

Appendix G - Agency Coordination

**FOR CORRESPONDENCE WITH THE
MONTANA STATE HISTORIC PRESERVATION OFFICE,
PLEASE REFER TO:
APPENDIX C – CULTURAL RESOURCES
And
FOR SECTION 4(f) RELATED CORRESPONDENCE,
PLEASE REFER TO:
APPENDIX E – SECTION 4(f) CORRESPONDENCE**

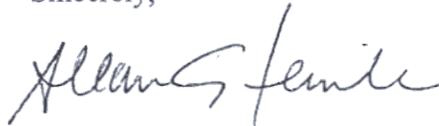
The following sites are not jurisdictional wetlands and waters of the U. S. under the authority of Section 404 of the Clean Water Act:

Ditch A (NJA)	NJB	NJC	NJD
NJG	Wall Ditch	NJH	NJI
NJK	NJL	NJM	NJN
NJO	NJP	NJQ	NJS
NJR	NJT	NJW	NJAA
NJBB	NJCC	NJDD	NJEE
NJFF	NJGG	NJKK	NJMM
NJPP	NJQQ	NJSS	NJVV
NJRR	NJTT	NJUJ	NJWW
Lynn Ditch	NJAAA	NJZZ	NJBBB
NJCCC	NJKKKK	NJIII	NJJJJ
NJKKK	NJOOO	NJPPP	NJUUU
NJAAAA	NJYYY	NJDDD	NJEEE
NJFFF	Crest Ditch	NJGGG	NJHHH
NJNNN	NJMMM	NJRRR	NJSSS
NJTTT	NJVVV	NJWWW	NJQQQ
NJXXX	NJZZZ	NJCCCC	NJDDDD
NJFFFF	NJBBBB	NJEEEE	NJGGGG
NJNJHHHH	Wagner Ditch		

The enclosed Jurisdictional Determination (JD) forms describe the extent of waters of the United States on the project site. These are preliminary jurisdictional determinations, and are not appealable. However, you may request that we issue approved jurisdictional determinations, which would be appealable. If you would like more information on the jurisdictional appeal process, contact this office.

If you have any questions, please call Shannon Warner of the Billings office at (406) 657-5910, and reference File No. 200290343.

Sincerely,



Allan Steinle
Montana Program Manager

Enclosures

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

DISTRICT OFFICE: Omaha
FILE NUMBER: 200290343

PROJECT LOCATION INFORMATION:

State: Montana
County: Carbon
Center coordinates of site (latitude/longitude): 45-12-38.9377 / 108-58-27.2559
Approximate size of area (parcel) reviewed, including uplands: 11.1 mile corridor acres.
Name of nearest waterway: Clarks Fork Yellowstone River
Name of watershed: Clarks Fork Yellowstone River

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: September 13, 2004
Site visit(s) Date(s):

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:
- There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
- There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
- There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

- The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (2) The presence of interstate waters including interstate wetlands¹.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) - (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Waters and wetlands listed on attached sheet all have a hydrologic connection. Clarks Fork flows into the Yellowstone River.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other:
- Mean High Water Mark indicated by:
- survey to available datum; physical markings; vegetation lines/changes in vegetation types
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by David Evans and Associates, Inc.

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated July 22, 2004, prepared by (company): David Evans and Associates, Inc.
- This office does not concur with the delineation report, dated _____, prepared by (company): _____
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
 - U.S. Geological Survey 7.5 Minute Topographic maps:
 - U.S. Geological Survey 7.5 Minute Historic quadrangles:
 - U.S. Geological Survey 15 Minute Historic quadrangles:
 - USDA Natural Resources Conservation Service Soil Survey:
 - National wetlands inventory maps:
 - State/Local wetland inventory maps:
 - FEMA/FIRM maps (Map Name & Date):
 - 100-year Floodplain Elevation is: _____ (NGVD)
 - Aerial Photographs (Name & Date):
 - Other photographs (Date): July 22, 2004
 - Advanced Identification Wetland maps:
 - Site visit/determination conducted on:
 - Applicable/supporting case law:
 - Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e. occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

Jurisdictional Waters

Clarks Fork Yellowstone River and its unnamed tributaries

Silver Tip Creek and its unnamed tributaries

Bear Creek and its unnamed tributaries

Dry Creek and its unnamed tributaries

Youst Ditch

NJU

NJF

NJV

NJHH

NJY

NJZ

NJXX

NJLLL

Wetland B

Wetland D

Wetland F

Wetland H

Wetland J/K

Wetland EX

NJCCC (Golden Ditch)

NJIII

NJE

NJJ

NJX

NJII

NJOO

NJLL

NJYY

Wetland A

Wetland C

Wetland FX

Wetland G

Wetland I

Wetland AX

Dry Creek Canal

Sand Creek Canal

DISTRICT OFFICE: Omaha
FILE NUMBER: 200290343

PROJECT LOCATION INFORMATION:

State: Montana
County: Carbon
Center coordinates of site (latitude/longitude): 45-12-38.9377 / 108.58.2559
Approximate size of area (parcel) reviewed, including uplands: 11.1 mile corridor acres.
Name of nearest waterway: Clarks Fork Yellowstone River
Name of watershed: Clarks Fork Yellowstone River

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: September 13, 2004
Site visit(s) Date(s):

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:
- There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
- There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:
- There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
 Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

- A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":
 The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
- B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":
 (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
 (2) The presence of interstate waters including interstate wetlands¹.
 (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
 (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
 (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
 (iii) which are or could be used for industrial purposes by industries in interstate commerce.
 (4) Impoundments of waters otherwise defined as waters of the US.
 (5) The presence of a tributary to a water identified in (1) - (4) above.
 (6) The presence of territorial seas.
 (7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination.* Non-jurisdictional waters and wetland listed on attached sheet. These ditches and wetlands have no connection to jurisdictional waters of the US, including wetlands.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
- clear, natural line impressed on the bank
 - the presence of litter and debris
 - changes in the character of soil
 - destruction of terrestrial vegetation
 - shelving
 - other:
- High Tide Line indicated by:
- oil or scum line along shore objects
 - fine shell or debris deposits (foreshore)
 - physical markings/characteristics
 - tidal gages
 - other:
- Mean High Water Mark indicated by:
- survey to available datum; physical markings; vegetation lines/changes in vegetation types.
- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
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 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale: no connection to waters of the US
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated July 22, 2004, prepared by (company): David Evans and Associates, Inc.
- This office does not concur with the delineation report, dated _____, prepared by (company): _____
- Data sheets prepared by the Corps.
 - Corps' navigable waters' studies:
 - U.S. Geological Survey Hydrologic Atlas:
 - U.S. Geological Survey 7.5 Minute Topographic maps:
 - U.S. Geological Survey 7.5 Minute Historic quadrangles:
 - U.S. Geological Survey 15 Minute Historic quadrangles:
 - USDA Natural Resources Conservation Service Soil Survey:
 - National wetlands inventory maps:
 - State/Local wetland inventory maps:
 - FEMA/FIRM maps (Map Name & Date):
 - 100-year Floodplain Elevation is: _____ (NGVD)
 - Aerial Photographs (Name & Date):
 - Other photographs (Date): July 22, 2004
 - Advanced Identification Wetland maps:
 - Site visit/determination conducted on:
 - Applicable/supporting case law:
 - Other information (please specify):

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

Non-jurisdictional Waters

Ditch A (NJA)	NJB	NJC	NJD
NJG	Wall Ditch	NJH	NJI
NJK	NJL	NJM	NJN
NJO	NJP	NJQ	NJS
NJR	NJT	NJW	NJAA
NJBB	NJCC	NJDD	NJEE
NJFF	NJGG	NJKK	NJMM
NJPP	NJQQ	NJSS	NJVV
NJRR	NJTT	NJUJ	NJWW
Lynn Ditch	NJAAA	NJZZ	NJBBB
NJCCC	NJKKKK	NJIII	NJJJJ
NJKKK	NJOOO	NJPPP	NJUUU
NJAAAA	NJYYY	NJDDD	NJEEE
NJFFF	Crest Ditch	NJGGG	NJHHH
NJNNN	NJMMM	NJRRR	NJSSS
NJTTT	NJVVV	NJWWW	NJQQQ
NJXXX	NJZZZ	NJCCC	NJDDDD
NJFFFF	NJBBBB	NJEEE	NJGGGG
NJNJHHHH	Wagnor Ditch		



U.S. ARMY CORPS OF ENGINEERS

HELENA REGULATORY OFFICE

10 WEST 15TH STREET, SUITE 2200

HELENA, MONTANA 59626

REPLY TO
ATTENTION OF:

July 25, 2002

Helena Regulatory Office
Phone (406) 441-1375
Fax (406) 441-1380

Subject: Corps File Number 2002-90-343
Belfry - North
F STPP 72-1(1)10, MDT Control Number 1016

Ms. Debra Perkins-Smith – Project Manager
David Evans and Associates Inc.
1331 17th Street, Suite 900
Denver, Colorado 80202

Dear Ms. Perkins-Smith:

This letter is a response to a request that the US Army Corps of Engineers (Corps) be a Cooperating Agency for the Montana Department of Transportation (MDT) project listed above. We recognize that a reply was requested by July 15, 2002, and we appreciate your acceptance of this late response.

Under the authority of Section 404 of the Clean Water Act, Department of the Army permits are required for the discharge of fill material below the ordinary high water mark of our Nation's rivers, streams, lakes or wetlands.

Pursuant to the National Environmental Policy Act, the Corps agrees to be a Cooperating Agency. Our participation as a Cooperating Agency will be limited to reviewing and commenting on project features that may affect Waters of the United States. This will be in addition to our regulatory and permitting responsibilities.

