



March 23, 2009

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ENVIRONMENTAL



Subject: Request for Concurrence of Continued Validity of FEIS/ROD
Havre-East
NH 1-6(58)384
Control Number: 4951001

Dear Kevin McLaury:

The Montana Department of Transportation (MDT) Environmental Services Bureau has reviewed the subject project and concluded that the previously approved Final Environmental Impact Statement (FEIS)/Record of Decision (ROD) for the US 2, Havre to Fort Belknap Corridor remains valid for the subject project under the provisions of 23 CFR 771.129(c). The FEIS was signed by your agency on September 30, 2004 and the ROD was signed by your agency on November 22, 2004.

In refining the design elements noted in the FEIS, it became apparent that alternatives needed to be considered to reduce impacts to adjacent development, low-income properties, Section 4(f) resources, noise sensitive receptors, and business operations in the suburban portion of the project. The plans for the suggested 27 +/- meter roadway template, including ditches and fill/cut slopes, showed construction limits extending beyond proposed right-of-way and onto developed properties. While it may have been possible to construct this width without actually removing structures, proximity damages and impacts to business operations are a concern. Careful consideration was given to meeting the intent of the FEIS/ROD, while reducing the overall roadway width and associated impacts.

The following re-evaluation discusses new information or circumstances relevant to the development of the proposed project and ensures that current environmental requirements are addressed. The re-evaluation focuses on the changes to the design, the potential for new impacts, and new project-related issues that have arisen since approval of the FEIS/ROD.

The purpose of and need for the proposed project have not changed since the approval of the FEIS/ROD. The fundamental purpose of the proposed reconstruction of Havre-East (P-1, US-2) remains to replace the aging US 2 facility with an efficient and safe highway to serve the needs of local communities, agriculture, industry, commerce, and tourism.

Potential impacts and proposed mitigation measures as a result of the proposed project in comparison to the FEIS are summarized below in Table 1. The subsequent sections, in the same order as presented in the FEIS, provide additional information related to the change in potential impacts and change in potential mitigation compared to the FEIS.

Table 1. Summary of Potential Impacts and Proposed Mitigation

Section	Resource	Change in Potential Impact Compared to FEIS	Change in Potential Mitigation Compared to FEIS
1.1	Access	A new location for the landfill approach is anticipated at approximate Station 68+00.	No change in mitigation.
1.2	Safety	Given the design features included in the proposed project, such as the additional shoulder width (2.4 m/1.5 m vs. 0.6 m), improved alignments, TWLTL, adjusted passing lane configurations, addition of rumble strips, signing, painted cross hatching, and treatment of roadway/roadside obstacles within the clear zone in the area, the minor reduction in shoulder and lane widths will have a negligible impact on safety. The overall project increases safety over the existing conditions.	No change in mitigation.
1.3	Traffic Operations (Passing Lane Locations, Turning Lane Locations, Shoulders)	<p>Passing Lane Locations- The proposed adjusted passing lane locations and lane lengths are a result of a refined level of design and analysis over that provided for in the FEIS. The adjusted lane configurations meet the requirement to improve the operational efficiency and safety of the highway and provide a LOS of B throughout the corridor.</p> <p>Turning Lane Locations-The proposed 4.8-m two-way left-turn lane between approximate Station 3+65.75 and Station 27+00 was reduced to a 4.2-m width to lessen impacts to adjacent features. The proposed westbound left turn lane for the new landfill approach is located between approximate Station 65+29 and Station 72+98 including transition lengths.</p> <p>Shoulders-A 2.4-m shoulder width is proposed on the left between approximate Station 3+65.75 and Station 166+40 and on the right between approximate Station 20+66 and Station 166+40 in line with the FEIS. The shoulder adjacent to the path between approximate Station 3+65.75 and Station 20+66 on the right was reduced to 1.5 m in width. This shoulder width is less than the Route Segment Plan width for this corridor, but necessary if the path is to be included without business relocations. Safety justifications were noted and approved in the design exception for this feature. The recommended curb and gutter was not included in this section due to drainage and hydraulic issues, maintenance, and cost.</p>	No change in mitigation.

