



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

County BEAVERHEAD

July 18, 2005

RECEIVED

JUL 20 2005

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

To Whom It May Concern:

Subject: Cooperating Agency Environmental Documentation

As a Cooperating Agency under the provisions of 23 CFR 771.111 the Montana Department of Transportation (MDT) is providing you a copy of this project's environmental documentation.

This environmental documentation complies with the provisions of 23 CFR 771.117(a) and (d) for categorically excluding this proposed project from further National Environmental Policy Act (NEPA) (42 U.S.C. 4321, et seq.) documentation requirements. The attached also complies with the provisions of 75-1-103 and 75-1-201, MCA (see ARM 18.2.237 and 18.2.261, MEPA "Actions that qualify for a Categorical Exclusion" as applicable to the MDT).

If you have any questions concerning the attached environmental documentation please call the MDT Environmental Services Division at (406) 444-7228.

Sincerely,

Jean A. Riley, P.E.
Bureau Chief
Environmental Services Division

S:\ADMIN\48_GEN_CORRESP\MAILINGS\COOP AGENCY LTR.DOC\BEAVERHEAD_GATEWAY_RANCH_UNDAUNTED

Attachment



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

June 30, 2005

RECEIVED

JUL 1 8 2005

ENVIRONMENTAL



Janice W. Brown, Division Administrator
Federal Highway Administration (FHWA)
2880 Skyway Drive
Helena, MT 59602

Subject: BEAVERHEAD GATEWAY RANCH UNDAUNTED STEWARDSHIP PROJECT

This is to request approval of this proposed project as a Categorical Exclusion (CE) under the provisions of 23 CFR 771.117(d), and the Programmatic Agreement as signed by the MONTANA DEPARTMENT OF TRANSPORTATION (MDT) and the FHWA on April 12, 2001. Copies of its MOU, description of action, Project Location Map and plan view are attached. This proposed action also qualifies as a CE under ARM 18.2.261 (Sections 75-1-103 and 75-1-201, MCA).

The following form provides the documentation required to demonstrate that all of the conditions are satisfied to qualify for a Programmatic Categorical Exclusion Approval (PCE) as initially agreed by the (former) MONTANA DEPARTMENT OF HIGHWAYS (MDOH) and the FHWA on December 6, 1989. (Note: An "X" in the "N/A" column is "Not Applicable" to, while one in the "UNK" column is "Unknown" at the present time for this proposed project.)

NOTE: A response in a box will require additional documentation for a Categorical Exclusion request in accordance with 23 CFR 771.117(d).

Table with 4 columns: YES, NO, N/A, UNK. Contains 3 main rows of questions regarding environmental impact, unusual circumstances, and Right-of-Way requirements, with sub-rows for specific details. Includes checkboxes and 'X' marks in the NO column.

Environmental Services
Phone: (406) 444-7228
Fax: (406) 444-7245

Web Page: www.mdt.state.mt.us
Road Report: (800) 226-7623
TTY: (800) 335-7592

	<u>YES</u>	<u>NO</u>	<u>N/A</u>	<u>UNK</u>
3. There is a high rate of commercial growth in this proposed project's area.	___	___ <u>X</u> ___	___	___
4. Work would be on and/or within approximately 1.6 kilometers (1± mile) of an Indian Reservation.	___	___ <u>X</u> ___	___	___
5. There are parks, recreational, or other properties acquired/improved under <i>Section 6(f)</i> of the <i>1965 National Land & Water Conservation Fund Act (16 U.S.C. 460L, et seq.)</i> on or adjacent to proposed the project area.	___	___ <u>X</u> ___	___	___
The use of such <i>Section 6(f)</i> sites would be documented and compensated with the appropriate agencies. (e.g.: MDFW&P, local entities, etc.).	___	___ <input type="checkbox"/> ___	___ <u>X</u> ___	___
6. Are there any sites either on, or eligible for the National Register of Historic Places with concurrence in determination of eligibility or effect under <i>Section 106</i> of the <i>National Historic Preservation Act (16 U.S.C. 470, et seq.)</i> by the State Historic Preservation Office (SHPO), which would be affected by this proposed project.	___	___ <u>X</u> ___	___	___
7. There are parks, recreation sites, school grounds, wildlife refuges, historic sites, historic bridges, or irrigation that might be considered under <i>Section 4(f)</i> of the 1966 U.S. DEPARTMENT OF TRANSPORTATION Act (49 U.S.C. 303) on or adjacent to the project area.	___	___ <u>X</u> ___	___	___
a. "Nationwide" Programmatic <i>Section 4(f)</i> Evaluation forms for these sites are attached.	___	___ <input type="checkbox"/> ___	___ <u>X</u> ___	___
b. This proposed project requires a full (i.e.: DRAFT & FINAL) <i>Section 4(f)</i> Evaluation.	___ <input type="checkbox"/> ___	___	___ <u>X</u> ___	___
B. The activity would involve work in a streambed, wetland, and/or other waterbody(ies) considered as "waters of the United States" or similar (e.g.: "state waters").	___	___ <u>X</u> ___	___	___
1. Conditions set forth in <i>Section 10</i> of the <i>Rivers and Harbors Act (33 U.S.C. 403)</i> and/or <i>Section 404</i> under <u>33 CFR Parts 320-330</u> of the <i>Clean Water Act (33 U.S.C. 1251-1376)</i> would be met.	___	___ <input type="checkbox"/> ___	___ <u>X</u> ___	___
2. Impacts in wetlands, including but not limited to those referenced under Executive Order (E.O.) #11990, and their proposed mitigation would be coordinated with the Montana Inter-Agency Wetland Group.	___	___ <input type="checkbox"/> ___	___ <u>X</u> ___	___
3. A 124SPA Stream Protection permit would be obtained from the MDFW&P?	___	___	___ <u>X</u> ___	___

YES NO N/A UNK

4. There is a delineated floodplain in the proposed project area under FEMA's Floodplain Management criteria.

___ X

The water surface at the 100-year flood limit elevation would exceed floodplain management criteria due to an encroachment by the proposed project.

