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FHWA
MONTANA DIVISION

Janice W. Brown, Division Administrator
Federal Highway Administration (FHWA)
585 Shepard Way
Helena, MT 59601-9785

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

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APR 14 2006

ENVIRONMENTAL

Subject: Categorical Exclusion (CE) Concurrence Request
Project Name: HOBSON – EAST
Project Number: NH 57-2(21)58
Control Number: 4368

Dear Janice W. Brown:

This submittal requests your agency's concurrence that the above-mentioned proposed project meets the criteria for classification as a Categorical Exclusion (CE) under the provisions of Title 23 Code of Federal Regulations (CFR) 771.117(d). The proposed project also qualifies as a CE under provisions of the Administrative Rules of Montana (ARM) 18.2.261 (Montana Code Annotated [MCA] Sections 75-1-103 and 75-1-201.)

PROJECT LOCATION AND DESCRIPTION

The Montana Department of Transportation (MDT) proposes to reconstruct approximately 19.3 kilometers (km) (11.99± miles [mi]) of US Highway 87 (US 87), which is also referred to as National Highway System (NHS) Route 57. The project would occur near Hobson in Judith Basin and Fergus Counties, beginning at reference post (RP) 57.748 north of Hobson and continuing east approximately 19.3 km (11.99 mi) to RP 70.00 east of Moore. The proposed Hobson – East project is located within the legal descriptions shown in Table 1. A map of the project location is attached.

Table 1: Project Legal Descriptions

Township	Range	Section
15 N	15 E	31
14 N	15 E	3, 4, 5, 6, 10, 11, 12
14 N	16 E	1, 2, 7, 8, 9, 10, 11, 15, 16, 17, 18

The proposed project would involve major grading; installation of new drainage structures including at least one bridge (i.e., Rock Creek); and use of cement treated base with plant mix surfacing. The horizontal alignment would be followed for the majority of the project. The new centerline would be offset to the north shoulder of the existing present travel way (PTW) to expedite grading operations while maintaining traffic on the PTW. The new curve at Hobson would be relocated to the east to provide improved sight distance and safer ingress and egress from the town of Hobson. The terrain along the project corridor is primarily level so modifications to the vertical alignment would be relatively minor. The existing structures at the Judith River and Ross Fork Creek would be left intact with some maintenance activities planned such as cleaning the deck drains and removing and resetting the bridge approach sections. The project would require acquisition of new right-of-way and relocation of utilities.

The proposed project scope of work was selected to bring the roadway up to NHS standards. The roadway would be designed for a 12.8 meter (m) (42.0± foot [ft]) paved surface, consisting of two 3.6 m (12.0± ft) travel lanes, and two 2.8 m (9.0± ft) shoulders. The road width is based on the Route Segment Plan with 0.8 m (2.6 ft) additional width for future surfacing. The existing 11.58 m (38.0± ft) by 6.1 m (20.0± ft) two span timber bridge over Rock Creek would be replaced with a new 18.0 m (59.0± ft) by 12.0 m (39.4± ft) pre-stressed concrete bridge. The new bridge would include box beam bridge rail and new w-beam bridge approach sections.

The existing roadway width and cut and fill slopes do not meet current criteria for principal arterials. Increased roadway width, improved geometrics, flatter side slopes, new pavement markings, signing, rumble strips and delineation are expected to reduce the number of traffic accidents within the project limits while meeting the current NHS standards.

Attached to this CE concurrence request are the Preliminary Field Review and Alignment and Grade Review Reports approved on September 4, 2001 and October 12, 2005, respectively. Refer to those attachments for a detailed project description.

ENVIRONMENTAL CONSIDERATIONS

The proposed project has been evaluated and determined to have no adverse effects on the following environmental areas of concern

- Social/Economic Concerns;
- Visual Resources;
- Publicly Owned Properties Protected under Section 4(f) of the *1966 Department of Transportation Act*;
- 6(f) Sites, *National Land and Water Conservation Fund Act* Sites and/or Facilities; and
- Floodplains.

The project may have minor effects on some environmental areas of concern, as discussed in subsequent paragraphs.

Noise

A traffic noise analysis for the Hobson – East project was conducted in September 2004. Traffic noise levels were predicted at two noise-sensitive receptors within 150 m (492± ft) of US 87 centerline to determine if noise impacts would occur at the single-family residences. Through field measurements and analysis it was determined that traffic noise impacts were predicted to meet or exceed noise abatement criteria (NAC) at one residence at station 175+00. That exceedance is predicted to occur in the design year (2024) with either the Build Alternative or the No Build Alternative.