Section	Resource	Change in Potential Impact Compared to FEIS	Change in Potential Mitigation Compared to FEIS
1.4	Pedestrian and Bicycle Considerations	The FEIS recommended bicycle or multi-use paths east of Havre. The proposed design includes a shared-use 2.4 m at-grade path with a 1.5 m shoulder separation from the travel lane between approximate Station 3+65.75 and Station 20+66 on the right. In the rural section, the 2.4 m shoulder will be sufficient for one way travel of bicyclists with traffic both left and right of centerline.	The path will include additional safety features like rumble strips, signing, and painted cross hatching to deter vehicle use. An additional component to enhance safe use of the path will be public outreach and education at area schools. There will be ample opportunity to discuss the features and operation of the path with the public during construction through television and newspaper articles. An informational flyer will be distributed to area schools when the path opens to use to assist in educating students about safe bicycling and walking practices.
1.5	Railroad	No change in impacts.	No change in mitigation.
1.6	Land Use	No change in impacts.	No change in mitigation.
1.7	Farmlands	No change in impacts.	No change in mitigation.
1.8	Irrigation	No change in impacts.	No change in mitigation.
1.9	Social Conditions	No change in impacts.	No change in mitigation.
1.10	Economic Conditions	The FEIS notes some structures would be impacted. MDT does not identify any structure impacts or business displacements. Retaining or soil slope stabilized walls will be included to limit impacts to some businesses.	No change in mitigation.
1.11	Environmental Justice	A mobile home park near 34 th Avenue Northeast has been identified by local officials as a low-income area. Design modifications have reduced the impacts and no relocations of the mobile homes are expected.	No change in mitigation.
1.12	Right-of-Way and Relocation of Utilities	The FEIS did not separate the right-of-way needs by segment; therefore, this re-evaluation will not directly compare the impacts between the conceptual design and the proposed design. The design modifications have reduced the amount of right-of-way required for this proposed project since the time of the EIS	No change in mitigation.
1.13	Cultural and Historic Resources	No change in impacts.	No change in mitigation.
1.14	Air Quality	A Mobile Source Air Toxics (MSAT) analysis is not required for the proposed project since the design year traffic is not projected to meet the 140,000 to 150,000 annual average daily traffic criterion.	No change in mitigation.
1.15	Noise	No change in impacts.	No change in mitigation.
1.16	Water Resources and Water Quality	No change in impacts.	No change in mitigation.
1.17	Wetlands	The total wetland impacts have been reduced from approximately 1.7 acres to	No change in mitigation.

Section	Resource	Change in Potential Impact Compared to FEIS	Change in Potential Mitigation Compared to FEIS
		approximately 1.1 acres since the time of the EIS.	
1.18	Vegetation	No change in impacts.	No change in mitigation.
1.19	Wildlife and Aquatic Resources	No change in impacts.	No change in mitigation.
1.20	Threatened and Endangered Species	MDT concludes there are no substantial changes to impacts to Threatened or Endangered Species as a result of the proposed project.	No change in mitigation.
1.21	Floodplains	No change in impacts.	No change in mitigation.
1.22	Wild and Scenic Rivers	No change in impacts.	No change in mitigation.
1.23	Water Body Modifications	No change in impacts.	No change in mitigation.
1.24	Hazardous Materials	No change in impacts.	No change in mitigation.
1.25	Visual Resources	No change in impacts.	No change in mitigation.
1.26	Section 4(f) and Section 6(f) Resources	No change in impacts.	No change in mitigation.
1.27	Construction Impacts	The shift in centerline reduces construction impacts and improves safety during construction.	No change in mitigation.
1.28	Cumulative Impacts	No change in impacts.	No change in mitigation.
1.29	Public Involvement	News releases will be provided describing the proposed scope of work and the need for the project to local media, radio, and television stations broadcasting in the area. Personal contacts with adjacent landowners explaining the work to be performed will be offered during the Right-of-Way phase. The main portion of the public involvement plan occurred during the EIS process and all controversial issues have been identified and addressed in the FEIS.	No change in mitigation.
1.30	Permits	Since the approval of the FEIS/ROD, MDT has continued to coordinate with appropriate federal, state, and local agencies regarding permit approvals needed for construction of the proposed project. MDT concludes that the permits required for the proposed project are consistent with the findings of the FEIS and ROD.	No change in mitigation.