 ___ X

5. Tribal Water Permit would be required.

___ X

6. Work would be required in, across, and/or adjacent to a river which is a component of, or proposed for inclusion in Montana's Wild and/or Scenic Rivers system as published by the U.S. Department of Agriculture, or the U.S. Department of the Interior.

___ X

The designated National Wild & Scenic River systems in Montana are:

- a. Middle Fork of the Flathead River (headwaters to South Fork confluence).
- b. North Fork of the Flathead River (Canadian Border to Middle Fork confluence).
- c. South Fork of the Flathead River (headwaters to Hungry Horse Reservoir).
- d. Missouri River (Fort Benton to Charles M. Russell National Wildlife Refuge).

In accordance with *Section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1271 – 1287)*, this work would be coordinated and documented with either the Flathead National Forest (Flathead River), or U.S. Bureau of Land Management (Missouri River).

___ X

- C. This is a "Type I" action as defined under 23 CFR 772.5(h), which typically consists of highway construction on a new location or the physical alteration of an existing route which substantially changes its horizontal or vertical alignments or increases the number of through-traffic lanes.

___ X

1. If yes, are there potential noise impacts?

___ ___ X

2. A Noise Analysis would be completed.

___ X

3. There would be compliance with the provisions of both 23 CFR 772 for FHWA's Noise Impact analyses and MDT's Noise Policy.

___ X

YES NO N/A UNK

D. There would be substantial changes in access control involved with this proposed project.

___ X ___

If yes, would they result in extensive economic and/or social impacts on the affected locations?

 ___ X

E. The use of a temporary road, detour, or ramp closure having the following conditions when the action(s) associated with such facilities:

1. Provisions would be made for access by local traffic, and be posted for same.

X ___

2. Adverse effects to through-traffic dependant businesses would be avoided or minimized.

X ___

3. Interference to local events(e.g.: festivals) would be minimized to all possible extent.

X ___

4. Substantial controversy associated with this pending action would be avoided.

X ___

F. Hazardous wastes /substances, as defined by the U.S. Environmental Protection Agency (EPA) and/or the Montana Department of Environmental Quality (MDEQ), and/or (a) listed "Superfund" (under CERCLA or CECRA) site(s) are currently on and/or adjacent to this proposed project.

___ X ___

All reasonable measures would be taken to avoid and/or minimize substantial impacts from same.

___ X

G. The Montana Pollutant Discharge Elimination System's conditions (ARM 16.20.1314), including temporary erosion control features for construction would be met.

X ___

H. Permanent desirable vegetation with an approved seeding mixture would be established on exposed areas.

X ___ ___

I. Documentation of an "invasive species" review to comply with both E.O.#13112 and the *County Noxious Weed Control Act (7-22-21, M.C.A.)*, including directions as specified by the county(ies) wherein its intended work would be done.

X ___

YES NO N/A UNK

- J. There are "Prime" or "Prime if Irrigated" Farmlands designated by the Natural Resources Conservation Service on or adjacent to the proposed project area.

___ X

If the proposed work would affect Important Farmlands, then an AD-1006 Farmland Conversion Impact Rating form would be completed in accordance with the *Farmland Protection Policy Act (7 U.S.C. 4201, et seq.)*.

___ X

- K. Features for the *Americans with Disabilities Act (P.L. 101-336)* compliance would be included.

X ___

- L. A written Public Involvement Plan, would be completed in accordance with MDT's Public Involvement Handbook.

X

4. This proposed project complies with the *Clean Air Act's Section 176(c) (42 U.S.C. 7521(a)*, as amended) under the provisions of 40 CFR 81.327 as it's either in a Montana air quality:

- A. "Unclassifiable"/attainment area. This proposed project is not covered under the EPA's September 15, 1997 Final Rule on air quality conformity.

X ___

and/or

- B. "Nonattainment" area. However, this type of proposed project is either exempted from the conformity determination requirements (under EPA's September 15, 1997 Final Rule), or a conformity determination would be documented in coordination with the responsible agencies: (Metropolitan Planning Organizations, MDEQ's Air Quality Division, etc.).

___ X

- C. Is this proposed project in a "Class I Air Shed" (Indian Reservations) under 40 CFR 52.1382(c)(3)?

___ X

5. Federally listed Threatened or Endangered (T/E) Species:

- A. There are recorded occurrences, and/or critical habitat in this proposed project's vicinity.

X ___

YES NO N/A UNK

B. Would this proposed project result in a "jeopardy" opinion (under 50 CFR 402) from the Fish & Wildlife Service on any Federally listed T/E Species?

 X

The proposed project would not induce significant land use changes, nor promote unplanned growth. There would be no significant effects on access to adjacent property, nor to present traffic patterns.

This proposed project would not create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations (E.O.#12898). It also complies with the provisions of *Title VI* of the *Civil Rights Act* of 1964 (**42 U.S.C. 2000d**) under the FHWA's regulations (23 CFR 200).

In accordance with the provisions of 23 CFR 771.117(a), this pending action would not cause any significant individual, secondary, or cumulative environmental impacts. Therefore, the FHWA's concurrence is requested that this proposed project is properly classified as a Categorical Exclusion.



