

EOC



Montana Department of Transportation

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Jim Lynch, Director
Brian Schweitzer, Governor

October 12, 2005

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FHWA
MONTANA DIVISION

Janice W. Brown, Division Administrator
Federal Highway Administration (FHWA)
2880 Skyway Drive
Helena, MT 59602

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

**MASTER FILE
COPY**

Subject: STPS 271-2(3)7
Powell County Line – North
UPN 4468

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

The Montana Department of Transportation (MDT) is proposing a project to reconstruct the gravel-surfaced section of Secondary 271 in Powell County to a paved roadway. The road will be designed to comply with the geometric design for a rural collector road. The proposed work on Secondary 271 would begin at Reference Point (RP) or Milepost (MP) 7.277, the Granite/Powell County line. It extends northeasterly 16.91 kilometers (10.51 miles) to RP 17.784, the beginning of the paved segment of S-271 south of Helmville. The location of the proposed project is shown on the attached map.

The intent of the project is to improve the unpaved segment of Secondary 271 by upgrading eleven horizontal curves and forty-eight vertical curves. The roadway would be widened from the existing 6.7 to 7.6 meter (22 to 25 feet) gravel surface to an 8 meter (26 foot) wide paved surface. This would provide for 3.6 meter (12 foot) driving lanes with shoulders and the ability to do a future 7.2 meter (24 foot) overlay. Standard 6:1 surfacing in-slopes are proposed along with standard cut and fill slopes. New signage would also be provided.

Other work would include replacing all drainage pipes and new culverts on Douglas Creek. Irrigation facilities would be redesigned and relocated. Mailbox turnouts would be included as needed and fencing installed according to right-of-way agreements. This is a school bus route and the road is used by area ranchers to herd livestock occasionally.

PURPOSE AND NEED

The current roadway on this project constructed in 1950-1952 follows the surrounding rolling terrain and therefore has substandard horizontal and vertical elements. The

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proposed project area is the only section of Secondary 271 that has not been upgraded and paved. The purpose and need for this project is to upgrade this roadway section to a modern facility that meets geometric standards for traffic operations and safety for secondary routes. Upgrading this section will promote design continuity on Secondary 271. The proposed project would enhance traffic safety on this section by providing a wider, paved surface, improving stopping sight distance, flattening roadside slopes where possible, and providing new signage. This is the only school bus route from the Helmville area, northeast of the project area to the high school in Drummond southwest of the project area.

MDT analyzed reported accidents on the project route for the ten-year January 1, 1990 through December 31, 1999. There were 14 recorded accidents; eight of those were non-injury accidents and six involved injuries. No fatal accidents were reported.

The accident rate was 2.32; the severity index was 2.57, and the severity rate 5.96. The statewide averages for the rural secondary system are 1.74, 2.56, and 4.45, respectively. Statewide average truck accident rate and truck severity rate for State Secondary Routes are not available for comparison. Upgrading the geometric standards and paving this facility should reduce accident rates and severity.

Traffic data for Secondary 271 shows that the average daily traffic (ADT) for 2000 was 160 vehicles per day. By the year 2024, the ADT on the route is expected to be about 210 vehicles per day. A wider paved surface over the entire route and slope flattening are measures that would allow the roadway to more safely accommodate projected future traffic volumes.

ENVIRONMENTAL IMPACTS

The proposed project has been evaluated for, and would have minor effects on the following environmental areas of concern:

Land Use – The alignment of Secondary 271 from Drummond to Helmville crosses the Garnet Mountain Range which runs generally northwest to southeast. The proposed project area on Secondary 271 starts near the highpoint of the divide (5000+ feet) between Drummond and Helmville traversing initially some wooded mountainous terrain and descending onto rolling more open terrain of ranch and farmland. Adjacent land is primarily privately owned and used for farming and ranching with several home sites scattered along the project. The project crosses a small portion of land administered by the BLM in the north ½ of Section 6, T.12 N., R.11W. at the north end of the project.

The upgrading of the existing roadway and other activities associated with the proposed project would not cause notable changes to adjacent land uses, encourage new or undesirable growth and development, or alter real property values. The proposed project would not eliminate or substantially alter access to adjacent private properties or the small

BLM partial section. The proposed project would not relocate any residences, farms, or ranches.

Right-of-Way and Utilities – Existing right-of-way for Secondary 271 in the proposed project area is adjacent to private ownership with the exception of the small BLM tract near the northern portion of the proposed project. Most of the land for right-of-way consists of ranch/grazing land with some minor amounts for farmland.

The width of existing right-of-way varies from 12.2 meters to 30.5 meters (40 to 100 feet) on the left side and 15.2 meters to 30.5 meters (50 to 100 feet) on the right. About 28.3 hectares (70 acres) of new right-of-way and construction permits will be needed for this project including 0.105 hectares (0.26 acres) on the small BLM administered tract.