Todd Tillinger of this office will be the Corps' project manager. He may be reached by phone at (406) 441-1375 or by e-mail at todd.n.tillinger@usace.army.mil. Please reference Corps File Number 2002-90-343.

Sincerely,

Allan Steinle
Montana Program Manager

REC'D JUL 31 2002



REC'D NOV 19 2002

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Billings Field Office
P.O. Box 36800
5001 Southgate Drive
Billings, Montana 59107
<http://www.mt.blm.gov/bifo/>

2821 (480)

November 15, 2002

Debra Perkins-Smith
Project Manager for Belfry-North
David Evans and Associates, Inc.
1331 17th Street, Suite 900
Denver, Colorado 80202

Dear Ms. Perkins-Smith:

This is in response to your letter dated November 1, 2002 regarding the Belfry-North project for the re-construction of Montana Highway 72. According to the Montana Department of Transportation's alignment alternatives plan, three of the alternatives under consideration would involve the potential use of public lands. This being the case, we would certainly want to be considered a Cooperating Agency.

Please keep us advised of any environmental documentation needs and any future public meetings.

If you have any questions, please contact Tom Carroll, Realty Specialist, at 406-896-5242.

Sincerely,

Sandra S. Brooks
Sandra S. Brooks
Field Manager



United States Department of the Interior

FISH AND WILDLIFE SERVICE

RECEIVED

SEP 29 2004

ENVIRONMENTAL

ECOLOGICAL SERVICES
MONTANA FIELD OFFICE
100 N. PARK, SUITE 320
HELENA, MONTANA 59601
PHONE (406) 449-5225, FAX (406) 449-5339

MASTER FILE COPY

M.44 MDT (I

REC'D OCT 05 2004 October 27, 2004

Paul Sturm
Montana Department of Transportation
Environmental Services
2701 Prospect Avenue
P.O. Box 201001
Helena, Montana 59620 001

Dear Mr. Sturm

This is in response to your letter dated August 23, 2004, regarding Montana Department of Transportation's proposed Belfry - North project (STPP 72-1(1)10; Control No. 1016). The project is located on Montana Highway 72 in Carbon County and would entail the full reconstruction of 11.1 miles of MT 72 from the intersection of Montana Secondary Highway 308 in the town of Belfry, to the intersection of U.S. Highway 310 near Bridger, Montana. Construction activities would primarily include road widening, curve straightening, bridge and culvert replacement, and roadway realignment. The project would parallel the Clarks Fork of the Yellowstone River and cross the river twice. Your letter transmitted the Biological Resources Report (BRR), which includes the biological assessment for this project, to the U.S. Fish and Wildlife Service (Service) and requested that the Service concur with its determinations of effect for threatened and endangered species with regard to this proposed project. The Service's Montana Field Office received your request on August 24, 2004.

The listed species considered in your BRR included the threatened bald eagle (*Haliaeetus leucocephalus*), endangered black-footed ferret (*Mustela nigripes*), and non-essential experimental gray wolf (*Canis lupus*). The Service believes that the activities associated with the proposed project, as described in the BRR dated July 22, 2004, would not have the potential to cause an adverse effect to listed species nor to jeopardize the continued existence of non-essential experimental populations. Therefore, we concur with your determination that this project would not be likely to adversely affect bald eagles and formal consultation is not required. The Service bases its concurrence on information displayed in the BRR. We also acknowledge your conclusion that this project would have no effect on black-footed ferrets or gray wolves.

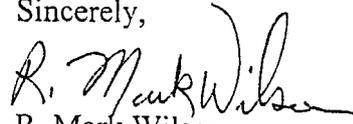
This concludes informal consultation pursuant to regulations 50 CFR §402.13 implementing the Endangered Species Act of 1973, as amended (Act). This project should be re-analyzed if new

Consultant Design	
Date	Initial
Routing	
Bureau Chief	
Consultant Plans Eng	
Design Supervisor	
CTFP Foreman	
<i>Delaney</i>	
<i>David Evans</i>	
<i>Dewey</i>	
<i>Bruce Barrett</i>	
<i>File</i>	

information reveals effects of the action that may affect threatened or endangered species, or if the project is modified in a manner that causes an effect not considered in this consultation.

If you have questions about this letter or your responsibilities under the Act, please contact Scott Jackson at (406)449-5225, extension 201.

Sincerely,

A handwritten signature in black ink that reads "R. Mark Wilson". The signature is written in a cursive style with a large, looped "W".

R. Mark Wilson
Field Supervisor

Copy to Todd Tillinger, COE, Helena, MT
 Lou Hanebury, FWS, Billings, MT



United States Department of the Interior

FISH AND WILDLIFE SERVICE
MONTANA FIELD OFFICE
100 N. PARK, SUITE 320
HELENA, MONTANA 59601
PHONE (406) 449-5225, FAX (406) 449-5339

M.17 FHWA (I)

July 25, 2002

Debra Perkins-Smith
David Evans and Associates, Inc.
1331 17th Street, Suite 900
Denver, Colorado 80202

Dear Ms. Perkins-Smith:

This is in response to your recent letter regarding a proposal by the Montana Department of Transportation to reconstruct Montana Highway P-72 between Belfry and Bridger in Carbon County, Montana (F STPP 72-1(1)10; Control No. 1016). Your letter requested information the U.S. Fish and Wildlife Service (Service) may have pertaining to threatened and endangered (T/E) species that may occur in the vicinity of the proposed project. Your letter also requested that the Service be a Cooperating Agency with regards to this project. In addition, you asked for information on any Service resources that would be protected by Section 4(f) of the 1966 Department of Transportation Act. These comments have been prepared under the authority of, and in accordance with, the provisions of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et.seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.).

In accordance with section 7(c) of the Act, the Service has determined that the following threatened, endangered, proposed, and candidate species may be present in the project area:

Listed Species

bald eagle (*Haliaeetus leucocephalus*); threatened

black-footed ferret (*Mustela nigripes*); endangered

gray wolf (*Canis lupus*); non-essential experimental

Proposed Species

mountain plover (*Charadrius montanus*); proposed as threatened

Expected Occurrence

spring or fall migrant; winter resident; nesting

potential occurrence associated with prairie dog complexes

transient

Expected Occurrence

potential occurrence in shortgrass prairie habitat

Candidate SpeciesExpected Occurrenceblack-tailed prairie dog (*Cynomys ludovicianus*)

potential occurrence in shortgrass prairie habitat

Section 7(c) of the Act requires that Federal agencies proposing major construction activities complete a biological assessment to determine the effects of the proposed actions on listed and proposed species and use the biological assessment to determine whether formal consultation is required. A major construction activity is defined as "a construction project (or other undertaking having similar physical impacts) which is a major Federal action significantly affecting the quality of the human environment as referred to in the National Environmental Policy Act (NEPA)" (50 CFR Part 402). If a biological assessment is not required (i.e. all other actions), the Federal agency is still required to review their proposed activities to determine whether listed species may be affected. If such a determination is made, formal consultation with the Service is required.

For those actions wherein a biological assessment is required, the assessment should be completed within 180 days of initiation. This time frame can be extended by mutual agreement between the Federal agency or its designated non-Federal representative and the Service. If an assessment is not initiated within 90 days, this list of threatened and endangered species should be verified with the Service prior to initiation of the assessment. The biological assessment may be undertaken as part of the Federal agency's compliance of section 102 of NEPA and incorporated into the NEPA documents. We recommend that biological assessments include the following:

- A description of the project.
2. A description of the specific area that may be affected by the action.
3. The current status, habitat use, and behavior of T/E species in the project area.
4. Discussion of the methods used to determine the information in Item 3.
5. An analysis of the affects of the action on listed species and proposed species and their habitats, including an analysis of any cumulative effects.
6. Coordination/mitigation measures that will reduce/eliminate adverse impacts to T/E species.
7. The expected status of T/E species in the future (short and long term) during and after project completion.
8. A determination of "is likely to adversely affect" or "is not likely to adversely affect" for listed species.
9. A determination of "is likely to jeopardize" or "is not likely to jeopardize" for proposed species.
10. Citation of literature and personal contacts used in developing the assessment.

If it is determined that a proposed program or project "is likely to adversely affect" any listed species, formal consultation should be initiated with this office. If it is concluded that the project

"is not likely to adversely affect" listed species, the Service should be asked to review the assessment and concur with the determination of no adverse effect.

The experimental population area for wolves for the Yellowstone region includes the entire State of Wyoming, a portion of southeastern Idaho east of Interstate 15, and a portion of Montana east of Interstate 15 and south of the Missouri River. Therefore, this proposed project lies within the Yellowstone experimental population area. Wolves designated as nonessential experimental that are not within units of the National Park or National Wildlife Refuge systems, but are within the boundaries of the nonessential experimental population area, are treated as proposed species for section 7 purposes. As such, Federal agencies are only required to confer with the Service when they determine that an action they authorize fund or carry out "is likely to jeopardize the continued existence" of the species.

Pursuant to section 7(a) (4) of the Act, if it is determined that any proposed species may be jeopardized, the Federal agency should initiate a conference with the Service to discuss conservation measures for those species. For more information regarding species of concern occurring in the project area, including proposed and candidate species, please contact the Montana Natural Heritage Program, 1515 East 6th Ave., Helena, 59601, (406) 444-3009.

A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare biological assessments. However, the ultimate responsibility for Section 7 compliance remains with the Federal agency and written notice should be provided to the Service upon such a designation. We recommend that Federal agencies provide their non-Federal representatives with proper guidance and oversight during preparation of biological assessments and evaluation of potential impacts to listed species.