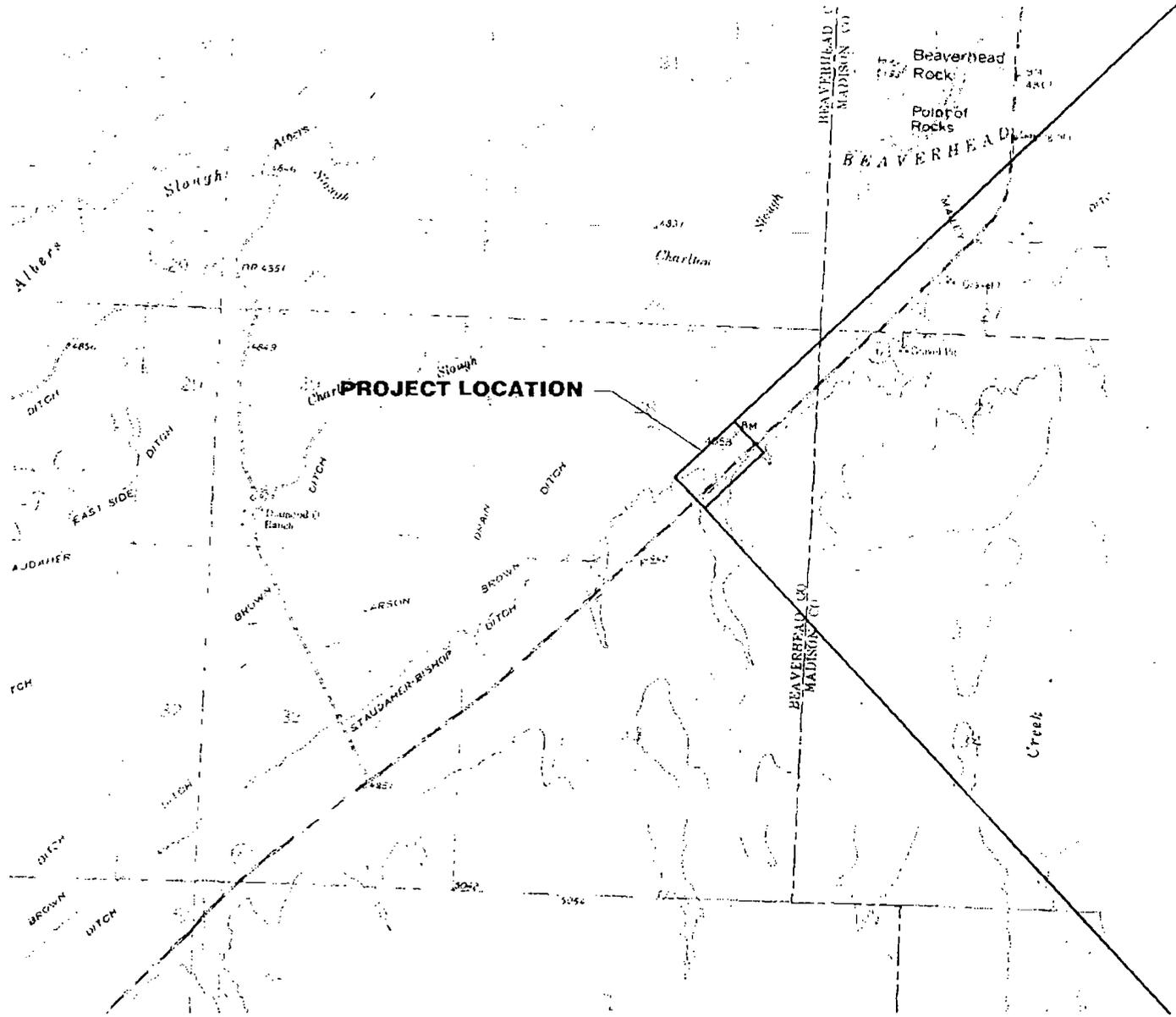
Tom Hansen, P.E.
Engineering Section Supervisor
MDT Environmental Services

Concur Jeffrey A. Patten, Date: 7-15-05
Federal Highway Administration

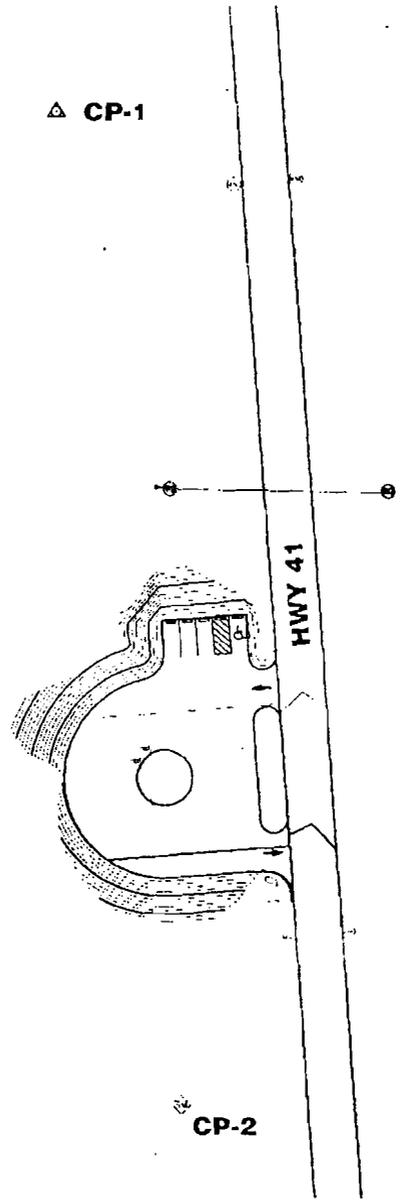
Attachments

**"ALTERNATIVE ACCESSIBLE FORMATS OF
THIS DOCUMENT WILL BE PROVIDED ON
REQUEST."**

- cc: Jeff Ebert, Butte Administrator - MDT
Kent Barnes, P.E. - MDT Bridge Engineer
Paul Ferry, P.E. - MDT Highway Engineer
John H. Horton - MDT Right-of-Way Bureau Chief
Suzy Althof - MDT Contract Plans Section Supervisor
David W. Jensen, Supervisor - MDT Fiscal Programming Section
Tom Hansen - MDT Engineering Section Supervisor
file