Eighteen of the twenty-four parcels involved in right-of-way acquisition have proposed amounts of right-of-way exceeding MDT's guidelines for "minor amounts" of right-of-way. These "minor amounts" are defined as either 10% or more of a parcel under 10 hectares (25 acres), or 1% or more of a parcel equal to or greater than 10 hectares (25 acres) in size. The affects of exceeding the guidelines for minor amounts of right-of-way acquisition for this project are minimal because:

- Land in the project is primarily large areas of open terrain used for ranching and farming.
- Most landowners own multiple parcels. Just 6 landowners hold nineteen of the 24 parcels and 5 different landowners hold the other 5 parcels.
- Of the 5 parcels individually held, only 2 parcels involve acquisition of more than minor amounts (1.4% and 2%) of right-of-way greater than 1%, per MDT's guidelines.
- For the most part, the 6 landowners with multiple holdings involve larger ranch or farm properties whereby the mostly narrow strip sections of right-of-way necessary for highway construction would have little impact to these operations.

Depending on negotiations with the landowner, an existing stockpass near RP 11.8± would be either removed or replaced with a new structure.

There are underground fiber optic and standard telephone lines within right-of-way that would be in conflict with the proposed improvements to Secondary 271. Overhead power lines would probably also be in conflict. Affected utilities would be relocated and/or replaced as part of the proposed project.

Acquisition of land, and improvements, for highway construction is governed by state and federal laws and regulations that are designed to protect both the landowners and the taxpaying public. Landowners affected are entitled to receive just compensation for any land or improvements acquired and for any depreciation in value of the remaining land due to the effects of highway construction. Acquisition will be accomplished in accordance

with applicable laws; specifically, Title 60, Chapter 4 and Title 70, Chapter 30, Mont. Code Ann.; and Title 42, U.S.C., Chapter 61, "Uniform Relocation Assistance And Real Property Acquisition Policies For Federal And Federally Assisted Programs."

Social Impacts/Environmental Justice – Environmental Justice is for the assurance of participation of low-income, elderly, persons with disabilities, and minority communities in planning, programming, and project development. This project is in a fairly remote rural area with very limited population and no adverse social impacts are foreseen. The proposed project would not affect the location, distribution, density or growth rate of the population in the vicinity. The proposed improvements would not adversely affect any social or ethnic groups nor would they isolate or divide any existing residential areas.

The proposed project would be in accordance with **Executive Order No. 12898**, and would not create disproportionately high and adverse human health or environmental effects on minority and/or low-income populations. The proposed project would also comply with the provisions of *Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d*, as amended) under the FHWA's regulations (23 CFR 200).

Important Farmlands – The Natural Resources Conservation Services (NRCS) identified areas of *farmland of statewide importance* and *prime farmland* that could potentially be impacted by construction activities within the project corridor. At the locations of potential farmland impact, RP 16.6± and 17.4±, the proposed limits of disturbance are within the existing road right-of-way for Secondary 271. Land within an existing road right-of-way is considered to be converted land and is not subject to the provisions of the Farmland Protection Policy Act (FPPA). Based on this information, no impacts to farmlands designated as prime, unique, or of local or statewide importance are anticipated from project construction activities.

Noise - This proposed project involves widening and surface reconstruction activities. Since the proposed project would not essentially change the existing roadway's alignment or increase the number of through traffic lanes, a detailed noise analysis is not required. Design Year traffic noise levels would not exceed the Noise Abatement Criteria and would not increase substantially over existing levels (23 CFR Part 772).

Air Quality - The proposed project on Secondary 271 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 U.S. Environmental Protection Agency's **Final Rule** of November 24, 1993 on Air Quality Conformity. Therefore, the proposed project complies with *Section 176(c)* of the *CLEAN AIR ACT*, as amended (**42 U.S.C. 7521(a)**).

Stream Modifications and Water Quality – Douglas Creek crosses under the roadway

through culverts at RP 14.6 and 16.7. Sturgeon Creek is adjacent to the road at RP 13 and flows into Douglas Creek left of RP 13.1±. Chimney Creek enters Douglas Creek just downstream of the crossing at RP 14.6. The project crosses Cottonwood Creek another tributary to Douglas Creek at the very end of the project, RP 17.8. The proposed project would not cause any long-term adverse effects on the water quality of Douglas or Sturgeon Creeks, or their associated tributaries.

All drainage pipes will be replaced. Existing concrete pipes are in poor shape, not skewed properly and some end sections have become separated from the main pipe. A reinforced concrete box culvert has been recommended for the Douglas Creek crossing at RP 14.46±. The same type culvert with a corrugated metal pipe as an alternate has been recommended for the Douglas Creek crossing at RP 16.55±.

Temporary impacts would result from the direct disturbances necessary for replacing culverts, placing minor amounts of highway fill, and realigning and stabilizing inlet and outlet channels at existing pipes. Construction events to lengthen or replace culverts at Douglas Creek or tributary streams could temporarily increase suspended sediment (turbidity) and cause existing sediments in streams to be re-suspended. Conducting this in-stream work at low flow periods would minimize these temporary adverse water quality effects. The potential for temporary decreases in water quality would also be increased during the construction period since soils along the highway would be disturbed.

Without effective erosion control measures in place, sediments and nutrients could be transported by storm water runoff to Douglas Creek or its associated tributaries. MDT's current design and construction procedures have been developed to minimize such impacts. All proposed work would be in accordance with the *Water Quality Act* of 1987 (P.L. 100-4, as amended). A Storm Water Pollution Prevention Plan (SWPPP) would be developed and implemented to:

- Assess the characteristics of the site.
- Identify potential sources of pollutants.
- Identify Best Management Practices (BMP's) to minimize or eliminate potential for pollutants to reach surface water through storm water runoff.

