

MONTANA
 FEDERAL HIGHWAY ADMINISTRATION
PROGRAMMATIC SECTION 4(f) DETERMINATION AND APPROVAL
 UNDER THE
 NATIONWIDE 4(f) EVALUATION FOR
NET BENEFIT TO SECTION 4(f) PROPERTY

Project Name: **Flathead River—3M NW Bigfork**
 Federal Aid ID: **BR 82-1(5)5**
 Control Number: **6850000**
 Route: **MT Primary Highway 82**
 Termini: **RP 5.0 to 6.4**
 County: **Flathead**
 Description of resource: **MT FWP Sportsman’s Bridge Fishing Access Site**

Consult the Nationwide Section 4(f) Evaluation as it relates to the following items. Complete all items. Any response in a shaded box requires additional information prior to approval. This determination will be attached to the corresponding project National Environmental Policy Act (NEPA) document.

Applicability Criteria	YES	NO
<p>1. The proposed transportation project uses a Section 4(f) park, recreation area, wildlife or waterfowl refuge, or historic site. The proposed bridge would require a wider, longer footprint extended farther south along the MT-82. The bridge replacement and associated realignment of MT-82 would interfere with existing parking at the Sportsman’s Fishing Access Site (FAS). Large functional portions of the FAS including the access road and low water boat launch are currently located on MDT right of way and would be eliminated through implementation of the proposed project. The proposed relocated access to the FAS from Hanging Rock Road would improve overall accessibility to the FAS. A map of the proposed impacts and improvements is included with this analysis.</p> <p>Montana Fish, Wildlife and Parks (FWP) owns the FAS. MDT would acquire property from the FAS, then purchase replacement adjacent property in the name of FWP. MDT would reconstruct the FAS and access road during the proposed bridge project.</p> <p>MDT has been coordinating with FWP during the project development to minimize harm to the Section 4(f) property, including mitigation for any unavoidable impacts. A signed letter, dated March 28, 2019, is attached to this evaluation and documents the agreement between the two agencies.</p>	X	

Applicability Criteria	YES	NO
<p>2. The proposed project includes all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection.</p> <p>Proposed design plans have drafted that would require the minimum amount of right of way from the FAS. MDT would reconstruct and replace all lost attributes from the FAS (parking, boat ramp, and public access way). Replacement property would be immediately adjacent to and south of the current FAS, allowing for an enhancement to the FAS gained from addition river frontage.</p> <p>Mitigation will include purchasing the FAS property at fair market value from FWP for the permanent acquisition of 1.5 acres of the existing FAS for right of way. MDT would also facilitate purchasing the replacement 1.8 acres for the FAS.</p>	<p>X</p>	
<p>3a. For historic properties, the project does not require the major alteration of the characteristics that qualify the property for the National Register of Historic Places (NRHP) such that the property would no longer retain sufficient integrity to be considered eligible for listing. (Consultation as in 36 CFR part 800)</p> <p>The FAS is not a historic resource. The only historic resource within the project boundaries is the Flathead River Bridge. Its use will be documented using the Nationwide Programmatic Section 4(f) Evaluation for Historic Bridges.</p>	<p>N/A</p>	
<p>3b. For archeological properties, the project does not require disturbance or removal of the archaeological resources that have been determined important for preservation in place rather than for the information that can be obtained through data recovery. (Consultation as in 36 CFR part 800)</p> <p>The fishing access is not an archeological property.</p>	<p>N/A</p>	
<p>4. For historic properties, an agreement has been reached amongst the SHPO or THPO, the FHWA and the Applicant on measures to minimize harm when there is a use of Section 4(f) property. Mitigation and measures to minimize harm have been incorporated into the project. (See following section on “Mitigation and Measures to Minimize Harm.”)</p>	<p>N/A</p>	

Applicability Criteria	YES	NO
<p>Refer to question 2 above.</p>		
<p>5. The officials with jurisdiction over the Section 4(f) lands agreed in writing with the assessment of impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate and enhance those features and values of the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property.</p> <p>FWP is the owner of the FAS. In a letter dated March 28, 2019, the official with jurisdiction over the Section 4(f) lands from FWP agreed in writing with: the assessment of impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate and enhance those features and values of the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property.</p>	<p>X</p>	
<p>6. If Federal funds have been used in the acquisition or improvements of the 4(f) site, the land conversion/transfer has been coordinated with the appropriate Federal agency, and they are in agreement with the land conversion or transfer.</p> <p>Correspondence with FWP on September 23, 2011 (attached) indicates that Land and Water Conservation Act Fund monies (LWCF) have not been used for the acquisition or improvements to this 4(f) site. However, federal Dingell-Johnson Sport Fish Restoration funds were used to purchase the FAS property in 1959. Allen Kuser with FPW authored the email and states that the Dingell-Johnson encumbrance was transferred to another FAS. Therefore, this FAS does not have a Federal encumbrance requiring coordination.</p>	<p>N/A</p>	