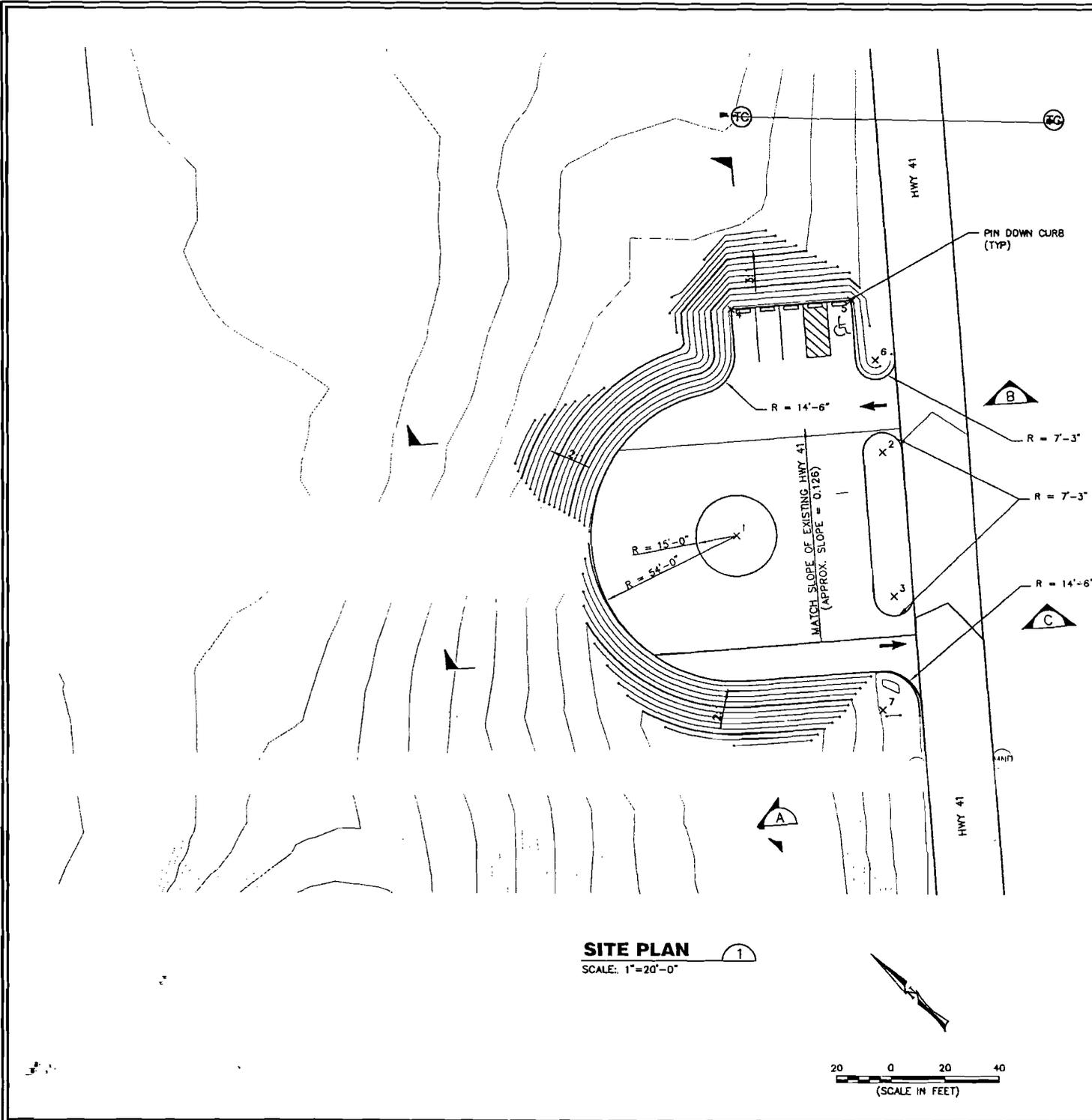
VICINITY MAP
SCALE: 1"=1000'-0"



PROJECT LOCATION
SCALE: 1"=40'-0"

SHEET TITLE	VICINITY MAP	
	BEAVERHEAD GATEWAY RANCH INTERPRETIVE CENTER	
PROJECT TITLE	BEAVERHEAD GATEWAY RANCH INTERPRETIVE CENTER	
	VICINITY MAP	
DESIGNED BY	R. PECCIA, P.E.	MAY, 2005
	G. LESOSKI	DATE
DRAWN BY	G. LESOSKI	PROJECT NO.
	CHECKED BY	DESIGNA
BY	REVISION	APPR. DATE
FILE NO.	FILE NO.	FILE NO.