Temporary erosion control/sedimentation control BMP's like straw wattles, berms or silt fences and other measures would be employed to minimize and control siltation.

MDEQ has the responsibility under *Section 401* of the federal *Clean Water Act* (33 U.S.C. 1251 – 1376) and the *Montana Water Quality Act* (75-5-101 M.C.A., et seq.) to monitor and assess the quality of Montana surface waters, and to identify impaired or threatened stream segments and lakes. The MDEQ sets limits, known as Total Maximum Daily Loads (TMDLs), for each pollutant entering a body of water. TMDLs are established for streams or lakes that fail to meet certain standards for water quality and describe the amount of each pollutant a water body can receive without violating water quality standards. Water

quality standards support and protect beneficial uses of water such as drinking, agricultural, recreational use, and others.

Douglas Creek is considered an "impaired water" by the MDEQ according to the 2002-303(d) Lists of *Waterbodies In Need of TMDL Development*. Habitat alterations and thermal modifications are designated as the likely cause of the water quality impairment and agriculture, grazing, and hydromodifications are identified as the probable source for the cause of impairment. Water quality in the streams in this project area could potentially be impacted temporarily by the construction activities of the project.

Floodplains – Executive Order No. 11988 and FHWA's floodplain regulations (23 CFR 650, Subpart A) requires that the effects of the proposed action be evaluated to determine if it encroaches on the "base" (or 100-year) floodplain. None of the drainage crossings on this project are within a delineated floodplain and there are longitudinal encroachments, therefore no floodplain permit or floodplain consideration will be required.

Permits Required - The proposed project would require the following to be obtained before any relevant disturbances caused by this proposed project:

124SPA Permit - The proposed project will be in compliance with the provisions of both Water Quality for *Section 3(a)* authorizations under **75-5-401 (2) M.C.A.** and Stream Protection under (**87-5-501** through **509 M.C.A.**, inclusive). A **124SPA** Stream Protection Permit would be required by the MDFW&P.

Section 402/MPDES Authorization - The proposed project will comply with both *Section 402* of the *Clean Water Act* (**33 U.S.C. 1251 - 1376**), and the Montana Pollutant Discharge Elimination System (MPDES) Permit. An application for an MPDES Authorization will be sent to the MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY'S (MDEQ's) Permitting & Compliance Division, and include a copy of the Erosion Control Plan and Storm Water Pollution Prevention Plan (SWPPP) developed for the proposed project.

Section 404 Permit – A *Clean Water Act* (**33 U.S.C. 1251 - 1376**) *Section 404* permit from the U.S. ARMY CORPS OF ENGINEERS (COE) will be required for placing minor amounts of fill in roadside wetlands and for culvert modifications. Application will be made to the COE for the appropriate type of 404 permits ("Nationwide" or Individual) under the provisions of 30 CFR 330.

Erosion Control and Seeding – The MDEQ has regulatory authority over activities that may cause discharges of sediment into "state waters" (which include, but are not limited to lakes/reservoirs, rivers, streams, unnamed tributaries to state waters, wetlands, and irrigation channels). Permanent seeding of areas disturbed by construction activities beyond roadway surfaces is required on MDT's proposed projects in rural areas and

coordination must occur with the county's weed control agency.

The proposed project would cause temporary soil disturbances during the completion of road work on Secondary 271. Temporary erosion control, sedimentation control measures like straw wattles, berms or silt fences and other measures would be employed to minimize and control siltation.

Erosion Control Plans and a SWPPP would be submitted to the MDEQ Permitting and Compliance Division in compliance with their Montana Pollutant Discharge Elimination System Regulations (ARM 16.20.1314) for this proposed project. Best Management Practices would be used in the design of this Plan using Guidelines established in MDT's Erosion and Sediment Control Best Management Practices". The objective is to minimize erosion of disturbed areas during and after construction of the proposed projects.

In accordance with **7-22-2152** and **60-2-208, M.C.A.**, MDT would re-establish a permanent desirable vegetation community along all areas disturbed by the proposed construction. A set of revegetation guidelines would be developed by MDT that must be followed by the contractor. These specifications include instructions on seeding methods, dates, mix components, and the types and amounts of mulch and fertilizer. Seed mixes include a variety of species to assure that vegetative cover immediately stabilizes areas disturbed by construction. The Seeding Special Provisions developed for the project would be forwarded to Powell County Weed Board for review and approval.

Noxious Weeds - **Executive Order No. 13112** addresses the responsibilities of federal agencies with respect to invasive species. The Powell County noxious weed list is the same as the Montana State noxious weed list with the exception that it includes one additional weed, wild caraway (*Carum carvi*). Noxious weeds are classified into four categories that identify frequency of occurrence, rate of spread, and subsequent levels of concern. Category I noxious weeds are those species that are currently established and generally widespread in many counties of the state. Category I weeds observed on the project site include: Canada thistle, spotted knapweed (*Centaurea maculosa*), dalmatian toadflax (*Linaria dalmatica*), and houndstongue (*Cynoglossum officinale*). No Category II, III, or IV noxious weeds were located in the project area.

This proposed project's contractor must follow the requirements of the *County Noxious Weed Management Act (7-22-2101, M.C.A.)* as well as the Powell County Weed Management Program.

