

August 23, 2010

Gene Kaufman, Operations Engineer
Federal Highway Administration (FHWA)
585 Shepard Way
Helena, MT 59601

Subject: **Categorical Exclusion Group (d) Action Letter**

Reference: Federal-aid Project Number: 8199(66)
Federal-aid Project Name: Milwaukee RR Path-Msla
MDT Uniform Project Number: 5578

This is a request for FHWA concurrence that the proposed project meets the criteria for classification as a Categorical Exclusion under the provisions of 23 *CFR* 771.117(d). This proposed action also qualifies as a Categorical Exclusion under the provisions of *ARM* 18.2.261 (*MCA* Sections 75-1-103 and 75-1-201). A project location map is attached.

This proposed project is a bike path.

The location of the proposed project is between Russell Street and Davis Street near and along the abandoned Milwaukee RR route in Missoula, Montana, Township 13 North, Range 19 West, Section 20.

The intent of the proposed project is to construct a 10' wide, paved bicycle path that meets ADA specifications in an area of Missoula that is severely lacking in sidewalks, parks and other recreation facilities. This path will extend the City's main east-west non-motorized commuter trail.

The proposed project has been evaluated for, and does not have any adverse effect on the following environmental areas of concern:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Stormwater Runoff | <input checked="" type="checkbox"/> Noise |
| <input checked="" type="checkbox"/> Prime and Unique Farmlands | <input checked="" type="checkbox"/> Section 404 – <i>Clean Water Act</i> |
| <input checked="" type="checkbox"/> Floodplains (EO 11988/FEMA) | <input checked="" type="checkbox"/> Social/Economic |
| <input checked="" type="checkbox"/> Hazardous Waste | <input checked="" type="checkbox"/> Stream Preservation/Water Quality |
| <input checked="" type="checkbox"/> Historical/Cultural Resources | <input checked="" type="checkbox"/> Threatened/Endangered Species |
| <input checked="" type="checkbox"/> Changes in Land Use | <input checked="" type="checkbox"/> Wetlands (EO 11990) |
| <input checked="" type="checkbox"/> USDOT – 4(f)/NL&WCF – 6(f) Acts | |

PROJECT IMPACTS

The proposed project will have a minor effect on the following environmental area(s):

Historic/Cultural Resources – The Milwaukee Railroad Grade 24MO714 the National Register of Historic Places (NRHP) in Missoula, Montana. A Section 106 Determination of Effect has resulted in a finding of “No Adverse Effect,” which has been reviewed and concurred with by the State Historic Preservation Office (SHPO) on June 17, 2010. A copy of their concurrence letter is attached.

Threatened/Endangered Species – The US Department of the Interior’s Fish & Wildlife Service (USF&WS) was contacted on June 7, 2010 for identifying Federally listed Threatened/Endangered Species. The following Threatened/Endangered Species were identified by the USF&WS as being in the vicinity of the proposed project and a Biological Resources Report was prepared by the Natural Resources Information System. The conclusion of the Biological Resources Report is that (there are no biological concerns on this project/the project is “Not Likely to Adversely Effect” Threatened/Endangered Species. The NRIS provided a list of species of concern for a 5 mile radius around the proposed project.

Fish – The Bull Trout is an endangered fish species on the Clark Fork River and other waterways in the greater Missoula area.

Threatened Wildlife – The Bald Eagle and Canada Lynx are threatened species in the State of Montana.

Endangered Wildlife – No endangered species were identified by the NRIS within a 5 mile radius of the proposed project.

Note: No fish, threatened or endangered species or their habitat will be affected by this project.

Floodplains – Note: The project is out of the 100 year floodplain

Air Quality – The proposed project is located in a (CO/PM10) “nonattainment” area of Montana for air quality under 40 *CFR* 81.327, as amended. However, this type of proposed project is listed in EPA’s Final Rule of September 15, 1997 on Air Quality conformity as being exempt from the requirement of a conformity determination. Therefore, the proposed project complies with Section 176(c) of the *Clean Air Act* as amended (42 *USC* 7521(a)).

Section 4(f) – It has been determined that Section 4(f) does not apply to restoration, rehabilitation or maintenance of historic facilities when there is a “No Adverse Effect” determination, and when SHPO and the advisory council have been consulted and have not objected to this finding.

Note: No park land is involved in the project

Section 6(f) – There is no Conversion of Use involvement as protected property acquired or developed with Land and Water Conservation Funds (LWCF) are not within the project limits.

Cumulative Impacts – The City of Missoula currently has 1 active and 0 proposed projects in the vicinity of the proposed project. The City of Missoula is currently constructing the Catlin/Wyoming Sidewalk project that crosses the proposed trail project. The Catlin/Wyoming project included the construction of one segment of the proposed trail project. The Catlin/Wyoming Sidewalk project and the proposed trail project are adjacent to each other but do not pose any cumulative impacts.

The City of Missoula and the MDT are currently working jointly on the Russell Street/3rd Street reconstruction project which is adjacent to the proposed trail project. The Russell/3rd project includes a trail undercrossing at Russell Street that will connect the proposed trail project across Russell Street. The Russell/3rd project is currently in the EIS phase. These two projects together do not pose any cumulative impacts.

Therefore, none of the above projects, in conjunction with the proposed project, will have any significant cumulative environmental impacts. The City of Missoula and MDT have other projects currently underway or planned for the area but none of them are within 0.5 miles of the proposed trail project.