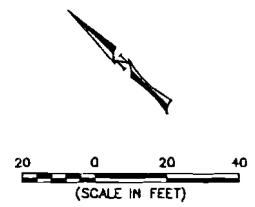




COORDINATE TABLE				
COORDINATE #	NORTHING	EASTING	ELEVATION	DESCRIPTION
CP-1	33450.8577	32553.3658	3233.88	EXISTING MOT CONTROL
CP-2	32916.9012	32623.7474	3266.54	EXISTING MOT CONTROL
1	33092.6993	32613.5434		CENTER OF ISLAND
2	33123.7828	32668.0617		APPROACH RADIUS
3	33070.3773	32672.1864		APPROACH RADIUS
4	33176.7964	32611.5617		CORNER OF PARKING
5	33180.2616	32656.4281		CORNER OF PARKING
6	33158.1374	32665.4084		APPROACH RADIUS
7	33028.2144	32668.1712		APPROACH RADIUS

NOTE:
 ALL PROJECT COORDINATES, ELEVATIONS, AND CONTOURS ARE BASED ON A LOCAL COORDINATE SYSTEM.
 BASE INFORMATION WAS PROVIDED BY MONTANA DEPARTMENT OF TRANSPORTATION, BUTTE OFFICE.

SITE PLAN
 SCALE: 1"=20'-0"



SYN	REVISION	BY	APPR. DATE
R. PECCIA, P.E. DESIGNED BY G. LESOFSKI DRAWN BY		MAY, 2005 DATE	PROJECT NO. DESIGNA FILE NO.
PROJECT TITLE BEAVERHEAD GATEWAY RANCH INTERPRETIVE CENTER			
SHEET TITLE SITE PLAN			
VERIFY SCALES BAR SCALE IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.			SHEET 2 OF



Montana Department of Transportation
Butte District Office
PO Box 3068
Butte, MT 59702-3068

Memorandum

To: Barry Broston
Butte District Project Development Engineer
Environmental Services

From: Joe Olsen, P.E. *Joe Olsen*
District Engineering Services Engineer
Butte District

Date: June 21, 2005

Subject: Undaunted Stewardship
Beaverhead Rock in Beaverhead County

Description of Project

Since a preliminary field review was not held for this project; the following general description of the project will serve as documentation of the proposed projects details.

MDT's role is to provide items and services as set forth in the attached Memorandum of Agreement (MOA) between the Montana Department of Transportation and Undaunted Stewardship/Montana State University (MSU-US).

Proposed Scope of Work

The project proposed is to construct a vehicle turnout and interpretive kiosk near Beaverhead Rock in Beaverhead County. The turnout area will provide panoramic views of Beaverhead Rock and the nearby waterfowl nesting areas associated with the Beaverhead Gateway Ranch.

Project Location and Limits

This project is located in Beaverhead County northeast of Dillon near Reference Post 13.697 along the west side of MT 41 (State Primary 49).

Physical Characteristics

Since this is a new turnout; as built information is not available. The project setting is rural and the area consists of mainly rolling terrain. The adjacent State Highway 41 (Primary 49) has a Functional Classification as a Minor Arterial and was constructed in 1959 and improved in 1985 with project F 49-1(2)9.

The following items are Not Applicable to this project:

- PvMS Index Numbers & Recommended Treatment
- Traffic Data

Undaunted Stewardship
Beaverhead Rock in Beaverhead County
Description of Work

- Accident History
- Design Speed
- Alignment
- Geotechnical Considerations
- Hydraulics
- Bridges
- Safety Enhancements
- Public Involvement

Major Design Features

Surfacing

A new gravel surface will be provided on the turnout and approach.

ADA

The proposed project will be designed with appropriate ADA accommodations.

Design Exceptions

No design exceptions will be required for this project.

Right-of-Way

An easement from the adjacent landowner will be required; MSU-US will be responsible for obtaining the easement.

Utilities/Railroad

No railroads exist in the vicinity of the project. Utility relocations will be the responsibility of the MSU-US.

Survey

MDT will provide necessary survey data for the project.

Environmental Considerations

MDT will complete a Categorical Exclusion for the project. Appropriate BMP's will be utilized.

Traffic Control

Appropriate traffic control devices and signing will be used throughout the project in accordance with the *Manual on Uniform Traffic Control Devices (MUTCD)*.

JAO: SA\ENG_SERV\PROJECTS\Beaverhead Rock-Undaunted Stewardship\Undaunted Stewardship - Beaverhead Rock.doc

Cc: District File

**THE "GREEN SHEET"
CULTURAL RESOURCE COMPLIANCE DOCUMENTATION
DILLON FIELD OFFICE BLM**

Project Name Beaverhead Gateway Ranch Undaunted Stewardship Project

Cultural Resource Inventory/Project Number 04-MT-050-41

EA/CX/BLM Case File Number

NHPA's Section 106 Status:

Section 106 process completed.

Mitigation/Stipulations are required.

Mitigation/Stipulations are NOT required.

Comments:

A Class III cultural resources inventory was conducted for the proposed Beaverhead Gateway Ranch Undaunted Stewardship parking area and interpretive sign location. During the course of the inventory, no cultural resources were identified or recorded. It is therefore recommended that the construction of a parking area and interpretive sign location proceed, pursuant to the BLM National Programmatic Agreement and Implementing protocol.

Signature  (Mark B. Sant) Date September 1, 2004
Title Archaeologist, Dillon Field Office

Department of Interior
Bureau of Land Management
Montana State Office
Cultural Resources Class III
Inventory Report

Inventory Report Number: 04-MT-050-41

Project Name: Beaverhead Gateway Ranch Undaunted Stewardship

State: Montana **County:** Beaverhead **BLM Field Office:** Dillon Field Office

Topographic Map: Beaverhead Rock SW, MT - USGS 7.5' - 1962

Location: Township 5S **Base Meridian:** MPM
 Range 7W
 SE ¼, SE ¼, NE ¼ of Section 28

The survey area is located at the intersection of Highway 41 and the Beaverhead/Madison county line, along the northwest side of highway approximately 12 miles north of Dillon, Montana (see Figure 1).

