



FHWA South Carolina Division
Determination of Section 4(f) *De minimis* Use

State File #	ER SC16-12	Fed Project #	DR 4241	PIN	P02931	Date	10/28/15	County	Richland
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Project Description: Emergency Repair of SC 769

Form Purpose: This form is based on FHWA regulations regarding Section 4(f) found at 23 CFR 774. The form is to be used when a determination of *de minimis* use is to be made for a Section 4(f) property.

Form Instructions: Fill out the form completely based on type of impact and attach the approval from the agency with jurisdiction over the Section 4(f) resource to the form. When multiple 4(f) properties are impacted by a project and a *de minimis* finding is to be made for each property, a separate form must be filled out for each property affected.

Document Type: EIS EA CE

Description of the Section 4(f) Resource:

Magnolia/Wavering Place: National Register-listed property

Brief Description of Project Scope:

Two 10' x 12' culverts and a large portion of Congaree Road (SC Route 769) in Richland County were washed downstream during the 2015 flood event (see attached photos). The Department is in the process of developing a design-build project to correct the roadway as part of statewide emergency repair efforts. The design build contractor will be responsible for the design and construction of a new bridge structure and its approaches. The new bridge will be built on the essentially the same horizontal alignment. The vertical alignment of the roadway may increase slightly (no greater than 3-4' change in height) to meet current hydraulic design requirements. Some areas of new right-of-way acquisition may be required for construction access.

Applicability Determination:

(to be applicable answers to all questions must be "yes")

I. For Public Parks, Recreation Areas, and Wildlife and/or Waterfowl Refuge:

1. Does the project involve a minor take of land from the resource? Yes No

a. Identify the total acreage of the resource: Acres

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b. Describe the use of the land from the resource and identify amount of the resource to be used (acres):

2. Does the project not adversely affect the qualities, activities, features, or other attributes of the resource that qualify it for protection under Section 4(f)? Yes No

3. Has the agency with jurisdiction over the resource concurred in writing with the FHWA's and/or SCDOT's determination that the project will not adversely affect the resource and is the concurrence attached? Yes No

a. Identify the agency with jurisdiction:

4. Has the agency with jurisdiction over the resource been informed of FHWA's and/or SCDOT's intent to make a *de minimis* finding? Yes No

b. If yes, attach the correspondence. Correspondence attached? Yes No

5. Has the public been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the resource? Yes No

a. Identify the opportunity for public comment:

II. For Historic Properties:

1. Does the project have a "No Adverse Effect" or a "No Historic Properties Affected" on the historic property as defined by Section 106 of the National Historic Preservation Act and its regulations? Yes No

a. Identify the effects determination for the resource:

No Adverse Effect

b. Describe the use of land from resource and identify the amount of the resource to be used (acres):

The existing right of way is 37.5'. 75' of additional right of way will be required around the bridge (75' to each end). Some additional right of way may be needed along approach road. Less than 1.0 acre of right of way would be acquired from the 267-acre eligible boundary of the property.

2. Has the SHPO and ACHP, if participating in the Section 106 consultation, concurred in writing with the effects determination? Yes No

Section 4(f) *De minimis* Finding Use Form Continued:

- a. If so, attach the written concurrence. Concurrence attached? Yes No
(Receipt of the SHPO's concurrence with the FHWA's finding, or a non-response after the specific time qualifies as the necessary correspondence from the official with jurisdiction over Section 106 properties).
3. Has the SHPO and ACHP, if participating in the Section 106 consultation, been informed of FHWA's and/or SCDOT's intent to make a *de minimis* impact/no adverse finding based on their written concurrence in the Section 106 determination? Yes No
- a. If yes, attach correspondence. Correspondence attached? Yes No
4. Have the views of the consulting parties participating in the Section 106 consultation been considered? Yes No
- a. Attach any relevant correspondence and any necessary responses to consulting party comments. Correspondence attached? Yes No

III. Alternatives Analysis:

1. Summarize why the use of the property from the resource cannot be avoided.

Project needs would not be met.

Explain:

Existing crossing is closed and new bridge is necessary to open road back to the public. Project area to the north is restricted by a railroad line. Majority of construction work/access needs to take place to the south.

Substantial impacts to other environmental/cultural/social resources would result.

Explain:

Project complexity would increase resulting in greater construction and maintenance costs.

Explain:

Other.

Explain:

Existing crossing is closed and new bridge is necessary to open road back to the public. Project area to the north is restricted by a railroad line. Majority of construction work/access needs to take place within existing alignment and to the south of roadway.

2. Summarize the measures to minimize harm. This would include, if applicable, any mitigation measures.

IV. Summary and Determination:

The project involves a *de minimis*/no adverse use on the Section 4(f) property as evidence with a "No Adverse Effect" finding from the SHPO or as evidence through the minimization of harm to a public park, recreation land or wildlife and waterfowl refuge as a result of mitigation to or avoidance of impacts to the qualifying characteristics and/or the functions of the resource.

Based on the scope of the undertaking; the fact that the undertaking does not adversely affect the function/qualities of the Section 4(f) resource on a permanent or temporary basis; and with agreement from the official with jurisdiction, the proposed action constitutes a *de minimis*/no adverse use and the alternatives analysis is considered satisfied.

Preparer:

Date:

Program Manager:

Date:

Environmental Manager:

Date:

FHWA:
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