



January 14, 2008



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ENVIRONMENTAL

Kevin L. McLaury  
Division Administrator  
Federal Highway Administration (FHWA)  
585 Shepard Way  
Helena, MT 59601

Subject: MT-CM 1099(32)  
6<sup>th</sup> Avenue North to Bench Boulevard  
CN 4553

## INTRODUCTION

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

The proposed action would be a project to construct approximately 1.2 kilometers (km, 0.75 miles, mi) of transportation improvements in Yellowstone County, Montana. The proposed project, known as the Bench Connector Project, would extend Bench Boulevard from its current south terminus to cross Alkali Creek and connect with Main Street at 6<sup>th</sup> Avenue North. Bench Boulevard is classified as an arterial in the Billings Urban Area 2000 Transportation Plan (2000 TP).

*Figure 1* and *Figure 2* are a project location map and aerial photograph, respectively. They show the project's alignment and limits on the eastern edge of the city of Billings.

### Project Area

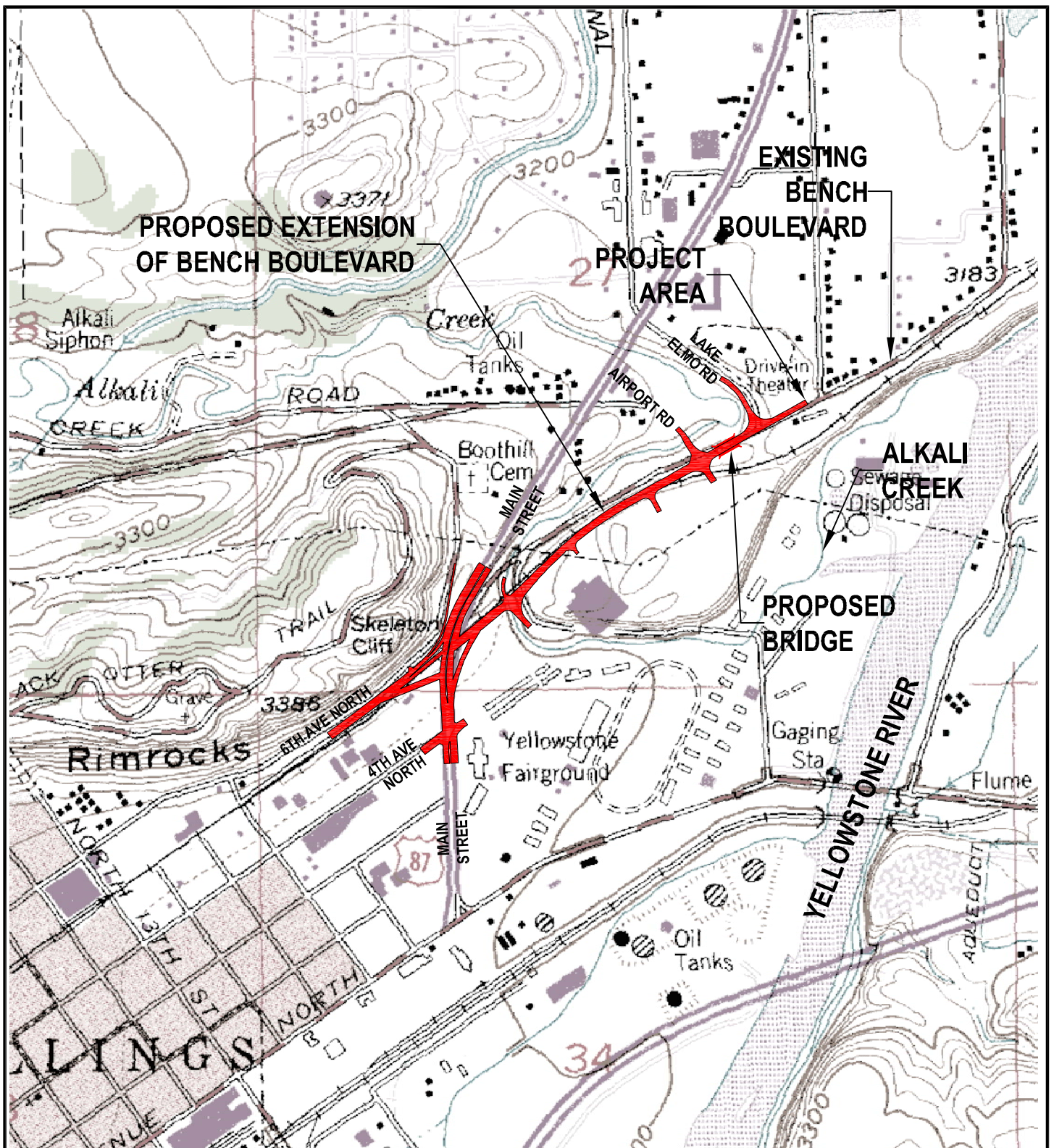
The project area is adjacent to the southeastern part of Billings Heights between Main Street on the west and the Yellowstone River on the east. It adjoins a mix of residential neighborhoods and commercial shopping and office centers in and around MetraPark and the Main Street and Bench Boulevard corridors.

The project area has four major components:

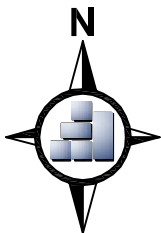
- MetraPark (Yellowstone County Fairgrounds)<sup>2</sup>, which is an event and entertainment center owned by Yellowstone County;

<sup>1</sup>CFR is Code of Federal Regulations; ARM is Administrative Rules of Montana; M.C.A. is Montana Code Annotated.

<sup>2</sup> Reference to MetraPark in this document either specifically includes the Yellowstone County Fairgrounds or incorporates the fairgrounds by reference, as applicable.



USGS QUADRANGLE MAPS-BILLINGS EAST & BILLINGS WEST-1975



SCALE IN METERS



Engineers  
Surveyors  
Scientists  
Planners

1 Engineering Place  
Helena MT 59602  
Phone: (406) 442-3050  
Fax: (406) 442-7862

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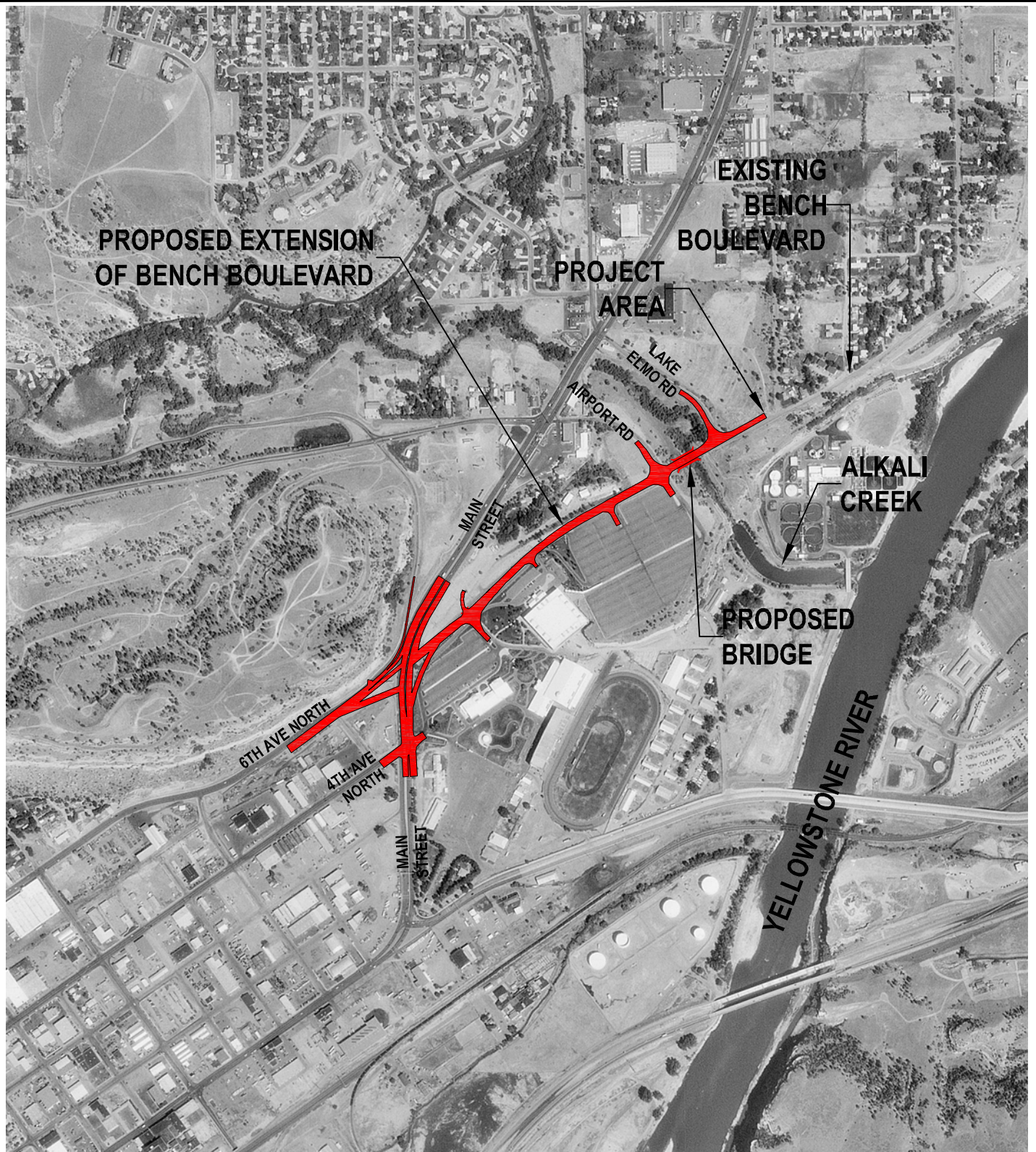
DRAWN BY: JMH  
CHKD. BY:  
APPR. BY: PF  
DATE: 8/2006

SIXTH AVENUE NORTH TO BENCH BLVD.  
BILLINGS MONTANA

PROJECT NO.  
0686.152

TOPOGRAPHIC AND VICINITY MAP

FIGURE NUMBER  
**FIG. 1**



USGS-ORTHO AERIAL-BILLINGS NW & SW-8/23/1996



SCALE IN METERS



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Surveyors  
Scientists  
Planners

1 Engineering Place  
Helena MT 59602  
Phone: (406) 442-3050  
Fax: (406) 442-7862

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SIXTH AVENUE NORTH TO BENCH BLVD.  
BILLINGS MONTANA

PROJECT NO.  
0686.152

AERIAL MAP

FIGURE NUMBER  
**FIG. 2**

- Earl Guss Park (formerly Sacrifice Cliff Park), which is a regional park owned by Yellowstone County;
- Main Street between 4<sup>th</sup> Avenue North and 6<sup>th</sup> Avenue North; and
- The south terminus of Bench Boulevard, which is north of Earl Guss Park.

The project area generally is described by the following boundaries:

- Main Street and the southern edge of the Rimrocks on the west;
- 4<sup>th</sup> Avenue North on the south;
- Yellowstone River on the east; and
- Heights East neighborhood of Billings Heights on the north.<sup>3</sup>

The legal description (P.M.M.)<sup>4</sup> of the project area is the following sections of Yellowstone County, Montana:

<u>Township</u>	<u>Range</u>	<u>Section(s)</u>
1N	26E	27
1N	26E	34

### Purpose and Need

The project is intended to improve air quality and traffic operations in the Main Street corridor. It also is intended to improve substandard geometrics, enhance traffic operation on connected city streets, upgrade the existing roadway surface, and provide a safer facility. Transportation improvements would improve access, increase traffic flow, and relieve traffic congestion on Main Street and at MetraPark.

The 2000 TP and the Billings 2002-2006 Transportation Improvement Plan (2006 TIP) identify Bench Boulevard as the highest priority to reduce traffic volume and congestion on Main Street (US 87). The project would improve the level of service (LOS) and capacity for city streets in and adjacent to the project area.<sup>5,6</sup>

The City of Billings is managing and administering the project, using a combination of federal and local funds. The 2000 TP adopts provisions of the Montana Air Congestion Initiative (MACI) as a source of funding for the project. The 2000 TP, 2006 TIP, City of Billings 2003 Growth Policy, and City of Billings/Yellowstone County Land Use, Zoning, and Subdivision Regulations provide regulatory authorization for the proposed project.

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<sup>3</sup> As defined in the 2000 TP.

<sup>4</sup> P.M.M. is Principal Meridian Montana.

<sup>5</sup> Level of service (LOS) is a measure of traffic flow conditions for highways and rural/urban streets, where the level is given a letter designation varying from A to F, representing a range of traffic flow and delay conditions. Capacity is the maximum sustainable flow rate at which vehicles or persons reasonably can be expected to traverse a point or uniform segment of a roadway, during a specified time period under given roadway, geometric, traffic, environmental, and control conditions, usually expressed as vehicles per hour. Information is from Highway Capacity Manual 2000, published by the Transportation Research Board.

<sup>6</sup> Refer to Billings Urban Area 2000 TP pp. 36-42 information on capacity and LOS related to the proposed project.

## **PROJECT DESCRIPTION AND SCOPE**

Transportation improvements would reconstruct the roadway generally along the existing alignment of the MetraPark circulation road.

The City of Billings would acquire an easement for right-of-way (ROW) from Yellowstone County sufficient to accommodate the planned cross section. The project begins at the current south terminus of Bench Boulevard, which is the transition to Lake Elmo Drive. It would extend Bench Boulevard south with a bridge over Alkali Creek, then west along the existing route of the circulation road. It would extend to a short distance beyond 6<sup>th</sup> Avenue North, west of Main Street, and connect with Main at 6<sup>th</sup> Avenue North (*Figures 1 and 2*).

### *Existing Alignment*

The alignment currently is a circulation road that provides access to MetraPark from Main Street, but does not carry through-traffic to Bench Boulevard. The existing circulation road traverses rolling terrain along the northern edge of MetraPark between Main Street and Alkali Creek. It has curb-and-gutter on the south side to facilitate surface drainage, and it is landscaped with lawn, shrubs and trees.

The north side of the circulation road does not have either curb-and-gutter or landscaping. The slope north of the circulation road descends to an area utilized for MetraPark's maintenance facility and storage of vehicles, equipment and materials. Parking areas for MetraPark are located north and south of the circulation road.

The current intersections of Main Street with 4<sup>th</sup> and 6<sup>th</sup> Avenues North are signalized and have pedestrian crosswalks.

### *Planned Improvements*

The roadway generally would have three travel lanes, with a total paved width (back-of-curb to back-of-curb) of 13.1 meters (m) (43 feet (ft)). A pedestrian sidewalk on the MetraPark side of the roadway would be 2.13 m (7 ft) wide. The three-lane section would have one traffic lane in each direction of travel, with a center turn lane for access primarily into MetraPark.

The cross section would include sidewalk, wheel chair ramps, curb cuts, curb-and-gutter, and storm drainage improvements. Typical features would be retaining walls, drainage facilities, erosion control measures, signing, striping, signalization, lighting, landscaping, and utility relocations. There would be some reconstruction of existing city streets east of Main Street, such as Lake Elmo Drive and Airport Road. These streets would connect Main Street and Bench Boulevard.

The project would include three basic facilities:

- A clear span bridge over Alkali Creek in the eastern part of Earl Guss Park;
- A new grade-separated structure (i.e., underpass) at the intersection of Main Street and 6<sup>th</sup> Avenue North (Main Street over); and
- At-grade connections between northbound Main Street and 6<sup>th</sup> Avenue North westbound, and Bench Boulevard eastbound.

A single span bridge across Alkali Creek, immediately south of the existing Bench Boulevard, would have three travel lanes at implementation with a span of approximately 52.0 m (170 ft) and a width of 20.3 m (67 ft). The bridge's width would provide for the paved roadway (12.8 m, 42 ft), plus 2.1 m (7 ft) for sidewalks and bridge rails on both sides (*Figure 2*). The bridge's width would also provide for a future 3.3 m (11 ft) auxiliary lane on the south side.

A below-grade structure (i.e. underpass) would have one travel lane to cross the full width of Main Street at the intersection of Main Street and 6<sup>th</sup> Avenue North. Immediately after crossing Main Street, the travel lane will connect to 6<sup>th</sup> Avenue North just west of North 7<sup>th</sup> Street. The new underpass would have a span of approximately 9.0 m (30 ft) and a length of approximately 44.2 m (145 ft). The underpass's width would provide for the paved roadway (4.3 m, 14 ft). The underpass would not provide sidewalks or other pedestrian facilities to cross Main Street. The underpass length would be sufficient to provide a sidewalk to maintain the continuity of the existing sidewalk along the east side of Main Street.

The project would provide a pedestrian crossing at the intersection of Main Street and 6<sup>th</sup> Avenue North. The existing pedestrian crosswalk on the south side of the intersection of Main and 4<sup>th</sup> Avenue North would be perpetuated.

The project would relocate and perpetuate the existing traffic signal at Main Street and 6<sup>th</sup> Avenue North. The northbound Main Street to westbound 6<sup>th</sup> Avenue North movement would be provided with a left turn lane at the signalized intersection of Main Street and 6<sup>th</sup> Avenue North. The northbound Main Street to eastbound Bench Boulevard movement would be provided with a right turn ramp prior to, but controlled by the signal.

The project would make minor modifications to the at-grade intersection of Main Street and 4<sup>th</sup> Avenue North. The improvements would widen Main Street approximately 1.8 m (6 ft) to the east to provide for two eastbound to northbound exclusive left-turn lanes, one left-turn/through lane, and one through/right-turn lane on 4<sup>th</sup> Avenue North. Signal modifications to accommodate the proposed geometrics would be completed.

#### *Construction Phasing*

Due to funding constraints, the project would be constructed in phases, with initiation of construction anticipated in Spring 2011. The improvements described above would be

constructed in two phases:

### Phase One

The general scope of the first phase involves the following:

- Alkali Creek bridge structure.
- Extension of Bench Boulevard from the north connection to existing Bench Boulevard improvements to a phase one, at-grade intersection with Main Street along the long-range horizontal and vertical alignments.
- Final connections to the MetraPark parking complex including 2 new traffic control signals.
- Widening of the east side of Main Street between 4<sup>th</sup> Avenue North and 6<sup>th</sup> Avenue North to accommodate the triple left turn from 4<sup>th</sup> Avenue North.
- The ramp connection from Main Street to northeast bound Bench Boulevard.
- Sufficient reconfiguration of the at-grade, southwest bound Bench Boulevard approach to Main Street to provide reasonable operational levels of service prior to construction of Phase Two improvements.
- Utility relocations as necessary to construct Phase One improvements.
- All drainage facilities required to accommodate both phases.
- Purchase of all necessary Right of Way for the long-range project scope.

With the exception of the grade separation under Main Street, this phase would construct essentially the final foot print of the portion of the project located east of Main Street. From the connection with the Bench Boulevard (existing north project limit), to the point where the vertical alignment would extend downward to pass under Main Street, the vertical alignment and the typical sections would be consistent with the long-range plan. The widening of Main Street between 4<sup>th</sup> and 6<sup>th</sup> and the ramp connection between Main Street and northeast bound Bench would also be constructed to final long-range plan.

### Phase Two

The second phase would include utility relocations and the remainder of the improvements as described above.

### *Design Criteria*

The horizontal alignment would closely match the existing alignment of the current MetraPark circulation road. Vertical curves would be designed to meet or exceed stopping sight distance. Horizontal and vertical curves would meet 60 km/h (40 mph) design speed criteria for this urban/central urban major city street. One design exception would be required for the sag vertical curve in the northbound Main Street to eastbound Bench Boulevard ramp profile. The 85 m (280 ft) vertical curve would not meet minimum criteria, but would be on the approach to a signalized intersection, with the intersection and signal highly visible.

The proposed design speed for this project is 60 kilometers per hour (km/h) (40 miles per hour (mph)), consistent with design speeds on streets in the project area.<sup>7</sup> Speed limits for the new segment of Bench Boulevard are anticipated to range from 40 to 60 km/h (25 to 40 mph), depending on the location and driving conditions. Intersections at two access points for MetraPark's upper and lower parking lots would be signalized (*Figure 2*).

