



OHIO DEPARTMENT OF TRANSPORTATION

DISTRICT 12
5500 TRANSPORTATION BLVD. • GARFIELD HGTS., OH 44125 • 216-581-2100

Environmental Document

for

CUY North Marginal Rd Connector PID 118968

Environmental Document Level: C2

Approved: 1/3/2024

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The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried out by ODOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2020, and executed by FHWA and ODOT.

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Project Information

PID:	118968
Project Sponsor:	CUYAHOGA COUNTY ENGINEER
ODOT District:	12
Funding Source:	Federal
Project Description:	



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The Cuyahoga County Department of Public Works and the City of Cleveland, in coordination with the Ohio Department of Transportation (ODOT) propose a project to construct a new shared-use path along North Marginal Road between E. 9th St. and E. 55th St. in the City of Cleveland in Cuyahoga County. Provides connectivity to existing paths operated by the Cleveland Metroparks. The project includes narrowing portions of North Marginal Road to accommodate the path, including retaining wall, lighting, landscaping, utility relocations, and traffic control.

The project will be constructed within the existing right-of-way and will involve grading, pavement improvements, improvements to driveway aprons, curbs, fencing, traffic control, and drainage improvements. Temporary right-of-way is anticipated from the Sailing Inc./Shoreline Apartments, Lakeside Yacht Club, and Forest City Yacht Club parcels. There will be no impacts to recreational uses on these properties and no permanent right-of-way impacts. The bikeway traffic on North Marginal Road will be detoured via East 55th to St. Clair Avenue while constructing the project.

There is 0.213 acre of suitable wooded habitat (SWH) for bats located within 100 feet from the edge of pavement. Approximately, 0.014 acre of SWH is located within the construction limits of the project and will likely be impacted. According to the USFWS, the project is not located within a known bat buffer. There is no suitable habitat for any other federally or state listed species within the project area.

Based on the information in the Regulated Materials Review (RMR) Form completed for the project, further RMR activities are not warranted for the project. District RMR approval date was on October 24, 2023, and set of environmental commitments need to be addressed prior starting of the construction activities.

The project is not located within a regulated floodplain; therefore, no coordination is required. Coastal Consistency determination was provided November 30, 2023.

The project will not require land from within the historic boundary of a Section 4(f) Cultural Resource. The east end of the project is located on the edge of a single property that is listed in the National Register of Historic Places (NRHP): The Universal Terminal Dock and Warehouse Building (National Register #83001954) is located at 5451 North Marginal Road and has been redeveloped into an apartment building. Only Temporary right of way is needed from within the historic boundary, to reconfigure the southernmost parking area and entrance to the property. No contributing features of the property are being removed or altered. No land from any historic property will be converted to a transportation facility. No contributing features of any historic property will be removed or altered. On August 15, 2023, in accordance with Stipulation V(C)(3) of the Section 106 Programmatic Agreement executed on June 29, 2023 (Agreement No. 38503), Ohio's State Historic Preservation Office concurred with ODOT's determination that the undertaking will have No Adverse Effects on historic properties. In accordance with 23 CFR 774, ODOT has determined the undertaking will not result in the use of any Section 4(f) historic site.

The Cleveland Metroparks Lakefront Reservation and Cleveland Lakefront Bikeway (all-purpose trail) are located directly adjacent to the eastern end of the project. The project will require no right-of-way from the park or bikeway. Impacts will be limited to a localized closure of approximately two months while the eastern end of the new trail is connected to the western terminus of the existing Cleveland Lakefront Bikeway near E. 55th Street. See below 4(f) discussion for details.

No other environmental or Environmental Justice population impacts will result from this project.

A press release including information about the project and a link to the section 106 Application was posted on the Cuyahoga County website, and a public notice was mailed to property owners, businesses, and residents. Both notifications were on July 19, 2023. The press release also provided an opportunity to the public to comment on the project. The comment period closed on August 21, 2023. Ten (10) project comments were received. Seven respondents expressed support for the project and improved bicycle and pedestrian connections along North Marginal Road. One respondent asked for more information about the potential impacts to their operations at Burke Lakefront Airport. One suggested the money should be spent elsewhere and another suggested reducing North Marginal to one-way traffic to make room for the trail and install noise walls between I-90 and North Marginal. A copy of the press release and public notification letter are included in the Project File under Public Involvement/Project Information. Cuyahoga County Engineer and City of Cleveland have decided to proceed with the project.