The single-family residence may be removed due to right-of-way acquisition for the project, which would eliminate any traffic noise impacts associated with the project. If the single-family residence were not removed, then reasonable and feasible traffic noise mitigation measures would be evaluated and implemented. Shifting the alignment away from the receptor would not be feasible because of the location of the railroad tracks. Because the roadway is part of the NHS, altering the speed limit and/or restricting certain vehicle types from traveling on the road is not considered reasonable. Typically, constructing and maintaining a noise barrier for one residence is not feasible due to excessive cost. Alternative pavement surfaces would generally not be considered reasonable due to increased maintenance costs and durability issues. As a result, if the residence is not removed as part of the right-of-way acquisition, traffic noise mitigation measures do not appear to be reasonable and feasible according to MDT criteria.

The proposed project would not increase the number of through traffic lanes. The proposed project would comply with the provisions of 23 CFR 772.5(h) and 772.7(a) and MDT's Noise Policy. A copy of the Traffic Noise Study for the proposed project is attached.

Air Quality

The proposed project is located in an "unclassifiable" attainment area of Montana for air quality under 40 CFR 81.327. As such, the proposed project is not covered under the Environmental Protection Agency Final Rule of September 15, 1997 on air quality conformity. Therefore, the proposed project complies with Section 176(c) of the *Clean Air Act* (42 US Code [USC] 7521[a]).

Contaminated Sites/Hazardous Material

An Initial Site Assessment (ISA) of the Hobson – East project was conducted on December 23, 2002. The ISA report dated March 2003 indicated that Underground Storage Tanks (USTs), drains and associated piping are likely present in the project corridor.

Eighteen leaking USTs (LUSTs) have been reported within 0.8 km (0.5± mi) of the proposed project. Eight of the LUSTs are listed as inactive and ten are listed as active. The gas station at Eddies Corner is the only LUST site immediately adjacent to US 87 that has had confirmed releases. (One confirmed release occurred on April 20, 1992.) Previous monitoring wells located down gradient of the LUST and up gradient of US 87 have shown groundwater contamination. The monitoring wells were obliterated by road construction and an inactive letter was issued by the Montana Department of Environmental Quality (DEQ) in 1994. The current condition of contamination is unknown. There is a perched groundwater table at the Eddie's Corner site located 3.96 m (13.0± ft) below the ground surface.

Two UST sites are located adjacent to the proposed project at Basin Angus Ranch (inactive) and Eddie's Corner (active). Eddie's Corner currently has four active tanks and five non-active tanks. The locations of three additional registered USTs, one listed in Hobson and two listed in Moore, are unknown.

The proposed design does not encroach further onto the Eddie's Corner gas station property; therefore, no conflicts with USTs are anticipated. No other hazardous materials/regulated facilities likely to impact the proposed project were found through records reviews or interviews. According to MDT's Standard Specifications, in the unlikely event that the Contractor encountered USTs or unknown hazardous material during construction, the Contractor would notify the Project Manager. The Project Manager would work with MDT Environmental Services, as necessary, to ensure compliance with applicable local, State, and Federal laws.

Important Farmlands

The majority of land adjacent to US 87 is used for agricultural purposes. The 1981 *Farmland Protection Policy Act* (FPPA) requires that the effects of proposed highway projects be examined before any farmland is acquired. The Natural Resources Conservation Service (NRCS) uses the Farmland Conversion Impact Rating for Corridor Type Projects (NRCS-CPA-106) to assess farmland impacts from corridor type projects. The FPPA definition of farmlands includes all areas in non-urban use. The definition of farmlands does not necessarily mean those lands currently in crop production since the definition also includes forested, idle, pasture, open and recreational lands, as well as unpaved roads, rural residences and farm buildings.

As currently proposed, the Hobson – East project would impact approximately 29.231 ha (72.001± ac) of Prime if Irrigated Farmland, Farmland of Statewide Importance, and Prime Farmland, as shown in Table 2. The farmland impact analysis was conducted for the area within the proposed right-of-way where 28 important farmland areas were identified as being impacted. NRCS concurred with the completed NRCS-CPA-106 form

on January 9, 2006. The portion of the proposed project in Judith Basin County received a score of 123 and the portion of the project in Fergus County scored 129. Since the scores did not exceed 160, mitigation would not be necessary under provisions of 7 CFR 658.4(c) Part (2). Best Management Practices (BMPs) would be used to limit disturbance, control erosion, and reclaim disturbed vegetation within the construction limits.