### **SOURCE MATERIALS INCORPORATED BY REFERENCE**

The following documents provided information for this CE and are incorporated by reference:

- Preliminary Field Review Report: This report documents the proceedings and results of the preliminary field review held for this project on November 29, 2001;
- Biological Resources Report, January 2006: The BRR documents the detailed analysis of potential impacts and appropriate avoidance and mitigation for wildlife, fisheries, vegetation, rare and sensitive species, threatened and endangered (T/E) species, and wetlands;
- Initial Site Assessment Report for Hazardous Substances (April 25, 2003): This document provides information and explanation of hazardous materials issues identified in the project area;
- Preliminary Noise Study Memorandum (April 24, 2003): This document identifies ambient noise levels for several noise sensitive receptor locations;
- Traffic Noise Study (November 29, 2006): This document evaluates traffic noise level impacts for the project;
- Air Quality Assessment Memorandum (May 20, 2003): This document determined the proposed project is authorized by conforming transportation plans that have completed all necessary air quality analyses. The 2000 TP and the 2006 TIP include a regional emissions analysis to demonstrate authorized projects would not adversely affect air quality;
- Sixth Avenue to Bench Boulevard Cultural Resource Inventory (April 15, 2003) and Addendum Report for Sixth Avenue to Bench Boulevard, Cultural Resource Inventory (September 18, 2003). These documents identify sites eligible for listing on the National Register of Historic Places (NRHP) and requiring coordination with the Montana State Historic Preservation Office (SHPO) on a decision for determination of effect;
- Subsurface Utility Engineering Phase I Report: This document provides a comprehensive plan of existing utilities;
- Preliminary Hydraulics Report (October 2003): This report evaluates groundwater and surface water for design and construction;

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<sup>7</sup>Design speed is a selected speed used to determine various geometric design features for the horizontal and vertical alignment of a roadway. The assumed design speed reflects conditions related to terrain, anticipated operating speed, adjacent land use, and functional classification of the highway.



- Soil Survey and Geotechnical Work Report (May 6, 2004): This report evaluates geotechnical features and conditions for design and construction;
- Billings Urban Area 2000 Transportation Plan (August 1999): This document provides authorization and guidance for the City of Billings to develop the proposed project;
- Billings 2002-2006 Transportation Improvement Plan, (August 2001): This document identifies priority development of transportation projects; and
- Montana Air Congestion Initiative (MACI). This document is a source of funding for the project.

The above documents can be reviewed at the following locations:

City of Billings, Engineering Division  
510 North Broadway – 4<sup>th</sup> Floor  
Billings, Montana 59101  
Contact: Chris Hertz, P.E., Staff Engineer, (406) 657-3095

Montana Department of Transportation  
Environmental Services Bureau  
2701 Prospect Avenue  
Helena, MT 59620-1001  
Contact: Dan Smith, (406) 444-0456

Parenthetical references in text and numbered footnotes identify other sources of reference material used for documentation of information in this CE.

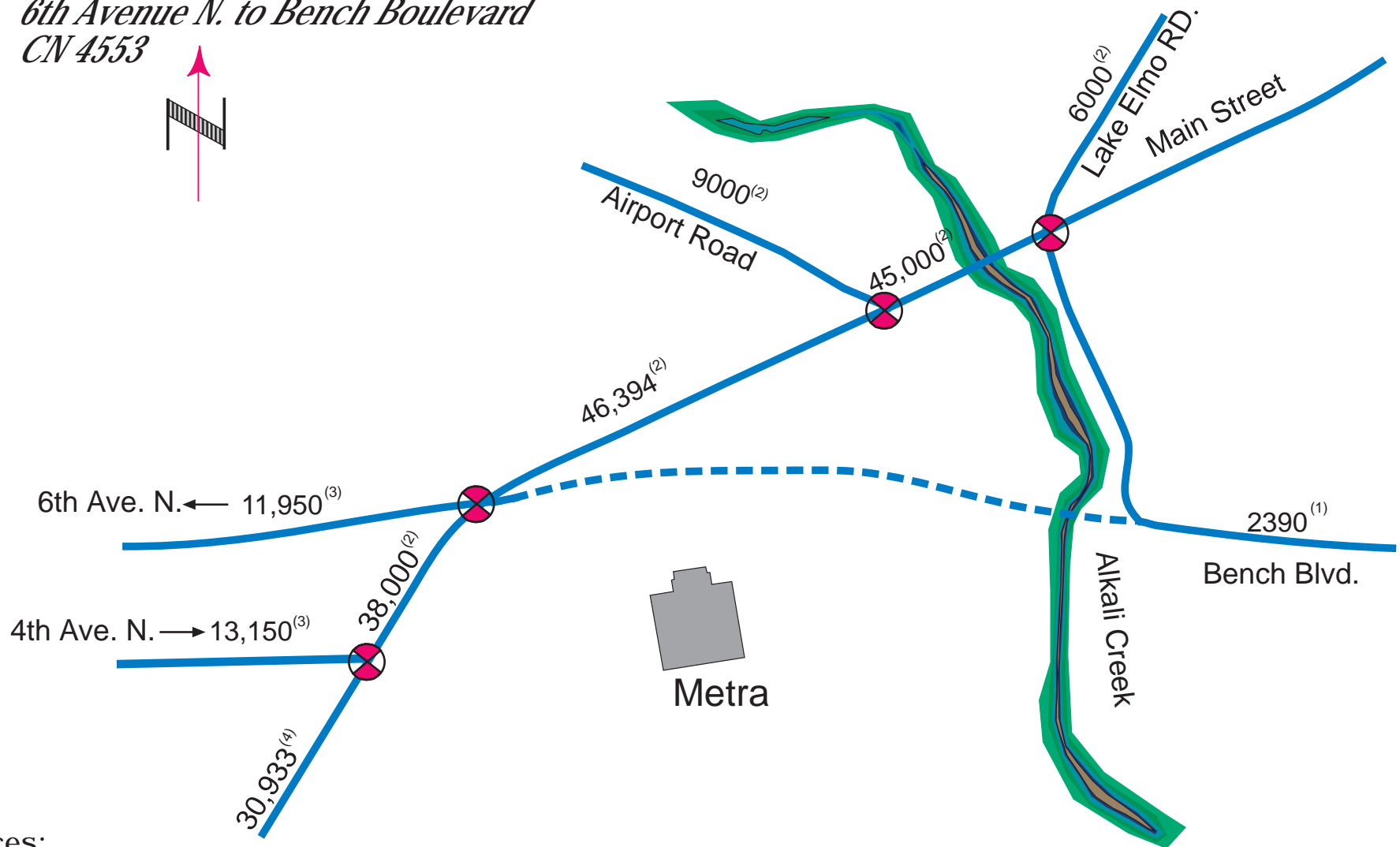
### **TRAFFIC AND SAFETY**

*Figure 3* and *Figure 4* are daily traffic counts and peak hour conditions, respectively. They show the project area's existing traffic conditions. *Figure 5* shows forecast daily traffic volumes from the Billings Urban Area 2000 Transportation Plan. Traffic on Bench Boulevard is predicted to be 11,850 average annual daily traffic (AADT) upon implementation of the improvements, increasing to 15,400 AADT at the end of the 20-year design period.

Accident data are not available for MetraPark's internal circulation roads, access roads, and parking areas. The following accident data are available for Main Street, between 4<sup>th</sup> Avenue North (Reference Point 1.499, RP) and Lake Elmo Drive (RP 2.107) (*Figures 1 and 2*) for the period January 1, 2000 through December 31, 2002.

The MDT Highway Information System recorded 259 accidents for the referenced period. There were no fatalities, but 79 accidents (31%) resulted in injury. Most accidents occurred at intersections (239, 92%) as opposed to mid-block (20, 8%), and rear-end collisions (180, 69%) were most prevalent. Dry roads (199, 77%), clear weather (176,

*CM 1099 (32)*  
*6th Avenue N. to Bench Boulevard*  
*CN 4553*

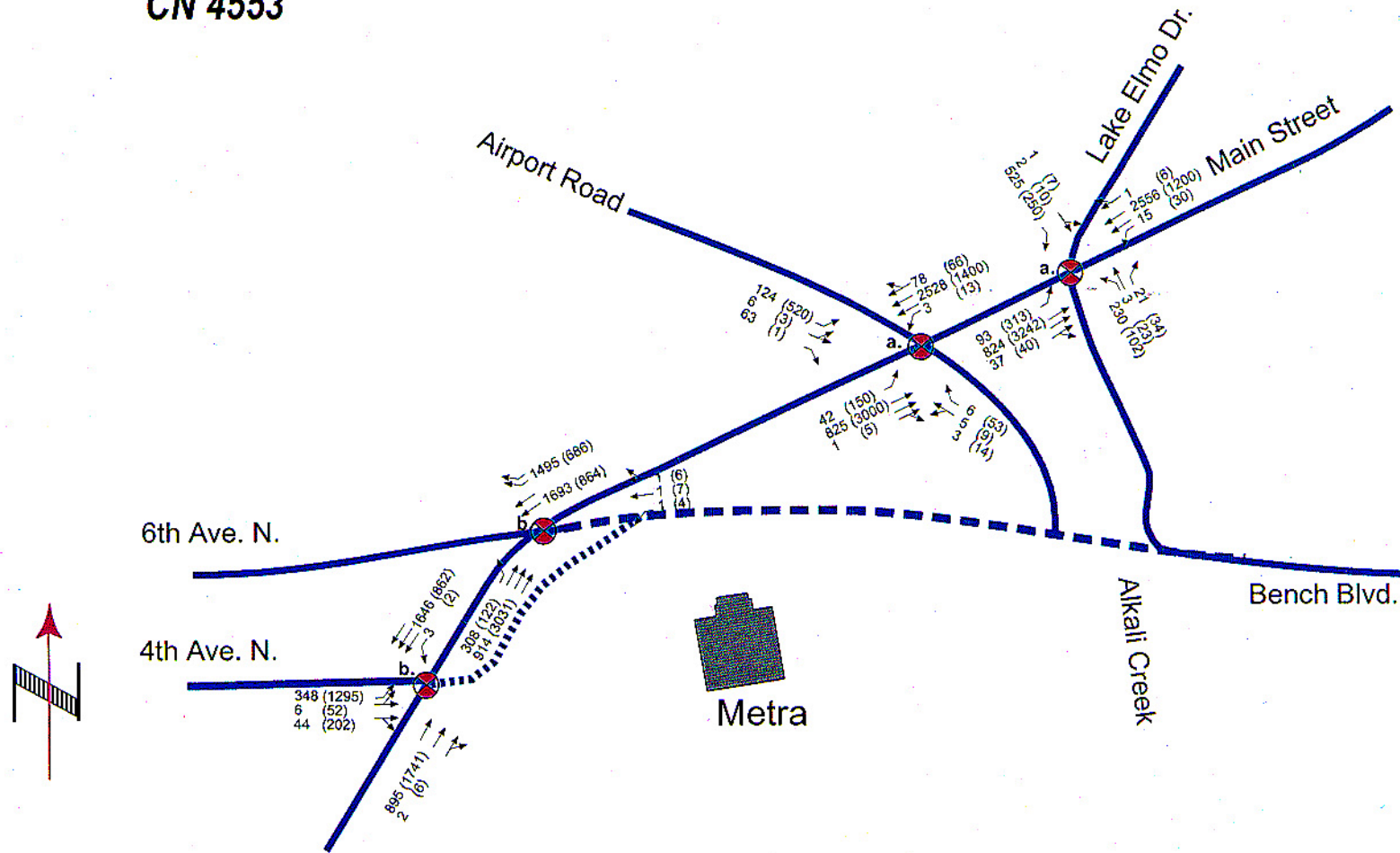


Sources:

1. *Bench Boulevard Corridor Review Identification*  
 September 2002 (Morrison-Maierle, Inc.)
2. *2002 Billings Urbanized Area Traffic Count Map*
3. *6th Ave. Nth. to Bench Boulevard, CM 1099 (32)*  
 May 2003 (Morrison-Maierle, Inc.)
4. *Main Street, Billings Heights, NH16-1(38)1*  
 February 2001 (Interstate Engineering)

**Figure 3**  
**Daily Traffic Counts**

**CM 1099 (32)  
6th Avenue N. to Bench Boulevard  
CN 4553**



**Legend**

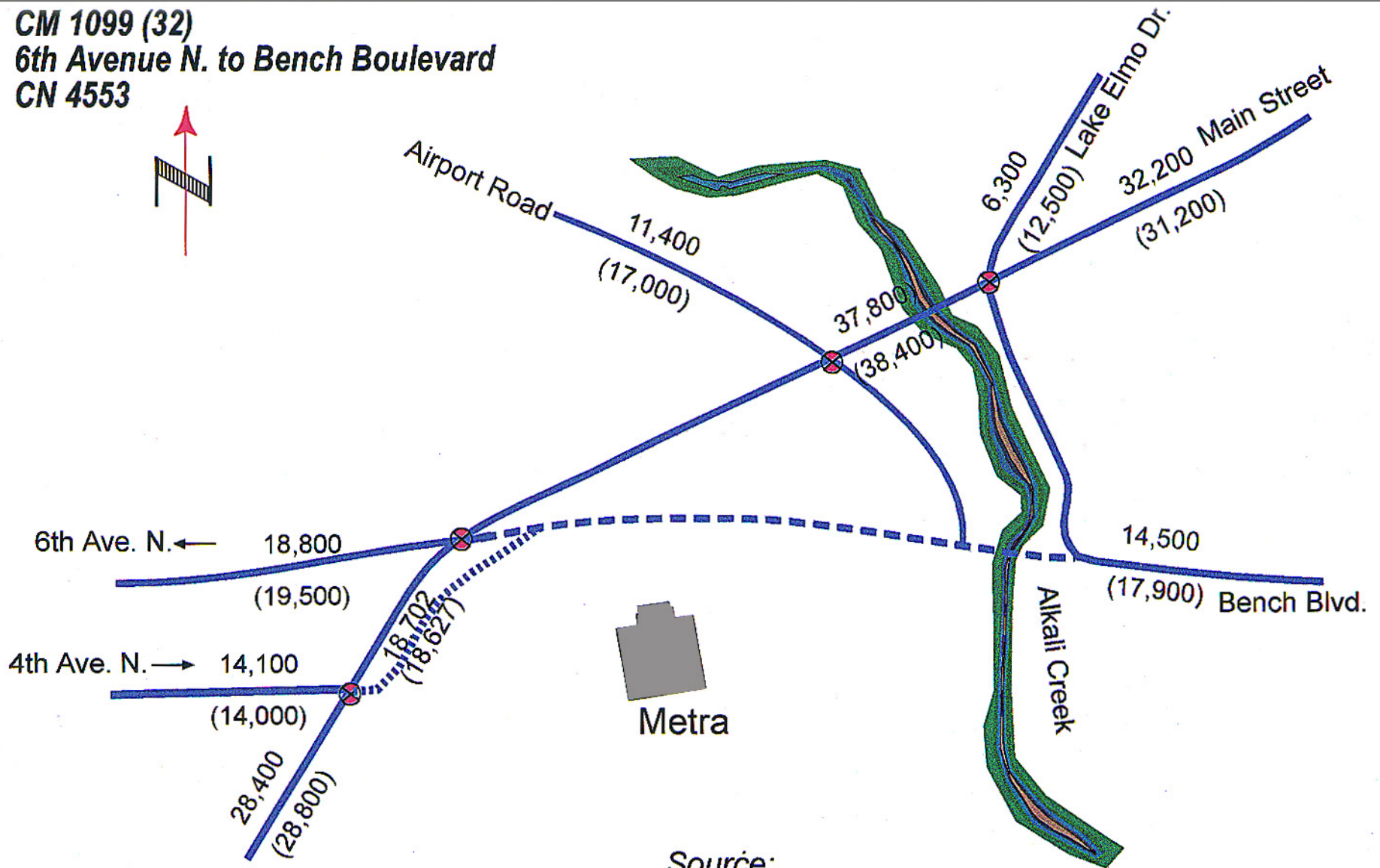
- 50 (100)
- ← PM Peak Hour
- AM Peak Hour
- ⊗ Existing Traffic Signal

**Source:**

- a. Interstate Engineering, Inc.
- b. Morrison-Maierle, Inc. traffic counts recorded October 2003

**Figure 4  
Existing Peak Hour Conditions**

**CM 1099 (32)  
6th Avenue N. to Bench Boulevard  
CN 4553**



Source:  
Billings Urban Area  
2000 Transportation Plan

**Legend**

- 1000 - 2010 Design Volume
- (2000) - 2020 Design Volume
- ⊗ Existing Traffic Signal

**Figure 5**  
**Forecast Daily Volumes**

68%), and daylight (218, 84%) were the most prevalent conditions. There were 179 accidents (69%) on straight and 181 (70%) on level segments of the street. There was one accident (0.4%) involving a pedestrian.

The intersections at Main Street with 4<sup>th</sup> and 6<sup>th</sup> Avenues North had 37 and 48 accidents, respectively. As with the full 4<sup>th</sup> Avenue North to Lake Elmo Drive segment, rear-end accidents were most prevalent, with 31 (84%) at 4<sup>th</sup> Avenue North and 20 (42%) at 6<sup>th</sup> Avenue North. Right angle accidents (17, 35%) also had a high occurrence at the 6<sup>th</sup> Avenue North intersection.

### **AREAS OF NO ADVERSE EFFECT**

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

<u>X</u> Land Use	<u>X</u> Wetlands
<u>X</u> Farmlands	<u>X</u> Noxious Weeds
<u>X</u> Pedestrian and Bicyclist Use	<u>X</u> Social and Economics
<u>X</u> Noise	<u>X</u> Historical and Cultural Resources
<u>X</u> Air Quality	<u>X</u> Section 6(f) – National Land and Water Conservation Fund Act (NLWCF) of 1965
<u>X</u> Hazardous Substances	<u>X</u> Environmental Justice (E.O. 12898, Federal Actions to Address Environmental Justice in Minority Population and Low Income Populations)
<u>X</u> Stream Crossing and Water Quality	<u>X</u> Americans with Disabilities Act (P.L. 101-336, ADA)
<u>X</u> Flood Plains (E.O. 11988)	
<u>X</u> Common Species of Terrestrial and Aquatic Resources	
<u>X</u> Rare and Sensitive Species	
<u>X</u> Threatened and Endangered Species	

The project would not adversely affect the resources and values listed above. Technical reports and correspondence for documentation of mitigation and no adverse effect are in the project files. Evaluation for documentation of no adverse effect is presented below for these areas of environmental concern:

Land Use – The project area is within areas of the City of Billings and Yellowstone County. Current land use is a mix of open space, with commercial and recreational uses at MetraPark and Earl Guss Park. The project area, which contains portions of MetraPark and Earl Guss Park, does not have private residential or commercial development.

Several residences are adjacent to the north end of the project area. There is commercial development with shopping and office centers adjacent to the south and north ends of the project area (*Figure 2*).

Yellowstone County owns MetraPark and Earl Guss Park. The City of Billings and the

State of Montana currently own lands and ROW along Main Street, between 6<sup>th</sup> and 4<sup>th</sup> Avenues North. Private lands are located west of Main Street between 6<sup>th</sup> and 4<sup>th</sup> Avenues North, and along the east and west sides of Bench Boulevard, north of Alkali Creek.

MetraPark (Yellowstone County Fairgrounds) is an event center and entertainment complex. It contains an arena, exhibition buildings, grandstand with entertainment and athletic facilities, and an extensive network of paved circulation roads, access roads, and parking areas. The arena, exhibition buildings, and fairgrounds are south of the proposed alignment.

MetraPark also has a maintenance facility and a caretaker residence located a short distance north of the alignment. The maintenance yard includes two buildings used for a shop and storage. The maintenance yard also is an outside storage area for equipment and materials.

Human use of the area includes MetraPark's employees and recreational and commercial visitors, as well as recreational visitors to Earl Guss Park. Earl Guss Park provides open space in an urban setting. It has a network of trails, kiosks, benches, and picnic areas for hiking, biking, and viewing wildlife.

The project would improve access and flow for traffic on Main Street and Bench Boulevard. It also would improve traffic operation for access roads and parking areas for MetraPark and Earl Guss Park.

Through-traffic on the Alkali Creek Bridge and Bench Boulevard would increase human activity in close proximity to MetraPark and Earl Guss Park. The effect of transitory human activity would be minor because there are established patterns of traffic and access.

The project would not result in new development in the project area, and it would not change the amount or pattern of development. *Refer to Page 29, Parks and Recreation*, for detailed discussion of public use for MetraPark and Earl Guss Park.