NEPA start date was April 18, 2023. The environmental document and associated studies are approved using Stage 3 design. A copy of the plans is included in the project file.

The next phase of the proposed project is listed on the STIP:

Yes

Ellis STIP Details



Phase	Current STIP Reference
CO	118968: 24-27 STIP

The current cost estimate is in line with existing federal procedures for Ohio STIP Amendments and Administration Modifications: Yes

Select the appropriate project type:

(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 I of this section. **Examples include: Joint or limited use of right-of-way where the proposed use would have minimal or no adverse social (including highway safety), economic or environmental impacts; Installation of new noise walls and other new noise mitigation projects; Construction of highway safety and truck escape ramps; Construction of bicycle lanes and pedestrian walkways, sidewalks, shared-use paths, or facilities and trailhead parking that do not otherwise qualify for a C1 designation; Beautification or facility improvement projects (i.e. landscaping, curb and gutter installation and replacement, ADA ramps/curb ramps, installation of park benches, decorative lighting, etc.); Construction of alternative energy facilities (fuel tank farms, wind turbines, etc.)**

In accordance with 23 CFR 771.117(e), the proposed project cannot be processed as a C2 CE, if it involves -

1. **a.** Acquisition of more than a minor amount of ROW (exceeds strip takes)
2. **b.** Residential or non-residential displacements
3. **c.** A U.S. Coast Guard permit or an Individual Section 404 permit under the Clean Water Act
4. **d.** A Section 106 finding of *Adverse Effect*
5. **e.** Section 4(f) impacts greater than de minimis
6. **f.** A finding of *May Affect, Likely to Adversely Affect* to Threatened and Endangered Species
7. **g.** Construction of temporary access, or the closure of existing road, bridge, or ramps, that would result in major traffic disruptions
8. **h.** Changes in access control
9. **i.** Floodplain encroachment other than functionally dependent uses (e.g., bridges, wetlands) or actions that facilitate open space use (e.g., recreational trails, bicycle and pedestrian paths)
10. **j.** Construction activities in, across or adjacent to a river component designated or proposed for inclusion in the National System of Wild and Scenic Rivers
11. **k.** No minor public or agency controversy on environmental grounds (no opposition from any organized groups or agencies and no unresolved environmental coordination)
12. **l.** A full Environmental Justice Analysis Report (EJAR) is required (the project must be processed as a D-level CE or higher-level document). If a memo-to-file/letter/IOC-format EJAR Short Report is determined to be the appropriate level of documentation, contact OES regarding NEPA document level.

For certification purposes, documentation is required to illustrate no significant impacts will occur to the following environmental resources and that no unusual circumstances exist that would warrant a higher level of NEPA document. Upload all supporting documentation to the project file.

Ecological



Waterways:	Not Present
Will any wetlands be impacted?	No
Endangered Species:	Present; No finding of May Affect, Likely to Adversely Affect
Endangered Species - Coordination	May Affect, Not Likely to Adversely Affect
Endangered Species - Coordination Date	08/11/2023
Endangered Species - Critical Habitat Present/Impacted	
Indiana bat	
Northern long-eared bat	
Endangered Species - Other Critical Habitat Present/Impacted:	No
Scenic Rivers	No National Wild and Scenic River Within 1000 Feet of the Proposed Project Area
Scenic Rivers Remarks	The project will not impact any Scenic River.
Floodplains	
100-Year Floodplain:	No Encroachment Within a Special Flood Hazard Area (SFHA)
Floodplain Remarks	
The project is not located within a regulated floodplain; therefore, no coordination is required. See the FIRM Map in the Project File/Permit/Floodplain.	
Section 4(f)	
Section 4(f):	Present; No Programmatic Evaluation or Individual Evaluation Required
Section 4(f) Determination:	
No Use - Cultural Resources	
Temporary No Use Exception - 774.13(d)	
Section 4(f) Determination Date - No Use - Cultural Resources	08/22/2023
Section 4(f) Determination Date - 774.13(d)	12/22/2023
Section 4(f) Remarks	