Land Ownership: Private Lands – Beaverhead Gateway Ranch, Bob Peccia owner

Area Surveyed (acres): 1.7 acres

Area of Potential Effect (acres): 1 acre

Principal Field Investigator: Jason Strahl, Archaeological Technician

Organizational Affiliation: Bureau of Land Management,
Dillon Field Office
1005 Selway Drive
Dillon, Montana 59725

Date of File Search: August 25, 2004

Date(s) of Field Work: August 26, 2004

Site(s) Recorded in Project Area: none

Previously Recorded Sites: none

Project Description

The Bureau of Land Management, the Montana Stock Growers Association, and Montana State University jointly sponsor the "Undaunted Stewardship Program" which commemorates the Lewis and Clark Bicentennial and local ranching traditions. Congressional funding for this program is administered by the Bureau of Land Management. Proposed projects therefore fall under the provisions of the National Historic Preservation Act.

The Undaunted Stewardship Program of Montana State University has chosen a location to display an interpretive sign emphasizing ranching, wetlands, and local history of the Beaverhead Rock area. The area chosen is on lands of the Beaverhead Gateway Ranch owned by Bob Peccia.

This location will overlook the wetlands along the Beaverhead River, approximately one mile southwest of Beaverhead Rock. A pull-off, driveway and parking area will be created along the northwest side of Highway 41 to allow access to an interpretive sign. Construction needed to fulfill this project will consist of grading, to level out the proposed parking area, and the addition of fill to decrease the steep grade leading from the highway to the parking area. A northeast to southwest trending post and wire fence will also be built along the northwest side of the parking area.

Environmental Context

The survey area is located southeast of the Beaverhead River overlooking Charlton Slough. Beaverhead Rock is visible approximately one mile to the northeast. Elevation of the project area is approximately 4858 feet (see Figure 2). Vegetation consists mostly of greasewood with rabbitbrush, prickly pear cactus and various grasses mixed within. Surface visibility across the survey area is a good, with approximately 60% visible surface. A steep slope (45 degree) exists along the highway southeast of the project area, leveling out to a gradual northwesterly trending slope. Soil across the site is an alluvium, consisting of brown silt loam with few small to medium rounded gravels mixed throughout.

Existing Data and Literature Review

Materials consulted in the initial literature review included the prehistoric and historic cultural overviews for the Butte District (Deaver and Deaver 1990; Brown 1975; see also Ingram 1976), and the Montana State Historic Preservation Plans (Montana Fish and Game Commission 1975; Van West 1985). In addition, project and site files curated at the Bureau of Land Management, Dillon Resource Area were examined to determine the presence/absence of previous cultural resource inventories and previously recorded site locations.

Based on an examination of records on file at the Dillon Resource Area it was determined that no previous Class III Cultural Resources Inventory has been conducted within the project area. As a result, there are no recorded cultural properties known to occur within, or in close proximity to, the proposed project area.

Survey Methods

A Class III Cultural Resource Inventory was conducted for the Beaverhead Gateway Ranch Undaunted Stewardship interpretive pullout and parking lot located adjacent to the Highway 41 right-of-way. An area measuring approximately 40 meters northwest/southeast by 175 meters northeast/southwest, totaling approximately 1.7 acres was inventoried, with two linear pedestrian transects oriented northeast/southwest (parallel to the highway) at intervals of 20 meters. Special attention was paid to any ground disturbance, such as rodent back dirt piles, to indicate any

potentially buried cultural materials.

Summary Description of Resources Encountered

No historic or prehistoric cultural materials were identified or located within the project area. However, a considerable amount of recent road side trash (i.e., bottles, cans, etc.) was noted.

Conclusions and Recommendations

A Class III cultural resources inventory was conducted for the proposed Beaverhead Gateway Ranch Undaunted Stewardship parking area and interpretive sign location. During the course of the inventory, no cultural resources were identified or recorded. It is therefore recommended that the construction of a parking area and interpretive sign location proceed, pursuant to the BLM National Programmatic Agreement and Implementing protocol.

References Cited

Brown, Kimberly

1975 Historical Overview of the Dillon District. Bureau of Land Management and the Western Interstate Commission for Higher Education (WICHE). Boulder, Colorado.

Deaver, Sherri and Ken Deaver

1990 An Archaeological Overview of Butte District Prehistory. Bureau of Land Management, Montana State Office: Cultural Resource Series No. 2. Billings, Montana.

Ingram, Patricia M.

1976 Historic Transportation Routes through Southwestern Montana. Bureau of Land Management and the Western Interstate Commission for Higher Education (WICHE). Boulder, Colorado.

Montana Fish and Game Commission

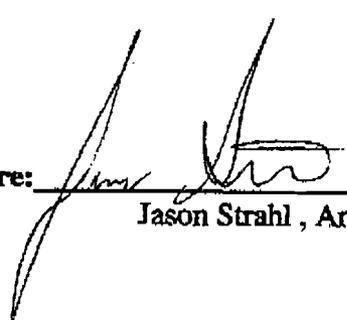
1975 Montana Historic Preservation Plan, Vol. I, II, and III, Second ed. Recreation and Parks Division, Montana Department of Fish and Game. Helena, Montana.

