a change in the function of the ferry terminals and can be accommodated by existing facilities or by new facilities that themselves are within a CE.

(30) Rehabilitation or reconstruction of existing ferry facilities that occupy substantially the same geographic footprint, do not result in a change in their functional use, and do not result in a substantial increase in the existing facility's capacity. Example actions include work on pedestrian and vehicle transfer structures and associated utilities, buildings, and terminals.

Appendix B: CEs listed in 23 CFR 771.117(d)

Additional actions that meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of 23 CFR § 771.117 may be designated as CEs only after Administration approval unless otherwise authorized under an executed agreement pursuant to paragraph (g) of 23 CFR § 771.117. WYDOT must submit documentation that demonstrates that the specific conditions or criteria for these CEs are satisfied, and that significant environmental effects will not result. Examples of such actions include but are not limited to:

- (1) – (3) [Reserved]
- (4) Transportation corridor fringe parking facilities.
- (5) Construction of new truck weigh stations or rest areas.
- (6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.
- (7) Approvals for changes in access control.
- (8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
- (9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required, and there is not a substantial increase in the number of users.
- (10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
- (11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning, and where there is no significant noise impact on the surrounding community.
- (12) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.
 - (i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

(ii) Protective acquisition is done to prevent imminent development of a parcel that may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

(13) Actions described in paragraphs (c)(26), (c)(27), and (c)(28) of 23 CFR § 771.117 that do not meet the constraints in paragraph (e) of 23 CFR § 771.117.

Appendix C: Example CE Template



Mark Gordon
Governor

WYOMING Department of Transportation

"Provide a safe and effective transportation system"

5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340



Darin J. Westby, P.E.
Director

CATEGORICAL EXCLUSION

Project Number:	CE Number:	Date:
Project Name:		
District:	County:	
WYDOT CE Type: <input type="checkbox"/> CE2 – WYDOT Approved CE <input type="checkbox"/> CE3 – FHWA concurred CE *If CE3, provide explanation:		CE Action per: <input type="checkbox"/> 23 CFR 771.117(c)(#) <input type="checkbox"/> 23 CFR 771.117(d)(#)
Preparer:		

This project meets the definition for a Categorical Exclusion under 23 CFR 771.117(a), does not involve unusual circumstances as defined under 23 CFR 771.117 (b), does not require preparation of an Environmental Impact Statement or Environmental Assessment, qualifies for a Categorical Exclusion under 23 CFR 771.117(c) or 23 CFR 771.117(d) and does not exceed the threshold criteria listed in the Programmatic Agreement between FHWA and WYDOT Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects.

Scott Gamo, PhD Environmental Services Manager, WYDOT	Date
Carlos Machado Wyoming Division Administrator, FHWA	Date

Attachments:

- | | |
|--|--|
| <input type="checkbox"/> Project Location Map | <input type="checkbox"/> WGFD Comment Letter |
| <input type="checkbox"/> SHPO Concurrence Letter | <input type="checkbox"/> BLM Scoping Documentation |
| <input type="checkbox"/> Other _____ | |



Additional Project Information:

<p>Include the following, as applicable:</p> <ul style="list-style-type: none"> • Plant site • Material sources(s) and haul road(s) • Staging area • Waste area • Water Source • The haul route between plant site(s) and/or staging area(s) and the project may require minor maintenance to address the increased construction traffic impacts. Maintenance will be confined to the road surface and previously disturbed adjacent slopes.
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AFFECTED ENVIRONMENT & IMPACT DETERMINATION

Cultural Resources:

Includes archeological and historic resources protected under the National Historic Preservation Act (NHPA) of 1966, as amended.

Does the project have potential to cause effects to historic properties?	<input type="checkbox"/> Yes
If no , per 36 CFR 800.3(a)(1), there are no further obligations under section 106	<input type="checkbox"/> No
If yes , Historic properties are present in the Area of Potential Effect: <ul style="list-style-type: none"> <input type="checkbox"/> The proposed project will have no effect on historic properties. <input type="checkbox"/> The proposed project will have no adverse effect on historic properties. <input type="checkbox"/> *The proposed project will have an adverse effect on historic properties, <input type="checkbox"/> Special sites of concern are present (see below). 	
<input type="checkbox"/> SHPO/THPO Concurrence	Date of concurrence(s):
Include summary of inventory, WYDOT determination, and SHPO/THPO concurrence.	