1.1 Access – At the public meeting on October 22, 2007, it was noted that the landfill at approach Station 149+20 on the right will be closed before the proposed project’s letting date. A new location for the landfill approach is anticipated at approximate Station 68+00. Because of the higher traffic volumes and expected vehicle types, the proposed design includes a new

westbound left turn lane. The FEIS noted that “Left-turn lanes would be added at some intersections in the corridor, as warranted by traffic volumes...” The County also requested wider radii to accommodate the truck turning movements. The proposed westbound left turn lane for the landfill approach is located between Station 65+29 and Station 72+98 including transition lengths.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.2 Safety – The Transportation Research Board Special Report 214 (Report) notes that channelization at intersections, proper lane markings, standard approach slopes are options to address collisions between slowing and turning vehicles. The Report also shows the importance of an increase in shoulder width on reducing off-road crashes by providing more recovery room. The combination of the proposed two-way left-turn lane (TWLTL), rumble strips, and significantly wider shoulders should assist in reducing the high percentage of off-road (22.2% vs. 1.7%) and rear-end (38.9% vs. 28.6%) crashes along this segment. The existing roadway is proposed to be widened from 9.2 m to approximately 17.7 m.

The proposed 4.8 m TWLTL between approximate Station 3+65.75 and Station 27+00 was reduced to a 4.2 m width which meets the Geometric Design Criteria for Rural Principal Arterials and adequately serves the turning vehicles. A wider shoulder width of 2.4 m allows for more room for a vehicle to maneuver and recover. In fact, figure 3.2 in the Transportation Research Board Special Report 13 shows almost a 50% reduction in accidents with the increased shoulder width.

Impacts: Given the design features included in the proposed project, such as the additional shoulder width (2.4 m/1.5 m vs. 0.6 m), improved alignments, TWLTL, adjusted passing lane configurations, the addition of rumble strips, signing, painted cross hatching, and treatment of roadway/roadside obstacles within the clear zone in the area, the minor reduction in shoulder and lane widths will have a negligible impact on safety. The overall project increases safety over the existing conditions.

Mitigation: No change in mitigation.

1.3 Traffic Operations

Passing Lane Locations – The ROD called for intermittent passing lanes, spaced 8 to 13 km apart, to clear traffic around slower vehicles upon exiting communities and in dispersed locations in the corridor. A detailed traffic analysis was conducted to identify the most beneficial locations for passing and turning lanes throughout the project. The locations for passing and turning lanes were adjusted to achieve the desired LOS, to minimize the need for turn bay installation, minimize impacts to bridges, adequately disperse the platoons and provide for the additional safety and capacity as recommended in the FEIS.

The passing lane locations were not specified in the FEIS document, but the accompanying plans showed an additional travel/passing lane be included heading eastbound out of Havre. Due to the existing operational characteristics of the roadway, including a high density of approaches and high numbers of left turning trucks, this lane is not included. Instead, the eastbound passing lane was implemented just beyond the suburban portion in an area with low left turn demand. This location avoided impacts to developed properties and allowed for a longer length that would have a higher operational efficiency.

