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ENVIRONMENTAL

November 14, 2011

Environmental Quality Council
Legislative Environmental Policy Office
PO Box 201704
Helena MT 59620-1704



Subject: Categorical Exclusion
Shelby Rail Siding

Dear Environmental Quality Council Members:

This submittal is to notify you that the subject proposed project qualifies as a Categorical Exclusion under the provisions of Administrative Rules of Montana (ARM) 18.2.261, which is codified at Montana Code Annotated (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 categorically exclude the proposed project from conducting an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the Montana Environmental Policy Act, Title 75 Chapter 1 MCA. A description of the project including a project location map 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 in accordance with ARM 18.2.261.

Form with columns: Yes, No, N/A, UNK. Rows 1-4 with various conditions and checkboxes.

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>UNK</u>
5. Parks, recreational, or other properties acquired/improved under Section 6(f) of the 1965 National Land & Water Conservation Fund Act (16 USC 460L, <i>et seq.</i>) are on or adjacent to the proposed project area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The use of such Section 6(f) sites would be documented and compensated with the appropriate agencies (MDFWP, local entities, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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, <i>et seq.</i>) by the State Historic Preservation Office (SHPO) would be affected by this proposed project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Publicly owned parklands, recreation areas, wildlife or waterfowl refuges, and/or significant historic sites that might be considered under ARM 18.2.261(2)(a) are on or adjacent to the project area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. The proposed project would not impact the site(s), so a 4(f) evaluation is not necessary.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. A de minimis finding has been secured for this project.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Nationwide Programmatic Section 4(f) Evaluation forms for those sites are attached.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. This proposed project requires a full Section 4(f) Evaluation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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").	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.				
Note: Wetlands exist near the proposed project area. The proposed subject project will not impact wetlands. The city of Shelby is solely responsible for any environmental impacts incurred as a result of this proposed project and is solely responsible for obtaining any necessary environmental permits, notifications, and/or any other necessary environmental clearances. If any wetlands will be impacted as a result of this proposed project, the appropriate water quality permits should be obtained from state, federal, and/or local agencies.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A 124SPA would be obtained from the MDFWP.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>UNK</u>
4. A delineated floodplain exists in the proposed project area under FEMA's Floodplain Management criteria.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The water surface at the 100-year flood limit elevation would exceed floodplain management criteria due to an encroachment by the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. A Tribal Water Permit would be required.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The designated National Wild and/or Scenic River systems in Montana are:				
a. Middle Fork of the Flathead River (headwaters to South Fork confluence).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. North Fork of the Flathead River (Canadian Border to Middle Fork confluence).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. South Fork of the Flathead River (headwaters to Hungry Horse Reservoir).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Missouri River (Fort Benton to Charles M. Russell National Wildlife Refuge).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1. If yes, are there potential noise impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. A Noise Analysis would be completed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. There would be compliance with the provisions of both 23 CFR 772 for FHWA's Noise Impact analyses and MDT's Noise Policy.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
D. Substantial changes in access control would be associated with the proposed project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If yes, would they result in extensive economic and/or social impacts on the affected locations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>UNK</u>
2. Adverse effects to through-traffic dependant businesses would be avoided or minimized.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Interference to local events would be minimized to all possible extent.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Substantial controversy associated with this pending action would be avoided.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All reasonable measures would be taken to avoid and/or minimize substantial impacts from same.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
G. The Stormwater Discharge conditions (ARM 17.30.1101-1117), including temporary erosion control features for construction would be met.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Permanent desirable vegetation with an approved seeding mixture would be established on exposed areas.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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, <i>et seq.</i>). Note:Farmland, as defined in the Farmland Protection Policy Act, exists within the Port of Northern Montana Energy Park site.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A Categorical Exclusion, for the Port of Northern Montana Energy Park Infrastructure, was approved by the Federal Highway Administration on April 24, 2007. This Categorical Exclusion included a completed ADA-1006 form (farmland conversion). The proposed subject project involves constructing rail siding within the existing Port of Northern Montana Energy Park site; therefore, the proposed subject project will be in compliance with the Farmland Protection Policy Act.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K. Features for the Americans with Disabilities Act (PL 101 336) compliance would be included.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
L. A written Public Involvement Plan would be completed in accordance with MDT's Public Involvement Handbook.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>UNK</u>
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	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C. Is this proposed project in a "Class I Air Shed" under 40 CFR 52.1382(c)(3)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Federally listed Threatened or Endangered (T/E) Species:				
A. Recorded occurrences, and/or critical habitat are in the vicinity of the proposed project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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).

In accordance with the provisions of ARM 18.2.261, this pending action would not cause significant individual, secondary, or cumulative environmental impacts. Therefore, the MDT's concurrence is that this proposed project is properly classified as a MEPA Categorical Exclusion.

Eric Thunstrom
Eric Thunstrom
Environmental Services Bureau
Great Falls District Project Development Engineer

Date: 11/14/2011

Concur Larry Bonderud
Larry Bonderud, Mayor
City of Shelby
Party of Northern Montana

Date: 11/17/2011

Concur Heidy Bruner
Heidy Bruner, P.E.
Environmental Services Bureau
Engineering Section Supervisor

Date: 11/21/11

Attachments

electronic copies with attachments:

- | | |
|-----------------------|--|
| 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 |
| Steve Prinzing, P.E. | Great Falls District Engineering Services Supervisor |
| Paul Ferry, P.E. | Highways Engineer |
| Doug McBroom | Multimodal Programs Bureau Chief |
| Alan Woodmansey, P.E. | FHWA Operations Engineer |

copies with attachments:

- | | |
|----------------|-------------------------------|
| Larry Bonderud | Mayor, City of Shelby |
| File | Environmental Services Bureau |

