



Culbertson

East to North Dakota

Finding of No Significant Impact

Environmental Assessment and Section 4(f) Evaluation



FEDERAL HIGHWAY ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT

for

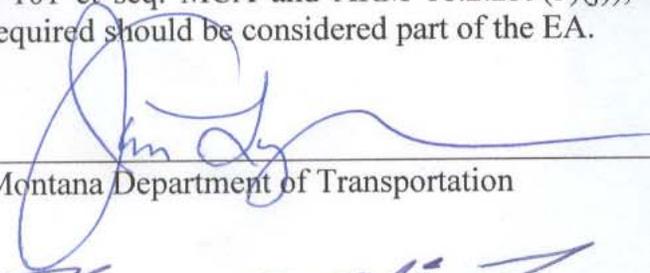
Project Number: MT 1-10(61)645
Project Name: Culbertson – East to North Dakota
Control Number: 6388

in

Roosevelt County, Montana

The Montana Department of Transportation (MDT) and the U.S. Department of Transportation Federal Highway Administration (FHWA) have determined that the Preferred Alternative, as described in the attached Environmental Assessment (EA) dated February 2008, will have no significant impact on the human environment. This Finding of No Significant Impact (FONSI) is based on the February 2008 EA and information obtained during the public and agency coordination process. After independent evaluation of the EA, MDT and FHWA conclude that the EA adequately and accurately discusses the need, environmental issues, and impacts of the proposed project and appropriate mitigation measures. The EA provides sufficient evidence and analysis for determining that an Environmental Impact Statement (EIS) is not required. MDT and FHWA take full responsibility for the accuracy, scope, and content of the attached February 2008 Environmental Assessment.

For purposes of compliance with the Montana Environmental Policy Act (MEPA) (Sections 75-1-101 et seq. MCA and ARM 18.2.239(3)(j)), this FONSI and conclusion that an EIS is not required should be considered part of the EA.



Montana Department of Transportation

8/6/2008

Date



Federal Highway Administration

8/6/2008

Date

Project Abstract and Location:

The proposed action is to reconstruct an approximately 22-mile section of US Highway 2 in Roosevelt County to be a four-lane facility. Proposed work would generally involve reconstruction or rehabilitation of the existing two lanes and construction of an additional two lanes and a depressed median. The proposed project would begin at the intersection with Montana Highway 16 north in Culbertson and extend easterly to the North Dakota state line east of Bainville. The primary purpose of the proposed project is to ensure system continuity and roadway configuration consistency with existing segments of the Theodore Roosevelt Expressway and north/south connecting corridors. In addition to satisfying the need for system continuity, a four-lane facility would also provide benefits related to improved level of service, improved safety, support for anticipated economic growth, and updated roadway design.

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NEPA/MEPA Coordination Process

The proposed project fully defined in the attached Environmental Assessment (EA) has been coordinated with the appropriate federal, state, and local agencies in compliance with the requirements of the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA), as well as guidelines provided by the Council on Environmental Quality (CEQ) and the U.S. Department of Transportation (FHWA Technical Advisory T6640.8A).

Availability of EA for Review and Comment

The Montana Department of Transportation (MDT) and the Federal Highway Administration (FHWA) approved the EA for distribution in February 2008, and a Notice of Availability was distributed to area newspapers and radio stations as follows:

- KATQ-AM&FM
- Sheridan County News
- Sheridan County OnLine
- KGCX-FM
- KTHC-FM
- Sidney Herald
- The Roundup
- Herald News (E-mail)
- KVCK-AM/FM
- Wotanin Wowapi
- Wotanin Wowapi (E-mail)
- KEYZ-AM
- KYYZ-FM
- Williston Herald
- Glasgow Courier (E-mail)
- KLAN-FM/KLTZ-AM (E-mail)

An individual mailer was also sent out to 104 people/businesses that either attended previous public meetings or expressed an interest in the project.

Copies of the EA were available for public review at the following locations:

- Culbertson Public Library (202 Broadway),
- Culbertson Town Hall (210 Broadway),
- Bainville Public School Library (409 Tubman),
- MDT Glendive District Office (503 N River Ave),
- MDT Helena Headquarters Office (2701 Prospect Ave).

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Copies of the EA were also available upon request from MDT and the EA could be viewed on the MDT website at http://www.mdt.mt.gov/pubinvolve/eis_ea.shtml.

The EA was mailed to all agencies contained on the Distribution List on pages 79 and 80 of the EA on February 27, 2008. The public review and comment period began on March 3, 2008 and ended on April 4, 2008.

Additional copies of the EA were mailed to private individuals upon their request.

Public Hearing

Formal Public Hearings were held to present the Preferred Alternative and take comments on the EA. The Hearings were held on March 24 and 25, 2008 at the Culbertson Town Hall and Bainville High School, respectively. Attendance at the Culbertson and Bainville meetings were 34 and 19 people, respectively. A transcript of each Hearing is provided in Appendix C.

Comments Received

Eight verbal comments were received at the Hearings, and 18 were submitted in writing during the comment period. Those comments and responses from MDT and FHWA are contained in Appendix B.

Appendix A – Edits/Corrections to the EA

The following edits are to be considered part of the approved Environmental Assessment (EA) prepared for this project and are intended to provide further clarification in response to comments received.

The edits are identified by their location in the EA, the type of edit made, and a depiction of the edit made to the text.

<u>Location</u>	<u>Action</u>	<u>Edit</u>
TOC	Insert list of technical reports	<p>LIST OF TECHNICAL REPORTS</p> <ol style="list-style-type: none"> 1. HDR, HLB Decision Economics Inc. <i>Transportation Regional Economic Development (TRED) Theodore Roosevelt Expressway</i>. April 2007 2. Frontier Historical Consultants, Inc. <i>Combined Cultural Resource Inventory and Assessment – Culbertson East, Roosevelt County, Bainville East and West</i>. February 2008 3. Big Sky Acoustics, LLC. <i>Culbertson – East to North Dakota Traffic Noise Study</i>. January 2008 4. PBS&J. <i>Culbertson East Biological Resources Report and Addendum to the Bainville East and West Biological Resources Report</i>. February 2008 5. Montana Department of Transportation. <i>Location Hydraulic Study Report</i>. May 2007 6. URS. <i>Bainville – East & West Biological Resources Report</i>. October 2004

Note: Copies of Technical Reports are available for review from:

Montana Department of Transportation
 2701 Prospect Avenue
 Helena, Montana 59620-1001
 Phone: 406.444.7228
 TTY: 800.335.7592

