

Appendix B

Environmental Information

Federal Environmental Approval Worksheet (FEAW)

FEAW Memo

Social, Economic and Environmental Resources Checklist (SEERC)

FHWA Endangered Species Act (ESA) Transmittal Sheet

Cultural Resources Coordination

Wetland Delineation Map

Federal Environmental Approval Worksheet

PIN: 1236.29	Completed by: Loretta McNamee	Date Completed: 9/6/23	FUNDING TYPE: Federal
TITLE/PUBLIC DESCRIPTION: Route 29 at Rowland Street Intersection Improvement Project			NEPA CLASS: Class II: CE
			SEQR TYPE: Type II
LOCALITY (Village, Town, City): Town of Milton and City of Saratoga Springs	COUNTY: Saratoga	Action Type: Federal Aid Highway Project	Is this a Reevaluation? No

Purpose of this Worksheet:

- Implement the *Programmatic Agreement Between the Federal Highway Administration, New York Division (FHWA), and the New York State Department of Transportation (NYSDOT) Regarding the Processing of Actions Classified as Categorical Exclusions (CEs) for Federal-Aid Highway Projects (PARCE)*, executed September 2022.
- Communicate the project National Environmental Policy Act (NEPA) classification and identify whether the FHWA or the NYSDOT (titles identified per [Project Development Manual \(PDM\) Chapter 4, Exhibit 4-2](#)) is making the CE determination.
- Identify any FHWA independent determinations, approvals and/or concurrences required before the CE determination can be made.
- To be included within the Design Approval Document (DAD¹) in accordance with the documentation requirements in the PARCE.

Categorical Exclusion (CE) - a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency (40 CFR 1508.4). Actions that do not individually or cumulatively have a significant environmental effect are excluded from the requirement to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS) (23 CFR 771.115(b)).

Instructions:

Initial review of the Federal Environmental Approval Worksheet (FEAW) should occur in scoping or early in Design Phase I to identify potential risks. Complete new review of the FEAW periodically, particularly if project parameters or site condition changes result in potential resource impacts. Completion of the FEAW with signature in Step 4 is required prior to Design Approval. See PDM Chapter 4 for additional details.

Step 1A: Unusual Circumstances Threshold Determination –

Do any, or the potential for any, unusual circumstances exist:

- | | |
|---|---|
| • Significant environmental impacts (23 CFR 771.117(b)) | YES ☐ NO ☒ |
| • Substantial controversy on environmental grounds (23 CFR 771.117(b)) | YES ☐ NO ☒ |
| • Significant impact on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act (23 CFR 771.117(b)) | YES ☐ NO ☒ |
| • Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the project (23 CFR 771.117(b)) | YES ☐ NO ☒ |
| • Residential or non-residential displacements (FHWA-NY Division identified circumstance ²) | YES ☐ NO ☒ |
| • Conversion of a road segment from non-tolling to tolling, or the construction of a new highway or bridge with tolling proposed (FHWA-NY Division identified circumstance) | YES ☐ NO ☒ |

If yes to any of the above, contact the Main Office Project Liaison (MOPL) (see PDM Exhibit 4-1). Any project which would normally be classified as a CE but could involve unusual circumstances (or even uncertainty) will require consultation with the Office of Environment (OOE) and subsequently with the FHWA to determine if CE classification is still warranted. If, after consultation with the FHWA, it is determined that the project cannot be progressed as a CE, **skip to step 4** and see PDM Chapter 4 for NEPA Class I (EIS) or Class III (EA) processing. If, after consultation with the FHWA, it is determined that the project can be progressed as a CE, **proceed to step 1B**.

If no to all the above, then this project qualifies as a CE; **proceed to step 1B**.

Step 1B: Identification of CE action

Is the project an action listed in 23 CFR 771.117 (c) - (d) (or as identified in [FHWA's additional flexibilities memo](#))?
YES ☒ NO ☐

If Yes, proceed to step 2.

If No, contact the MOPL (see PDM Exhibit 4-1). If, after consultation with the OOE and the FHWA, it is determined that the project cannot be progressed as a CE, **skip to step 4** and see PDM Chapter 4 for NEPA Class I (EIS) or Class III (EA) processing. If, after consultation with the FHWA, it is determined that the project can continue as a CE, **proceed to step 2**.

¹ For FHWA actions not associated with a project (no DAD), include the FEAW in the appropriate documentation for that action.

² See additional discussion on FHWA-NY unusual circumstances in the FEAW Instructions document.

Federal Environmental Approval Worksheet

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Step 2: FHWA environmental actions required prior to CE determination³

The Step 2 table identifies certain issues that require: the FHWA to make the CE determination (Column A and 2.4); independent FHWA determinations (2.1); FHWA approvals, compliance, or concurrence (2.2); or notification to the FHWA (2.3). Review ***the FEAW Thresholds document*** to determine how to fill out each column of Step 2.