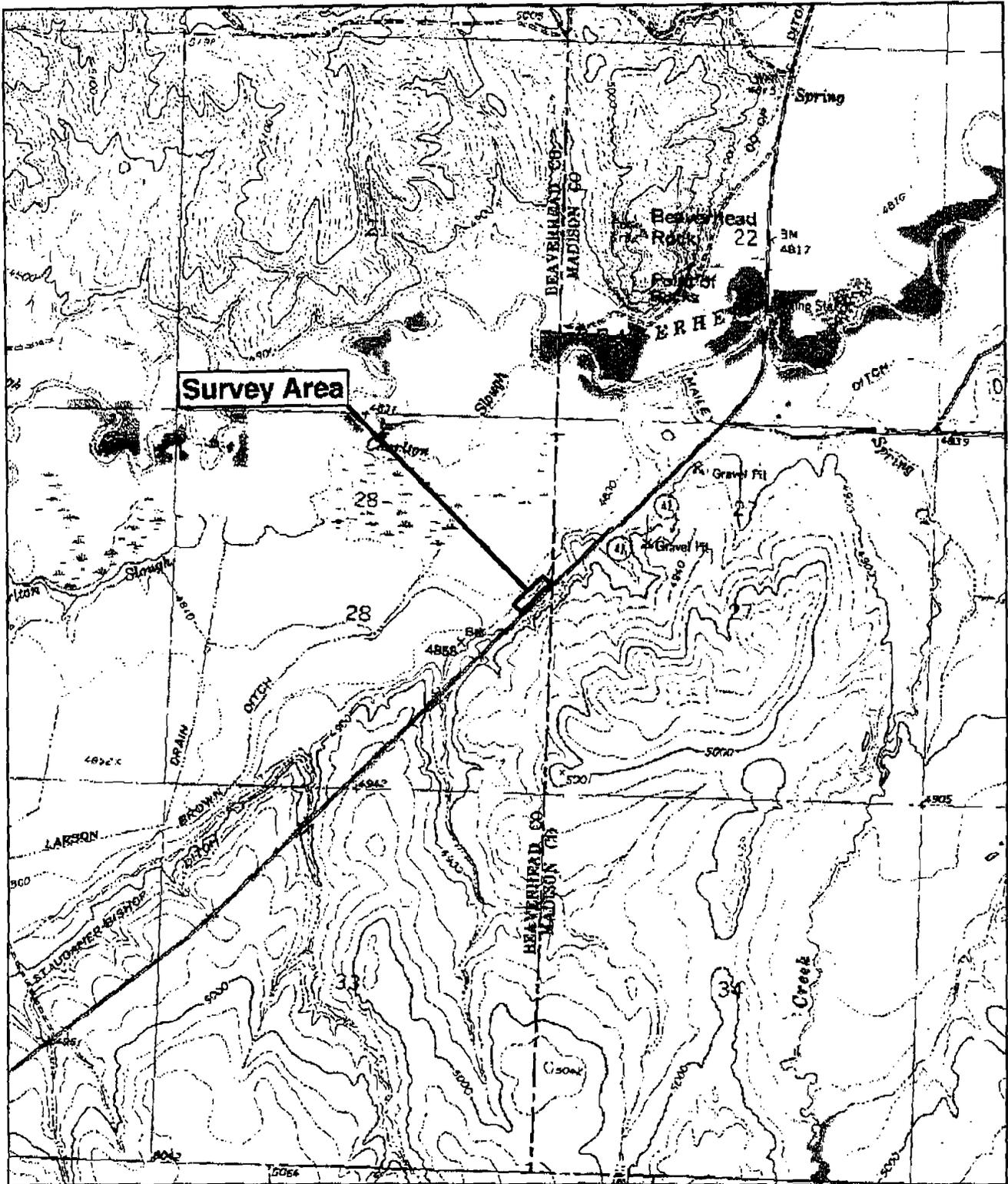
Van West, Carroll

1985 The Resource Protection Planning Process for Montana: Historic Contexts. Montana State Historic Preservation Office and Montana Historical Society. Helena, Montana.

Date of Report: 9/1/2004

Signature:


Jason Strahl, Archaeological Technician



0 0.5 1 Miles

0 0.5 1 Kilometers

1:24,000

Beaverhead Rock SW, MT - USGS 7.5' - 1962

T5S, R7W Section 28

Memorandum of Agreement
Between the Undaunted Stewardship/Montana State University
and the Montana Department of Transportation for
Improvements near Beaverhead Rock in Beaverhead County and
Gates of the Mountains in Lewis and Clark County, Montana

This Memorandum of Agreement (MOA) between the Montana Department of Transportation (MDT) and the Undaunted Stewardship program at Montana State University (MSU-US) sets forth the coordination of the planning, design, and costs improvements made adjacent to State Routes, specifically the turnout area adjacent to Beaverhead Rock along MT Highway 41 and the vault toilet near the Gates of the Mountains Interchange along I-15, to accommodate visitors to the state during the Lewis and Clark Bicentennial.

Whereas, MDT is responsible for planning, designing, constructing and maintaining state highways and associated transportation facilities, including associated pull-offs, parking areas, and rest areas for the use and benefit of the traveling public, in a safe and efficient manner in accordance with Title 23 United States Codes (USC) and Title 60, Montana Code Annotated (MCA) and maintains and has jurisdiction for MT 41 and I-15 which are state primary and interstate routes, respectively.

Whereas, MSU-US is responsible for preserving Montana's history, environment, and rural communities by encouraging sustainable stewardship of private agricultural lands which are vitally important to the economic and environmental health of Montana.

Whereas, MSU-US has received a federal grant to provide improvements at various locations statewide which will inform the public about the compatibility of agricultural practices with environmental values; and,

Whereas, the parties mutually agree that a cooperative delineation and identification of the statutory, regulatory and agreed duties and responsibilities of the parties is beneficial to the overall development process,

Therefore, the parties set forth the fundamental duties and responsibilities necessary to accommodate visitors to the state during the Lewis and Clark Bicentennial on the affected MDT highways resulting from the proposed development, and agree that:

1. Purpose

This MOA establishes the funding, design, construction, and maintenance responsibilities necessary to construct a vehicle turnout and interpretive kiosk near the wetlands, with panoramic views of Beaverhead Rock and of waterfowl nesting areas at the Beaverhead Gateway Ranch along MT 41 and to construct a vehicle turnout with an educational kiosk on the Sieben/Hilger Ranches near the Gates of the Mountains Interchange on I-15.