Table 2: Important Farmlands in the Hobson – East Project Corridor

Farmland Type	Direct Impact	Indirect Impact
Prime if Irrigated Farmland	4.38 ha (10.831 ac)	4.113 ha (9.90 ac)
Prime Farmland	0.315 ha (0.779 ac)	0.505 ha (1.248 ac)
Farmland of Statewide Importance	9.341 ha (23.092 ac)	10.577 ha (26.151 ac)
Total	14.036 ha (34.702 ac)	15.195 ha (37.299 ac)

Historic/Cultural Resources

A Class III cultural resources inventory of the Hobson – East project area was conducted between October 28 and November 6, 2002. Nine cultural resources sites were identified. No prehistoric sites were located. The sites consisted of two farmsteads (24FR666 and 24FR976), two historic railroads (24FR411 and 24JT231), two abandoned segments of the original US 87 (24FR975 and 24JT199), two timber bridges (24FR462 and 24FR463), and one cultural material scatter (24JT267).

Seven of those sites were previously recorded. Two sites, the Montana Railroad (24FR411) and a Great Northern Railway Branch Line (24JT231), had been previously determined eligible for the National Register of Historic Places (NRHP). The two segments of US 87 (24FR975 and 24JT199) are covered under the terms of a Programmatic Agreement and no Determinations of Eligibility for Section 106 purposes are required. Programmatic Agreements are attached. Sites 24FR462 and 24FR463 (two timber bridges), 24JT267 (cultural material scatter), and 24FR666 (farmstead) were recommended as not NRHP eligible.

Two new sites (24FR975 and 24FR976) were located during the cultural resources field survey. Feature 5 of Site 24FR976, which is a chicken coop, was determined eligible for the NRHP under Criterion C because it represents a unique example of farm architecture. Table 3 summarizes the cultural resources identified in the proposed project corridor. On May 28, 2003, the Montana State Historic Preservation Office (SHPO) concurred with the determination that Feature 5 of Site 24FR976 was NRHP eligible under Criterion C. The letter with SHPO concurrence for the proposed project is included as an attachment.

Table 3: Cultural Resources in the Hobson – East Project Corridor

Site Number	Name/Description	NRHP Status ¹	Determination of Effect	Mitigation
24FR666	Farmstead	Ineligible	N/A	N/A
24FR976	Historic Homestead	Eligible	No Effect	N/A
24FR411	Former Montana Railroad/Milwaukee Road line	Eligible	No Effect	N/A
24JT231	Great Northern Railroad Branch Line	Eligible	No Effect	N/A
24FR462	2 mile NE Moore Bridge-Dry Coulee	Ineligible	N/A	N/A
24FR463	Moore Bridge-Rock Creek	Ineligible	N/A	N/A
24JT267	Historic Cultural Material Scatter	Ineligible	N/A	N/A
24FR975	Old Highway 87 segment	PA ²	N/A	N/A
24JT199	Old Highway 87 segment	PA ²	N/A	N/A

1. NRHP = National Register of Historic Places

2. PA = Programmatic Agreement. With the programmatic agreement, a determination of NRHP-eligibility status is not required

Threatened/Endangered Species

In accordance with Section 7 of the *Endangered Species Act* (16 USC 1531 – 1543) the project was evaluated to determine potential effects on plant and animal species listed by the US Department of the Interior Fish & Wildlife Service (USFWS) as Threatened, Endangered, Proposed or Candidate species. According to USFWS correspondence dated January 10, 2003, three Threatened, Endangered, Proposed or Candidate species may occur within the vicinity of the proposed Hobson – East project. Those species are summarized in Table 4.

Table 4: Threatened, Endangered, Proposed and Candidate Species Potentially Located in the Hobson – East Project Corridor

Common Name	Scientific Name	Status
Bald Eagle	<i>Haliaeetus leucocephalus</i>	Threatened
Mountain Plover ¹	<i>Charadrius montanus</i>	Proposed Threatened
Black-tailed Prairie Dog ²	<i>Cynomys ludovicianus</i>	Candidate

1. In September 2003, the USFWS issued a press release stating that the proposed rule to list the Mountain Plover as a threatened species was withdrawn.
2. In August 2004, the USFWS removed the Black-tailed Prairie Dog from the list of candidate species proposed for listing as a threatened or endangered species.