2.1	Required FHWA Independent environmental determinations	PARCE threshold exceeded ⁴	FHWA independent determination/ concurrence required	Date Federal determination/ concurrence issued	Resource not present, or present but threshold not exceeded
		A	B	B1	C
	Executive Order (EO) 11990 Protection of Wetlands Individual Finding		☐	Date Issued	☒
	ESA Section 7 Threatened and Endangered Species	☐	☒	6/12/2023	☐
	Section 106 of National Historic Preservation Act	☐	☒	9/7/2023	☐
	Section 4(f) (Park, Wildlife Refuge, Historic Sites, and National Wild and Scenic Rivers)	☐	☐	Date Issued	☒
2.2	Other FHWA environmental approvals, compliance and/or concurrence required	PARCE threshold exceeded ⁴	Threshold exceeded; FHWA approval, compliance or concurrence required		Resource not present, or present but threshold not exceeded
	EO 11988 Floodplains	☐	☐		☒
	EO 12898 Environmental Justice	☐	☐		☒
	US Army Corps of Engineers Permitting	☐	☐		☒
	Section 6(f) Land and Water Conservation Funds	☐	☐		☒
	Safe Drinking Water Act Section 1424(e)		☐		☒
	Migratory Bird Treaty Act		☐		☒
	23 CFR 772 Type I Noise abatement		☐		☒
2.3	Other Environmental Issues requiring FHWA notification	PARCE threshold exceeded ⁴	FHWA notification threshold exceeded		Resource not present, or present but threshold not exceeded
	National Wild and Scenic Rivers	☐	☐		☒
	US Coast Guard Bridge Permit	☐	☐		☒
	Known hazardous waste site (only EPA National Priority list)		☐		☒
	Project on or affecting Native American Lands		☐		☒
2.4	Other Issues Triggering FHWA Approval of Categorical Exclusion	PARCE threshold exceeded ⁴			Resource not present, or present but threshold not exceeded
	Property Acquisition	☒			☐
	Major Traffic Disruptions	☐			☒
	Changes in Access Control	☐			☒

³ This table does not represent all environmental issues and actions to which a project is subject to. Classification as a CE does not exempt the project from further environmental review. Refer to the PDM Appendix A and The Transportation Environmental Manual (TEM) to determine review requirements.

⁴ When PARCE threshold is exceeded, the NYSDOT recommends that the project qualifies as a CE and requests the FHWA make the CE determination. Information on PARCE specific thresholds is contained within ***the FEAW Thresholds document***.

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Step 3: Who makes the NEPA CE Determination?

To identify which party, either the FHWA or the NYSDOT, makes the CE determination in accordance with the PARCE, follow the instructions found in the table below, beginning in Step 3A. This step also identifies which correspondence shell to use to distribute the FEAW and other environmental notifications or approvals.

3	Determine whether the FHWA or the NYSDOT makes the CE determination and whether additional notifications or approvals are required.
3A	<p>Is the project an action listed in 23 CFR 771.117 (c) - (d) (Answered yes in Step 1B)?</p> <p>YES ☒ If Yes, proceed to 3B.</p> <p>NO ☐ If No, the FHWA makes the CE determination.</p> <ul style="list-style-type: none"> For Locally Administered Federal Aid Projects only, the DAD, the NYSDOT recommendation and request (that the FHWA determines the project qualifies as a CE) are sent from the Regional Planning and Program Manager (RPPM) to the FHWA directly using FAHP Shell 4. For all other actions, the DAD⁵ and the NYSDOT recommendation and request (that the FHWA determines the project qualifies as a CE) are sent to the MOPL for review using FAHP Shell 3, ID/IQ Shell 3 or using appropriate ROW transmittal. <p>Proceed to Step 4.</p>
3B	<p>Are any of the CE Thresholds from the PARCE exceeded (Are there any checks in Column A of Step 2)?</p> <p>YES ☒ If Yes, the FHWA makes the CE determination.</p> <ul style="list-style-type: none"> For Locally Administered Federal Aid Projects only, the DAD and the NYSDOT recommendation and request (that the FHWA determines the project qualifies as a CE) are sent from the RPPM to the FHWA directly using FAHP Shell 4. For all other actions, the DAD and the NYSDOT recommendation and request (that the FHWA determines the project qualifies as a CE) are sent to the MOPL for review using FAHP Shell 3, ID/IQ Shell 3 or using appropriate ROW transmittal. <p>Proceed to Step 4.</p> <p>NO ☐ If No, proceed to 3C.</p>
3C	<p>Are there outstanding independent environmental approvals or concurrences? (Are there checks in column B of Step 2.1 without dates in column B1)?</p> <p>YES ☐ If Yes, then the FHWA makes the CE determination.</p> <ul style="list-style-type: none"> For Locally Administered Federal Aid Projects only, the DAD and the NYSDOT recommendation and request (that the FHWA determines the project qualifies as a CE) are sent from the RPPM to the FHWA directly using FAHP Shell 4. For all other actions, the DAD and the NYSDOT recommendation and request (that the FHWA determines the project qualifies as a CE) are sent to the MOPL for review using FAHP Shell 3, ID/IQ Shell 3 or using appropriate ROW transmittal. <p>Proceed to Step 4.</p> <p>NO ☐ If No, the NYSDOT makes the NEPA CE determination. Proceed to 3D.</p>

⁵ For non-FAHP actions that do not have a DAD, a detailed description of the action and environmental documentation is sent in lieu of a DAD.

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3D	<p>Are there</p> <p>☐ any circumstances requiring demonstration of applicable EO compliance (any checks in column B of Table 2.2); or</p> <p>☐ any issues requiring the FHWA environmental notification (any checks in column B of Table 2.3)?</p> <p>☐ If either box is checked, once all required approvals and concurrences have been secured, the NYSDOT makes the CE determination, but the information must be forwarded to FHWA for notification or action prior to Design Approval for FAHP (prior to physical construction for ID/IQ, or prior to RD approval for ROW actions) using FAHP Shell 1 (can also be used for ROW actions),</p> <p>For ID/IQ, Shell 1 is sent to notify FHWA (and request concurrence if needed). ID/IQ Shell 2 is also used to request RD signature once FHWA response is received).</p> <p>Proceed to step 4.</p> <p>☐ If neither box is checked, once all required approvals and concurrences have been secured, the NYSDOT makes the CE determination without notification to the FHWA. The project will use FAHP Shell 2, ID/IQ Shell 2 or appropriate ROW transmittal. Proceed to step 4.</p>
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Step 4: Summary and Recommendation