Section 4(f):

Includes significant historic sites, public parks/recreation areas, and wildlife/waterfowl refuges per Section 4(f) of the US Department of Transportation Act of 1966

Will the proposed project have a Section 4(f) "use"?	<input type="checkbox"/> Yes *
	<input type="checkbox"/> No
If yes , <ul style="list-style-type: none"> <input type="checkbox"/> Exception to 4(f) approval applicable per 23CFR774.13 <input type="checkbox"/> <i>De minimis</i> Impact Determination <input type="checkbox"/> Programmatic Section 4(f) Evaluation <input type="checkbox"/> Individual Section 4(f) Evaluation <input type="checkbox"/> Official with Jurisdiction written concurrence (required for all of the above); documentation attached 	

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Include a summary of Section 4(f) impacts, and determinations.

Water Resources:

Waters of the U.S., including Wetlands

Includes waters and wetlands regulated under Section 404 of the Clean Water Act (CWA)

Are waters of the U.S. (WUS), including wetlands, present in the project area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will any Wetlands be impacted by the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will any WUS be impacted by the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is mitigation required?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is a Section 404 Permit Required? If yes, select permit type: <input type="checkbox"/> Pre-authorized under Section 404 Nationwide Permit #3: Maintenance <input type="checkbox"/> Pre-authorized under Section 404 Nationwide #13: Bank Stabilization <input type="checkbox"/> Pre-authorized under Section 404 Nationwide #14: Linear Transportation Projects <input type="checkbox"/> 404 Nationwide Permit # _____ required <input type="checkbox"/> *404 Individual Permit is required All conditions of the 404 Permit will be followed	<input type="checkbox"/> Yes <input type="checkbox"/> No

Include a summary of WUS, including wetlands, which intersect or are located within the project. Mention if a CWA§401 certification is required from the DEQ, EPA or Tribe.

Water Quality

Addresses discharge of pollutants or wastes into Waters of the State as regulated under Section 402 of the CWA and the Wyoming Pollutant Discharge Elimination System (WYPDES) Program

<input type="checkbox"/> There are Class I waters, per the Wyoming Surface Water Classification, in the project limits or proximity to receive runoff from the project.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> There are waters in the project limits or proximity that are listed on the Wyoming's 303(d) report as impaired.	<input type="checkbox"/> Yes <input type="checkbox"/> No

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Floodplains

Includes floodplains identified on the National Flood Insurance Program (NFIP) maps produced by the Federal Emergency Management Agency

Is all or is a portion of the project within a NFIP mapped floodplain?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the project increase the floodplain area or cause negative impacts to the floodplain?	<input type="checkbox"/> Yes* <input type="checkbox"/> No

Wild and Scenic Rivers

Includes portions of rivers that are designated Wild, Scenic, and Recreational under the Wild and Scenic Rivers Act of 1968

Is a designated Wild and Scenic River (WSR) located within or adjacent to the project?	<input type="checkbox"/> Yes* <input type="checkbox"/> No
Is the project within ¼ mile of a Wild and Scenic River where Outstandingly Remarkable Views (ORV) need to be addressed?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Biological Resources:

Wildlife and Habitat

Addresses compliance with the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, Governor's Sage-Grouse Executive Order 2019-3, and recommendations from the Wyoming Game and Fish Department (WGFD)

Are raptor nests located within one mile of the project area? Determined from: <input type="checkbox"/> Biological Inventory <input type="checkbox"/> NREX or WISDOM Database <input type="checkbox"/> Other	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
Is the project area located in designated big game crucial winter range? If yes, identify species and WGFD-recommended timing restrictions below.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the project located in designated sage-grouse core area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If not in core area, are any occupied leks located within 2 miles of the project area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Describe other wildlife/aquatic concerns and address G&F comments (e.g. fencing, etc.). Identify whether or not the project area was identified as a hotspot by the Wildlife and Roads Summit if scope of work includes animal-vehicle collision mitigation.	