Page 18,	Text	2	30±
first column,	correction	3	29±
line 6		4	83±
		5*	36±

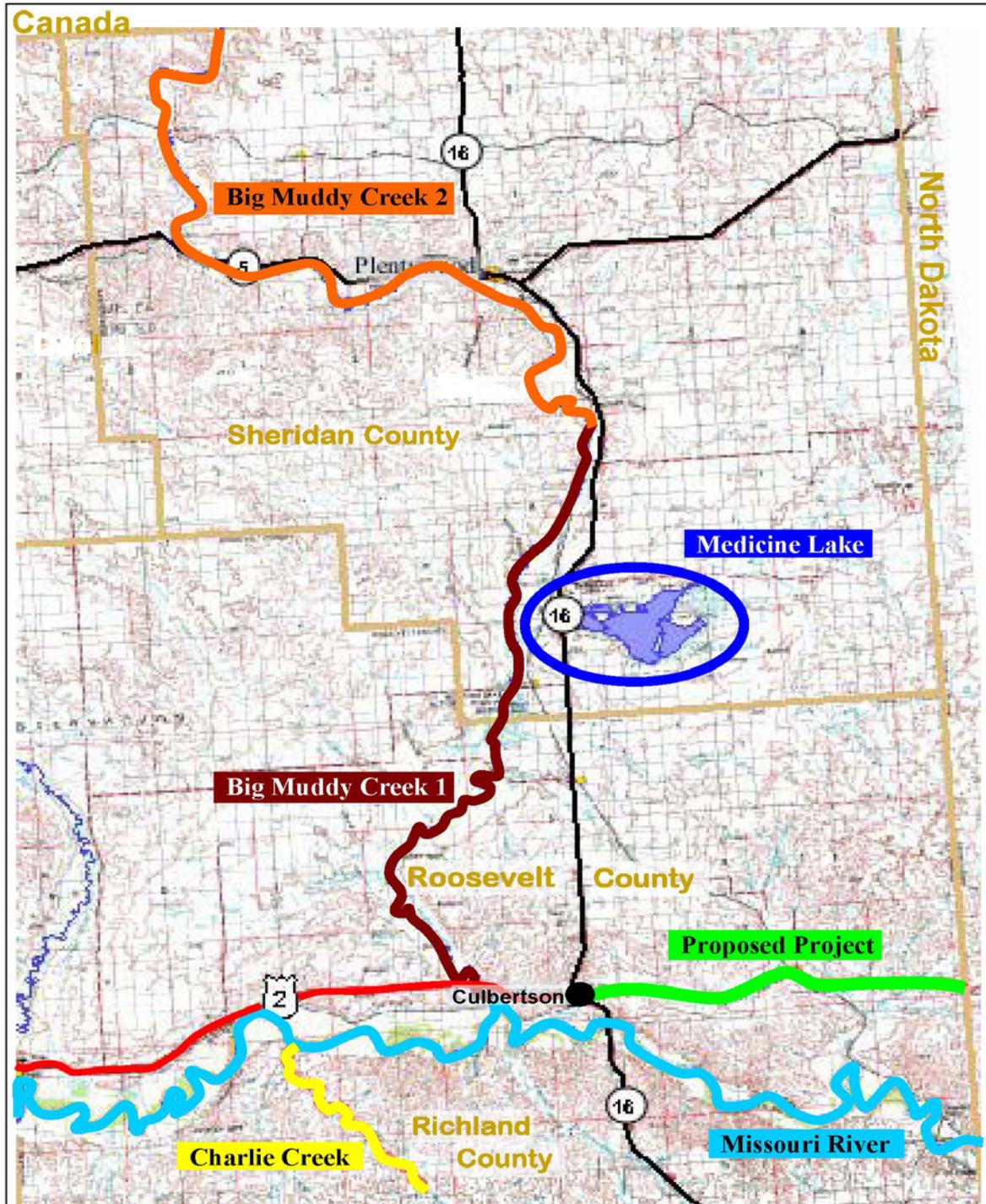
In response to comments about TMDL waters, there are six TMDL impaired waters located near the proposed project area. These waters were excluded from discussion in the EA because they

Finding of No Significant Impact



are well outside the study area and outside the area of any direct impacts from this proposed project. Five of the six impaired waters are shown in Figure A-1. The topographical location of Hard Scrabble Creek is unknown due to a lack of information on the 2006 303(d) listing and is therefore not shown on the figure.

Figure A-1
Surface Waters Near the Proposed Project

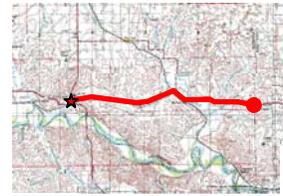


Culbertson East to North Dakota

Appendix B – Comments and Responses

The following pages contain the comments made at the Public Hearings, as well as copies of the comment letters received (on the left side of the page), and the FHWA/MDT response (on the right side of the page). Comment letters are presented in date-order, and each is numbered sequentially. The response to each letter is identified with the number corresponding to the comment.

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Culbertson East to North Dakota

The following comments were submitted in writing to MDT during the public comment period on the EA.

Comment #1

An invitation to comment on this project was sent to Mr. Van Isman, (previous) Chief Executive Officer, Wascana Centre Authority, Box 7111, Regina, SK, Canada. It has subsequently been referred to me for response.

Let me preface my comment by stating that whereas I live and work professionally in Regina, I am a U.S. citizen, veteran, previous USDA-FS employee, and graduate of Montana State University in Bozeman and the University of Illinois, Urbana-Champaign. My county of record is Gallatin County, Bozeman. We own property in the Red Lodge-Luther, MT area and travel between Regina and Billings approximately seven times per year. Because of our routine trips back and forth we can say that we have more than a solid appreciation for the socio-economic benefits associated with this project being considered - from both perspectives, being either north or south of the international border.

We have cultivated many personal relationships with folks along our Regina-Billings travel corridor and think too that we have a good feel as to how this project would benefit them in so many ways – focusing No. 1 on health and safety! In fact some of our friends own and operate the Culbertson restaurant (Wild West Diner) on the SW corner of where this project is to commence.

Although our travels are generally north – south as opposed to east –west, we would definitely support future highway improvements as well from Culbertson west along the Hi-line to the Rocky Mountain front where our family recreates. This initiative is long overdue and would provide a safe and fast east – west alternative that would help better distribute traffic across the state as a whole.

There are talks occurring at our provincial level aimed at significantly improving the vehicular connections between Saskatchewan, Montana and North Dakota to stimulate tourism and trade in safe and efficacious ways. Your EA delineates this north – south linkage system quite nicely – all the way from Texas to Saskatoon, Saskatchewan! These are all great initiatives and I am both personally as well as professionally pleased to indicate that I have completely read our EA on line, and applaud the proponents for taking this particular project on and hopefully to keep it moving in a westward direction.

As director of one of the largest urban parks in North America, where access, tourism and trade are so important, I understand how all regional highway improvements, big or small, direct or indirect can significantly aid the cause and help complete a much bigger transportation picture. They are all little puzzle pieces to a very big puzzle.

I would be pleased to comment on the details of this project as they evolve. Thank you for this opportunity and good luck with your upcoming public meetings.

C. K. (Ken) Dockham FCSLA ASLA Director of Operations / Landscape Architect
Wascana Centre Authority

Mail:
P. O. Box 7111
Regina, Saskatchewan
Canada S4P 3S7

Civic:
Wascana Place
2900 Wascana Drive
(306) 347-1812
(306) 565-2742 (F)
www.wascana.sk.ca

Response #1

Thank you for your comments. Congressional designation reflects the national importance of the Theodore Roosevelt Expressway (TRE) as a critical link in an international trade corridor extending from Mexico to Canada.