The proposed locations of the passing lanes also considered avoidance and minimization of impacts to wetlands, cultural resources, and other resources as well as the ability to minimize the need for left turn lanes or to close accesses that would otherwise require left turns from a passing lane. Approximate locations for the passing lanes, including the width transitions are as follows:

Station 19+00 to Station 35+00 for the eastbound passing lane
Station 100+44.36 to Station 122+48.80 for the westbound passing lane
Station 134+60.35 to Station 153+12.35 for the eastbound passing lane

Impacts: These adjusted passing lane locations and lane lengths are a result of a refined level of design and analysis over that provided for in the FEIS. The proposed adjusted lane configurations considered factors identified, but not mitigated for in the FEIS and meet the requirement to improve the operational efficiency and safety of the highway and provide a LOS of B throughout the corridor.

Mitigation: No change in mitigation.

Turning Lane Locations – The ROD noted (page 4 of 13): For example, east of Havre, a center TWLTL or series of left-turn lanes will extend approximately 2.4 km east from the western project limits. An additional west bound left turn lane was also included in the rural portion area between approximate Station 95+62.05 and Station 125+48.8 to serve projected traffic needs.

Impacts: This proposed 4.8-m TWLTL between approximate Station 3+65.75 and Station 27+00 was reduced to a 4.2-m width to lessen impacts to adjacent features. This width meets the Geometric Design Criteria for Rural Principal Arterials and adequately serves the turning vehicles.

Mitigation: No change in mitigation.

Shoulders – According to the ROD (page 3 of 13), the typical section will consist of MDT's standard minimum width for a rural Non-Interstate NHS highway: 3.6 m (12 ft) travel lanes and 2.4 m (8 ft) shoulders for a total paved roadway width of 12 m (40 ft). The FEIS (page 2-13) recommended curb and gutter in the suburban section.

Impacts: The future overlay width was not included as it is not mandatory according to MDT practice. Therefore, the recommended 2.4 m shoulder width is proposed on the left between

approximate Station 3+65.75 and Station 166+40 and on the right between approximate Station 20+66 and Station 166+40. The 2.4-m shoulder will accommodate a future overlay width and still be functional. The 2.4-m shoulder will also accommodate mail delivery and parked vehicles. The shoulder adjacent to the path between approximate Station 3+65.75 and Station 20+66 on the right was reduced to 1.5 m in width. This shoulder width is less than the Route Segment Plan width for this corridor, but necessary if the path is to be included without business relocations. The Havre Urban area has existing 0.6-m shoulders and this is in an area transitioning from urban to rural design standards; however, a design exception was still requested and approved. There are approaches available to serve the needs of disabled vehicles and mail delivery.

Due to drainage and hydraulic issues (introduction of a storm drain system and associated cost), deep ditches required behind the sidewalk to convey existing runoff, maintenance concerns regarding plowing damage and snow removal, and the additional cost of curb, gutter, and sidewalk, the proposed features are not proposed with this project.

Mitigation: No change in mitigation.

1.4 Pedestrian and Bicycle Considerations – The conceptual design in the FEIS also included a 3.1-m wide path extending along the north side (left) of US 2 within the proposed highway right-of-way from west of 22nd Avenue Northeast in Havre to 38th Avenue Northeast near the Halliburton business. This conceptual design, coupled with the proposed lane configurations, impacted adjacent development, low-income properties, Section 4(f) resources, noise sensitive receptors, and business operations.

Impacts: Multiple options were considered to provide for pedestrian and bicycle travel in the corridor, but only one option fits within the available width. The proposed design includes a shared-use 2.4-m at-grade path with a 1.5-m shoulder separation from the travel lane between approximate Station 3+65.75 and Station 20+66 on the right. This separation is the minimum recommended by AASHTO; therefore, will include rumble strips and painted cross hatching to deter vehicle use. Additional signing and pavement markings for the path and signs restricting parked vehicles will also be included with the proposed project. Mailboxes adjacent to the path will be relocated to approaches to facilitate mail delivery without encroachment. Although this configuration is not the most ideal, the configuration does meet AASHTO design standards and will safely service the non-motorized needs presented in the FEIS.

