Attachment A: Decision Rationale

Project: **MDT bridge over the Big Hole River, 3 miles west of Divide**

Legal description: **SW1/4SW1/4 Section 11, Township 1 S., Range 10 W.**

Date: **November 27, 2013**

Decision maker: **Dana Boruch**

Although this particular project does not fit any of the listed activities that qualify as categorical exclusions under ARM 36.25.1104(6), (7) and(7)(a) it has been determined that it qualifies as a categorical exclusion for the reasons listed below under the *Finding* statements following the listed statute and Administrative Rules.

ARM 36.25.1104(6) With the exception of applications for authorization sought by the Montana Department of Transportation (MDT), all necessary federal, state, and local permits shall be acquired by those requesting authorization to use a navigable river or other river as specified in ARM 36.25.1102(3), except where the department issues contingent authorizations under (6)(b).

***Finding**: This authorization for this project is sought by MDT.*

ARM 36.25.1104(7) As provided in 77-1-121 MCA, the department is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, MCA, when issuing a lease, license or easement for the use of the bed of a navigable river that expressly states that the lease, license or easement is subject to further permitting under any of the provisions of Title 75 or 82, MCA.

***Finding**: This easement request is subject to further permitting by the Montana Department of Environmental Quality.*

ARM 36.25.1104(7)(a) An environmental analysis may be conducted to assess the impact a permanent easement may have on the navigability of the river.

***Finding**: While the easement request for a bridge will result in support piers within a navigable river bed, the navigability of the river will not be negatively impacted. This stretch of the Clark Fork River is relatively shallow, and the overwhelmingly primary use of the river in this stretch is recreational use. In addition, MDT is conducting an EIS prior to construction of this structure.*