- The project location(s) **is** located within an area subject to transportation air quality conformity.
 - **If the project is within such areas, the NEPA process may not be completed until all transportation conformity requirements are met⁶.**
 - Transportation conformity requirements **have been met at time of signature.**
- This project does qualify to be progressed as a Categorical Exclusion.
- The NEPA Determination will be made by FHWA
- The Action meets the conditions of the listed CE at 23 CFR 771.117: c(23) "Federally-funded projects that receive less than \$5,000,000; or with total estimated cost of not more than \$30,000,000 and Federal Funds comprising less than 15% of total estimated project cost." ⁷
- All outstanding FHWA environmental approvals will be obtained and are listed here:
- All the conditions of the PARCE are addressed herein (or within the DAD or attachments).

I certify that the information provided above is true and accurate and recommend the project be processed as described above.

Project Manager/Designer
(or Responsible Local Official)⁸

X

Date 09/07/23

Print Name and Title:

Joseph Felice, P.E.

Regional Environmental Unit
Supervisor

X

Date 9/8/2023

Print Name and Title:

John L. Hallock Jr., Environmental Specialist II

Regional Local Project Liaison
(Locally Administered Projects Only)

X

Date _____

Print Name and Title:

Changes that may have occurred since the preparation of the FEAW which would create the need to review the FEAW again include but are not limited to triggers for reevaluations described in PDM Appendix 11 or any expansion in location or scope of the action for non-FAHP actions. Based on the review of the previously certified FEAW, if the current scope of the

⁶ See additional information on conformity in *FEAW_Instructions.doc*

⁷ See additional information on identifying (c)26, (c)27 & (c)28 versus d (13) in *FEAW_Instructions.doc*

⁸ Or appropriate Permitting/ROW staff for use and occupancy permit or disposal of surplus property

Federal Environmental Approval Worksheet

action would change any of the answers to the FEAU and more specifically if any of the determinations within step 2.1 require a new federal determination or concurrence then a new FEAU should be produced and certified.

MEMORANDUM

TO: M. Ricard/ DQAB, MOPL, NYSDOT MO

FROM: M. Cukrovany, Regional Design Engineer, Region 1

SUBJECT: *Request for NEPA CE Determination*
PIN 1236.29
NY Route 29 at Rowland St. Intersection Safety Improvements
Town of Milton and City of Saratoga Springs, Saratoga County

DATE: 9/8/2023

The Federal Environmental Approval Worksheet (FEAW) has been completed using the FEAW Thresholds document (V 4.0) and includes the conclusions that:

- No unusual circumstances exist per 23 CFR 771.117(b)
- The project meets the description of 23 CFR 771.117 c(23) "Federally-funded projects that receive less than \$5,000,000; or with total estimated cost of not more than \$30,000,000 and Federal Funds comprising less than 15% of total estimated project cost."

The project will not cause any significant environmental impacts.

The project is subject to the Programmatic Agreement between the Federal Highway Administration (FHWA) New York Division and the New York State Department of Transportation (NYSDOT) regarding the processing of actions classified as categorical exclusions (CE) for federal-aid highway projects (PARCE 2022).

Pursuant to the PARCE, the NYSDOT is recommending to the FHWA that the project qualifies as a CE and is requesting that the FHWA makes the CE determination



09/08/2023

Date

Michael Arthur, PE, Regional Director)

The completed, signed FEAW is included in the Design Approval Document (DAD). The DAD also addresses and documents the applicable environmental requirements identified in the FEAW.

The CE determination may not be made by the NYSDOT because:

- ☐ The project is not an action specifically listed in 23 CFR 771.117 (c) or (d).
- ☐ Independent approval is outstanding regarding:
- ☒ The PARCE threshold associated with the following identified item(s) have been exceeded: Property Acquisition

In addition, information regarding the following is provided for the FHWA to make the appropriate approvals, compliance, and concurrences:

- ☐ EO 11988 Floodplains
- ☐ EO 12898 Environmental Justice
- ☐ Safe Drinking Water Act Section 1424(e)
- ☐ US Army Corps of Engineers Permitting
 - ☐ Section 404/10 Individual Permit
 - ☐ Section 404/10 NWP #23
 - ☐ US Army Corps of Engineers Permittee Responsible (Invasive Species)
- ☐ Section 6(f) (Land and Water Conservation Funds)
- ☐ Migratory Bird Treaty Act
- ☐ 23 CFR 772 Type I Noise abatement
- ☒ No additional approvals required

Pursuant to the FEAW instructions, the FHWA is also notified that the following apply:

- ☐ National Wild and Scenic Rivers
- ☐ US Coast Guard Bridge Permit
- ☐ Known hazardous waste site (only EPA National Priority list)
- ☐ Project on or affecting Native American Lands
- ☒ No notifications were required

We are requesting that the Main Office Project Liaison provide this memo and attached DAD to the FHWA and request that the FHWA make the National Environmental Policy Act (NEPA) CE determination. For questions or additional information, please contact Joseph Felice Jr. at (518) 485-9110, or by email at joseph.felice@dot.ny.gov.