Alternatives Considered	YES	NO
<p>1. The "Do Nothing" alternative has been evaluated and is considered not to be feasible and prudent because it would neither address nor correct the transportation need that necessitated the project.</p> <p>The "do nothing" alternative would not meet the project's purpose and needs. The existing bridge is deficient based on deck width and traffic volume. It is also a fracture critical two-girder system and is ranked high for seismic retrofit. Based on these conditions, the existing bridge is functionally obsolete, and replacement is necessary. Not replacing the bridge is not a feasible avoidance alternative, and would not be a matter of sound engineering judgement.</p>	<p>X</p>	

Alternatives Considered	YES	NO

<p>2. An alternative has been evaluated to improve the transportation facility in a manner that addresses the project’s purpose and need without use of the Section 4(f) property and is considered not to be feasible and prudent.</p> <p>Rehabilitation alternatives for the Flathead River Bridge were evaluated but were not considered feasible and prudent. Rehabilitation could not be completed as a matter of sound engineering judgment and is not feasible due to the original fracture critical two-girder system design. In addition, the existing bridge foundation was constructed on shallow timber piles and this foundation system cannot be economically rehabilitated. Finally, the existing bridge piers do not meet current seismic design criteria and cannot be economically rehabilitated.</p>	<p>X</p>	
<p>3. An alternative has been evaluated to build the transportation facility at a location that does not require use for the Section 4(f) property and is considered not to be feasible and prudent.</p> <p>Alternative alignments to build the bridge on the north side of MT-82 were evaluated but were not considered feasible due to the high risk associated with ROW acquisition from private landowners and impacts to private property that would be very difficult to mitigate.</p>	<p>X</p>	

Mitigation and Measures to Minimize Harm	YES	NO
<p>1. The proposed action includes all possible planning to minimize harm.</p> <p>Harm would be minimized by acquiring minimum FAS property for right of way. Additional property contiguous to the existing FAS would be acquired in the name of FWP to replace the FAS property required by the project. The proposed project would replace all features lost at comparable value and function.</p>	<p>X</p>	

<p>2. Mitigation measures include one or more of the following: (Check applicable mitigation measures.)</p>	<p>X</p>	
<p>a. Replacement of lands used with lands of reasonably equivalent usefulness and location, and of at least comparable value.</p>	<p>X</p>	
<p>b. Replacement of facilities impacted by the project including sidewalks, paths, benches, lights, trees, and other facilities.</p>	<p>X</p>	
<p>c. Restoration and landscaping of disturbed areas.</p>	<p>X</p>	
<p>d. Special design features. (Briefly describe.)</p> <p>MDT design and construct FAS features impacted from the project. The replacement features are anticipated to be a benefit to the overall FAS. The three features impacted at the FAS by the proposed project are parking, the boat launch, and access into the FAS. The March 28, 2019-dated letter signed by both MDT and FWP document the proposed mitigation measures.</p> <p>MDT would replace the FAS parking lot. The replacement lot would be paved, have slightly more vehicle-trailer parking, and an ADA-compliant parking spot. Construction of the reconfigured FAS will occur while the existing FAS parking area is in use and operation resulting in no significant loss of function and use of the FAS by the public except during paving.</p> <p>MDT would consult with FWP to determine the design, specifications and location of a new boat launch that will meet FWP’s current design criteria. The existing high-water boat launch will be removed at the request of FWP as part of this design. Construction of the new boat launch will occur while the existing boat launch is in operation resulting in no significant loss of function and use of the boat launch by the public.</p> <p>MDT would construct a new paved FAS access road from Hanging Rock Road. Construction of the new access road will occur while the existing access is in operation resulting in no loss of access to the FAS by the public except during paving. MDT would also acquire an associated easement for the access road in FWP’s name.</p>	<p>X</p>	
<p>e. Payment of the fair market value of the land and improvements taken.</p> <p>In accordance with the March 28, 2019 letter between MDT and FWP, MDT would purchase the FAS from FWP at fair market value.</p>	<p>X</p>	
<p>f. Improvements to the remaining 4(f) site equal to the fair market value of the lands and improvements taken.</p>	<p>X</p>	