Subsequent to the USFWS correspondence, the proposed rule to list the Montana Plover as a threatened species was withdrawn (September 2003) and the Black-tailed Prairie Dog was removed from the list of candidate species (August 2004). As a result, MDT's analysis focused on potential effects to the bald eagle.

No bald eagle nest sites are recorded near the project area. Bald Eagles likely occur in the project area in the winter and in the spring and fall during migration. One adult Bald Eagle was observed in the project area near Ross Fork Creek during the October 2002 field surveys.

Analysis conducted by MDT's consultant determined that the proposed project would have "no effect" on the threatened Bald Eagle. For additional details, please see the attached Biological Resources Report (BRR) dated December 2005.

Migratory Birds

The proposed project would result in minor adverse effects to migratory bird species identified in 50 CFR 10.13 and addressed in Executive Order (EO) 13186. Although not substantial, the project has the potential for direct impacts to nesting migratory birds in the general area and their use of suitable habitat along US 87 during the breeding and nesting season. The proposed project would permanently displace some migratory birds from habitat occupied by the new road and would likely temporarily displace such species from habitats disturbed by road reconstruction activities. Demolition of bridges or culverts along the project could result in direct impacts to Cliff Swallow and Barn Swallow eggs or young if conducted during the nesting season. Cliff swallows are known for their colony nesting habits, the result of which is a site-specific nesting effort. As a result, a special provision preventing the contractor from removing the strata upon which the birds have nested would be an adequate preventive measure to avoid and minimize the take of those migratory birds.

Biological Resources

The BRR references the common terrestrial and aquatic species found in the proposed project corridor. Any impacts to these species would be negligible and of short-term duration. Construction techniques and BMPs such as the prudent placement of silt fences for erosion control, and a temporal restriction or other suitable

mitigation measures to prevent the destruction of occupied bird nests at the one timber bridge and two concrete bridges would minimize impacts to terrestrial and aquatic resources.

A search of the Montana Natural Heritage Program (MNHP) database revealed no records for species of concern near the project corridor. Based on literature reviews, database searches, and communications with agency biologists, the BRR lists 18 species of concern that could potentially occupy habitats within or near the project corridor. The majority of those species are either not documented as occurring in the project corridor and/or are uncommon and appear as transients only. Therefore, the proposed project would not likely jeopardize terrestrial or aquatic species of concern.

There would be relatively little overall impact to terrestrial and aquatic resources as a result of the proposed project. The vegetation and habitat that would be impacted is a small portion of comparable plant communities in the vicinity of the proposed project. Vegetation impacts would be mitigated as stated in the *Seeding* section, following. Please see the attached BRR for additional discussion of biological resources in the project corridor.

Wetlands

Wetland areas that may be affected by the proposed project were delineated by URS in October 2002 according to the criteria and methods identified in the *US Army Corps of Engineers (COE) 1987 Wetlands Delineation Manual*. Those criteria require the presence of 1) hydric soils, 2) hydrophytic vegetation, and 3) a hydrologic regime for an area to be classified as a wetland. Areas meeting all three of these wetland criteria are rated by function, value, and classification. Wetland function is based on its ecological relationship absent artificial influence(s). Wetland value is based on the benefits derived from one or more functions and the physical characteristics associated with that wetland. Wetland functions and values are rated as low, moderate, or high. Wetlands are numerically ranked by four classifications using their functions, values, and other criteria with Class I being the highest and Category IV the lowest.

Thirty-seven (37) Category II, III and IV wetland areas were delineated within the vicinity of the proposed project with a combined area of approximately 17.630 ha (43.563± ac). The proposed project would likely impact 18 of the 37 delineated wetland areas for a total impact of approximately 1.572 ha (3.882± ac). Table 5 is a summary of estimated wetland impacts. Please see the attached BRR for results of the “Wetland Resource Inventory & Impact Assessment”.