Construction would temporarily disrupt access for the public at MetraPark and Earl Guss Park. *Refer to Page 37, Traffic Control*, for discussion of temporary impacts to MetraPark, Earl Guss Park, and adjacent properties during construction.

Farmlands – No farmlands, including prime or unique farmlands or farmlands of statewide or local importance, have been identified in the project area. In the absence of any farmlands, this CE does not include a Farmland Conversion Impact Rating Form (AD-1006), which is a requirement of the Farmland Protection Policy Act (FPPA-7 U.S.C. 4201, et seq. U.S. Department of Agriculture, Natural Resources Conservation Service, B. Woodson. May 7, 2003.

Pedestrian / Bicycle Use – The project would improve access and facilities for pedestrians and bicyclists. Hiking and biking trails in Earl Guss Park would connect with Bench

Boulevard. Bench Boulevard would have a continuous sidewalk on the south side of the project.

Noise – A preliminary noise study report memorandum in April 2003 indicated predicted noise levels and a comparison of predicted levels was completed for the project in April 2003. The noise study report determined that a traffic noise impact analysis and report is required for this project because the roadway is within an area with sensitive noise receptors.

The final traffic noise study predicted traffic noise impacts, as defined by 23 CFR 772 and the Montana Department of Transportation's (MDT) Noise Policy, would not occur as a result of the project.<sup>8</sup>

Air Quality – The project is authorized by conforming transportation plans that have completed all necessary air quality analyses.<sup>9</sup> The 2000 TP and the 2006 TIP include a regional emissions analysis to demonstrate authorized projects would not adversely affect air quality. In February 2002, the U.S. Environmental Protection Agency (EPA) approved the re-designation of the city of Billings from non-attainment to attainment for carbon monoxide (CO), with an approved 10-year maintenance plan. The city of Billings is an area of concern for sulphur dioxide (SO<sub>2</sub>) and is expected to be selected in the future as an area of non-attainment.

As such, the project complies with the EPA Final Rule of November 24, 1993, and Final Rule of September 15, 1997, on air quality conformity and Section 176(c) of the Clean Air Act (42 U.S.C. 7521(a)), as amended. The Montana Department of Environmental Quality (MDEQ) considers the 2000 TP and 2006 TIP to be conforming plans, with no further requirement for analysis of air quality. The 2000 TP includes provisions of the Montana Air Congestion Initiative (MACI) as a source of funding for the project.

Hazardous Substances – An Initial Site Assessment Report for Hazardous Substances (ISA) was completed in April 2003. The ISA determined there are no sites with hazardous substances within the construction limits of the project.

Based on these findings, there would be no impacts to soil and groundwater due to hazardous substances. Construction activity in the following areas would not require further investigation for hazardous substances:<sup>10</sup>

- Alignment of Bench Boulevard;
- Slope between Bench Boulevard and the MetraPark maintenance facility; and,

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<sup>8</sup>Preliminary Noise Study Report, 6<sup>th</sup> Avenue North to Bench Boulevard, Billings CM 1099 (32), CN 4533. Big Sky Acoustics, LLC. April 24, 2003; Traffic Noise Study, 6<sup>th</sup> Avenue North to Bench Boulevard, Billings CM 1099 (32), CN 4533. Big Sky Acoustics, LLC. November 29, 2006.

<sup>9</sup>Memorandum of Air Quality Assessment, 6<sup>th</sup> Avenue North to Bench Boulevard, Billings CM 1099 (32), CN 4533. Bison Engineering. May 20, 2003.

<sup>10</sup> Initial Site Assessment for Hazardous Substances, 6<sup>th</sup> Avenue North to Bench Boulevard, Billings CM 1099 (32), CN 4533. McDevitt Associates, Inc. April 25, 2003.

- Access road between Bench Boulevard and the MetraPark maintenance facility.

The ISA identified potential residual substances associated with the floor drain and historical operations of the MetraPark maintenance facility, which is north of the proposed alignment (*Figure 2*). The ISA determined any construction or relocation involving the maintenance facility will require further investigation. No construction or relocation of the maintenance facility is proposed as a component of this project.

If required, the existing asphalt surface course could be milled and used as temporary surfacing on temporary circulation road detours for access, circulation, and parking at MetraPark during construction. Additionally, asphalt waste materials may be used in fill areas that do not encroach on wetlands and streams. Excavated materials remaining after construction will be disposed of or salvaged in accordance with current regulations administered by MDT and MDEQ.

Stream Crossing and Water Quality – The project would include the Alkali Creek Bridge in the eastern part of Earl Guss Park. The bridge, bridge-span support structures, and approach roads would occur above the ordinary high-water mark (OHW) of Alkali Creek. No permanent impacts would occur below the creek's OHW. Areas of permanent disturbance would not exceed 1.2 ha (0.5 ac).

Alkali Creek is not on the current list of Montana Water Quality Assessment Database 2004, Montana Integrated Water Quality Report for Impaired Waters 303(d). A Biological Resources Report (BRR) determined the project would have no adverse effect to water quality on an impaired water body.<sup>11</sup>

Construction of Bench Boulevard and the Alkali Creek Bridge would temporarily disturb vegetation and increase the potential for stormwater runoff and sediment in the areas of the wetland and Alkali Creek at Earl Guss Park. Project design and construction will incorporate appropriate measures for treatment. These include feasible retention and detention ponds to limit storm drainage reaching the Alkali Creek basin. *Refer to Page 22, Wetlands*, for detailed discussion of impacts on the wetland and Alkali Creek.

MDEQ has authority to identify impaired or threatened bodies of water and set limits on pollutants, which it identifies as total maximum daily load (TMDL). MDEQ's TMDL Planning Area Completion Schedule does not have a schedule to assess Alkali Creek, per se. However, the Completion Schedule does indicate completion for the "Yellowstone Sweetgrass Area" between 2009 to 2012 for TMDL.

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<sup>11</sup> Biological Resources Report, Sixth Avenue North to Bench Boulevard, Billings, Montana. Morrison-Maierle, Inc., Environmental Services Group. January 2006.



### Temporary Stream Crossing

Construction of the Alkali Creek Bridge could require a temporary crossing in the channel of Alkali Creek (*Figure 2*). This will require compliance with federal and state regulations for protection of aquatic resources:

- Clean Water Act 404 permit
- Montana Stream Protection Act 124 permit
- 318 Short-Term Turbidity Authorization

The BRR determined construction of temporary facilities would not result in permanent impact to Alkali Creek. Conservation and coordination measures will avoid and minimize impacts to the creek. In areas where construction would require excavation and ground disturbance, Best Management Practices (BMPs) will require control and containment of erosion, storm drainage, and sedimentation.

BMPs will prevent incidental erosion and runoff to Alkali Creek, and should be based on the Erosion and Sediment Control Best Management Practices: Field Manual (MDT March 2003 (Revised May 2004)). These practices will include compliance with an erosion control plan. *Refer to Page 37, Erosion Control*, for detailed discussion of BMPs to avoid and minimize erosion of disturbed areas.

Flood Plains (E.O. 11988) – The Federal Emergency Management Agency has established the 100-year flood plain for Alkali Creek. The project area is outside the delineated 100-year flood plain. Bench Boulevard and the Alkali Creek bridge would be elevated and outside the flood plain. The project would not affect the water surface at the 100-year flood limit elevation. *Refer to Page 16, Stream Crossing and Water Quality*, for detailed discussion of construction of the Alkali Creek Bridge.

Terrestrial and Aquatic Resources – The project area is a subsection of the Montana Sedimentary Plains, Powder River Basin ecological unit. Plains and hills formed in residuum and alluvium from shale and sandstone characterize the area. The elevation is approximately 950.9 m (3,120 ft), and average annual precipitation ranges from 25.4 to 35.6 centimeters (cm) (10 to 14 inches (in)). The project occurs in the Undifferentiated Stream and Lake bottoms vegetative type, and general topography is bottomland and generally flat.<sup>12</sup>

A literature review, on-site field survey, and off-site analyses and consultation were conducted between April 2003 and January 2006. On-site investigation of terrestrial and aquatic resources focused primarily on the Alkali Creek crossing and a corridor approximately 30 m (100 ft) on either side of the center line of the proposed alignment (*Figure 2*). The alignment would cross Alkali Creek with a new bridge approximately

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<sup>12</sup> Biological Resources Report. Sixth Avenue North to Bench Boulevard, Billings, Montana. Morrison-Maierle, Inc., Environmental Services Group. January 2006.

50 m (166 ft) above the creek's terminus at the Yellowstone River.

The BRR analyzed the project for impacts on vegetation, wildlife and fish. This evaluation of the project site included:

- Common species of vegetation, wildlife and fish;
- Rare and sensitive species of vegetation, wildlife and fish;
- Wetlands; and
- Threatened and Endangered Species.

The BRR identified a diversified habitat within the Alkali Creek riparian area, including a riverine wetland, as well as an upland hillslope adjacent to Alkali Creek. On-site investigation identified fish and wildlife habitat; fish and wildlife individuals; signs of wildlife—such as tracks, scat, and nest structures.

#### Common Species of Vegetation

The BRR describes the project area's general topography as bottomland and generally flat, with an upland hillslope adjacent to the streambed of Alkali Creek. Common species of trees include willow (*Salix spp.*), cottonwood (*Populus spp.*), black cottonwood (*Populus balsamifera*), and Siberian elm (*Ulm pumila*).

Common species of plants in the project area include sagebrush (*Artemisia spp.*), silver sagebrush (*Artemisia cana*), rabbitbrush (*Chrysothamnus spp.*), common snowberry (*Symphoricarpos albus*), silver buffaloberry (*Shepherdia argentea*), western wheatgrass (*Agropyron smithii*), blue gramma (*Bouteloua gracilis*), and lamb's-quarters (*Chenopodium album*).

Crested wheatgrass (*Agropyron cristatum*), silver sagebrush, cheatgrass (*Bromus tectorum*), and puncturevine (*Tribulus terrestris*) are the predominant vegetation adjacent to Alkali Creek along the upland hillslopes. Vegetation in the wetland area includes broad-leaf cattail (*typha latifolia*), reed canarygrass (*phalaris arundinacea*), hairy willowherb (*Epilobium ciliatum*), bittersweet nightshade (*Solanum dulcamara*), Russian olive (*Elaeagnus angustifolia*), red-osier dogwood (*Cornus sericea*), and golden currant (*Ribes aureum*).

MetraPark has a variety of landscape vegetation, including grass, shrubs and trees. There is a row of mature cottonwood and elm trees lining the western property line of MetraPark.

#### Common Species of Wildlife

The BRR determined the project area is likely to support 17 of 51 species of mammals that occur in Yellowstone County (*Figure 2*). Field investigation observed white-tailed deer (*Odocoileus virginianus*), desert cottontail (*Sylvilagus audubonii*), and muskrat (*Ondatra zibethicus*). Tracks and scat in the Alkali Creek riparian area, upland hillslopes, and

stream banks indicated moderate use by deer, raccoon (*Procyon lotor*), and muskrat (*Ondatra zibethicus*).

Yellowstone County has 19 species of reptiles and amphibians with common occurrence. The BRR determined the great plains toad (*Bufo cognatus*), Woodhouse's toad (*Bufo woodhousii*), common garter snake (*Thamnophis sirtalis*), and terrestrial garter snake (*Thamnophis elegans*) are likely to occur in the project area. Field investigation did not observe any reptiles or amphibians.

The Montana Natural Heritage Program (MNHP) compiles a Montana Bird Distribution Database. It identifies 75 species of songbirds, waterfowl, and raptors likely to utilize habitat within and adjacent to the project area. Observed nesting habitat on-site included nest cavities in live trees and in the dense riparian vegetation of cattails and reed canarygrass. Field investigation observed 14 species of birds, in the Alkali Creek basin. The BRR identified birds observed including black-billed magpie (*Pica pica*), ring-necked pheasant (*Phasianus colchicus*), red-winged blackbird, (*Agelaius phoeniceus*), European starling, (*Sturnus vulgaris*), mallard (*Anas platyrhynchos*), and others.

#### Rare and Sensitive Species of Vegetation

MNHP maintains a database of rare and sensitive plant species. The United States Forest Service (USFS), Bureau of Land Management (BLM), and MNHP designate rare and sensitive vegetative species in Montana.

A search of the MNHP database determined no species of concern occur within a 1.61 km (1 mi) radius of the project area.

#### Rare and Sensitive Species of Wildlife

MNHP maintains a database of rare and sensitive wildlife species. The Montana Department of Fish, Wildlife and Parks (MFWP), USFS, BLM, and MNHP designate rare and sensitive wildlife species in Montana.

A search of the MNHP database determined five rare or sensitive species could occur within a 1.61 km (1 mi) radius of the project area:

- Western hognose snake (*Heterodon nasicus*)
- Milk snake (*Lampropeltis triangulum*)
- Peregrine falcon (*Falco peregrinus*)
- Spotted bat (*Euderma maculatum*)
- Spiny softshell (*Trionyx spiniferus*)

A response letter from MFWP stated two state-sensitive species (i.e., western hognose snake and milk snake) could be present or have potential habitat in the project area. Considering factors such as the adjacent land use, results of the reptile/amphibian survey,

the historical excavation and realignment of Alkali Creek and its adjacent upland area, and no documented occurrences of western hognose snakes within the proposed project area, it is concluded that the project will not impact the state-sensitive western hognose snake or the state-sensitive milk snake.

#### Common Species of Fish

According to the Montana State Library Natural Resource Information System (NRIS), Montana Fisheries Information Database (MFISH), Alkali Creek historically is fishless from stream km 0.0 to 32.35 (mi 0.0 to 20.1). A fish survey of Alkali Creek northwest of the project area did identify fish species in June 2003 (*Figures 1 and 2*):

- Thirty-four lake chub (*Couesius plumbeus*)
- One long-nosed dace (*Rhinichthys cataractae*)
- One fathead minnow (*Pimephales promelas*)

MFISH in July 2003 also identified 39 lake chub from stream km 11.6 to 11.8 (mi 7.2 to 7.3).

#### Rare and Sensitive Species of Fish

An MNHP database search determined no fish species of concern occur within a 1.6 km (1 mi) radius of the project (*Figure 2*):

#### Impacts and Mitigation Measures - Terrestrial and Aquatic Resources

The BRR determined the project would not adversely affect common and rare and sensitive species of vegetation, wildlife, birds and fish. The BRR also determined there would be temporary or minor impacts for general vegetation and wildlife. *Refer to Pages 26 & 27, General Vegetation and General Wildlife*, for discussion of temporary or minor effects on vegetation and wildlife.

The project area currently has a moderate level of human activity with vehicle traffic and recreation. High quality wildlife habitat and high densities of wildlife do not occur within or adjacent to the construction limits of the project.

In areas where construction would require excavation and ground disturbance, BMPs will require control and containment of erosion, storm drainage, and sedimentation. These practices will include compliance with an erosion control plan. *Refer to Page 37, Erosion Control*, for detailed discussion of BMPs to avoid and minimize impacts to terrestrial and aquatic resources.

The BRR recommends conservation and coordination measures to minimize and avoid impacts for terrestrial and aquatic resources within, adjacent to, and downstream of the project area:

Terrestrial Resources:

- Avoid excessive disturbance of ground area and vegetation adjacent to the construction limits;
  - This includes the alignment for Bench Boulevard and the Alkali Creek Bridge, bridge-span support structures, and approach roads;
- Develop a weed management plan in coordination with the Yellowstone County Weed District;
  - The plan will identify weed control strategies;
  - If chemical control of weeds is necessary, select herbicides appropriate for fish, wildlife, wetlands and riparian areas in Earl Guss Park and along Alkali Creek;
- Revegetate disturbed areas caused by construction activity in the ROW and construction zone;
  - Develop a desirable seed mix appropriate for the project area to prohibit establishment and spread of invasive weed species (i.e., noxious weeds);
- Avoid and minimize damage to existing trees within and adjacent to the project area;
- Maintain adequate, desirable habitat for fish and wildlife, particularly migratory birds;
- Avoid disturbance of occupied nests located within the construction limits and project area;
  - Occupation includes mature birds, hatchlings, fledglings, and viable eggs;
- Removal of nests or structures that harbor nests in the project area must occur outside the nesting season and when nests are not occupied;
  - This typically is between August 16 and April 30.

Aquatic Resources:

- Avoid or minimize disturbance of riparian vegetation within the ROW, where practicable;
- Revegetate ground disturbance as soon as practicable with desirable species, as recommended by MDT's reclamation specialist;
- Implement BMPs, based on MDT's reference manual, to control erosion, sedimentation and turbidity. BMPs can include, but are not limited to, installing silt fences, coffer dams, or hay bale dikes;
- Ensure proper disposal of all waste fuels, lubricating fluids, and other chemicals;
- Locate sites for supporting construction a minimum of 15m (50 ft) from the OHW for Alkali Creek, including servicing vehicles, refueling, fuel storage areas, staging areas for vehicles and equipment, and storage areas for materials.

Migratory birds could nest on temporary structures required for construction of the Alkali Creek Bridge. The Migratory Bird Treaty Act (MBTA) protects all migratory birds, including but not limited to swallows and other song birds.

The project will comply with MBTA to avoid the taking of migratory birds, eggs, hatchlings or fledglings during construction and removal of structures. The BRR determined compliance with MBTA will ensure no adverse effect for migratory birds.

Threatened and Endangered Species – The U.S. Fish and Wildlife Service (USFWS) provided information about federally-listed threatened and endangered (T/E) species under Section 7(a) of the Endangered Species Act (16 U.S.C. 1531 - 1543). USFWS indicated three T/E species occur in Yellowstone County:

- Bald eagle (*Haliaeetus leucocephalus*) (federally threatened)
- Black-footed ferret (*Mustela nigripes*) (federally endangered)
- Whooping crane (*Grus Americana*) (federally endangered)

The BRR determined no T/E species or critical habitat for wildlife, fish or vegetation exists in the project area. The project would not adversely affect threatened and endangered species.<sup>13</sup>

Wetlands – A wetland delineation of the project site reviewed existing site-specific information and on-site inspection with sampling using the Level 2 Routine Determination Method outlined in the 1987 U.S. Army Corps of Engineers (USACE) Manual. On-site investigation included a pedestrian survey and delineation of individual wetlands and waterways.

One riverine wetland (W-1-03) was delineated on-site that comprised approximately 0.12 hectares (ha) (0.30 acres (ac)). Based on the Cowardin classification system, the wetland is riverine, lower perennial, seasonally flooded, and excavated (in the waterway portion of Alkali Creek) (*Figure 2*).

A functional assessment of the delineated wetland was completed and included an assessment area (AA) approximately 121.9 m (400 ft) wide, extending 0.3 km (0.2 mi) upstream of the of the alignment to a perched culvert conveying flow beneath Main Street and 0.16 km (0.1 mi) downstream from the alignment to a waterfall that drains to a settling pond. The wetland is likely a jurisdictional wetland/waterway, based on connectivity to the Yellowstone River, which is a known waters of the U.S. According to the MDT Montana Wetland Assessment Method, the wetland is Category III. It provides general wildlife and aquatic habitat, flood attenuation, and water storage but lacks uniqueness.

The Alkali Creek Bridge, bridge-span support structures, and approach roads would occur outside the boundary of the wetland. No impacts would occur below the OHW of Alkali Creek.

Construction of the bridge could require a temporary crossing of Alkali Creek. A temporary crossing in the channel of Alkali Creek or the wetland will require compliance

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<sup>13</sup>U.S. Fish and Wildlife Service, 2005.

with federal and state regulations for protection of aquatic resources:

- Clean Water Act 404 permit
- Montana Stream Protection Act 124 permit
- 318 Short-Term Turbidity Authorization

The BRR determined construction of temporary facilities would not result in permanent impact to Alkali Creek or the wetland.

BMPs will prevent incidental erosion of and runoff to the wetland and Alkali Creek. In areas where construction would require excavation and ground disturbance, BMPs will require control and containment of erosion, storm drainage, and sedimentation. These practices will include compliance with an erosion control plan. *Refer to Page 37, Erosion Control*, for detailed discussion of BMPs to avoid and minimize impacts to the wetland.

Noxious Weeds – Pursuant to Executive Order 13112, MDT is responsible for controlling and preventing the spread of invasive species, including noxious weeds, within transportation-project areas. Montana has four categories of invasive weed species, and Yellowstone County lists eight additional species. The BRR identified six species of noxious weeds in the project area (*Figure 2*):

- Category I: Spotted knapweed (*Centaurea maculosa*), houndstongue (*Cynoglossum officinale*), field bindweed (*Convolvulus arvensis*), and Canada thistle (*Cirsium arvense*)
- Category IV: Poison hemlock (*Conium maculatum*) and puncturevine (*Tribulus terrestris*).