Threatened and Endangered Species

Addresses compliance with the Endangered Species Act

<p>Is the project included in Appendix A of the final Programmatic Biological Assessment/USFWS Programmatic Biological Opinion for WYDOT's program?</p> <p><input type="checkbox"/> No Effect</p> <p><input type="checkbox"/> May affect, not likely to adversely affect, species:</p> <p><input type="checkbox"/> *May affect, is likely to adversely affect, species</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>Are federally-listed threatened, endangered, or proposed species within the project area and/or is critical habitat or proposed critical habitat present within the project area?</p> <p>If yes, indicate species and/or critical habitat below:</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>Will any outside agency sensitive species be affected by the project?</p> <p>If yes, describe below:</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
<p>Describe other threatened and endangered species concerns, Platte and Green River water depletions (see below), etc.</p> <p>The USFWS has determined that water depletions from the upper Platte River Basin may have an effect on downstream threatened and endangered species. Water depletions from the Platte River Basin will be handled under Wyoming's Depletions Plan through the USFWS' Platte River Recovery Implementation Program.</p> <p>The USFWS has determined that water depletions from the upper Colorado River Basin may have an effect on downstream threatened and endangered species. Water depletions from the Colorado (Green) River Basin will be handled through a programmatic agreement with USFWS.</p>	

Soil and Vegetation

<p>The project will have the following impacts to topsoil and/or existing vegetation:</p> <p><input type="checkbox"/> Minimal soil disturbance will occur, topsoil will be saved and replaced. Reclamation is not needed.</p> <p><input type="checkbox"/> Topsoil will be salvaged and replaced. Disturbed areas will be re-vegetated with commercially-available species.*</p> <p>* Seed mix may include wildflowers and native species per WYDOT Operating Policy 20-1 to assist in promoting the health of honey bees and other pollinators.</p>
<p>Describe impacts to soil and vegetation. If in an urban area, will sod be replaced?</p>

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Air Quality:

Air quality is regulated under the Clean Air Act. The Upper Green River Basin Area is the only nonattainment area (for Ozone-8Hr) in Wyoming.

Is the project located in the Upper Green River Basin Region Ozone nonattainment area? If yes , see attached FHWA Ozone Nonattainment Area Exemption Letter.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the project have long term negative effects on air quality.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Describe long term negative effects and dust control measures, etc.	

Noise Analysis:

Addresses compliance with WYDOT's Noise Analysis and Abatement Policy dated July 13, 2011

Is the project considered Type 1 as defined by WYDOT's Noise Analysis and Abatement Policy?	<input type="checkbox"/> Yes* <input type="checkbox"/> No
Is the project likely to have a long term increase in noise to sensitive noise receptors (e.g., church, school, residence, campground) near the project area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If a noise analysis was conducted, describe impacts, mitigation, etc.	

Transportation:

Would the project have long term negative impacts to pedestrian and/or bicycle use?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Would the project have a long term negative impact on public transportation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are the following conditions met regarding traffic Disruptions? <ul style="list-style-type: none">● Provisions are made for access by local traffic and are posted;● Through-traffic dependent businesses will not be adversely affected;● Detour or ramp closure, to the extent possible, will not interfere with local events;● Temporary road, detour or ramp closure will not substantially change the environmental consequences;● No substantial controversy is associated with the temporary access, detour or ramp closure.	<input type="checkbox"/> Yes <input type="checkbox"/> No*
Additional comments	



Social Resources and Right-Of-Way:

Acquisitions and relocations will comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA) and Executive Order 12898 regarding environmental justice

Will the project require permanent right-of-way acquisition?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the project require displacement of owners or tenants from residences, commercial, non-profit or farms?	<input type="checkbox"/> Yes* <input type="checkbox"/> No
Would the project cause disproportionately high and adverse effects on minority and/or low income populations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Does the project require a land use (special use) permit from a federal Agency?	<input type="checkbox"/> Yes* <input type="checkbox"/> No
Will the project require temporary construction/access agreements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Describe resources and impact.	

Visual Resources:

Includes determination of project impacts to visual resources, such as the landscape's foreground and background

Is all or part of the project a designated scenic byway?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is all or part of the project within land administered by a National Forest or the Bureau of Land Management where scenic integrity objectives or visual resource management apply?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Will the project have any long term major visual impacts?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes to any of the above, describe visual impact (include triggers for a visual review...e.g. cultural/historic site, project located on or affecting BLM/FS land, etc.)	

Hazardous Materials and Contamination:

Includes hazardous materials and contamination located within or adjacent to the proposed project area

Is any known contamination or hazardous material present within or adjacent to the project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes to the above, describe contamination/hazardous material and impacts to the project.	