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

New York Division

September 14, 2023

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
NewYork.FHWA@dot.gov

In Reply Refer To:
HEA-NY

Mary Ricard, PE
Section Leader, Project Development and Policy
Design Quality Assurance Bureau
50 Wolf Road
Albany, NY 12205

Subject: PIN 1236.29 - NEPA Environmental Determination
NY Route 29 at Rowland St. (CR 47) Intersection Safety Improvements
Town of Milton and City of Saratoga Springs, Saratoga County

Dear Ms. Ricard:

We received your September 8 letter regarding New York State Department of Transportation's recommendation that the subject project meets the criteria for a NEPA Class II Categorical Exclusion and requests the Federal Highway Administration (FHWA) make the determination.

FHWA reviewed the Initial Project Proposal/Final Design Report dated September 2023. Based on our review, we have determined this project will not induce significant environmental impacts and agree that it meets the conditions and criteria for a NEPA Class II Categorical Exclusion in accordance with 23 CFR 771.117. The NEPA requirements have been satisfied.

If you have any questions, please feel free to contact me at (518) 431-8859.

Sincerely,

JULIA PRINCE
TRIVERS

Digitally signed by
JULIA PRINCE TRIVERS

Date: 2023.09.14
14:56:35 -04'00'

Julia P. Trivers
Area Engineer

*PIN 1236.29 - NEPA Environmental Determination
NY Route 29 at Rowland St. (CR 47) Intersection Safety Improvements*

cc: M. Cukrovany, NYSDOT Region 1
S. Older, NYSDOT Region 1
J. Felice, NYSDOT Region 1
D. Ferris, NYSDOT Region 1
A. Moore, NYSDOT Region 1
K. Kramer, NY FHWA
R. Davies, NY FHWA

Social, Economic and Environmental Resources Checklist				
PIN: 1236.29		FUNDING TYPE: Federal		
DESCRIPTION: Route 29 at Rowland Street Intersection Safety Enhancements		DATE: June 5, 2023		
		REVISION DATE:		
MUNICIPALITY: Town of Milton and City of Saratoga Springs		NEPA CLASS: Class II (CE)		
COUNTY: Saratoga		SEQRA TYPE: Type II		
SCOPE: The purpose of this project is to provide geometric and operational improvements to reduce the severity of crashes and vehicular conflict points at the intersection of NY Route 29 and Rowland Street. This will be done by replacing the existing 4-way signalized intersection with a single lane modern roundabout.				
SOCIAL, ECONOMIC AND ENVIRONMENTAL CONSIDERATIONS		IF YES, GO TO IMPACT OR ISSUE; IF NO CHECK BOX BELOW	IMPACT ¹ OR ISSUE?	
		NO	YES	NO
Social				
A. Land Use				
1. Is there potential to affect current land use/zoning?		☒	☐	☐
2. Is there a lack of consistency with community's comprehensive plan and/or other local or regional planning goals?		☒	☐	☐
3. Will the project affect any planned or future development?		☒	☐	☐
B. Neighborhoods and Community Cohesion				
1. Are relocations of homes or businesses proposed or acquisition of community resources anticipated?		☒	☐	☐
2. Is there potential for changes to neighborhood character?		☒	☐	☐
3. Is there a potential to impact transportation options (e.g., transit, walking, bicycling)?		☒	☐	☐
4. Are there potential changes to travel patterns that could affect neighborhood quality of life?		☒	☐	☐
5. Will the project divide or isolate portions of the community or generate new development that could affect the current community structure?		☒	☐	☐
C. General Social Groups				
1. Are there potential effects to the ability of transit dependent, elderly, or disabled populations to access destinations (particularly local businesses and health care facilities)?		☒	☐	☐
2. Does the project have the potential to disproportionately impact low income or minority populations (Environmental Justice)?		☒	☐	☐
3. Are there alterations to pedestrian facilities that would affect the elderly or disabled such as lengthening pedestrian crossings or providing median refuge?		☒	☐	☐
D. Community Services				
1. Is there potential to affect access to or use of Schools, Recreation Areas or Places of Worship (e.g., detours, sidewalk removal, addition of curb ramps, crosswalks, pedestrian signals,		☒	☐	☐

SOCIAL, ECONOMIC AND ENVIRONMENTAL CONSIDERATIONS	IF YES, GO TO IMPACT OR ISSUE; IF NO CHECK BOX BELOW	IMPACT ¹ OR ISSUE?	
	NO	YES	NO
etc.)?			
2. Is there potential to affect emergency service response?	☐	☐	☒
Economic			
A. Regional and Local Economies			
1. Is there potential to affect local economic viability (e.g., development potential, tax revenues, employment opportunities, retail sales or public expenditures)?	☒	☐	☐
2. Is there a potential to divert traffic away from businesses?	☒	☐	☐
B. Business Districts			
1. Are there potential effects on the viability or character of Business Districts?	☒	☐	☐
2. Will the project affect transportation options available for patrons getting into or out of the District?	☒	☐	☐
3. Will sidewalks, bicycling opportunities or transit opportunities to or within the district be affected?	☒	☐	☐
4. Will parking within the district be affected?	☒	☐	☐
C. Specific Business Impacts			
1. Are effects to specific businesses anticipated? (e.g., sidewalks, bicycling opportunities, or handicapped access to and from businesses)?	☐	☐	☒
2. Will the project affect available transportation options for patrons to businesses?	☐	☐	☒
3. Will the project affect the ability of businesses to receive deliveries?	☐	☐	☒
4. Will parking for businesses be affected?	☒	☐	☐
Environmental			
1. Are there wetlands within or immediately adjacent to the project limits? <i>See Environmental Procedures Manual (EPM) 4.A.R, Executive Order (EO) 11990 may apply.</i>	☐	☒	☐
2. Are there Surface Waters (other than wetlands) within or immediately adjacent to the project limits? <i>lakes, ponds streams or wetlands of any jurisdiction</i>	☒	☐	☐
3. Is there a designated Wild or Scenic River within or immediately adjacent to the project limits? (See The Environmental Manual (TEM) 4.4.3)	☒	☐	☐
4. Will the project require a U.S. Coast Guard Bridge Permit? <i>Project area includes a bridge over navigable waters of U.S.</i>	☒	☐	☐
5. Does the project area contain waters regulated as Navigable by U. S. Army Corps of Engineers? <i>Section 404/10 Individual Permit or NWP 23 may be required</i>	☒	☐	☐
6. Is the project in a mapped Flood Zone? <i>TEM section 4.?, EO 11988</i>	☒	☐	☐
7. Is the project in or could it affect a designated coastal area? <i>FAN and/or Consistency determination may be required. See TEM 4.6</i>	☒	☐	☐
8. Is the project area above a Sole Source Aquifer? <i>See TEM 4.4</i>	☒	☐	☐