The alignment would be adjacent to developed areas of MetraPark and Earl Guss Park. The BRR determined there would be low potential for infestations of noxious weeds within the roadway's right-of-way.

An "invasive species" review will document compliance with both Executive Order (E.O.) 13112 and the County Noxious Weed Control Act (7-22-21, M.C.A.), including directions as specified by Yellowstone County.

Social and Economics – The project area does not contain residential or commercial development, other than facilities at MetraPark and Earl Guss Park described above in the Land Use section. The project area is not subject to population growth, and future development would be associated with facilities at MetraPark and Earl Guss Park. The project is not located within 1.6 km (1.0 mile) of any Indian reservations.

There would be no substantial changes in access control. The level of through-traffic would increase on the north edge of MetraPark and above the eastern part of Earl Guss Park. The project would not create disproportionately high and adverse human health or environmental effects on minority and low income populations. *Refer to Page 37, Traffic Control*, for discussion of temporary impacts to MetraPark, Earl Guss Park, and adjacent

properties during construction.

Historical and Cultural Resources – A cultural resource inventory<sup>14</sup> in 2003 identified four historic sites, two of which have been recommended eligible for listing on the National Register of Historic Places (NRHP):<sup>15</sup>

<b>Historic Site Eligible for NRHP</b>	<b>Site Number</b>	<b>Determination of Effect</b>
Face on the Rims	24YL407	No effect
Yellowstone County Exhibition and Fairgrounds	24YL269	No adverse effect

MDT prepared a Determination of Effect for the two eligible historic sites and submitted a request for concurrence to the Montana State Historic Preservation Office (SHPO) by letter dated August 15, 2006. In the Determination of Effect, the proposed project design was reviewed for potential impacts to the Face on the Rims (24YL407) and the Yellowstone County Exhibition and Fairgrounds (24YL269).

The Determination of Effect concluded that the proposed project would not encroach on the Face on the Rims and the existing talus slope beneath the site would not be disturbed through project development. It was also determined that there would be no disturbance to the Rimrocks at the site through blasting or any other means of alteration. The setting of the site has been previously impacted through commercial development of the general area and would not be further impacted through project development. The Face on the Rims site would not be altered in any way and would not be sold by the City of Billings as a result of this project. Therefore, there would be No Effect to the NRHP-eligible Face on the Rims (24YL407) as a result of the proposed MDT project.

The Determination of Effect concluded that the proposed project would not encroach on the historic section of the Yellowstone County Exhibition and Fairgrounds and none of the historic buildings would be impacted by the proposed project. The historic buildings will remain in their existing configuration, their appearance and function would not be impacted, and considerable open space would separate the project site from the historic section of the fairgrounds. The MDT evaluation concluded that there would be no significant effect to the historic setting because the area immediately north of the fairgrounds has been previously disturbed by the construction of parking areas, roadways, and appurtenances associated with MetraPark as well as industrial and commercial development in the area surrounding the fairgrounds. Therefore, there would be No Adverse Effect to the NRHP-eligible Yellowstone County Exhibition and Fairgrounds (24YL269) as a result of the proposed MDT project.

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<sup>14</sup>Cultural Resource Inventory, 6<sup>th</sup> Avenue North to Bench Boulevard, Billings CM 1099 (32), CN 4533 (April 5, 2003) and Addendum Report for Sixth Avenue to Bench Boulevard, Cultural Resource Inventory (September 18, 2003). Field Research Services.

<sup>15</sup>Montana State Historic Preservation Office, Concurrence with Determination of Effect, August 25, 2006.



The SHPO concurred with a determination of No Effect and No Adverse Effect on August 25, 2006, for the two sites eligible for NRHP listing. **Attachment 1** is the Montana Department of Transportation Determination of No Effect / No Adverse Effect and the Montana Historical Society, Historic Preservation Office (SHPO) concurrence.

The cultural resource inventory did not identify any new sites. In the event that additional buried sites are located during construction, project work will cease pending notification of SHPO for evaluation of the cultural resource. There are no historic roads or bridges in the project area.

Section 6(f) of NLWCF Act – There are no parks, recreational, or other properties acquired/improved under Section 6(f) of the National Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460L, et seq.) on or adjacent to the project area. NLWCF provides funding to purchase and administer public parks and recreation areas. FHWA-funded actions must comply with Section 6(f) of NLWCF. The project would not affect any site purchased or administered with funds under Section 6(f).

Environmental Justice (E.O. 12898, Federal Actions to Address Environmental Justice in Minority and Low Income Populations) – The project would not create disproportionately high and/or adverse effects in the health or environment of minority and low income groups. The project also complies with provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D) under FHWA's regulations (23 CFR 200).

Americans with Disabilities Act (P.L. 101-336, ADA) – Wheelchair ramps/curb cuts will be installed in compliance with MDT standards and specifications at all intersections planned for sidewalks, curb-and-gutter, and facilities related to pedestrians and bicyclists.

### **AREAS OF TEMPORARY OR MINOR EFFECTS**

The proposed project would have temporary or *de minimis* impacts on the areas of environmental concern listed below:

- Right-of-Way, Utilities and Relocations
- General Vegetation
- General Wildlife
- Visual Resources
- Parks and Recreation
- Section 4(f) - 1966 U.S. Department of Transportation Act (49 U.S.C. 303)

Mitigation measures will attain conditions of no adverse effect. Technical reports and correspondence for documentation of mitigation measures are in the project files. Evaluation for documentation of temporary or *de minimis* impact is presented below:

Right-of-Way, Utilities and Relocations – Yellowstone County would issue an easement for right-of-way on approximately 3.2 ha (7.9 ac). The County would retain ownership of

the land within the limits of the easement (*Figure 2*).

The easement would be in a corridor on the alignment of the existing circulation road. The circulation road is a two-lane paved roadway between Main Street and Airport Road. It has intersections with access roads to facilities and paved parking areas along its entire length. The project would perpetuate this use with Bench Boulevard providing access to the facilities and parking areas for MetraPark and the fairgrounds (*Figure 2*).

The easement on Earl Guss Park would be on open space adjacent to existing Airport Road improvements, and along the Bench Boulevard alignment. The Alkali Creek Bridge, Bench Boulevard, and associated transportation facilities would cross above the western part of the park.

The Subsurface Utility Engineering Phase I Report identified overhead, surface and subsurface utilities. The project would require adjustments and some relocations for utilities. The alignment could require adjustments at power-line crossings.

Buried telephone cable, fiber optics and a petroleum pipeline are located between Main Street and buildings in the MetraPark complex. These utilities would require relocation due to requirements for the underpass and intersections on Main Street between 4<sup>th</sup> and 6<sup>th</sup> Avenues North. Construction also could encroach on television cable, sewer, and water lines in the project area.

Relocation of utilities would be coordinated with owners and completed as necessary prior to each phase of construction. Notification of service interruptions due to relocations will be the responsibility of the utility owner(s). Such disruptions normally are minor in nature and usually limited to customers connected to the utilities. Disruptions usually occur only for the time required to connect relocated utilities to the system.

General Vegetation – The BRR determined there would be minimal long-term effect on general vegetation along the alignment of Bench Boulevard and the Alkali Creek Bridge (*Figure 2*).

Construction of the roadway and bridge would result in permanent loss of some vegetation. This impact would be confined to a relatively small area and would not jeopardize the health or survival of any plant species.

Disturbance from heavy machinery within the construction limits would result in short-term impacts to vegetation in areas adjacent to Alkali Creek and throughout the construction zone. The majority of vegetation would rejuvenate from subsurface root structures and seeds.

In areas where construction would require excavation and ground disturbance, BMPs will require control and containment of erosion, storm drainage, and sedimentation. These practices will include compliance with an erosion control plan. *Refer to Page 37, Erosion*

*Control*, for detailed discussion of BMPs to avoid and minimize impacts to general vegetation.

*Refer to Page 17, Terrestrial and Aquatic Resources*, for discussion of impacts and mitigation measures to reestablish vegetation in disturbed areas. Mitigation measures will emphasize control of invasive weed species. *Refer to Page 23, Noxious Weeds*, for discussion of requirements to control invasive weed species.

General Wildlife – The BRR determined the project area does not have pristine or remote wildlife habitat. Wildlife is habituated to the presence and disturbance of human activity. Development and traffic occur in close proximity to open-space areas in and around Earl Guss Park and Alkali Creek.

Construction would temporarily increase the level of human activity, but the project would not result in long-term impacts to wildlife. The Alkali Creek Bridge would be above the riparian area and OHW of Alkali Creek; therefore, placement of the bridge would not result in long-term disruption to wildlife habitat in the project area.

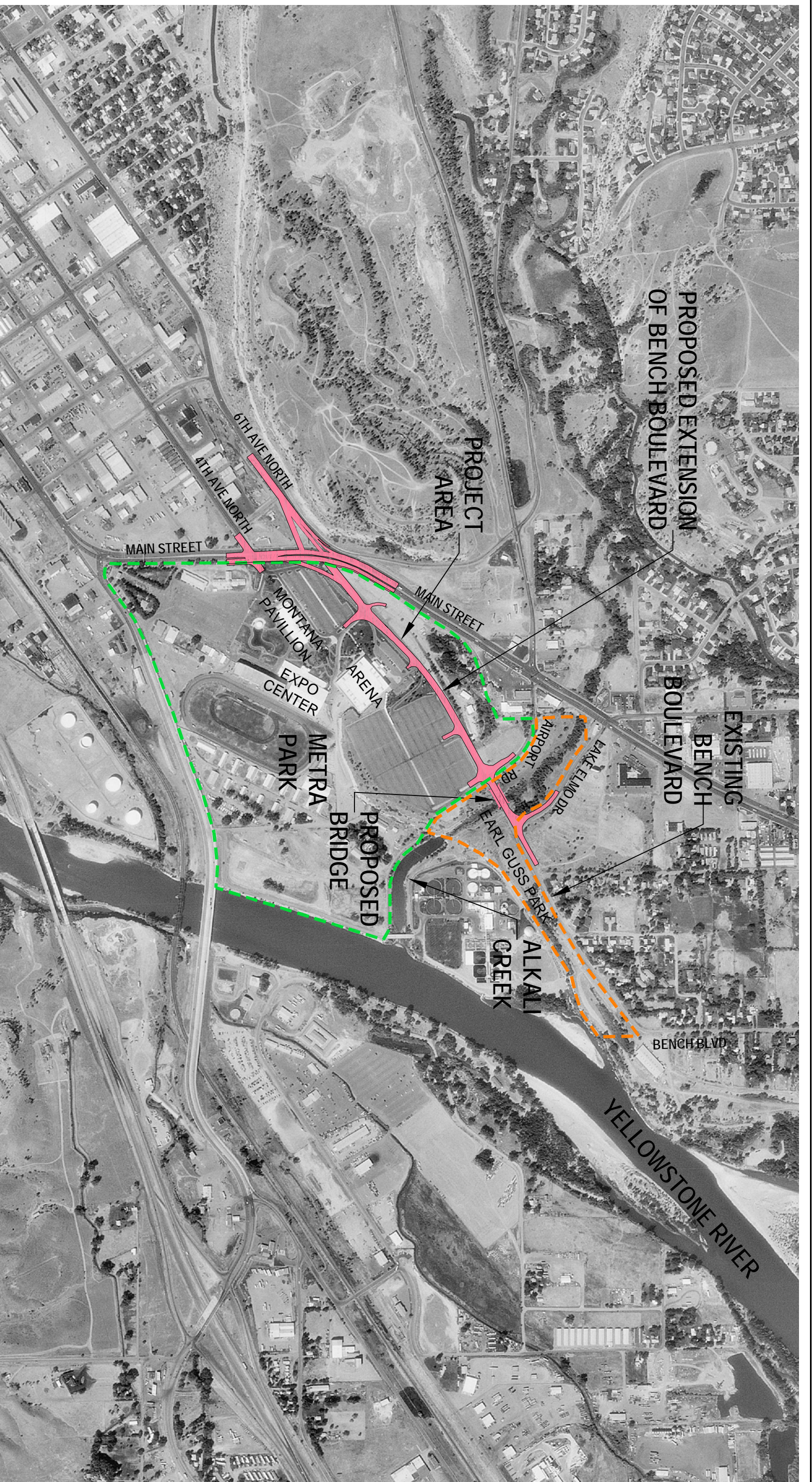
Disturbance from heavy machinery within the construction limits would result in short-term impacts to wildlife. These would include temporary displacement of some animal species, including ground-nesting birds.

Open-space and riparian areas adjacent to the project area have suitable and available habitat to absorb displaced animals and birds. Displaced wildlife would be able to move a short distance during construction. They would be able to resume use of areas in Earl Guss Park and along Alkali Creek after completion of the project and restoration of disturbed areas. *Refer to Page 17, Terrestrial and Aquatic Resources*, for discussion of impacts and mitigation measures required to protect and reestablish wildlife habitat.

Visual Resources – The project area's visual characteristics have open space interspersed with areas of residential and commercial development. Human activity, including development and traffic, occur in close proximity to the open-space areas in and around MetraPark, Earl Guss Park, Alkali Creek, and the Rimrocks (*Figure 6*).

Current human activity occurs on MetraPark's circulation road, Bench Boulevard, and Lake Elmo Drive above the eastern part of Earl Guss Park. MetraPark and Earl Guss Park currently experience visual intrusion from human activity and development in adjacent areas of Main Street and Bench Boulevard.

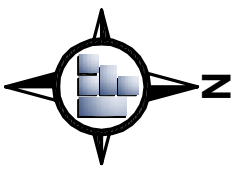
Bench Boulevard would be on the existing alignment of MetraPark's circulation road, which is a paved roadway providing access to facilities and parking areas. The roadway



USGS-ORTHO AERIAL-BILLINGS NW & SW-8/23/1996

**LEGEND**

- - - APPROX. LIMITS OF EARL GUSS PARK
- - - APPROX. LIMITS OF METRA PARK



**FIGURE 6**  
 6TH AVE TO BENCH  
 BLVD-BILLINGS  
 AERIAL VICINITY MAP

and vehicles would continue to be visible in foreground, mid-ground, and background views throughout the project area. The Alkali Creek Bridge would be a prominent structure interspersed with existing residential and commercial development.

The bridge and roadway would join Main Street, MetraPark, and adjacent areas of development as visible objects in the project area's foreground, mid-ground, and background views. Bench Boulevard in the vicinity of Main Street would not change views of or from MetraPark and the Rimrocks.

The project would include landscaping, natural materials, lighting, retaining walls, structures and other design features to align forms, lines, colors and texture of materials with colors and textures in the project area's natural environment. Design and mitigation measures will avoid and minimize impacts to the project area's visual resources to the extent practicable.

Parks and Recreation – MetraPark and Earl Guss Park provide public recreation in the project area (*Figure 6*).<sup>16,17</sup> The Dutcher Trail provides access to the Alkali Creek basin. A system of trails along Alkali Creek provides access for recreational biking, hiking, and nature-viewing. A bike-path bridge on the Dutcher Trail crosses Alkali Creek downstream from the site of the Alkali Creek Bridge (*Figure 8*). Refer to Page 13, *Land Use*, for a description of facilities at MetraPark and Earl Guss Park.

The Yellowstone County Park Board plans to improve the trail system in Earl Guss Park. The trail runs along Alkali Creek from the site of the Alkali Creek Bridge westward (i.e., upstream) to and beyond Main Street. That work would not be part of the project.

Current human activity on MetraPark's circulation road, Bench Boulevard, and Lake Elmo Drive occurs above the eastern part of Earl Guss Park. The park currently experiences noise and visual intrusion from human activity and development in adjacent areas of MetraPark, Main Street, and Bench Boulevard.

The project would improve traffic operation for access roads and parking areas at MetraPark and Earl Guss Park (*Figure 7 and Figure 8*). It would provide access to MetraPark's upper parking area, which is south of the creek and the alignment, for people using Earl Guss Park.

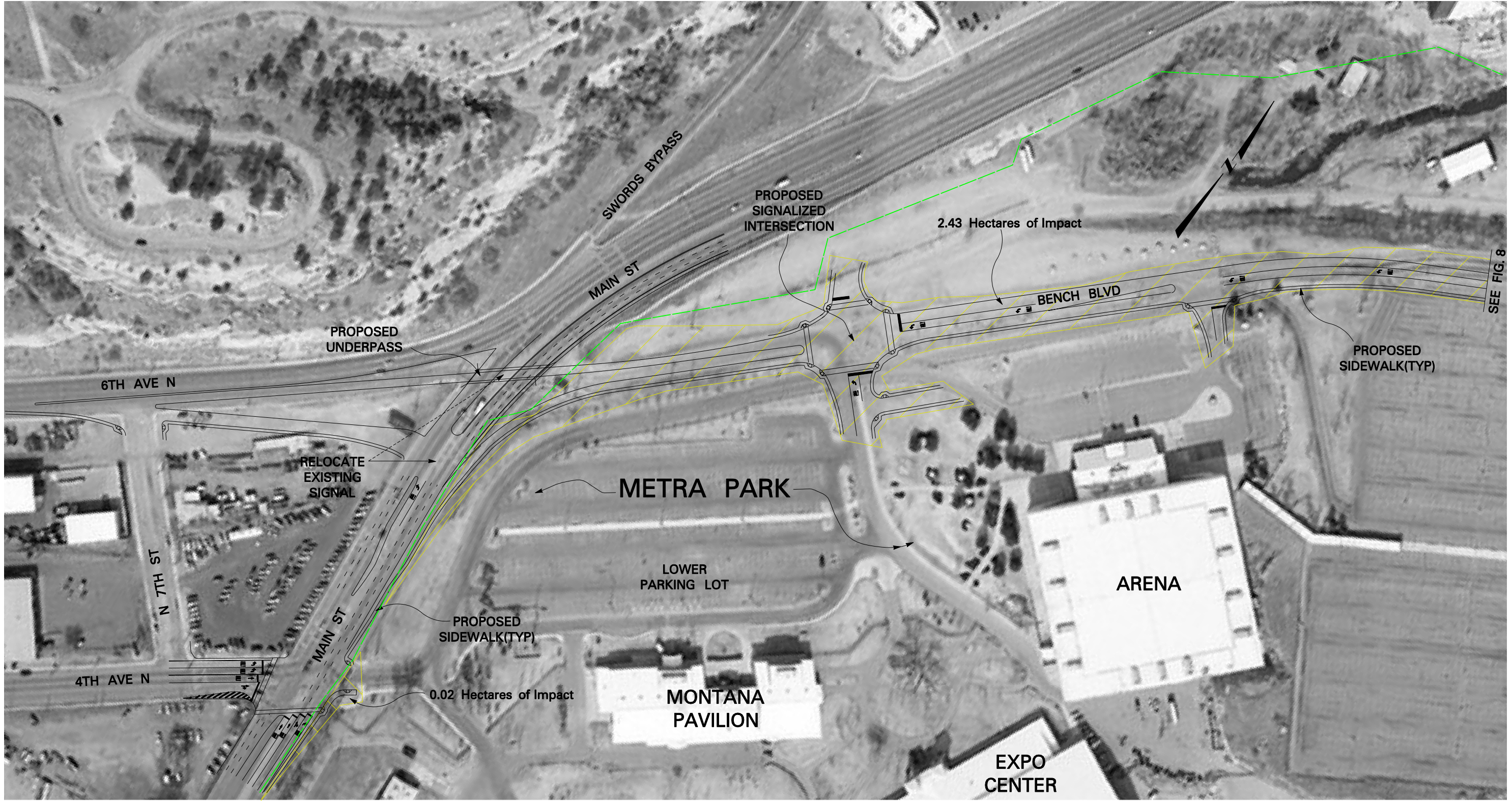
With the project, through-traffic on the Alkali Creek Bridge and Bench Boulevard would increase human activity with noise and visual intrusion in closer proximity to MetraPark and Earl Guss Park. The Alkali Creek Bridge would connect developed areas on each side of Earl Guss Park.

The effect of transitory human activity would be minor because the project area already

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<sup>16</sup>Yellowstone County Park Board, C. Cumin. May 5, 2003.

<sup>17</sup>Earl Guss Park was known as Sacrifice Cliff Park prior to June 2003.