Culbertson East to North Dakota

Comment #3

Public Hearing(s): March 24 and 25, 2008

We Invite Your Comments:

I think you better "get with it" before North Dakota takes the route away from Mt. Joe. I'd had #16 written in with this project at the same time!!

Response #3

See comment response #2.

To receive further project information, please provide your name and address:

Name:

Litch Mattelin

Address:

Box 498

Culbertson MT 59218

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is **April 4, 2008**.

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Comment #6

Public Hearing(s): March 24 and 25, 2008

We Invite Your Comments:

I feel that a well improved two lane Highway with passing lanes on hills, and improved approaches and wide shoulders are all that is required at this time, as there is no plan to four lane highway 16 north of Culbertson.

Response #6

As noted in Section 2.1 (page 7) of the EA, an improved two-lane was an alternative evaluated in the TRED Study.

While the two-lane does provide some improvement to the safety and operational characteristics of the roadway, the primary purpose of the project is to provide long-range improvements to the congressionally designated Theodore Roosevelt Expressway as a critical link in an international corridor from Mexico to Canada. A four-lane highway is the only improvement that meets that need.

This project is the first step in four-lane improvements envisioned along the entire Theodore Roosevelt Expressway corridor within Montana. This portion of US 2 was selected as the first segment for construction based on coordination efforts with the North Dakota DOT and the potential for completing the four-lane west of Williston to the Montana state line. Four-lane improvements on Hwy 16 north to the Canadian border would be constructed at a later date to provide overall system continuity. Highway 16 improvements would follow the required environmental review process, including public involvement, prior to approval for improvements. Construction on Hwy 16 would begin as funding became available.

To receive further project information, please provide your name and address:

Name: Terry Traeger
Address: 1218 Rd 2060
Bainville MT. 59212

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.

Culbertson East to North Dakota

Comment #7

Public Hearing(s): March 24 and 25, 2008

Response #7

We Invite Your Comments:

I RECEIVE WATER FROM SHELL CREEK SPRING RUNOFF AND SHOTGUN CREEK OVERFLOW. HOW WILL MDT ENSURE THAT WATER WILL CONTINUE TO FLOW UNDER THE ROADWAY TO THE SOUTH TO MY PROPERTY?

WHY IS MDT TAKING SO MUCH LAND OUT OF PRODUCTION FOR THE MEDIAN?

WILL I BE ABLE TO GO STRAIGHT ACROSS BOTH EAST- AND WEST-BOUND LANES TO GET TO MY PROPERTY ON BOTH SIDES OF US 2?

~~WHAT ABOUT IMPACTS TO WATERLINE, FIBER OPTICS, AND OTHER UTILITIES?~~

To receive further project information, please provide your name and address:

Name: Terry Traeger

Address: 1218 Rd 2060

Bainville MT. 59212

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.

All detailed hydraulics issues will be analyzed during final design, and coordinated with each individual property owner. General flow patterns will be perpetuated, but the specific crossings of the roadway would be handled during final design.

Median separation of a multi-lane highway provides safety benefits such as separation for left turns and snow storage as compared to an undivided facility. The median width is consistent with what has been constructed on other portions of US 2 in North Dakota.

Specific access locations and median crossings will be coordinated with land owners during the final design and right-of-way negotiations.

Impacts to all utilities are anticipated to be temporary and will be coordinated with utility line owners. Utility relocations would be coordinated during final design and right-of-way negotiations.

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Comment #8

Public Hearing(s): March 24 and 25, 2008

Response #8

We Invite Your Comments:

8-A First - I think it is a good idea to 4 lane Highway 2.

Question is where the right of way gets so wide to cut hills, is the fence line stay out there or does it come back in so land can be utilized?

8-B #2 it was mentioned that minerals may have to go with the right of way - why?

8-C #3 why is the road bent so much - why not straighten it out even if it means moving fiber optics, rural water for a house or two. hopefully the highway right of way will out last the present owners. straighter roads would be better.

Thank you for the comment.

8-A Fencing is normally placed on the right-of-way line, which is typically established at 10 feet beyond the construction limits. However, the final fence line location can be negotiated with property owners during right-of-way acquisition.

8-B MDT acquires real property interests at appraised value. MDT will acquire all rights to properties within the new right-of-way, with the exception of gas, oil and minerals beneath the surface. The landowner will retain the right to extract oil, gas, and minerals provided that in the exercise of such right, the surface shall not be disturbed, interfered with, or damaged. This exception and reservation does not include sand, gravel, and other road building materials which are fully conveyed to MDT.

8-C The intent was to follow the existing alignment as much as practicable but still meet current design standards for this type of facility. Occasional curves in a roadway are more desirable than a flat, straight roadway because the variations tend to keep the driver more alert.

To receive further project information, please provide your name and address:

Name: Mark Pacovsky

Address: 546 US Highway 2
Bainville Mt. 59212-0023

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.

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Comment #9

Public Hearing(s): March 24 and 25, 2008

Response #9

We Invite Your Comments:

- Just east of Bainville
- Would like to see new 2 lane built on old road bed:
That way if 4 lane is built you'll have more room for 4 lane and stay farther from Dale Romo's house and Romo Bros barn, corrals, & small pastures. We will lose important calving pasture acres & horse pasture. Why would you need to buy or own oil minerals under road right of way?

Thank you
Lee Romo

To receive further project information, please provide your name and address:

Name: Lee Romo

Address: 6211 Hwy 327
Bainville MT 59212

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.

The Bainville-East & West project (new 2-lane generally along existing alignment) is in final design. MDT is completing right-of-way acquisition and is preparing permit applications. The project is planned for construction in 2009. The alignment was selected to improve existing roadway geometry, minimize impacts to adjacent property owners, and to facilitate the construction of two additional lanes in the future with minimal overall impact.

MDT acquires real property interests at appraised value. MDT will acquire all rights to properties within the new right-of-way, with the exception of gas, oil and minerals beneath the surface. The landowner will retain the right to extract oil, gas, and minerals provided that in the exercise of such right, the surface shall not be disturbed, interfered with or damaged. This exception and reservation does not include sand, gravel and other road building materials, which are fully conveyed to MDT.

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Comment #10

Public Hearing(s): March 24 and 25, 2008

Response #10

We Invite Your Comments:

THE ROAD GOING INTO MY HOME ACTS AS A DAM. HOW WILL MDT ENSURE THAT MY HOME AND PROPERTY WILL NOT FLOOD DUE TO THE NEW PROJECT? MY UNDERSTANDING IS THAT THE HIGHWAY WILL BE TWO TO FOUR FEET HIGHER THAN MY ROADWAY.

TERRY TREIGER'S PROPERTY IS HELD IN A 100-YEAR LEASE BY THE FEDERAL GOVERNMENT FOR FEDERAL A ~~WETLANDS~~ WATER FOWL PRODUCTION AREA. THE FEDS OWN THE WATER RIGHTS.

