

US 70: East of Broken Bow to the Oklahoma/Arkansas State Line Environmental Assessment

McCurtain County

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



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**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
AND
OKLAHOMA DEPARTMENT OF TRANSPORTATION
ENVIRONMENTAL ASSESSMENT**

**US 70: EAST OF BROKEN BOW TO THE OKLAHOMA/ARKANSAS
STATE LINE
MCCURTAIN COUNTY**

Project Number NHY-022N(168) and NHY-002N(171)
State J-P #17427(04)(08)

The proposed project is described as the widening of US 70 in McCurtain County, Oklahoma.

This highway project is proposed for funding under Title 23, United States Code (USC). This statement for the improvement has been developed in consultation with the Federal Highway Administration and is submitted pursuant to 42 USC 4332(2)(c) and 49 USC 303.

Submitted:

Date: 7/16/2008

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for Environmental Programs Division Engineer
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1.0 Introduction and Location

The Oklahoma Department of Transportation (ODOT) proposes to expand the existing US 70 in McCurtain County, Oklahoma starting from the current four-lane section five miles east of Broken Bow and extending 11 miles east to the Arkansas State line. The project proposes to expand US 70 from a two-lane highway to a four-lane highway. Currently, there is a large percent of heavy vehicles that frequent the facility. The large use of heavy vehicles and restricted site distance limiting passing opportunities create undesirable conditions on the current roadway facility.

This Environmental Assessment (EA) has been prepared to comply with the National Environmental Policy Act of 1969 (NEPA), as amended. The Federal Highway Administration (FHWA), U.S. Department of Transportation, is the lead federal agency and has developed environmental regulations for highway projects. These regulations, Title 23 of the Code of Federal Regulations, Part 771, provide instructions for assessing environmental impacts specific to federally-funded transportation projects. This document has been developed pursuant to 42 U.S Code (USC) 4332 (2)(C) and 49 USC 303. This EA provides appropriate information regarding the project's social, economic, and environmental impacts.

The project study area includes 300 ft on either side of the centerline of existing US 70 beginning 5 miles east of Broken Bow at N4730 extending 11 miles east to Arkansas State line in McCurtain County. Figure 1 depicts the project location and Figure 2 shows the project study area.

2.0 Purpose and Need for the Project

The existing US 70 is a two-lane highway generally consisting of four to five foot shoulders. Select locations along US 70 were improved in 2005 to widen the existing shoulder an additional three feet to accommodate the installation of guard rail. ODOT has completed two evaluation studies of US 70, the 1997 *US 70 Feasibility Study*, and the *Needs Study and Sufficiency Rating Report FY 2005 – FY 2024*. The 1997 study concluded this section of US 70 (from Broken Bow to the Arkansas State line) has a high crash rate and is a high priority for corridor improvement. The project termini were selected based on the feasibility study, which identified this section of roadway in need of the addition of two additional lanes along with the widening and resurfacing of the existing lanes. The western terminus starts where the current four lane section ends, approximately five miles east of Broken Bow. The eastern terminus ends at the Arkansas State line where another Arkansas project would continue the widening improvements into Arkansas. The 2005 Statewide Intermodal Transportation Plan identified US 70 from I-35 to Arkansas State line as a transportation improvement corridor. US 70 is a Principal Arterial.

The *Needs and Sufficiency Rating Report* evaluates roadways based on their existing geometric design and physical condition. This segment of US 70 was rated as "inadequate," indicating deficiencies in design and condition of the roadway. The report concluded that the deficiencies in design and the accidents occurred supported the proposed improvements. The final recommended improvements in the Needs and Sufficiency Rating Report recommended an expansion of the existing US 70 from two lanes to four lanes. The report identified this section of US 70 as one of the three "high priority" areas for improvement.

Traffic characteristics along the corridor consist of 20 percent heavy vehicles. The high percentage of heavy vehicles causes accelerated wear of the road, decreasing the roadway lifetime before repairs are needed. These heavy vehicles, along with limited sight distance in many areas along US 70, limit the passing opportunities along the current roadway facility, impeding traffic flow.

