



County BIGHORN

August 3, 2005

RECEIVED

AUG 05 2005

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

To Whom It May Concern:

Subject: Cooperating Agency Environmental Documentation

As a Cooperating Agency under the provisions of 23 CFR 771.111 the Montana Department of Transportation (MDT) is providing you a copy of this project's environmental documentation.

This environmental documentation complies with the provisions of 23 CFR 771.117(a) and (d) for categorically excluding this proposed project from further National Environmental Policy Act (NEPA) (42 U.S.C. 4321, et seq.) documentation requirements. The attached also complies with the provisions of 75-1-103 and 75-1-201, MCA (see ARM 18.2.237 and 18.2.261, MEPA "Actions that qualify for a Categorical Exclusion" as applicable to the MDT).

If you have any questions concerning the attached environmental documentation please call the MDT Environmental Services Division at (406) 444-7228.

Sincerely,

Jean A. Riley, P.E.
Bureau Chief
Environmental Services Division

S:\ADMIN\48_GEN_CORRESP\MAILINGS\COOP AGENCY LTR.DOC\BUSBYE&W_CN4844

Attachment



Montana Department of Transportation

2701 Prospect Avenue
 PO Box 201001
 Helena MT 59620-1001

Jim Lynch, Director
 Brian Schweitzer, Governor

July 15, 2005

Janice W. Brown
 Division Administrator
 Federal Highway Administration
 2880 Skyway Drive
 Helena, MT 59602-1230



Subject: Busby – East and West
 NH 37-1(25)19
 Control Number: 4844

**MASTER FILE
 COPY**

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 (PFR) 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).

		<u>YES</u>	<u>NO</u>	<u>N/A</u>	<u>UNK</u>
1.	This proposed project would have (a) significant environmental impact(s) as defined under <u>23 CFR 771.117(a)</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	This proposed project involves (an) unusual circumstance(s) as described under <u>23 CFR 771.117(b)</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1.	The context or degree of the Right-of-Way action would have (a) substantial social, economic, or environmental effect(s).	<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.	There is a high rate of residential growth in this proposed project's area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	There is a high rate of commercial growth in this proposed project's area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Work would be on and/or within approximately 1.6 kilometers (1± mile) of an Indian Reservation.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	There are parks, recreational, or other properties acquired/improved under <i>Section 6(f)</i> of the 1965 <i>National Land & Water Conservation Fund Act (16 USC 460L, et seq.)</i> on or adjacent to proposed the project area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	The use of such <i>Section 6(f)</i> sites would be documented and compensated with the appropriate agencies. (e.g.: MDFWP, local entities, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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 <i>Section 106</i> of the <i>National Historic Preservation Act (16 USC 470, et seq.)</i> by the State Historic Preservation Office (SHPO), which this would affect proposed project.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	There are parks, recreation sites, school grounds, wildlife refuges, historic sites, historic bridges, or irrigation that might be considered under <i>Section 4(f)</i> of the 1966 <i>US DEPARTMENT OF TRANSPORTATION Act (49 USC 303)</i> on or adjacent to the project area.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a.	"Nationwide" Programmatic <i>Section 4(f)</i> Evaluation forms for these sites are attached.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b.	This proposed project requires a full (i.e.: DRAFT & FINAL) <i>Section 4(f)</i> Evaluation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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 <i>Section 10</i> of the <i>Rivers and Harbors Act (33 USC 403)</i> and/or <i>Section 404</i> under <i>33 CFR Parts 320-330</i> of the <i>Clean Water Act (33 USC 1251-1376)</i> would be met.	<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.	Impacts in wetlands, including but not limited to those referenced under Executive Order (EO) #11990, and their proposed mitigation would be coordinated with the Montana Inter-Agency Wetland Group.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	A 124SPA Stream Protection permit would be obtained from the MDFWP?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	There is a delineated floodplain 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	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, which 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 & 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 <i>Section 7 of the Wild and Scenic Rivers Act (16 USC 1271 – 1287)</i> , 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 <u>23 CFR 772.5(h)</u> , 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 checked="" type="checkbox"/>	<input 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"/>