To receive further project information, please provide your name and address:

Name: TOM SAUNDERS

Address: 1194 US HWY 2

BAINVILLE.

406.787.5288 (LEAVE MESSAGE)

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Billings, MT 59330-0890

MDT is required to mitigate for all adverse effects from the project. Specific hydraulics issues will be analyzed during final design, and appropriate action negotiated with individual land owners. Detailed hydraulic analyses conducted during final design would determine the flood flow impacts resulting from the proposed project.

Based on the preliminary plans, the west bound lanes would be approximately 3' higher, going to 4' higher on the high side of a superelevated curve. These lanes would be higher than the eastbound lanes to mitigate snow drifting.

The comment about the 100-year lease has been noted. Thank you.

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.

Culbertson East to North Dakota

Comment #11

Public Hearing(s): March 24 and 25, 2008

Response #11

We Invite Your Comments:

At the Bainville Mtg. Mar. 25, 2008, comment made that when R/W was acquired all rights go with it including all minerals. Please explain purpose for such. Thank You.

MDT acquires real property interests at appraised value. MDT will acquire all rights to properties within the new right-of-way, with the exception of gas, oil and minerals beneath the surface. The landowner will retain the right to extract oil, gas, and minerals provided that in the exercise of such right, the surface shall not be disturbed, interfered with or damaged. This exception and reservation does not include sand, gravel, and other road building materials which are fully conveyed to MDT.

To receive further project information, please provide your name and address:

Name: LeRoy PANASUK

Address: 5615 Rd 1004
Bainville, MT 59212

Please leave your comments with Project Team staff at the meeting, or mail to:

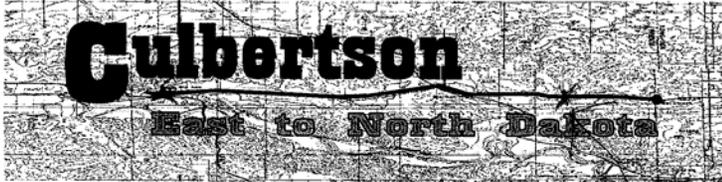
Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is **April 4, 2008**.

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Comment #12



Public Hearing(s): March 24 and 25, 2008

Response #12

We Invite Your Comments:

Where X is, is Road 1003
I live on that road. If he is
responsible for me getting a
decent entrance exist off hi
way 2#.

The county said to talk to
State. The State says talk to
County. Both are quoting me the
same advice.

The grades and sight distance at this intersection 1003 are being modified as part of the *Bainville – East & West* project. We encourage you to discuss that design with the MDT district office in Glendive.

MDT will coordinate any future access modification on US 2 with individual landowners.

To receive further project information, please provide your name and address:

Name: John R Mengel
Address: 5814 Rd 1003
Bainville Mt
59212

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ca.shtml. Deadline for comments during this phase is April 4, 2008.

Culbertson East to North Dakota

Comment #13

Public Hearing(s): March 24 and 25, 2008

Response #13

We Invite Your Comments:

Can the 4 lane go to an undivided
4 lane at the old Rest stop rather than
waiting until it gets to the dam. ~~Our~~ We
own a very small amount of land and every
part that is taken affects us considerably.

The divided roadway has safety benefits over an undivided section. The divided roadway is the preferred design for the entire corridor and has been modified only in limited areas where extraordinary circumstances, such as sensitive resources, or extensive development require undivided sections. In this particular location the median and east bound lanes would be constructed to the south, which would have no additional affect on your property.

To receive further project information, please provide your name and address:

Name: Susan Soto

Address: 60 US Hwy 2

Bainville, MT

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is **April 4, 2008**.

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Comment #14

04/02/08 WED 15:43 FAX 406 345 8250

MT DEPT OF TRANS

002



Response #14

Public Hearing(s): March 24 and 25, 2008

We Invite Your Comments:

My one concern is concerning the area where highway #16N+2 meet. Even now we see huge trucks maneuvering the corner stopping traffic in all directions. I know it is not what the local folk want to hear but perhaps this highway should be bypassing our community... to the east. I fear it's only a matter of time before we have a tragic accident on that corner.

To the extent practicable, all intersections in the corridor will be designed in accordance with MDT standard specifications. The intersection will be designed to allow the westbound to northbound maneuver to occur without encroaching into the opposing lanes.

By state statute, MDT cannot bypass an incorporated city without the approval of the incorporated city. Culbertson has expressed a desire to have US 2 continue along its current route.

To receive further project information, please provide your name and address:

Name: Vi Jimenez
Address: P.O. B. 535
Culbertson
59218

Please leave your comments with Project Team staff at the meeting, or mail to:
Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.

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Comment #15

DONEY | CROWLEY | BLOOMQUIST | PAYNE | UDA P.C.

ATTORNEYS AT LAW

Ted J. Doney (1942-1994)
John E. Bloomquist
Frank C. Crowley, MS
R. Allan Payne, R.G.P., MS
Michael J. Uda, MS

Offices in Helena and Dillon, Montana



RECEIVED
APR --1 2008
ENVIRONMENTAL

James E. Brown, LL.M.
Marc G. Buyske, LL.M.
Patti L. Rowland
Abigail J. St. Lawrence
James L. Shuler

MEMO

TO: Tom S. Martin, P.E.
Environmental Sciences Bureau Chief
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001

From: John E. Bloomquist, on behalf of landowners in Roosevelt County

Re: Comments for MT 1-10(61) – East to North Dakota
Environmental Assessment (“EA”), dated February, 2008

Date: March 31, 2008

I. INTRODUCTION

The following comments are presented on behalf of landowners in Roosevelt County, Montana, concerned with DOT’s proposed four-lane project, as identified in the above-referenced EA. The MT 1-10(61)645 Culbertson – East to North Dakota Draft Environmental Assessment (“Draft EA”) contains serious flaws and oversights that must be addressed before a final EA is issued or a more comprehensive Environmental Impact Statement (EIS) is required. The problems highlighted in the following comments are, briefly:

1. The stated “purpose and need” are too narrow to allow for consideration of reasonable alternatives.
2. Reasonable alternatives are not considered.
3. The Draft EA suffers from a lack of adequate citation of source material and independent study of existing conditions.
4. Water Quality – the document does not sufficiently address potential impacts to surface waters directly crossed by the project and 303(d) waters identified within the project area.
5. Wetlands

II. DISCUSSION AND COMMENTS

15-A

1. Purpose and Need

Standard: NEPA regulations simply state that an EA “shall include brief discussions of the need for the proposal...” 40 CFR 1508.9(3)(b). MEPA regulations, similarly, require “a

Response #15

Responses to each of these major points are provided in the following pages.

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Comment #15 (cont.)