Table 5: Wetlands in Project Corridor and Potential Impacts

Wetland Category	Approximate Total Area	Approximate Area of Impact
I	0.00	0.00
II	2.184 ha (5.397± ac)	0.292 ha (0.722± ac)
III	14.956 ha (36.953± ac)	1.144 ha (2.826± ac)
IV	0.490 ha (1.213± ac)	0.158 ha (0.390± ac)
Total	17.63 ha (43.563± ac)	1.594 ha (3.938± ac)

MDT’s standard practice in regard to wetland impacts is to

1. Avoid potential adverse impacts to the maximum extent practicable.
2. Minimize unavoidable adverse impacts to the extent appropriate and practicable.
3. Compensate for unavoidable adverse impacts that remain after all appropriate and practicable minimization has been occurred.

Estimated wetland impacts included above are based on conceptual design and are subject to COE review. Adverse wetlands impacts have been avoided and minimized as much as practicable and as much as can be

determined in the conceptual design phase. As noted in the BRR, complete wetland avoidance is not possible due to the orientation of the wetlands to the existing and proposed roadway alignments. However, the proposed alignment minimizes wetland impacts by keeping the alignment as close to the existing PTW as possible and by steepening the side slopes in the areas of the Category II wetlands, where practicable and where safety would not be compromised. Avoidance and minimization measures would continue to be employed where practicable throughout the design and construction phases of this proposed project.

EO 11990 and provisions in *Section 404* of the *Clean Water Act* (33 USC 1251 – 1376) require that impacted wetlands be mitigated on-site and in-kind wherever feasible. When on-site mitigation is not feasible off-site mitigation within the same watershed is acceptable. Mitigation for these impacts may occur on-site or off-site, but within the same watershed as the impacts. The mitigation plan would be finalized prior to submittal of the required permit applications. Several potential on-site compensatory wetland mitigation opportunities were identified in the area where the majority of the wetland impacts would occur near Hobson. Refer to the *Permits Required* section for additional information.

Stream Preservation/Water Quality

Some in-stream work would occur at Olsen Creek, Dawkins Branch, Rock Creek, and a few unnamed drainages. At Olsen Creek, Dawkins Branch, and other drainages, culverts would be replaced. The timber bridge at Rock Creek would be replaced. No in-stream or bank work is proposed at the crossings of the Judith River or Ross Fork Creek.

The Judith River, between the mouth and the confluence with Ross Fork Creek is listed on Montana's 2002 303(d) list and Draft 2004 Integrated 303(d)/305(b) Report as an impaired waterbody. The 141.9 km (88.2 mi) section of the Judith River that is listed as impaired is not located within the project corridor or immediate vicinity. The entire 82.6 km (51.3 mi) length of the Ross Fork Creek, from the headwaters to the confluence with the Judith River, is listed as a waterbody that lacks sufficient data to assess any use. Olsen Creek, Dawkins Branch, and Rock Creek are not listed as impaired waterbodies by the DEQ. The DEQ provided a list of 303(d)/305(b) listed waterbodies for Judith Basin and Fergus Counties during the interagency coordination process (see attached).

In-stream work would also be in accordance with the *Water Quality Act* of 1987 (P.L. 100-4), as amended.

Floodplains

EO 11988 and FHWA floodplain regulations (23 CFR 650, Subpart A) require that effects of a proposed action be evaluated to determine if the project encroaches on the "base" (i.e., 100-year) floodplain. Based on a review of the Federal Emergency Management Agency (FEMA) Flood Insurance Program maps for Judith Basin and Fergus County, no FEMA delineated 100-year floodplains are located in the project corridor. According to 23 CFR 650.111(a), in the absence of National Flood Insurance Program maps, information developed by MDT can be used to determine whether the location of a highway alternative would result in an encroachment. Professional Engineers in the MDT Hydraulics Bureau have analyzed potential flood impacts at the stream crossings in the project corridor to confirm that the proposed design would not cause detrimental modifications to these drainages.

Erosion Control

An Erosion Control Plan would be submitted to the DEQ in compliance with the Montana Pollutant Discharge Elimination System (MPDES) regulations (ARM 16.20.1314). BMPs would be included in the design of this plan using guidelines as established in *MDT's Erosion and Sediment Control Best Management Practices Manual*. Particular care would be given to minimize sedimentation (accomplished through the use of BMPs in

accordance with the reference manual) during construction work at the Judith River, Ross Fork Creek, Olsen Creek, Dawkins Branch, Rock Creek, and unnamed drainages. The objective is to minimize erosion of disturbed areas during construction and operational phases of the proposed project.

