

Environmental  
Assessment  
Cole Hollow Road  
Realignment Project

Appendix – E

EO 11988/11990 – Eight  
Step Decision  
Making Process

**EO 11988/11990 Eight-Step Review Decision Making Process - Summary**  
**Town of Blenheim, NY (Schoharie County)**  
**Cole Hollow Road Realignment**  
**FEMA-4020-DR-NY PW 08505**  
**September, 2015**

Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) require Federal agencies “to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of the floodplains/wetlands and to avoid direct or indirect support of floodplains/wetland development wherever there is a practicable alternative.” FEMA’s implementing regulations are contained in 44 CFR Part 9, which includes an Eight-Step Decision Making Process for compliance with this part.

The Eight-Step Review Decision Making Process is applied to the Cole Hollow Road Realignment project. The Town of Blenheim, Schoharie County, New York, experienced storm damage and flooding from Hurricane Irene that occurred August 26 to September 5, 2011. President Barack Obama declared the incident a major disaster on August 31, 2011. The project purpose is to restore safe and stable roads and transportation connections; the project need is to move the road from unstable slopes that are severely eroded and at risk of slope failure. The proposed project would abandon approximately 1,500 feet of Cole Hollow Road and would realign the section of road so that it is situated in more stable soils and topography. Approximately 300 feet of the abandoned portion of Cole Hollow Road would be dedicated to private property owners for driveway access; the remainder would be scarified and re-seeded. The Town of Blenheim is currently using the road to provide access to residents and local traffic. The Grantee for the proposed project is the New York State Division of Homeland Security and Emergency Services and the Subgrantee is the Town of Blenheim.

The Subgrantee seeks funding from FEMA to realign the damaged section of road onto more stable soils to restore safe roads and transportation connections, as described in FEMA-4020-DR-NY PW 08505 (hereon, the Project). The decision making process consists of subsequent eight steps (i.e., 1, 2, 3, 4, 5, 6, 7, 8) per 44 CFR Part 9.5(d), as follows:

**Step 1 Determine if the proposed action is located in or affects or may be affected by the Floodplain or Wetland.**

Both the old and the proposed alignment of Cole Hollow Road are located outside the floodplain. Community Panel Number 360950290E is an unprinted panel containing no Special Flood Hazard Areas (SFHA).

The applicant has undertaken a review of the project site for the presence of NYS-regulated freshwater wetlands, conducted using the NYSDEC’s “Environmental Resource Mapper,” and a for Federally-mapped wetlands, conducted using the U.S. Fish and Wildlife Service’s (USFWS) National Wetlands Inventory (NWI) website. No State or Federally-mapped wetlands were found using these sources. However, field investigation indicated the presence of one small Federally-regulated wetland in the northeast portion of the site, at the location where the proposed alignment

would reconnect to the old road alignment adjacent to the intersection of Cole Hollow Road and Spur Road.

According to a “Delineation of Waters of the United States including Freshwater Wetlands” by North Country Ecological Services, Inc, on December 20, 2012, the on-site wetland consists of approximately 0.6 acres of palustrine scrub-shrub and palustrine emergent wetlands. This wetland area is located in a naturally-occurring depression near the intersection of Cole Hollow Road and Spur Road. The proposed project would disturb a small area of this wetland, expected to be less than 0.1 acre in total.

### **Step 2 Early public notice (Preliminary Notice)**

On October 10, 2011, FEMA published a cumulative public notice for the Hurricane Irene disaster in the *New York Press Service* newspapers. As indicated in the public notice, “projects and activities may adversely affect historic property, floodplains or wetlands, or may result in continuing vulnerability to damage by flooding...however, certain measures to mitigate the effects of future flooding or other hazards may be included in the work”. The public notice also stated that “mitigation measures will be incorporated on an action by action basis and this (the October 10, 2011 notice) may be the only public notice concerning these actions.” In addition, a project specific notice, integrated with the Notice of Availability of the National Environmental Policy Act (NEPA) Environmental Assessment, will be published in the local newspapers, the *Times Journal* and the *Mountain Eagle*. The public notice will invite comments within 15 days of the publication date of the notice.

### **Step 3 Identify and evaluate alternatives to locating in the base floodplain or wetland.**

44 CFR 9.9 (b) requires that FEMA “identify and evaluate practicable alternatives to carrying out a proposed action in floodplains or wetlands, including:

- 1) Alternative sites outside the floodplain or wetland;
- 2) Alternative actions which serve essentially the same purpose as the proposed action, but which have less potential to affect or be affected by the floodplain or wetlands; and
- 3) No action. The floodplain and wetland site itself must be a practicable location in light of the factors set out in this section” (below).