Response #15 (cont.)

description of the benefits and purpose of the proposed action.” ARM 18-2-239(3)(b). Case law has fleshed out the standard somewhat. The 9th Circuit applies a “reasonableness” standard to the purpose and needs section of EA/EISs. *Friends of Southeast’s Future v. Morrison*, 153 F.3d 1059, 1066-7 (9th Cir. 1998). In *City of Carmel-by-the-Sea v. United States Department of Transportation*, 123 F.3d 1142 (9th Cir. 1995), the court held that “the stated goal of a project necessarily dictates the range of “reasonable” alternatives and an agency cannot define its objectives in unreasonably narrow terms.” *Id.*, 1155, citing *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991). (For further applications of the standard, see also *Muckleshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800 (9th Cir. 1999) and *Kettle Range Conservation Group v. U.S. Forest Service*, 148 F.Supp.2d 1107 (E.D. Wash., 2001)). Where the purpose of the document is defined too narrowly, it will automatically and improperly eliminate otherwise viable alternatives from the analysis. In this way, the statement of purpose and need is inextricably linked to the sufficiency of the alternatives analysis and the basic requirement that the agency take a “hard look” at the available alternatives. In this case, it is clear MDT has inappropriately concluded the purpose “to ensure transportation system continuity,” requires only a four-lane highway be proposed.

Culbertson Draft EA: The stated purpose of the proposed project is “to ensure transportation system continuity and roadway configuration consistency with existing segments of the Theodore Roosevelt Expressway...” EA, 5 (Section 1.4). The stated need is: “A **four-lane system** along the corridor would be important for regional system continuity reasons...” EA, 6 (Section 1.5), emphasis added. The purpose and need quoted here are not excerpts from the middle of longer paragraphs or more detailed descriptions; they are the sole statements of purpose and need offered by the EA. The EA also uses the TRED study¹ as the “basis” for its purpose and need. The purpose of the TRED study is “to identify what economic, regulatory, or operational changes would result in traffic and safety conditions that would warrant building a **four-lane roadway** on the Theodore Roosevelt Expressway in Montana.” TRED Study Executive Summary, 2, emphasis added. Clearly, the main goal here is “continuity” with the rest of the T.R. Expressway, which connects to the project area at the MT-ND border and extends south to Rapid City.

This statement of purpose determines the alternatives considered in the EA: “The TRED Study identified several different improvement options ... These alternatives ranged from an improved two lane option to a divided four-lane option. Based on the results of the TRED Study ... MDT has determined that a four-lane design is the only alternative that satisfies the purpose and need of system continuity.” EA, 7. Thus, the EA presents only the preferred alternative (a 4-lane highway) and the required no-build option. As explained below, such a conclusion is inappropriate under the requirements of MEPA.

Application of the Standard: The stated purpose of the Culbertson EA repeatedly refers to a four-lane highway, both by itself (referring to the need for continuity with the Roosevelt Expressway in sections 1.4 and 1.5) and by reference to the TRED study (Section 1.1 and 2.1). Such a purpose necessarily eliminates any other road configurations, essentially “defining away” the otherwise viable alternatives, such as an improved two-lane alternative. This is illustrated

¹ US 2 / MT 16 Transportation Regional Economic Development Study, April 2007. Montana Department of Transportation. Accessed online at <http://mdt.mt.gov/pubinvolve/us2tred/>, March 30, 2008.

15-A

The Culbertson – East to North Dakota Environmental Assessment (EA) was prepared following the Congressional designation of the Theodore Roosevelt Expressway (TRE) as a high priority corridor and the TRED planning study.

The TRED study provided an overview of potential impacts of various reasonable alternatives along the entire corridor, and the lack of apparent significant impacts along the US 2 portion facilitated the development of the EA.

The Congressional designation reflects the national importance of the TRE as a critical link in an international trade corridor extending from Mexico to Canada. The need for a 4-lane highway is based upon this designation, state legislation and support from state agencies and representatives for a 4-lane highway along this portion of US 2 (See correspondence in Appendix D).

Figure 1-4 of the EA shows existing 4-lane sections of the north-south trade corridors. As shown, substantial portions of the corridors are already 4-lane. This figure represents the extensive efforts by a multitude of states to improve mobility and commerce in this region.

Culbertson East to North Dakota

Comment #15 (cont.)

perfectly in MDT's Feb. 15, 2008 letter to the Town of Culbertson (App C), responding to the town's request that the project be modified from a 4-lane to a 2-lane configuration within the downtown area: "Please be advised that MDT will not be able to consider this request and include it in the environmental document because it conflicts with the purpose and need for the project." A 2-lane configuration necessarily conflicts with the purpose and need of the project only because 4 lanes are included in the very definition of purpose and need. Such a self-fulfilling analysis violates the spirit and purpose of MEPA to consider reasonable alternatives to the proposed action.

If the EA's statement of purpose is given a broader reading (as simply establishing connectivity with the Roosevelt Expressway or improving the level of service for anticipated increased traffic, or etc.) other alternatives such as an improved two-lane would necessarily be implicated and must be included. As established in the TRED study itself, a four-lane highway provides only marginal safety and efficiency advantages when compared to improved two-lane configurations. Furthermore, the very basic idea of needing four lanes to provide "continuity" with the adjoining sections of roadway is contradicted by the evidence and information in the EA itself. The section of the Roosevelt Expressway to the east of the project site, i.e. from the North Dakota border east, is a two-lane highway all the way through North Dakota into South Dakota. EA, 5 (Figure 1-4). The connecting section of MT-16 abutting the project area to the west is also a two-lane. Moreover, the already-scheduled improvements to US-2 within the project area (that indeed comprise about 1/2 of its length), Bainville – East and West, are for an improved two-lane highway, not a four-lane. Thus, the idea of constructing 22 miles of four-lane highway in the middle of hundreds of miles of a two-lane highway in order to provide "continuity" seems to fail the reasonableness test by a wide margin. Clearly the EA is deficient for failure to consider other reasonable alternatives in the assessment, namely an improved two-lane alternative.

In sum, if the purpose is read (narrowly) as providing a four-lane highway, this is too narrow to pass the reasonableness test established by the 9th Circuit and MEPA's implementing rules because it includes the preferred alternative in the very definition of purpose. If we read the purpose (more broadly) as "providing connectivity" with the rest of the expressway, the EA still fails in neglecting the other road configuration options that could possibly provide connectivity. Given that the abutting sections of road are two-lane highways, an improved two-lane could arguably provide the same level of service and safety as the four-lane alternative. MDT's failure to consider other "reasonable and prudent" alternatives based on its overly narrow purpose violates MEPA and its regulations by a wide margin.

2. Proposed Alternatives

15-B

Standard: Both CEQ and DOT regulations defining the requirements for an EA require the agency to "identify alternatives and measures which might mitigate adverse environmental impacts" within the EA. 23 CFR 771.119(b). The Montana regulations on environmental impact analysis in transportation planning provide both more detailed requirements but also more leeway in allowing the agency to determine what level of scrutiny and detail to include in an EA (depending on the nature of the proposed project.) ARM 18.2.239. They do require, at a minimum, an analysis of such alternatives as are "reasonably available and prudent to consider." (ARM 18.2.239(f))

Response #15 (cont.)

15-B

The only alternatives that meet the purpose and need are the four-lane options. Alternatives and measures to mitigate adverse impacts are identified in Chapter 3 of the EA and include, but are not limited to; narrowing to an undivided four-lane, reduction of lane widths and steepening slide slopes in appropriate areas.