Without the numerous concessions for design widths and details, the full design presented in the FEIS would have required relocation of three commercial businesses, relocation of at least eight homes, increased impacts to noise sensitive receptors, and impacts to business operations in the suburban area. Due to the terrain and development, there was only a narrow corridor and any slight shift in one location compounded the impacts to other resources. Safety was considered foremost in the decisions with the FEIS requirement to lessen the impacts to business as much as possible as the secondary factor. The final design, including truncated domes, signing and striping, provides a high level of pedestrian and bicycle connectivity and safety over the existing

conditions. An additional component to enhance safe use of the path will be public outreach and education at area schools. There will be ample opportunity to discuss the features and operation of the path with the public during construction through television and newspaper articles. An informational flyer will be distributed to area schools when the path opens to use to assist in educating students about safe bicycling and walking practices.

There will be no dedicated crosswalks proposed in the suburban area due to the wide roadway and faster moving vehicles. The majority of the path users are on the north side of the roadway. The pathway will join in with the new curb and gutter section of the US 2 Havre project at 22nd Avenue. In the rural section, the 2.4-m shoulder will be sufficient for one way travel of bicyclists with traffic both left and right of centerline.

Mitigation: The path will include additional safety features like rumble strips, signing, and painted cross hatching to deter vehicle use. An additional component to enhance safe use of the path will be public outreach and education at area schools. There will be ample opportunity to discuss the features and operation of the path with the public during construction through television and newspaper articles. An informational flyer will be distributed to area schools when the path opens to use to assist in educating students about safe bicycling and walking practices.

1.5 Railroad – The Federal Railroad Administration requested that no existing offset from the railroad be reduced. The ROD states: “The build alternatives would shift the existing roadway alignment to the south by up to 25 m (80 ft) in prioritized locations to provide a safer distance between the railroad and US 2 at railroad crossings with higher levels of safety and operational issues.” The Railroad Crossing Prioritization Study identified the private crossing 059388F at RP 386.5 (Station 48+17) as a High Priority Crossing.

With the proposed offset alignment, the holding area on the approaches that cross the railroad track will be longer to store vehicles. The average centerline offset is 17.0 m for the whole project length. The additional storage length will be approximately:

- 10.4 m at Station 35+68;
- 10.2 m at Station 48+17;
- 15.5 m at Station 89+34;
- 7.0 m at Station 114+48;
- 5.7 m at Station 128+19;
- 1.5 m at Station 157+23; and
- No change at Station 165+70.

The offset alignment increases the offset between the railroad and highway to provide for a higher level of improved safety at more locations than required in the FEIS/ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.6 Land Use - MDT anticipates that the proposed project will have no significant direct or indirect impacts on existing land use.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.7 Farmlands – MDT concludes that the impacts of the proposed project on farmland is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.8 Irrigation – An irrigation study has been completed. MDT concludes that the impacts of the proposed project on irrigation is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.9 Social Conditions – MDT concludes that the impacts of the proposed project on social conditions is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.10 Economic Conditions – MDT concludes that the impacts of the proposed project on economic conditions is consistent with the findings of the FEIS and ROD.

Impacts: The FEIS notes that the Auction yard east of Havre would be impacted. The structures would have been within right-of-way limits but not within construction limits. There are a couple of severely damaged structures at one location near the Seed Potato plant, but MDT does not identify any structure impacts or business displacements. Retaining or soil slope stabilized walls will be included to limit impacts to some businesses.

Mitigation: No change in mitigation.

1.11 Environmental Justice – MDT concludes that the impacts of the proposed project on environmental justice is consistent with the findings of the FEIS and ROD.

