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FHWA
MONTANA DIVISION

Phone: (406) 657-8246 Fax: (406) 657-8327

July 8, 2013

Alan Woodmansey, Operations Engineer
Federal Highway Administration (FHWA)
585 Shepard Way
Helena, MT 59601

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

Reference:	Federal-aid Project Number:	STPE 1099(71)
	Federal-aid Project Name:	W.O. 11-10 – 25th Street Pedestrian Bridge - Billings
	MDT Uniform Project Number:	CN 7546

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 new bridge to be constructed over the main railroad tracks in Billings, Montana to provide pedestrian and bicycle access between Downtown Billings on the north side of the railroad and the Southside of Billings south of the railroad.

The location of the proposed project is Billings, Montana in Yellowstone County. The bridge will be located over the main railroad tracks in Billings at 25th Street between Montana Avenue and Minnesota Avenue. The project site is located in Township 1 South, Range 26 East, Section 3.

The intent of the proposed project is to construct a new 109-foot long bridge over the main railroad tracks in Billings, Montana at 25th Street. Project activities include construction of the bridge, fencing, two stair cases, and two incline lifts. The Rock Creek Bridge currently located at a private business/residence in Joliet, Montana will be transported to the site and will serve as the new bridge with modifications including straightening of members, new decking, and new fencing. Other site improvements to connect the new bridge facilities to existing transportation and pedestrian facilities include sidewalk, an asphalt path, curb and gutter, ramps, and landscaping.

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

☒ Stormwater Runoff

☒ Prime and Unique Farmlands

☒ Floodplains (EO 11988/FEMA)

☒ Hazardous Waste

☒ Historical/Cultural Resources

☒ Changes in Land Use

☒ USDOT – 4(f)/NL&WCF – 6(f) Acts

☒ Noise

☒ Section 404 – *Clean Water Act*

☒ Social/Economic

☒ Stream Preservation/Water Quality

☒ Threatened/Endangered Species

☒ Wetlands (EO 11990)

PROJECT IMPACTS

Historic/Cultural Resources – The introduction of a pedestrian bridge in the Billings Historic District will have no adverse effect on the National Register qualities of this District and the Rock Creek Bridge is not eligible for the National Register since it was moved from its historic location. 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 3, 2013. A copy of their concurrence by email is attached.

Threatened/Endangered Species – The US Department of the Interior's Fish & Wildlife Service (USF&WS) was contacted on June 18, 2013 for identifying Federally listed Threatened/ Endangered Species. No Threatened/Endangered Species were identified by the USF&WS as being in the vicinity of the proposed project. A copy of their July 3, 2013 response letter is attached.

Floodplains – No floodplains delineated under Federal Emergency Management Administration (FEMA) criteria are encroached by the proposed project. The proposed project will not promote or encourage development within any delineated floodplain, or increase flood liability hazards from its construction. The proposed project is therefore considered to be in compliance with Executive Order 11988.

Air Quality – The proposed project is located in an "unclassifiable"/attainment area of Montana for air quality under 40 *CFR* 81.327, as amended. As such, this proposed project is not covered under the EPA's Final Rule of September 15, 1997 on Air Quality conformity. Therefore, the proposed project complies with Section 176(c) of the *Clean Air Act* as amended (42 *USC* 7521(a)).

Section 4(f) – There is no "use" of a Section 4(f) resource as protected land is not permanently incorporated into the proposed facility. There is also no "constructive use" of protected lands. (Constructive use occurs when a transportation facility not on protected land substantially impairs the activities, features, or attributes that qualify a resource for protection under Section 4(f)).

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 Billings currently has no active or proposed projects in the vicinity of the proposed project. The Montana Department of Transportation has a proposed project to overlay Montana Avenue. The street overlay makes improvements to an existing street adjacent to the proposed project.

The above project, in conjunction with the proposed project, will not have any significant cumulative environmental impacts.

PERMITS

Permits Required – The following permits will be acquired prior to any relevant disturbance:

- 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 124 SPA Stream Protection Notification will not be required by the MDFW&P.
- The proposed project will require the following permit(s) under the *Clean Water Act*:
    - A Section 402/Montana Pollutant Discharge Elimination System (MPDES) permit from the Montana Department of Environmental Quality (DEQ) Permitting and Compliance Division.
- The proposed project will have no impact to jurisdictional waters of the United States, therefore, the activity is not subject to Department of the Army (DA) regulatory authorities and no permit pursuant to Section 404 of the Clean Water Act is required from the Corp of Engineers.
- All work will be in accordance with the *Water Quality Act of 1987* (PL 100-4), as amended.
- A site lease from Montana Rail Link is required for the proposed project. There will be utility involvement by NorthWestern Energy to remove and bury an overhead power line at the south end of the bridge. Minor utility involvement will be required on the north side of the bridge in the Billings Depot parking lot. The utilities will be notified and coordinated with during construction activities.

PUBLIC INVOLVEMENT

Public Involvement – A presentation of alternatives with a focus on bridge access was conducted at a Downtown Business Partnership Board Meeting on February 24, 2012.

