

5 SECTION 4F EVALUATION

5.1 Regulatory Framework and Policies

Section 4(f) Resources are governed by the following:

- 23 CFR 774-Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))
- 49 USC 303-Policy on Lands, Wildlife and Waterfowl Refuges, and Historic Sites

Section 4(f) of the United States Department of Transportation Act of 1966, codified in Federal law at 49 USC 303, states that “It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.” Section 4(f) specifies that “The Secretary [of Transportation] may approve a transportation program or project...requiring the use of any publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of a historic site of national, state, or local significance (as determined by the federal, state or local officials having jurisdiction of the park area, refuge, or site), only if:

- There is no prudent and feasible alternative to using that land, and
- The program or project includes all possible planning to minimize harm to the park, recreational area, wildlife and waterfowl refuge, or historic site resulting from the use.”

Section 4(f) further requires consultation with the Department of the Interior and, as appropriate, the involved offices of the Departments of Agriculture and Housing and Urban Development.

Section 4(f) “use” is defined as:

- When Section 4(f) land is permanently incorporated into a transportation facility;
- When there is a temporary occupancy of land that is adverse in terms of the statute’s preservation purpose; or when there is a constructive use of a Section 4(f) property. Constructive use occurs when the transportation project does not incorporate land from a Section 4(f) resource, but the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only when the protected activities, features or attributes of the resource are substantially diminished [23 CFR 774.17].

5.2 Proposed Action and Purpose and Need

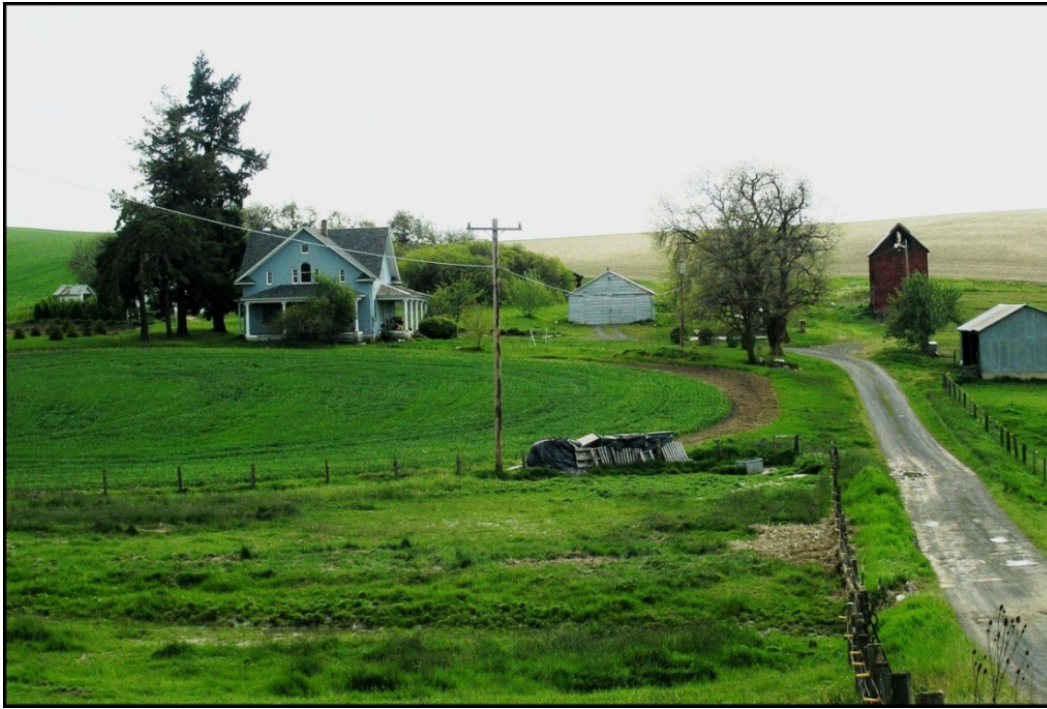
The purpose of this project is to improve public safety and increase highway capacity on US-95 south of Moscow between Thorncreek Road (MP 337.67) and the South Fork Palouse River

Bridge (MP 344.00). Within the project limits, US-95 does not meet current American Association of State Highway and Transportation Officials (AASHTO) Standards. The primary deficiencies of the roadway are described in detail in the DEIS, Chapter 1, Introduction and Section 3.10, Transportation.

