Montana Department of Transportation
2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

May 11, 2009

Kevin McLaury
Division Administrator
Federal Highway Administration
585 Shepard Way
Helena MT 59601

RECEIVED
MAY 14 2009
ENVIRONMENTAL

Subject: **Programmatic Categorical Exclusion (PCE) Concurrence Request**
SF079 York Road-NE of Helena
HSIP 280-1(22)14
Control Number: 6424000

MASTER FILE COPY

Dear Kevin McLaury:

This submittal requests approval of the above-mentioned proposed project as a Categorical Exclusion under the provisions of 23 CFR 771.117(d) and the Programmatic Agreement as signed by MDT and FHWA on April 12, 2001. This proposed action also qualifies as a Categorical Exclusion under ARM 18.2.261 (MCA 75-1-103 and MCA 75-1-201).

The following form provides documentation required to demonstrate that all of the conditions are satisfied to qualify for a Programmatic Categorical Exclusion. A copy of the Preliminary Field Review Report (including a project location map), dated April 24, 2008, is attached. In the following form, "N/A" indicates not applicable; "UNK" indicates unknown.

NOTE: A response in a large 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).	☐	☒	☐	☐
2. This proposed project involves (an) unusual circumstance(s) as described under 23 CFR 771.117(b).	☐	☒	☐	☐
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.	☐	☒	☐	☐
1. The context or degree of the right-of-way action would have (a) substantial social, economic, or environmental effect(s).	☐	☒	☐	☐
2. A high rate of residential growth exists in the area of the proposed project.	☐	☒	☐	☐
3. A high rate of commercial growth exists in the area of the proposed project.	☐	☒	☐	☐
4. Work would be on and/or within approximately 1.6 kilometers (1± mile) of an Indian Reservation.	☐	☒	☐	☐

		Yes	No	N/A	UNK
5.	Parks, recreational, or other properties acquired/improved under Section 6(f) of the 1965 National Land & Water Conservation Fund Act (16 USC 460L, *et seq.*) are on or adjacent to the proposed project area.	☐	☒	☐	☐
	The use of such Section 6(f) sites would be documented and compensated with the appropriate agencies (MDFWP, local entities, etc.).	☐	☐	☒	☐
6.	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 USC 470, *et seq.*) by the State Historic Preservation Office (SHPO) would be affected by this proposed project.	☐	☒	☐	☐
7.	Parks, recreation sites, school grounds, wildlife refuges, historic sites, historic bridges, or irrigation that might be considered under Section 4(f) of the 1966 US Department Of Transportation Act (49 USC 303) are on or adjacent to the project area.	☐	☒	☐	☐
	a. The proposed project would not impact the site(s), so a 4(f) evaluation is not necessary.	☒	☐	☐	☐
	b. A de minimis finding has been secured for this project.	☐	☐	☒	☐
	c. Nationwide Programmatic Section 4(f) Evaluation forms for those sites are attached.	☐	☐	☒	☐
	d. This proposed project requires a full Section 4(f) Evaluation.	☐	☐	☒	☐
B.	The activity would involve work in a streambed, wetland, and/or other water body (ies) considered as "waters of the United States" or similar (e.g., "state waters").	☐	☒	☐	☐
1.	Conditions set forth in Section 10 of the Rivers and Harbors Act (33 USC 403) and/or Section 404 of the Clean Water Act (33 USC 1251-1376) codified at 33 CFR 320-330 would be met.	☒	☐	☐	☐
2.	Impacts in wetlands, including but not limited to those referenced under Executive Order (EO) #11990, and proposed mitigation would be coordinated with the US Army Corps of Engineers and other Resource Agencies (Federal, State, and Tribal) as required for permitting.	☐	☐	☒	☐
3.	A 124SPA would be obtained from the MDFWP.	☐	☒	☐	☐
4.	A delineated floodplain exists in the proposed project area under FEMA's Floodplain Management criteria.	☐	☒	☐	☐
	The water surface at the 100-year flood limit elevation would exceed floodplain management criteria due to an encroachment by the proposed project.	☐	☒	☐	☐
5.	A Tribal Water Permit would be required.	☐	☒	☐	☐
6.	Work would be required in, across, and/or adjacent to a river that is a component of, or proposed for inclusion in Montana's Wild and/or Scenic Rivers system as published by the US Department of Agriculture, or the US Department of the Interior.	☐	☒	☐	☐