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The project will not require land from within the historic boundary of a Section 4(f) Cultural Resource. The east end of the project is located on the edge of a single property that is listed in the National Register of Historic Places (NRHP): The Universal Terminal Dock and Warehouse Building (National Register #83001954) is located at 5451 North Marginal Road and has been redeveloped into an apartment building. Only Temporary right of way is needed from within the historic boundary, to reconfigure the southernmost parking area and entrance to the property. No contributing features of the property are being removed or altered. No land from any historic property will be converted to a transportation facility. No contributing features of any historic property will be removed or altered. On August 15, 2023, in accordance with Stipulation V(C)(3) of the Section 106 Programmatic Agreement executed on June 29, 2023 (Agreement No. 38503), Ohio's State Historic Preservation Office concurred with ODOT's determination that the undertaking will have No Adverse Effects on historic properties. In accordance with 23 CFR 774, ODOT has determined the undertaking will not result in the use of any Section 4(f) historic site.

The project will connect to the Cleveland Lakefront Bikeway which is located within the Cleveland Metroparks Lakefront Reservation. No permanent or temporary right-of-way will be required from the park or bikeway. Impacts will be limited to the portion of the bikeway that occurs within the right-of-way of North Marginal Road. The end of the bikeway will be closed for a duration of approximately two months while the new trail is connected to the bikeway. Bicycle traffic continuing west from the bikeway will be directed to the bicycle detour via 55th Street to St. Clair Avenue. On December 22, 2023, in accordance with 23 CFR 774.13(d), ODOT has determined that the temporary occupancy of land and/or access will not constitute a use of the Section 4(f) resource.

Section 6(f)

Section 6(f): Present; No 6(f) Conversion Required

Section 6(f) Determination: Maintenance

Section 6(f) Determination Date: 12/22/2023

Cultural Resources

Cultural Resources: Present; No Finding of Adverse Effect

Cultural Resources Coordination: No Adverse Effect

Cultural Resources Coordination - ODOT Approval/SHPO Concurrence Date 08/01/2023

Cultural Resources Remarks



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In accordance with Section V.C.3. of the Section 106 Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, Ohio's State Historic Preservation Office (SHPO), and the State of Ohio, Department of Transportation Regarding Implementation of the Federal-Aid Highway Program in Ohio (Agreement No. 38503), executed June 29, 2023, the project will have No Adverse Effect on historic properties based on the following:

- Work next to the historic boundary of the Universal Terminal Dock and Warehouse Building is limited to constructing a new multi-use path, reconfiguring the modern parking area on the south end of the building, fronting on North Marginal Road, as well as removing/relocating some street lighting and fencing to accommodate the path. No land from the historic property will be converted to a transportation facility. No character defining features of the historic property will be removed or altered.
- No additional history architecture properties listed in or determined eligible for listing in the NRHP or designated a National Historic Landmark will be affected by the project.
- No archaeological resources are known or suspected to be within the proposed project area.

Tribal Consultation Summary/Remarks:

The following 11 tribes were notified:

Absentee-Shawnee Tribe; Delaware Nation; Delaware Tribe; Eastern Shawnee Tribe; Ottawa Tribe; Peoria Tribe; Seneca-Cuyahoga Tribe; Seneca Nation; The Shawnee Tribe; Stockbridge-Munsee Community; Wyandotte Nation.

Delaware Nation has no object to nor concerns about the project. Seneca Nation of Indians and Stockbridge-Munsee Community have no objection or concerns about the project. However, they wish to consult further if cultural resources are uncovered during the course of the project. No comment received within 30 days from Delaware Tribe of Oklahoma and Shawnee Tribe.