Additional Resources Considered:

Other resource issues that apply to the project that are not addressed in the previous sections:
--

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- Paleontological resources
- *Prime and Unique Farmland
- *[Properties](#) protected by Section 6(f) of the Land and Water Conservation Act
- Other

If any of the above boxes are checked, describe resource and impact.

Appendix D: Local Government CE Template

WYDOT Environmental Form Instructions for Local Governments

General Information

- Based on the completion of the form, WYDOT will determine the Class of Action.
- Determinations of the Area of Potential Effect (APE), level of cultural investigation and determinations of eligibility are all made by the lead federal agency per 36 CFR 800. FHWA is the lead federal agency for WYDOT projects, including those with pass through funding. FHWA has designated WYDOT to make these determinations on their behalf.
- CMAQ and HRRR projects can include multiple locations in one Categorical Exclusion (CE), but do not combine CMAQ and HRRR projects into one CE.
- Complete design plans to 35% (ex. grading plans) to determine the projects proposed impacts (Except for maintenance projects that do not have plans).
- Complete the attached environmental form.
- Once completed **SEND THE FOLLOWING TO WYDOT's LOCAL GOVERNMENT OFFICE**
 - Completed environmental form
 - Figures
 - Agency letters and their responses
 - At least 35% design plans
 - Wait for a response from WYDOT before proceeding to the next step.

Scoping Guidance

Construction Project Scoping – i.e. TAP Projects

- Prepare scoping letters with detailed proposed scope of work and location of project, including the Public Land Survey System description (PLSS); township, range, section and quarter-quarter, location map showing boundaries of project and identify any federal land management agencies within or immediately adjacent to the project area.
- Send scoping letters to the Wyoming Game and Fish Department, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service (at a minimum), plus any other applicable agencies depending on project scope.
- Do Not scope the State Historic Preservation Office (SHPO). SHPO's role is to concur on determinations made by the lead federal agency or their designee (WYDOT).
- Send a letter to WYDOT Environmental Services (Nick.Hines@wyo.gov and Stephanie.Lowel@wyo.gov) seeking cultural comments.

Safety/Maintenance Project Scoping – i.e. CMAQ and HRRR projects

- Prepare scoping letters with detailed proposed scope of work and location of project, including the Public Land Survey System description (PLSS); township, range, section and quarter-quarter, location map showing boundaries of project and identify any federal land management agencies within or immediately adjacent to the project area.
- WY Game and Fish - send scoping letter for every project to ensure the project is not in greater sage-grouse core area or in big game crucial winter range habitat.
- WYDOT - send a scoping letter to WYDOT regarding guidance on cultural clearance required for the project, if the project involves more than a minor amount of ground disturbance. Minor ground disturbance includes grading work between the delineator posts and installation of delineators, telespar signposts or other posts that are installed by hammering. Applying Mag-Chloride to an existing road and blading the surface of the existing road does not require cultural clearance. Work that exceeds the above thresholds will need to be reviewed by WYDOT for a determination of what cultural work is required.
- U.S. Corps of Engineers - Send scoping letter if any disturbance or fill will be placed into a surface water drainage or wetland (wet or lush vegetative area).
- Federal/State Land Management - Please scope appropriate federal/state land management agencies if your project occurs on federal or state land.
- U.S. Fish and Wildlife Service - If project work will take place outside of the roadway embankment (toe of slope to toe of slope) or there are visible raptor nests, scope USFWS to ensure that the project will have no effect on nesting raptors or species listed under the Endangered Species Act.



Mark Gordon
Governor

WYOMING Department of Transportation

"Provide a safe and effective transportation system"

5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340



Darin J. Westby, P.E.
Director

DATE

Carlos Machado
Wyoming Division Administrator
Federal Highway Administration
2617 E. Lincolnway, Suite D
Cheyenne, WY 82001-5662

Project No.: Insert Project Number
Insert Project Name
Insert Project Location or Road Name
Insert County
Insert Type of Work

Pursuant to the requirements of the National Environmental Policy Act, the Wyoming Department of Transportation (WYDOT) submits this Categorical Exclusion (CE) on behalf of INSERT PROJECT SPONSOR for the above referenced project. Justification for the determination of minimal and temporary impacts is presented in the following sections.

DETERMINATION

WYDOT Environmental Service use only.