<p>MDT's mitigation measures would result in improvements to the FAS that would be a net benefit to the resource. MDT would design and replace features lost (parking lot, boat launch, and access road) to create a nicer and more functional FAS than what is existing today. The parking lot and access road would be paved.</p> <p>g. Other measures. (describe briefly)</p> <p>MDT would reset existing informational signing for the FAS disturbed by construction</p> <p>MDT would relocate the existing single unit vault toilet at a site specified by FWP</p>	<p>X</p>	
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Coordination	YES	NO
<p>1. The proposed project has been coordinated with the Federal, State, and/or local officials having jurisdiction over the 4(f) lands.</p> <p>Numerous meetings with FWP have been held to coordinate the proposed project. This coordination has most recently culminated in the March 28, 2019 letter.</p>	<p>X</p>	
<p>2. Land is unencumbered by other Federal actions or coordination with the Federal Agency responsible for the encumbrance has been complete. (Land and Water Conservation Fund Act, 16 USC 460/(8)(f)(3)</p> <p>MDT coordinated with FWP, the State agency that oversees the distribution and use of LWCA funds), regarding encumbrances. Correspondence from FWP states that the Sportsman's FAS does not have any federal encumbrances; see attached correspondence dated September 23, 2011 from Allen Kuser, FWP. The correspondence states that LWCF has not been used for the acquisition or improvements to this 4(f) site. In addition, the Dingell-Johnson encumbrance was transferred to another FAS. Therefore, this FAS does not have a Federal encumbrance requiring coordination.</p>	<p>X</p>	

<p>3. MDT and the official(s) with jurisdiction agree that:</p> <ul style="list-style-type: none"> a. use of the property does not result in a substantial diminishment of the function or value that made the property eligible for Section 4(f) protection b. the project includes all possible planning to minimize harm, including mitigation; and c. the cumulative result is an overall improvement and enhancement of the Section 4(f) property when compared to both the future do-nothing or avoidance alternative and the present condition of the Section 4(f) property. <p>Therefore, MDT and FWP have agreed that the proposed transportation use of the property does not result in a substantial diminishment of the function or value that made the property eligible for Section 4(f) protection because this project will add additional parking, provide a new boat launch that meets FWP's current design standards, and replaces, reestablishes, relocates or reconstructs other amenities and facilities that currently exist at this FAS site which will preserve the intent and function of this facility. These improvements result in a cumulative overall improvement and enhancement of this Section 4(f) property when compared to both the future do-nothing or avoidance alternative and the present condition of the Section 4(f) property</p> <p>Documentation is attached.</p>	<p>X</p>	
<p>4. Public involvement activities have occurred, consistent with the specific requirements of “23 CFR 771.111, Early coordination, public involvement and project development”.</p> <p>MDT held a public informational meeting on July 14, 2011 where different options for the bridge location and alignment were presented.</p>	<p>X</p>	
<p>5. For a project where one or more public meetings or hearings were held, information on the proposed use of Section 4(f) property was communicated at the public meeting(s) or hearings(s).</p> <p>A public informational meeting was held on July 14, 2011. MDT presented different options for the bridge location and alignment. Impacts to the FAS were specifically discussed.</p>	<p>X</p>	

Attachments:

[Site Map](#)

[NetBenAttachement_Sept2011Email.pdf](#) between FWP and MDT

[Agency signed letter](#) dated March 28, 2019

Summary and MDT Approval

MDT has evaluated the proposed action and concludes that the proposed action meets all applicable criteria in the Nationwide Section 4(f) Evaluation and Determination for the Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property approved April 20, 2005. This document is acceptable to be submitted for FHWA approval.

Rebecca Ridenour

Project Development Engineer

Date: 04/21/2020

Tom Gocksch

Tom Gocksch, P.E.
Engineering Section Supervisor
Environmental Services

Date: 04/21/2020

Determination and Approval:

Based on the documentation, the results of public and agency consultation and coordination as evidenced by the attachments to this document, the FHWA has determined that:

The project meets all applicable criteria in the Nationwide Section 4(f) Evaluation and Determination for the Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property approved April 20, 2005.

That alternatives set forth in the Alternatives Considered section of the above Nationwide Section 4(f) Evaluation have been fully evaluated.

The findings in the Alternative Considered Section conclude the recommended alternative is the only feasible and prudent alternative and results in a clear net benefit to the Section 4(f) property.

The project complies with the Mitigation and Measures to Minimize Harm Section of the above Nationwide Section 4(f) Evaluation and there are assurances that the measures to minimize harm will be incorporated in the project.

The coordination and public involvement efforts required in the above Nationwide Section 4(f) Evaluation have been successfully completed and necessary written agreements have been obtained.

Accordingly, the FHWA approves the proposed use of the subject lands under the Nationwide Section 4(f) Evaluation issued on April 20, 2005.

Date Approved

Federal Highway Administration