Environmental Resources Considered

The following environmental resources are present and have been studied for potential impacts:

Regulated Materials

Farmland

Air Remarks

This project is an Exempt Project per 40-CFR 93.126 (Exempt Project: Safety/Air Quality: Pavement resurfacing and/or rehabilitation/Bicycle and pedestrian facilities improvements). No air quality analysis is required.

Noise Remarks

The project does not qualify as a Type I project for noise (i.e., not adding capacity, not moving thru travel lanes equal to or greater than 50% closer to noise sensitive areas) and a noise analysis is not required for the project under 23 CFR 772.

**The project involves ROW acquisition, Deep Excavation, or OEPA
513 Landfill Authorization:**

Yes - Screening

Regulated Materials Review Screening:

Plan Note Required



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Regulated Materials Review Screening - DEC/OES Approval Date:

10/24/2023

Regulated Materials Review Remarks:

Based on the information in the Regulated Materials Review (RMR) Form completed for the project, further RMR activities or special materials management are not warranted for the project. However, below plan notes need to be added to the environmental commitment and addressed:

1) A solid waste plan note is warranted for RM-011, Shoreline Apartments, 5455 North Marginal Rd, and RM-012, Landmark at The Lake LLC property, 5455 North Marginal Rd, since these properties have fly ash and steel slag as backfill and their former use as a petroleum company warehouse 50+ years. The material excavated from these properties may be reused in the project, but if they can't be reused, they should dispose of as a solid waste.

Farmland:

Urbanized Area; No Impacts in Accordance With the Farmland MOU and 7 CFR 658

Environmental Justice

Projects that meet C2 criteria must be in accordance with ODOT's EJ Guidance and activities conducted for Public Involvement are commensurate to the project's type and scope of work.

Environmental Justice Populations

Present; No EJAR Required, Does Not Exceed EJ Guidance Criteria, and No Issues Raised During Public Involvement

Identified Environmental Justice Populations

Census Block Group #	% Minority	% Low Income
390351082011	44	52
390351071011	51	29

Environmental Justice Remarks

Based on mapping from TIMS, the minority populations are 44% - 51% for the US Census Block Groups located within the project area and 29% - 52% of the population is designated as low income.

The proposed project will have no disproportionately high and adverse effects to minority or low-income populations based upon the table above, the attached mapping, and the answers to the questions above. No concerns related to impacts on Environmental Justice were raised as a result of public involvement activities conducted as part of the proposed project. Therefore, in accordance with the protections of Executive Order 12898, DOT Order 5610.2(a), and FHWA Order 6640.23A, no further analysis is required.

Based on the above findings an Environmental Justice Analysis Report is not required.

The proposed new shared-use path along North Marginal Road will serve a variety of purposes and will play an important role in terms of accessibility and equity for the environmental justice community. The new shared-use path will provide transportation and exercise opportunities for those walking, bicycling, or using other active modes on a safe facility separated from motor vehicles. These opportunities will not only provide a safe accessible route, but also reduce the negative impact on the environment, increase the health benefits for EJ communities who reside adjacent to the project area, increase social well-being benefits, and benefiting the economy.

The Census mapping may be found in the project file under Environmental Justice.

Public Involvement



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Public Involvement:

Minimum PI Requirements Met; No
Minor Public or Agency Controversy
on Environmental Grounds

Public Involvement Remarks

A press release including information about the project and a link to the section 106 Application was posted on the Cuyahoga County website, and a public notice was mailed to property owners, businesses, and residents. Both notifications were on July 19, 2023. The press release also provided an opportunity to the public to comment on the project. The comment period closed on August 21, 2023. Ten (10) project comments were received. Seven respondents expressed support for the project and improved bicycle and pedestrian connections along North Marginal Road. One respondent asked for more information about the potential impacts to their operations at Burke Lakefront Airport. One suggested the money should be spent elsewhere and another suggested reducing North Marginal to one-way traffic to make room for the trail and install noise walls between I-90 and North Marginal. A copy of the press release and public notification letter are included in the Project File under Public Involvement/Project Information. Cuyahoga County Engineer and City of Cleveland have decided to proceed with the project.