PERMITS

Permits Required – The following permits will be acquired prior to any relevant disturbance: (also see the FEMA Floodplain Development Permit, following):

- This proposed project will be in compliance with the provisions for both Water Quality under MCA 75-5-401(2) for Section 3(a) authorizations, and 124 SPA Stream Protection Notification under MCA 87-5-501 through 509, inclusive.
- A Notice of Intent for Storm Water Discharges under the National Pollutant Discharge Elimination System General Permit (PL 92-500) will be required with the EPA for the control of water pollution for both specific and non-point sources.
- The proposed project will require the following permit(s) under the *Clean Water Act*:
 - A Section 404 permit from the US Army Corps of Engineers (COE). The COE will be notified that the proposed project qualifies for a “Nationwide” 404 permit under the provisions of 33 *CFR* 330.
- All work will be in accordance with the *Water Quality Act of 1987* (PL 100-4), as amended.
- Approximately 15,400 square feet of asphalt trail in City of Missoula right-of-way and 33,200 square feet of asphalt trail in easement will require City of Missoula permits for the proposed project. There will be no utility involvement.

PUBLIC INVOLVEMENT

Public Involvement – The Milwaukee Trail - Russell Street to Reserve Street project has followed a rigorous public process including years of public planning, 2 years of acquisition work and several public meetings during the design phase. The following is a bulleted list describing the public process that has been followed of the life of the project to date:

- In 2001, the Milwaukee railroad corridor was identified by the Non-Motorized Transportation Plan as a desirable location for further trail expansion in Missoula. The creation of the plan itself underwent extensive public input.
- The Emma Dickenson/River Road Neighborhood plan calls for acquisition and construction of public trail along the former Milwaukee corridor. This plan was generated entirely by the citizens of the neighborhood in which this project is planned.

- In 2003, City CTEP funding was secured for the construction of the trail and it appeared on the City's Capital Improvement Program (CIP) list. This list is always open for public comment. It remains on the CIP list today and will be there until it is complete.
- In 2004, the Milwaukee Trail project was listed in the MPO's Urban Transportation Plan Update as a recommended project. This plan went through extensive public input to create.
- In 2004 the Milwaukee Trail appeared as a priority project in the Master Parks Plan for the Greater Missoula Area. This plan held an extensive public process to create.
- In 2006, funding from the City/County Open Space Bond was requested to fund acquisition. All the meetings regarding this request were open to the public and public comment.
- In 2007, Parks & Recreation hired a professional consultant to aid in the acquisition process. The contract for services was presented at several public meetings where public comment was made available.
- In 2007 through 2009, Parks & Recreation presented the project and its progress at 3 separate public meetings to create awareness of the project and to gather public comment.
- During the acquisition phase from 2007 to 2009, Parks & Recreation worked closely with the Neighborhood Leadership Team to find out and resolve concerns of landowners who the City was negotiating easement with.
- In 2009, Parks & Recreation hired a professional consultant for design and engineering of the project. This contract was also presented in public meetings where public comment was made available. In addition, a member of the Neighborhood Council sat on the committee that selected the consultant.
- In 2010, Parks & Recreation has continued to meet with the public regularly and work closely with the Neighborhood Leadership Team. Progress on the project was presented at public meetings on December 16, 2009; March 16, 2010; March 18, 2010; May 5, 2010; and June 16, 2010. These meetings were designed to also gather information from the public on their opinions of the project and how the project could best fit the area..

EROSION CONTROL PLAN

An Erosion Control Plan will be prepared for this proposed project. Best Management Practices (BMPs) will be included in the design of this Plan using guidelines as established in MDT's Highway Construction Standard Erosion Control Workplan. The objective is to minimize erosion of disturbed areas during and following construction of this proposed project.

AMERICANS WITH DISABILITIES ACT

Americans with Disabilities Act – The trail, its asphalt surface, benches, interpretive signage, street crossings and other amenities will be installed in compliance with the *Americans with Disabilities Act* (PL 101-336).

CONCLUSION

The project will not induce significant land use changes or promote unplanned growth. There will be no significant affects on access to adjacent properties or present traffic patterns. The project will not create disproportionately high and adverse human health or environmental effects on minority and low-income populations (EO 12898) and complies with Title VI of the *Civil Rights Act of 1964* (42 USC 2000d). In accordance with 23 CFR 771.117(a), this action will neither individually nor cumulatively, have any significant environmental impacts. Therefore, we are requesting FHWA's concurrence that the proposed project is properly classified as Categorical Exclusion.



Signature of Environmental Certifying Official or Chief Elected Official

David Shaw, Parks & Trails Design Development Manager

Type Name and Title

Concur: Mike Why
CTEP Section Supervisor

Aug. 27, 2010
Date

Concur: Gene Kaufman
Federal Highway Administration

8/31/10
Date

Attachment: Project Location Map

- cc: Doug Moeller, MDT, District Administrator – Missoula
Tim Conway, PE, MDT, Consultant Design Engineer
Tom Martin, PE, MDT, Bureau Chief – Environmental Services Bureau
David Jensen, MDT, Fiscal Planning Administrator
Michael Wherley, PE, MDT, CTEP Section Supervisor
Todd Everts, Environmental Quality Council
Gene Kaufman, PE, FHWA Project Engineer