5.3 Section 4(f) Properties

The Deesten/Davis Farmstead is the only National Register of Historic Properties (NRHP) eligible cultural resource that could be affected by the Action Alternatives presented in the DEIS and is the only Section 4(f) resource considered in this Section 4(f) Evaluation. See Exhibit 44. Deesten/Davis Farmstead as viewed from US-95.

Exhibit 44. Deesten/Davis Farmstead as viewed from US-95



The Deesten/Davis Farmstead (Field #US-95-22) is located immediately west of US-95 and approximately four miles south of Moscow between Zietler Road and Jacksha Road. It consists of eight primary buildings: a farmhouse, garage, barn, granary, chicken house, smoke house, shop, equipment shed and groves of trees. Within the historic site boundary, the property is estimated to be 10.43 acres and is surrounded by actively cultivated Palouse farmland.

The Civilian Conservation Corps planted the two groves of trees in the 1930s. There is also an orchard, cottonwoods, a conifer windbreak and a black walnut tree from Germany. The farm was originally patented to William Plummer in 1882 as a cash entry land claim (BLM 2005) and

is remarkably intact with the house, barn and other primary buildings in good condition with no intrusive modern elements. The property is eligible for NRHP listing under Criterion A, for its association with regional agricultural development. The property is also eligible under Criterion C as an excellent example of early twentieth century farmstead architecture and layout.