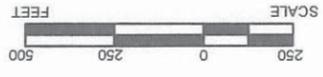
MDT attempts to provide accommodation for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this information will be provided upon request. For further information, call 406.444.7228 or TTY (800.335.7592)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

Project Description and Location

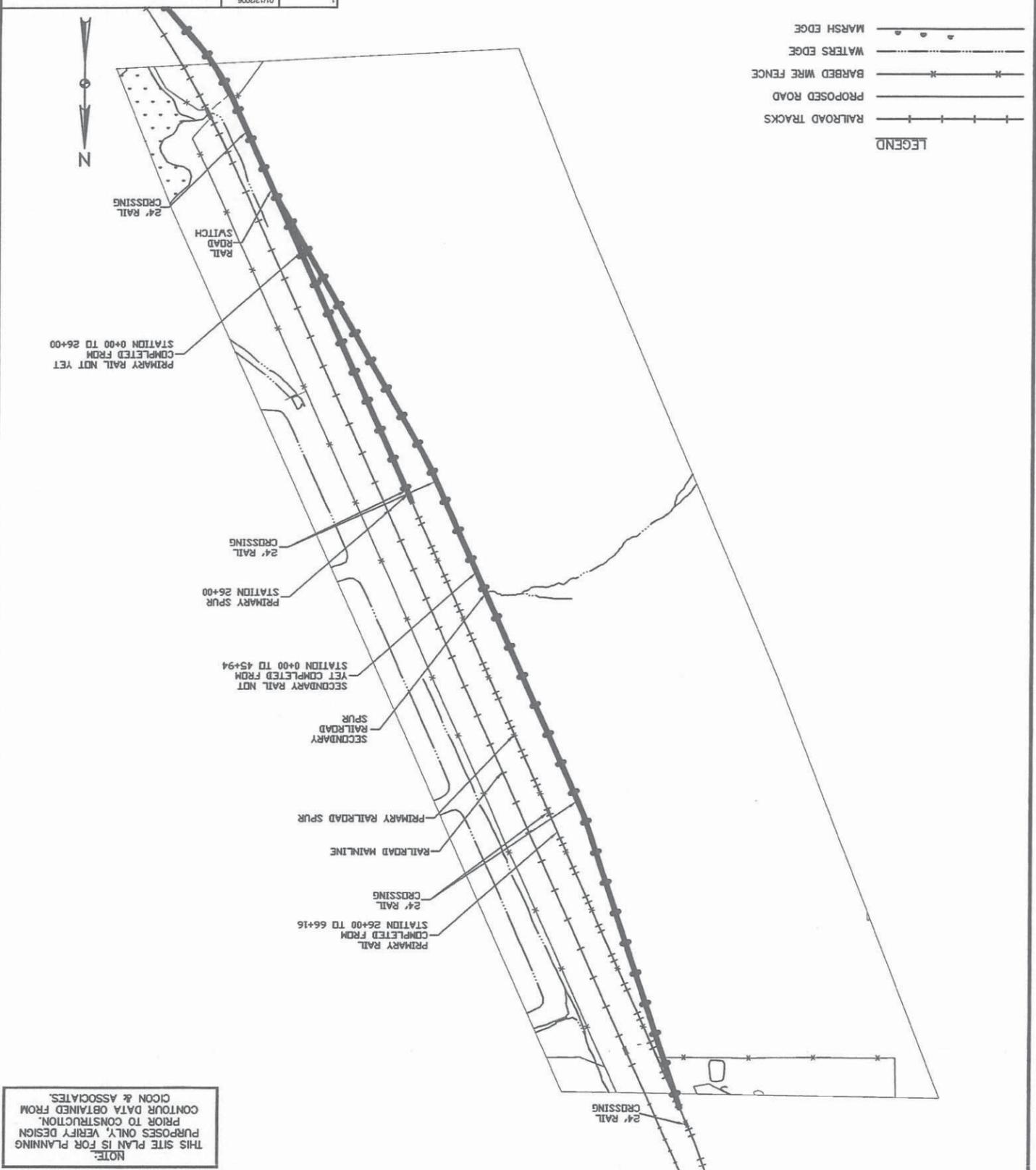
The scope of work for the proposed project is to build approximately 6,500 feet of rail siding to further develop the Port of Northern Montana Energy Park site.

The proposed project is located in the Port of Northern Montana Energy Park site, approximately one mile southeast of Shelby, in Toole County. The proposed project is located in Section 2, Township 31 North, Range 2 West, and in Sections 34 and 35, Township 32 North, Range 2 West. Please refer to Figure 1 and Figure 2 showing the project location.

SHELBY INTERMODAL HUB SURVEY PER CICON AND ASSOCIATES CHESTER, MONTANA 59522		01/12/2008	
SHELBY INTERMODAL HUB PROJECT STATUS TOOLE COUNTY, MONTANA		02	
DATE	PROJECT NO.	CHKD BY	BLK
09/20/2011	4410001		
DRAWN BY		ALL	
Kadmas Lee & Jackson		Engineers Surveyors	
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- LEGEND
- RAILROAD TRACKS
 - PROPOSED ROAD
 - BARBED WIRE FENCE
 - WATERS EDGE
 - MARSH EDGE



NOTE:
THIS SITE PLAN IS FOR PLANNING PURPOSES ONLY. VERIFY DESIGN PRIOR TO CONSTRUCTION. CONTOUR DATA OBTAINED FROM CICON & ASSOCIATES.



SHELBY AERIAL

SHELBY, MT

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Lee & Jackson
 Engineers, Surveyors
 Planners
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NO.	DATE	REVISIONS:
1		

Drawn By: AL
 Checked By: BJK
 Project #: 10/17/2011
 Issued:
 T31N R2W
 T32N R2W