A reasonable range of alternatives (including two-lane alternatives) were evaluated in the TRED study, providing background information on the anticipated impacts and benefits.

The Council on Environmental Quality (CEQ) provides regulations for administering the National Environmental Policy Act (NEPA) and under 40 CFR 1508.9 (b), it states an Environmental Assessment, "Shall include a brief discussion of the need for the proposal, of alternatives as required by section 102(2) (E) . . ." (ARM 18.2.239(3)(b) and ARM 18.2.239(3)(f) provide similar regulation for administering the Montana Environmental Policy Act (MEPA).)

Section 102(2) (E) of NEPA requires agencies to "Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." (MCA 75-1-201(1)(b)(v) provides similar definition of appropriate alternatives for EIS's under MEPA.)

Since two-lane alternatives satisfy neither the purpose or need for this project they are not considered reasonable. In addition, there are no unresolved conflicts which would require development of additional alternatives.

Finding of No Significant Impact



Comment #15 (cont.)

Culbertson EA: As mentioned above, the EA considers only two alternatives: no-build and a four-lane divided highway (the proposed action). The lack of other alternatives is inappropriate (a) under NEPA/MEPA and also considering the EA's reliance on (b) the TRED study and (c) a former MDT EIS (US 2 Havre to Fort Belknap).

Application of the Standard: As discussed in the above section on statement of purpose, the two stated alternatives are insufficient on their face (assuming we generously read the statement of purpose broadly) to meet the requirements of NEPA/MEPA. To provide connectivity with the rest of the T.R. Expressway does not necessarily require four lanes of traffic. Hence, the EA is deficient on its face by not including and analyzing other designs most notably, improved two-lane alternatives.

The EA's reliance on the TRED study further undermines its exclusion of reasonable alternatives. In the TRED study, MDT considered the existing and prospective safety measures of five alternative road configurations (no-build, improved 2-lane, improved 2-lane with passing lanes, undivided 4-lane, and divided 4-lane). The EA, on the other hand, incorporates only the statistics for the no-build and the two 4-lane configurations, ignoring the alternatives. EA, 9. This exclusion inappropriately excludes other available data and information applicable to the scope of review of this EA. It concludes that "Based on this analysis, the four-lane designs provide safety improvements over the No Build alternative..." Id. The TRED study, on the other hand, concluded that "the projected safety benefits for a 4-lane undivided facility [are] marginal over an improved 2-lane with passing lanes." TRED Study, 9. If the TRED study data is being used for "preliminary screening of alternatives", it seems odd that the Culbertson EA should fail to even mention those alternatives, especially considering the conclusion drawn by the TRED study (that the 4-lane alternative does not provide significant safety advantages over the improved 2-lane alternative).

Finally, similar highway segments have recently been approved for reconstruction from a two-lane to an improved two-lane, not a four-lane. The review process for these projects considered five alternative road designs, not merely 2. The US 2, Havre to Fort Belknap EIS is the basis for the TRED study conclusions and is cited also in the EA at hand. The Havre-Fort Belknap EIS was completed by the Federal Highway Administration and, like the TRED study, analyzed five alternative road configurations for a projected expansion of a two-lane highway (US 2) similar in safety conditions to the TRED area. TRED Study, Table 3. The Havre-Fort Belknap EIS ultimately chose an improved two-lane with passing lanes as the preferred alternative configuration. Similarly, the Bainville East & West project (comprising nearly half of the Culbertson project area) ultimately chose to upgrade to an improved two-lane. Indeed, the TRED study mentions that "*the environmental analysis for the [Bainville] project supports an improved 2-lane configuration...*" TRED Study, App. A, Costs. This further supports the idea that MDT should at least consider and analyze the improved two-lane configurations as a reasonable alternative for the proposed action that would significantly reduce construction costs (by eliminating the need to change and further widen that section of roadway).

The inclusion of other alternatives in these prior studies and the preference for the 2-lane improved highway in the Havre-Fort Belknap EIS and the Bainville East & West project indicate that they are, at least, "reasonably available and prudent to consider" alternatives and would be

Response #15 (cont.)

Culbertson East to North Dakota

required under MEPA to be included in the EA at hand. If MDT wishes to exclude them categorically, it must do so under some type of reasoned analysis which would demonstrate to the public the reason for the exclusion in the EA.

15-C 3. Lack of Adequate Citation and Sourcing

Standard: NEPA regulations require EAs to include brief discussions of the environmental impacts of the proposed action and alternatives. 40 CFR 1508.9(b). MEPA gives more detailed guidance, allowing for the agency to determine the level of detail required for a given project (depending on a list of enumerated factors at ARM 17.4.609(2)(a-d)). The environmental impacts analysis can be quite simple (a mere “checklist”) or more complicated (“whenever an action is one that might normally require an EIS, but effects that otherwise might be deemed significant are mitigated in project design or by controls imposed by the agency, the analysis, format, and content must all be more substantial” *Id.* In this case, MDT seems to have chosen the “more substantial” route, attempting an analysis of numerous human and natural environmental impacts of the four-lane proposal and including mitigation (through project design alterations) suggestions. The EA’s environmental impacts sections should thus be evaluated according to ARM’s more substantial standards, listed in ARM 18.2.239(3)(a)-(j). These sections require a narrative analysis of direct, secondary, and cumulative impacts on any aspects of the physical and human environment potentially affected by the project (as described in sections (d) and (e)). The standard of review in the EA context is the general APA/MAPA arbitrary/capricious standard.

Culbertson EA and Application of the Standard: The Culbertson draft EA nominally addresses certain of the environmental and human impacts of potential significance required by MEPA. However, throughout these sections there are insufficient citations to underlying data, and a general lack of persuasive analysis connecting that data to the (thin, if existing) conclusions and mitigation suggestions drawn therefrom. By failing to present adequate support for its assertions and conclusions, the Draft EA does not allow for the review by the interested and affected public and/or organizations which is at the heart of the MEPA process. Below are some examples of sections with particularly thin citation and support.

15-D

3.1 Land Use and Right of Way – There is a general ambiguity regarding expected costs associated with the purchase of 180 acres of right-of-way, the negotiation and construction of a new railroad crossing, and the compensation of landowners for depreciation in value of non-acquired land and possible relocation. All of these costs are deemed prospective and “MDT will consider means to minimize right-of-way impacts during final design and right-of-way acquisition.” EA, 19. It is unclear whether these costs are included in the total projected project cost. Also, there is a note of “a few tracts of Bureau of Land Management (BLM) land, located primarily to the south of the project area”, followed by a cite to the TRED study. Neither the EA nor the TRED study gives any other information on the location or character of this land. The EA does not include an information request to BLM in its appendix of agency consultation and communications. The EA inappropriately fails to take any requisite “hard look” at these impacts by stating they will be considered in the future. That is not an adequate analysis of such impacts under MEPA.

15-C

The EA was prepared in conformance with 40 CFR 1508.9 (a) which states an Environmental Assessment; “Means a concise public document for which a Federal agency is responsible that serves to:

- (1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.”