Figure 1. Project Location

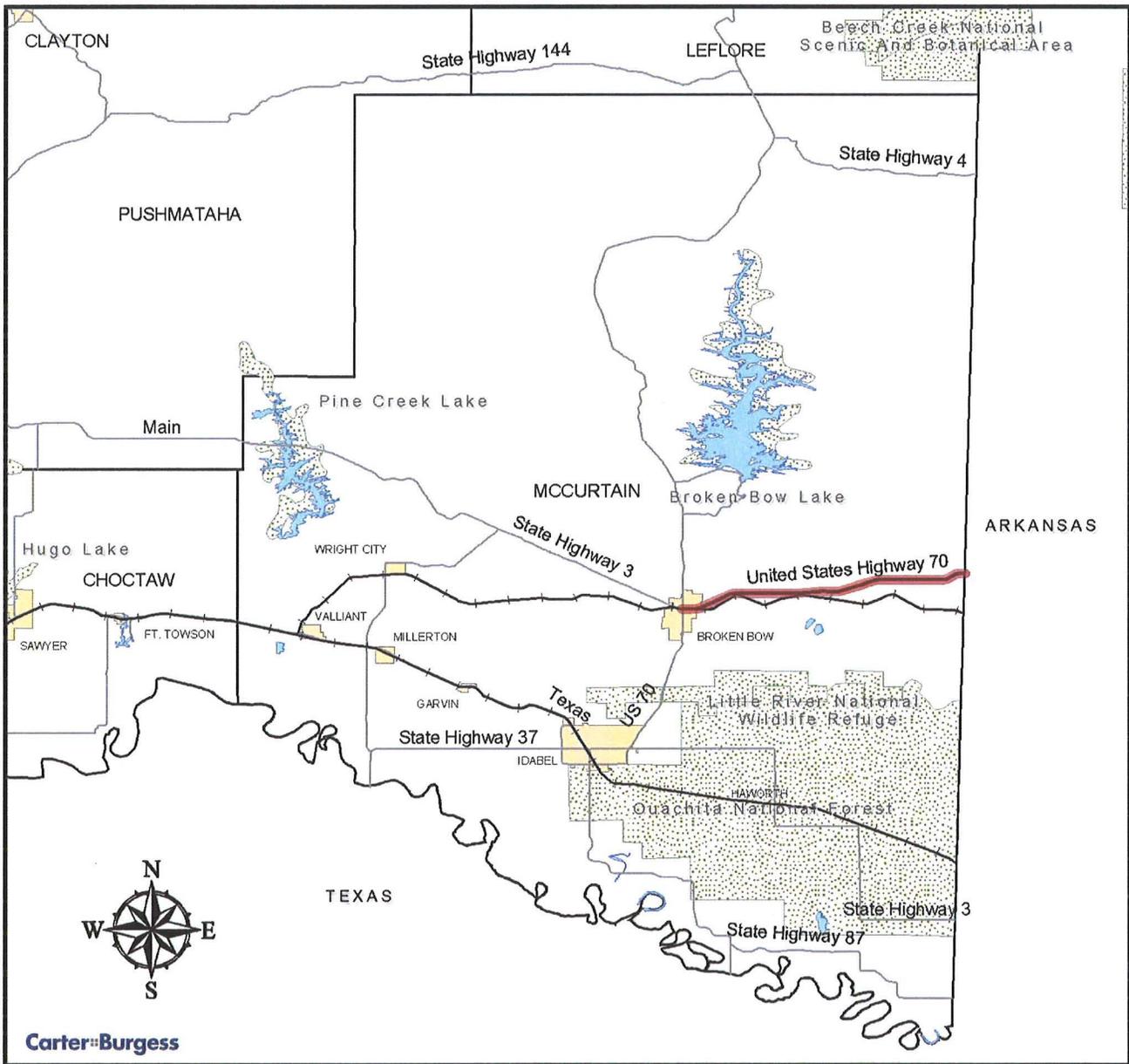
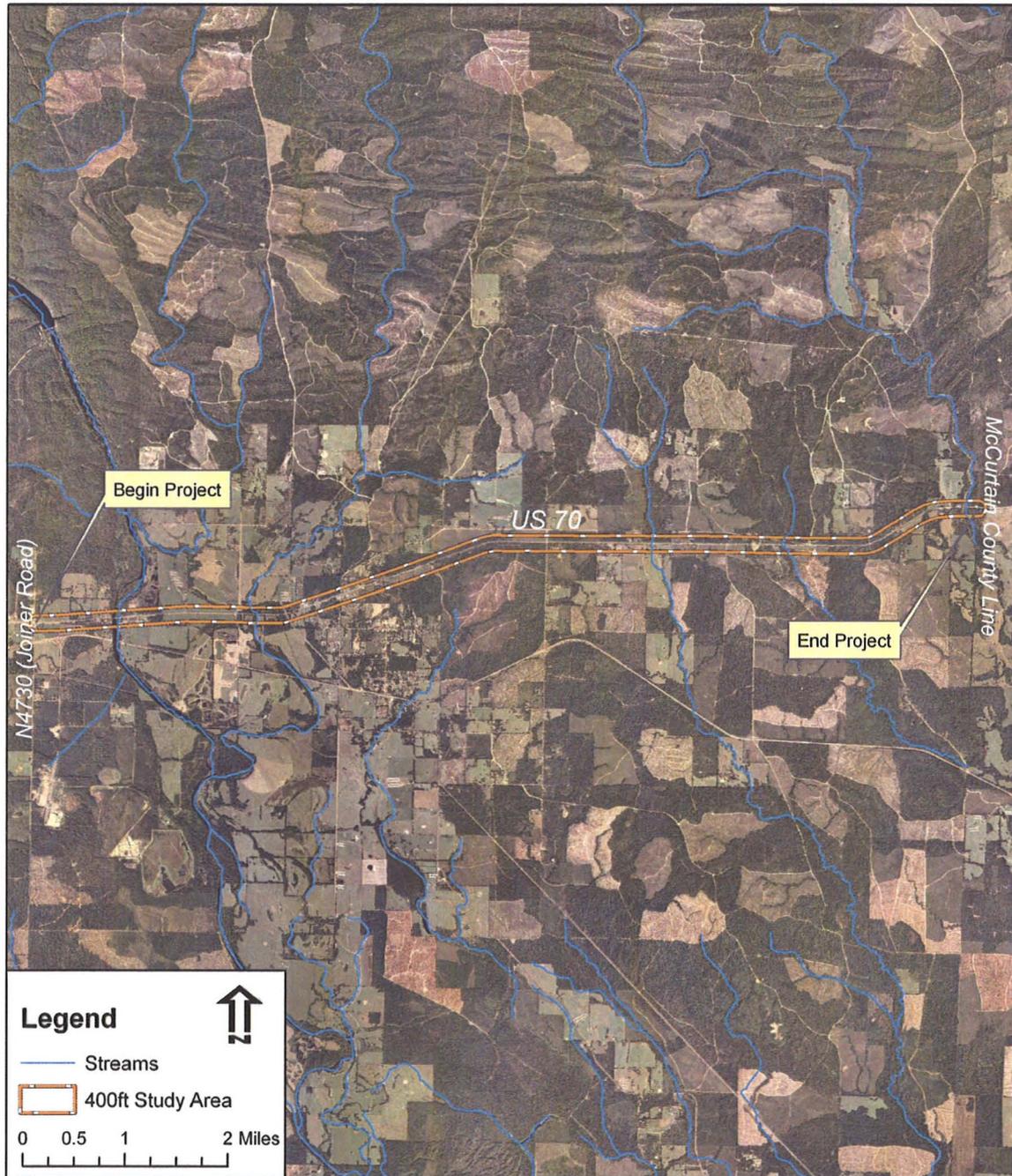