SOCIAL, ECONOMIC AND ENVIRONMENTAL CONSIDERATIONS	IF YES, GO TO IMPACT OR ISSUE; IF NO CHECK BOX BELOW	IMPACT ¹ OR ISSUE?	
	NO	YES	NO
<i>Coordination with FHWA and/or EPA may be required.</i>			
9. Will the project involve one (1) acre of ground disturbance (or 5,000 sf in the East of Hudson watershed)?	☐	☒	☐
10. Are federally/state listed endangered species or designated critical habitat indicated for the project county? <i>Coordination with DEC and/or a FHWA determination may be required. See TEM 4.4.9.3</i>	☐	☐	☒
11. Is the project in a designated Critical Environmental Area? <i>TEM 4.4.11(SEQR issue)</i>	☒	☐	☐
12. Are there any resources protected by Section 106 (or Section 1409) within the project limits or immediate area? See TEM 4.4.12 Appendix G	☒	☐	☐
13. Is Native American coordination required outside of Section 106 consultation? <i>The project on or affecting Native American Lands or other areas of interest</i>	☒	☐	☐
14. Is there a use, constructive use or temporary occupancy of a 4(f) resource? See SECTION 4(f) POLICY PAPER and contact Area Engineer.	☒	☐	☐
15. Will the project involve conversion of a 6(f) resource? <i>listed as having Land and Water Conservation funds spent on the resource</i>	☒	☐	☐
16. Is there any potential to affect the character of important and possibly significant the visual resources of the project area and its environs? (See PDM Chapter 3.2.2.2)	☒	☐	☐
17. Will the project convert land protected by the Federal Farmland Protection Act? See TEM 4.4.15	☒	☐	☐
18. Will the project acquire active farmland from an Agricultural District? (SEQR issue)	☒	☐	☐
19. Is the project in a non-attainment area and exceed the CO screening criteria? see EPM Chapter 1 1.1-19 an Air Quality Analysis required	☒	☐	☐
20. Is the project in a non-attainment area and exceed the PM screening criteria? see EPM Chapter 1 1.1-19? A hot spot analysis is required	☒	☐	☐
21. Is the project a Type I Noise project as per 23 CFR 772? See TEM 4.4.18	☒	☐	☐
22. Will the project require the removal of Asbestos Containing Materials? See TEM 4.4.19	☐	☒	☐
23. Does the project area contain Contaminated and Hazardous Materials? <i>EPA National Priority List</i>	☐	☒	☐
24. Will the project increase the height of towers, construct new towers or other obstructions in a known migratory bird flyway?	☒	☐	☐

NOTES:

¹ The term "impacts" means both positive and negative effects. Both types of effects should be discussed in the body of the report as appropriate.

PREPARED BY (Print Name and Title): Loretta McNamee, Environmental Specialist I

CERTIFICATION:

I certify that the information provided above is true and accurate.

Regional/Main Office Environmental Unit Supervisor  Date 8/24/2023

Print Name and Title: John L. Hallock Jr. Environmental Specialist 2

Section 7 ESA Process for USFWS Species: ESA Transmittal Sheet

Step 3: Documentation. Please complete the appropriate boxes below and complete the documentation as described.

	ESA Does Not Apply	No Effect, Activity-Based	No Effect	No Effect, No Suitable Habitat ¹	Bat PA IPaC Submittal-MA, NLAA	Individual Submission to USFWS	MA, LAA-Formal Consultation
Northern Long-eared Bat	☐		☐	☒ IPaC Auto NE	☐	☐	☐
Indiana Bat	☒		☐	☐	☐	☐	☐
Bog Turtle	☒		☐	☐	NA	☐	☐
Mussels	☒		☐	☐	NA	☐	☐
Karner Blue Butterfly	☐		☐	☒	NA	☐	☐
Other (Red Knot, Piping Plover, etc.) List Species: Monarch Butterfly	☒		☐	☐	NA	☐	☐
Documentation Required	The IPaC Official Species List is included in the DAD.	Record the corresponding number of the activity in the box. This sheet and the IPaC Official Species List are included in the DAD.	NYSDOT submits "No Effect" determination to FHWA. FHWA will concur or not concur.	NYSDOT submits "No Effect, No Suitable Habitat" determination to FHWA. Concurrence has been obtained if 7 days pass without correspondence from FHWA. ²	NYSDOT submits through IPaC w/ Area Engineer included. Concurrence is obtained if 14 days pass without correspondence from USFWS.	NYSDOT submits either BE or BA to FHWA, who submits to USFWS for concurrence.	NYSDOT submits BA to FHWA for Initiation of Formal Consultation with USFWS.
Submission to FHWA Required?	No	No	Yes	Yes ³	cc: only	Yes	Yes
Submission to USFWS by DOT through IPAC Required?	No	No	No	No	Yes	No	No
Submission to USFWS by FHWA Required?	No	No	No	No	No	Yes	Yes

Instructions: This Summary Sheet is to be included all submissions to FHWA. A submittal package includes all documentation for all species requiring concurrence with a cover letter requesting concurrence, so that FHWA can make one ESA determination. SEE EACH SPECIES-SPECIFIC PACKAGE FOR SPECIFIC DOCUMENTATION REQUIREMENTS FOR SUBMITTALS. Also, FHWA requires documentation of compliance with ESA in the DAD.