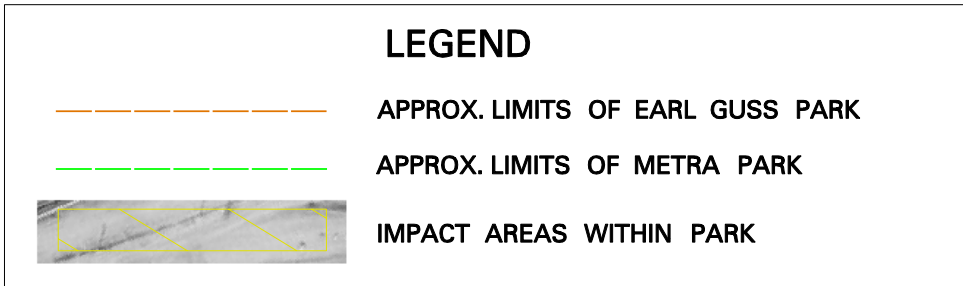
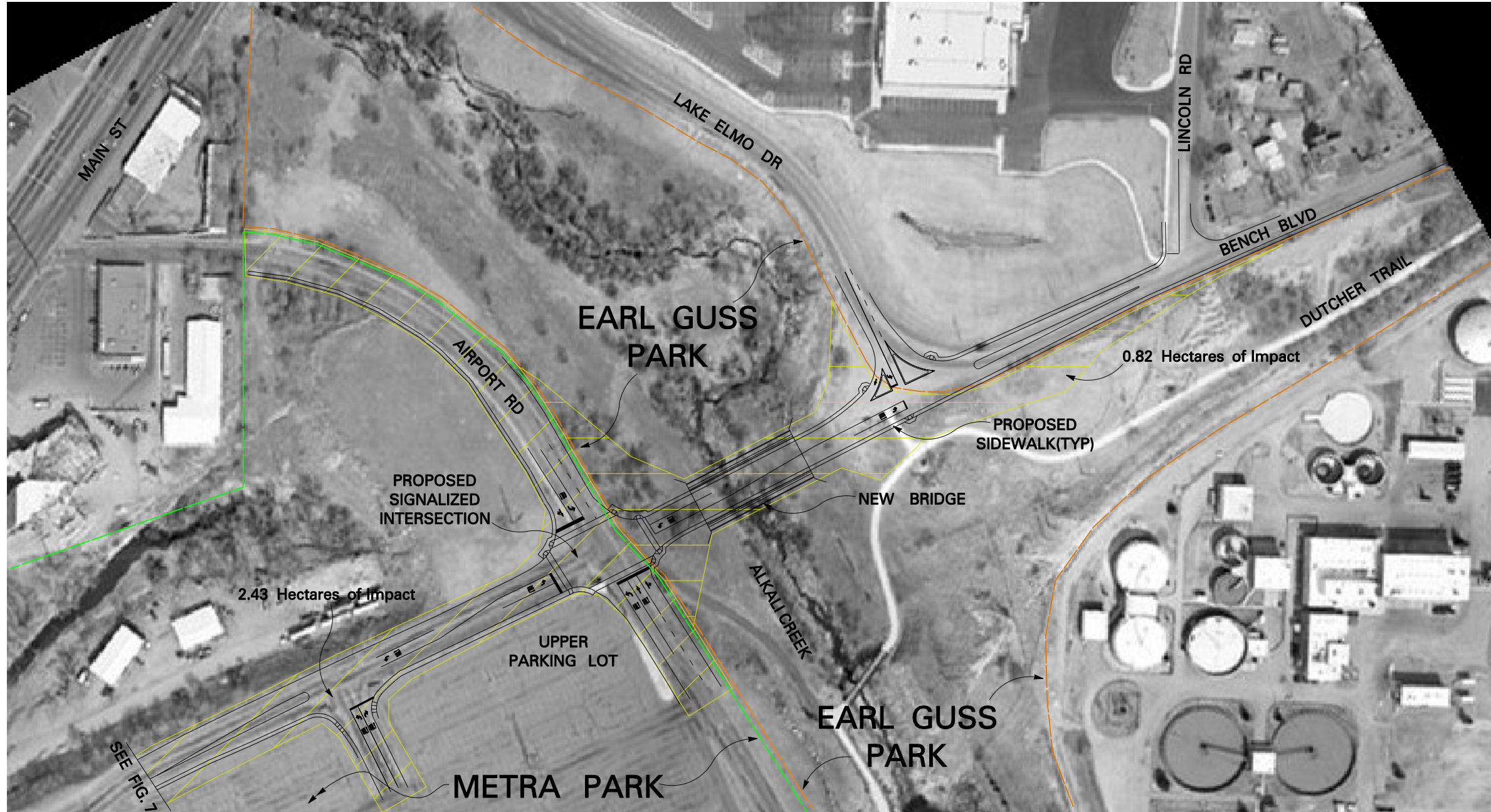


**LEGEND**

--- APPROX. LIMITS OF METRA PARK

[Yellow Hatched Box] IMPACT AREAS WITHIN PARK

**FIGURE 7**  
 6TH AVE NORTH TO  
 BENCH BLVD-BILLINGS  
 METRA PARK



**FIGURE 8**  
 6TH AVE NORTH TO BENCH BLVD-BILLINGS  
 EARL GUSS PARK

has development and traffic occurring in close proximity to open-space areas used for recreation. The project would not result in new development. The project would not change the amount or pattern of development in the project area. The Alkali Creek Bridge, bridge-span support structures, and approach roads would be located above Alkali Creek in the eastern part of Earl Guss Park.

Construction temporarily would disrupt access for the public at MetraPark and Earl Guss Park. *Refer to Page 37, Traffic Control*, for discussion of temporary impacts to MetraPark, Earl Guss Park, and adjacent properties during construction.

Section 4(f) Evaluation – The provisions of Section 4(f) of the 1966 U.S. Department of Transportation Act (49 U.S.C. 303), as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, SAFETEA-LU, apply to any FHWA-funded action when it affects the following:

- a. Publicly-owned parks and/or recreation areas;
  - b. Publicly-owned wildlife/waterfowl refuges;
  - c. Sites in- or eligible-for-listing in the National Register of Historic Places under Section 106 of the National Historic Preservation Act (16 U.S.C. 470, et seq.); and,
  - d. Public lands managed for multiple-use with specifically-designated recreational or wildlife/waterfowl management site(s), and under statute(s) providing for same.
- This applies only to the same specific site(s).

Yellowstone County determined MetraPark and Earl Guss Park are both significant Section 4(f) properties. Yellowstone County also concurred the project will have a *de minimis* impact on MetraPark and Earl Guss park (see **Attachments 2 and 3**) because the transportation use of the Section 4(f) resources, including consideration of impact avoidance, minimization, and mitigation or enhancement measures, does not adversely affect the activities, features, and attributes that qualify the resources for protection under Section 4(f). The design and mitigation measures specify there is no prudent and feasible alternative to using land at MetraPark (Yellowstone County Fairgrounds) and Earl Guss Park.

The FHWA Division Administrator has made a *de minimis* impact finding (see **Attachment 4**). In making the determination, FHWA considered the impact avoidance, minimization, and mitigation or enhancement measures that are included in the project to address the impacts and adverse effects on the Section 4(f) resource. The FHWA Division Administrator has the ultimate responsibility for the FHWA to ensure that the *de minimis* impact finding and required concurrences are reasonable.

#### *MetraPark and Yellowstone County Fairgrounds*

MetraPark (Yellowstone County Fairgrounds) is an event center and entertainment complex owned by Yellowstone County. *Refer to Page 13, Land Use*, for a description of facilities at MetraPark (*Figure 7*).



*Refer to Page 26, Right-of-Way, Utilities and Relocations*, for a detailed discussion of easements for ROW.

The project would have a minor impact and direct conversion of use for MetraPark. Improvements at the intersection of Main Street and 4<sup>th</sup> Avenue North would require removal and replacement of 70 lineal meters (230 ft) of sidewalk and fencing along Main Street south of 4<sup>th</sup> Avenue North adjacent to the Fairgrounds. The project will replace the sidewalk at a location adjacent to the new alignment. The project would return land within the construction limits to its original condition and improve access to and use of MetraPark and the Fairgrounds. *Refer to Page 24, Historical and Cultural Resources*, for discussion of impacts to MetraPark and the fairgrounds.

#### Earl Guss Park

Earl Guss Park (formerly Sacrifice Cliff Park) is a regional park owned by Yellowstone County. *Refer to Page 13, Land Use*, for a description of facilities at Earl Guss Park (*Figure 8*).

*Refer to Page 26, Right-of-Way, Utilities and Relocations*, for a detailed discussion of easements for ROW.

The project would have a *de minimis* use for the park. With the project, through-traffic on the Alkali Creek Bridge and Bench Boulevard would increase human activity, with noise and visual intrusion, in closer proximity to the park. The effect of transitory human activity would be minor because the project area already has development and traffic occurring in close proximity to open-space areas used for recreation. The project would return land within the construction limits to its original condition and improve access to and use of Earl Guss Park. *Refer to Page 29, Parks and Recreation*, for detailed discussion of public use for Earl Guss Park.

#### Coordination with Yellowstone County

Yellowstone County determined MetraPark and Earl Guss Park are both significant Section 4(f) properties. Yellowstone County also concurred the project will have a *de minimis* impact on MetraPark and Earl Guss park (see **Attachments 2 and 3**) because the transportation use of the Section 4(f) resources, including consideration of impact avoidance, minimization, and mitigation or enhancement measures, does not adversely affect the activities, features, and attributes that qualify the resources for protection under Section 4(f). The design and mitigation measures specify there is no prudent and feasible alternative to using land at MetraPark (Yellowstone County Fairgrounds) and Earl Guss Park. The project includes all possible planning to minimize harm, as follows:

- There will be no change in ownership of the land. Yellowstone County will retain ownership of the land required in easements for ROW.
- The duration of construction affecting the properties will be less than the

- construction period for the entire project.
- The project, when completed, will not impair the activities, features, or attributes of the properties.
  - The project will include construction of amenities, such as sidewalks, curb-and-gutter, pedestrian and bicycle paths, lighting, and landscaping.
  - The project will not impact the historic character and integrity of the fairgrounds part of MetraPark. The fairgrounds are considered eligible for listing on the National Register of Historic Places (NRHP).
  - The project will restore affected land and facilities to a condition at least as good as their condition prior to the project.

The project complies with provisions of Section 4(f) of the 1966 U.S. Department of Transportation Act (49 U.S.C. 303), as amended. The project would not affect any other Section 4(f) properties, including other publicly owned parks or recreation areas, public wildlife/waterfowl refuges, or publicly administered multiple-use lands. The two sites eligible for NRHP (i.e., Face on the Rims, 24YL407 and Yellowstone County Exhibition Fairgrounds, 24YL269) do not require A Nationwide Programmatic Section 4(f) Evaluation for Minor Impacts on Historic Sites (Excluding Historic Bridge Replacements); On August 25, 2006, the Montana SHPO concurred the project would have no effect on the properties (**Attachment 1**).

### **INDIRECT AND CUMULATIVE EFFECTS**

Active Projects – The proposed project would occur with other active projects of the City of Billings, Yellowstone County, and the Montana Department of Transportation. The City of Billings currently has the following four other active projects in this part of Billings Heights (*Figures 1 and 2*):

- Improve Bench Boulevard to Minor Arterial, Mary Street to Lake Elmo Drive (Bench Corridor Project). This project would connect with the proposed project at Lake Elmo Drive, east of Main Street. This project would combine with the proposed project to improve the transportation system throughout the Main Street and Bench Boulevard corridors;
- Extend Aronson Avenue to Alkali Creek Road. This project would construct transportation improvements in a corridor west of Main Street;
- Construct hiking/biking trail along Alkali Creek from the site of the Alkali Creek Bridge westward to and beyond Main Street, as part of the BikeNet program; and,
- Construct hiking/biking trail from the vicinity of MetraPark to downtown Billings, as part of the BikeNet program.

Yellowstone County does not have any active or planned projects within or near Billings

Heights.<sup>18</sup> MDT currently has the following three other active projects in this part of its District No. 5:

- MT(009), CN 4743, 5.9 km (3.7 mi), Demo-Billings Airport Road, to widen airport road to four lanes between Main Street and Montana Highway 3, from U1014 RP (MP) 0.0 to RP (MP) 2.897 and N53 RP (MP) 3.15 to RP (MP) 4;
- NH 16-(420), CN 4367, 7.6 km (4.7 mi), Main Street-Billings Heights, to preserve pavement, from RP (MP) 0.0 to RP (MP) 4.653; and,
- PN NCPD 56(55), CN 4199, Billings Bypass (Northwest Bypass), to preserve capacity on Main Street and other streets in the Main Street corridor, from a location in the vicinity of the junction of US 87 and MT 312 to a location in the vicinity of the junction of Interstates 90 and 94 (I90 / I94).

These active projects would combine to have temporary or minor indirect or cumulative effects.<sup>19</sup> The projects' transportation improvements would reduce traffic congestion on Main Street and distribute traffic on local surface streets. The projects would provide transportation improvements that improve access to MetraPark from Main Street, Swords Lane, Lake Elmo Drive, and Bench Boulevard.

#### Population Growth and Development

The Heights East neighborhood of Billings Heights, which is adjacent to the northern edge of the project area, currently has a rate of population growth slightly higher than the overall rate of growth for the city of Billings (*Figure 2*). Heights East<sup>20</sup> had a population of approximately 5,100 in the 2000 Census, which was an increase of 13.9% from the area's population of 4,480 in 1990. This rate of growth was slightly higher than the overall rate for the city of Billings, which increased from 81,150 to 89,850 (10.7%) between 1990 and 2000.<sup>21</sup>

The full area of Billings Heights has a rate of population growth similar to the Heights East neighborhood. The populations of Heights East and Billings Heights have demographic characteristics with lower percentages of elderly, females, minorities, and persons with income below the poverty line than the overall population of the city of Billings.

Bench Boulevard and the other active projects listed above are existing principal arterial streets carrying traffic in residential and commercial areas. Transportation improvements would improve access and flow for traffic on Bench Boulevard and Main Street.

These projects would not result in splitting or isolating neighborhoods or ethnic groups.

---

<sup>18</sup>Personal communication, B. Beckman and J. Hodnik, Morrison-Maierle, Inc., with B. Kennedy, J. Ostlund, and J. Reno, Yellowstone County Board of Commissioners. 2003.

<sup>19</sup> Cumulative effects would result from the incremental impact of the proposed project when added to other past, present, and future reasonably foreseeable actions.

<sup>20</sup> The U.S. Census identifies this area as census tract 7.02.

<sup>21</sup> U.S. Department of Commerce, Bureau of the Census, Census of Population and Housing, 1990 and 2000.

Bench Boulevard is located along the western edge of residential areas east of Main Street in Billings Heights. Ongoing population growth, with residential subdivision and commercial development, would continue to change community cohesion and lifestyle for residents of Billings Heights. Bench Boulevard would provide more convenience and safety for increasing volumes of traffic.

The projects would improve access and flow for traffic with the transportation system throughout Billings Heights. Development and traffic would increase with ongoing population growth and development. The transportation improvements would support ongoing population growth and development throughout the areas of Billings Heights and adjacent rural areas north of the city. The proposed project would combine with the other federal, state, and local projects to improve the transportation system serving minority and low income groups throughout Billings and Billings Heights.

#### Land Use and Development

Current patterns of land use and development have ongoing population growth, residential subdivisions, and commercial development with shopping and office centers throughout Billings Heights and rural areas north of the city. Ongoing growth and development are changing open, rural areas to urban residential and commercial communities.

Residents of Billings Heights would continue to use Bench Boulevard for access to facilities and services on Main Street and other areas of the city. Transportation improvements would improve access and flow for traffic.

Bench Boulevard would become a direct travel route for residents from Billings Heights to other areas of the city. Planned improvements of Bench Boulevard would improve access from the street to facilities associated with schools, parks and recreation areas, churches, medical facilities, and businesses. Widening the street would reduce the width of frontage separating the street from buildings and facilities. Transportation improvements would provide more convenience and safety for traffic from growing residential and commercial areas.

#### Determination of No Significant Impact

No other projects sponsored by the City of Billings, Yellowstone County, or MDT would have any indirect or cumulative environmental impacts of significance on the proposed project. If there are other smaller projects in the area, they would involve reconstruction or improvement of existing facilities and are not expected to induce significant changes in traffic patterns.

Similarly, the proposed project would have no indirect or cumulative environmental impacts of significance on projects sponsored by the City of Billings, Yellowstone County, or MDT in this part of the city of Billings (i.e., Billings Heights) or MDT District No. 5. The proposed project would combine with the City's and MDT's projects to improve the

transportation system and accommodate traffic in and around the Main Street and Bench Boulevard corridors.

### **ENVIRONMENTAL COMPLIANCE: PERMITS AND REQUIREMENTS**

All permits and other requirements for environmental compliance will be acquired and/or completed prior to any related disturbance. Previous sections of this document discuss these permits and other requirements, as applicable. The City of Billings and MDT have reviewed the project for compliance with relevant special requirements for transportation projects.

### **EROSION CONTROL**

An erosion control plan will be submitted to the MDEQ Permitting and Compliance Division, in compliance with Montana Pollutant Discharge Elimination System Regulations (MPDES, ARM 16.20.1314). Best Management Practices, which use the guidelines established in MDT's Highway Construction Standard Erosion Control Workplan, will be included in the design of the erosion control plan.

The objective is to minimize erosion of disturbed areas during and following construction. BMPs will prevent incidental erosion of and runoff to Alkali Creek, and they should be based on the Erosion and Sediment Control Best Management Practices: Field Manual (MDT March 2003 (Revised May 2004)).

Any areas of temporary disturbance will be revegetated as soon as practicable with desirable species, as recommended by MDT's reclamation specialist. MDT will identify any additional conservation and coordination measures, including BMPs, during the permitting process, in accordance with MDT special provisions.

In areas where construction would require excavation and ground disturbance, BMPs will require control and containment of erosion, storm drainage, and sedimentation. Permanent, desirable vegetation, with an approved seeding mixture, will be established on exposed areas.

### **TRAFFIC CONTROL**

A detailed traffic control plan to maintain traffic through during construction will be developed to comply with the following provisions.

Access for MetraPark and Earl Guss Park would be maintained during construction. Through-traffic operations for Bench Boulevard would not begin until construction is completed for the Alkali Creek Bridge. Phasing of construction to first complete the project from Bench Boulevard to the Phase One at-grade intersection with Main Street would be considered in order to provide an alternate route during construction of the Main Street underpass during Phase Two. Temporary lane closures, detours, and brief delays

could occur with construction activities on Main Street between 6<sup>th</sup> and 4<sup>th</sup> Avenues North. Traffic could be limited to a reduced number of lanes on Main Street for limited periods during construction.

During construction, traffic control and access to MetraPark, Earl Guss Park, and businesses and residences on adjacent streets will be coordinated closely with the Yellowstone County Board of Commissioners, MetraPark, the MetraPark Board, the Yellowstone County Park Board, and adjacent businesses and residences.

It is recognized that access will be difficult during construction for MetraPark, Earl Guss Park, and adjacent properties. A strong incentive/disincentive clause for the contractor may be appropriate to help minimize inconvenience and delay during construction.

The City of Billings will apply its provisions for public relations and communications related to transportation projects. These provisions will be consistent with MDT's special provision for public relations during construction. This provision provides for extensive dissemination of information through newspaper, radio, television and other media. It also provides for thorough advance coordination of all construction operations that will affect the flow of traffic or access to adjacent properties.

There will be temporary impacts due to noise and dust resulting from the construction operations. These will be of short duration and will occur only during the construction season. Construction will adhere to the City of Billings' noise ordinance. Dust will be controlled by watering, by the application of appropriate dust controlling chemicals, or by temporary paving.

Construction generally will occur only during daylight hours, and activities that create noise impacts will be avoided during non-daylight hours. Construction could occur during daylight and non-daylight hours to accelerate progress for completion of the project.

### **PUBLIC INVOLVEMENT**

The City of Billings held one public meeting for the project. Notices were mailed to local residences and businesses, and the meeting was advertised in the Billings Gazette, in accordance with City of Billings' and MDT's procedures. The City also provided news releases about the project to local newspapers and television and radio stations. Additional information about the project is available on the City's Website: <http://ci.billings.mt.us>. The City's coordination and consultation with the public is consistent with MDT Public Involvement Level B.