Environmental Commitments

Environmental Commitments

Yes



Environmental Commitments

C2

- 1) **REGULATED MATERIALS:** The project designer shall incorporate a solid waste plan note prepared for RM-011 Shoreline Apartments, 5455 North Marginal Rd, and RM-012, Landmark At the Lake LLC property, 5455 North Marginal Rd, since these properties have fly ash and steel slag as backfill and their former use as a petroleum company warehouse 50+ years. The material excavated from these properties may be reused in the project, but if they can't be reused, they should be disposed of as a solid waste.
- 2) **BIKEWAY ACCESS:** Access to the Cleveland Metroparks Lakefront Reservation and Cleveland Lakefront Bikeway shall be maintained at all times, except for the time needed to temporarily occupy the Bikeway, which shall be less than the time needed for construction of the project. Appropriate signage shall be installed to alert users of the Bikeway of construction activities, access restrictions or closures, and to direct users to secondary access points.
- 3) **THREATENED & ENDANGERED SPECIES:** The project may result in removal of suitable wooded habitat (SWH) for threatened and endangered bat species. The project designer shall incorporate the following note into the plans: ENDANGERED SPECIES HABITAT - INDIANA BAT/NORTHERN LONG-EARED BAT - THE PROJECT IS LOCATED WITHIN THE KNOWN HABITAT RANGES OF THE FEDERALLY LIST AND PROTECTED INDIANA BAT AND NORTHERN-LONG EARED BAT. NO TREES SHALL BE REMOVED UNDER THIS PROJECT FROM APRIL 1 THROUGH SEPTEMBER 30. ALL NECESSARY TREE REMOVAL SHALL OCCUR FROM OCTOBER 1 THROUGH MARCH 31. THIS REQUIREMENT IS NECESSARY TO AVOID AND MINIMIZE IMPACTS TO THESE SPECIES AS REQUIRED BY THE ENDANGERED SPECIES ACT. FOR THE PURPOSE OF THIS NOTE, A TREE IS DEFINED AS A LIVE, DYING, OR DEAD WOODY PLANT, WITH A TRUNK THREE INCHES OR GREATER IN DIAMETER AT A HEIGHT OF 4.5 FEET ABOVE THE GROUND SURFACE, AND WITH A MINIMUM HEIGHT OF 13 FEET.
- 4) **COORDINATION:** The designer will include a plan note requiring the contractor to closely coordinate the construction schedule with ODOT, CCDPW, and Cleveland Metroparks prior to the start of construction activities.
- 5) **Cleveland Metroparks Property:** Cuyahoga County and the contractor must obtain a Cleveland Metroparks Access Permit prior to start of construction.



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Preparers and Approvals

Form Preparer: Sumia Mohamed
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Supporting Form Preparer(s): Andrew Fluegemann
Nicholas Viau
Susan Daniels

Approvals & Electronic Signatures

Approved & Electronically Signed By:	Approval Date:
Mark Carpenter (TRANS ENGR 3)	1/3/2024



Appendix

General

Aerial Map.pdf

County Map.pdf

USGS Quadrangle Topographical Map.pdf

ESA

OES Recommendations - Screening.pdf

Cultural Resources

SHPO Comments

Transmittal 1 - Effect Determination

Tribal Consultation

Tribal Consultation - Correspondence List and Example Email.pdf

Tribal Response - Delaware Nation.pdf

Tribal Response - Seneca Nation.pdf

Tribal Response - Stockbridge Munsee.pdf

Ecological

ODNR Scenic River MOA Conditions

USFWS/ODNR Ecological MOA Conditions

Other Resources

Census Bureau Urbanized Area Map.pdf

Water Source Protection Area Map.pdf

Well Log Data.pdf

Section 4(f)

OES Cultural Resources 4(f) Determination.pdf

OES Recreational 4(f) Determination.pdf

Section 6(f)

OES Approval - Maintenance.pdf

Environmental Justice

Census Mapping.pdf

Public Involvement



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Public Involvement Summary and Response to Comments.pdf

Permits

FEMA FIRM.pdf