



Montana Department of Transportation

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Jim Lynch, Director
Brian Schweitzer, Governor

January 7, 2009

Kevin McLaury, Division Administrator
Federal Highway Administration (FHWA)
585 Shepard Way
Helena, MT 59601-9785



Subject: NH 5-2(151)52
Pablo Bike/Ped Overcrossing
UPN 6594

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 (November 25, 2008) 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, 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).

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

YES NO N/A UNK

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 proposed the project 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, schoolgrounds, wild-life 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 project 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
- The presence of the Salish and Kootenai College and the Two Eagle River School is acknowledged by MDT and FHWA. Although the schools are not likely considered protected by Section 4(f), MDT and FHWA are noting here that we will continue to coordinate potential impacts to the schools with the CSKT.*
- 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"). X
- 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)* would be met. X
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. X

YES NO N/A UNK

3. A 124SPA Stream Protection permit would be obtained from the MDFW&P?

 X

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.

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).

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

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.

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

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.

Prepared By: Susan Kilcrease, Date: 1/7/09
Susan Kilcrease
MDT Environmental Services Project Development Engineer

Concur: Heidy Bruner, Date: 1/8/9
Heidy Bruner, P. E.
MDT Environmental Services Engineering Section Supervisor

Concur: Mark A. Zylka, Date: 2/2/2009
Federal Highway Administration

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Attachments

- cc: Doug Moeller - Missoula District Administrator
 Paul R. Ferry, P.E. - Highway Engineer
 Kent M. Barnes, P.E. - Bridge Engineer
 Nigel Mends, P.E. - Missoula Area Bridge Engineer
 John H. Horton - Right-of-Way Bureau Chief
 Suzy Price - Contract Plans Bureau Chief
 David W. Jensen - Fiscal Programming Section
 Heidy Bruner, P.E. - Engineering Section Supervisor, ESB
 Tom Martin, P.E. - Environmental Services Bureau Chief
 Susan Kilcrease - Environmental Services
 Environmental Quality Council
 File