Hazardous Waste Sites - No hazardous materials concerns or sources of hazardous wastes were identified in the project area.

Historical/Cultural Resources - A cultural resource survey of the project area was prepared in August 2003. The survey recorded three significant prehistoric archeological sites, 24PW787, a buried lithic scatter; 24PW788, a chert quarry; and 24PW308, a buried lithic scatter, within the area of potential effect for this proposed project. Impacts to sites 24PW787 and 24PW788 will be avoided by a retaining wall and avoidance of excessive cuts. There are numerous irrigation facilities that will be impacted by this project however, it was determined that only one (24PW793, the Douglas Creek Canal, also known as the South Side Canal) of these facilities was considered historic.

It was determined that the proposed project would have an “**Adverse Effect**” to the archeological site 24PW308. A copy of SHPO’s letter of concurrence is attached. Archeological site 24PW308 is a buried fairly broad, inconspicuous location of small scattered artifacts. Through consultation with the Advisory Council on Historic Preservation (ACHP), State Historic Preservation Office (SHPO), Federal Highway Administration (FHWA), and the Confederated Salish and Kootenai (CS&K) Tribes, as an archeological resource, it was determined that the site is important chiefly because of what can be learned by data recovery. A plan for data recovery and an associated Memorandum of Agreement per Section 106 has been developed for mitigation (attached). Section 4(f) does not apply to this site. Part **23 CFR 771.135(g)(2)** states that “*Section 4(f) does not apply to archeological sites where the Administration, after consultation with the SHPO and ACHP, determines that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place*”.

This project calls for relocating a several hundred-foot section of site 24PW793, the Douglas Creek Canal a few feet outside of the proposed right-of-way. The canal, built in 1938, consists of a ditch two to three feet deep and three to four feet wide, with slightly raised berms at the side. Total length of the canal is 10.5 miles. The canal was recorded under MDT's Irrigation Ditch Programmatic Agreement in effect when this project was initiated. This agreement on Historic Irrigation ditches is no longer in effect therefore a request was made to the State Historic Preservation office for concurrence from our conclusions that the project would have no effect on the Douglas Creek Canal. A letter of concurrence of June 28, 2005 was received and a copy is attached

Section 4(f) Impacts - Section 4(f) of the 1966 *Department of Transportation Act (49 U.S.C. 303)* provides for the protection of publicly-owned parks, recreation lands, historical sites, and wildlife and waterfowl refuges. This proposed project would not affect any publicly owned parks, or waterfowl and wildlife refuges. As reviewed in the *Historical/Cultural Resources* section above, it was determined Section 4(f) does not apply to the archeological site impacted by this project.

To comply with Section 4(f), a Programmatic Section 4(f) Evaluation for Historic Sites excluding Historic Bridge Replacements is attached. Item 2 of the Programmatic Evaluation indicates alteration of site 24PW793, the Douglas Creek Canal Irrigation Ditch. Approximately 140 meters (460 feet) of the ditch would be relocated to the left (north)

outside the new right-of-way. Design features have been improved as much as possible to avoid moving or further impacts to the ditch. Any other efforts to avoid moving the ditch in this area would involve construction of new items such as retaining walls or extensive roadway re-alignment which is not considered prudent because of increased environmental impacts and excessive cost of construction.

Section 6(f) Impacts - Section 6(f) of the *National Land & Water Conservation Fund Act* (16 U.S.C. 460) requires that coordination be undertaken to determine if Federal funds were used to acquire or improve any lands in the project area for recreation or water conservation purposes. There are no properties on this project where Federal funds from this Act were used to acquire or improve any lands.

Threatened/Endangered Species - In accordance with Section 7(a) of the *Endangered Species Act* (16 U.S.C. 1531-1543), MDT contacted the U.S. FISH AND WILDLIFE SERVICE (USFWS) for a list of endangered, threatened, proposed, and candidate species that could occur in the project area. Based on this consultation, the following threatened species could potentially occur in the project area.

- Bald Eagle (*Haliaeetus leucocephalus*)
- Gray wolf (*Canis lupus*)
- Bull trout (*Salvelinus confluentus*)
- Canada lynx (*Lynx Canadensis*)

The Biological Resources Report noted that bull trout have not been located by fisheries surveys performed by MFWP and are not likely to reside in or utilize streams for spawning within the proposed project vicinity. No individual bald eagles were sighted and no nests were observed in or near the proposed project site during the field investigation. The proposed project area is not considered as valuable habitat for the bald eagle. Incidental occurrences of the gray wolf may take place in the vicinity of the proposed project area. The proposed project corridor is characterized by farmland development, human activity, and existing vehicular traffic, all of which degrade the quality of habitat for wolves. The proposed project corridor does not contain the typical habitat of dense timber stands that is primarily associated with the lynx.

Based on research and field reviews, a **no effect** determination was made for project-related effects to the threatened bull trout, the bald eagle, Canada lynx, and gray wolf in the Biological Resources Report.

Rare and Sensitive Species - In addition to species listed by the USFWS under the *Endangered Species Act*, other species have been designated as rare, sensitive, or of special concern by the MONTANA NATURAL HERITAGE PROGRAM (MNHP), and Bureau of Land Management. A search of the MNHP database revealed one occurrence of a plant species of concern, Missoula phlox within 1.61 km (1 mile) of the project. Missoula phlox was not observed during the field investigation of the project area.