The public scoping meeting was on July 9, 2003 in the lobby of the MetraPark Arena. The meeting was to inform the public, and receive public comments and questions about the project.

Approximately 50 people attended the meeting, and 26 people provided oral comments and

questions. The following is a summary of major issues raised by comments and questions at the meeting:

- Increased levels of traffic on Bench Boulevard and methods of managing traffic;
- Providing facilities such as traffic control signs and lights, sidewalks, pedestrian and bicycle lanes and trails, and curb-and-gutter;
- Safety and operation concerns for the Bench Boulevard corridor;
- The number of traffic lanes on Bench Boulevard and the Alkali Creek Bridge;
- Plans for maintaining access and recreation at MetraPark and the Alkali Creek basin; and
- Potential visual impacts to the Rimrocks at the intersection of Main Street and 6th Avenue North.

The City also received eight oral and written comments and questions from the public about the project during the 30-day comment period. These comments included the same issues as those expressed by the public at the scoping meeting. The City prepared a summary and minutes of the public scoping, dated October 16, 2003. The written public comments are in the project file. An analysis of the public comments is also in the project file.

### **AGENCY INVOLVEMENT**

The City of Billings has coordinated development of the project with the following federal, state and local agencies:

- U.S. Department of Transportation, Federal Highway Administration (FHWA)
- U.S. Department of the Interior, Fish and Wildlife Service (FWS)
- U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS)
- U.S. Department of the Army, Corps of Engineers (USACE)
- Montana Department of Natural Resources and Conservation (MDNRC)
- Montana Department of Fish, Wildlife, and Parks (MFWP)
- Montana Department of Environmental Quality (MDEQ)
- Montana Natural Heritage Program (MNHP)
- Yellowstone County Board of Commissioners (including MetraPark Board and Yellowstone County Park Board)
- Billings School District 2 Public Schools
- Yellowstone River Parks Association

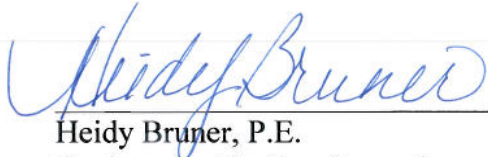
January 14, 2008  
Kevin L. McLaury  
P. 40

6<sup>th</sup> Avenue North to Bench Boulevard  
MT-CM 1099(32)  
CN 4553

### CONCLUSIONS AND RECOMMENDATIONS

The proposed project would not induce significant land use changes or promote unplanned growth. There would be no significant effects on access to adjacent properties or present traffic patterns. The project would not create disproportionately high and adverse human health or environmental effects on minority and low income populations (E.O. 12898), and it complies with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D). In accordance with 23 CFR 771.117(a), this project would, neither individually nor cumulatively, have any significant environmental impacts.

Therefore, we are requesting FHWA's concurrence that this proposed action is properly classified as a Categorical Exclusion.

  
Heidi Bruner, P.E.  
Engineering Section Supervisor

Date: 1/14/08

Concur:   
Federal Highway Administration

Date: 14 JAN 2008

JR:AJ:4553 CE.1099(32)08 \_\_\_\_\_

#### Attachments:

- 1) Montana Department of Transportation Determination of No Effect / No Adverse Effect; Montana Historical Society, Historic Preservation Office (SHPO) Concurrence.
- 2) Montana Department of Transportation Letter to Yellowstone County Board of Commissioners, Design and Mitigation Measures and Section 4(f) *de minimis* Impact Finding – MetraPark (Yellowstone County Fairgrounds).
- 3) Montana Department of Transportation Letter to Yellowstone County Board of Commissioners, Design and Mitigation Measures and Section 4(f) *de minimis* Impact Finding – Earl Guss Park.
- 4) Federal Highway Administration, Section 4(f) *de minimis* Impact Finding.

cc: Stefan Streeter, P.E., Administrator – MDT Billings District No. 5  
Paul Ferry, P.E. – Highways Engineer  
Kent Barnes, P.E. – Bridge Engineer  
John Horton – Right-of-Way Bureau Chief  
David W. Jensen, Supervisor – Fiscal Programming Section



January 14, 2008  
Kevin L. McLaury  
P. 41

6<sup>th</sup> Avenue North to Bench Boulevard  
MT-CM 1099(32)  
CN 4553

Tom Martin, P.E. – Environmental Services Bureau Chief  
James Walther, P.E. - MDT Preconstruction Engineer  
Timothy W. Reardon, Chief Counsel - MDT Legal Services  
Tim Conway, P.E. – Acting MDT Consultant Design Engineer,  
    Attn: Miki Lloyd, P.E., MDT Consultant Project Engineer  
Michael Duman, Assistant Montana Division Administrator - FHWA  
Vern Heisler, P.E. - City of Billings, City Engineer  
Jim Reno - Yellowstone County Board of Commissioners, Chair  
File

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Dept. Alternative accessible formats of this information will be provided upon request. For further information, call 406-444-7228 or TTY (800-333-7592), or call Montana Relay at 711.

## **Attachment 1**

Montana Department of Transportation  
Determination of No Effect / No Adverse Effect.  
Montana Historical Society, Historic Preservation Office (SHPO) Concurrence



2006081607

Montana Department of Transportation

2701 Prospect Avenue  
PO Box 201001  
Helena MT 59620-1001

RECEIVED

AUG 29 2006  
Jim Ross, Director  
Brian Schweitzer, Governor

ENVIRONMENTAL

August 15, 2006

CONCUR  
MONTANA SHPO

DATE 25 Aug 06 SIGNED Jon Axline

Mark Baumler, Ph.D.  
State Historic Preservation Office  
1410 8<sup>th</sup> Avenue  
P O Box 201202  
Helena, MT 59620-1202

Subject: CM 1099(32)  
6<sup>th</sup> Avenue North to Bench Boulevard – Billings  
Control No. 4553

Dear Mark:

Enclosed is the Determination of Effect for the above project in Billings. We have determined that the proposed project would have **No Effect** to the Face on the Rims (24YL407) and **No Adverse Effect** to the Yellowstone County Exhibition and Fairgrounds (24YL269) for the reasons specified in the enclosed document. We request your concurrence.

If you have any questions, please contact me at 444-6258.

Jon Axline  
Jon Axline, Historian  
Environmental Services

Enclosure

cc: Bruce Barrett, Billings District Administrator  
Tom Martin, P.E., Consultant Design  
Bonnie Steg, Resources Section

Copy emailed to M&M  
10-24-07.  
MB

# **DETERMINATION OF EFFECT**

**CM 1099(32)**

**6<sup>th</sup> Avenue North to Bench Boulevard – Billings  
Control No. 4553**

## **Introduction**

The Montana Department of Transportation (MDT) intends to reconstruct a section of Bench Boulevard in the City of Billings in Yellowstone County. The project begins at the intersection of 6<sup>th</sup> Avenue North and extends easterly 0.75 miles to the existing alignment of Bench Boulevard near the Target shopping center. It is the intent of this project to extend the Bench Boulevard south over Alkali Creek, through Metra Park to connect with 6<sup>th</sup> Avenue North. A new connection would also be provided to 4<sup>th</sup> Avenue North. The project would include the construction of a bridge over Alkali Creek and a grade separation structure at Main Street (U.S. Highway 87) and 6<sup>th</sup> Avenue North. The roadway from 6<sup>th</sup> Avenue North to Bench Boulevard would be constructed to a 90-foot paved surface and would include one 14-foot driving lane, three 12-foot driving lanes, a 16-foot driving lane, a 12-foot center turn lane, 12-foot median, and a 14-foot shoulder. Additional Right-of-Way would be required for this project. Figure 1 shows the project area.

## **Significant Cultural Resources**

A cultural resource survey of the project area was conducted in 2003. The MDT and the Montana State Historic Preservation (SHPO) concurred in the National Register of Historic Places (NRHP) eligibility of one historic site: the Face on the Rims (24YL407). The Yellowstone County Exhibition and Fairgrounds (24YL269) is located within the Area of Potential Effect for this project and was previously determined eligible for listing on the NRHP.

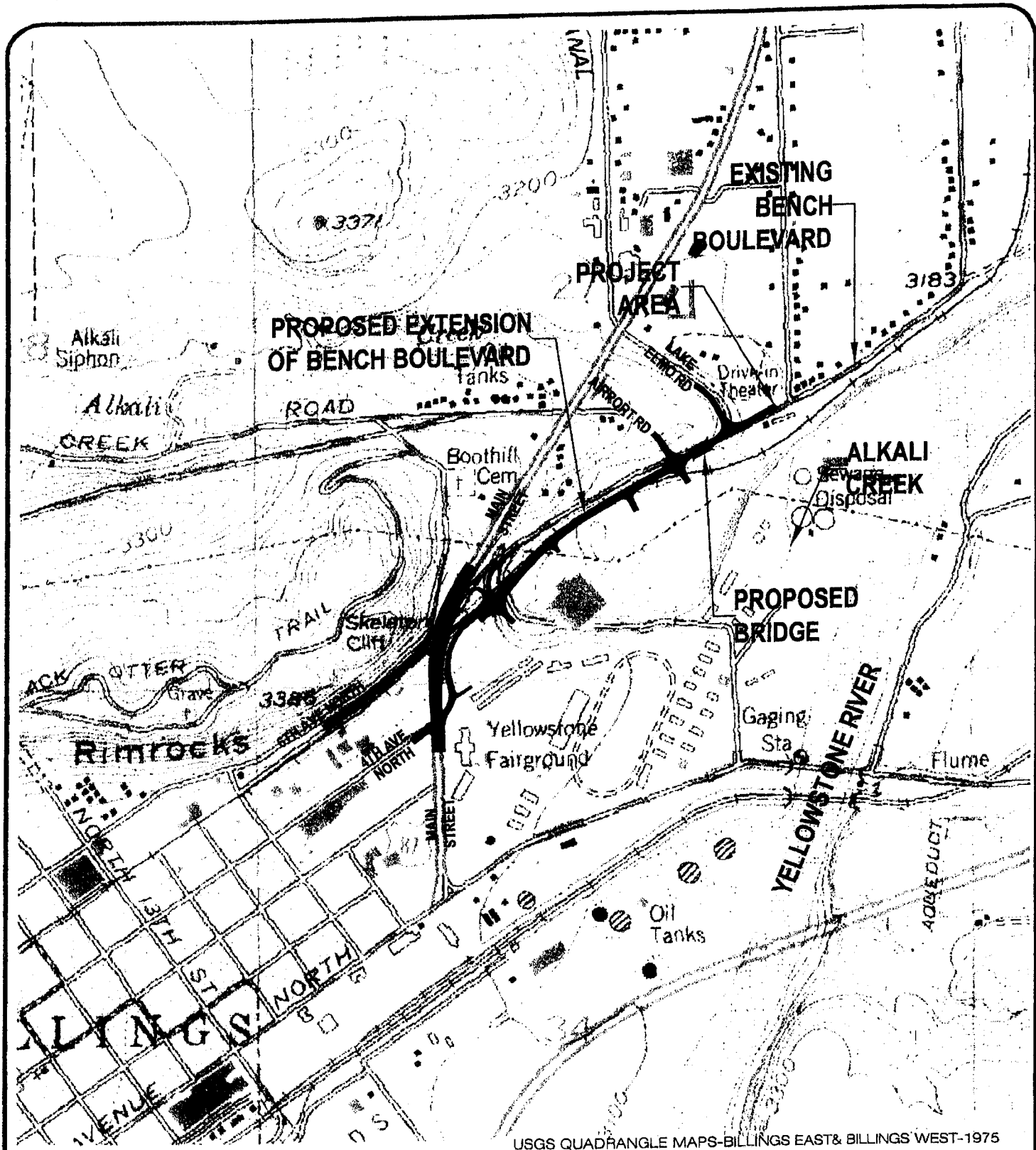
The Face on the Rims is located near the base of Skeleton Cliff and consists of a badly weathered pictograph of indeterminate age. Originally recorded in 1962, it depicts a stylized human face. The pictograph is eligible for the NRHP under Criterion D for its potential to reveal information about the prehistory of the Billings area.

## **Project Impact**

A preliminary design of the 6<sup>th</sup> Avenue North to Bench Boulevard – Billings project has been completed and have been reviewed for possible impacts to 24YL407 and 24YL269.

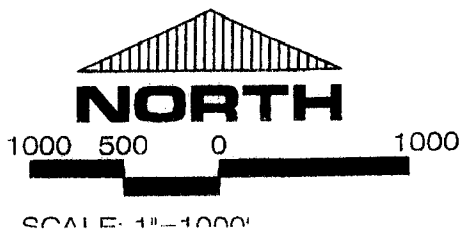
The Face on the Rims (24YL407) is located approximately 171-feet from the proposed centerline of 6<sup>th</sup> Avenue North. It is located high on the side of the rims at the top of a steep talus slope. The roadway would not move closer to the pictograph and the existing talus slope would not be disturbed at the site. There would be no disturbance of the rimrocks at the site by blasting or any other means of altering the rims.

The proposed project would involve the reconstruction of an existing road within the boundaries of the Yellowstone County Exhibition and Fairgrounds (24YL269) to connect with Bench Boulevard east of the existing intersection of Airport Road and Bench. The proposed roadway



USGS QUADRANGLE MAPS-BILLINGS EAST & BILLINGS WEST-1975

FIGURE 1



**MORRISON MAIERLE, INC.**  
*An Engineering-Design Company*

ENGINEERS  
 SURVEYORS  
 PLANNERS  
 SINCE 1945

PO Box 1115, 501 Technology Blvd, Bozeman, MT 59721 • Phone: (406) 587-0221 Fax: (406) 582-1170

CLIENT: MDT

FIELD WORK: —	DATE: 12/19/05
DRAWN BY: KSS	SCALE: 1"=1000'
CHECKED BY: EN	PROJ #: 0686.152

**TOPOGRAPHIC AND VICINITY MAP**  
 SIXTH AVE. NORTH TO BENCH BLVD.  
 BILLINGS, MONTANA

PLOTTED DATE: Dec/21/2005 - 02:50:15 pm  
 DRAWING NAME:  
 N:\0686\152\ACAD\WETLDS\_EXHIBITS\WET-FIG.dwg  
 SHEET 1 OF 1

would be a 90-foot paved surface, including one 14-foot driving lane, three 12-foot driving lanes, a 16-foot driving lane, a 12-foot center turn lane, 12-foot median, and a 14-foot shoulder. The proposed roadway would pass through an area heavily disturbed by the construction of the MetraPark building, the parking lots surrounding it and the roadways leading to the events center. The MetraPark was constructed in the early 1970s and is not of historic age. The proposed roadway would not be located in proximity to the historic grandstands or remaining historic exhibition buildings. The proposed roadway would utilize about 6.6 acres of open space in the fairgrounds complex or about 4.1% of the total area of the historic property. There are no historic buildings, structures or features located in proximity to the proposed roadway.

### **Project Effect**

There would be **No Effect** to the NRHP-eligible Face on the Rims (24YL407) as a result of the proposed MDT project. The site is located approximately 171-feet from the proposed centerline high on the side of the rimrocks above 6<sup>th</sup> Avenue North. The talus slope below the pictograph is steep. There are no plans by the MDT to cut into the rims at this location. The pictograph would remain undisturbed high on the side of the rimrocks above the roadway. There would be no physical encroachment on the site and no alteration of its physical environment. The setting of the property has already been significantly impacted by the expansion of 6<sup>th</sup> Avenue North in 1981, the development of a business park across the roadway from the site and the continued evolution of the nearby Yellowstone County Exhibition and Fairgrounds (24YL269). An Applebee's and the Boothill Hotel have also recently been constructed in close proximity of the pictograph. There would be no neglect of the site as a result of the proposed project and the property would not be sold by the City of Billings because of the project. The Face on the Rims would continue to look down on Billings and the Yellowstone Valley with no alteration of its appearance.

There would be **No Adverse Effect** to the NRHP-eligible Yellowstone County Exhibition and Fairgrounds (24YL269). The proposed roadway would be constructed through an area of the site adjacent to the MetraPark complex. The area to the immediately north of the fairgrounds is already heavily disturbed by parking areas, roadways, and appurtenances associated with MetraPark, which was constructed in the early 1970s and is not historic. The historic exhibition buildings, midway, grandstand structure, racetrack, and barns are not located in proximity to the proposed roadway. There would be no physical encroachment on the historic section of the fairgrounds and none of the buildings would be physically, visually or atmospherically impacted by the proposed roadway. They would remain in their existing configuration and their appearance and function would be perpetuated. Considerable open space would also separate the proposed roadway from the historic section of the fairgrounds. There would be no significant effect to the setting of the property as the setting has largely been impacted by the continued industrial and commercial development of the area in Billings Heights surrounding the fairgrounds. The construction of MetraPark and the associated parking lots and access roads in the early 1970s had the most significant impact to the site as of this date. None of the Criteria of Adverse Effect can be applied to the project and the Yellowstone County Exhibition and Fairgrounds.

## **Attachment 2**

Montana Department of Transportation Letter to  
Yellowstone County Board of Commissioners  
Design and Mitigation Measures and Section 4(f)  
*de minimis* Impact Finding – MetraPark (Yellowstone County Fairgrounds)

**Montana Department of Transportation**

2701 Prospect Avenue  
PO Box 201001  
Helena MT 59620-1001

Jim Lynch, Director  
Brian Schweitzer, Governor

Yellowstone County Commissioners  
PAGE 05 OF 07

APR 25 2007

April 23, 2007

Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
P.O. Box 35000  
Billings, Montana 59107

Re: MT-CM 1099(32), 6<sup>th</sup> Ave. North to Bench Boulevard, CN 4553  
City of Billings, Yellowstone County, Montana  
*MetraPark (Yellowstone County Fairgrounds)-Concurrence with Design and Mitigation Measures and Section 4(f) de minimis Impact Finding*

Dear Mr. Reno:

Thank you for your response to our previous request for information regarding Yellowstone County's determination of significance for MetraPark (Yellowstone County Fairgrounds) as a Section 4(f) property. That information was helpful in determining that MetraPark is significant for Section 4(f) purposes, as defined in the U.S. Department of Transportation Act of 1996 (49 U.S.C. 303).

MetraPark includes the MetraPark Arena and other buildings associated with the Yellowstone County Fairgrounds. Reference to MetraPark either specifically includes reference to the fairgrounds or incorporates the fairgrounds by reference, as applicable.

In extending Bench Boulevard to connect with 6<sup>th</sup> Avenue North, the referenced project will need an easement for reconstruction along the existing alignment of the MetraPark circulation road through and adjacent to MetraPark (Yellowstone County Fairgrounds). An easement does constitute a "use" of land in MetraPark within the meaning of Section 4(f) property.

In preparing the categorical exclusion (CE) for the proposed action, we are considering making a *de minimis* impact finding pursuant to Sec. 6009 of SAFETEA-LU. *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.

The project would occur primarily on lands owned by Yellowstone County. Yellowstone County would issue an easement for construction permit and right-of-way on MetraPark (Yellowstone County Fairgrounds). Yellowstone County would retain ownership of land within the limits of the easement.



Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
Page 2 of 3

The easement would be on the alignment of the existing circulation road, which provides access to developed areas of MetraPark. The circulation road is a two-lane paved roadway between Main Street and Airport Road. It has intersections with access roads to facilities and parking areas along the entire length of its alignment. The project would perpetuate this use with Bench Boulevard providing access to the facilities and parking areas for MetraPark (Yellowstone County Fairgrounds).

The planned transportation improvements would reconstruct the roadway along the existing alignment of the MetraPark circulation road to minimize further impact on the MetraPark property. Additional mitigation measures include retaining walls to avoid any loss of existing, developed parking spaces in the MetraPark complex, landscaping to improve the overall aesthetic of the site, and site illumination to improve both aesthetics and safety.

Use of the area includes MetraPark's employees and recreational and commercial visitors, as well as recreational visitors to Earl Guss Park via established patterns of traffic and access. These uses would be enhanced by the following project features:

- Improved traffic operation for access roads and parking areas at MetraPark and Earl Guss Park;
- Improved access for MetraPark and Earl Guss Park for neighborhoods north and east of the parks via the proposed Alkali Creek bridge;
- Greater safety for users of MetraPark and Earl Guss Park through improved horizontal and vertical alignments, signing, striping, signalization, and illumination;
- Phasing of construction of the improvements to allow for access to MetraPark to be maintained at all times; and
- Improved non-vehicular access through construction of continuous sidewalk along the south side of the project, wheel chair ramps, curb cuts, and tie-in to the existing trail system within Earl Guss Park.