Figure 2. Study Area



Accident Data

Accident data recorded over a three year period from January 1, 2004 through December 31, 2006 showed the project area had 53 overall collisions, 39 resulted in injured people and three resulted in fatalities. The overall rates for collisions, injuries, and fatalities are 468.4, 212.1, and 17.7, respectively. These rates are higher than the rates for McCurtain County in 2000; 122.7 for collisions, 59.7 for injuries, and 3.3 for fatalities. The rates for the proposed project area also exceeded the 2000 state rates as well of 104.3 for overall collisions, 48.8 for injuries, and 2.9 for fatalities. These statistics attribute the accidents to inadequate roadway section within the project area, such as narrow shoulders and no separation between travel lanes of opposing traffic.

Due to deficiencies in design and condition of the roadway creating a safety hazard for drivers and inadequate support for the large volume of heavy trucks, the proposed improvements are needed.

3.0 Alternatives Considered

Three basic alternatives were considered during the environmental process to address the inadequate roadway design; two construction designs plus the "No Build" Alternative were considered.

- Alternative No. 1 – Widen US 70 to the north from an undivided two-lane highway with a four foot shoulder to a four-lane divided freeway with a 10 foot outside shoulder. Right-of-way would be acquired primarily on the north side of the roadway.
- Alternative No. 2 – Widen US 70 to the south from an undivided two-lane highway with a four foot shoulder to a four-lane divided freeway with a 10 foot outside shoulder. Right-of-way would be acquired primarily on the south side of the roadway.
- Alternative No. 3 – No build Alternative. Under the No Build Alternative, no major transportation improvements would be made along the corridor beyond those already programmed and funded by ODOT. However, it does assume that routine maintenance would continue on US 70.

Table 1 shows the comparison of the two alternatives and the No Build Alternative based on certain engineering design criteria, construction costs, displacements, right-of-way needs, and environmental impacts.

Table 1. Design Evaluation Criteria

	Evaluation Category	Alternative No. 1	Alternative No. 2	Alternative No. 3
		4R – Construct two new parallel lanes north of the existing US 70 roadway.	4R – Construct two new parallel lanes south of the existing US 70 roadway.	No-Build
Cost	Construction Cost	60.3 million	62.3 million	\$0
	Right-of-Way Acres	168	161	0
	Commercial Relocations	5	8	0
	Residential Relocations	8	9	0
	Relocations Cost (Business and Residential)	1.9 Million	2.8 Million	\$0
	Right-of-Way Cost (\$2000/acre)	\$335,575	\$322,589	\$0
Potential impacts: H=high, M=moderate, L=little, or N=none				
Environmental Categories	Wetland Impacts	L	L	N
	Archaeological Sites	L	L	N
	Historical Sites	L	L	N
	Hazardous Waste Sites	L	L	N
	Environmental Justice	L	L	N
	Endangered Species	L	L	N
	Underground Storage Tanks	M	H	N
	Potential Noise Impact	M	M	N
	Air Quality	L	L	N
	Parks or Wildlife Refuges	L	L	N
	Native American Concerns	L	L	N
	Social or Economic Issues	L	L	N
	Water Quality	L	L	N
	Wild and Scenic Rivers	L	L	N
Water Body Modifications	L	L	N	
Potential for improvements: H=high, M=moderate, L=little, or N=none				
Engineering	Clear Zone	H	H	N
	Safety Improvement Potential	H	H	N
	Site Distance	H	H	N

In the engineering category, both widening alternatives will provide the same degree of improved safety by upgrading to current design standards and can also be constructed with approximately an equal level of disruption to existing traffic. The addition of a center median will increase the safety and lower head-on collisions. The 10 foot outside shoulder will add a buffer for large vehicles from the edge of pavement.

In the cost category, Alternative No. 1 will produce a slightly lower construction cost than Alternative No. 2 and require fewer displacements.

In the environmental category, both of the improvement options produce similar impacts in a majority of the categories. The variance to this is the potential for impacting underground storage tanks. This is due to two existing gas stations on the south side of the road that are

situated very close to the southern right-of-way line. See Section 4.0 for more detailed discussion of the environmental categories.

The evaluation matrix, Table 1, was used as the basis for ranking the three alternatives in order to select a preferred alternative. Even though both improvement options were evaluated to the state line as the eastern terminus, it is recommended that any near-term construction be terminated approximately one mile west of the Arkansas border. In coordinating with the Arkansas State Highway & Transportation Department (AHTD), it was learned that they do not have any long term plans for upgrading the section of US 70 that this project could connect to at the state line. Terminating the near-term improvements one mile before the state line will prevent any future connection issues.

Alternative No. 1 was chosen as the preferred alternative for the following reasons:

- This alternative would provide improved safety to the public.
- This alternative would have fewer impacts to commercial and residential properties than Alternative No. 2.
- This alternative has lower construction costs than Alternative No. 2.
- This alternative will have a lower chance of impacting underground storage tanks.

4.0 Social, Economic and Environmental Impacts

Appendix 1 lists the social, economic and environmental factors for the Preferred Alternative.

4.1 Land Use

Aerial photographs and a visual survey provided the existing land use data within the study area. Land use in the proposed project area consists of rural land use; farm lands, pasture lands, and single home dwellings dominate the proposed project area.

4.2 Farmland

The US 70 study area includes soil types designated as prime farmlands. All designated prime farmlands in Oklahoma are monitored under the Farmland Protection Policy Act administered by the US Department of Agriculture, Natural Resources Conservation Service (NRCS).