The vehicle turnout at the Beaverhead Gateway Ranch will be located near RP 13.697 on MT 41, State Primary 49 northeast of Dillon and the vehicle turnout at the Sieben/Hilger Ranches will be located near RP 209.109 on I-15 north of Helena.

2. Responsibilities

MDT

Project Development

MDT agrees to provide timely review and coordination of the conceptual plan.

Design

MDT agrees to:

- Provide survey data and technical requirements and assistance necessary for the development, completion, and approval of the design for necessary improvements.
- Review plans submitted by the MSU-US and if found acceptable, approve individual submissions, to assure all MDT design standards are met.
- Secure the necessary Environmental Clearances.
- Develop Montana Pollution Discharge Elimination System (MPDES) Plan.

Construction

MDT agrees to:

- Provide construction staking and utility locates.
- Provide the rough grading to excavate turnout area and highway approach including installation of an approach culvert, if required.
- Install gravel surfacing on the turnout area and approach.
- Provide finish grading ready for seeding and landscaping around the turnout area after kiosks have been installed.
- Remove gravel and excess materials at the Gates of the Mountain turnout area.
- Install vault toilet at the Gates of the Mountain turnout area.
- Provide directional signage at the Beaverhead and Gates turnouts.

Maintenance

MDT agrees to maintain the turnout area surfacing including vault toilet depending on annual usage of the vault toilet. This will not include snow removal after November 15th and before April 1st.

Project Development

MSU-US agrees to:

- Provide MDT a conceptual plan of the proposed turnout and approach based on an area that is acceptable to Robert Peccia, owner of the property to which a portion of the turnout is being constructed.
- Secure the necessary easement from Robert Peccia for MDT prior to any construction commencing by MDT at the Beaverhead Ranch turnout.
- Secure the necessary easement from the Sieben/Hilger Ranches at the Gates of the Mountains turnout.
- Coordinate and consult with MDT on review of conceptual plan.

Design

MSU-US agrees to:

- Pay costs to consultant associated with the development and design of the turnout areas.
- Develop project geometrics and detailed design in accordance with the MDT Geometric Standards and MDT Road Design Manual.
- Provide Cultural Resource Compliance Documentation from the Bureau of Land Management.

Construction

MSU-US agrees to:

- Remove and relocate the fencing and any utilities that may be in conflict with construction of the turnout area.
- Pay all fees associated with MPDES to Department of Environmental Quality.
- Provide, install, and maintain all Best Management Practices (BMP's) for turnout area.
- Provide Beaverhead County and MDT with a weed management plan.
- Provide all surfacing gravel for turnout area and approach as per MDT specifications and quantity.
- Provide all kiosks, seeding, and landscaping for turnout areas.
- Provide vault toilet for the Gates of the Mountain turnout area.

Maintenance

MSU-US agrees to provide periodic litter control of the turnout areas.

3. Non-Discrimination

MSU-US will require during the performance of any work arising out of this agreement that the agreement, for itself, assignees and successors shall comply with all non-discrimination regulations shown on Attachment A.

MDT requires that any construction resulting from this agreement must include appropriate pedestrian facilities that meet or exceed current MDT standards for accessibility as set forth in the U.S. Architectural & Transportation Barriers Board, American with Disabilities Act Accessibility Guidelines (ADAAG) and MDT Detailed Drawings, 608 Series.

4. Modification and Amendment

This MOA may be modified or amended, in writing, by the agreement of the parties involved. This MOA is assignable by the MSU-US only upon the written acceptance of the assignment by MDT.

5. Termination

All parties agree to move in an efficient and expeditious manner towards development of these proposals under the conditions specified within this MOA. Any party may terminate this MOA and all obligations of all parties hereunder by 30-day notice in writing to the other party of the intention to do so. The MOA may not be terminated once the construction of the associated improvements begins.

6. Governing Law

The laws of the State of Montana govern this agreement. Venue for any litigation will be in Lewis and Clark County, State of Montana. In case of conflict between the obligation imposed by this MOA and Montana law, then Montana law will control.

7. Supplementation of Agreement

The parties agree that it may be desirable to provide individual or more specific provisions, which may be accomplished through the execution of supplements to this MOA as needed.

8. Indemnification

Except for any suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts or omissions or misconduct of MDT employees, MSU-US agrees to protect, indemnify, and save harmless the State and MDT against and from all claims, liabilities, demands, causes of action, judgments (with any costs and fees that might be awarded), and losses to them from any cause whatever from the project, and including any suits, claims, actions, losses, costs or damages of any kind, including the State and MDT's legal expenses, made against the State or MDT by anyone arising out of, in connection with, or incidental to the project and its maintenance or operation.

By [Signature]
Montana Department of Transportation

Jan 25, 2005

Approved for Legal Sufficiency

[Signature]
MDD Legal Services
[Signature]
Undaunted Stewardship/MSU
By Jim Peterson

ATTEST:

STATE OF MONTANA)
County of _____)ss.

On this _____ day of _____, 2005, before me the undersigned, a Notary Public for the State of Montana, personally appeared Jim Peterson as the person whose name is subscribed to the within instrument, and acknowledged to me that they executed the same on behalf of the Undaunted Stewardship.

In witness whereof, I have hereunto set me hand and affixed my Notarial Seal the day and year first above written.

PRINTED NAME

Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

(SEAL)