(ARM 18.2.237(2) outlines similar purposes for an EA under MEPA.)

In addition, 23 CFR 771.119(g) states in part; “If no significant impacts are identified, the applicant shall furnish the administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI.”(Underline added for emphasis) (ARM 18.2.239(3)(j) provides similar guidance on environmental decision making under MEPA.)

To meet these objectives, much of the technical analysis conducted in the TRED Study and the independent analyses of specific resources are incorporated by reference.

15-D

The estimated project cost of \$68 million does include preliminary right-of-way estimates (including potential relocations) and all construction costs. Final estimates would be completed after final design is complete.

While the BLM lands were within the TRED Study area, they are well outside the study area for the proposed project.

Finding of No Significant Impact



Comment #15 (cont.)

15-E

3.2 Farmland - The sources of data are sometimes referenced but sometimes not (e.g. figure 3-2, p. 20, showing the classification of farmland adjacent to the project). The conclusion that “no mitigation is necessary” for the conversion of about 10 acres of Prime Farmland if Irrigated and about 20 acres of Farmland of Statewide Importance is based on a one-page worksheet completed by MDT assessing the value of the farmland. EA, App A. No underlying data or description of assessment procedures or study is included.

15-F

3.3 Social – After noting that the corridor is “characterized by lower incomes, and higher minority and elderly populations as compare to the rest of the state” (EA, 22), the report summarily concludes that “...from field observations and available data, neither the No Build nor the Preferred Alternative would create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations.” *Id.* Just when or how these “field observations” were conducted is unknown, and there is no mention of the source or character of the “available data”. There is also no consultation with tribal leaders mentioned in any section of this report, though the EA notes that the Native American population of the County is almost 66% and that the project passes through scattered tracts of Montana State Trust land and the Turtle Mountain Chippewa Indians Allotted lands. EA 21, 17.

15-G

3.10 Waterbodies, Wildlife Resources, Habitat – This section cites “Biological Resources Reports (BRR) prepared for this proposed project” as the basis of its accounting of existing wildlife, but does not include it as an appendix and nowhere gives a full citation of this report or indicates its source, author, or location. EA, 41. Its conclusion of no significant impacts does not, however, seem out of line with the data as presented and a number of mitigation measures are proposed. EA, 44.

15-H

3.11 Floodplains – This section notes that there may be longitudinal impacts to floodplains at four sites, and that a location study will be prepared as part of the design effort to evaluate the practicability of any alternatives to encroachments on floodplains. EA, 45. Again, the promise of later study and the lack of citation to the source of the data (the sites of the anticipated floodplain encroachments) do not provide the kind of information required for the agency or the public to adequately assess the design and impacts of the project as required by MEPA.

15-I

3.12 Threatened/Endangered Species – Four species (one threatened and one endangered) were identified through minimal consultation with MFWS, and all are briefly discussed in the EA, with a resulting determination of “no effect”. However, again, the source of this information (the communications with FWS and the BRR) are nowhere cited or described in any detail. As a minimum, an adequate MEPA analysis would require a Biological Assessment, and Biological Evaluation be prepared to be compliant with the federal Endangered Species Act (“ESA”) and the requirements of U.S. Fish and Wildlife Services ESA regulations.

15-J

3.13 Cultural/Archaeological/Historic Resources – The 23 cultural sites listed in the study area are drawn from a “Cultural Resource Inventory, Frontier, 2007”, though what this inventory is, where it is located, and who produced it are all mysteries. It also implies that a “Cultural Resources Inventory” was prepared for this EA, but likewise gives no cite to it. A table presents the potential effect of the project on each site, as either “no effect”, “no adverse effect”,

Response #15 (cont.)

15-E

Completion of the form is required to determine impacts. If the impacts fall beneath the threshold of significance, no additional analysis is required.

15-F

The TRED Study and the EA were supplied to the Fort Peck Assiniboine and Sioux Tribes, who also sent a Tribal representative to the Public Hearings on the EA. While there may be impacts to individuals who are either low-income or minority, the concern of the Executive Order is whether the impacts are “disproportionate” to the other impacted population. There is no evidence that low-income or minority populations are disproportionately impacted.

15-G

The references to all technical reports were inadvertently omitted from the Table of Contents of the EA. They are now included in Appendix A as part of this FoNSI.

15-H

Initial analysis does not indicate that the proposed widening would have a substantial impact on the floodplains. Crossings would be designed in accordance with FHWA procedures as outlined in 23 CFR 650.

15-I

This information is included in the BRR, which is available for review from MDT.

15-J

This information is included in the Cultural Resource Inventory, which is available for review from MDT.

Culbertson East to North Dakota

Comment #15 (cont.)

or “—“. The meaning of “—“ is not described, and there is no further discussion of the effects on most of the sites. The EA does assert that “Preliminary designs have been modified to avoid/minimize impacts to historical resources,” but says no more about what, where, and how these modifications have been made. EA, 50.

15-K

3.14 Hazardous Waste Sites – The EA sites 20 hazardous waste sites (apparently identified by the TRED study) within the project area, and merely states “no direct impacts to these facilities are anticipated.” EA, 50. There is no further description of the facilities, nor a map or any other way to identify where and what type of facilities were considered by MDT in the preparation of this report.

15-K

The “—“ indicate that the site was ineligible for listing on the NRHP or was outside the study limits and no Determination of Effect was prepared.

4. Water Quality

Section 3.8 (“Surface Water/Irrigation/Water Quality”) does not sufficiently address potential impacts to directly-affected surface waters or to impaired waters in the project area.

15-L

a. Public Water Supplies - Dry Prairie Waterline – The report notes that the Dry Prairie Waterline provides drinking water to residents of the Fort Peck Indian Res, and the Dry Prairie region of Roosevelt, Sheridan, Daniels, and the eastside of Valley Counties. Ea, 32. It “generally parallels” US 2 along the project area. The EA states that “Longitudinal impacts to the Dry Prairie Waterline can be avoided; however, the line will be crossed in six locations.” Id. It contains no other description, illustration, or etc. of the location of the waterline or the potential impacts of the six “crossings” to the consumers of the water. Nor does it propose any mitigation measures for potential impacts.

15-L

The water line would be maintained in a sleeve underneath the improved roadway. Construction may require short-term disruption of service, depending on how the crossings are accommodated. This is a final design detail and will be coordinated with the Dry Prairie Waterline owners.

15-M

b. Impacted and Impaired Surface Waters (303(d)). First, the construction will cross numerous creeks and will require the widening of a dam. The EA lists six “Surface Waters in Project Area” (Table 3.2, p. 31). The source of this data is ambiguously cited as “MDT Hydraulics, 2008” and there is no corresponding map showing the location or extent of these waters. This listing appears incomplete not only on its face but also because it fails to include seven more surface waters in the project area, as identified in the TRED study (p. 10, Environmental Scan). Whether these waters were excluded for a reason, or what the selection criteria may have been, is unstated.