This project meets the definition for a Categorical Exclusion under 23 CFR 771.117(a), does not involve unusual circumstances as defined under 23 CFR 771.117 (b), does not require preparation of an Environmental Impact Statement or Environmental Assessment, qualifies for a Categorical Exclusion under 23 CFR 771.117(c) or 23 CFR 771.117(d) and does not exceed the threshold criteria listed in the Programmatic Agreement between FHWA and WYDOT Regarding the Processing of Actions Classified as Categorical Exclusions for Federal-Aid Highway Projects

- Document qualifies as a WYDOT CE1 (Only requires WYDOT signature)
- Document qualifies as a WYDOT CE2 (Only requires WYDOT signature)
- Document qualifies as a WYDOT CE3. (Requires both WYDOT and FHWA signatures)

Wyoming Department of Transportation

Scott Gamo, Ph.D.

Date

This project is a Categorical Exclusion per FHWA approval

Carlos Machado

Date

Attachments:

LGC Environmental Form
Site Location Map
Proposed Improvements Map
Agency Letters

List attachments here. Should include both letter to agency and agency response. Also include design plans for non-maintenance projects.

LGC ENVIRONMENTAL FORM

PROJECT LOCATION

Describe the location of the project including roads, town/city, county and Section, Township and Range. Include as Figure 1 the project locations.

PURPOSE AND NEED

Describe what issue or problem you are intending to resolve with this project and why does the issue/problem need to be resolved. Do not state the solution or the scope of work.

PROPOSED IMPROVEMENTS

Describe all proposed improvements, including their locations. If applicable include width and surfacing material for any pathways or sidewalks. Include as Figure 2.