Because the current alignment of the circulation road already is paved and developed, we are asking your concurrence that the project does substantially meet the *de minimis* guidelines that the transportation use would not adversely affect the activities, features, and attributes that qualify MetraPark for protection under Section 4(f).

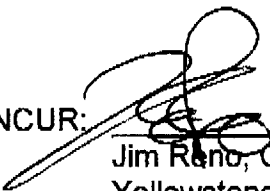
As you are the official with jurisdiction over MetraPark, we are requesting your concurrence that the City of Billings has provided design and mitigation measures to satisfactorily ensure compliance with Section 4(f) of the U.S. Department of Transportation Act of 1996 (49 U.S.C. 303), as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, SAFETEA-LU. These design and mitigation measures include all possible planning to minimize harm, as follows:

- There will be no change in ownership of the land;
- The project, when completed, will not impair the activities, features, or attributes of MetraPark;
- The project will include construction of amenities, such as sidewalks, curb and gutter, lighting, and landscaping; and
- After the project is completed, the affected land and facilities will be restored to a

Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
Page 3 of 3

condition at least as good as their condition prior to the project.

If you concur with the above and the *de minimis* impact finding is acceptable, please sign the line indicated below:

I CONCUR:  \_\_\_\_\_ Date: May 1, 2007  
Jim Reno, Chairman  
Yellowstone County Board of Commissioners

Please return a signed copy of this letter to me at the following address:

Thomas L. Hansen, P.E.  
Engineering Section Supervisor  
MDT Environmental Services Bureau  
P. O. Box 201001  
Helena, Montana 59620-1001

You can contact Chris Hertz (City of Billings, City Staff Engineer) at (406) 657-3095 (Email: [hertzc@ci.billings.mt.us](mailto:hertzc@ci.billings.mt.us)) or Phill Forbes (Morrison-Maierle Inc., Project Manager) at (406) 495-3450 (Email: [pforbes@m-m.net](mailto:pforbes@m-m.net)) if you have any questions or if you need additional information. Thank you for your cooperation in providing this information.

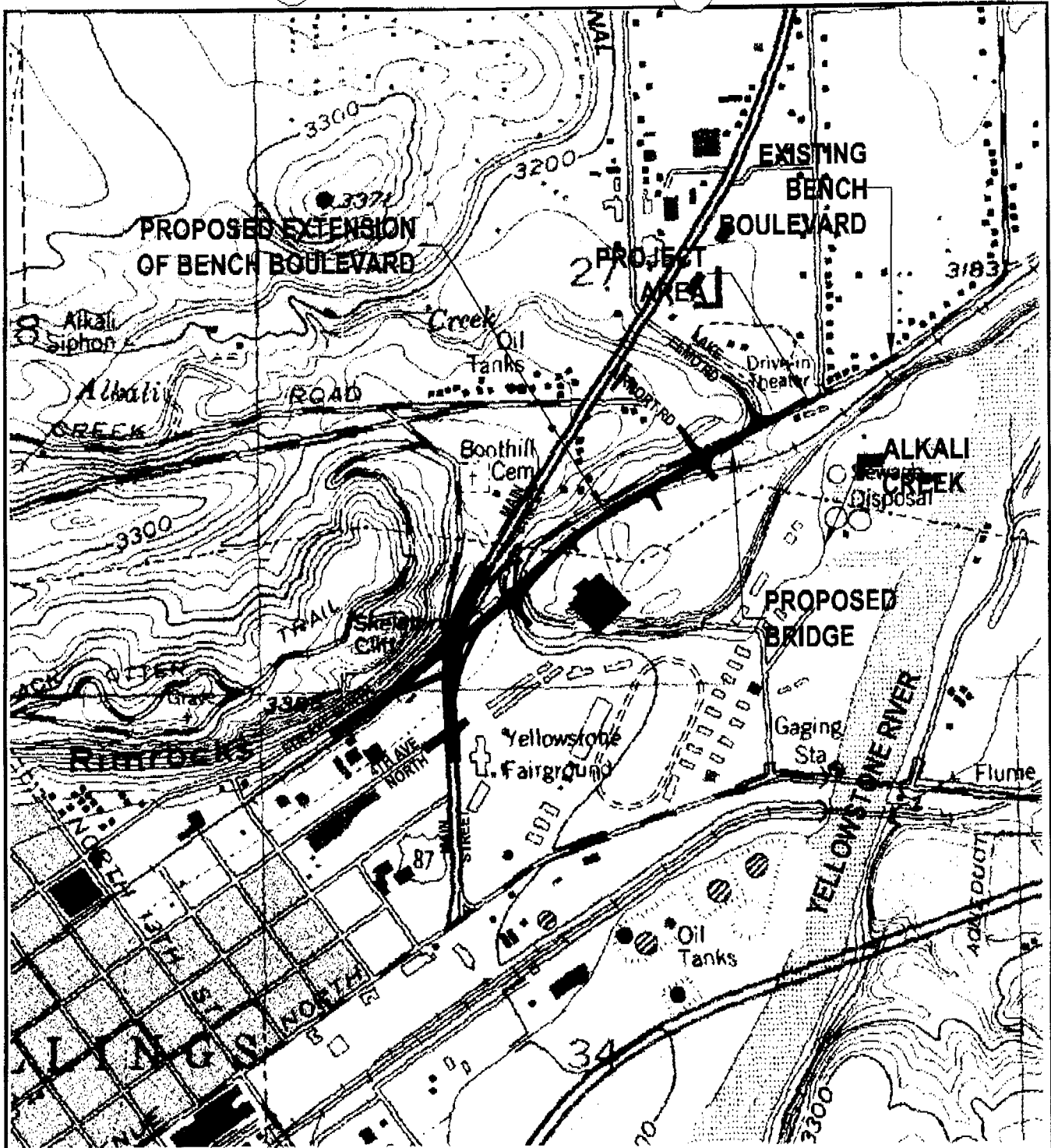
Sincerely,



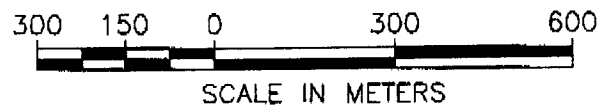
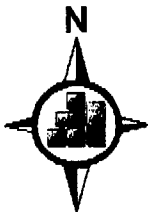
Thomas L. Hansen, P.E.  
Engineering Section Supervisor  
MDT Environmental Services Bureau

Attachment

cc: Chris Hertz, P.E., Billings City Staff Engineer  
Tom Martin, P.E., MDT Consultant Design Engineer,  
Attn: Miki Lloyd, P.E., MDT Consultant Project Engineer  
Phill Forbes, P.E., Morrison-Maierle Inc., Helena Office

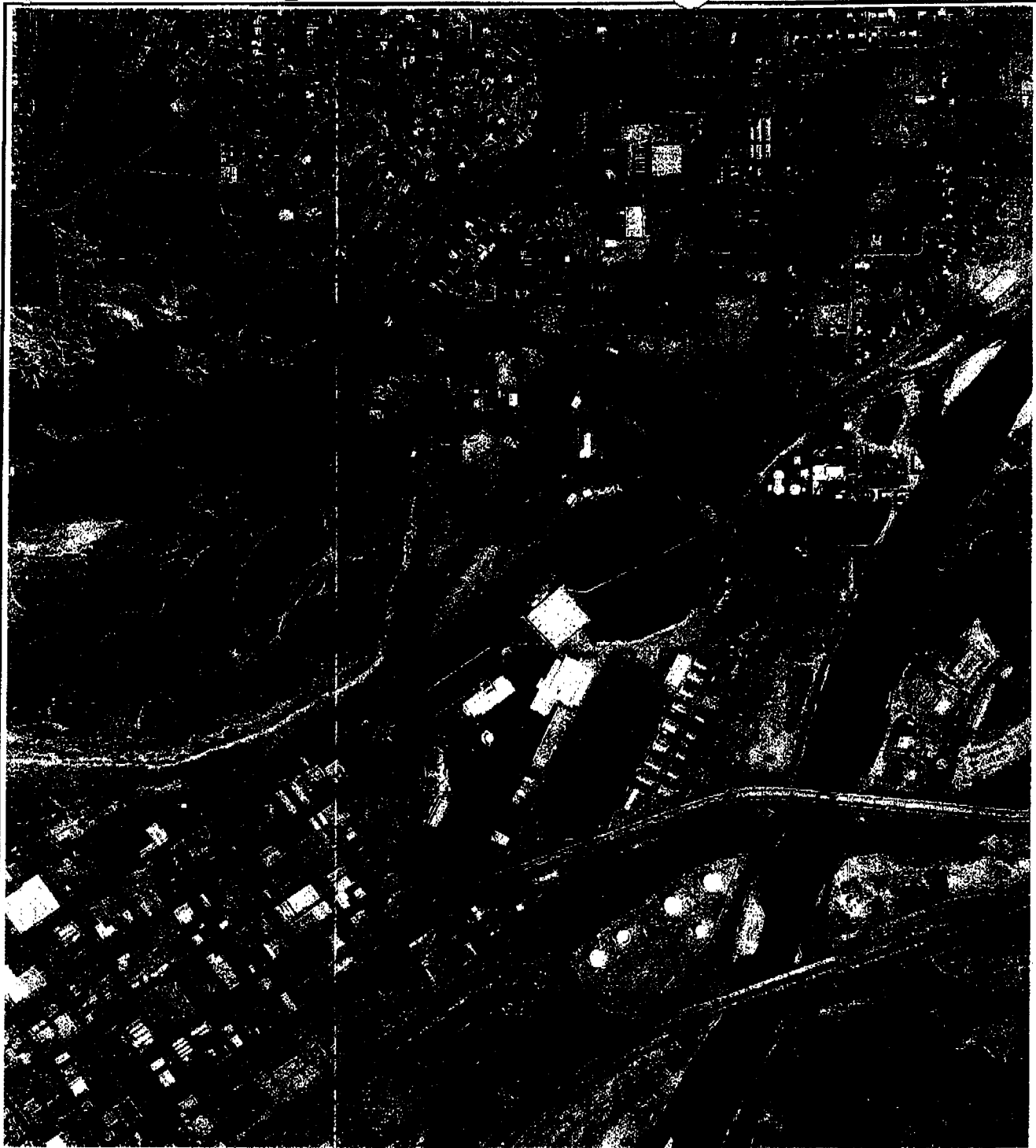


USGS QUADRANGLE MAPS-BILLINGS EAST & BILLINGS WEST-1975



<p><b>MORRISON MAIERLE, INC.</b> An Employee-Owned Company</p> <p>Engineers Surveyors Scientists Planners</p> <p>1 Engineering Place Helena MT 59602 Phone: (406) 442-3030 Fax: (406) 442-7862</p> <p><small>copyright © MORRISON MAIERLE, INC. 2002</small></p>	<p>DRAWN BY: JMH CHKD. BY: APP. BY: BF DATE: 8/2006</p>	<p>SIXTH AVENUE NORTH TO BENCH BLVD. BILLINGS MONTANA</p>	<p>PROJECT NO. 0605.152</p>
	<p>TOPOGRAPHIC AND VICINITY MAP</p>		<p>FIGURE NUMBER <b>FIG. 1</b></p>


R:\0605152\Acad\CS-Files.dwg Plotted by pforbes on Aug/25/2006



USGS-ORTHO AERIAL-BILLINGS NW & SW-8/23/1996



SCALE IN METERS

 <b>MORRISON MAIERLE, INC.</b> <i>An Employee-Owned Company</i>	Engineers 1 engineering office Surveyors Helena MT 59602 Scientists Planners Phone: (406) 442-3050 Fax: (406) 442-7802	DRAWN BY: JMM CHKD. BY:	SIXTH AVENUE NORTH TO BENCH BLVD. BILLINGS MONTANA	PROJECT NO. 0000132
		APPR. BY: PE DATE: 8/2006		FIGURE NUMBER <b>FIG. 2</b>

## **Attachment 3**

Montana Department of Transportation Letter to  
Yellowstone County Board of Commissioners  
Design and Mitigation Measures and Section 4(f)  
*de minimis* Impact Finding – Earl Guss Park.

**Montana Department of Transportation**

2701 Prospect Avenue  
PO Box 201001  
Helena MT 59620-1001

Jim Lynch, Director  
Brian Schweitzer, Governor

Yellowstone County Commissioners  
PR 6

**APR 25 2007**

April 23, 2007

Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
P.O. Box 35000  
Billings, Montana 59107

Re: MT-CM 1099(32), 6<sup>th</sup> Ave. North to Bench Boulevard, CN 4553  
City of Billings, Yellowstone County, Montana  
*Earl Guss Park - Concurrence with Design and Mitigation Measures and  
Section 4(f) de minimis Impact Finding*

Dear Mr. Reno:

Thank you for your response to our previous request for information regarding Yellowstone County's determination of significance for Earl Guss Park as a Section 4(f) property. That information was helpful in determining that Earl Guss Park is significant for Section 4(f) purposes, as defined in the U.S. Department of Transportation Act of 1996 (49 U.S.C. 303).

In extending Bench Boulevard to connect with 6<sup>th</sup> Avenue North, the referenced project will need an easement for construction along an extension of Bench Boulevard through and adjacent to Earl Guss Park. An easement does constitute a "use" of land in MetraPark within the meaning of Section 4(f) property.

In preparing the categorical exclusion (CE) for the proposed action, we are considering making a *de minimis* impact finding pursuant to Sec. 6009 of SAFETEA-LU. *De minimis* impacts on publicly owned parks, recreation areas, and wildlife and waterfowl refuges are defined as those that do not "adversely affect the activities, features and attributes" of the Section 4(f) resource.

The project would occur primarily on lands owned by Yellowstone County. Yellowstone County would issue an easement for construction permit and right-of-way on Earl Guss Park. Yellowstone County would retain ownership of land within the limits of the easement.

The easement would be for the Alkali Creek bridge, Bench Boulevard, and associated transportation facilities crossing above the eastern part of the park.

Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
April 23, 2007  
Page 2 of 3

Mitigation measures include retaining walls to avoid any loss of existing, developed parking spaces in the MetraPark complex, landscaping to improve the overall aesthetic of the site, and site illumination to improve both aesthetics and safety.

Use of the area includes recreational visitors to Earl Guss Park via established patterns of traffic and access. These uses would be enhanced by the following project features:

- Improved traffic operation for access roads and parking areas at MetraPark and Earl Guss Park;
- Improved access to Earl Guss Park via the proposed Alkali Creek bridge;
- Greater safety for users of Earl Guss Park through improved roadway geometrics, both horizontal and vertical alignments, signing, striping, signalization, and illumination; and
- Improved non-vehicular access through construction of continuous sidewalk along the south side of the project, wheel chair ramps, curb cuts, and tie-in to the existing trail system within Earl Guss Park.

Impacts to the riparian areas of Earl Guss Park will be minimized and/or avoided by construction of a single span structure over Alkali Creek. The bridge, and support structures would be constructed above the ordinary high-water (OHW) mark of Alkali Creek and outside of any adjacent wetland areas. No permanent impacts would occur below the Creek's OHW.

The Yellowstone County Park Board plans to improve the trail system in Earl Guss Park. A new trail is proposed along Alkali Creek from the site of the Alkali Creek Bridge westward (i.e., upstream) to and beyond Main Street. While that work would not be part of the project, the bridge structure will provide sufficient vertical clearance at the south abutment to allow future trail development and full use of the proposed trail.

Because the project is being developed with impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project as described above, we are asking your concurrence that the project does substantially meet the *de minimis* guidelines that the transportation use would not adversely affect the activities, features, and attributes that qualify Earl Guss Park for protection under Section 4(f).

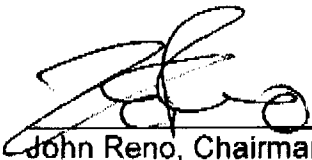
As you are the official with jurisdiction over Earl Guss Park, we are requesting your concurrence that the City of Billings has provided design and mitigation measures to satisfactorily ensure compliance with Section 4(f) of the U.S. Department of Transportation Act of 1996 (49 U.S.C. 303), as amended by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, SAFETEA-LU. These design and mitigation measures include all possible planning to minimize harm, as follows:

- There will be no change in ownership of the land;
- The project, when completed, will not impair the activities, features, or attributes of Earl Guss Park;
- The project will include construction of amenities, such as sidewalks, curb and gutter, and landscaping; and
- After the project is completed, the affected land and facilities will be restored to a

Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
April 23, 2007  
Page 3 of 3

condition at least as good as their condition prior to the project.

If you concur with the above and the *de minimis* impact finding is acceptable, please sign the line indicated below:

I CONCUR:  \_\_\_\_\_ Date: May 1, 2007  
John Reno, Chairman  
Yellowstone County Board of Commissioners

Please return a signed copy of this letter to me at the following address:

Thomas L. Hansen, P.E.  
Engineering Section Supervisor  
MDT Environmental Services Bureau  
P. O. Box 201001  
Helena, Montana 59620-1001

You can contact Chris Hertz (City of Billings, City Staff Engineer) at (406) 657-3095 (Email: [hertzc@ci.billings.mt.us](mailto:hertzc@ci.billings.mt.us)) or Phill Forbes (Morrison-Maierle Inc., Project Manager) at (406) 495-3450 (Email: [pforbes@m-m.net](mailto:pforbes@m-m.net)) if you have any questions or if you need additional information. Thank you for your cooperation in providing this information.