Section 7(d) of the Act requires that the Federal agency and permit/applicant shall not make any irreversible or irretrievable commitment of resources which would preclude the formulation of reasonable and prudent alternatives until consultation on listed species is completed.

Any power lines in the vicinity, if not properly constructed, could pose electrocution hazards for bald eagles. To conserve this species, and other large raptors protected by Federal law, we urge that any power lines that need to be modified or reconstructed as a result of this project be raptor-proofed. Criteria and techniques for raptor-proofing are available from several sources, including those outlined in the publication, "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996." A copy of this report may be obtained from: Jim Fitzpatrick, Treasurer, Carpenter Nature Center, 12805 St. Croix Trail South, Hastings, MN 55033. The use of such techniques would likely be most beneficial adjacent to expected raptor foraging areas (i.e., stream crossings or wetlands that support populations of waterfowl).

Your letter does not mention whether wetlands might be impacted by the proposed construction project. If so, Corps of Engineers (Corps) Section 404 permits may eventually be required. In that event, depending on permit type and other factors, the Service may be required to review

permit applications and will recommend any protection or mitigation measures to the Corps as may appear reasonable and prudent based on the information available at that time.

This office is not aware of any Service-owned or administered lands, or other resources protected under Section 4(f) of the 1966 Department of Transportation Act that may occur near, or be impacted by, the proposed project.

The Service agrees to be a Cooperating Agency, pursuant to the National Environmental Policy Act, for this project. As such, the Service will review and respond to documents required for compliance with the Endangered Species Act, and the Fish and Wildlife Coordination Act.

If you have questions regarding this letter, please contact Mr. Scott Jackson, of my staff, at the address above or by phone at (406) 449-5225, ext. 201.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Esmoil", written in a cursive style.

Brent Esmoil
Acting Field Supervisor

Copy to: FWS-ES; Billings Suboffice



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Fish and Wildlife Enhancement
Federal Building, U.S. Courthouse
301 South Park
P. O. Drawer 10023
Helena, Montana 59626

IN REPLY REFER TO:

FWE-61130-Billings
M.44 (Belfrey-North)

Ms. Edrie L. Vinson
Montana Department of Transportation
2701 Prospect Avenue
Helena, Montana 59620

Date Recd. Per MAIL F

Info	
30 Precor	<input checked="" type="checkbox"/>
30 Assist	<input checked="" type="checkbox"/>
30 Offic	<input type="checkbox"/>
31 Safel	<input type="checkbox"/>
32 Road	<input checked="" type="checkbox"/>
33 Envi	<input type="checkbox"/>
34 HyJ.	<input type="checkbox"/>
35 Surv	<input type="checkbox"/>
36 Traf	<input type="checkbox"/>
37 Tra	<input type="checkbox"/>
39 Con	<input type="checkbox"/>
File	<input checked="" type="checkbox"/>

6-25-92

Dear Ms. Vinson:

This responds to your June 10, 1992 letter concerning Montana Department of Transportation Project F 72-1(1)10, Belfrey - North (P.M.S. Control # 1016), which requested identification of the threatened and endangered species that should be considered in connection with this project. Your letter also requested other comments we may have.

The Federally-listed endangered and threatened species which occur or may occur within the project area are the bald eagle (Haliaeetus leucocephalus), peregrine falcon (Falco peregrinus), and black-footed ferret (Mustela nigripes). Pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.), the Federal Highway Administration, as the responsible Federal agency, must determine if the proposed actions may affect these listed species and if so, initiate formal consultation with the Fish and Wildlife Service (Service). In order to determine if formal consultation is required, the Service recommends the responsible agency prepare a biological assessment for construction projects requiring an environmental impact statement (refer to Section 402.12, 50 CFR, Part 402, June 3, 1986), or an equivalent analysis for other projects, in accordance with Section 402.14, 50 CFR, part 402. We recommend that biological assessments include the following:

1. A description of the project,
2. A description of the specific area that may be affected by the action,
3. The current status, habitat use, and behavior of threatened and endangered species in the project area,
4. Discussion of the methods used to determine the information in Item 3,
5. An analysis of the affects of the action on listed species and proposed species and their habitats, including an analysis of any cumulative effects (see Section 402.02 50 CFR, Part 402),
6. Coordination/mitigation measures that will reduce/eliminate adverse impacts to threatened and endangered species,

JEARY
 TAKE PRIDE IN AMERICA
 TREASURER
 FILE COPY
 June 22, 1992
 CC: R.R. Ventura
 ✓ D.S. Johnson

JUN 24 1992

ENVIRONMENTAL BUREAU

7. The expected status of threatened and endangered species in the future (short and long term during and after project completion),
8. A determination of the project affects for listed species,
9. A determination of "is likely to jeopardize" or "is not likely to jeopardize" for proposed species, and
10. Documentation of the basis of all conclusions, such as the data considered, citation of literature and personal contacts used in developing the assessment.

If it is determined that the proposed project is likely to adversely affect any listed species, formal consultation should be initiated with this office.

Section 9 of ESA prohibits knowingly taking listed species, which includes harm, harassment, capture, or collection activities, except when specifically permitted by the U.S. Fish and Wildlife Service. Please also be apprised of the potential application of the Migratory Bird Treaty Act of 1918 (MBTA), as amended, 16 U.S.C. 703 et seq; and the Bald Eagle Protection Act of 1940 (BEPA), as amended, 16 U.S.C. 668 et seq; to your project. The MBTA does not require intent to "take" to be proven and does not allow for "take," except as permitted by regulations. Section 703 of the MBTA provides: "Unless and except as permitted by regulations...it shall be unlawful at any time, by any means or in any manner, to...take, capture, kill, or attempt to take, capture, or kill, possess... any migratory bird, or any part, nest, or eggs of any such bird...." The BEPA prohibits knowingly taking, or taking with wanton disregard for the consequences of such an activity, any bald or golden eagles or their body parts, nest, or eggs, which includes collection, molestation, disturbance, or killing activities.

Although a bald eagle nest is known to exist about two miles northeast of the northern end of the project, we do not foresee any substantive issues with the proposed project with regard to listed species. However, any power lines in the vicinity, if not properly constructed, could pose electrocution and line strike hazards to listed species and other migratory birds. To conserve any listed species and other migratory birds protected by Federal law, we urge that any power lines that may need to be modified or reconstructed as a result of the project be raptor-proofed following the criteria and techniques outlined in the Raptor Research Report No. 4, "Suggested Practices for Raptor Protection on Power Lines - The State of the Art in 1981". A copy may be obtained from:

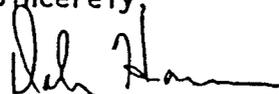
Jim Fitzpatrick, Treasurer
Raptor Research Foundation
Carpenter St. Croix Nature Center
12805 St. Croix Trail
Hastings, Minnesota 55033

The material accompanying your letter indicates that the project will have some impact on wetlands. Accordingly, we assume that a wetland inventory and impact assessment has or will be completed in accordance with the 1992,

"Interagency Memorandum of Understanding for the Conservation of Wetland Resources Associated with Highway Construction Projects in the State of Montana". We urge completion of any needed wetland mitigation in full accordance with that Memorandum of Understanding.

We appreciate your efforts to consider and conserve fish and wildlife resources, including threatened and endangered species. If you have questions regarding this letter, please contact Mr. Gary Wood of my staff (406) 657-6750.

Sincerely,



Dale R. Harms
State Supervisor
Montana State Office

JGW/jf

cc: Suboffice Coordinator, USFWS, Fish & Wildlife Enhancement (Billings, MT)

"Take Pride in America"

Jim Fitzpatrick, Treasurer
Raptor Research Foundation
Carpenter St. Croix Nature Center
12805 St. Croix Trail
Hastings, Minnesota 55033.

The information accompanying the Notice suggests there is a potential for the project to adversely impact wetland habitats. We assume that a wetland inventory and impact assessment has or will be completed in accordance with the 1989, "Interagency Memorandum of Understanding: Management and Mitigation of Highway Construction Impacts to Wetlands in the State of Montana". We urge completion of any needed wetland mitigation in full accordance with that Memorandum of Understanding.

We appreciate your efforts to consider fish and wildlife resources, including threatened and endangered species. If you have questions regarding this letter, please contact Mr. Gary Wood of our Billings Suboffice (406) 657-6750

Sincerely,


Kemper McMaster
Field Supervisor
Montana/Wyoming Field Office

cc: Duane C. Lewis, Federal Highway Administration (Helena, MT)
✓ Jeff Ryan, Montana Department of Highways (Helena, MT)
Jeff Herbert, Montana Dept. of Fish, Wildlife & Parks (Helena, MT)
Ken Chrest, Montana Dept. of Fish, Wildlife & Parks (Helena, MT)
Jack Thomas, Montana Dept. of Health, Water Quality Bureau (Helena, MT)
Steve Potts, Environmental Protection Agency (Helena, MT)
John Peters, Environmental Protection Agency (Denver, CO)
Suboffice Coordinator, USFWS, Fish & Wildlife Enhancement (Billings, MT)

JGW/dc

"Take Pride in America"



UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

Ecological Services
Federal Building, Room 3035
316 North 26th Street
Billings, Montana 59101-1396

IN REPLY REFER TO:

ES-61410

April 2, 1986

Mr. Stephen C. Kologi, P.E.
Chief, Preconstruction Bureau
Department of Highways
2701 Prospect
Helena, Montana 59620

Dear Mr. Kologi:

We have reviewed your letter and accompanying map of the proposed development of a Federal Aid Project on Montana Highway 72 from Belfry northeasterly to the junction of U.S. 310, a distance of about 11 miles (F-72-1(1)10 Belfry North).