The MNHP database also indicated one fish species of concern, westslope cutthroat trout, is located in the general vicinity of the project corridor but not within a 1.61 kilometer (1 mile) radius of the project area boundaries. The database also lists the Canada lynx as a species of concern within a 1.61 kilometer (1 mile) radius of the project area (see Threatened/Endangered Species above).

No long-term negative impacts or irretrievable losses to rare and sensitive plants, fisheries, wildlife or habitat are likely to occur as a result of this project. The cumulative impacts of this project and other developments in the area would not result in a decline of these species or populations.

Wetlands – Thirty-four wetlands totaling 3.5 hectares (8.7 acres) in area were delineated within the project corridor area. Of the 34 total wetlands, nine wetlands were observed to be jurisdictional, with the remaining 25 wetlands observed as non-jurisdictional. Based on the proposed reconstruction design within the project corridor, unavoidable impacts to the jurisdictional wetlands are anticipated to be 0.58 hectare (1.43 acres) and unavoidable impacts to non-jurisdictional wetlands are expected to total 1.21 hectares (3.0 acres).

Mitigation for these impacts may be pursued at either the existing Kleinschmidt or WPA wetland mitigation sites approximately 15 miles north of the project area.

Cumulative Impacts – This project is over 7 miles from any major existing highway route or population center. There are no projects in those areas or general vicinity of the Powell County Line - North project. There are no other MDT projects or other known projects to cause any significant cumulative environmental impacts on this proposed action. This proposed highway reconstruction project would also not cause significant cumulative environmental impacts on other projects even remote from the area.

Minor traffic disruptions and other construction-related impacts could be expected to occur on Secondary 271. However, no significant cumulative environmental impacts are anticipated to result from the implementation of this MDT project.

PUBLIC INVOLVEMENT/AGENCY COORDINATION

A news release describing the proposed scope of work and need for the project was sent to the local media with a department point of contact on September 13, 2000. Adjacent landowners along the project will be contacted at the time of right of entry and preliminary right-of-way report. Landowner concerns and local knowledge will be gathered. A public informational meeting was held in the fall of 2000 to present basic concepts and to seek input. The public was and continues to be in support of the project being completed as soon as possible. The project has been coordinated with the Powell County Commissioner's and Planning offices.

CONCLUSION

The proposed project would not induce significant land use changes or promote unplanned growth and would not affect existing access to adjacent property or change present traffic patterns. The proposed project would not create disproportionately high and adverse human health or environmental effects on minority and low-income populations (**Executive Order No. 12898**) and complies with Title VI of the *Civil Rights Act of 1964 (42 U.S.C. 2000d)*. In accordance with 23 CFR 771.117(a), the proposed action would neither individually nor cumulatively have any significant environmental impacts. Therefore, the FHWA's concurrence is requested that the proposed project is properly classified as a Categorical Exclusion.



Thomas L. Hansen, P.E.,
Engineering Section Supervisor
Environmental Services

Concur  _____

Date 10/14/05
Federal Highway Administration

Attachments:

Location map
Cultural mitigation Memorandum of Agreement
SHPO Concurrence Letter
Programmatic Section 4(f) Evaluation – Douglas Canal

cc: Dwane Kailey, P.E., District Administrator-Missoula
Paul R. Ferry, P.E., Highways Engineer
Suzy Althof, Supervisor - Contract Plans Section
Jean A. Riley, P.E. Bureau Chief - Environmental Services
Susan Kilcrease – Environmental Services
Dave W. Jensen, Supervisor- Fiscal Program Section
Bureau of Land Management - Missoula
Rose Leach, NEPA Coordinator, Pablo
Marsha Pablo, CSKT Preservation Dept., Pablo
Project file

**"ALTERNATIVE ACCESSIBLE FORMATS OF THIS DOCUMENT
WILL BE PROVIDED ON REQUEST."**

MONTANA DIVISION

"NATIONWIDE" SECTION 4(f) EVALUATION FOR MINOR IMPACTS
ON
HISTORIC SITES
EXCLUDING HISTORIC BRIDGE REPLACEMENTS

Project No. STPS 271-2(3)7 Control No. 4468

Date: August 12, 2005

Project Name: Powell County Line – North

Location: Irrigation Canal-

RP (milepost) 16.8+ to 16.9+ Douglas Creek Canal a.k.a. South Side Canal, site(24PW793)

is two to three feet deep and three to four feet wide, with slightly raised berms at the side.

Total capacity is about 50 cubic feet per second. The canal was constructed 1938-42, has 14 users to irrigate an area of roughly 461 acres.

NOTE: Any response in a box requires additional information.

Consult the "Nationwide" Section 4(f) Evaluation criteria.