When the IPaC Species List includes NLEB but the IPaC Determination Key indicates the project does not intersect an area where bats are likely to

occur: ¹ If NLEB-IPaC Auto NE: In the NLEB cell, write "IPaC Automatic NE"; ² If NLEB-IPaC Auto NE: The IPaC Official Species List and No Effect Consistency Letter is included in the DAD; ³ If NLEB-IPaC Auto NE: Submission to FHWA is not required.

Section 7 ESA Process for NMFS Species: ESA/EFH Transmittal Sheet

Step 3: Documentation. Please complete the appropriate boxes below and complete the documentation as described.

	ESA/EFH Does Not Apply	No Effect, Activity-Based	No Effect	ESA Programmatic Agreement Applies	EFH Programmatic Agreement Applies	Informal Consultation/ Individual Submission to NMFS	MA, LAA Formal Consultation and/or Individual EFH Consultation is Required
Sturgeon (Shortnose, Atlantic)	☒		☐	☐	NA	☐	☐
Sea Turtles	☒		☐	☐	NA	☐	☐
Atlantic Large Whales	☒		☐	☐	NA	☐	☐
EFH Resources	☒		☐	NA	☐	☐	☐
Documentation Required	☐ Both the NMFS ESA and EFH Maps printouts are included in the DAD. ☒ <u>No In-Water Work</u> . No NMFS maps included in the DAD.	Record the corresponding number of the activity in the boxes above. This sheet and both the NMFS ESA and EFH Maps printouts are included in the DAD.	NYSDOT submits "No Effect" determination for NMFS ESA, EFH, or both to FHWA. FHWA will concur or not concur.	NYSDOT submits the ESA Verification Form to NMFS with a cc: to the FHWA Area Engineer	NYSDOT submits the EFH Verification Form to NMFS with a cc: to the FHWA Area Engineer	NYSDOT submits either BE or BA for ESA, and/or an EFH Assessment Report to FHWA, who submits to NMFS for concurrence.	NYSDOT submits BA for ESA and/or an EFH Assessment to FHWA for Initiation of Formal Consultation with NMFS.
Submission to FHWA Required?	No	No	Yes	Yes	Yes	Yes	Yes
Submission to NMFS by FHWA Required?	No	No	No	No	No	Yes	Yes

Note: NMFS ESA Submittals for Programmatic Agreement Verification, Informal, and Formal Consultation is sent to the NOAA/NMFS Protected Resources Division of the Gloucester, MA office. NMFS EFH Submittals for Programmatic Agreement Verification, Informal, and Formal Consultation is sent to the NOAA/NMFS Habitat Conservation Division in Sandy Hook, NJ. Email addresses are located in the respective forms.

Instructions: This Summary Sheet is to be included all submissions to FHWA. A submittal package includes all documentation for all species requiring concurrence with a cover letter requesting concurrence, so that FHWA can make one ESA determination. SEE EACH SPECIES-SPECIFIC PACKAGE FOR SPECIFIC DOCUMENTATION REQUIREMENTS FOR SUBMITTALS. Also, FHWA requires documentation of compliance with ESA in the DAD.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New York Ecological Services Field Office
3817 Luker Road
Cortland, NY 13045-9385
Phone: (607) 753-9334 Fax: (607) 753-9699
Email Address: fw5es_nyfo@fws.gov



In Reply Refer To:

June 05, 2023

Project Code: 2022-0022373

Project Name: 1236.29 Route 29 at Rowland Street Intersection Improvement

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2))

(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see <https://www.fws.gov/birds/policies-and-regulations.php>.

The MBTA has no provision for allowing take of migratory birds that may be unintentionally killed or injured by otherwise lawful activities. It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures see <https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds.php>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/birds/policies-and-regulations/executive-orders/e0-13186.php>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. **Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.**

Attachment(s):

- Official Species List

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New York Ecological Services Field Office

3817 Luker Road

Cortland, NY 13045-9385

(607) 753-9334

PROJECT SUMMARY

Project Code: 2022-0022373

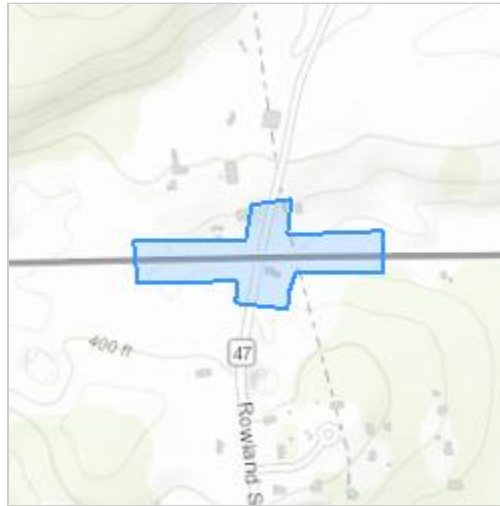
Project Name: 1236.29 Route 29 at Rowland Street Intersection Improvement