The project will provide for upgrading the road to modern standards by improving the vertical and horizontal alignment. Realignment along the westerly edge of Belfry and near the second crossing of the Clark's Fork of the Yellowstone River will be necessary.

The proposed project has the potential to impact the Clarks Fork of the Yellowstone River since there are two stream crossings. Some items that should be considered during planning of the project include: 1) wetlands should be avoided if at all practical; 2) wetlands which are unavoidable should be classified and the loss quantified; 3) planning should provide for mitigation for any wetlands lost; 4) encroachment into permanent or intermittent stream drainages should be kept to an absolute minimum; 5) new drainage structures, if needed, should be designed to assure that they will have no affect on adjacent wetlands, fish passage, surface water run-off patterns, or on surface ground water levels adjacent to the highway; and 5) fill placed in gullies, swales, or other "low" areas which function in carrying overland flow during storm events should be immediately seeded to reduce erosion.

We appreciate the opportunity to comment on the project in the early planning stages.

Sincerely,


John G. Wood
Field Supervisor
Ecological Services



UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
Endangered Species, Field Office
Federal Bldg., U.S. Courthouse
301 South Park
P.O. Box 10023
Helena, Montana 59626

Date Recd. Preconst.		MAIL ROUTE	Attach	Initial
Act	Info			
		39		
		✓ 20 Eng. Specialties		
		21 Contract Plans		
		✓ 32 Loc. Road Design		
		✓ 33 Environment		
		24 Hydraulic		
		25 Surfacing Design		
		28 Traffic		
	March 21	Publ 9184		
		33 Photogrammetry		
		59 Consultant Design		
		<i>W. G. Brewster</i>		
		File		

IN REPLY REFER TO:

M.17(I)
Belfry North (F72-1(1)10)

Mr. Stephen C. Kologi, P.E.
Chief - Preconstruction Bureau
Department of Highways
2701 Prospect
Helena, Montana 59620

Dear Mr. Kologi:

We have reviewed your information request for the Belfry-North Project (F72-1(1)10) and sent a copy to our Ecological Services Division in Billings, Montana for their input.

Endangered species which may occur in this area include the bald eagle, peregrine falcon and black-footed ferret. Ferrets are considered dependent upon prairie dogs for food and shelter. If prairie dog towns will be disturbed by the project then ferret surveys are recommended within one year of construction following Fish & Wildlife Services ferret survey guidelines in effect at that time.

Currently, no bald eagles or peregrines' are known to be nesting in the project area.

Since this project may occur several years from now, we encourage you to contact us during final project planning for updated listing information on endangered species and current breeding status of listed species that may occur in the project area.

Please contact us when your plans are nearing completion and if you determine that this project may affect listed species. Thank you for your efforts to conserve listed species and for early involvement in your project planning.

Sincerely,

Wayne G. Brewster

Wayne G. Brewster
Field Supervisor
Endangered Species

cc: ES, Billings

United States Department of Agriculture



Natural Resources Conservation Service
Federal Building, Room 443
10 East Babcock Street
Bozeman, Montana 59715-4704

REC'D JUL 10 2002

FILE COPY

July 1, 2002

Debra Perkins-Smith
David Evans and Associates, Inc.
1331 17th Street, Suite 900
Denver, CO 80202

Subject: F STPP 72-1(1)10 CN 1016
Belfry-North Environmental Assessment and Design
Cooperating Agency Request

Dear Ms. Perkins-Smith:

Thank you for your letter of May 31, 2002, inviting the Natural Resources Conservation Service (NRCS) to participate as a Cooperating Agency on the above referenced highway improvement project. As you may be aware, the enactment of the 2002 Farm Bill in addition to emergency drought assistance and ongoing conservation programs have placed particularly strong demands on NRCS technical assistance resources at this time. Due to the requirements of meeting our workload, we therefore are **not** requesting to become a Cooperating Agency on this project.

NRCS does continue to advocate for interagency coordination and requests to be kept informed of the progress of the study, coordination meetings, and draft environmental documents on an informal basis. We will comment and/or participate when appropriate and as time allows. Any such information should be sent to Ray McPhail, District Conservationist, in the NRCS Joliet Field Office, P.O. Box 510, Joliet, Montana 59041-0229.

Please continue to coordinate the identification of Important Farmlands and completion of the AD-1006, Farmland Conversion Impact Rating Form, if necessary, through Mr. McPhail. Thank you again for your correspondence and the opportunity to participate in this project.

A handwritten signature in black ink, appearing to read "D. White".

DAVE WHITE
State Conservationist

cc:

David Heilig, ASTC, Headwaters Natural Resource Team, NRCS, Bozeman, MT
Martin A. Jiminez, SRC, NRCS, Bozeman, MT
Tom Pick, Water Quality Specialist, NRCS, Bozeman, MT
Ray McPhail, DC, NRCS, Joliet, MT



Joliet Field Office, PO Drawer J, Joliet, MT 59041

(406) 962-3641

6 2002

June 3, 2002

To: Debra Perkins-Smith
Subject: Belfry-North Environmental Assessment and Design
Response to information request

Enclosed is a map showing farmland of prime and unique and statewide importance status. As the map is somewhat dated there will actually be some (green) prime and unique that is really supposed to be (yellow) of statewide importance. For the purposes of road construction both are noteworthy.

There are some minor technical considerations that are putting some previously designated prime and unique into statewide importance.

Sincerely,
A. Ray McPhail
District Conservationist

Enclosed is an application
for SPAR24 Stream Protection
Act for your convenience.

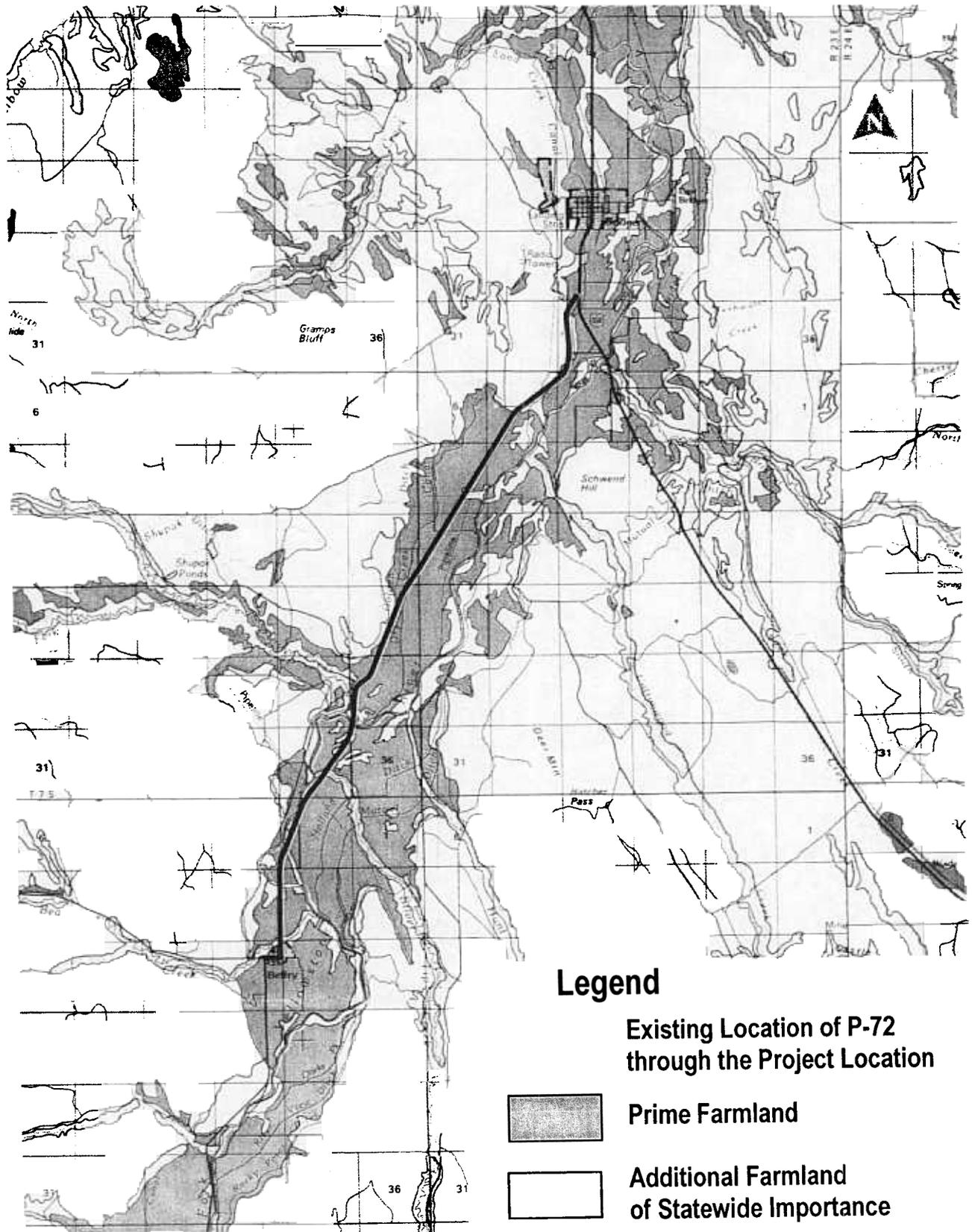
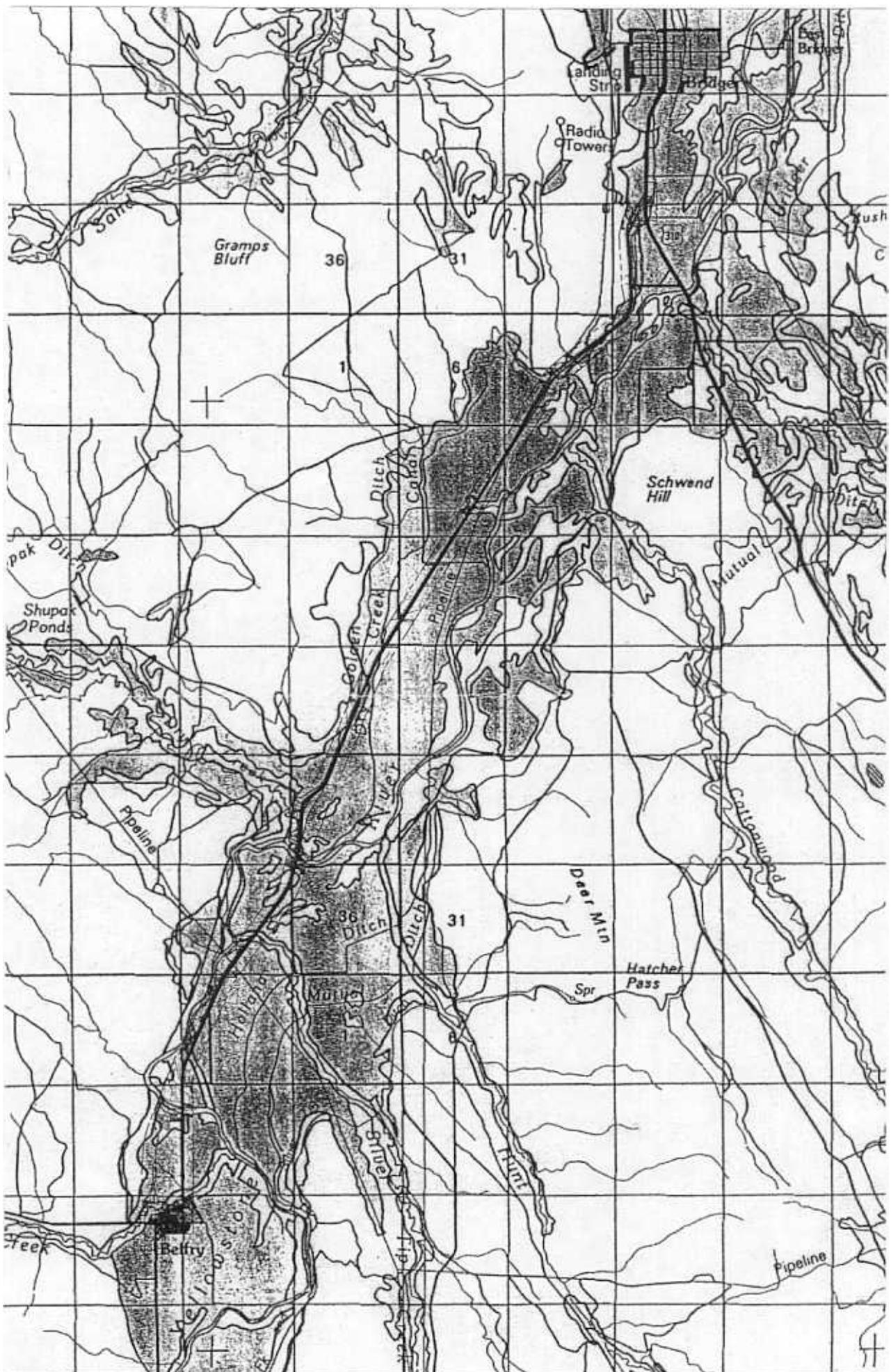