AFFECTED ENVIRONMENT / IMPACTS		
** If answered Yes to any of the questions below further details are required.	Yes	No
Social Impacts		
<p>Land Use (<i>New land development, redistribution of developments or changes in zoning</i>)</p> <ul style="list-style-type: none"> Will the proposed project lead to land development or redistribution of existing land development not already in a planning document? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Community Cohesion (<i>The ability of people to communicate and interact with each other in ways that lead to a sense of community. Cohesion is reflected in the neighborhoods ability to function and be recognized as a singular unit.</i>)</p> <ul style="list-style-type: none"> Does the project have residential impacts and/or create a barrier between a residential community and social or commercial resources? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Relocation Potential (<i>Relocation of private or commercial businesses, buildings or property</i>)</p> <ul style="list-style-type: none"> Are any residential or commercial properties going to be relocated? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Churches and Schools (<i>Potential impacts to physical property of a church or school or changes to how they are accessed.</i>)</p> <ul style="list-style-type: none"> Will there be any impacts to church or school property including how they are accessed? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Controversy Potential (<i>If individuals, groups or organizations are against the project.</i>)</p> <ul style="list-style-type: none"> Is there any controversy with the project in the community or adjacent landowners? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Energy Production (<i>Potential impacts to oil, gas, coal, uranium extraction and production.</i>)</p> <ul style="list-style-type: none"> Will the project impact energy production or the recovery of materials in or adjacent to the project area? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Utility Lines (<i>Potential impacts to telephone lines, fiber optic, electrical, water and sewer</i>)</p> <ul style="list-style-type: none"> • Will any utility lines be moved or impacted due to the project? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Emergency Services (<i>Potential impacts to designated emergency routes or impacts that may delay emergency services</i>)</p> <ul style="list-style-type: none"> • Will the project impede emergency service access through the project or surrounding areas? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Environmental Justice (<i>Compare the impacts on the minority and/or low-income populations with respect to the impacts on the overall population within the project area. Fair distribution of the beneficial and adverse effects of the proposed action is the desired outcome.</i>)</p> <ul style="list-style-type: none"> • Is there fair distribution of the beneficial and adverse effects of the proposed action to all populations within the project area? <p><i>*No additional information needed if checked "Yes".</i></p> <p>If No, provide justification here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Public Transportation (<i>Potential impacts to public transit operations, existing transit routes, transit facilities, etc.</i>)</p> <ul style="list-style-type: none"> • Will the project impact public transportation operations or alter public transportation routes? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Right-of-Way (<i>Public rights of way used for transportation.</i>)</p> <ul style="list-style-type: none"> • Will the project require land that is currently <u>not</u> existing city, county or state transportation right-of-way? <p><i>*All property acquisitions used in this project must comply fully with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Construction Permits (<i>Temporary construction easements or property used only during construction to allow equipment access or additional room to construct the project.</i>)</p> <ul style="list-style-type: none"> • Will there be temporary access on private, state, or federal land outside of the existing right-of-way for temporary use during construction? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Pedestrian and Bicycle <i>(Potential impacts to existing pathways, sidewalks or other features used by pedestrians or bicyclists.)</i></p> <ul style="list-style-type: none"> Will there be any impacts to existing pedestrian or bicycle routes or pathways? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
Archaeological and Historical Impacts		
<p>Cultural/Archaeological/Historic Impacts <i>(Contact WYDOT for a determination of effect or if additional cultural or Historical Studies need to be completed.</i> <i>*Insert WYDOT's response below and the SHPO concurrence letter in the appendix.</i></p> <p>Insert WYDOT response here</p>		
<p>Section 4(f) <i>(Section 4(f) of the DOT Act establishes the requirement for consideration of park and recreational lands, wildlife and waterfowl refuges and historic sites in transportation project development.)</i></p> <ul style="list-style-type: none"> Will your project involve work on any of the following types of properties: fairgrounds, public open spaces, public parks, state game lands, or other recreation facilities fully open to the public? <p><i>* If Yes, Contact WYDOT Environmental Services before submitting the final CE</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
Natural Resources		
<p>Wetlands and other Waters of the U.S. <i>(Potential impacts to open water, wetlands, creeks, dry channels, irrigation canals, etc.)</i></p> <ul style="list-style-type: none"> Are there any impacts to Waters of the U.S. including wetlands, creeks, streams or rivers? Did the U.S. Army Corps of Engineers (USACE) indicate the project would impact Waters of the U.S. <p><i>*Send scoping letter to the U.S. Army Corps of Engineers (USACE), attach scoping letter and USACE response in appendix.)</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Water Quality (<i>Potential impacts to existing impaired waters or sediment run off from the project.</i>)</p> <ul style="list-style-type: none"> • Are there any Wyoming Department of Environmental Quality (WYDEQ) Class I, Class II or impaired waters in the project limits? • Does the project require compliance or a permit with the Wyoming Pollutant Discharge Elimination System (WPDES)? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Wild and Scenic Rivers (<i>Wild and Scenic Rivers Act was created to preserve certain rivers with outstanding natural, cultural and recreational values in a free-flowing condition for the enjoyment of present and future generations.</i>)</p> <ul style="list-style-type: none"> • Are there any designated or proposed Wild and Scenic Rivers in or adjacent to the project area? <p><i>*If Yes, contact WYDOT Environmental Services.</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Floodplains (<i>Floodplains are identified by the National Flood Insurance Program (NFIP) and the Federal Emergency Management Agency (FEMA.)</i>)</p> <ul style="list-style-type: none"> • Is the project within an identified floodplain or will it encroach on a regulatory floodplain? <p><i>*If Yes, contact the local Floodplain coordinator and include their response in the appendix.</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Farmlands (<i>The Farmland Protection Policy Act is intended to minimize the impact on the conversion of farmland to nonagricultural uses.</i>)</p> <ul style="list-style-type: none"> • Are you impacting any prime or unique farmland as defined by the Natural Resource Conservation Service? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Wildlife and Habitat (<i>Potential impacts to state managed wildlife or wildlife habitat, Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.</i>)</p> <ul style="list-style-type: none"> • Are there any raptor nests within one mile of the project area? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Is the project located in Sage-Grouse Core Management Areas? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>