Factors to consider in determining practicable alternatives include:

- 1) the natural environment (topography, habitat, hazards, etc.);
- 2) social concerns (aesthetics, historical and cultural values, land patterns, etc.);
- 3) economic aspects (cost of space, construction, services and relocation), and
- 4) legal constraints (deeds, leases, etc.).

According to 44 CFR Part 9.9 (b), alternatives considered include:

- 1) No Action Alternative - No federal funding. The Town of Blenheim would not realign the road and would provide no other repairs.
- 2) Proposed Action Alternative - Relocate the facility off slope.

The No Action Alternative would not provide Federal funding to realign Cole Hollow Road and take the original alignment out of service. Thus, the original road would continue to be used, increasing

the threat of further erosion at this location. The no action alternative may jeopardize public health, safety, and well-being and thus it would not address the project's purpose and need.

The Proposed Action Alternative would use eligible Federal funding to realign Cole Hollow off a steep slope that is in danger of failing. Relocating the facility (i.e., realigning the road) would reduce future risk to the subgrantee's roads and residents. FEMA determines that the proposed project would have "no significant impact" to wetlands because less than 0.1 acre of wetland would be affected by new development.

The Subgrantee has reviewed and dismissed an alternative that would stabilize the existing slope using sheet pilings. This alternative would be more costly than the proposed alternative and would have greater impact to natural resources in the vicinity of the site, and was determined to be impracticable.

***Step 4 Identify impacts of the proposed action associated with occupancy or modification of the floodplain and wetland.***

The proposed project would not adversely affect the natural habitat values or other functions of the floodplain and would not encourage occupancy of a floodplain, because there is no floodplain in the vicinity of the project site.

Based on the currently proposed layout, the proposed project is expected to impact less than 0.1 acre of the on-site wetland. The wetland is located at a low, relatively flat area of the site that is adjacent to an existing intersection, and the new alignment reconnects to the existing road at this location. A wetland crossing cannot be avoided at this location.

***Step 5 Design or modify the proposed action to minimize threats to life and property and preserve its natural and beneficial floodplain and wetland values.***

To minimize impacts to wetlands and to comply with EO 11990, best management practices would be used during construction to minimize impact to on-site wetland areas. Disturbance of the wetland would be minimized to the extent practicable during construction. Current site plans indicate that wetland connectivity on either side of the road would be preserved by culverts installed under the road bed.

Any loss of wetland function as a result of construction would be compensated for by compliance with stormwater management regulations and/or any compensatory mitigation that may be required by the US Army Corps of Engineers.

***Step 6 Re-evaluate the proposed action.***

The No Action Alternative would have no direct and indirect effects on floodplain occupancy.

The Proposed Action Alternative would keep the damaged facility outside of the 100-year and 500-year floodplains. The impact to wetlands at the proposed site would be minimal. FEMA's

consideration of the Proposed Action Alternative as the practicable alternative that has the greatest potential for public good and that meets the project's need and purpose.

***Step 7 Findings and Public Explanation (Final Notification).***

After evaluating alternatives, including impacts and minimization opportunities, FEMA has determined that the Proposed Action Alternative is the practicable alternative as set forth by factors described in 44 CFR Part 9.9(c) and documented in *Step 3* of this Eight-Step Review.

The Proposed Action Alternative would relocate the facility outside the 100-year and 500-year floodplains and reduce flooding risks from future storm events. While wetlands are found on the site of the Proposed Action Alternative, wetland impacts would be minimized.

FEMA's determination is documented in this summary and the associated Record of Environmental Consideration report for the proposed project. This Eight-Step Review will become part of the Cole Hollow Road Realignment Environmental Assessment that will be made available for public review and comment with a project specific public notice. The Final Notice will be integrated with the Finding of No Significant Impact (FONSI) statement that is anticipated for the proposed action.

***Step 8 Implement the action.***

This is a Federal grant. The Subgrantee is responsible for review of the final building plans and will need to assure compliance with all applicable Federal laws, executive orders, and regulations, as well as state and local laws, regulations, codes and standards. The Subgrantee will need to obtain all required Federal, state, and local building and site development permits, such as a State Pollutant Discharge Elimination System (SPDES) permit, as a condition of the Federal grant, to preserve the environment, and to minimize risk and harm to life and property.