Seeding

To reduce the spread and establishment of noxious weeds and to re-establish permanent vegetation, disturbed areas within MDT right-of-way and easements will be seeded with desirable plant species as soon as practicable after construction, as recommended by the MDT Botanist. Revegetation would be carried out in accordance with 7-22-2152, and 60-2-208, MCA.

Traffic Control

It would be necessary to maintain traffic through the project area while the road reconstruction project is under construction. A “half-at-a-time” construction technique would likely be used which means traffic would use a portion of the existing alignment while the new roadway is being constructed. Appropriate signing and flagging would be maintained in accordance with the Manual on Uniform Traffic Control Devices.

Environmental Justice

Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, directs federal agencies to take appropriate and necessary steps to identify and address disproportionately high and/or adverse effects of federal projects on the health or environment of minority and low-income populations, and minority-owned businesses to the greatest extent practical and permitted by law. The proposed project does not create disproportionate or adverse effects on the health or environment of minority and/or low-income populations.

Land Use and Right-of-Way

The existing roadway passes through rolling prairie, which is rangeland primarily used for dry land farming and grazing. Eddie’s Corner Inc., a gas station/cafe/convenience store, is located along the project corridor at the intersection of US 87 and US Highway 191. The “As-Built” plans show 13.7 to 18.3 m (45.0 – 60.0± ft) of right-of-way on both sides of the existing roadway centerline. (The as-built plans are from 1947 and 1971. This project was built in two segments, RP 57.748 to RP 66.986 was constructed in 1971 and RP 66.986 to RP 70.0 was constructed in 1947 and improved in 1986).

The acquisition of new right-of-way would be required throughout the project and new right-of-way limits would be established using present primary standards. The new right-of-way limits may impact one residence, but would not impact commercial buildings, farm buildings or other structures. Construction permits would be required for the proposed project.

The State of Montana administers one parcel of land along the project corridor south of US 87 between RP 66.9 and 67.4 in the N½ NE ¼ of Section 16, T 14 N, R 16 E, near the town of Moore. This parcel of land would be impacted by the proposed Hobson – East project.

During final design, measures to minimize right-of-way impacts will be assessed. Acquisitions will be governed by state and federal laws and regulations designed to protect landowners and the public. Affected landowners would be entitled to receive fair market value for land or building acquired and damages as defined by law to the remaining land due to effects of roadway construction. Right-of-way acquisition for this project would be conducted in accordance with the *Uniform Relocation Assistance and Real Property Acquisition Act of 1970* and *Uniform Relocation Act Amendments of 1987*, and 23 USC 317 for appropriation of public land for right-of-way

use. Compensation for right-of-way acquisitions would be made at “fair market value” for the “highest and best use” of the land. No person shall be displaced by a federal aid project unless and until adequate replacement housing has been offered regardless of race, color, religion, sex, or national origin. As a result, land use impacts of the proposed project are not regarded as substantial.

Pedestrian and Bicycle Use

Pedestrian/bicycle use of US 87 in the project corridor is very limited and primarily associated with recreation in the areas surrounding the project. The proposed project would not include special features (i.e., sidewalks or bike paths) for such use, but would better accommodate both pedestrians and bicyclists due to the improved width of the road and shoulders. The improved alignment would also provide a safety improvement by providing improved sight distance.

Utilities

Overhead power lines, telephone lines, gas lines, and fiber optic lines are located throughout the length of the proposed project. The preliminary alignment has been adjusted as much as practical to avoid and minimize impacts to utilities. However, some relocation of these utilities would be required. Utility relocations would be coordinated with the appropriate line owner(s) and completed prior to project construction. Notification of service interruption due to relocation would be the responsibility of the appropriate utility line owner. Such disruptions are normally minor in nature and are limited to the customers connected to the affected lines. Indirect effects from utility relocations (e.g., better/worse service, change in fees, etc.) are not anticipated.

Railroad

No railroad crossings occur in the project corridor although the Burlington Northern Santa Fe (BNSF) Railroad parallels US 87 on the east portion of the proposed project near Moore and also on the west end near Hobson. MDT has been informed that the railroad from Moore to Lewistown may be abandoned. MDT’s proposed project will not factor into the decision of whether or not that railroad should be abandoned. However if the railroad were abandoned, MDT would coordinate with the BNSF Railroad to determine if a shift in the alignment to the south near Hobson would be acceptable. If the railroad were abandoned additional alignment shifts may be evaluated in an effort avoid and/or minimize impacts to resources.