	<u>YES</u>	<u>NO</u>
1. Is the 4(f) site adjacent to the existing highway?	<u>X</u>	<input type="checkbox"/>
2. Does the proposed project require the removal or alteration of historic structures, and/or objects?	<input type="checkbox"/>	<u>X</u>
3. Does the proposed project disturb or remove archaeological resources which are important to preserve in-place rather than to recover?	<input type="checkbox"/>	<u>X</u>
4. Is the impact on the 4(f) site considered minor (i.e.: no effect; or no adverse effect)?	<u>X</u>	<input type="checkbox"/>
5. Has the STATE HISTORIC PRESERVATION OFFICE (SHPO) agreed in writing with the assessment of impacts, and the proposed mitigation?	<u>X</u>	<input type="checkbox"/>
6. Is the proposed action under an <u>Environmental Impact Statement (E.I.S.)</u> ?	<input type="checkbox"/>	<u>X</u>
7. Is the proposed project on a new location?	<input type="checkbox"/>	<u>X</u>
8. The Scope-of-Work for the proposed project is one of the following:	<u>a&b</u>	<input type="checkbox"/>
a) <u>Improved traffic operation;</u>		
b) <u>Safety improvements;</u>		
c) 3R;		
d) Bridge replacement on essentially the same alignment; or		
e) Addition of lanes.		

ALTERNATIVES CONSIDERED

1. The "do-nothing" **ALTERNATIVE** has been evaluated, and is not considered to be feasible and prudent. X

NOTE: Any response in a box requires additional information.
Consult the "Nationwide" Section 4(f) Evaluation criteria.

<u>ALTERNATIVES CONSIDERED</u> (conclusion:)	<u>YES</u>	<u>NO</u>
2. An ALTERNATIVE has been evaluated on the existing alignment which improves the highway without any 4(f) impacts, and is also <u>not</u> considered to be feasible and prudent.	<u> X </u>	<input type="checkbox"/>
3. An ALTERNATIVE on a new location avoiding the 4(f) site has been evaluated, and is <u>not</u> considered to be feasible and prudent.	<u> X </u>	<input type="checkbox"/>
Descriptions of ALTERNATIVES 2. and 3. are attached.	<u> </u>	<input type="checkbox"/> *

* Alternate #2 – Reconstruction of the roadway in place would require additional structure modifications such as retaining walls to avoid the ditch. This would cause excessive cost of construction and an increase in environmental impacts out of balance with impacts associated with ditch relocation.

* Alternate #3 - Changing the roadway location to avoid a short distance of the irrigation canal is not prudent. There would be substantial increases in costs, engineering difficulties, and resulting environmental impacts to adjacent lands. The difficulty is caused primarily by the extensive length of realignment necessary for geometric purposes to reconnect the entire roadway section in this area while avoiding a fairly short section of the canal.

MINIMIZATION OF HARM

- | | | |
|--|--------------|--------------------------|
| 1. The proposed project includes all possible planning to minimize harm. | <u> X </u> | <input type="checkbox"/> |
| 2. Measures to minimize harm include the following: | | |

The proposed roadway alignment closely follows the present road therefore there will be minimal changes to the function, appearance, and ditch flow integrity of the ditch next to the roadway. Any excess fill or excavated materials for the project are to be kept out of surface waters.

COORDINATION

- | | | |
|---|---------------|--------------------------|
| 1. The proposed project has been COORDINATED with the following: | | |
| a) SHPO (date:) | <u> X </u> | <input type="checkbox"/> |
| b) ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP, date: July- August , 1993) | <u> X </u> | <input type="checkbox"/> |
| c) Property owner | <u> </u> | <input type="checkbox"/> |
| d) Local/State/Federal agencies:
NRCS – Missoula Field Office – June 2004 | <u> X </u> | <input type="checkbox"/> |
| 2. None of the preceding had comments regarding this proposed project, and/or the mitigation. | | |

SUMMARY

All required **ALTERNATIVES** have been evaluated and the proposed project meets all the criteria included in the "Nationwide Programmatic" *Section 4(f)* evaluation approved on December 23, 1986. This Programmatic Evaluation includes all possible planning to minimize harm which will be incorporated in this proposed project.

APPROVAL

This document is submitted pursuant to **49 U.S.C. 303** and in accordance with the provisions of **16 U.S.C. 470f**.



Thomas L. Hansen, P.E.
Engineering Section Supervisor
Environmental Services

Date: 10/12/05

Approved:

