



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

Nevada Division

July 21, 2011

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In Reply Refer To:
HENV-NV

Ms. Susan Martinovich, P.E., Director
Nevada Department of Transportation
1263 South Stewart Street
Carson City, Nevada 89712

Subject: ACTION: Activities that are Undertakings with No Potential to Cause Effects to
Historic Properties Pursuant to 36 CFR 800.3(a)(1)

Dear Ms. Martinovich:

In accordance with 36 CFR Part 800.3(a)(1), implementing regulations of Section 106 of the National Historic Preservation Act of 1966 as amended, the Nevada Division of the Federal Highway Administration (FHWA) has determined that some federal-aid highway funded actions administered by the Nevada Department of Transportation (NDOT) would have no potential to cause effects to historic properties in Nevada. As such, these program projects do not require further obligations under the Section 106 process of the National Historic Preservation Act. The purpose of this letter is to (1) identify a list of those actions and to (2) identify a process that satisfies any National Historic Preservation Act obligations of FHWA. These consultation procedures are effective July 21, 2011.

General Conditions:

FHWA agrees to administratively delegate procedures defined in Part II below. This delegation applies only to projects that are not adding capacity, not needing additional right-of-way, and qualify as Categorical Exclusions as defined in 23 CFR 771 and cannot be combined with other actions.

This administrative delegation applies to actions or activities administered by NDOT, including Local Public Agency Program projects.

This administrative delegation does not apply to actions or activities on historic roadways or other properties on or eligible to be on the National Register of Historic Places.

Part I: Actions or Activities (Undertakings) that result in "No Potential to Affect Historic Properties"

Provided the project under review is limited to the activities specified and is not part of a larger undertaking, the following project categories apply to this agreement:

1. Guardrail, cable barrier and bridge rail repair and replacement. Conditions: New guardrail material is limited to in-kind replacement/repair (using similar materials) with any and all ground disturbance limited to fill material locations only, not to exceed the depth of the fill material.
2. Traffic signals, intersection lighting, pedestrian signals, underpass lighting, railroad lighting, safety appurtenances and traffic control devices including but not limited to glare screens, snow and ice detectors, energy attenuators, cameras, automated traffic maintenance systems, raised pavement markers, thermoplastic tape, raised bars, or ramp metering sensors within existing right-of-way. Conditions: New material utilized is limited to in-kind replacement/repair (using similar materials) on existing traffic devices. Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
3. Maintenance and replacement of highway signs on existing poles.
4. Crack-sealing, pothole repair, overlaying, milling, resurfacing, installation of rumble strips, dowel bar retrofits, profile grinding, joint sawing and sealing, and pavement's marking. Conditions: This authority does not apply to brick streets. The maintenance or rehabilitation is limited to the existing surfaced areas with no surface expansion, is within the existing vertical and horizontal alignments with no alterations, no ditching or drainage work is included, and all staging areas can be limited to existing paved surfaces only. No ground disturbance is allowed under this authority.
5. Repair/Maintenance of right-of-way fencing, limited to repair/replacing fence wire and fence posts only on existing fence post locations. Condition: If any grading is required for access or installation of fencing, this authority does not apply.
6. Improving existing bicycle and pedestrian lanes and paths on their existing alignments. Conditions: Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
7. Acquisition of scenic easements.
8. Approvals for disposal of excess right-of-way or for joint or limited use of the right-of-way provided no cultural resources over 50 years old are located within the property.
9. Acquisition of land for hardship or protective purposes; advance land acquisition loans under section 3(b) for the UMT Act. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels, as long as those parcels do not contain cultural resources over 50 years old.
10. Improvements to existing maintenance facilities and truck weight stations less than 50 years old. Condition: Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
11. Grants for training, education and research programs which do not involve construction.
12. Purchase of equipment or materials that do not lead to, or are a part of, a construction activity.
13. Removal of vegetation and noxious weeds. Condition: Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.

Part II: Procedures for Evaluating and Documenting a Finding of “No Potential to Affect Historic Properties”

1. On a project by project basis, NDOT shall review the project scope to determine if this program determination applies.
2. This evaluation may be conducted by any NDOT Environmental Services staff member meeting the Secretary of the Interior Qualifications Standards (published in 48 FR 44738-44739). This authority is non-transferable by NDOT to other parties.
3. This evaluation shall include a consideration of whether or not unusual circumstances are present which may preclude the use of this determination. Unusual circumstance is defined as whether the project is in a historic district or whether the project requires field review.
4. Both the finding of “no potential to affect” and the evaluation shall be documented as part of the project file and retained by NDOT.
 - a. The finding documentation shall include:
 - i. Identification of the activity from the list in Part I;
 - ii. the name of the individual; and
 - iii. the date the finding was made.
5. FHWA shall monitor these procedures on an annual basis.
 - a. On a quarterly basis, NDOT shall send a list of projects determined to have no potential to affect historic properties under this authority to the FHWA Environmental Program Manager.
 - b. FHWA shall schedule a meeting to occur on or before September 30 of each year, to discuss with NDOT its performance of these procedures and contemplate any changes in procedures or modifications of the list of actions in Part I.
 - c. FHWA may review documentation related to these procedures at any time.
6. FHWA reserves the right to revoke this administrative delegation at any time.
 - a. FHWA shall notify NDOT in writing if this right is revoked.
 - b. FHWA shall identify the date that this administrative delegation is revoked.

Sincerely,



Susan E. Klekar
Division Administrator

cc: Cliff Creger, NDOT
Bill Hoffman, NDOT
Steve Cooke, NDOT
Rebecca Palmer, SHPO
ec: Abdelmoez Abdalla, FHWA