The study area for the proposed project contains approximately 646.9 acres of prime farmland. A Farmland Conversion Impact Rating Form (AD-1006) was completed, and coordination with the NRCS has been initiated. The NRCS responded on May 30, 2008, with a completed AD-1006 form for a total score of 107. This score is below the 160 points required for further coordination with the NRCS. A copy of the completed form, the submittal letter, and the NRCS response letter is provided in Appendix 2.

4.3 Right-of-Way and Displacements

The Preferred Alternative would require approximately 168 acres of additional right-of-way. Potential impacts and/or displacements could include five businesses and up to eight single-family homes. Potential cost and acquisition of the right-of-way is listed in Table 1.

The residences to be displaced include five brick and wood-style single family residences and three mobile homes. Commercial displacements include Just a Dollar Flea Market, Home Town Café, Marshall Salon, and two taverns. Based on visual observation, these businesses employ approximately 10 to 30 employees. No additional impacts to businesses were recorded from closer proximity to the roadway.

Using a Multiple Listing Service (MLS), July 2008, 10 homes and two plots of land were identified near the proposed project area. The two land properties were priced at \$25,000 and

\$30,000. The homes for sale ranged in price from \$89,000 to \$695,000. Nine of the homes were located in Broken Bow, Oklahoma and one home was located in Hochatown, Oklahoma. No MLS data for east McCurtain County was available for business properties. While this MLS search provides possible housing opportunities for relocation, this data does not comprise all available housing that a potential impacted owner could relocate. The final location of the impacted residence or business will be decided between ODOT and each individual owner during the right-of-way acquisition phase.

Right-of-way acquisition would be in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, as amended. ODOT's Relocation Assistance Program provides financial assistance for relocation expense and advisory assistance in relocation resources available within the area. Relocation resources are available to all residential and business displacements without discrimination.

Last Resort Housing consideration ensures that comparable decent, safe, and sanitary replacement housing is made available to displaced person when such housing cannot otherwise be provided within the person's financial means. If necessary, this option would be available and accommodated.

4.4 Social and Economic Impacts Including Environmental Justice

4.4.1 Population Characteristics

US 70 is located in McCurtain County, Oklahoma. According to the 2000 Census, the population of McCurtain County is 34,402. US Census data for McCurtain County indicates that 70.5 percent of the population is White, 9.3 percent is Black, 13.6 percent is American Indian, 0.2 percent is Asian, 3.1 percent of the population is Hispanic or Latino, and another 1.3 percent is comprised of all of the remaining races.

4.4.2 Economic Profile of McCurtain County

McCurtain County is a small rural county in the State of Oklahoma. Information from the Regional Economic Information System, Bureau of Economic Analysis indicates the major sources of income in the county are manufacturing, service industry, retail trade, and government employment. These following types of businesses would be affected by the proposed project:

- Manufacturing
- Retail
- Recreation
- Utilities

Access to businesses may change, but all properties would remain accessible. When construction is completed, permanent signage to retail, commercial, and industrial facilities would be considered in accordance with ODOT signage policy and guidelines.

Short-term construction-related impacts may affect the community as well. Impacts could include occasional traffic congestion on or surrounding the widening of US 70, restricted access to homes and businesses, and noise and dust associated with construction activity. Mitigation would include temporary signage that directs traveling customers and clients to their destinations. During the construction plan development stage, a detailed traffic control plan will be developed in accordance with ODOT requirements.

Long-term community and economic benefits could occur to area residents and businesses as capacity of the roadway increases and unsafe conditions are eliminated easing travel in and out of the project area.

4.4.3 Environmental Justice

In February 1994, Executive Order 12898 was issued requiring federal agencies to incorporate consideration of environmental justice into the NEPA evaluation process. The purpose of this order was to ensure that minority and low-income populations and minority-owned businesses did not receive disproportionately high and adverse human health or environmental impacts as a result of federal actions.

Total 2000 population for McCurtain County is 34,402 with a population that is 29.5 percent racial minority (including Hispanic or Latino). This portion of US 70 is located in Census Tract 9985. From this tract, 3 “Block Groups” are located within the project corridor: Block Groups 1, 4, and 5 were all partially located within the project area. Figure 2 depicts these groups. The population of the areas within the project corridor for the three census block groups is shown in Table 2 (A 300 ft buffer around the project corridor was used to ascertain the population numbers for each block group segment).

Table 2. Census Block Population

Census Block Group	Total Pop.	White	Black	American Indian	Asian	Hispanic/Latino ¹	Other	Total Minority	Percent Minority
Blk. Grp. 1 Census Tract 9985	100	90	0	9	0	0	1	10	10%
Blk. Grp. 4 Census Tract	53	43	0	7	0	0	3	10	19%
Blk. Grp. 5 Census Tract 9985	187	165	5	8	0	11	0	24	13%

Source: US Census Bureau

Note Hispanic or Latino are not considered a “race” so the total percentage of ethnicities may exceed 100 percent.

The percentage of minorities in all the block groups in the project area has a minority composition at or below the average from McCurtain County (29.5 percent). Based on this information, the project will not disproportionately impact minority populations.

The average wage for McCurtain County in 2000 based upon information provided by the Oklahoma Department of Commerce is \$22,373 and the per capita income is \$18,423. The household median income for the county is \$24,509. The current U.S. Department of Health and Human Services (HHS) poverty guidelines for a family of four 2008 is \$21,200. The percentage of persons living below poverty level in McCurtain County is 23 percent according to the US Census. The census uses a set of money income thresholds that vary by family size and composition to determine low income designation. If the family’s total income is less than that family’s threshold, every individual in the family is designated as low income. The thresholds are updated annually.

The percentage of persons living below the poverty level in the three referenced census block groups and the median household income is shown in Table 3.

Figure 3. Census Block Groups within Project Area

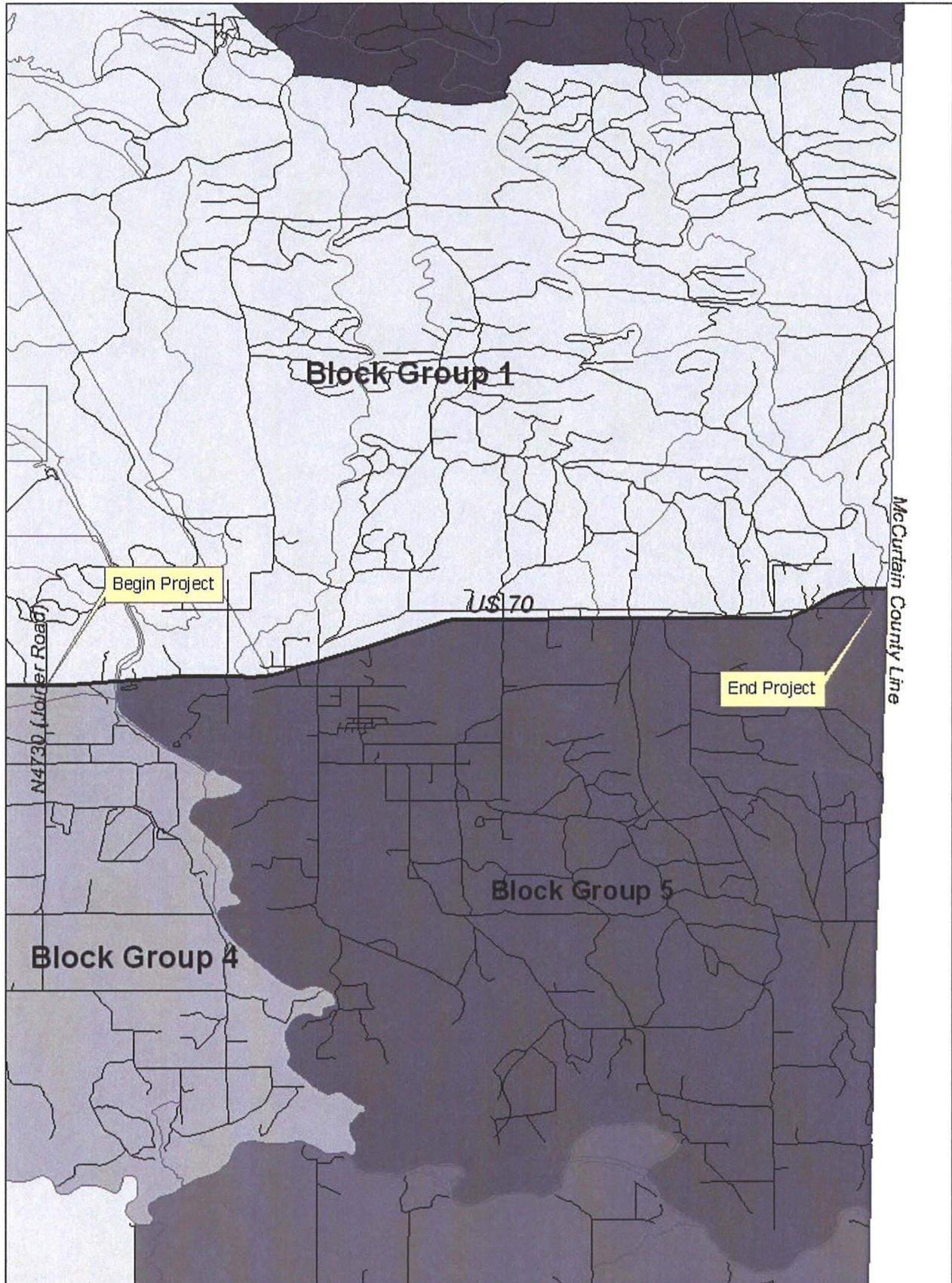


Table 3. Census Block Percentages of Persons Living Below Poverty Level

Census Block Group	Census Block Percentage Below Poverty Level	Median Household Income (1999 Dollars)
Blk. Grp. 1 Census Tract 9985	27%	\$29,688
Blk. Grp. 4 Census Tract 9985	13%	\$28,355
Blk. Grp. 5 Census Tract 9985	27%	\$21,935

All of the block groups in the project area have a greater percentage of people living in poverty than the 23 percent county average with the exception of Block Group 4 which has 13 percent living in poverty. All block groups have a greater median household income than the HHS 2008 poverty guidelines; therefore, no low-income populations were identified in the project area based on CEQ guidelines for environmental justice.

According to 2000 Census data, the median rent for McCurtain County is \$302, which indicates occupants of the multi-family buildings in the project area are likely not low-income since lower rent prices are available elsewhere in the county. The same Year 2000 Census data indicates there are 9,394 rental units vacant in the county indicating there is no shortage of vacant rental units.

Because no low-income or minority populations were identified in the proposed corridor, there would be no disproportionate and adverse impacts to environmental justice populations.

4.5 Noise

A traffic noise assessment report was prepared in accordance with ODOT's Highway Noise Abatement Policy Directive C-201-3 and FHWA's Noise Abatement Criteria (23 CFR 772). There are five main steps comprising traffic noise studies: 1) identify noise-sensitive receivers; 2) determine existing ambient peak noise levels; 3) predict future peak noise levels; 4) identify traffic noise impacts; and 5) evaluate mitigation measures for sensitive receivers where traffic noise impacts occur.

Potential noise impacts are commonly distinguished as either short-term or long-term impacts. Short-term impacts are typically associated with the noise generated during construction activities, while long-term impacts on surrounding land uses are generated by future traffic volumes. Long-term noise impacts were determined in accordance with ODOT's Highway Noise Abatement Policy Directive, specific requirements of which include:

- Using design year traffic volumes to predict future traffic noise levels;
- Ensuring that existing noise levels reflect the noisiest hour of the day affecting a given receptor; and
- Using exterior 67 dBA $L_{eq(h)}$ criterion for most noise-sensitive receptors. L_{eq} is defined as the steady state sound level that, in a stated period of time, contains the same acoustic energy as the time-varying sound level during the same period. $L_{eq(h)}$ is the hourly value of L_{eq} . $L_{eq(h)}$ is based on the more commonly known decibel (dB) and the "A-weighted" decibel unit (dBA).

ODOT's Highway Noise Abatement Policy Directive states that noise impacts occur when:

- 1) The projected future noise level approaches by one decibel or exceeds the FHWA Noise Abatement Criteria;
- 2) When predicted exterior L_{eq} noise levels exceed existing exterior L_{eq} noise levels by 15 dB or more; and
- 3) In those cases where no frequent exterior human activities occur, the interior criterion of the FHWA Noise Abatement Criteria shall be used. Impacts occur when interior noise levels approach by one dB or exceed this interior criterion level.

Existing noise levels were determined by utilizing a precision sound meter. Future noise levels were calculated using the FHWA traffic noise computer model. Under current conditions, two (2) residential receivers exceed the 67 dBA $L_{eq(h)}$ for the Noise Abatement Criteria, Category B (NAC-B). Based on the new four-lane facility and with projected traffic growth, the same two (2) residential receivers will exceed the NAC-B. The noise levels for these receivers are expected to increase approximately 1.0 decibel in the design year (2030) over current conditions. In considering noise mitigation, it was found that noise abatement for the impacted receivers would require blocking driveway access to US-70. Maintaining this access would render a noise abatement wall ineffective. Mitigation is not feasible for the identified receivers, and therefore, noise abatement is not recommended for this project. In planning noise compatible land use planning, the future 66 dBA impact zone was determined to be 325 feet from the center of the new divided four-lane facility. The noise assessment report will be provided to the local officials to aid in noise compatible land use planning.

4.6 Water Quality

Surface water resources in the project area consist primarily of streams and wet areas shown in Table 5.

Table 5. Surface Water Resources

Waterbody*	Description
1	Ephemeral Streambed
2 (Mountain Fork River)	Perennial Streambed
3	Ephemeral streambed
4	Intermittent Streambed
5	Intermittent Streambed
6	Ephemeral Streambed/Herbaceous Wetland/On Channel Pond
7	Ephemeral Streambed
8	Ephemeral Streambed
9	Ephemeral Streambed
10	Ephemeral Streambed
11	Ephemeral Streambed
12	Ephemeral Streambed
13	Ephemeral Streambed
14	Ephemeral Streambed
15	Ephemeral Streambed
16	Ephemeral Streambed
17	Intermittent Streambed
18	Ephemeral Streambed
19	Ephemeral Streambed
20	Ephemeral Streambed

21	Ephemeral Streambed
22 (Rock Creek)	Perennial Streambed

*Refer to Exhibits 2 and 3 of Appendix 4 for crossing locations

A large amount of surface water runs into the Mountain Fork River, which is located in the lower Red River Basin. According to the draft *Year 2006 Beneficial Use Monitoring Program (BUMP)*, this segment of the Mountain Fork River is assigned the following beneficial uses:

- Public and Private Water Supply
- Cool (Trout) Water Aquatic Community – Fish and Wildlife Propagation
- Agriculture – Class I Irrigation
- Primary Body Contact – Recreation

The project corridor overlies the Trinity Aquifer, also known as Antlers Aquifer. The aquifer underlies about 41,000 square miles that extends from south-central Texas to southeastern Oklahoma. It is an important water supply for several communities in the Central and Northern Texas area and is a source of domestic water supplies. The aquifer consists of interbedded sandstone, sand, limestone, and shale of Cretaceous age. Its thickness ranges from a few feet in aquifer outcrop areas to more than 1,000 feet in downdip areas. Water within the aquifer is confined by low-permeability rocks, and where the aquifer does not outcrop, it is confined by the Walnut Formation. The depth to the base of fresh water in most of the area is between 50 and 800 feet, but some well depths exceed 3,000 feet in the confined zone. Wells completed in the aquifer normally yield 50 to 500 gallons per minute, while some yield as much as 2,000 gallons per minute (U.S. Geological Survey, 1996).

Impacts would include both short-term (construction-related) and long-term (operation-related) impacts. Filling and grading activities would be in compliance with the Oklahoma Pollutant Discharge Elimination System (OPDES) General Permit for Construction Activities. The OPDES prescribes a series of measures or best management practices (BMPs) that would serve to minimize impacts to waters of the U.S. as a result of construction in adjacent uplands. The new roadway would be in compliance with all federal and state laws relating to mitigation and elimination of water quality impacts. The applicable standard environmental measures dictated by Federal regulation and the Department's 1999 *Standard Specifications for Highway Construction* would be followed.

Mountain Fork River is identified as part of the Oklahoma Scenic River system. Best management practices (silt fences, rock berms, etc.) will implement during construction while working within the river's watershed.

4.7 Potential Jurisdictional Wetland Impacts

Biologists conducted surveys in May 2004 to identify and delineate jurisdictional wetlands. Wetlands were delineated using the criteria from the 1987 *U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual*.

Two potential jurisdictional wetland areas were observed within the proposed project area. The site locations and potential area of impact are listed in Table 6 and shown in the potential jurisdictional wetlands finding in Appendix 4. Final determinations regarding potential jurisdictional wetlands are subject to verification by the USACE.

Table 6. Site Locations and Potential Areas of Impact

Site	Location	Acres
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1	Approximately 7.0 miles east of Broken Bow, OK on U.S. 70 to the north. Located at latitude 94 deg 35 min 36.52 sec – 34 deg 2 min 34.52 sec longitude	0.266
2	Approximately 7.0 miles east of Broken Bow, OK on U.S. 70 to the south. Located at latitude 94 deg 35 min 37.63 sec – 34 deg 2 min 46 sec longitude	0.259
Total Acres		0.525

The proper Section 404 permit would be obtained along with appropriate wetland mitigation, if required.

4.8 Floodplains

The Federal Emergency Management Agency (FEMA) floodplain maps identified two areas of the project area that cross the floodplain. The FEMA maps showed floodplain areas extending 9,000 linear feet along the existing highway around Mountain Fork River and 600 linear feet along the highway at Rock Creek within the project Right-Of-Way. The proposed project would not increase the base flood elevation to a level that would violate applicable floodplain regulations and ordinances.

4.9 Threatened or Endangered Species

The project occurs in an area where there are federally listed endangered or threatened species or critical habitat. A biological field review was performed for the referenced project. The Department submitted a letter to U.S. Fish and Wildlife Service (USFWS) stating that the project, as proposed, will have no effect on the federally-listed Interior Least Tern, Piping Plover and Redcockaded Woodpecker and the project, as proposed, may affect or not likely to adversely affect the Ouchita rock pocketbook mussel, scaleshell mussel, winged mapleleaf mussel, leopard darter, American alligator and American burying beetle (ABB). USFWS concurred with the no effect determinations and may affect determinations given the implementation of appropriate best management practices for storm water, erosion and sediment control and chemical and fuel handling measures dictated by Federal Regulations and the Department's Standard Specifications for Highway Construction. In addition, the appropriate effects determination and mitigation measures proposed for the American burying beetle will be addressed in the programmatic biological assessment and conservation strategy, and formalized in a Memorandum of Understanding and through conclusion of formal consultation among the Federal Highway Administration, the Department and the USFWS. Appendix 4 contains information on the complete biological studies and coordination with USFWS.

In addition, USFWS has expressed concern over the potential impacts of the proposed project to the riparian zones and wetlands. To accommodate USFWS's concerns, the right-of-way for the proposed project will be minimized as much as reasonable consistent with the needs of public mobility and safety to accommodate the design of the project to meet current design standards and accommodate any utility relocation.

USFWS has noted the project could potentially affect species protected by Migratory Bird Treaty Act (MBTA). To the extent determined appropriate and biologically sound by ODOT biologists, the Department will consider appropriate measures to minimize such impacts on this project. The Department and FHWA are also committed to development of a programmatic understanding with USFWS which balances broad consideration of the MBTA with the needs of transportation improvement in Oklahoma.

Refer to Appendix 4 for complete biological studies and coordination with USFWS.

4.10 Historic/Archaeological Preservation

A cultural resources survey has been conducted by the Department's consultant and accepted by the Oklahoma Archeological Survey in consultation with the Oklahoma State Historic Preservation Office (SHPO) and appropriate Native American Tribes. The proposed project involves a determination of no adverse effect by the SHPO.

If archaeological remains are encountered during excavation, the contractor shall immediately cease the excavation operation and notify the ODOT project engineer. If any new discoveries are made, ODOT cultural resources coordinator will be contacted for further evaluation. Refer to the full *Archaeological Survey and Preliminary Setting Assessment Report* in Appendix 5 for further information.

4.11 Hazardous Waste Information

An *Initial Site Assessment (ISA)* for Hazardous Waste was conducted in August 2004 to identify potential sites, as well as any conditions that might indicate an existing release, a past release, or a material threat of release of any hazardous substances or petroleum products into the ground, groundwater, or surface water within the vicinity of the proposed project (see Appendix 6 for the complete ISA). See Table 8 for a summary of potential contaminants.

Table 8. Potential Contaminators

Potential Contaminator	Vicinity to Project	Threat
Underground Storage Tank (UST)	Within 1.0 mile radius	Slight potential to contaminate
Leaking Underground Storage Tank (LUST)	Within 0.5 mile radius	Slight potential to contaminate
Above Ground Storage Tank	Within 1.0 mile radius	Slight potential to contaminate
Resource Conservation and Resource Recovery (RCRIS) – small quantity generator of hazardous waste	Within 0.25 mile radius	Low potential to contaminate
Hazardous Materials Incident Report System (HMRIS)	Within 1.0 mile radius	Unlikely potential to contaminate
Oklahoma Complaint Database	Within 0.5 mile radius	Very low potential to contaminate
Polychlorinated Biphenyls (PCBs) Activity Database	Within 0.25 mile radius	Low potential to contaminate
Federal Insecticide Fungicide Rodenticide Act (FIFRA)/Toxic Substance Control Act (TSCA)	Within 1.0 mile radius	Low potential to contaminate
Facility Index System (FINDS)	Within 0.25 mile radius	Low potential to contaminate

The ISA revealed no evidence of recognized adverse environmental conditions in connection with the proposed project corridor. The proposed project corridor appears to avoid most tracts that indicate a potential for environmental impact within the project area

If potentially hazardous conditions are encountered during right-of-way acquisition or construction, then ODOT has procedures in-place to remove USTs and any contaminated soil that may be encountered.

5.0 Public Involvement and Coordination

On May 19, 2004, a scoping letter soliciting comments relating to the social, economic, and environmental effects of this project was mailed to 54 local, county, state, and federal agencies, organizations, and individuals. A copy of this letter and its recipients is provided in Appendix 7. Fourteen replies were received and are attached in Appendix 8. The following summarizes the responses received from the scoping letters:

- The Oklahoma Scenic Rivers Commission stated the proposed project will have no adverse impacts on any of Oklahoma’s “Scenic River Areas.”
Response: The comment is noted.
- The Oklahoma Department of Wildlife Conservation (ODWC) stated one state listed endangered species and two Special Concern Category 2 (SSII) are known to occur in the

area. ODWC gave recommendations for minimizing habitat loss for wildlife on the proposed project.

Response: A threatened and endangered species and wildlife survey was conducted along the proposed project. No rare species or their habitats were found. ODOT would minimize impacts to wildlife and their habitat. See the threatened and endangered species section in Section 4 of this document for further information on wildlife impacts.

- The Oklahoma Water Resource Board (OWRB) referenced their website to find the number and contact the local floodplain administrator should any work be required in a floodplain. OWRB indicated it has a Memorandum of Agreement (MOA) with ODOT. OWRB suggested John Dyer of ODOT be contacted to ensure this project would comply with OWRB's Chapter 55 regulations and the ODOT MOA.

Response: ODOT Biologist has reviewed the wetlands findings and vegetation and wildlife field reports. This project would comply with OWRB's Chapter 55 Regulations and the ODOT MOA.

- Jerry Ellis from the State of Oklahoma House of Representatives stated this section of US 70 receives heavy truck traffic daily. He noted the addition of two lanes would greatly improve safety.

Response: The comment is noted.

- The Caddo Nation of Oklahoma stated that they have a long history in the project area. It was noted that many mound locations and associated villages of the Caddo are located in this area. The Caddo requested ODOT consult with them prior to any ground disturbing activities and also requested copies of any previous cultural resources survey reports that relate to the construction of the highway.

Response: Consultation with the Oklahoma State Archeological Survey concluded that no archeological sources that would warrant National Register eligibility would be disturbed from the proposed project (see Appendix 5). ODOT will consult with the Caddo Nation of Oklahoma prior to ground disturbing. If archaeological material is encountered during construction, the Oklahoma State Archeological Survey will be immediately contacted.

- A second letter was sent for the Caddo Nation of Oklahoma, which requested they be provided with the exact boundaries of the project, the potential area of effect, and any known historic properties that are within or near the area of potential effect.

Response: The cultural resources survey identifying the potential area of effect and the historical properties in the potential area of effect are include in Appendix 5. The exact boundaries of the proposed project would be sent to the Caddo Nation of Oklahoma when they have been designed.

- The Kiamichi Economic Development District of Oklahoma stated they have no further comment on the proposed project.

Response: The comment is noted.

- The USACE stated the project area crosses numerous regulated watercourses and would be a candidate for authorization under a Nationwide Permit for Linear Transportation Crossings (NWP-14), but more information was needed to process any permit request. The USACE noted that General Condition 13 must be followed if impacts to Special Aquatic Sites or more than 1/10 acre of waters of the is impacted by the project.

Response: A waters of the U.S. and wetland survey has been completed. Two potential jurisdiction wetlands and 22 water crossings were noted. When final design is complete, a permit package would be submitted. Please see the Wetlands Impact and Water Quality section of Section 4 of this document for further information on waters of the U.S.

- The Oklahoma Tourism and Recreation Department noted the only park in the vicinity is Eagletown Community Park. It was stated if there is no permanent impact on the park facility, then the proposed project would have no negative impacts.

Response: There will be no impacts to Eagletown Community Park.

- The Oklahoma State Archeological Survey stated that after a file search, four known archeological sites were listed in the proposed project area and archeological materials are likely to be encountered. They stated that a archeological field inspection is necessary prior to project construction. It was noted that coordination with the State Historic Preservation Office and the appropriate Native American tribe/groups is needed to identify their concerns.

Response: An archeological report has been submitted to the Oklahoma State Archeological Survey, which concluded that no impacts would occur to archeological deposits that would be considered for National Register eligibility (see Appendix 5). If archaeological material is encountered during construction, the Oklahoma State Archeological Survey will be immediately contacted. Proper Native American consultation and coordination with the SHPO has been performed by ODOT.

- The Eastern Oklahoma Regional Office (EORO), Bureau of Indian Affairs (BIA), stated the project area lies within the jurisdictional areas of the Choctaw Nation of Oklahoma, a federally recognized Tribe. They recommended ODOT coordinate directly with the Choctaw Nation of Oklahoma.

Response: Coordination was initiated between ODOT and the Choctaw Nation of Oklahoma, March 2005.

- The Choctaw Nation of Oklahoma sent a letter documenting the phone conversation with ODOT. A time extension was provided to the Choctaw Nation of Oklahoma to review the project and do historical research to assess possible impacts to their cultural interest and historic sites.

Response: The comment for time extension was noted. However, the Choctaw Nation did not provide any additional comments.

- The Oklahoma Historical Society stated when impacted properties are identified documentation with photographs of all structures in excess of 45 years of age be submitted before an opinion would be issued.

Response: An historical survey was performed and concluded that no historical properties would be affected by the proposed project. Concurrence was received from the SHPO office on April 12, 2005. See SHPO coordination letters located in Appendix 5 of this document.

5.1 Public Meeting

The public meeting was held at the Broken Bow Public Library, located at 404 North Broadway in Broken Bow. The purpose of the meeting was to assist ODOT in gathering comments concerning the proposed improvements to US 70. Sixteen (16) people signed the attendance roster for the meeting. Three people registered from the public and thirteen registered as part of

roster for the meeting. Three people registered from the public and thirteen registered as part of the ODOT team. Minutes of the meeting are provided in Appendix 9. No public comments (written or verbal) were received at the meeting and no written comments were mailed to ODOT.

After the approval of this document, it will be made available to the public for comment. All comments received will be reviewed and considered prior to preparation of final design plans for the project.

6.0 List of Preparers

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