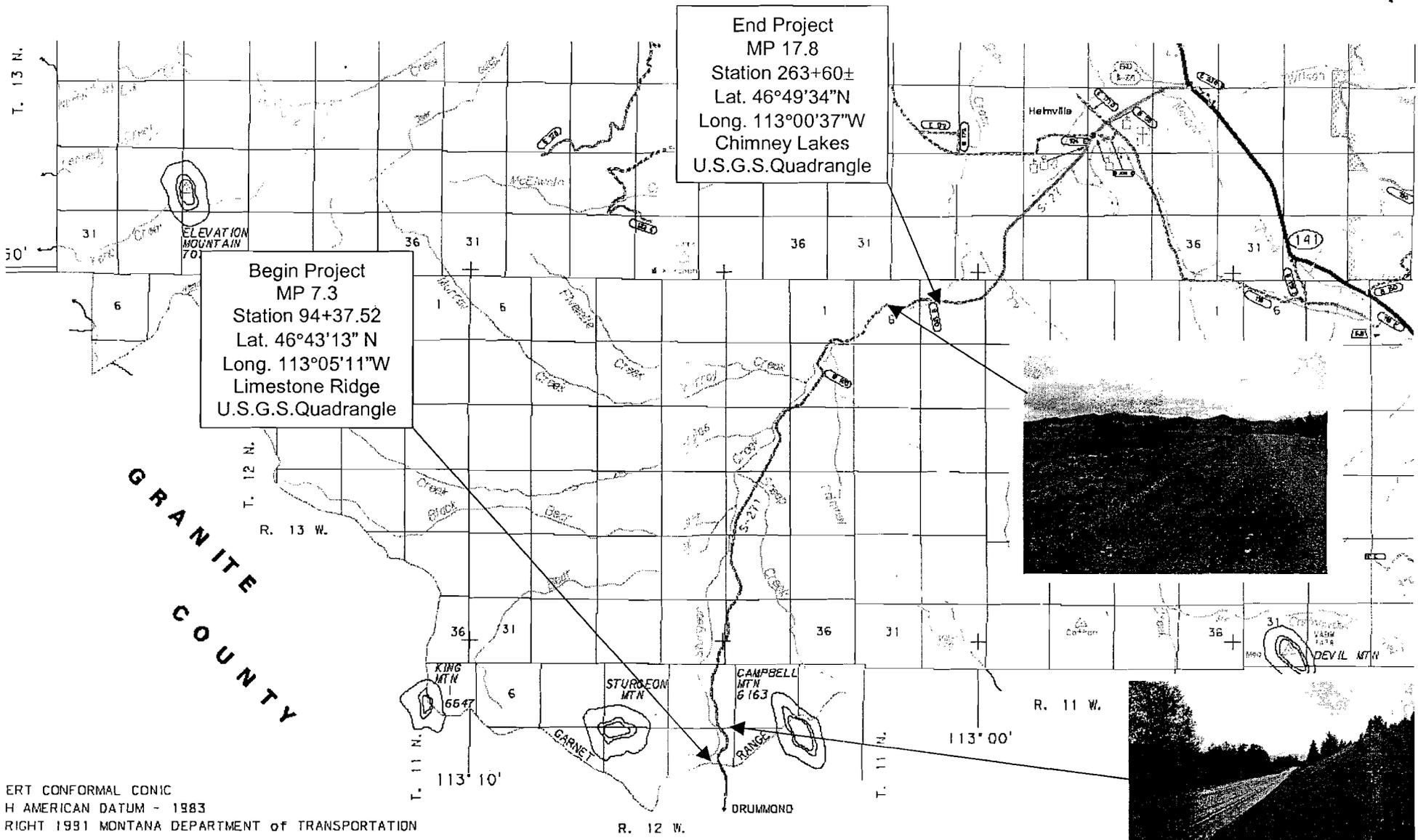

Federal Highway Administration

Date: 10/14/05

"ALTERNATIVE ACCESSIBLE FORMATS OF THIS
DOCUMENT WILL BE PROVIDED ON REQUEST."

cc: Dwane Kailey, P.E. - District Administrator, Missoula
Paul Ferry, P.E. - Highways Engineer
John Horton - Right-of-Way Bureau Chief
David W. Jensen, Supervisor - Fiscal Programming Section
Suzy Althof, Supervisor - Contract Plans Section
Jean A. Riley, P.E. Manager - Environmental Services
Susan Kilcrease, Project Development Engineer – Environmental Services
Board of County Commissioners – Powell County

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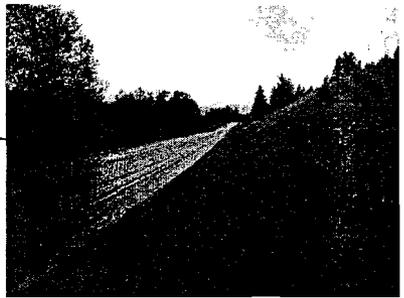
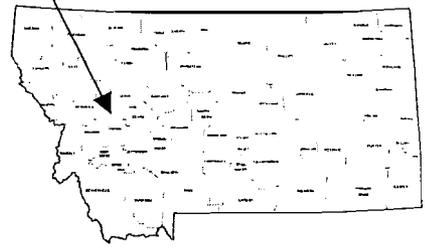


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 RIGHT 1991 MONTANA DEPARTMENT OF TRANSPORTATION

MONTANA DEPARTMENT OF TRANSPORTATION
 STPS 271-2(3)7 / UPN 4468
 Powell County Line - North



PROJECT LOCATION



End Project
 MP 17.8
 Station 263+60±
 Lat. 46°49'34"N
 Long. 113°00'37"W
 Chimney Lakes
 U.S.G.S. Quadrangle

Begin Project
 MP 7.3
 Station 94+37.52
 Lat. 46°43'13" N
 Long. 113°05'11"W
 Limestone Ridge
 U.S.G.S. Quadrangle

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JUN - 9 2005

MASTER FILE
COPY

**ENVIRONMENTAL MEMORANDUM OF AGREEMENT FOR THE RECOVERY
OF SIGNIFICANT INFORMATION FROM SITE 24PW308,
POWELL COUNTY, MONTANA**

**POWELL COUNTY LINE NORTH
STPS 271-2(3) 7
Control Number 4468
MONTANA DEPARTMENT OF TRANSPORTATION**

Whereas, in accordance with 36CFR Part 800, the Federal Highway Administration (and Montana Department of Transportation) acknowledges and accepts the advice and conditions outlined in the Advisory Council on Historic Preservation's "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites," published in the Federal Register; and

Whereas, the consulting parties believe that significant information can be recovered from 24PW308, utilizing methods which are in accordance with the published guidance; and