Figure ?. Farmland of Statewide Importance





FILE COPY

Judy Martz, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.state.mt.us

July 12, 2002

Ms. Debra Perkins-Smith, AICP
David Evans and Associates, Inc.
1331 17th Street, Suite 900
Denver, CO 80202

RE F STPP 72-1(1)10 CN 1016
Belfry-North Environmental Assessment and Design Cooperating Agency Request

Dear Ms. Perkins-Smith:

The Montana Department of Environmental Quality (DEQ) has received your request to be a cooperating agency for the referenced environmental assessment (EA). DEQ agrees to be a cooperating agency.

Please continue to work with Jeff Ryan on water quality and wetlands issues. For review of the draft EA and any other assistance DEQ might be able to provide, please write or call me at 406-444-3276 (FAX 406-444-1374) or ghallsten@state.mt.us.

Sincerely,

Greg Hallsten
MEPA Unit Supervisor
Permitting and Compliance Division

FILE COPY

c: Jeff Ryan, Water Protection Bureau, DEQ

FILE COPY

REC'D JUL 15 2002

MPOT 0000-0013



DAVID EVANS
AND ASSOCIATES INC

REC'D OCT 17 2003

RECEIVED
OCT 14 2003
STATE PARKS
DIVISION

October 10, 2003

Walter W. Timmerman
Recreation Bureau Chief
Montana Fish, Wildlife & Parks
1420 East Sixth Avenue, P.O. Box 200701
Helena, MT 59620

**SUBJECT: BELFRY-NORTH EA AND DESIGN, MDT F STPP 72-1(1)10 CN 1016.
DETERMINATION OF 6(F) PROPERTIES IN PROJECT CORRIDOR**

Dear Mr. Timmerman:

David Evans and Associates is under contract with Montana Department of Transportation to prepare an environmental assessment for the reconstruction of 11.1 miles of P-72 between the towns of Belfry and Bridger in Carbon County, Montana.

Thank you for the MFWP Land & Water Conservation Fund (LWCF) information list provided by your office on March 20, 2003. On April 10, 2003 you added the Bridger Bend FAS site to the information list. We have reviewed this information and have concluded that none of the Carbon County LWCF properties listed are located within the Belfry-North study area.

If you concur with the findings that there are no 6(f) LWCF properties in the corridor, please sign below and return this letter to David Evans and Associates, Inc. to be included in the environmental assessment documentation.

Sincerely,
DAVID EVANS AND ASSOCIATES, INC.

Sandra Dowling
Sandra Dowling
Project Planner and Administrator

We concur with the findings that there are no LWCF properties adjacent to or potentially affected by the proposed project on P-72.

[Signature]
Name
RECREATION BUREAU CHIEF
Title (MFWP)
October 14, 2003
Date

Copies: dps; msw; sfd; file
Attachments/Enclosures: none
Initials: sfd
File Name: P:\MDOT0013\Admin\Letters\MFWP 6(f).doc



REC'D JUL 01 2002

2300 Lake Elmo Drive
Billings MT 59105
June 27, 2002

Debra Perkins-Smith, Project Manager
David Evans and Associates
1331 17th Street, Suite 900
Denver, CO 80202

Dear Ms. Perkins-Smith:

I am writing this letter in response to a request for fisheries information pertaining to the road reconstruction project between Belfry and Bridger, MT. The Clarks Fork of the Yellowstone between Bridger and Belfry sustains a wild population of rainbow trout, brown trout, a few cutthroat trout and mountain whitefish, among other fish species. This reach of river contains mainly rearing habitat for juvenile and adult fish with some spawning areas; however, spawning activity is likely limited in this reach of river. Bear and Silver Tip Creeks near the project area are small, often turbid streams that contain mostly minnow and sucker fish species.

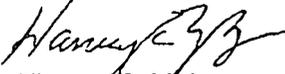
Rainbow trout spawn in the spring (mid-April) and eggs incubate in the gravel until early July. Brown trout and whitefish spawn in the fall (mid-October) and their eggs incubate in stream gravels until mid spring (late April). Construction activities that would result in an increase of fine sediments into the stream can cause reduced egg and juvenile survival and should be avoided, except when absolutely necessary (i.e., bridge replacement). Activities that will cause increased sediment input to the river or any disturbance to the streambed or banks should be limited to the time period between July 15th and October 15th to reduce the risk of adversely affecting spawning trout. This time period generally coincides with the lowest annual stream flows, which should facilitate construction work in and around rivers and creeks.

To the best of my knowledge, the major impacts that may occur to the fisheries in the vicinity of this project will occur at the two bridge crossings across the Clarks Fork and the bridges across Bear and Silver Tip Creeks. All of these bridges currently have adequate spans to allow for unrestricted fish passage. I would suggest that they be replaced with similar or longer bridges. Bridges that span the floodplain cause the least disturbance to fish habitat and stream hydrology, and they reduce the risk of flood damage to the bridge and surrounding properties.

Public access at the two bridges over the Clarks Fork currently is limited, and these reconstruction projects will present an opportunity to enhance access to the river. Fish, Wildlife and Parks is very interested in working together to ensure that access at these two sites is maintained and enhanced for future recreational use of Montana's rivers and streams.

We look forward to working with you during the 124 permitting process for bridge replacements and other projects that may affect the stream bed or banks. If you have any questions, please contact Jim Olsen at 406-322-1162.