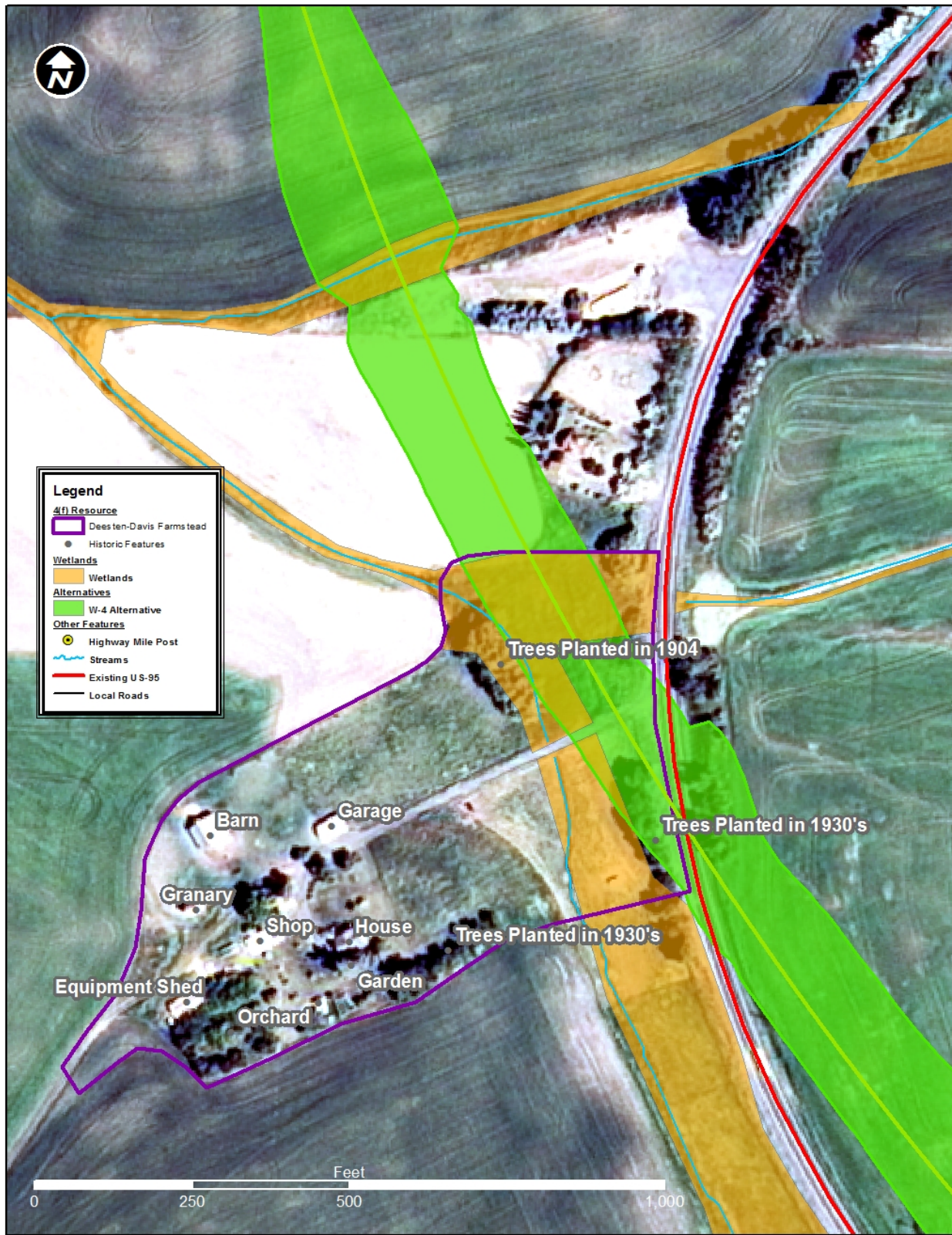
5.4 Section 4(f) Use

The W-4 Alternative as presented in the DEIS would result in an adverse effect to the Deesten/Davis Farmstead under Section 106 of the NHPA and would constitute a use under Section 4(f) of the USDOT Act. The No Action, C-3 and E-2 alternatives would not result in Section 4(f) use.

The DEIS W-4 Alternative would encroach upon approximately 1.73 acres of the Deesten/Davis Farmstead. This encroachment would not adversely affect any of the historic buildings but would remove several of the trees, which were planted in the 1930s by the Civilian Conservation Corps. These trees provide a partial visual screen between the roadway and the farmstead. Removing the trees could alter the views of the farmstead adversely affecting the setting. Acquiring right-of-way and removing the trees would result in a Section 4(f) use.

There are approximately 2.23 acres of Wetland 9 within the boundary farmstead. The DEIS W-4 Alternative would affect 0.84 acres of the wetland located on the farmstead. See Sections 3.6 and 4.6 for a discussion of wetlands. See Exhibit 45. Deesten/Davis Farmstead Section 4(f) Use by DEIS W-4 Alternative.

Exhibit 45. Deesten/Davis Farmstead Section 4(f) Use by DEIS W-4 Alternative



5.4.1 Avoidance Alternatives

Based on the DEIS, the avoidance alternatives would include using either the C-3 or E-2 Alternatives. Shifting the roadway approximately 300 feet to the east in the vicinity of the farmstead would also avoid the historic site boundary. This would require W-4 to follow the existing alignment in this area, which experiences many accidents due to the substandard curvature. Realigning the W-4 Alternative in this location to follow the existing US-95 alignment would not improve the substandard curvature of roadway in that area and while constructible, it would not meet the project purpose and need and would not be prudent.

Modified W-4 Alternative

During the development of the FEIS, the DEIS W-4 Alternative centerline was shifted approximately 120 feet east for approximately 2000 ft to avoid the historic farmstead boundary. This realignment begins south of MP 340 and extends to Snow Road. This alternative is feasible and constructible using accepted engineering standards (AASHTO). This new avoidance alternative is referred to as the “Modified W-4 Alternative”. See Exhibit 46. Modified W-4 and DEIS W-4 Alternatives.