Maintenance

Maintenance on the proposed project portion of US 87 would either be unaffected or reduced as a result of these project improvements.

Cumulative Impacts

Recently completed, ongoing, and reasonably foreseeable MDT projects include the following six projects proposed for construction in this part of its Billings District. These projects are identified by Project Name; Project Number; Control Number (CN) and are briefly described below with an anticipated year of construction:

- ◆ **Lewistown – West**; NH 57-3(30)70; CN 4066; Reconstruction of MT 200/US 87 from milepost 70 to milepost 79; Anticipated construction 2007
- ◆ **Lewistown – West Overpass**; NH 57-3(34)79; CN A066; Reconstruction of MT 200/US 87 from milepost 79 to milepost 81, and removal of RR overpass; Anticipated construction 2009
- ◆ **Hobson – Utica**; STPS 239-1(2); CN 4485; Overlay and widening of Montana Secondary Highway 239 from the town of Hobson to the town of Utica; Anticipated construction 2007

- ◆ **7 km East of Windham – East;** NH 57-2(22)47; CN 4845; Overlay and widening of MT 200/US 87 from milepost 47 to milepost 58; Anticipated construction 2009
- ◆ **Judith Gap – North & South;** NH 63-1(8)15; CN 4073; Reconstruction of US 191 from milepost 14 to milepost 19; Anticipated construction 2007
- ◆ **Judith River – 7 km NE Hobson;** BR 9023(12); CN 4542; Structure replacement over the Judith River on a county road northeast of Hobson; Anticipated construction 2006

Neither Judith Basin County nor Fergus County has any proposed projects in the vicinity of the Hobson – East project corridor. No major private projects have been identified near the proposed project.

Although the six abovementioned MDT projects occur in the same general area as the Hobson – East project in Fergus and Judith Basin Counties and would likely be implemented within two to three years of each other, the planning, design, and construction of each project has proceeded independently. The construction of the Hobson – East project would not necessitate the need for improvements to other adjoining segments of US 87 in the area. Similarly, the construction of the other identified road projects in Fergus and Judith Basin County would not require that the segment of US 87 in the Hobson – East project area be reconstructed.

These projects each involve reconstruction or improvement of existing facilities and are not expected to generate substantial changes in traffic patterns. Because this area is not currently experiencing, nor is it anticipated to experience, substantial increases in population or employment, and because the proposed improvements to US 87 would essentially maintain the existing roadway at two lanes very near its current alignment, it is not anticipated that this proposed action individually or cumulatively, when considered with other projects, would have substantial cumulative impacts relating to induced growth, development, or land use. Further, it is anticipated that any increase in tourism-related activity as a result of the proposed project would simply serve to maintain the status quo in the area of the state.

Future growth in the Hobson – East project area, Fergus or Judith Basin Counties, or adjoining counties would likely be driven by factors other than improving this segment of US 87. The factors are primarily related to the national and global economic conditions and the price of energy. Therefore, it is impossible to predict the types of impacts that might occur. It is certain that such development, should it occur, would happen independently of the Hobson – East reconstruction project.

Considered cumulatively, the six abovementioned projects would not likely result in adverse affects to the natural resources discussed in this document. These projects may have associated wetland impacts; however, MDT wetland mitigation measures would prevent a cumulative loss to wetlands and associated wildlife habitat in the Middle Missouri River Watershed. The projects may produce some level of short-term construction related water quality impacts; however, these impacts should be temporary in duration and would not occur simultaneously.

MDT would continue to coordinate future projects with the public and other appropriate agencies, complete a review of potential impacts to the environment, and identify requirements for mitigation of any adverse effects as projects are developed and implemented.

Permits Required

Appropriate permits would be acquired prior to relevant disturbances on the proposed project. Required or potentially required permits include, but are not limited to the following permits.

124 SPA Permit: In accordance with the *Stream Protection Act* (SPA) (MCA 87-5-501 – 509), an SPA 124 Permit may be required from FWP prior to any construction disturbances to the bed or banks of any stream in the project area.

318 Authorization: In accordance with MCA 75-5-318, a Section 318 Authorization may be required from DEQ for unavoidable short-term violations of state surface water quality standards for turbidity. (The Montana Fish, Wildlife, and Parks (FWP) may waive this authorization during the review process under the 124 SPA Permit.)