Impacts: A mobile home park near 34th Avenue Northeast has been identified by local officials as a low-income area. The conceptual alignment for the EIS closely followed the existing alignment to avoid potentially creating an environmental justice issue, but the proposed construction limits still were within feet of the residences. With modifications to lane and shoulder widths and a one degree angle point to the right at 32nd Avenue Northeast and then a 2000 m curve to the right (to the south) at 36th Avenue Northeast, the proposed centerline was projected to the right away from the mobile home park. A V-ditch and 3:1 back slopes without back slope rounding also helps to avoid impacting the mobile home park. No relocations of the mobile homes are expected.

Mitigation: No change in mitigation.

1.12 Right-of-Way and Relocation of Utilities – The FEIS noted that for the entire corridor, 305.9 acres of additional right-of-way was required and that 9.7 acres of construction easements with the railroad would be necessary to accommodate grading of side slopes and drainage improvements during construction of the new roadway. The FEIS did not separate the right-of-way needs by segment; therefore, this re-evaluation will not directly compare the impacts between the conceptual design and the proposed design. The proposed project will still require the acquisition of new right-of-way and relocation of utilities.

Impacts: The proposed project will require approximately 67 acres of right-of-way and approximately 3.3 acres of construction permits. Right-of-way required from the railroad will be approximately 0.6 acres in addition to approximately 4.4 acres of railroad special use license and approximately 4.0 acres of railroad construction permits. The shift away from the railroad reduced the right-of-way required from the railroad and provided space for utility relocations. Additional design modifications reduced the amount of right-of-way required for this project, especially in the more developed areas. MDT concludes that the impacts of the proposed project on right-of-way and relocation of utilities is consistent with the findings of the FEIS and ROD.

Mitigation: No change in mitigation.

1.13 Cultural and Historic Resources – MDT concludes that the impacts of the proposed project on cultural and historic resources is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.14 Air Quality – This proposed project is located in an unclassified/attainment area of Montana for air quality as defined under 40 CFR 81.327. This statement was provided in Section 4.3.2 in the FEIS and remains valid regarding the current design.

A Mobile Source Air Toxics (MSAT) analysis is not required for the proposed project since the design year traffic is not projected to meet the 140,000 to 150,000 annual average daily traffic

criterion. MDT concludes that the impacts of the proposed project on air quality is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts

Mitigation: No change in mitigation.

1.15 Noise – The FEIS identified a single noise sensitive receptor (HV-L:R8), but determined barriers may not be considered reasonable based on MDT’s criteria. An updated noise analysis, completed with updated traffic projections, identified 4 potential locations but did not recommend any cost-effective solutions. A receptor at Station 11+50 could not be improved without effecting potential receptors in the general area and no alignment changes were implemented. The impact to the receptor at Station 18+00 Left was reduced by shifting the centerline alignment to the south approximately 8.7 m. The impact to the receptor at Station 65+40 on the right was also reduced by shifting the vertical elevation 1.1 m lower from existing profile. There is inadequate room to erect a berm and totally block out the noise either without affecting others in the area. The noise receptor at Station 133+00 (KOA) was not improved because the shift in the alignment would move the centerline closer to the railroad, impacting the rail itself, and would require a detour for the new bridge replacement.

Impacts: No change in impacts

Mitigation: No change in mitigation.

1.16 Water Resources and Water Quality –MDT concludes that the impacts of the proposed project on water resources and water quality is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts

Mitigation: No change in mitigation.

1.17 Wetlands – Wetland impacts at the time of the FEIS are provided below in Table 2. Wetland impacts as a result of the proposed project are provided below in Table 3.