The Modified W-4 Alternative is 0.04 miles shorter than the DEIS W-4 Alternative. The safety analysis for the Modified W-4 Alternative shows no substantial difference in projected crash rates and the road user costs would not change noticeably. There would be no severe social, economic or environmental impacts as a result of the avoidance alternative. The primary differences between the W-4 alternatives are shown in Table 66. Comparison of W-4 Alternatives.

As shown in Table 67. Comparison of W-4 Alternatives, the Modified W-4 Alternative compared to the DEIS W-4 Alternative would have slightly more than one less predicted crash, less right-of-way needs, less wetland and floodplain impacts and would avoid cultural resources and Section 4(f) use. However, it would have one additional well impact, one additional impact to a tributary but less stream channel would be affected. It would also have more impervious surface and more prime farmland effects. This avoidance alternative in this location does not result in a severe impact and is prudent.

The Modified W-4, C-3 and E-2 alternatives are feasible and prudent avoidance alternatives; therefore, no further Section 4(f) evaluation or approval is required.

Exhibit 46. Modified W-4 and DEIS W-4 Alternatives

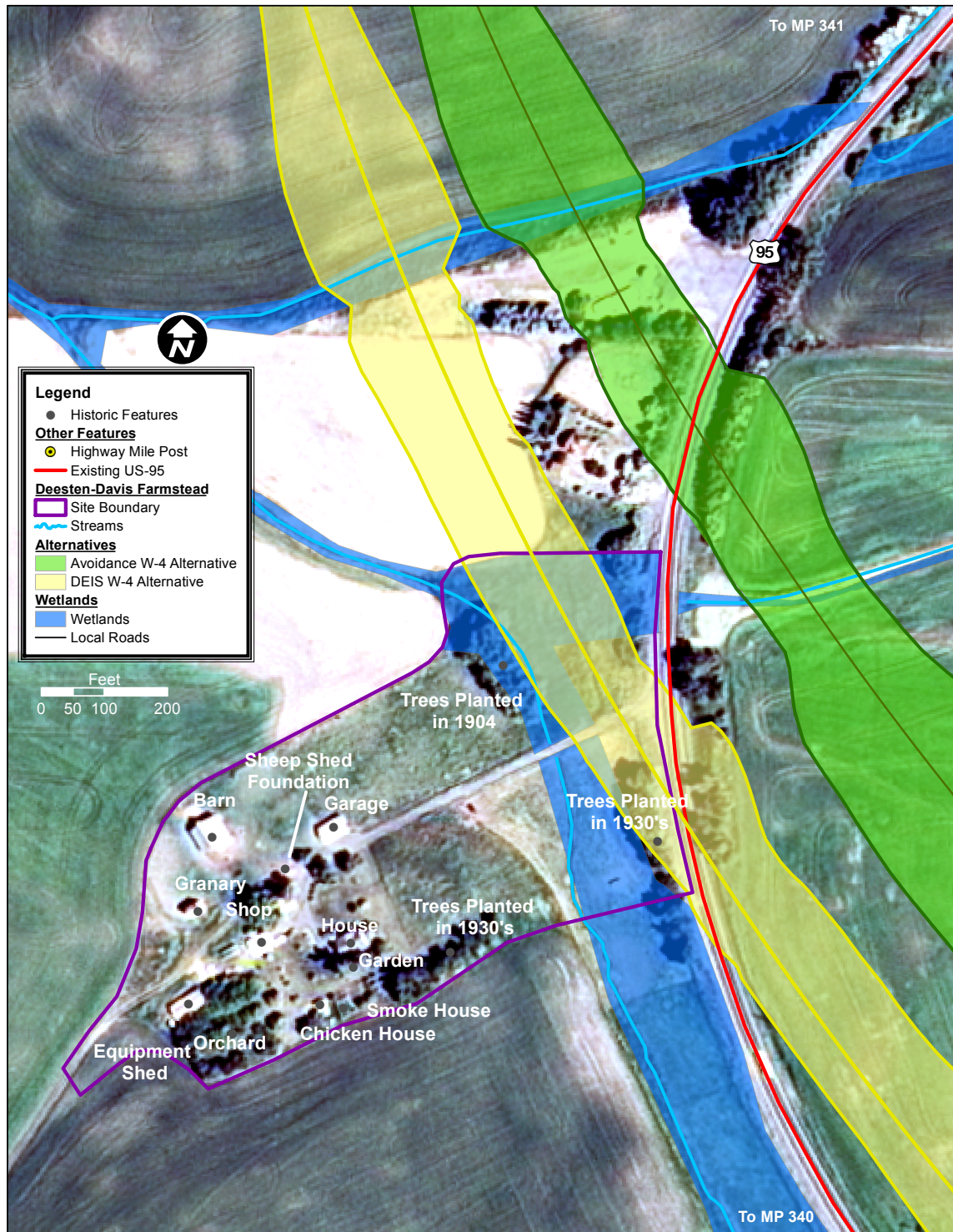


Table 67. Comparison of W-4 Alternatives

Resource	Modified W-4 Alternative	DEIS W-4 Alternative
Length (miles)	6.65	6.69
Predicted Crashes (total crashes 2017 through 2036)	244.9	246.2
Right-of-Way new/existing/total (acres)	206/45/251	210/49/259
Prime Farmland (acres)	49.7	46.7
Cultural Resources/Section 4(f)	0/0	1/1
Impervious Surface (acres) New alignment/New alignment plus US-95 Loop	58/68	57/67
Wells (#)	1	0
Wetlands (acres)	1.85	5.45
Tributaries (#/length (ft))	10/3,592	9/5,517
Floodplain (acres)	1.6	3.6

5.5 Coordination