EROSION CONTROL PLAN

An Erosion Control Plan will be prepared for this proposed project by the contractor. Best Management Practices (BMPs) will be included in the Storm Water Pollution Prevention Plan (SWPPP) submitted as part of the MPDES permitting process 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.

An Erosion Control Plan will be submitted to the Montana DEQ Permitting and Compliance Division in compliance with their Montana Pollutant Discharge Elimination System Regulations (*ARM* 16.20.1314) for the proposed project. BMPs will be included in 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.

Disturbed landscaped areas along the Depot parking lot will be re-landscaped and irrigation facilities restored. All other disturbed surfaces consisting of parking lot, sidewalk, and the railroad will be returned to their original surfacing. An asphalt path will be constructed from the bridge to Minnesota Avenue through an empty gravel lot.

AMERICANS WITH DISABILITIES ACT

Americans with Disabilities Act – ADA facilities will be installed in compliance with the *Americans with Disabilities Act* (PL 101-336). These facilities will consist of ramps at key locations and incline lifts to provide bridge access on both the north and south sides of the bridge.

CONCLUSION

The project will not induce significant land use changes or promote unplanned growth. There will be no significant effects 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.

Lora Mattox
Signature of Environmental Certifying Official or Chief Elected Official

Lora Mattox, Transportation Planner
Type Name and Title

Concur: Heidy Bruner 7/19/13
~~CTEP Section Supervisor~~ Date

ENVIRONMENTAL ENGINEERING
SECTION SUPERVISOR

Concur: 31 July 2013
Federal Highway Administration Date

Attachment: Project Location Map
SHPO Concurrence Letter
USFWS Consultation Letter

cc: Stefan Streeter, MDT, District Administrator – Billings
Ryan Dahlke, MDT, Consultant Design Engineer
Tom Martin, MDT, Bureau Chief – Environmental Services Bureau
Lisa Hurley, MDT, Fiscal Planning Administrator
Mike Wherley, MDT, CTEP Section Supervisor
Maureen Theisen, Legislature, EQC
Heidy Bruner, MDT, Section Supervisor – Environmental Engineering Section
Tom Gocksch, MDT, Billings District – Environmental Engineering Section
Tom Erving, MDT Fiscal Planning
Lora Mattox, City of Billings/Yellowstone County CTEP Administrator
Chris Hertz, City of Billings Engineer
Stephanie Seymanski, Morrison-Maierle, Inc.

MORRISON MAIERLE, INC.
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DRAWN BY: MJG
CHK'D. BY: SAS
APPR. BY: SAS
DATE: 6/2013

R:\0686\180\ACAD\Exhibits\LOCATION MAP.dwg Plotted by randy larance on Jun/6/2013

CITY OF BILLINGS W.O. 11-10
25TH STREET PEDESTRIAN BRIDGE
BILLINGS MONTANA

STPE 1099(71), CN 7546
LOCATION MAP
AREA OF POTENTIAL EFFECTS (APE)

PROJECT NO.
0686.180

FIGURE NUMBER
Exhibit A

ENVIRONMENTAL CHECKLIST

Project Name and Project Number: W.O. 11-10 - 25th Street Pedestrian Bridge - Billings
Federal Aid No. STPE 1099(71)

UPN: CN 7546

	Area of Statutory-Regulatory Compliance (Provide precise citations for applicable statutes and regulations at the end of this Checklist.)	N/A	Review Required*	Permits Required*	Conditions and/or Mitigation Actions Required*	Note and Attach Documentation
1.	Historic Properties (SHPO)	☐	☒	☐	☐	☒
2.	Floodplain Management (County)	☒	☐	☐	☐	☐
3.	Wetlands Protection (COE)	☒	☐	☐	☐	☐
4.	Noise (DEQ)	☒	☐	☐	☐	☐
5.	Air Quality (DEQ)	☒	☐	☐	☐	☐
6.	Manmade Hazards					
	Abandoned Underground Storage Tanks	☒	☐	☐	☐	☐
	Leaking Underground Storage Tanks	☒	☐	☐	☐	☐
	Possible Hazardous Waste Sites	☒	☐	☐	☐	☐
	Airport Clear Zones	☒	☐	☐	☐	☐
7.	Water Quality (DEQ or EPA for reservation projects)					
	Surface Water/Water Quality	☒	☐	☐	☐	☐
	Groundwater & Aquifers[1]	☒	☐	☐	☐	☐
8.	Farmlands	☒	☐	☐	☐	☐
9.	Environmental Justice	☒	☐	☐	☐	☐
10.	Threatened or Endangered Species, Fish & Wildlife (USF&WS)	☒	☐	☐	☐	☒

Area of Statutory-Regulatory Compliance (Provide precise citations for applicable statutes and regulations at the end of this Checklist.)		N/A	Review Required*	Permits Required*	Conditions and/or Mitigation Actions Required*	Note and Attach Documentation
11.	Biological Resources - Habitat containing sensitive species; either nesting, foraging, or inhabiting (MDFW&P/MSL)	☒	☐	☐	☐	☐
12.	Is there substantial, local, regional or other controversy on environmental grounds?	☒	☐	☐	☐	☐
13.	Section 4(f) – Would project change use of park, recreation area, wildlife refuge, or waterfowl refuge (23 *CFR* 771.135)?	☒	☐	☐	☐	☐
14.	Section 6(f) – Would project change use of protected properties acquired or developed with Land and Water Conservation Funds administered by the Department of Fish, Wildlife and Parks?	☒	☐	☐	☐	☐
15.	List other agencies contacted.	☒	☐	☐	☐	☐
*Attach evidence that required actions have been taken.						
[1] Including the Missoula Sole Source Aquifer; contact the CTEP Section for further information regarding Missoula area projects.						