Sincerely,


Harvey E. Nyberg
Regional Supervisor

cc: Jim Olsen
Jim Darling

D. S. Johnson

Recd. Preconst. 6-24-92

Montana Department of Fish, Wildlife & Parks

RECEIVED

JUN 23 1992

ENVIRONMENTAL BUREAU

<input checked="" type="checkbox"/>	30 Preconst Engr
<input checked="" type="checkbox"/>	31 Assistant
<input checked="" type="checkbox"/>	32 Office Mgr
<input checked="" type="checkbox"/>	31 Safety Mgmt.
<input checked="" type="checkbox"/>	32 Road Design
<input checked="" type="checkbox"/>	33 Environment
<input checked="" type="checkbox"/>	34 Survey & Mapping
<input checked="" type="checkbox"/>	36 Traffic Eng.
<input checked="" type="checkbox"/>	37 Traffic Operations
<input checked="" type="checkbox"/>	39 Consultant Den.
<input type="checkbox"/>	File



2300 Lake Elmo Drive
Billings, MT 59105
June 15, 1992

cc: ✓ D. S. Johnson
R. R. Ventura

F72
Belfry-N.

Erdie L. Vinson, Chief
Environmental & Hazardous Waste Bureau
Montana Department of Transportation
2701 Prospect Avenue
Helena, MT 59620-9726

Dear Mr. Vinson:

We received five requests for information in rapid succession from your office. To speed the review process, we are replying to all five in this letter.

IR 90-(119)400
Merrill-Columbus Canal Pipe
Control No. 1435

This project involves an irrigation ditch that is dry much of the year. We have no comments.

F78-2(11)46
Pratten-Pike - 9th St's, Columbus
(C #1500)

In the project area, the Yellowstone River supports a rainbow-brown trout fishery with heavy use by anglers. Care should be taken not to impact this important resource.

F91-1(5)0
Big Timber I-90 Business Logs
(C #1507)

In the project area, the Boulder River supports an important rainbow-brown trout fishery enjoyed by many anglers. Care should be taken not to impact this fishery.

S-R5 308-1(1)6
Bear Creek - East & West
(P.M.S. C #0288)

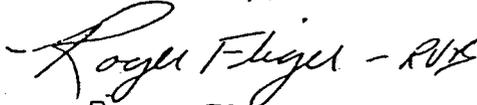
Bear Creek supports only minnows, but it flows through very erosive soils before entering the Clarks Fork, which has trout and whitefish. Care should be taken to minimize increases to Bear Creek's sediment load.

✓ F72-1(1)10
Belfry-North
(P.M.S. C#1016)

The Clarks Fork River in this area has a trout-whitefish fishery that is limited by marginal flows and high sediment load. Road and bridge construction should follow procedures designed to minimize the amount of sediment entering the river.

We anticipate no impacts from the proposed projects upon wildlife habitat.

Sincerely,

 - RVH
Roger Fliger
Supervisor

RF/pk

c: Ken Chrest
Jim Darling
Charlie Eustace

DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION
BILLINGS WATER RESOURCES REGIONAL OFFICE



JUDY MARTZ, GOVERNOR

AIRPORT BUSINESS PARK
1371 RIMTOP DRIVE

STATE OF MONTANA

(406) 247-4415
(406) 247-4416 (FAX)

BILLINGS, MONTANA 59105-1978

REC'D DEC 14 2002

December 12, 2002

FILE COPY

David Evans & Assoc.
1331 17th St. Suite 900
Denver, CO. 80202

Dear Sirs

Comments in reference to the Belfry-North EA design highway project. In checking our ownership map, it appears our agency does not have any land leases along this corridor. I noticed where there are private irrigation canals within this route. We would like to point out you will need to be in communication with those canal operators in order to insure their projects are not negatively impact by any construction with in their canal easement of the highway. Concerns that first come to mind is protecting the existing grade and size of these structures so as not to interfere with the movement of irrigation water down the canal. Frequently when a new highway is being constructed the existing grade on our canals are not protected and we will see additional ditch loss within in the canal at that specific point. DOT and the contractors are very reluctant to return to the scene and correct a problem which they created. I specifically request that this be monitored during construction of any highway reconstruction project.

Thank you for giving us the opportunity to respond to your project. We would also like a copy of the EA when it is finished.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Kerbel".

Keith Kerbel, Manager
Billings Water Resources



TED SCHWINDEN, GOVERNOR

1520 EAST SIXTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-6699

HELENA, MONTANA 59620

Act	Info	MAIL ROUTE	Attach	Initial
		30		
	<input checked="" type="checkbox"/>	31 Eng. Specialties		
	<input checked="" type="checkbox"/>	32 Contract Plans		
	<input checked="" type="checkbox"/>	32 Loc. Road Design		
	<input checked="" type="checkbox"/>	33 Environment		
	<input checked="" type="checkbox"/>	34 Hydraulic		
		35 Surfacing Design		
		36 Traffic		
		37 Pub. Hearing		
		38 Photogrammetry		
		39 Consultant Design		
		<i>V. [Signature]</i>		
	<input checked="" type="checkbox"/>	File		

March 28, 1986

Mr. Stephen C. Kologi, P.E.
 Chief, Preconstruction Bureau
 Montana Department of Highways
 2701 Prospect
 Helena, MT 59620

RE: F 72-1(1)10
 Belfry--North

Dear Mr. Kologi:

You recently requested information pertaining to the referenced project.

It appears that this project will involve floodplains designated on both the Clarks Fork Yellowstone River and Bear Creek. Therefore, a floodplain development permit will have to be obtained from the Carbon County planner.

It also appears that this project may affect irrigation facilities. For information on the water rights that may be involved, please contact Keith Kerbel of our Water Rights Field Office at 1537 Avenue D, Suite 352, in Billings (phone 657-2105).

Thank you for the opportunity to comment.

Sincerely,

Carole I. Massman

CAROLE I. MASSMAN
 ADMINISTRATIVE OFFICER

CM/mo

cc: Ron Guse
 Keith Kerbel
 Rich Brasch
 John Hamill



MONTANA
**Natural Heritage
Program**

JUN 10 2002

P.O. Box 201800 • 1515 East Sixth Avenue • Helena, MT 59620-1800 • fax 406.444.0581 • tel 406.444.3009 • <http://nris.state.mt.us>

June 6, 2002

Debra Perkins-Smith, AICP
David Evans & Associates Inc.
1331 17th Street, Suite 900
Denver, Colorado 80202

Dear Debra,

I am writing in response to your request for information on plant and animal species of concern in the vicinity of Belfry - North, CN 1016. We checked our databases for information in this general area and have enclosed 4 species of concern reports, organized by township, range and section, one map and explanatory material.

Please keep in mind the following when using and interpreting the enclosed information and maps:

- (1) These materials are the result of a search of our database for species of concern that occur in an area defined by the requested road segment with an additional one-mile buffer surrounding the requested area. This is done to provide you with a more inclusive set of records and to capture records that may be immediately adjacent to the requested area.
- (2) In the report, the term "precision" reflects the quality of the location information. S (second) precision is used when the location of the collection/observation is known within a three-second radius (approximately 10 acres); M (minute) precision is used when the location of the collection /observation is known within a one minute radius (approximately 1.5 miles); and G (general) precision is used when the location of the record/collection is known within a 5 mile radius or to a place name only. Some species locations outside the selection area have imprecisely-known locations and may actually occur within the selection area.
- (3) Location information for animals represents occupied breeding habitat; location information for plants represents known occurrences of plant species, and, like animals, has an implied range that may not be fully conveyed by the mapped data. Most locations are depicted as points, but some, especially those that cover large area, are depicted as polygons on the map. The approximate boundaries of these polygons are color-coded to help differentiate vertebrate classes and plants.
- (4) This report may include sensitive data, and is not intended for general distribution, publication or for use outside of your agency. In particular, public release of specific location information may jeopardize the welfare of threatened, endangered, or sensitive species or communities.
- (5) The accompanying map(s) display management status, which may differ from ownership. Also, this report may include data from privately owned lands, and approval by the landowner is advisable if specific location information is considered for distribution. Features shown on this map do not imply public access to any lands.
- (6) Additional biological data for the search area(s) may be available from other sources. We suggest you contact the U.S. Fish and Wildlife Service for any additional information on threatened and endangered species (406-449-5225). Also, significant gaps exist in the Heritage Program's fisheries data, and we suggest you contact the Montana Rivers Information System for information related to your area of interest (406-444-3345).

Electronic access to the Montana Natural Heritage Program is available at URL
<http://nris.state.mt.us/mtnhp/>

(7) The results of a data search by the Montana Natural Heritage Program reflect the current status of our data collection efforts. These results are not intended as a final statement on sensitive species within a given area, or as a substitute for on-site surveys, which may be required for environmental assessments.

We have a new data request system available via the internet. The URL is:

<http://nris.state.mt.us/reqapp/userMain.htm>

I've assigned your username: ~~penk01~~ *penk02*

And password: new02

You may wish to change the password as a security measure.

I hope the enclosed information is helpful to you. Please feel free to contact me at (406)-444-2817 or via my e-mail address, below, should you have any questions or require additional information.

Sincerely,



Martin P. Miller, Data Assistant
Montana Natural Heritage Program
(martinm@state.mt.us)

06-Jun-02

Montana Natural Heritage Program

Species of Special Concern: Belfry - North, CN 1016

Scientific Name: CYNOMYS LEUCURUS

Common Name: WHITE-TAILED PRAIRIE DOG

Global Rank: G4

Forest Service status: SENSITIVE

State Rank: S1

USFWS Endangered Species Act Status:

BLM Status: SPECIAL STATUS

Occurrence Type:

Species occurrence data:

1995: NO EVIDENCE OF COLONY SEEN.

Last observation: 1977-

Size (acres): 3

General site description:

ALONG ROAD OR NEAR CEMETARY.

Land owner/manager:

PRIVATELY OWNED LAND (INDIVIDUAL OR CORPORATE)

Comments:

NONE.

