



# City of Billings

Public Works Department  
Engineering Division

510 N. Broadway 4<sup>th</sup> Floor  
Billings, Montana 59101  
Office (406) 657-8329  
Fax (406) 657-8252

**RECEIVED**



MAY 31 2006

May 23, 2006

Michael Wherley, P.E., CTEP Engineer  
Montana Department of Transportation  
Consultant Design Bureau  
P.O. Box 201001  
Helena, MT 59620-1001

LEGISLATIVE ENVIRONMENTAL  
POLICY OFFICE

Subject: Categorical Exclusion Group (c) Action Letter  
Federal-aid Project Number: STPE 1099(40)  
Federal-aid Project Name: Stewart Park Trail - Billings  
MDT Control Number: 5290

The City of Billings, Montana has determined that this proposed project will not involve unusual circumstances as described under 23 CFR 771.117(b). It therefore qualifies as a Categorical Exclusion under the provisions of 23 CFR 771.117(c), parts 3 & 7. This proposed action also qualifies as a Categorical Exclusion under the provisions of ARM 18.2.261 (Sections 75-1-103 and 75-1-201, MCA).

In accordance with the Federal Highway Administration's (FHWA) letter of March 29, 1999 to MDT's Environmental Services, please notify FHWA that the proposed action is being processed in accordance with 23 CFR 771.117(c).

Signature of Environmental Certifying Official  
or Chief Elected Official

Candi Beaudry, Acting City/County Planning Director  
Type Name and Title

Concur Mike Wherley  
Michael Wherley, P.E.  
CTEP Project Engineer

MAY 30, 2006  
Date

cc: Bruce Barrett, MDT, District Administrator – Billings District  
Tom S. Martin, P.E., MDT, Consultant Design Engineer  
Jean A. Riley, MDT, Manager - Environmental Services  
David W. Jensen, MDT, Supervisor – Fiscal Programming Section  
Michael Wherley, P.E., MDT, CTEP Engineer  
Environmental Quality Council  
Candi Beaudry, Yellowstone County CTEP Coordinator

## Environmental Checklist

Project Name and Project Number: **Stewart Park Trail - Billings, STPE 1099(40), CN 5290**

Are all activities of this project exempt from NEPA procedures? Yes

Are activities of this project Categorically Excluded from NEPA procedures? Yes

Area of Statutory-Regulatory Compliance		N/A	Consultation Required	Review Required *	Permits Required *	Conditions and/or Mitigation Actions Required *	Note and attach Documentation
(Precise citations for applicable statutes and regulations are printed at the end of this Checklist.)							
1.	Historic Properties (SHPO)	X					N/A. See attached MDT Historian memo dated 01/13/03 & Tervo email dated 05/23/06
2.	Floodplain Management (County)	X					Not located in a flood plain.
3.	Wetlands Protection (COE)	X					No known wetlands in the project area.
4.	Noise (DEQ)	X					Project would not create more noise than currently exists.
5.	Air Quality (DEQ)	X					N/A
6.	Manmade Hazards						
	Thermal/Explosive Hazards	X					None exist.
	Abandoned Underground Storage Tanks	X					No tanks exist.
	Leaking Underground Storage Tanks	X					No tanks exist.
	Possible Hazardous Waste Sites	X					None exist.
	Airport Clear Zones	X					Project outside Airport Influence Area.
7.	Water Quality (DEQ or EPA for reservation projects)						
	Surface Water/Water Quality	X					Not changing current conditions.
	Groundwater & Aquifers <sup>1</sup>	X					Not impacting groundwater or aquifer.

8.	Solid/Hazardous Waste Disposal (DEQ)	X					<b>Project area does not contain hazardous wastes.</b>
9.	Farmlands Protection	X					<b>Project located in developed area.</b>
10.	Wild & Scenic Rivers	X					<b>Not near a river.</b>
11.	Threatened or Endangered Species, Fish & Wildlife (USF&WS)	X					<b>Project area does not have habitat to support threatened or endangered species.</b>
12.	Biological Resources-habitat containing sensitive species: either nesting, foraging, or inhabiting (MDFW&P/MSL)	X					<b>Project area does not have habitat to support sensitive species.</b>
12.	Environmental Justice (EO 12898) – Minority and Low Income Populations.	X					<b>Project not in a low-income area.</b>
13.	Is there substantial, local, regional or other controversy on environmental grounds?	X					<b>N/A</b>
14.	Section 4(f) – would project change use of Park, Recreation Area, Wildlife refuge, waterfowl refuge (23 CFR 771.135)	X					<b>No</b>
15.	State or Local Statutes	X					<b>Followed state laws in creating the project.</b>
16.	Section 6(f) – would project change use of protected properties, for public outdoor recreation, acquired or developed with Land and Water Conservation Funds. Administered by the Department of Fish, Wildlife and Parks.	X					<b>No</b>
17.	Public involvement efforts after initial project approval by MDT.	X					<b>None necessary.</b>
18.	List other agencies contacted.	X					<b>None required.</b>
* Attach evidence that required actions have been taken.							
<sup>1</sup> Including the Missoula Sole Source Aquifer; contact MDT for further information regarding Missoula area projects.							