<ul style="list-style-type: none"> • Did the Wyoming Game and Fish Department have any recommendations or concerns with the project? <p><i>*If Yes, identify which recommendations you will be implementing.</i> <i>*Include scoping letter to the Wyoming Game and Fish and their response in the appendix.</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Threatened and Endangered Species <i>(Potential impacts to federal Species Of Concern or Threatened and Endangered species.)</i></p> <ul style="list-style-type: none"> • Did the U.S. Fish and Wildlife Service scoping letter indicate any concerns? <p><i>*Include scoping letter to the USFWS and their response in the appendix.</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Vegetation <i>(Potential impacts to special status plant species and preventing the spread of noxious and invasive species.)</i></p> <ul style="list-style-type: none"> • Will the project impact any special status plant species? <p><i>*Projects must have all disturbed (bare ground) areas seeded with commercially available native species at the end of construction to help control the spread of noxious and invasive species. Explain below if this will not happen.</i></p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Ecosystem <i>(Potential impacts when considering all the various natural resource impacts to determine if combined they cause impacts to the regional ecosystem.)</i></p> <ul style="list-style-type: none"> • Is the project expected to cause permanent regional ecosystem impacts? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
Physical Impacts		
<p>Noise <i>(Potential impacts caused by traffic noise increase to noise sensitive areas, including parks, amphitheaters, churches, schools, residential, businesses, etc.)</i></p> <ul style="list-style-type: none"> • After construction will the project increase noise at any noise sensitive areas within or adjacent to the project area? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Air Quality <i>(Potential impacts to air quality from particulate matter and gas emissions)</i></p> <ul style="list-style-type: none"> • Is the project in a WYDEQ non-attainment area? • Will there be any adverse long-term impacts to air quality from the project? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Hazardous Waste Sites & Contamination (<i>Potential for the project to release or expose contamination from previous fueling stations, lube shops, dry cleaners, mechanic shops, industrial operations, refineries, etc.</i>)</p> <ul style="list-style-type: none"> • Will the project impact any locations that could contain hazardous waste or is adjacent to facilities that may have been previously contaminated? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Visual (<i>Potential impacts to areas that are known for their scenic views including National Scenic Byway, National Scenic Area, Wild and Scenic River, National Trails System, National Monument, cultural resources, etc.</i>)?</p> <ul style="list-style-type: none"> • Will the project be seen by any areas known for their scenic views or will it block any areas known for scenic views? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Plant Sites, Material Sources, Haul Roads (<i>All disturbances related to the project including batch plants, hot plants, material sources, borrow sites and haul roads accessing these places need to be covered by this document.</i>)</p> <ul style="list-style-type: none"> • Will the project use borrow sources, waste areas and plant sites <u>other than</u> contractor furnished or commercially available sources? • Are there any other areas outside the project limits that will have work combined with this project that have not been discussed above? <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Temporary Impacts (<i>Describe any other temporary impacts that have not been covered.</i>)</p> <p>Will the project have any other additional temporary impacts that have not been addressed above?</p> <p>If Yes, describe impacts here</p>	<input type="checkbox"/>	<input type="checkbox"/>

PUBLIC PARTICIPATION

Describe any opportunities that the public has had to provide comments on the project, including dates and a generalized public response. Can include council meetings and direct landowner contact.

ENVIRONMENTAL COMMITMENTS

The contractor will become familiar with and adhere to all laws relevant to avoiding and/or minimizing damaging impacts to the environment.

All property acquisitions used in this project are in full compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

All disturbed areas (even if previously bare ground) will be seeded with commercially available native species at the end of construction to help control the spread of noxious and invasive species.

If any impacts, not discussed in this document, are discovered during construction, work should immediately stop until WYDOT Environmental Services has been notified and has evaluated the impact(s) to determine the proper measures to be taken to prevent further impact and provide guidance on how to mitigate any impacts that require mitigation.

PREPARER

Name, Title, Organization of Preparer

I agree to comply with all commitments and conditions listed above. The information provided above is accurate to the best of my knowledge.

DATE

Name of Individual with Signatory Authority
Title of Signatory

Appendix E: WYDOT Re-Evaluation form



WYOMING Department of Transportation

"Provide a safe and effective transportation system"

5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340



RE-EVALUATION APPROVAL FORM

Project Information:

Project Number:	CE Number:	CE Approval Date:
Re-Evaluation #	Previous Re-Evaluation Date:	
Project Name:		
Class of Action: 23 CFR 771.129 (c)		
Description of Changes to Project:		
Additional Environmental Commitments:		
Attachments:		
Re-Evaluation Prepared By:		Date:

Re-Evaluation:

Was the original categorical exclusion a CE3, or does the change above elevate the categorical exclusion to a CE3?

No, WYDOT may approve the re-evaluation

Yes, Requires FHWA approval

Does the following statement apply?

Based on the new changes identified above, I verify this project remains consistent with the conclusions and commitments of the original document and any prior re-evaluations.

Yes, sign the appropriate line below

No, the action cannot be approved as a re-evaluation

Scott Gamo, PhD Environmental Services Manager, WYDOT	Date
Carlos Machado Wyoming Division Administrator, FHWA	Date

Notes: