

# Insights on What Triggers Revision Requests in Delegated Environmental Review

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# Our Vantage Point – "Technical Assistance"

- State CDBG Program
  - Serves non-entitlement communities
    - Sub-grantees have <50k municipal population or <200k county population
  - NEPA regulations are unique to non-entitlement communities
    - 24 CFR 58 -> non-entitlement communities, 24 CFR 50 -> entitlement communities
  - Local governments accept Responsible Entity status and serve as the Lead Agency for the review's content
    - State agency can provide technical assistance and **serve as a de facto veto point** when inconsistencies are recognized, but cannot make interpretive judgement calls
    - **We are neither engineers nor scientists nor attorneys**
- 200+ CE- and EA-level environmental review records desk-reviewed annually
  - EIAs unprecedented, due to small project scopes



# Roadmap

- 1. Our Process
- 2. Common Issues
  - 2a. Timing and Sequencing
  - 2b. Consultation Breakdowns
  - 2c. Documentation and Legibility
  - 2d. Digital Tools and Missing Data
- 3. Questions?



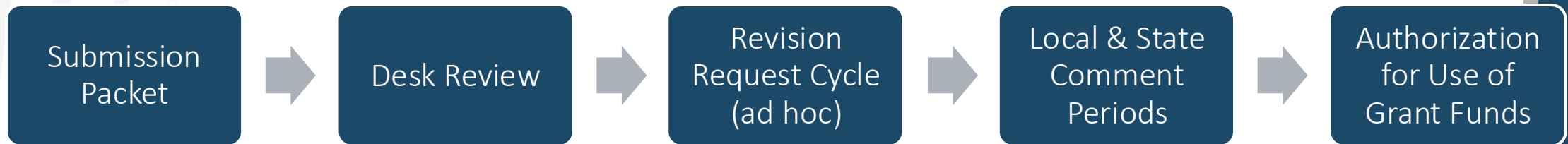
# 1. Our Process

"Nudging" Responsible Entities toward a complete NEPA review



Missouri Department of  
**Economic Development**

# Overview of MO DED's State CDBG NEPA Desk Review Process



- Average Turnover from Receipt to Authorization
  - CEST- (subject to 24 CFR 58.5) & EA-level: **11 weeks**
  - CENST- (not subject to 24 CFR 58.5) & Emergency-/Exempt-level: **1 week, 6 days**



# Tools: Submission Packet



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## DETERMINATION OF LEVEL OF ENVIRONMENTAL REVIEW

Last Modified 2/7/25

Project Name: \_\_\_\_\_ Responsible Entity(RE): \_\_\_\_\_

Project Location: \_\_\_\_\_ CDBG Project#: \_\_\_\_\_

Project Description: *(all project activities, including those funded by sources other than CDBG funding)*

The project has been reviewed by the RE in accordance with HUD regulation [24 CFR Part 58](#). The following Determination of Level of Environmental Review is made:

*(Check the box for the appropriate level and insert full citation in the blank space provided. Refer to [http://www.access.gpo.gov/nara/cfr/waisidx\\_09/24cfr58\\_09.html](http://www.access.gpo.gov/nara/cfr/waisidx_09/24cfr58_09.html) for appropriate citation.)*

- Exempt** from NEPA review requirements per [24 CFR 58.34\(a\)](#) (\_\_\_\_\_)
- Categorically Excluded NOT Subject To** (CENST) §58.5 authorities per [24 CFR 58.35\(b\)](#) (\_\_\_\_\_)
- Categorically Excluded SUBJECT To** (CEST) §58.5 authorities per [24 CFR 58.35\(a\)](#) (\_\_\_\_\_)
- (Preparation of the Statutory Checklist is required.)*
- Environmental Assessment** (EA) is required in accordance with subpart E of [24 CFR Part 58.36](#)
- Environmental Impact Statement** (EIS) is required.

The Environmental Review Record (ERR), pursuant to [§58.38](#), contains all environmental documents, public notices and written determinations or findings required as evidence of the review, decision making, and actions pertaining to this project. Additional information (e.g., checklists, studies, analyses, etc.) are included, as appropriate, in the ERR.

Preparer Name	Preparer Signature	Date
RE Certifying Officer Name	RE Certifying Officer Signature	Date

MO 419-2890 (08-12)

## Summary of Findings and Conclusions

Compliance Factors	Are compliance steps, mitigation, or permitting required?	Compliance Determinations Identify the main points of analysis in the environmental review. The summary should include any potential impacts of the proposed project, both beneficial and potentially adverse. The summary must also discuss any changes to the proposal necessary to avoid significant impacts.
Historic Properties	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Flood Insurance	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Floodplain Management	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Wetland Protection	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Coastal Zone Management		There are no coastal zones in the state of Missouri (NOAA Coastal Management).
Airport Hazards	<input type="checkbox"/> YES <input type="checkbox"/> NO	
Endangered Species	<input type="checkbox"/> YES <input type="checkbox"/> NO	

## AIR QUALITY [40 CFR Parts 6, 51, 93](#)

- Is the project in an [EPA-designated nonattainment](#) or maintenance area for any criteria pollutants?  YES  NO
- If "No," could create emissions impairing the air quality of an area already in attainment?  YES  NO  
If "Yes" to question 1, does the project include five or more dwellings OR new construction or conversion of land use facilitating the development of public, commercial, or industrial facilities units that will involve the potential for air emissions or a significant traffic increase?  YES  NO
- If "Yes" to either of the scenarios in question 2, obtain a determination from the EPA Region 7 State Air Program and the DNR Air Pollution Control Program that proposed activities conform to the State Implementation Plan.  YES  NO

### ASBESTOS:

- Does the project involve demolition or renovation of buildings or bridges or removal of asbestos water or sewer pipes where the disturbed area is greater than 260 linear feet or 160 square feet?  YES  NO  
If "Yes," a Missouri DNR Certified Asbestos Inspector must be hired to perform a thorough asbestos inspection. If friable asbestos containing materials are present and require removal, a Missouri registered asbestos abatement contractor must be hired.

### MOLD:

- Does the project entail rehabilitation of any building with evidence of mold on any building component, or an interior moisture-related problem, including roof leaks or moisture in and around the interior foundation or crawl space? Document a site visit and attach color photos.  YES  NO  
Explain all required mitigation measures and/or required permits required for nonattainment, asbestos, and mold:



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# Tools: Preparer Checklist

ENVIRONMENTAL ASSESSMENT (EA)/STATUTORY CHECKLIST REVIEW

Last Modified 1/7/25

Project Name: \_\_\_\_\_ Project Number: \_\_\_\_\_

RROF Submitted: \_\_\_\_\_ AUGF Completed: \_\_\_\_\_ AUGF & COA Sent: \_\_\_\_\_

*This checklist is a tool for the environmental review preparer to proof their work and ensure all sections contain the appropriate information and documentation. THIS DOCUMENT DOES NOT NEED TO BE SUBMITTED.*

- Are documents written for a "cold reader" – someone who has no knowledge of the project?
- For consistency, cross check information w/ all other project documents (PER/PAR, CDBG & other funding applications, CDBG Funding Approval if funded, environmental studies/reports, etc.)

Determination of Level of Review

Finding of Exempt Activities

Cover Page

Project Name  Responsible Entity  Sub applicant  
 Project Number  CEO  Preparer

Project Location/Address

Total Project Costs: All funding sources and amounts listed

CDBG \$ \_\_\_\_\_ Local Cash \$ \_\_\_\_\_ Private \$ \_\_\_\_\_  
 Federal \$ \_\_\_\_\_ In-Kind \$ \_\_\_\_\_ Other State \$ \_\_\_\_\_  
 Total \$ \_\_\_\_\_

Responsible Entity Project Contact Name, Address, Telephone

Name & Address of Sub-recipient, if applicable: Non-profit, public water supply or sewer district, fire or ambulance district, library, downtown organization, etc. If no sub-recipient, N/A must be checked.

Conditions of Approval: List conditions that were identified throughout the ERR.

Determination:  Converts to Exempt (CEST)

Does not Convert to Exempt (CEST)  FOSI (EA)

Preparer:  Signature  Date  Name/Title  Agency

Certifying Officer:  Signature  Date  Name/Title

Preliminary Design:  PER  PAR  Date  Name of firm

Property Acquisition: Explain if the project requires property acquisition.

Description of Project: All proposed activities & actions by all funding sources

Purpose & Need of Project: Needs the project will address, not the project description

Existing Conditions & Trends (EA Only): Project & surrounding area's appearance now vs. at completion; Compatibility of future use plans for project & surrounding areas, if known; Site appearance without project

Project Alternatives (EA only): Evaluation of each alternative, including no action; Explanation for preferred alternative. N/A is unacceptable.

Agencies Contacted

Public Outreach: Opportunity for public input in decision making; Examples: public notices & hearings, newspaper articles, environmental notices, etc; Minutes should reflect project and areas of environmental consideration thoroughly

Field Visit Checklist: include photographs, aerials, and other supporting documentation, as necessary

Historic Properties:

- Correspondence with SHPO, including Project Information Form and attachments
- Determination to Consult with Tribes Under Section 106 Form
- TDAQ results, if applicable
- Correspondence with Tribes, if applicable
- 2-week follow up with Tribes who did not respond

ENVIRONMENTAL ASSESSMENT (EA)/STATUTORY CHECKLIST REVIEW

- Cultural Resource Survey, if applicable
- Memorandum of Agreement (MOA), if applicable (Letters to ACHP & Tribes)
- SHPO/ACHP/Tribal approval of MOA stipulations, if applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Flood Insurance:

- FIRMette or best available flood data (Location Highlighted) \* If FIRMette does NOT map the 500 yr floodplain please add 2 ft to the 100 yr floodplain.
- Proof of Flood Insurance, if required
- Documentation supporting exception, if applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Floodplain Management:

- FIRMette or best available flood data (Location Highlighted) \* If FIRMette does NOT map the 500 yr floodplain please add 2 ft to the 100 yr floodplain.
- Documentation supporting exception, if applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Wetland Protection:

- Color National Wetlands Inventory Map (Location Highlighted/Distance)
- Documentation supporting exception, if applicable
- IPac
- Correspondence with USACE, if applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

HUD 8 Step Decision Making Process: only complete if applicable

- Proof of publication and distribution of EPN
- Proof of publication and distribution of FPN
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Coastal Zone Management: None in MO

Airport Hazards:

- Documentation supporting exception, if applicable
- Maps indicating not within thresholds/APZ/RPZ/CZ (Location Highlighted/Distance)
- Conformance with DOD guidelines, if applicable
- Proof of notification of airport hazards, if applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Endangered Species:

- IPaC
- Missouri Natural Heritage Report
- "Effect Determination Tool" Results
- Documentation supporting "Effect Determination"
- Correspondence with USFWS, if applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Wild & Scenic Rivers:

- Map showing W&S Rivers/Segments (Location Highlighted/Distance)
- Correspondence with Mark Twain National Forest or NPS, as applicable
- Mitigation/Condition of Approval?  No  Yes: \_\_\_\_\_

Farmland Protection:

- Documentation supporting exception, if applicable
- Map(s) supporting exemptions, showing farmland, etc., as applicable (Location Highlighted)
- Correspondence and attachments to and from USDA NRCS



# Tools: Policy Handbook

FY25 CDBG Administration Manual / Policy Manual  
Version 2.2

## Chapter 8 Environmental Review



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### STATE OF MISSOURI CDBG POLICY STATEMENT IN EFFECT FOR ANNUAL GRANTS:

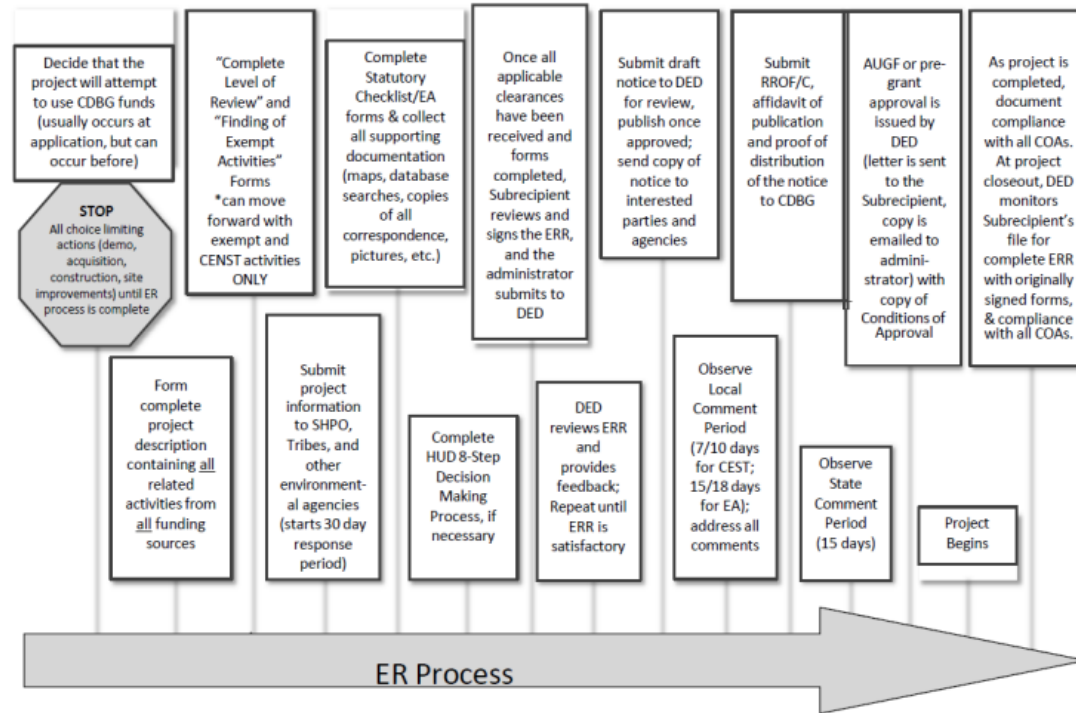
Year	Award Number
2018	B-18-DC-29-0001
2019	B-19-DC-29-0001
2020 (CV)	B-20-DW-29-0001
2020	B-20-DC-29-0001
2021	B-21-DC-29-0001
2022	B-22-DC-29-0001
2023	B-23-DC-29-0001
2024	B-24-DC-29-0001
2025	B-25-DC-29-0001

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2 – Combined Notice Publication	3 Day 1
4 Day 2	5 Day 3	6 Day 4	7 Day 5	7 Day 6	8 Day 7	9 Day 8
10 Day 9	11 Day 10	12 Day 11	13 Day 12	14 Day 13	15 Day 14	16 Day 15
17	18 – First business day	19 – RROF/C submitted to CDBG	20 – State comment period commences	21	22	23

### KEEP IN MIND!

CDBG forms and guidance cannot possibly be tailored to meet the needs of every project. Modify your review and explanations to adequately explain your project. Document all compliance relevant to your project.

### Timeline for CEST/EA Projects



There is no specific timeframe for completion of the ER. On average, CEST and EA level reviews can take 90-120 days to complete. It is wise to begin the process as soon as the project is significantly known to allow sufficient time for the possible discovery of adverse impacts requiring mitigation or even the selection of a new project site.



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## 2a. Common Issues: Timing & Sequencing

Optimistic and pessimistic timelines, alike



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# Timing & Sequencing Case 1: Denialism

*Project Description: (all project activities, including those funded by sources other than CDBG funding)*

The project includes the renovation of an existing building to construct living quarters and shared space for women and children staying in the domestic/sexual violence shelter.

- Within 1 mile of a MO Department of Natural Resources ([MO DNR E-Start](#)) active site
- Within 0.5 mi. of a Toxic Release, Brownfield, Long-term Stewardship, or Inactive Voluntary Cleanup Program (VCP) site

4. If one of the above criterion was selected, but a Phase I ESA has/will not be completed, please indicate why.

A Phase 1 ESA has been completed, the site in question is located within .5 miles of [redacted] former Hospital. The facilities ECHO reports shows no violations.

This will have no effect on the current project.

Red Flags:

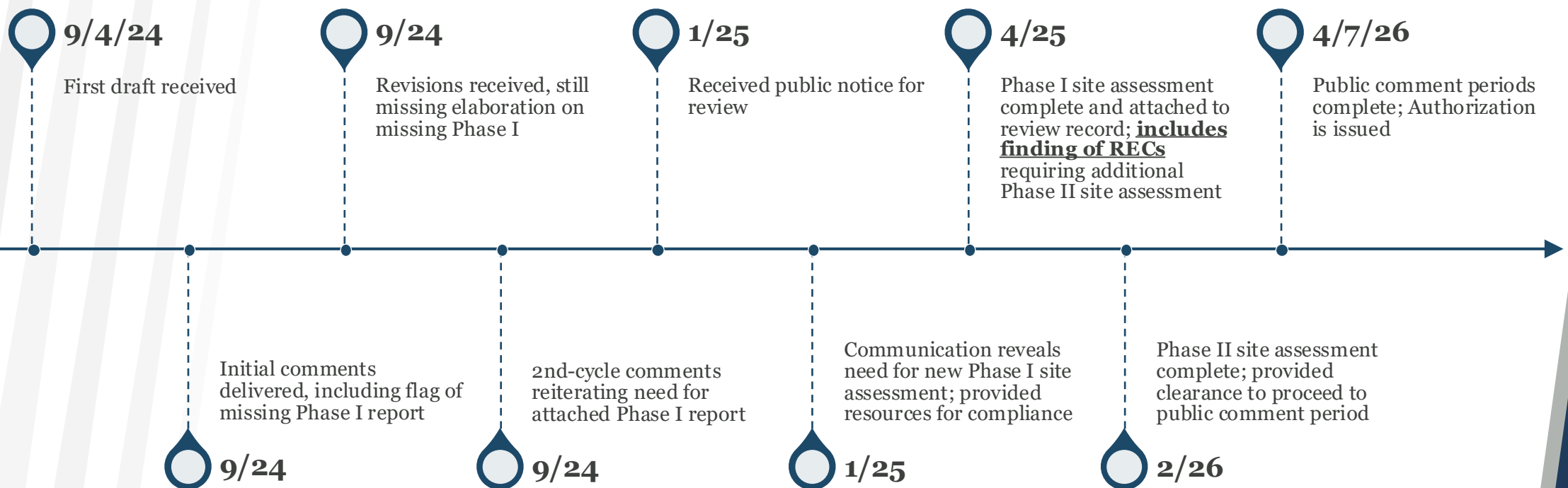
- 1) Vague project description
- 2) Phase I Site Assessment indicated as complete, but **not attached to the record**
- 3) Missing description of historic site use

Determined Issue through Further Comms:

- The Phase I Site Assessment indicated as complete was **over two years old** and **confined to the remediated brownfield site** (a former hospital)
- The brownfield site is **directly adjacent to the project site**
- The project includes **9 residential dwellings**, including for children



# Timing & Sequencing Case 1: Denialism



# Timing and Sequencing Case 2: Misapplied Sequencing

**Project Description:** (all project activities, including those funded by sources other than CDBG funding)

The City of [REDACTED] in partnership with the individual property owners, will be utilizing [REDACTED] in Community Development Block Grant funds to remove slum and blight from the community through the demolition of 20 uninhabitable residential buildings and three commercial buildings, where rehabilitation is not feasible. The private property owners will contribute an estimated [REDACTED] to the project. The grant will allow for the complete demolition of the structures to bring the property into compliance with the municipal ordinances regarding dangerous and nuisance properties along with the removal and disposal of all debris, including remediation of any suspected asbestos, according to Missouri Department of Natural Resources (DNR) standards.

## ASBESTOS:

1. Does the project involve demolition or renovation of buildings or bridges or removal of asbestos water or sewer pipes where the disturbed area is greater than 260 linear feet or 160 square feet?

YES  NO

If "Yes," a Missouri DNR Certified Asbestos Inspector must be hired to perform a thorough asbestos inspection. If friable asbestos containing materials are present and require removal, a Missouri registered asbestos abatement contractor must be hired.

## Red Flags:

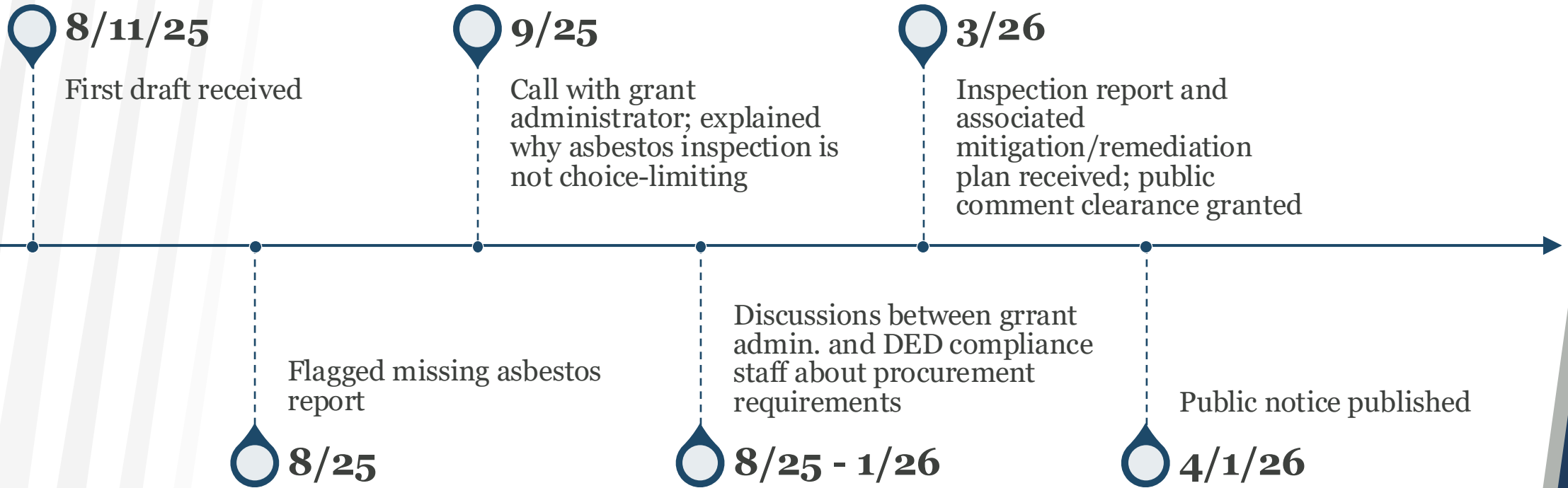
- 1) Friable asbestos testing is acknowledged as required for demolition activities, but **no inspection report attached**

## Determined Issue through Further Comms:

- The grant administrator mistook asbestos inspection and associated procurement for choice-limiting actions rather than activities necessary to complete the environmental assessment



# Timing and Sequencing Case 2: Misapplied Sequencing



# Timing & Sequencing: Takeaways

- Understand the Full Range of What is and is not a Choice-Limiting Action
- Don't Confuse Estimated Timelines with Deadlines
  - NEPA is fundamentally an analysis
  - Planning for the analysis can never replace the analysis itself
    - Analysis often betrays the hypothesis that guided the estimated timeline
    - Grantees who communicate over-optimistic timelines are incentivized to ignore results triggering further analysis
- Procurement, Procurement, Procurement
  - Many NEPA activities (contamination screening, surveying, etc.) require service procurement
    - Procurement can dramatically extend timelines if not initiated early, especially for rural, low-capacity governments



## 2b. Common Issues: Consultation Breakdowns

The urge to over-simplify intergovernmental relationships



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# Consultation Breakdown Case: Relationships with Native Nations

**[REDACTED] requests that a cultural resources survey be conducted for this project.**

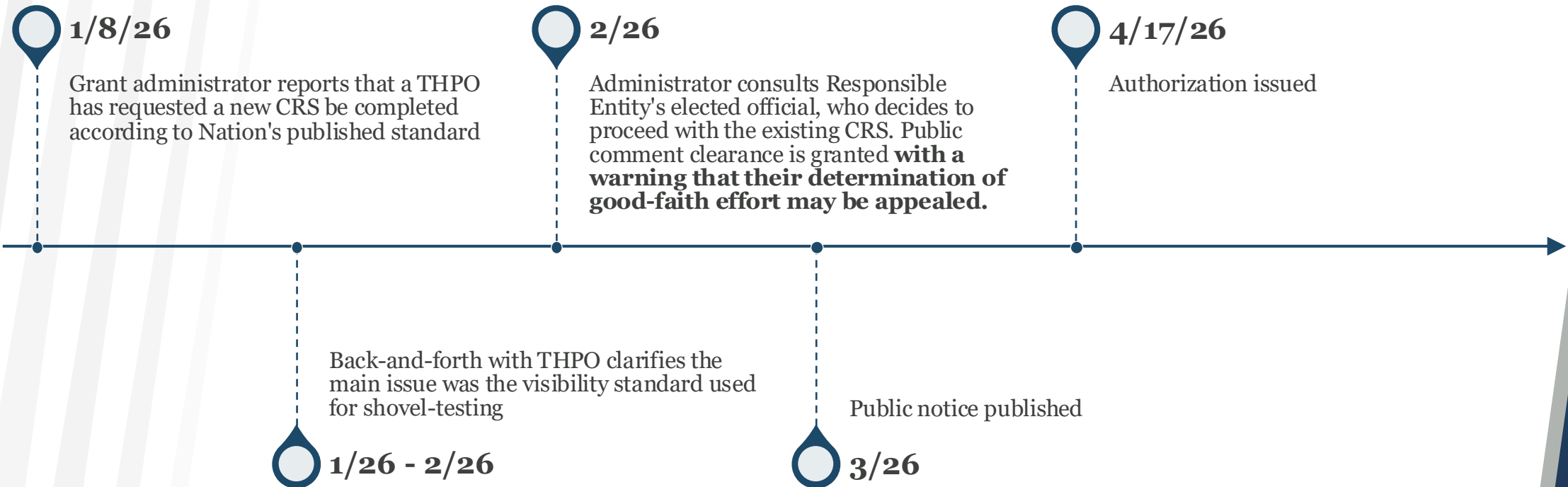
The [REDACTED] has received the cultural resource survey report for the proposed HUD, [REDACTED] has significant concerns for the **inadequate cultural resource survey report** or other archaeological work conducted by [REDACTED] or his company [REDACTED] **requests that a new cultural resources survey utilizing shovel testing be conducted for this project. Please find enclosed a copy of our survey standards.**

What Happened:

- 1) A THPO with published cultural resource survey (CRS) standards requests a CRS for three previously undisturbed multifamily housing development sites
- 2) The procured cultural resource surveys are flagged by the THPO for insufficient shovel testing (used a state-standard visibility threshold where THPO rejects the use of any threshold, per its own posted standards)



# Consultation Breakdown Case: Relationships with Native Nations



# Consultation Breakdowns: Takeaways

- Three Types
  - Late initiation
  - Inadequate substantive response
  - **Failure to respect agency-/Nation-specific protocols**
- Abstracted guidance from detailed requirements can often compress a relational obligation into a purely procedural one
- A good-faith effort to meet the spirit of the process is of utmost importance
  - -> THPOs and agencies more likely to approach comments collaboratively rather than adversarially



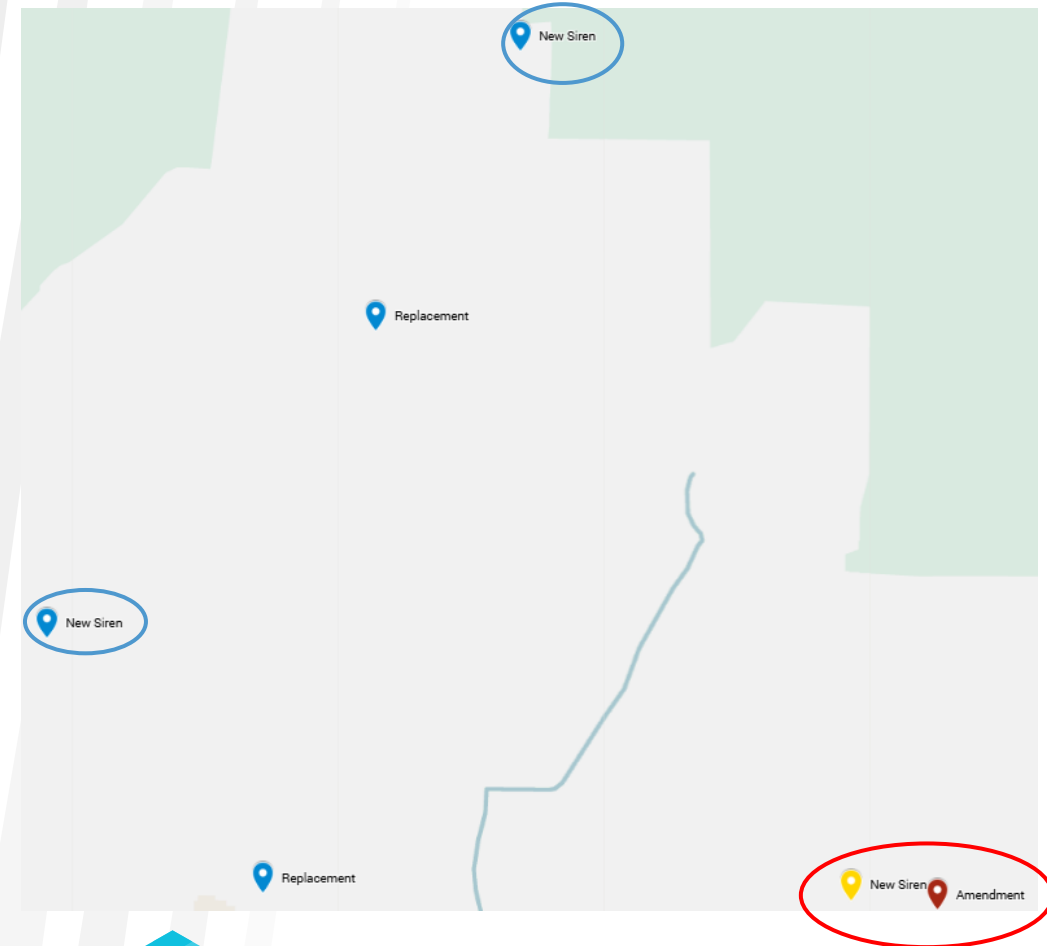
## 2c. Common Issues: Documentation & Legibility

Knowing the project is not the same as communicating it



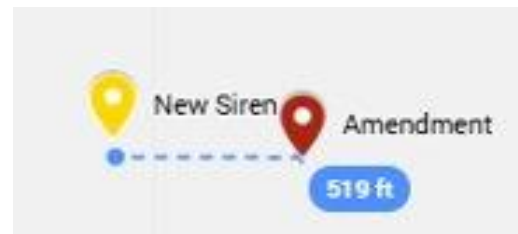
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# Documentation & Legibility Case 1: Mapping the Project Area(s)

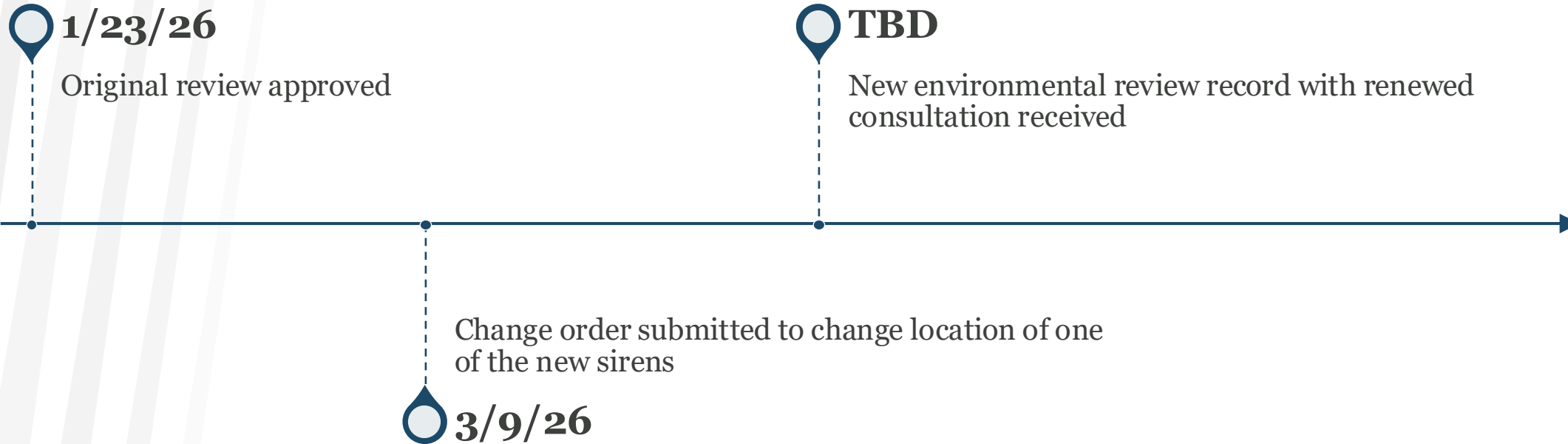


What Happened:

- 1) Original review used point-based locations for new tornado sirens on undisturbed ground to consult agencies and THPOs
- 2) The points for one of the new tornado sirens were proposed to change by ~500 feet, just ~40 days post-Authorization

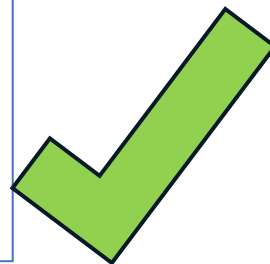
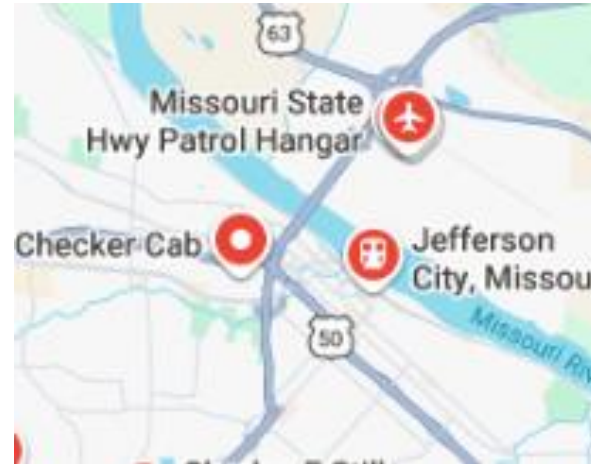
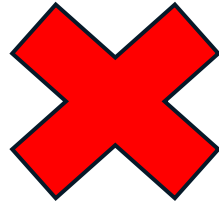


# Documentation & Legibility Case 1: Mapping the Project Area(s)



# Documentation & Legibility Case 2: Distance Matters

- Often, preparers will use an unmarked map as documentation of proximity to features like airports and protected streams
- If they additionally do not indicate the estimated quantified distance in their narrative, we ask for revision
- We ask folks to use NEPAassist to get the runway orientation, too, but it's usually not necessary



# Documentation & Legibility: Takeaways

- If Project Plans Are Likely to Shift:
  - Wait until engineering/architectural plans are finalized and committed to complete the review, or
  - Acknowledge a reasonable ceiling for scope in the review beyond the narrow, speculative, initial plans
- Mapping Matters
  - Failing to represent the (potential) project area as accurately as possible can result in unnecessary delays when minor amendments are made
- SHOW-ME (State)
  - Avoid making assertions/narratives without clear associated evidence where possible
    - Assertions/narratives sometimes necessary where only personally observable data exists
    - Anticipate skepticism; Responsible Entities have something they must prove



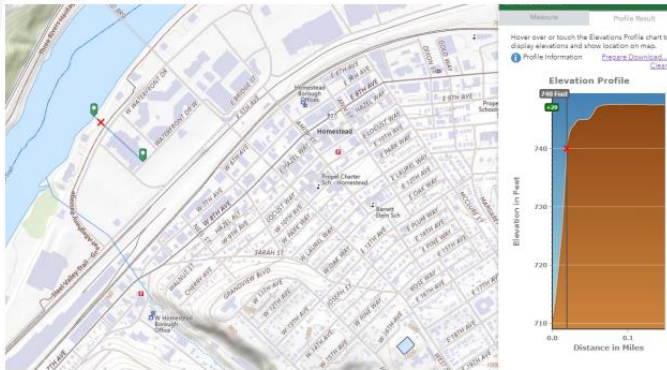
## 2d. Common Issues: Digital Tools & Missing Data

Filling the gap between regulations and the available data



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# Digital Tools & Missing Data Case 1: The 500-year Floodplain Mapping Gap



Points along the 100-year floodplain

Points along the nearest edge of the project area

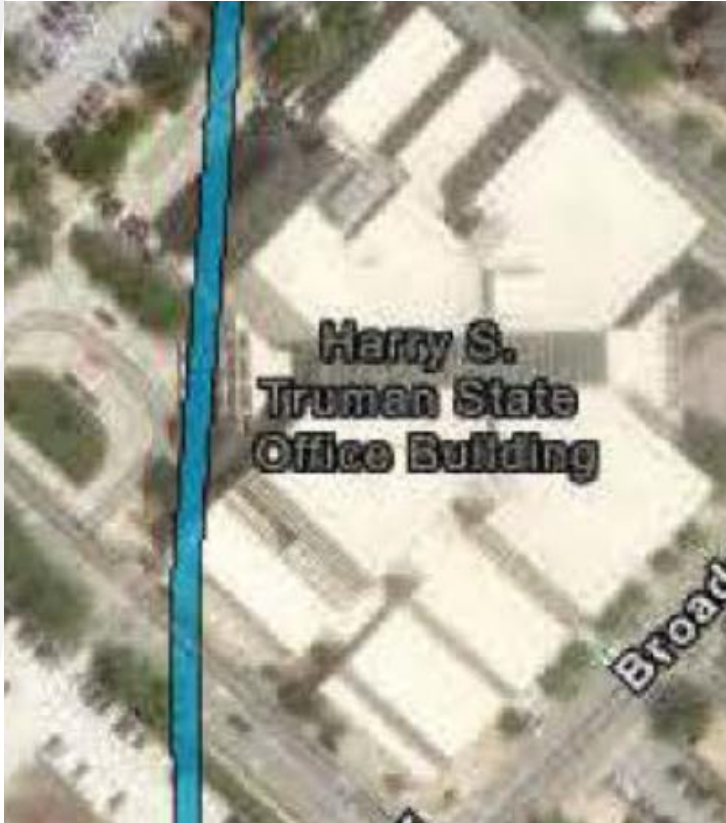
Saved Elevation Points

#	Latitude	Longitude	Feet	Meters
1			371.98	113.38
2			371.46	113.22
3			365.68	111.46
4			365.11	111.29
5			369.41	112.60
6			369.77	112.71
7			369.65	112.67
8			368.99	112.47

- Due to the frequency of missing data for the 500-year floodplain in rural Missouri, we typically augment analysis by applying the "100-year floodplain + 2 feet" standard with outside data
- This is the only analysis we typically conduct on the preparer's behalf

This grant administrator determined mitigation was necessary, since the project site points are all within 2 feet of Base Flood Elevation

# Digital Tools & Missing Data Case 2: Wetlands that Don't Exist



- The National Wetlands Inventory is used for initial screening based on topography alone, so cross-validating the actual presence of hydrophytic flora or aquatic life\* is important

\*HUD has a unique wetlands definition



# Digital Tools & Missing Data: Takeaways

- Site-Specific Knowledge > Digital, Aggregated Knowledge
  - This goes both ways
    - Missing data can be supplemented
    - Inconsistent data can be displaced
- Grantees often lack project area-specific mapping data that's taken for granted
  - Floodplains, wetlands, historic properties, endangered species' presence, unreported brownfields, and noise sources can all vary from what aggregated, publicly available data suggests



# Questions?

If you think of something later, or just want to connect with us:

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