Whereas, the consulting parties are aware that it is in the public interest to expend funds to implement this project through the recovery of significant information from 24PW308 to mitigate the adverse effects of the project; and

Whereas, the consulting parties agree that the Confederated Salish and Kootenai Tribes (CSKT) may attach cultural importance to 24PW308, have been consulted, and although the Tribes do not promote excavation, have raised no objection to the work proposed; and

Whereas, the Confederated Salish and Kootenai Tribes will be on site to monitor all or part of the excavation process; and

Whereas, to the best of our knowledge no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), are expected to be encountered in the proposed archaeological work; and

Now, therefore, Montana Department of Transportation and the Federal Highway Administration shall ensure that the following stipulations, including the methods discussed in the appended mitigation plan for 24PW308, will be implemented in a timely manner, and with adequate resources in compliance with the National Historic Preservation Act of 1966 (16 U.S.C. 470).

Stipulations

- 1) Data recovery will follow the methods discussed in the appended *Mitigation Plan for 24PW308*.

- 2) In the event that a deeply buried, scientifically significant, cultural deposit is found at 24PW308, the MDT Archaeologist and Montana SHPO staff will consult and consider augmenting the excavation budget in order to recover such materials.
- 3) In the event that human remains are discovered during archaeological excavation, the work in the vicinity of the find will cease and MDT will follow all provisions of applicable law including provisions of the Montana Human Skeletal Remains and Burial Protection Act.
- 4) Historical Research Associates will prepare a journal article for publication within 1 year of completion of the laboratory analysis.
- 5) The technical report resulting from the proposed archaeological work will be distributed by Montana Department of Transportation to archaeologists and Indian Tribes within Montana and adjacent states.
- 6) Recovered artifacts will revert to the landowners unless they choose not to take them, in which case Montana Department of Transportation will curate the materials at a facility that meets the Secretary of the Interior's standards and guidelines for curation. Such facilities include the CSKT's curation facility at The People's Center in Pablo, Montana, and the Bureau of Land Management's curation facility in Billings, Montana.

Other Terms and Conditions

- Modification, amendment or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.
- Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories can not agree regarding a dispute, any one of the signatories may request the participation of the Council to assist in resolving the dispute.
- This agreement shall be null and void if its terms are not carried out within 5 (five) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

Federal Highway Administration:

Date: 05/13/05

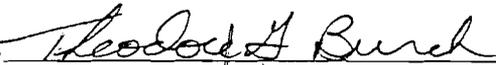
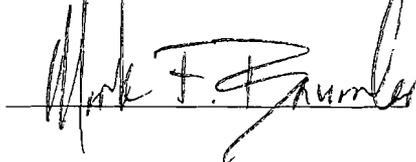
Montana State Historic Preservation Office:

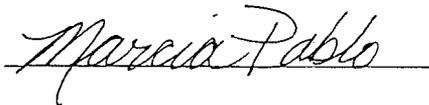
Date: 5/16/2005

Concur:

Confederated Salish and Kootenai Tribes:

Date: May 27, 2005



Montana Department of Transportation:
Date:

John Currie



Montana Department of Transportation

Jim Lynch, Director
Brian Schweitzer, Governor

2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001

200 506 2701

June 23, 2005

Stan Wilmoth
State Historic Preservation Office
1410 East 8th Avenue
P.O. Box 201202
Helena, MT 59620

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JUN 30 2005

ENVIRONMENTAL

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BY: SHP

Subject: **Powell County Line - North**
STPP 271-2(3) 7
Control Number 4468

- STAN
MDT
Powell Co line - North ;
DOUGLAS CK CANAL

Dear Stan,

It has recently come to my attention that the powers that be at the Federal Highway Administration (FHWA) do not want to "grandfather in" the Douglas Creek Canal, 24PW793, under Montana Department of Transportation's (MDT) now defunct PMOA on Historic Irrigation ditches. The Douglas Creek canal was recorded while the PMOA was still in effect. FHWA seems to think that we need to make a determination of eligibility and effect regarding this historic irrigation structure and any impact the Powell County Line North project may or may not have to it.

So here goes...

The Douglas Creek Canal was built in 1938 as part of the Nevada Creek Project. It is a rather small unassuming little ditch, which has been estimated at 10.5 miles in length. It is approximately 2 to 3 feet deep and 3 to 4 feet wide. We consider it significant under Criterion A for its association with mid-twentieth century agriculture in the Nevada Creek/Big Blackfoot area. The site form for 24PW793 is attached.

The Powell County Line North project calls for relocating a 200 foot stretch of the Douglas Creek Canal a few feet outside of the proposed new right of way. The ditch will be perpetuated in its existing configuration. There will be no change in its use, look, integrity, setting, feeling or association. The section of ditch that will be moved represents .004% of the Douglas Creek Canal's total length. We ask you to concur that the project will have no effect on 24PW793.

If you have questions about this matter please contact me at 406-444-0455 or splatt@state.mt.us.

Steve Platt, Archaeologist
Environmental Services

CONCUR
PROJECT WILL HAVE
NO EFFECT ON HISTORIC QUALITIES
MONTANA SHPO
DATE 6/28/05 SIGNED [Signature]

Cc: Bonnie Steg, Supervisor, Resources & Permitting