Project Type: Road/Hwy - Maintenance/Modification

Project Description: Intersection improvement project.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@43.0755025,-73.84781488279344,14z>



Counties: Saratoga County, New York

ENDANGERED SPECIES ACT SPECIES

There is a total of 2 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

IPAC USER CONTACT INFORMATION

Agency: New York State Department of Transportation

Name: Loretta McNamee

Address: 50 Wolf Road

City: Albany

State: NY

Zip: 12232

Email: loretta.mcnamee@dot.ny.gov

Phone: 5184577818

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New York Ecological Services Field Office
3817 Luker Road
Cortland, NY 13045-9385
Phone: (607) 753-9334 Fax: (607) 753-9699
Email Address: fw5es_nyfo@fws.gov

In Reply Refer To:

May 02, 2023

Project code: 2022-0022373

Project Name: 1236.29 Route 29 at Rowland Street Intersection Improvement

Subject: Consistency letter for the '1236.29 Route 29 at Rowland Street Intersection Improvement' project under the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (NLEB).

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated May 02, 2023 to verify that the **1236.29 Route 29 at Rowland Street Intersection Improvement** (Proposed Action) may rely on the amended February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion (dated March 23, 2023) for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat.884, as amended; 16 U.S.C. 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action will have no effect on the endangered Indiana bat (*Myotis sodalis*) or the endangered northern long-eared bat (*Myotis septentrionalis*). If the Proposed Action is not modified, **no consultation is required for these two species**. If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA section 7(a)(2) may be required.

For Proposed Actions that include bridge/culvert or structure removal, replacement, and/or maintenance activities: If your initial bridge/culvert or structure assessments failed to detect Indiana bats and/or NLEB use or occupancy, yet later detected prior to, or during construction, please submit the Post Assessment Discovery of Bats at Bridge/Culvert or Structure Form (User Guide Appendix E) to this Service Office within 2 working days of the incident. In these instances, potential incidental take of Indiana bats and/or NLEBs may be exempted provided that the take is reported to the Service.

If the Proposed Action may affect any other federally-listed or proposed species and/or designated critical habitat, additional consultation between the lead Federal action agency and this Service Office is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please advise the lead Federal action agency accordingly.

The following species may occur in your project area and **are not** covered by this determination:

- Monarch Butterfly *Danaus plexippus* Candidate

PROJECT DESCRIPTION

The following project name and description was collected in IPaC as part of the endangered species review process.

NAME

1236.29 Route 29 at Rowland Street Intersection Improvement

DESCRIPTION

Intersection improvement project.

DETERMINATION KEY RESULT

Based on the information you provided, you have determined that the Proposed Action will have no effect on the endangered Indiana bat and/or the endangered northern long-eared bat.

Therefore, no consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required for these two species.

QUALIFICATION INTERVIEW

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

No

2. Is the project within the range of the northern long-eared bat^[1]?

[1] See [northern long-eared bat species profile](#)

Automatically answered

Yes

3. [Semantic] Does your proposed action intersect an area where Indiana bats and northern long-eared bats are not likely to occur?

Automatically answered

Yes

DETERMINATION KEY DESCRIPTION: FHWA, FRA, FTA PROGRAMMATIC CONSULTATION FOR TRANSPORTATION PROJECTS AFFECTING NLEB OR INDIANA BAT

This key was last updated in IPaC on April 13, 2023. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which may require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the endangered **northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.

IPAC USER CONTACT INFORMATION

Agency: New York State Department of Transportation

Name: Loretta McNamee

Address: 50 Wolf Road

City: Albany

State: NY

Zip: 12232

Email: loretta.mcnamee@dot.ny.gov

Phone: 5184577818

LEAD AGENCY CONTACT INFORMATION

Lead Agency: Federal Highway Administration



**New York State
Parks, Recreation and
Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

August 4, 2023

Chris Sobik
Cultural Resource Coordinator
NYSDOT
50 Wolf Rd
Albany, NY 12205

Re: FHWA
Route 29 at Rowland Street (CR 47) Intersection Safety Enhancements
Town of Milton, Saratoga County, NY
23PR04147

Dear Chris Sobik:

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). We have reviewed the provided documentation in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include other environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based on this review, the SHPO concurs with your agency's determination that there will be No Historic Properties Affected by the proposed undertaking.

If you have any questions, I can be reached at Jessica.Vavrsek@parks.ny.gov.

Sincerely,

Jessica Vavrsek
Historic Preservation Specialist – Archaeology/NAGPRA



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

New York Division

September 7, 2023

Leo W. O'Brien Federal Building
11A Clinton Avenue, Suite 719
Albany, NY 12207
518-431-4127
Fax: 518-431-4121
NewYork.FHWA@dot.gov

In Reply Refer To:
HEA-NY

Mr. Chris Sobik
Cultural Resource Coordinator
NYSDOT Region 1
50 Wolf Road
Albany, NY 12232

Subject: PIN 1236.29 - Section 106 Consultation
Route 29 at Rowland Street (CR 47) Intersection Safety Enhancements
Town of Milton, Saratoga County
23PR04147

Dear Mr. Sobik:

In response to your September 5 request for our concurrence that the requirements of 36 Code of Federal Regulations (CFR) Part 800 of the National Historic Preservation Act have been met for this project, we have reviewed the submitted materials.

You have concluded that *"No Historic Properties Affected"* on or eligible for inclusion on the National Register of Historic Places by this undertaking and notified the State Historic Preservation Officer (SHPO), The Stockbridge Munsee Community Band of Mohican Indians, and the Saint Regis Mohawk Tribe of your finding.