Sincerely,

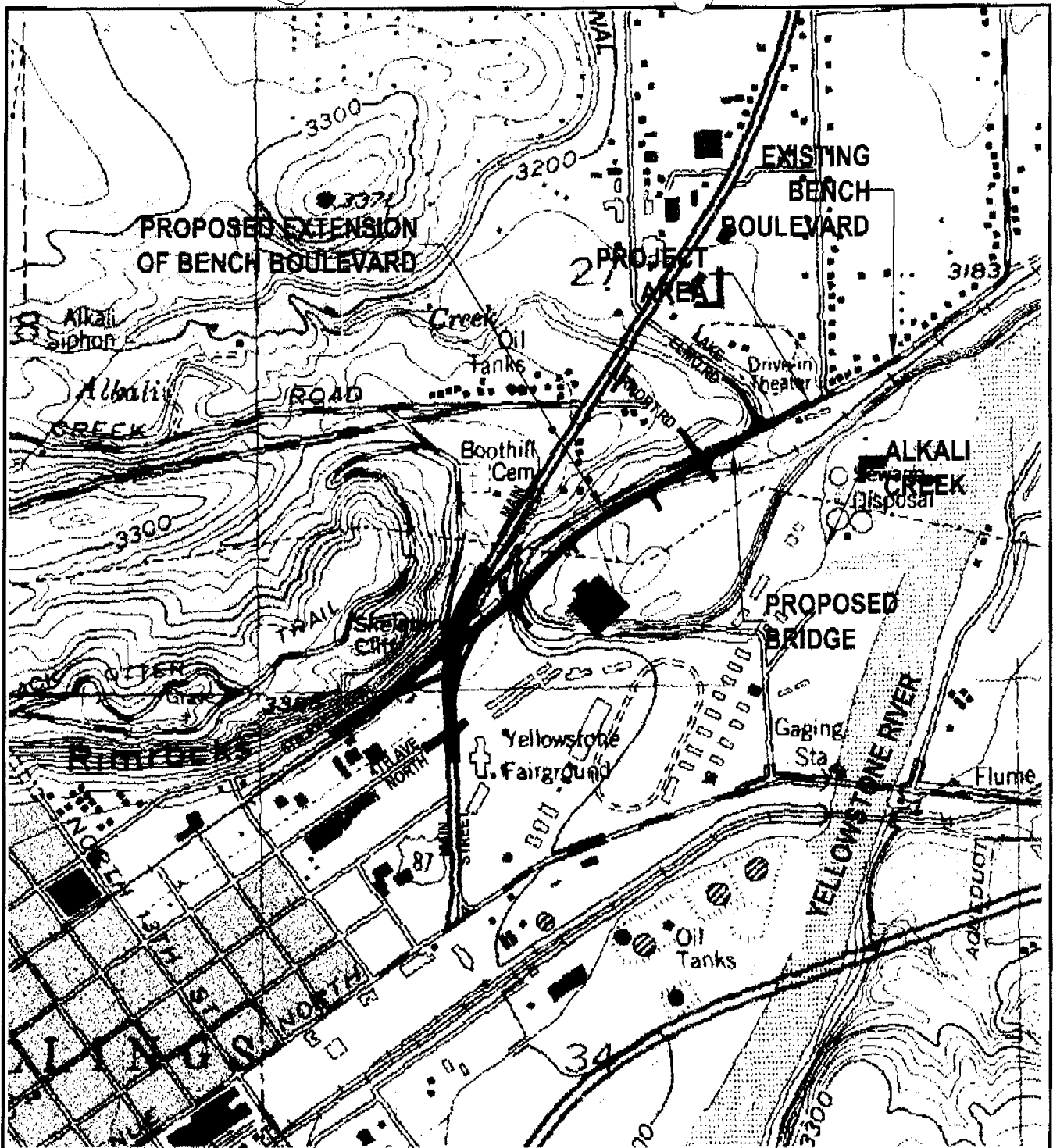


Thomas L. Hansen, P.E.  
Engineering Section Supervisor  
MDT Environmental Services Bureau

Attachment

cc: Chris Hertz, P.E., Billings City Staff Engineer  
Tom Martin, P.E., MDT Consultant Design Engineer,  
Attn: Miki Lloyd, P.E., MDT Consultant Project Engineer  
Phill Forbes, P.E., Morrison-Maierle Inc., Helena Office





USGS QUADRANGLE MAPS-BILLINGS EAST & BILLINGS WEST-1975



SCALE IN METERS



Engineers  
Surveyors  
Scientists  
Planners

1 Engineering Plaza  
Billings MT 59602

Phone: (406) 442-3080  
Fax: (406) 442-7962

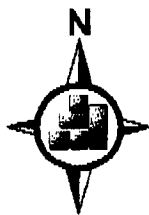
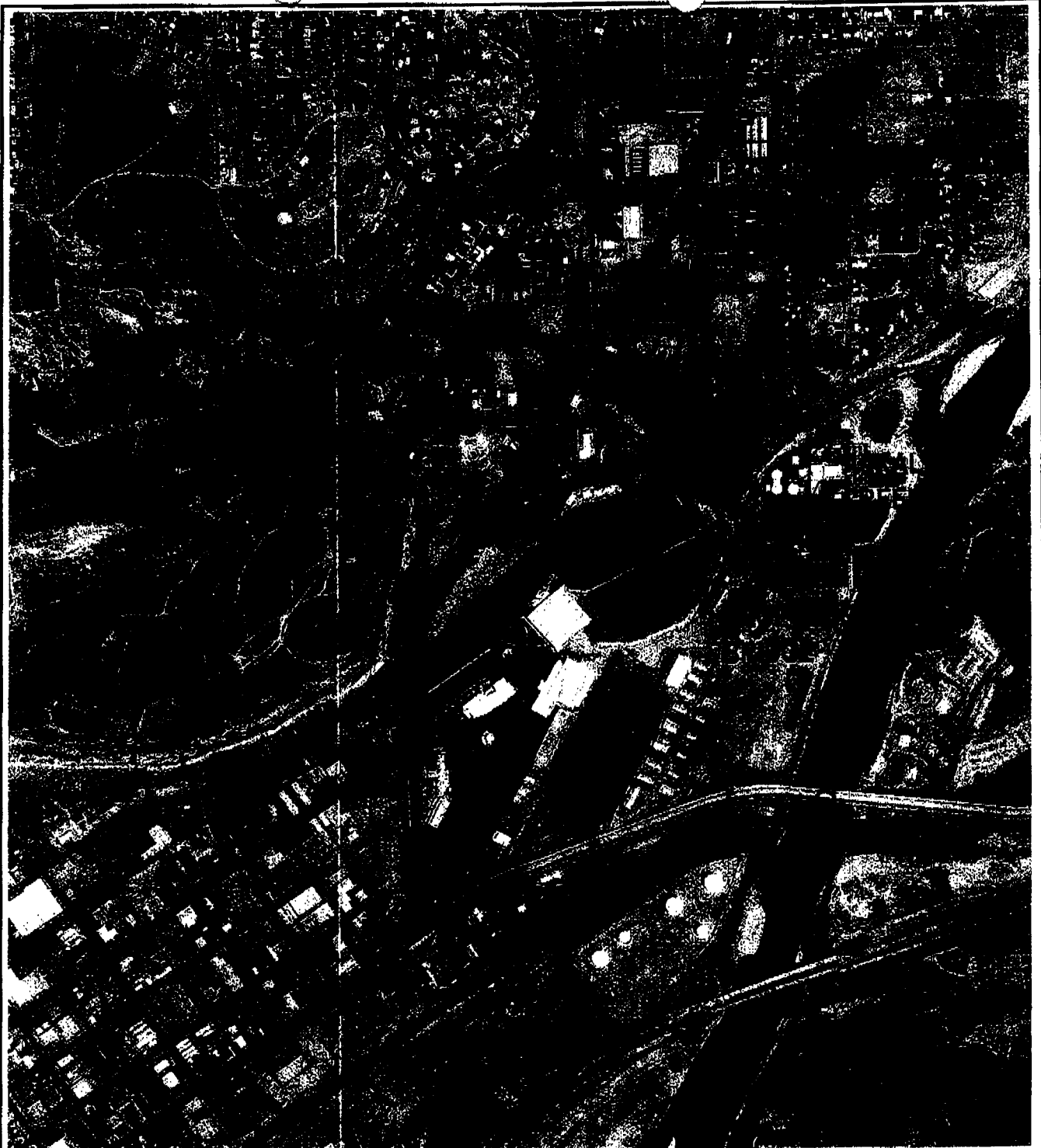
DRAWN BY: JMM  
CHK'D. BY:  
APPR. BY: PF  
DATE: 8/2006

SIXTH AVENUE NORTH TO BENCH BLVD.  
BILLINGS MONTANA

PROJECT NO  
0605.102

TOPOGRAPHIC AND VICINITY MAP


FIGURE NUMBER  
**FIG. 1**



USGS-ORTHO AERIAL-BILLINGS NW & SW-8/23/1996



SCALE IN METERS

 <b>MORRISON MAIERLE, INC.</b> <i>An Employee-Owned Company</i>	<i>Engineers Surveyors Soil/Title Planners</i>	1 Engineering Plaza Helena MT 59602  Phone: (406) 442-2030 Fax: (406) 442-7862	DRAWN BY: <u>JMH</u>	SIXTH AVENUE NORTH TO BENCH BLVD. BILLINGS MONTANA	PROJECT NO. 0688.152
			CHECKED BY: _____ APPR. BY: <u>PF</u> DATE: <u>4/20/08</u>		FIGURE NUMBER <b>FIG. 2</b>
<small>© COPYRIGHT © MORRISON MAIERLE, INC. 2008</small>			AERIAL MAP		

## **Attachment 4**

Federal Highway Administration  
Section 4(f) *de minimis* Impact Finding  
Letter and Exhibits



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Montana Division**

November 6, 2007

RECEIVED  
NOV 8 2007  
FHWA  
MONTANA DIVISION  
585 Shepard Way  
Helena, MT 59601

Jim Reno, Chairman  
Yellowstone County Board of Commissioners  
PO Box 35000  
Billings, MT 59107

In Reply Refer To:  
HDA-MT

Yellowstone County Commissioners

RECEIVED

NOV - 8 2007

Subject: **6<sup>th</sup> Avenue North to Bench Boulevard**  
**Section 4(f) De Minimis Determination**  
Project Number: MT-CM 1099(32)  
Control Number: 4553

Dear Mr. Reno:

This is a follow up of two letters sent to you by the Montana Department of Transportation dated April 23, 2007. These letters requested the County Commissioner's concurrence in a *de minimis* impact finding for Earl Guss Park and Metra Park due to impacts from the subject project.

Congress recently amended Section 4(f) of the Transportation Act when it enacted the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU). Section 6009 of SAFETEA-LU added a new section which authorizes the Federal Highway Administration (FHWA) to approve a project that uses Section 4(f) lands without preparation of an Avoidance Analysis if it makes a finding that such uses would have *de minimis* impacts upon the resource.

More specifically, with regard to Section 4(f) resources that are parks or recreational areas, the Secretary of Transportation may make a finding of *de minimis* impact only if:

- A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and
- B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

The *de minimis* finding and request for concurrence must come from the Federal Highway Administration (FHWA), therefore, I am asking once more for your concurrence that the proposed used of 4(f) resources will not adversely affect the park or recreational area and a *de minimis* determination is appropriate.

**MOVING THE  
AMERICAN  
ECONOMY**



To ensure there is a clear definition of the lands covered under this finding, exhibits showing the proposed use in detail are enclosed. Also, please find a narrative briefly describing the project, potential impacts and proposed mitigation.

Request for Concurrence

The FHWA requests written concurrence from the Yellowstone County Board of Commissioners in the above-described finding of *de minimis* impact on the Earl Guss Park and Metra Park recreational areas from the subject project.

If you have any questions or require additional information, please contact Alan Woodmansey at (406) 449-5302, ext. 233 or email at [alan.woodmansey@fhwa.dot.gov](mailto:alan.woodmansey@fhwa.dot.gov).

Sincerely,



Kevin L. McLaury, P.E.  
Division Administrator

Concurrence

The Yellowstone County Board of Commissioners hereby concurs that the Commissioners have consulted with the FHWA on the impacts to parks and recreational areas of the subject project. The Commissioners concur with the FHWA's finding that the Project will have *de minimis* impacts on the recreational properties for purposes of Section 6009 of SAFETEA-LU (to be codified at 23 USC 138(b) and 49USC 303(d)).

By:   
John Reno, Chairman  
Yellowstone County Board of Commissioners

Date: November 30, 2007

Enclosure

cc: Bruce Barrett, MDT, Billings District Administrator  
Dan Smith, MDT, Environmental Services, Acting Bureau Chief  
Tom S. Martin, P.E., MDT Consultant Design

File #: MT-CM 1099(32) aw/lw

Narrative for 6<sup>th</sup> Avenue North to Bench Boulevard (de minimis finding)

## **6<sup>TH</sup> AVENUE NORTH TO BENCH BOULEVARD Project Description, Impacts and Proposed Mitigation MT-CM 1099(32); CN 4553**

The following narrative is a brief overview of the potential impacts and proposed mitigation for the 6<sup>th</sup> Avenue North to Bench Boulevard project.

Yellowstone County owns MetraPark and Earl Guss Park. MetraPark (Yellowstone County Fairgrounds) is an event center and entertainment complex that contains an arena, exhibition buildings, grandstand with entertainment and athletic facilities, and an extensive network of paved circulation roads, access roads, and parking areas. The arena, exhibition buildings, and fairgrounds are located south and east of the proposed alignment and the associated project-related effects. The planned transportation improvements would reconstruct the roadway along the existing alignment of the MetraPark circulation road to minimize further impact on the MetraPark property. Additional mitigation measures include use of retaining walls to avoid any loss of existing, developed parking spaces in the MetraPark complex, landscaping to improve the overall aesthetic of the site, and site illumination to improve both aesthetics and safety.

Earl Guss Park provides open space in an urban setting along Alkali Creek east of Main Street. The park also extends north along the Yellowstone River from MetraPark to Two Moon Park and includes a network of trails, kiosks, benches, and picnic areas for hiking, biking, and viewing wildlife. Vehicular access to Earl Guss Park is limited to an existing parking area adjacent to Bench Boulevard at Lake Elmo Road, north of Alkali Creek. People using the park also use MetraPark's upper parking area, which is located south of Alkali Creek and the proposed alignment.

Human use of the area includes MetraPark's employees and recreational and commercial visitors, as well as recreational visitors to Earl Guss Park via established patterns of traffic and access. These uses would be enhanced by the following project features:

- Improved traffic operation for access roads and parking areas at MetraPark and Earl Guss Park;
- Improved access for MetraPark and Earl Guss Park for neighborhoods north and east of the parks via the proposed Alkali Creek bridge;
- Greater safety for users of MetraPark and Earl Guss Park through improved roadway geometrics, both horizontal and vertical alignments, signing, striping, signalization, and illumination; and
- Improved non-vehicular access through construction of continuous sidewalk along the south side of the project, wheel chair ramps, curb cuts, and tie-in to the existing trail system within Earl Guss Park.

Impacts to the riparian areas of Earl Guss Park will be minimized and/or avoided by construction of a single span structure over Alkali Creek. The bridge and support structures would be constructed above the ordinary high-water mark (OHW) of Alkali Creek and outside of any adjacent wetland areas. No permanent impacts would occur below the Creek's OHW.

The Yellowstone County Park Board plans to improve the trail system in Earl Guss Park. A new trail is proposed along Alkali Creek from the site of the Alkali Creek Bridge westward (i.e., upstream) to

Narrative for 6<sup>th</sup> Avenue North to Bench Boulevard (de minimis finding)

and beyond Main Street. While that work would not be part of the project, the bridge structure will provide sufficient vertical clearance at the south abutment to allow future trail development and full use of the proposed trail.

Phasing of construction of the improvements will allow for access to MetraPark primarily, Earl Guss Park also, to be maintained at all times. The general scope of the first phase involves the following:

- Alkali Creek bridge structure.
- Extension of Bench Boulevard from the intersection of Bench Boulevard and Lake Elmo Road on the north to an initial phase at-grade intersection with Main Street implementing the long range horizontal alignment, a majority of the planned profile, and typical sections.
- Final connections to the MetraPark parking complex including 2 new traffic control signals.
- Sufficient reconfiguration of the at-grade southwest-bound Bench Boulevard approach to Main Street to provide reasonable operational level of service prior to Phase Two improvements.

The general scope of the second phase involves the following:

- Utility relocations near Main Street at 6<sup>th</sup> Avenue North.
- Construction of an underpass at Main Street (Main Street over).
- Extension of Bench Boulevard to its connection with 6<sup>th</sup> Avenue North.

Having the Alkali Creek bridge in service prior to work that will temporarily affect the accesses to the MetraPark will provide another point of access during the balance of the first phase construction, as well as all of the second phase work. Project planning has been developed to ensure that the recreational uses of MetraPark and Earl Guss Park will not be adversely affected by the project during construction.

Narrative for 6<sup>th</sup> Avenue North to Bench Boulevard (de minimis finding)

1. **The official(s) with jurisdiction over the property are informed of FHWA's or FTA's intent to make the de minimis impact finding based on their written concurrence that the project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).**

The Yellowstone County Commissioners have been involved in the development of the proposed project, most recently providing input at and subsequent to the Alignment & Grade Review meeting held in September 2006 (see attached letter to the City of Billings dated September 6, 2006, from the Commissioners). Additionally, the Commissioners were informed of the Federal Highway Administration's intent to make a *de minimis* impact finding via the attached letters addressing MetraPark and Earl Guss Park. As evidenced by the Chair's acknowledgement signature on each letter, the Commission has concurred that the project will not adversely affect the activities, features, and attributes of the Section 4(f) properties under their jurisdiction.

2. **The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, and attributes of the Section 4(f) resource.**

A public informational meeting on the proposed project was held on July 9, 2003, followed by a 30-day comment period. The transcript of the meeting and summary of the comments received include a number of references to the activities and attributes of both MetraPark and Earl Guss Park. Specific reference to the need to address Section 4(f) resources was made at the meeting by the design team.

The comments received during the public informational meeting and the subsequent comment period have contributed to the design of the improvements to minimize the impact of the project on the MetraPark and Earl Guss Park.





**LEGEND**

- APPROX. LIMITS OF EARL GUSS PARK
- APPROX. LIMITS OF METRA PARK
- IMPACT AREAS WITHIN PARK

FIGURE 8  
 6TH AVE NORTH TO  
 BENCH BLVD-BILLINGS  
 EARL GUSS PARK



USGS-ORTHO AERIAL-BILLINGS NW & SW-8/23/1996



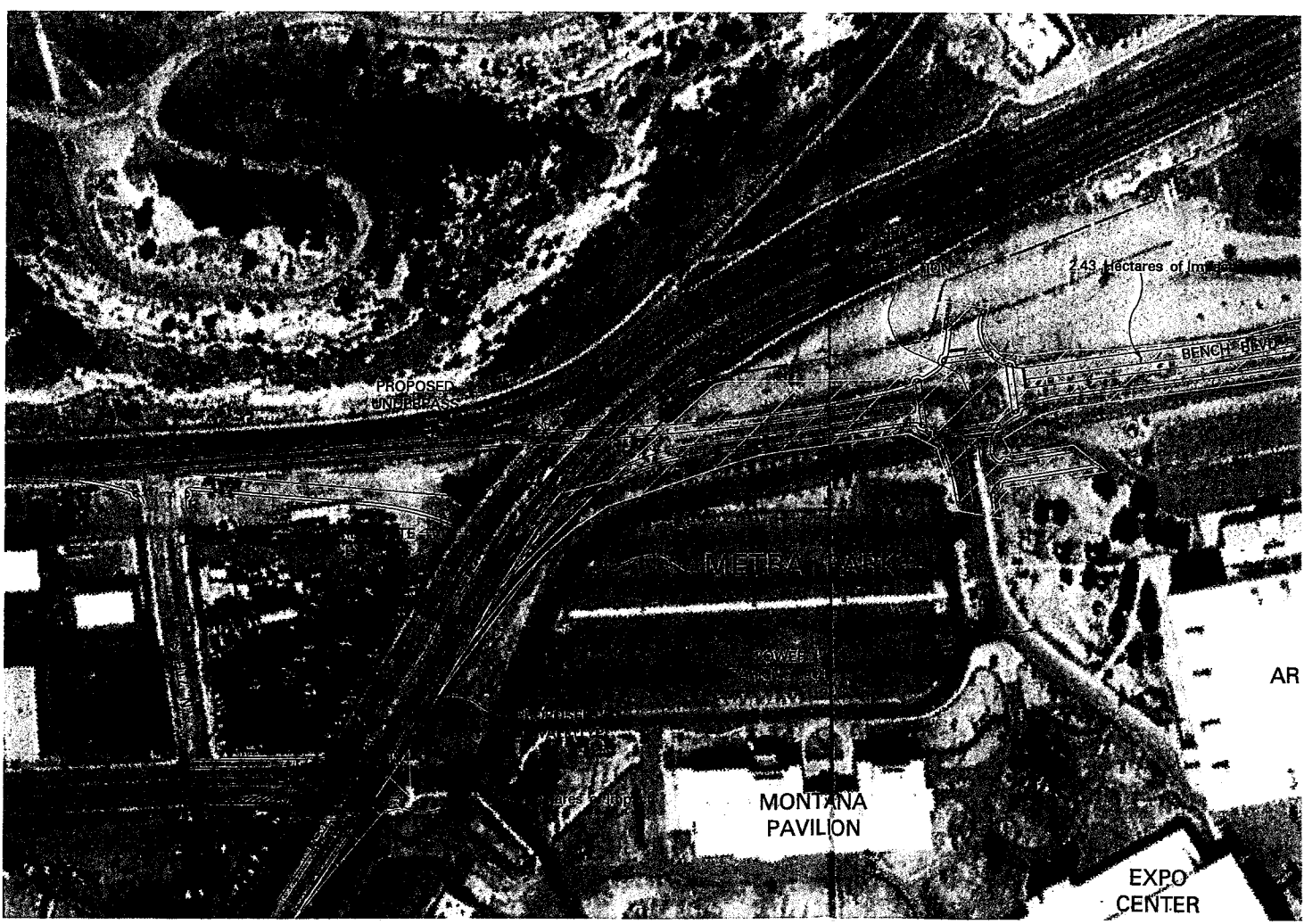
### LEGEND

- APPROX. LIMITS OF EARL GUSS PARK
- APPROX. LIMITS OF METRA PARK


FIGURE 6  
6TH AVE TO BENCH  
BLVD-BILLINGS  
AERIAL VICINITY MAP

MORRISON MAERZLE, INC.  
 ARCHITECTS  
 1000 N. 10TH ST. SUITE 100  
 BOZEMAN, MT 59717  
 TEL: 406/552-1100  
 FAX: 406/552-1101  
 WWW.MORRISONMAERZLE.COM

DESIGNED BY	REVIEWED BY
DRAWN BY	APPROVED BY
DATE	DATE
SCALE	SCALE



**LEGEND**

- - - - - APPROX. LIMITS OF METRA PARK  
 IMPACT AREAS WITHIN PARK