Information source:

FLATH, DENNIS L. MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS, WILDLIFE RESEARCH BUREAU, FWP BUILDING, MONTANA STATE UNIVERSITY CAMPUS, 1400 SOUTH 19TH STREET, BOZEMAN, MT 59717-0001. 406/944-6354.

Survey site name: BRIDGER-COLONY #6

County: CARBON

USGS quadrangle: BRIDGER

Precision: M

Elevation (ft): 3745

Location:

HWY 310 S. BRIDGER FOR 2.5 MI. GO TO BOSTIC (MOUNTAIN VIEW) CEMETARY, 1 MI. E. HIGHWAY.

Township\Range: Section: TRS comments:

007S023E

3

NE4

06-Jun-02

Montana Natural Heritage Program

Species of Special Concern: Belfry - North, CN 1016

Scientific Name: ASTRAGALUS GRAYI

Common Name: GRAY'S MILKVETCH

Global Rank: G4?

Forest Service status:

State Rank: S2

USFWS Endangered Species Act Status:

BLM Status:

Occurrence Type:

Species occurrence data:

IN FLOWER (1 JUNE 1976).

Last observation: 1976-06-01

Size (acres): 0

General site description:

ROADSIDE BANK WITH AGROPYRON SP. AND MELILOTUS SP.

Land owner/manager:

PRIVATELY OWNED LAND (INDIVIDUAL OR CORPORATE)

Comments:

NONE.

Information source:

BOTANIST, MONTANA NATURAL HERITAGE PROGRAM, 1515 EAST SIXTH AVENUE, HELENA, MT 59620-1800.

Survey site name: BRIDGER CREEK

County: CARBON

USGS quadrangle: HATCHER PASS

Precision: M

Elevation (ft): 3700

Location:

FIVE MILES SOUTH OF BRIDGER.

Township\Range:

007S023E

Section:

10

TRS comments:

NW4

06-Jun-02

Montana Natural Heritage Program

Species of Special Concern: Belfry - North, CN 1016

Scientific Name: CYNOMYS LEUCURUS

Common Name: WHITE-TAILED PRAIRIE DOG

Global Rank: G4

Forest Service status: SENSITIVE

State Rank: S1

USFWS Endangered Species Act Status:

BLM Status: SPECIAL STATUS

Occurrence Type:

Species occurrence data:

1995: NO SIGN OF COLONY; AREA IS IRRIGATED CROPLAND.

Last observation: 1977-

Size (acres): 3

General site description:

COLONY LOCATED NEAR MUTUAL DITCH.

Land owner/manager:

PRIVATELY OWNED LAND (INDIVIDUAL OR CORPORATE)

Comments:

1-3 ACRES ON PRIVATE LAND; SEE LAND OWNER AT SITE

Information source:

FLATH, DENNIS L. MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS, WILDLIFE RESEARCH BUREAU, FWP BUILDING, MONTANA STATE UNIVERSITY CAMPUS, 1400 SOUTH 19TH STREET, BOZEMAN, MT 59717-0001. 406/944-6354.

Survey site name: SILVER TIP CREEK-COLONY #14

County: CARBON

USGS quadrangle: HATCHER PASS

Precision: M

Elevation (ft): 3800

Location:

2 MI NE BELFRY ON HWY 308. EXIT HWY AND GO S AND E APPROX 2 MI.

Township\Range:

Section:

TRS comments:

008S022E

2

SW4

06-Jun-02

Montana Natural Heritage Program

Species of Special Concern: Belfry - North, CN 1016

Scientific Name: CYNOMYS LEUCURUS

Common Name: WHITE-TAILED PRAIRIE DOG

Global Rank: G4

Forest Service status: SENSITIVE

State Rank: S1

USFWS Endangered Species Act Status:

BLM Status: SPECIAL STATUS

Occurrence Type:

Species occurrence data:

1997: COLONY NO LONGER ACTIVE. 3-10 ACRES ON PRIVATE LAND. 1995: COLONY STILL ACTIVE, 3-4 ACRES IN FALLOW IRRIGATED FIELD.

Last observation: 1995

Size (acres): 10

General site description:

Land owner/manager:

PRIVATELY OWNED LAND (INDIVIDUAL OR CORPORATE)

Comments:

Information source:

FLATH, DENNIS L. MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS, WILDLIFE RESEARCH BUREAU, FWP BUILDING, MONTANA STATE UNIVERSITY CAMPUS, 1400 SOUTH 19TH STREET, BOZEMAN, MT 59717-0001. 406/944-6354.

Survey site name: HUNT CREEK-COLONY #15

County: CARBON

USGS quadrangle: HATCHER PASS

Precision: M

Elevation (ft): 3870

Location:

HWY 308 2 MI N. OF BELFRY. TAKE ACCESS ROAD DUE EAST 2 MI. ROAD WINDS AND ENDS AT BUILDINGS TO SE.

Township\Range:	Section:	TRS comments:
008S023E	6	SW4NW4

Montana Natural Heritage Program

P.O. Box 201800

1515 East Sixth Avenue

Helena, Montana 59620-1800

(406)444-3009

<http://nris.state.mt.us>

Explanation of Element Occurrence Reports

Since 1985, the Montana Natural Heritage Program (MTNHP) has been compiling and maintaining an inventory of the elements of biological diversity in Montana. This inventory includes plant species, animal species, plant communities, and other biological features that are rare, endemic, disjunct, threatened or endangered throughout their range in Montana, vulnerable to extirpation from Montana, or in need of further research.

Individual species, communities, or biological features are referred to as "elements." An "element occurrence" generally falls in one of the following categories:

Plants: A documented location of a plant population. In some instances, adjacent, spatially separated clusters are considered subpopulations and are grouped as one occurrence (e.g., the subpopulations occur in ecologically similar habitats, and are within approximately one air mile of one another).

Animals with limited mobility (most invertebrates, amphibians, reptiles, small mammals, most fish): The location of a specimen collection or of a verified sighting; assumed to represent a breeding population. Additional collections or sightings are often appended to the original record.

Mobile or migratory animals (most birds and larger mammals, some fish): Breeding areas (including nesting territories, dens and leks) and significant aggregation sites (winter feeding areas, staging grounds, or hibernacula).

Communities: All contiguous, high-quality habitat as defined by physical and biological features.

Other: Significant biological features not included in the above categories, such as bird rookeries, peatlands, or state champion trees.



The quantity and quality of data contained in MTNHP reports is dependent on the research and observations of the many individuals and organizations who contribute information to the program.

Please keep in mind that the absence of information for an area does not mean the absence of significant biological features. Reports produced by the Montana Natural Heritage Program summarize information known to the program at the time of a request. These reports are not intended as a final statement on the elements or areas being considered, nor are they a substitute for on-site surveys which may be required for environmental assessments.

As a user of MTNHP, your contributions of data are essential to maintaining the accuracy of our data bases. New or updated location information for all species of special concern is always welcome.

We encourage you to visit our website at <http://nris.state.mt.us/mtnhp/>. On-line tools include species lists, an electronic version of *Montana Bird Distribution*, and search capabilities by county, management unit, or USGS 7.5' quadrangle. Also available is the *Montana Rare Plant Field Guide*, which contains photos, high-quality diagnostic illustrations, and supporting information for over 300 rare plant species in Montana.

Certain codes and abbreviations are used in element occurrence reports. Although many of these are very straightforward, the following explanations should answer most questions.

Global Rank and State Rank

Taxa are evaluated and ranked by MTNHP on the basis of their global (range-wide) status, and their state-wide status according to a standardized procedure.

For each level of distribution, global and state, species are assigned a numeric rank ranging from 1 (critically imperiled) to 5 (demonstrably secure). For example, Clustered lady's-slipper (*Cypripedium fasciculatum*) is ranked G4 S2. That is, globally the species is apparently secure, while in Montana it is imperiled because of rarity, or because of other factors making it demonstrably vulnerable to extirpation.

Rank Definition

- | | |
|---|--|
| 1 | Critically imperiled because of extreme rarity, or because of some factor of its biology making it especially vulnerable to extirpation. |
| 2 | Imperiled because of rarity, or because of other factors demonstrably making it very vulnerable to extinction throughout its range. |
| 3 | Vulnerable because of rarity, or found in a restricted range even though it may be abundant at some of its locations. |
| 4 | Apparently secure, though it may be quite rare in parts of its range, especially at the periphery. |
| 5 | Demonstrably secure, though it may be quite rare in parts of its range, especially at the periphery. |
| U | Possibly in peril but status uncertain; more information needed. |
| H | Historical, known only from records over 50 years ago; may be rediscovered. |
| X | Believed to be extinct; historical records only. |

Other Global and State Rank codes:

- | | |
|---|---|
| T | Rank for a subspecies or variety; appended to the global rank for the full species, e.g., G4T3. |
| Q | Taxonomic questions or problems involved; more information needed. |
| ? | Inexact or uncertain. |
| Z | Ranking not applicable. |
| A | Accidental in the state. Includes species (usually birds or butterflies) recorded very infrequently, hundreds or thousands of miles outside their usual range. |
| B | A state rank modifier indicating breeding status for a migratory species. Example: S1B, SZN = breeding occurrences for the species are ranked S1 (critically imperiled) in the state; non-breeding occurrences are not ranked in the state. |
| # | A modifier to SX or SH: the species has been reintroduced but the population is not yet established. |

U. S. Fish And Wildlife Service Endangered Species Act Status

Abbreviations indicate the categories defined in the U.S. Fish and Wildlife Service Notice of Review and indicate the status of a taxon under the federal Endangered Species Act of 1973 (16 U.S.C.A. §1531-1543 (Supp. 1996)).