Table 2. Estimated FEIS Wetland Impacts

FEIS Wetland	Approximate Reference Post	Approximate Impacts Acres
A	383.7	0
B	383.6	0
C	389.1	0.6
D	389.4	<0.04
E	392.2	<0.04
F	392.0	0.6
G	392.2	0
H	392.2	0.5
I	392.5	0
Total		1.7

Table 3. Estimated Havre-East Wetland Impacts

Havre-East Approximate Station	Approximate Impacts		
	m ²	Ac	Ha
92+74 to 92+93 LT	58	0.0	0.01
92+75 to 93+00 RT and LT	202	0.1	0.02
137+11 to 137+34 LT	11	0.0	0.00
136+48 to 137+97 RT	2022	0.5	0.20
142+28 to 143+26 RT	1743	0.4	0.17
146+00 to 146+50 LT	39	0.0	0.00
147+00 to 147+55 LT	321	0.1	0.03
Total	4396	1.1	0.44

Impacts: Total estimated wetland impacts are 0.44 ha or 1.1 acre. The total wetland impacts have been reduced from approximately 1.7 acres to approximately 1.1 acres since the time of the EIS.

Mitigation: No change in mitigation.

1.18 Vegetation – MDT concludes that the impacts of the proposed project on vegetation is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.19 Wildlife and Aquatic Resources – Wildlife fencing is proposed between approximate Station 90+68 and Station 95+56 on the right and approximate Station 90+68 and Station 96+00 on the left with passage under the new structure at Little Boxelder Creek at approximate Station 92+95. Wildlife fencing is proposed between approximate Station 141+80 and Station 149+17 left and right with passage at the new structure at approximate Station 143+36 and a box culvert at approximate Station 148+28. MDT concludes that the impacts of the proposed project on wildlife and aquatic resources is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.20 Threatened and Endangered Species – The Black-tailed Prairie Dog (*Cynomys ludovicianus*), a Candidate species at the time of the EIS preparation, was removed as a candidate for listing under the Endangered Species Act (ESA) in August 2004. Bald eagles may occur along the Milk River during winter and could occasionally be in the vicinity of the Havre-East project. However, the bald eagle was officially delisted on June 28, 2007 and the species is no longer considered as a threatened species under the ESA. Bald eagles remain protected under the federal Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. There will be no impact to either of these species as a result of the Havre-East project.

The USFWS Endangered, Threatened, Proposed and Candidate Species list for Montana Counties (September 2008) lists pallid sturgeon (*Scaphirhynchus albus*) and black-footed ferret (*Mustela nigripes*) as occurring within Hill and Blaine Counties. Habitat for these species is not found within the project area. Neither of these species would be expected to occur within the vicinity of the project. This project will have no effect to either the pallid sturgeon or black-footed ferret.

Impacts: MDT concludes there are no substantial changes to impacts to Threatened or Endangered Species as a result of the proposed project.

Mitigation: No change in mitigation.

1.21 Floodplains – MDT concludes that the impacts of the proposed project on floodplains is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.22 Wild and Scenic Rivers – MDT concludes that the impacts of the proposed project on wild and scenic rivers is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.23 Water Body Modifications –MDT concludes that the impacts of the proposed project on water body modifications is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.24 Hazardous Materials – MDT concludes that the impacts of the proposed project on hazardous materials is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.25 Visual Resources – MDT concludes that the impacts of the proposed project on visual resources is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.26 Section 4(f) and Section 6(f) Resources – MDT concludes that the impacts of the proposed project on Section 4(f) and Section 6(f) resources is consistent with the findings of the FEIS and ROD.

Impacts: No change in impacts.

Mitigation: No change in mitigation.

1.27 Construction Impacts

Horizontal Alignment – In order to facilitate traffic flow during construction the existing centerline will be shifted where possible. The shift to the south varies throughout the project limits with a maximum shift of approximately 17 m within curves. This would align the existing right shoulder line to the new left edge of shoulder to limit the need for detours, reduce utility impacts on the north side, and improve traffic control and safety during construction. In some areas the new centerline is on the PTW. The horizontal alignment is adjusted with the goals of minimizing wetland and resource impacts, minimizing construction costs, maintaining traffic flow and minimizing property impacts.