		<u>YES</u>	<u>NO</u>	<u>N/A</u>	<u>UNK</u>
	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 <u>23 CFR 772</u> for FHWA's Noise Impact analyses and MDT's Noise Policy.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D.	There would be substantial changes in access control involved with this 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 it.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2. Adverse effects to through-traffic dependant businesses would be avoided or minimized.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	3. Interference to local events(<i>e.g.</i> : festivals) would be minimized to all possible extent.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4. Substantial controversy associated with this pending action would be avoided.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 <i>CERCLA</i> or <i>CECRA</i>) 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 Montana Pollutant Discharge Elimination System's conditions (<u>ARM 16.20.1314</u>), including temporary erosion control features for construction would be met.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
H.	Permanent desirable vegetation with an approved seeding mixture would be established on exposed areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I.	Documentation of an "invasive species" review to comply with both EO #13112 and the <i>County Noxious Weed Control Act</i> (7-22-21, MCA), including directions as specified by the county (ies) wherein its intended work would be done.	<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>
J.	There are “Prime” or “Prime if Irrigated” Farmlands designated by the Natural Resources Conservation Service on or adjacent to the proposed project area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If the proposed work would affect Important Farmlands, then an AD-1006 Farmland Conversion Impact Rating form would be completed in accordance with the <i>Farmland Protection Policy Act (7 USC 4201, et seq.)</i> .	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
K.	Features for the <i>Americans with Disabilities Act</i> (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"/>
4.	This proposed project complies with the <i>Clean Air Act’s Section 176(c) (42 USC 7521(a)</i> , as amended) under the provisions of <u>40 CFR 81.327</u> as it’s either in a Montana air quality:				
A.	“Unclassifiable”/attainment area. This proposed project is <u>not</u> covered under the EPA’s September 15, 1997 Final Rule on air quality conformity.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	and/or				
B.	“No attainment” 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.).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
C.	Is this proposed project in a “Class I Air Shed” (Indian Reservations) under <u>40 CFR 52.1382(c)(3)</u> ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Federally listed Threatened or Endangered (T/E) Species:				
A.	There are recorded occurrences, and/or critical habitat in this proposed project’s vicinity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B.	Would this proposed project result in a “jeopardy” opinion (under <u>50 CFR 402</u>) from the Fish & Wildlife Service on any Federally listed T/E Species?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

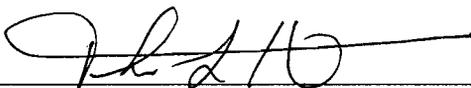
The proposed project would not induce significant land use changes, nor promote unplanned growth. There would be no significant effects on access to adjacent property, nor to present traffic patterns.

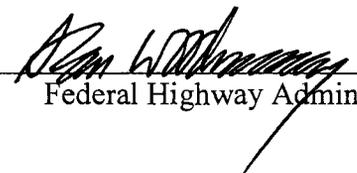
This proposed project would not create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations (EO #12898). It also complies with the

provisions of *Title VI* of the *Civil Rights Act* of 1964 (**42 USC 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.

 _____, Date: 7/15/05
Heidi Bruner
MDT Environmental Services
Billings District

Concur  _____, Date: 7/15/05
Thomas L. Hansen, P.E.
MDT Environmental Services
Engineering Section Supervisor

Concur  _____, Date: 18 July 05
Federal Highway Administration

TLH:hsb:S:\PROJECTS\BILLINGS\4844\4844ENPCEFHW01.DOC

Attachments

cc: Bruce Barrett MDT Billings District Administrator
Kent Barnes, P.E. MDT Bridge Engineer
Paul Ferry, P.E. MDT Highway Engineer
John H. Horton MDT Right-of-Way Bureau Chief
Suzy Althof MDT Contract Plans Section Supervisor
David W. Jensen MDT Fiscal Programming Section Supervisor
Jean Riley, P.E. MDT Environmental Services Bureau Chief
Tom Hansen, P.E. MDT Environmental Services Bureau Engineering Section Supervisor
FILE MDT Environmental Services
Montana Legislative Branch Environmental Quality Council (EQC)