## INDEX OF APPLICABLE FEDERAL STATUTES AND REGULATIONS INCLUDED IN THE ENVIRONMENTAL CHECKLIST AND COMPLIANCE CERTIFICATION

### 1. Historic Properties

- a. The National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.), particularly sections 106 and 110 (16 USC 470 and 470h-2), except as provided in '58.17 for Section 17 projects.
- b. Executive Order 11593 - Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Compilation, particularly section 2(c).
- c. 36 CFR Part 800-Advisory Council on Historic Preservation
- d. The Reservoir Salvage Act of 1960 as amended by the Archaeological and Historic Preservation Act of 1974 (16 USC 469 et seq.), particularly section 3 (16 USC 469a-1).

### 2. Floodplain Management

- a. Executive Order 11988, Floodplain Management, May 24 1977 (42 FR 26951, 3 CFR, 1977 Comp., as interpreted in FHWA regulations at 23 CFR 650.101-650.117.
- b. Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128).
- c. National Flood Insurance Program (44 CFR 59-79).

### 3. Wetlands

- a. Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Compilation, particularly sections 2 and 5; and Applicable State Legislation or Regulations.

### 4. Noise

- a. Noise Abatement and Control, 24 CFR 51.100 (44 FR 40861, 7/12/79, as amended at 61 FR 13333, 3/26/96).

### 5. Air Quality

- a. Clean Air Act (42 USC 7401 et seq.) as amended; particularly section 17(c) and (d) (42 USC 7506(c) and (d)).
- b. Determining Conformity of Federal Actions to State or Federal Implementation

Plans (Environmental Protection Agency, 40 CFR parts 6, 51, and 93).

6. Man-made Hazards

- a. Siting of FHWA Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields, 23 CFR 620.101-620.104 (39 FR 35145, 9/30/74)

7. Water Supply/Quality

- a. Federal Water Pollution Control Act, as amended (33 USC 1251-1376).
- b. The Safe Drinking Water Act of 1974, as amended (42 USC 69-01-6978, 300f-300j-10).
- c. U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR 100-149.
- d. Missoula, Montana Sole Source Aquifer, in accordance with Section 1424 (e) of the Safe Drinking Water Act, 42 USC 300h-3 (1982).

8. Solid Waste Disposal

- a. Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901-6987).
- b. U.S. Environmental Protection Agency (EPA) Implementing Regulations 40 CFR 240-265.

9. Farmlands Protection

- a. Farmland Protection Policy Act of 1981 (7 USC 4201 et seq.) particularly sections 1540(b) and 1541 (7 USC 4201(b) and 4202).
- b. Farmland Protection Policy (U.S. Department of Agriculture 7 CFR 658).

10. Wild and Scenic Rivers

- a. Wild and Scenic Rivers Act of 1968 (16 USC 1271 et. seq.) as amended, particularly section 7(b) and (c), (16 USC 1278 (b) and (c)).

**Note:** *In Montana, this act applies to the North Fork of the Flathead River from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir; and, the Missouri River*

*consisting of the segment from Fort Benton, one hundred and forty-nine miles downstream to the Russell Wildlife Refuge boundary (Fred Robinson Bridge).*

11. Endangered Species

- a. The Endangered Species Act of 1973 (16 USC 1531 et seq.) as amended; particularly section 7 (16 USC 1536).
- b. Fish and Wildlife Coordination Act (16 USC 661-666c).

12. Environmental Justice

- a. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Compilation Page 859 (24 CFR 58.5, April 30, 1996).

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## CERTIFICATION

I certify that the findings on the proceeding LTG Environmental Checklist accurately reflect the status of compliance with applicable laws and regulations for the proposed transportation project.

***Candi Beaudry, Acting City/County Planning Director  
CTEP Administrator, Yellowstone County***

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Type Name and Title of  
Environmental Certifying Official

  
Signature

5/23/06  
Date

Attachments:

1. MDT Historian memo (1 page)
2. Tervo email (1 page)