	Yes	No	N/A	UNK
The designated National Wild and/or 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 USC 1271 – 1287), this work would be coordinated and documented with either the Flathead National Forest (Flathead River), or US 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.	☐	☒	☐	☐
1. If yes, are there potential noise impacts?	☐	☐	☒	☐
2. A Noise Analysis would be completed.	☐	☐	☒	☐
3. There would be compliance with the provisions of both 23 CFR 772 for FHWA's Noise Impact analyses and MDT's Noise Policy.	☒	☐	☐	☐
D. Substantial changes in access control would be associated with the proposed project.	☐	☒	☐	☐
If yes, would they result in extensive economic and/or social impacts on the affected locations?	☐	☐	☒	☐
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.	☒	☐	☐	☐
2. Adverse effects to through-traffic dependant businesses would be avoided or minimized.	☒	☐	☐	☐
3. Interference to local events would be minimized to all possible extent.	☒	☐	☐	☐
4. Substantial controversy associated with this pending action would be avoided.	☒	☐	☐	☐
F. Hazardous wastes /substances, as defined by the US 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.	☐	☒	☐	☐

		Yes	No	N/A	UNK
	All reasonable measures would be taken to avoid and/or minimize substantial impacts from same.	☐	☐	☒	☐
G.	The Stormwater Discharge conditions (ARM 17.30.1101-1117), including temporary erosion control features for construction would be met.	☒	☐	☐	☐
H.	Permanent desirable vegetation with an approved seeding mixture would be established on exposed areas.	☒	☐	☐	☐
I.	Documentation of an invasive species review to comply with both EO #13112 and the County Noxious Weed Control Act (7-22-2152, MCA), including directions as specified by the county(ies) wherein its intended work would be done would be conducted.	☒	☐	☐	☐
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 USC 4201, *et seq.*).	☐	☐	☒	☐
K.	Features for the Americans with Disabilities Act (PL 101 336) compliance would be included.	☐	☐	☒	☐
L.	A written Public Involvement Plan would be completed in accordance with MDT's Public Involvement Handbook.	☒	☐	☐	☐
4.	This proposed project complies with the Clean Air Act's Section 176(c) (42 USC 7521(a), as amended) under the provisions of 40 CFR 81.327 as it is 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.	☒	☐	☐	☐
	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 Air Quality Division, etc.).	☐	☐	☒	☐
C.	Is this proposed project in a "Class I Air Shed" under 40 CFR 52.1382(c)(3)?	☐	☒	☐	☐
5.	Federally listed Threatened or Endangered (T/E) Species:				
A.	Recorded occurrences, and/or critical habitat are in the vicinity of the proposed project.	☒	☐	☐	☐
B.	Would this proposed project result in a "jeopardy" opinion (under 50 CFR 402) from the Fish and Wildlife Service on any Federally listed T/E Species?	☐	☒	☐	☐

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

This proposed project would not create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations (EO #12898). The project also complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 USC 2000d) under FHWA regulations (23 CFR 200).

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

Eric Thunstrom Date: 5/11/09

Eric Thunstrom
Environmental Services Bureau
Great Falls District Project Development Engineer

Concur Heidy Bruner Date: 5/11/09
Heidy Bruner, P.E.
Environmental Services Bureau
Engineering Section Supervisor

Concur Date: 13 May 2009
Federal Highway Administration

Attachment

copies without attachment:

Tom Martin, P.E.	Environmental Services Bureau Chief
Heidy Bruner, P.E.	Environmental Services Bureau Engineering Section Supervisor
Michael P. Johnson	Great Falls District Administrator
Kent Barnes, P.E.	Bridge Engineer
Paul Ferry, P.E.	Highway Engineer
John Horton	Right-of-Way Bureau Chief
David W. Jensen	Fiscal Programming Section Supervisor
Dustin Rouse, P.E.	Road Design Area Engineer
Suzy Price	Contract Plans Bureau Chief
Steve Prinzing, P.E.	Great Falls District Engineering Services Supervisor
Stacy Hill, P.E.	Great Falls District Environmental Engineering Specialist
Walt Scott	Right-of-Way Bureau Utilities Section

copies with attachment:

File	Environmental Services Bureau
Montana Legislative Branch	Environmental Quality Council (EQC)

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.

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