The ROD (pg 12) does discuss the need to provide for efficient traffic control: “Construction will be phased to maintain two lanes of traffic and uninterrupted side road access to the greatest

extent practicable". This shift of centerline does allow traffic to be maintained throughout project construction through the use of appropriate signing, flagging, land closures, etc. Local access will be maintained to the maximum extent possible. The MUTCD will be utilized to guide the application of all traffic control plans. Motorists should expect slight delays during construction although no road closures will likely be allowed. Wide loads, pedestrian traffic, mail delivery, business access and bus pickup will be accommodated through the project limits during construction.

Impacts: The shift in centerline reduces construction impacts and improves safety during construction.

Mitigation: No change in mitigation.

1.28 Cumulative Impacts – The FEIS/ROD discussed active and planned projects by MDT, federal agencies, and others in the vicinity of the Havre-East project. Many of the identified projects (particularly those projects planned by MDT) have been implemented or are actions that would not likely affect or be affected by the proposed Havre-East project. The status of several other identified projects has not changed since the FEIS/ROD.

US 2-Havre – completed in 2008

14th Ave Signal – Havre – completed

40 km North of Havre North – completed

5th Avenue-Havre, UPP 5708(6), CN: 5953 – let in February 2008

SF069-Guardrail-S of Havre, HSIP 234-1(14)3, CN: 6090 – let in March 2008

2002-Curve-N of Havre, STPHS 232-1(5)4, CN: 5302 – let in February 2008

MDT's 2007-2009 Final Statewide Transportation Improvement Program was reviewed to identify any new highway projects near the Havre-East project since approval of the FEIS/ROD. These projects are identified and briefly described below.

Junction US 2 – North (CN: 4478) – currently under design

Milk River Bridge – East of Harlem (CN: 2790) – proposed let in May 2009

Milk River Bridge – West of Harlem (CN: 4810) – no letting date established.

Impacts: The incremental impacts of this project, when added to past, present, and reasonably foreseeable projects in the area, would not expect to result in a significant cumulative impact. This conclusion was reached because the other projects considered are not located immediately adjacent to the project area. The expected timing of construction activities for this project and other known or foreseeable projects will generally not coincide. The impacts directly associated with other known or foreseeable projects will typically be identified through the development of environmental documents and mitigated through the permitting processes established by the federal, state, and local authorities. Therefore, none of the above projects, in conjunction with the proposed project, will have any significant cumulative environmental impacts.

Mitigation: No change in mitigation.

1.29 Public Involvement – News releases will be provided describing the proposed scope of work and the need for the project to local media, radio, and television stations broadcasting in the area. Personal contacts with adjacent landowners explaining the work to be performed will be offered during the Right-of-Way phase. The main portion of the public involvement plan occurred during the EIS process and all controversial issues have been identified and addressed in the FEIS.

Mitigation: No change in mitigation.

1.30 Permits – Since the approval of the FEIS/ROD, MDT has continued to coordinate with appropriate federal, state, and local agencies regarding permit approvals needed for construction of the proposed project. MDT concludes that the permits required for the proposed project are consistent with the findings of the FEIS and ROD.

Mitigation: No change in mitigation.


Conclusions

The FEIS/ROD for the Havre-East project has been re-evaluated as required by 23 CFR 771.129(c) with respect to the proposed Havre-East project. Based on the re-evaluation, MDT determined that no substantial changes have occurred in the social, economic, or environmental setting of the project area. The project, as described in the original FEIS/ROD is not substantially different or changed and there will be no environmental effects that were not previously identified. The proposed Havre-East project is an action that would not significantly impact the quality of the human environment. Therefore, MDT requests the FHWA's concurrence that the proposed subject project is still covered under the FEIS/ROD.



Montana Department of Transportation

Date 3-28-09

Concur 

Federal Highway Administration

Date 3-31-09

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