The SHPO offered an opinion on May 26 and concurs with the request for a Phase I archaeological survey. A survey report was completed on July 27. No historic properties were identified by this survey. The SHPO concurs with the determination that there will be *"No Historic Properties Affected"* by the proposed undertaking. The Tribal Preservation Officer for the Stockbridge Munsee Community Band of Mohican Indians responded on August 8, 2023, stating that they concurred with NYSDOT's finding and that they had no issue with the project moving forward. The Tribal Preservation Officer for the Saint Regis Mohawk Tribe did not respond within the review period; their concurrence is therefore assumed.

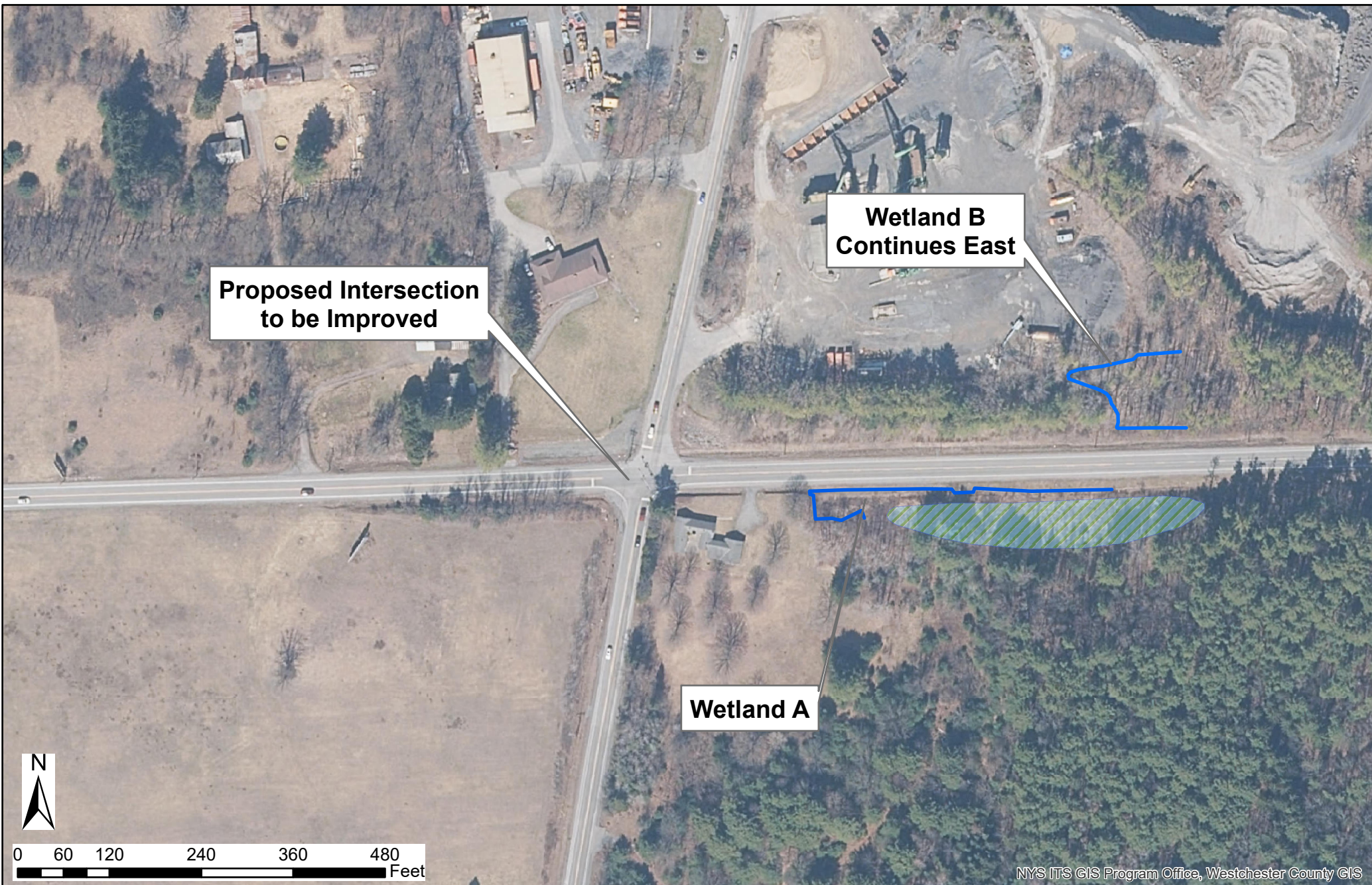
We have reviewed the information provided and concluded that this undertaking has *"No Historic Properties Affected"* for properties on or eligible for inclusion on the National Register of Historic Places. The requirements of 36 CFR Part 800 have been met for this project.

*PIN 1236.29 - Route 29 at Rowland Street (CR 47) Intersection Safety Enhancements
Section 106 Consultation*

If you have any questions, please contact me at (518) 431-8859.

Sincerely,
**JULIA PRINCE
TRIVERS**
Digitally signed by JULIA PRINCE
TRIVERS
Date: 2023.09.07 14:10:32 -04'00'
Julia P. Trivers
Area Engineer

cc: T. Thorne, NYSDOT Region 1
J. Felice, NYSDOT Region 1
L. McNamee, NYSDOT Region 1
K. Kramer, NY FHWA
R. Davies, NY FHWA
S. Higgins, NYSDOT Eastern Region



PIN 1236.29
Route 29 at Rowland Street Intersection Improvements
Wetlands Map
Town of Milton, Saratoga County

LEGEND

- Delineated Wetlands  Federal Wetlands