serving you with pride

Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

August 12, 2005

Todd Everts, Environmental Analyst
Environmental Quality Council
Legislative Environmental Policy Office
P.O. Box 201704
Helena MT 59620-1704

RECEIVED
AUG 16 2005
LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

Subject: Approved Categorical Exclusion

Project Name: Warm Springs Creek – 20 km SW Hilger
Project Number: BR 81-1(8)34
Control Number: 4693

Dear Todd Everts:

The Environmental Services Bureau of the Montana Department of Transportation has received Federal Highway Administration (FHWA) concurrence that the above-named project qualifies as a Programmatic Categorical Exclusions. For your information, I have attached a copy of the FHWA concurrence.

If you have any questions or concerns, please contact me at hbruner@mt.gov or 444-7203. I will be pleased to assist you.

Sincerely,

Heidy Bruner
Billings District Project Development Engineer
Environmental Services Bureau

HSB:S:\PROJECTS\BILLINGS\4693\4693ENEQCCEDCVR.DOC

cc: File

encl.

4/27/05

Ferguson

serving you with pride

Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

David A. Galt, Director
Judy Martz, Governor

RECEIVED
APR 21 2005
ENVIRONMENTAL

MASTER FILE COPY

April 14, 2005

Janice W. Brown, Division Administrator
Federal Highway Administration (FHWA)
2880 Skyway Drive
Helena, MT 59602-1230

Subject: BR 81-1(8)34
WARM SPRINGS CR-20 KM SW HILGER
Control #4693

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 Preliminary Field Review Report and Project Location Map are attached. This proposed action also qualifies-as a CE under ARM 18.2.261 (Sections **75-1-103** and **75-1-201, M.C.A.**).

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).

	YES	NO	N/A	UNK
1. This proposed project would have (a) significant environmental impact(s) as-defined under 23 CFR 771.117(a).		x		
2. This proposed project involves (an) unusual circumstance(s) as described under 23 CFR 771.117(b).		x		
3. This proposed project involves one (or more) of the following situations where:				
A. Right-of-Way, easements, and/or construction permits are required.	x			
1. The context or degree of the Right-of-Way action would have (a) substantial social, economic, or environmental effect(s).		x		
2. There is a high rate of residential growth in this proposed project's area.		x		

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

Engineering Division
TTY: (800) 335-7592
WebPage: www.mdt.mt.gov

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

	YES	NO	N/A	UNK
(3.B. – concluded:)				
4. There is a delineated floodplain in the proposed project's 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 will be compliance with the provisions of both 23 CFR 772 for FHWA's Noise Impact analyses and MDT's Noise Policy.	x	☐	___	
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	

(3. – continued:)

	YES	NO	N/A	UNK
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 will 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 will be met.	x			
H. Permanent desirable vegetation with an approved seeding mixture will 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 is to be done.	x			
J. There are "Prime" or "Prime if Irrigated" Farmlands designated by the Natural Resources Conservation Service on or adjacent-to this proposed project's area.	x			
The proposed work will affect Important Farmlands, and a CPA-106 Farmland Conversion Impact Rating form for Corridor projects has been 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	

	YES	NO	N/A	UNK
(3. – concluded:)				
L. A written Public Involvement Plan has been 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		
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 will not induce significant land use changes, nor promote unplanned growth. There are no significant effects on access to adjacent property, nor to present traffic patterns.

This proposed project does 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 will 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.

Thomas L. Hansen, P.E.
Engineering Section Supervisor
MDT Environmental Services Bureau

Concur _____, Date: 19 APR 2005
Federal Highway Administration

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

JAR:TLH:asj:W[S:\PROJECTS\BILLINGS\4693\A722\FORMLET.DOC]

Attachments

copies: Bruce H. Barrett, Administrator - MDT Billings District (№ 5)
Kent M. Barnes, P.E. - MDT Bridge Engineer
Paul R. Ferry, P.E. - MDT Highways Engineer
John H. Horton, Jr. - MDT Right-of-Way Bureau Chief
D. Suzy Althof, Supervisor - MDT Contract Plans Section
David W. Jensen, Supervisor - MDT Fiscal Programming Section
Jean A. Riley, P.E. - MDT Environmental Services Bureau Chief