The following coordination relevant to Section 106 of the NHPA and Section 4(f) of the DOT Act of 1966 has been completed. See Appendix 1, Key Agency Correspondence and Forms for associated documentation.

- ITD consulted with the Nez Perce Tribe, the Nez Perce Tribal Historic Preservation Office (THPO), and the Idaho SHPO regarding the cultural resources APE for all of the proposed alternatives.
- Cultural resource prefield investigations, field surveys, subsequent reports and report addendums were completed between 2003 and 2015. See Section 3.4. Cultural Resources.
- Tribal consultation letters and meetings were held annually between 2003 and 2015. See Chapter 7, Public Involvement and Agency Coordination.
- The report titled *Cultural Resources Surveys of Idaho Transportation Department Proposed US-95, Thorn Creek Road to Moscow, Phase 1; Project Latah County Idaho* (AHS 2006) was submitted to the Idaho SHPO. SHPO concurred with the finding of NRHP eligibility and determination of effects for the alternatives on January 2, 2007.
- The report titled *Historic Resources Survey update to An Historic Buildings/Structures Survey for the Idaho Transportation Department's Proposed US 95, Thorn Creek Road to Moscow, Stage 1 Project, Latah County, Idaho* (November 2011) was submitted to SHPO. SHPO determined that one additional resource; the Mountain Mart or Goodman Oil building is eligible for listing on the NRHP.
- During the 30-day public review period for this FEIS, the Department of Interior (DOI) and SHPO will have an opportunity to review the FEIS and Section 4(f) Evaluation.

- ITD consulted on the Modified W-4 Alternative with both the Nez Perce THPO and Idaho SHPO during the spring of 2015. After consultation with both parties, FHWA and ITD prepared a memo report describing the Modified W-4 Alternative on April 20, 2015, which was submitted to the Idaho SHPO. On June 16, 2015, the Idaho SHPO concurred with the finding that the Modified W-4 Alternative will result in No Effect to historic properties.