402 Permit / Montana Pollutant Discharge Elimination System (MPDES) Permit: In accordance with the *Clean Water Act* (33 USC 1251-1376), MDT would submit a Notice of Intent (NOI) to DEQ under the MPDES “General Permit for Storm Water Discharges Associated with Construction Activity.”

404 Permit: As required under the *Clean Water Act* (33 USC 1251-1376), MDT would submit a completed Joint Application to the Army Corps of prior to discharge or placement of dredged or fill material into waters of the United States, including jurisdictional wetlands. The Army Corps would determine if this proposed project qualifies for a “Nationwide” or an “Individual” Permit under the provisions of 30 CFR 330. The need for a 404 Permit would be contingent on the extent of impacts to stream channel and wetlands.

401 Certification: As applicable 401 Certification would be obtained from DEQ prior to the issuance of the 404 Permit. The 401 Certification process is generally handled internally through agreements between DEQ and the Army Corps.

Public Involvement

A public informational meeting was held on September 29, 2005 (see attached newspaper announcement). The meeting format included an open house, formal presentation, and a question/comment period. The purpose of the meeting was to introduce the proposed project and to receive public input.

Major concerns voiced at the public meeting included the following: additional lighting on both sides of the highway at Hobson; the need for a stockpass at station 103+60; left-turn lanes at Hobson, Eddies Corner, and the west approach to Moore along with approaches right of station 54+30 and 62+50; poor existing intersection sight distance at some of the road intersections; drivers feel safer turning at the approach at station 62+60 at the top of the climbing lane versus going down to the approach at station 54+30. These concerns will be considered in the final design of this project.

Interagency Cooperation

Under the provisions of 23 CFR 771.111(d), the following agencies were requested to participate as Cooperating Agencies:

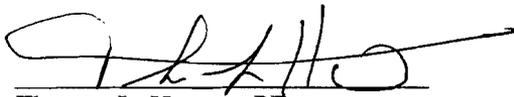
- US Army Corps of Engineers (COE),
- US Fish and Wildlife Service (USFWS),
- Natural Resources Conservation Service (NRCS),
- Montana Department of Environmental Quality (DEQ),
- Montana Fish, Wildlife, and Parks (MFWP), and
- Montana Department of Natural Resources and Conservation (DNRC),

Responses were received from the COE, USFWS, NRCS, DEQ, MFWP and DNRC. The USFWS agreed to participate as a cooperating agency. The NRCS declined participation as a cooperating agency. The COE, DEQ, DNRC and MFWP did not indicate their interest in participating as a cooperating agency. Copies of the response letters from the agencies are attached.

Summary

The proposed project would not induce significant land use changes nor promote unplanned growth. No significant affects on access to adjacent properties or present traffic patterns are expected. The proposed project is also in accordance with EO 12898 and would not create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations. This proposed project is also in compliance with Title VI provisions of the *Civil Rights Act* (42 USC 2000d) under FHWA regulations (23 CFR 200).

This action would not have, individually nor cumulatively, significant environmental impacts. Additionally, this project complies with the provisions of 23 CFR 771.117(a). As a result, MDT concludes that a Categorical Exclusion is appropriate for this project and requests that FHWA concur that the proposed project is properly classified as a Categorical Exclusion.



Thomas L. Hansen, PE
Environmental Engineering Section Supervisor

Concur  Date 14 April 2006
Federal Highway Administration

MDT attempts to provide accommodation for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this information will be provided upon request. For further information, call 406.444.7228 or TTY (800.335.7592) or call Montana Relay at 711.

Attachments

cc: Bruce H. Barrett, Administrator – MDT Billings District
Paul R. Ferry, PE – MDT Preconstruction Engineer
John H. Horton, Jr., Bureau Chief – MDT Right-of-Way
David W. Jensen, Supervisor – MDT Fiscal Programming Section
Suzy Althof, PE, Bureau Chief – MDT Contract Plans
Jean A. Riley, PE, Bureau Chief – MDT Environmental Services

ADDITIONAL COPIES
EQC
KENT BARNES
~~TO [REDACTED]~~
KIRK EAKIN@URS.
(ALL COPIES
ARE WITHOUT
ATTACHMENTS)

Project Location Map.