Certification

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

Lora Mattox

Signature

Lora Mattox, Transportation Planner

Type Name and Title of Environmental Certifying Official

July 8, 2013

Date

From: Voeller, Terry
To: Stephanie Seymanski
Subject: FW: 25th St Ped Bridge - Bings, STPE 1099(71), 7546
Date: Tuesday, June 04, 2013 1:13:59 PM

From: Voeller, Terry
Sent: Monday, June 03, 2013 9:12 AM
To: Mattox, Lora (MattoxL@ci.billings.mt.us)
Cc: Chris Hertz
Subject: FW: 25th St Ped Bridge - Bings, STPE 1099(71), 7546

Lora,

Supporting documentation necessary for approval of Category Exclusion D letter.

Terry

From: Brown, Peter
Sent: Monday, June 03, 2013 9:04 AM
To: Voeller, Terry
Cc: Axline, Jon; Chris Hertz
Subject: RE: 25th St Ped Bridge - Bings, STPE 1099(71), 7546

Terry,

We reviewed the information you provided on the above referenced undertaking. Based on this SHPO concurs with MDT's determination that the introduction of the pedestrian bridge into the Billings Historic District would have no adverse effect on the National Register qualities of that district.

Please contact SHPO if there are any changes to the scope of work that would require further consultation.

Sincerely,

Pete Brown
Historic Architectural Specialist
Montana SHPO
1410 Eighth Ave.
Box 201202
Helena, MT 59620

406-444-7718

From: Voeller, Terry
Sent: Thursday, May 30, 2013 9:23 AM
To: Brown, Peter
Cc: Axline, Jon; Chris Hertz
Subject: 25th St Ped Bridge - Blngs, STPE 1099(71), 7546

Pete,

Sent to you were plans for the subject project. The City of Billings will place a steel bridge across the Montana Rail Link tracks adjacent to 25th Street in Billings. The bridge will provide a connection between Minnesota and Montana avenues. The bridge will be a steel truss structure that once crossed Rock Creek in Carbon County. The structure will be located in the Billings Historic District (24YL0752) in downtown Billings. We ask for concurrence that the project will have no adverse effect in regard to Section 106 compliance.

Terry Voeller
CTEP Project Manager
MDT
PO Box 201001
Helena, MT 59620-1001

From: Brown, Peter
Sent: Thursday, May 30, 2013 8:58 AM
To: Voeller, Terry
Subject: Pedestrian Bridge, Billings

Terry,

We got a set of plans for the pedestrian bridge in Billings. Can you put together a cover letter for this? An email would be fine.

Thanks.

Pete Brown
Historic Architectural Specialist
Montana SHPO
1410 Eighth Ave.
Box 201202
Helena, MT 59620

406-444-7718

United States Department of the Interior
Fish and Wildlife Service
Ecological Services
Montana Field Office
585 Shepard Way, Suite 1
Helena, Montana 59601-6287
Phone: (406) 449-5225 Fax: (406) 449-5339

File: M29 Public (I)

July 3, 2013

Stephanie Seymanski
Morrison-Maierle
315 N. 25th Street, Suite 102
Billings, Montana 59102

Dear Ms. Seymanski:

This is in response to your June 18, 2013 letter requesting U.S. Fish and Wildlife Service (Service) comment on the proposed 25th Street Pedestrian Bridge Project as part of the Community Transportation Enhancement Program for the City of Billings, Montana. Your letter and site maps of the project area were received by our office June 25, 2013.

We offer the following comments under the authority of and in accordance with the Migratory Bird Treaty Act (MBTA; 16 U.S.C 703 et seq.), as amended, Bald and Golden Eagle Protection Act (BGEPA; 16 U.S.C. 668-668d, 54 Stat. 250), as amended, Executive Order 13186 *Responsibilities of Federal Agencies to Protect Migratory Birds*, Endangered Species Act (ESA; 16 U.S.C. 1531 et seq.) as amended, and the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*).

Given that the project activities will occur within the city of Billings, in areas which are previously disturbed or previously impacted from the effects of development, we do not anticipate adverse effects to threatened, endangered, or candidate species or critical habitat to result from activities at the proposed project area. In addition, there are unlikely to be any significant adverse effects to other fish, wildlife, and habitat resources under the purview of the U.S. Fish and Wildlife Service.

The Service appreciates your efforts to incorporate fish and wildlife resource concerns, including threatened and endangered species, into your project planning. Please contact Kelly Douglas at (406) 449-5225, extension 219, if you have any questions regarding this matter.

Sincerely,

for Jodi L. Bush
Field Supervisor