Note: the categories C2, 3B and 3C are no longer maintained by the U.S. Fish and Wildlife Service (61 FR 7596, Feb. 28, 1996).

Current categories are:

- | | |
|----|--|
| LE | listed endangered |
| LT | listed threatened |
| PE | proposed endangered |
| PT | proposed threatened |
| C | candidate: Substantial information exists in U.S. Fish and Wildlife files on biological vulnerability to support |

proposals to list as threatened or endangered.

NL not listed or no designation (see below)

XN non-essential experimental population

A species can have more than one federal designation if the species' status varies within its range. In these instances, the Montana designation is listed first. Example: LELT = species is listed as endangered in Montana; elsewhere in its range it is listed as threatened.

U.S. Forest Service Status

The status of species on Forest Service lands as defined by the U.S. Forest Service manual (2670.22). These taxa are listed as such by the Regional Forester (Northern Region) on National Forests in Montana. Species are listed as:

T/E/P listed as Threatened (LT) or Endangered (LE) under the Endangered Species Act or proposed for listing (P), and known or suspected to occur on national forests.

S sensitive species, subspecies or variety, for which the Regional Forester has determined there is a concern for population viability rangewide or in the region.

Bureau of Land Management Status

The status of species on Bureau of Land Management land is defined by the BLM 6840 manual and designated by the Montana State Office of the BLM in 1996:

S sensitive species: proven to be imperiled in at least part of its range and documented to occur on BLM lands.

W watch species: either known to be imperiled and suspected to occur on BLM lands, suspected to be imperiled and documented on BLM lands, or needing further study for other reasons.

Other terms that may be used in this report

USGS quadrangle - Name of the 7.5-minute USGS topographic map(s) where the population is located.

Township, range, section, TRS comments - legal description of the centroid of the population and, if known, additional townships or sections. TRS locators may be based on unsurveyed townships; in such cases, the locators are derived from U. S. Forest Service visitor maps or from BLM surface management status maps. This is done for convenience in describing species locations; the information does not necessarily indicate legal boundaries.

Precision - the level of location accuracy of the record.

S = accuracy of location is within an area of approximately 10 acres

M = accuracy of location is within a radius of approximately 1.5 miles

G = location is a place-name only, or within a radius of approximately 5 square miles.

Last observation: date the element was last observed extant at the site (not necessarily the date the site was last visited).

Land Owner/manager - the ownership or management of the land on which the element occurs. Areas are generally listed from smallest to largest. In most instances, this information is derived from U.S. Forest Service visitor maps or from BLM surface management status maps.

Please remember that this report is a summary of information. Additional data are available on most sites and species

If you have questions or need further assistance, please contact us either by phone at (406/444-0914), e-mail (mtnhp@nris.state.mt.us) or at the mailing address shown on the first page.

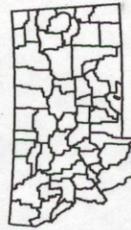
Montana Species of Concern Belfry - North CN 1016

Biological Data

- ▲ Animal
- Plant
- ⊕ Other
- Search Area

Land Status

- BLM
- BOR (BuRec)
- CoE & other DoD
- NPS
- USFS
- Other USDA
- USFWS
- BIA Trust
- Tribal
- State Trust
- DFWP
- University & Institutions
- County & City
- Plum Creek
- Private Conservation
- Other private
- Water



Species locations depicted outside the search area have imprecisely known locations and may actually occur within the search area.

Not all legend items may occur on map.

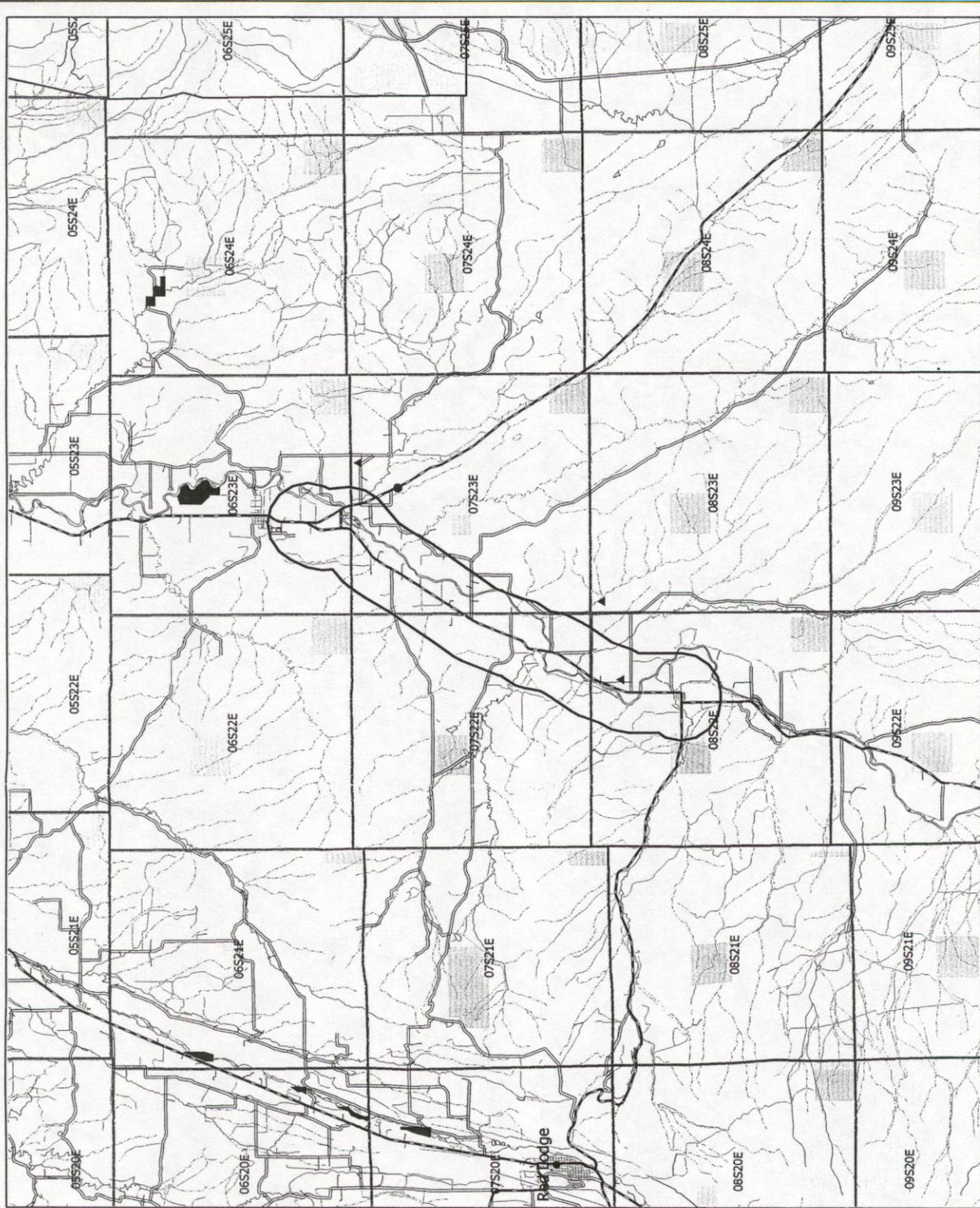
Features shown on this map do not imply public access to any lands.

This map displays management status, which may differ from ownership.

Refer to accompanying documentation for full explanation of map features.

MONTANA
Natural Heritage
Program

Natural Resource Information System
Helm, MT 59605-1400
PO Box 201800
(406) 443-3000 info@gnr.mt.us





BOARD of COMMISSIONERS

COUNTY OF CARBON • STATE OF MONTANA

Post Office Box 887
Red Lodge, MT 59068

Phone: (406) 446-1595
Fax: (406) 446-2640

June 30, 2004

Debra Perkins-Smith
Consultant Project Manager
David Evans and Associates, Inc.
1331 Seventeenth Street, Suite 900
Denver, CO 80202

REC'D JUL 02 2004

**Subject: MT 72 BELFRY-North EA
F STPP 72-1(1)10 CN 1016
DRAFT EA FOR COOPERATING AGENCY REVIEW**

Ms. Perkins-Smith

After reviewing your EA for the Belfry Road, I concur with your plan with the following conditions:

Carbon County will not take on any new roads with the exception of that portion of State Highway 72 that lies within the town of Belfry proper, ending at Bearcreek Lane. Carbon County is not responsible for the construction or expense of extending Public or Private Roads to connect them with the new proposed road.

Carbon County will accept extensions of existing County Roads, which are necessary to connect with the realignment, based upon a County Review.

The County will not accept extensions of private roads as their responsibility.

Any portion of the existing Highway 72 that is not a part of the proposed realignment, will not be accepted by Carbon County without an individual review and approval of each separate portion.

Work with landowners to insure a private crossing where the stream, known as Bear Creek, intersects the existing Highway MT 72, just north of Belfry MT.

Carbon County will not accept any new bridges.

Respectfully


Albert H. Brown

Carbon County Commissioner

PO Box 887

Red Lodge MT 59068 Phone: (406) 446-1595

From: <JLandsmany@aol.com>
To: <dps@deainc.com>
Date: 5/7/04 9:09AM
Subject: (no subject)

May 7, 2004

Debra,

I had one incorrect letter in the address.....hope this works!
Jed

May 5, 2004

Hi Debra,

Belfry School District #3 is interested in being a co-operating agent regarding the "Belfry-North" highway project.

To the best of my knowledge, the "picnic area" across the street from the entrance to the elementary building is not a significant area. It is occasionally used by people passing through town.

Please call me if there is anything I can do to help you.

Jed L-Yakin
Superintendent, Belfry Schools