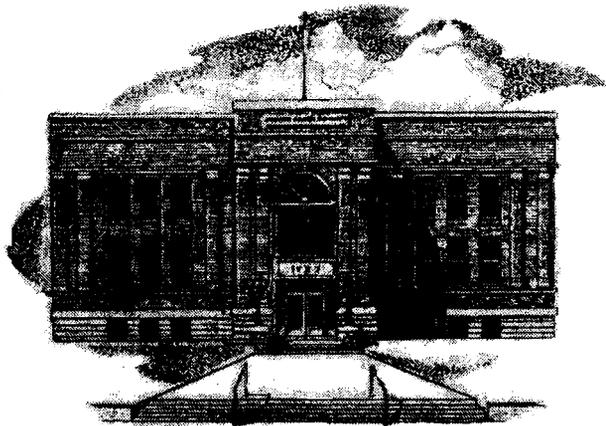


JUDITH BASIN COUNTY
Box 427
STANFORD, MONTANA 59479



COUNTY COMMISSIONERS
JEROME KOLAR
G.C. "TUCKER" HUGHES
CODY McDONALD

March 26, 2008

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

RECEIVED

APR 03 2008

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

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

Reference: Federal-aid Project Number: STPE 23(16)
Federal-aid Project Name: Courthouse Windows-Stanford
MDT Uniform Project Number: 6148

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 project consisting of replacing courthouse windows and doors.

The location of the proposed project is Judith Basin County Courthouse, Stanford, Montana.

The intent of the proposed project is to replace and restore windows and doors to original historic status.

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

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

PROJECT IMPACTS

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

Historic/Cultural Resources – The Judith Basin County Courthouse was ruled as eligible for _____ the National Register of Historic Places (NRHP) in 1995. 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 March 24, 2007. A copy of their concurrence letter is attached.

Threatened/Endangered Species – The US Department of the Interior’s Fish & Wildlife Service (USF&WS) was contacted on _____ for identifying Federally listed Threatened/Endangered Species. The following Threatened/Endangered Species were identified by the USF&WS as being in the vicinity of the proposed project and a Biological Resources Report was prepared by _____. The conclusion of the Biological Resources Report is that (there are no biological concerns on this project/the project is “Not Likely to Adversely Effect” Threatened/Endangered Species.

Fish – The _____ is an endangered fish species on the _____.

Threatened Wildlife – The _____ is a threatened species in the State of Montana.

Endangered Wildlife – The _____ is an endangered species in the State of Montana.

Floodplains – A floodplain delineated under Federal Emergency Management Administration (FEMA) criteria along the _____ is encroached by the proposed project. _____ administers this floodplain for FEMA, and a Floodplain Development Permit will be required for this encroachment.

The floodplain encroachments from the proposed project occur _____. The proposed project will not promote or encourage development within this 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)).

OR

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

Section 4(f) – It has been determined that Section 4(f) does not apply to restoration, rehabilitation or maintenance of historic facilities when there is a “No Adverse Effect”

determination, and when SHPO and the advisory council have been consulted and have not objected to this finding.

Section 4(f) – While this project involves a Section 4(f) resource, the local entity with specific jurisdiction over the resource has petitioned the Department for funding to finance the development of the proposed improvement. This petition is accepted as written approval from the official having jurisdiction and taken as evidence that this locally proposed project is consistent with the designated use of the property, and that all practical planning to minimize harm _____ accomplished in the location and design process.

There is no “use” of a Section 4(f) resource as protected land is not permanently incorporated into a State/Federal transportation 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 – Judith Basin County currently has no active and no proposed projects in the vicinity of the proposed project. _____.

Therefore, none of the above projects, in conjunction with the proposed project, will have any significant cumulative environmental impacts. _____.

PERMITS

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

- This proposed project will be in compliance with the provisions for both Water Quality under *MCA 75-5-401(2)* for Section 3(a) authorizations, and 124 SPA Stream Protection Notification under *MCA 87-5-501* through 509, inclusive.
- A 124 SPA Stream Protection Notification (was approved/will be required) by the MDFW&P on (not applicable).
- A Notice of Intent for Storm Water Discharges under the National Pollutant Discharge Elimination System General Permit (PL 92-500) will be required with the EPA for the control of water pollution for both specific and non-point sources.
- The proposed project will require the following permit(s) under the *Clean Water Act*:
 - A Section 402/Montana Pollutant Discharge Elimination System permit from the Montana Department of Environmental Quality (DEQ) Permitting and Compliance Division.
 - A Section 404 permit from the US Army Corps of Engineers (COE). The COE will be notified that the proposed project qualifies for a “Nationwide” 404 permit under the provisions of 33 *CFR* 330.

- All work will be in accordance with the *Water Quality Act of 1987* (PL 100-4), as amended.
- Approximately none of new ROW/construction permits will be needed for the proposed project. There will be no utility involvement.

PUBLIC INVOLVEMENT

Public Involvement – November and December 2007; January, February and March 2008.

EROSION CONTROL PLAN

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

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 the design of this Plan using guidelines as established in MDT's Highway Construction Standard Erosion Control Workplan. The objective is to minimize erosion of disturbed areas during and following construction of this proposed project.

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

AMERICANS WITH DISABILITIES ACT

Americans with Disabilities Act – The door for this project will be installed in compliance with the *Americans with Disabilities Act* (PL 101-336).

CONCLUSION

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

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

Kim M. Helzer, CTEP Liaison

Signature of Environmental Certifying Official or Chief Elected Official

Kim M. Helzer, CTEP Liaison

Type Name and Title

Concur: *Mike Whely*
CTEP Section Supervisor

MARCH 26, 2008
Date

Concur: *[Signature]*
Federal Highway Administration

31 MAR 2008
Date

Attachment: Project Location Map

- cc: Stefan Streeter, P.E., MDT, District Administrator – Billings
- Tim Conway, P.E., MDT, Consultant Design Engineer
- Tom Martin, P.E., MDT, Bureau Chief – Environmental Services Bureau
- Dave Jensen, MDT, Fiscal Planning Administrator
- Mike Whereley, P.E., MDT, CTEP Section Supervisor
- EQC, Environmental Quality Council
- Project File
- Judith Basin County
- Ryan Smith, RK3 Architects