15-M

The waters excluded from discussion in the EA are well outside the study area and outside the area of any direct impacts from this proposed project, as shown in Figure A-1 in Appendix A.

15-N

Second, the EA contains no information on possible adverse effects on water quality or any other attribute of these waterbodies. It merely notes that the widening will naturally increase runoff and decrease overall permeability, potentially causing erosion, sedimentation, and transport of dissolved and particulate contaminants. EA, 33. However, it does not predict or describe where or to what extent these impacts might occur. Moreover, the “Mitigation” sections of 3.8 simply describe the statutory and regulatory standards associated with water quality (e.g. SWPPP and BMPs) that will be followed. The analysis does not estimate the project’s impact on any specific site or propose site-specific mitigation measures (except for a small note about a storm drain that will be required in Culbertson). This level of analysis seems rather thin, even for an EA.

15-N

Best Management Practices would adequately address the level of impacts anticipated from this proposed project. Site specific mitigation is not a NEPA/MEPA requirement, but would be addressed during final design and permitting.

Third, the EA does not adequately address the existence of impaired waters for which

Finding of No Significant Impact



Comment #15 (cont.)

15-0

TMDLs are set in the project area. It identifies “Shotgun, Red Bank, and Little Muddy Creeks” as being located in the area, but states that “none of these waterbodies are identified as an impaired water on the TMDL list.” EA, 33. The source or rationale for identifying these waters is unclear in the EA. As noted in a letter from MEQ, MDT ought to be using MEQ’s 2006 listing of impaired waters to identify potentially affected waters in the project area. These include six waterbodies (none of which are those cited by the draft EA): the Missouri River, Charlie Creek, Hard Scrabble Creek, two sections of Big Muddy Creek, and Medicine Lake. DEQ letter, App. C; and see DEQ 2006 Final Report. The letter, dated July 26, 2007, requests that MDT provide information on the six waterbodies, yet the Surface Water / Water Quality section nowhere mentions these waters or gives a reason why they might be excluded. Only in the “Cumulative Impacts” section does the EA note that these waters are potentially affected, but dismisses the issue by simply stating that standard engineering controls and BMPs would minimize or eliminate any adverse cumulative impacts on water quality. EA, 56. Such a dismissal does not adequately address the potential impacts. The project’s impacts on these waters must be addressed to comply with DEQ regulations.

5. Wetlands

The nature, extent, and potential mitigation efforts for affected wetlands are inadequately addressed and require further study and coordination with the U.S. Army Corps of Engineers (“ACE”). The EA seems (though it is difficult to say for sure, given the lack of preferred data or sources) to rely greatly on the Bainville-East & West project’s data and proposed mitigation plan with regard to wetlands. As described below, such reliance is necessarily insufficient for the Culbertson project.

15-P

The Culbertson project is expected to impact 36 wetlands. EA, 37. The source of the wetlands extent and classification is cited as both “Biological Resources Report, PBS&J, May 2007” (EA, 37) and as an internal study (EA, 34). However, neither of these studies are further described or cited, so there is no way to access them directly or even to know when, how, or by whom these studies were conducted. Oddly, the EA states that the project area “includes” 58 wetlands, though the preferred alternative will “impact” only 34. How these 34 were chosen and why the other 24 were excluded is not stated. Also, the EA states that only 3.8 acres of impacts are associated with the preferred alternative, but the cumulative impacts section clarifies that in fact there are about 15 acres of impacts along the project (11.6 in the Bainville East-West section + 3.8 in the section west of Bainville). However, the impacts associated with the Bainville East-West project were calculated according to the proposed 2-lane highway, not the much wider 4-lane option of the Culbertson EA proposed alternative. Thus, one might expect a greater actual impact to wetland acreage in the Culbertson project. Such an increase is not reflected in the EA, nor is there any explanation of the method of acreage calculation for wetlands impacts.

MDT describes numerous mitigation efforts made so far in the design process to minimize or avoid impacts to 15 of the “impacted” wetlands. EA, 38-41. However, all of these 15 mitigated-impact wetlands are within the Bainville-South Dakota portion of the project and in fact, 14 of the 15 are not new plans developed for this EA but seem instead to be merely the avoidance and minimization measures already completed for the Bainville East & West project (the two-lane improved project). EA, 39. Thus, the Culbertson EA proposes a mitigation plan for only one of the 36 “impacted” wetlands. While it promises that “avoidance and minimization

Response #15 (cont.)

15-0

The TMDL waters noted are well outside the study area for the proposed project, as indicated in the new map in Appendix A.

15-P

The 3.8 acres of impact are the total wetland impacts for the proposed four-lane project from Culbertson to the North Dakota state line. The 11.6 acres of impact are from the two-lane improvements already planned from Bainville east to the North Dakota state line as part of the separate *Bainville – East & West* project. Combined, the two projects would impact approximately 15 acres of wetlands, as outlined in the EA.

Extensive avoidance and minimization efforts have been undertaken through informal coordination with the US Army Corps of Engineers to reduce wetland impacts at specific wetland sites as outlined in the EA. Coordination with the Army Corps of Engineers will continue through the final design and permitting processes.

Culbertson East to North Dakota

Comment #15 (cont.)

measures will continue throughout the design of the proposed project,” (EA, 38), a promise of future mitigation proposals is not the same thing as actual mitigation proposals, as are required by MEPA/NEPA regulation. A.R.M. 18.2.239(g). Moreover, the mitigation proposed for the Bainville East & West project will almost necessarily be inapplicable or at least incomplete with regard to the Culbertson project, because that project proposes mitigation appropriate to an improved two-lane road, not a four-lane. Since the four-lane right of way is obviously wider than the two-lane, the Culbertson EA should have at least accounted for this increased impact if it was going to use the Bainville mitigation proposals as a basis for its mitigation proposals.

III. CONCLUSION

15-Q

The EA associated with the Culbertson-East to North Dakota proposed action of building a 22-mile four-lane highway is deficient on its face under MEPA and MEPA’s implementing regulations. The most glaring deficiency is the erroneous prepared need statement which results in an inappropriate exclusion of other reasonable alternatives in the analysis. Regardless, even the analysis itself is deficient under MEPA’s governing review requirements. The EA should be revised to consider other reasonable alternatives, including improved two-lane designs, and the EA redone to determine whether impacts require preparation of an EIS for the project.

15-Q

See above responses to specific concerns noted.

Finding of No Significant Impact



Comment #16

TO: Tom S. Martin, P.E.
Environmental Sciences Bureau Chief
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59602-1001

From: Senator Jim Peterson

Re: Comments for MT 1-10(61)-East to North Dakota
Environmental Assessment ("EA"), dated February 2008

Date: April 2, 2008

The following comments are presented on behalf of me as a State Senator that serves of the Interim Legislature Revenue Transportation Committee.

Director Lynch testified before the Committee to update the members of the status of this project and the need for the proposed 22-mile section of US Highway 2 in Roosevelt County to be a four-lane facility. Under Section 1.5 of the "EA" the need for proposed action is divided into four categories which I feel are flawed. For example:

16-A

1. The strategic need for four-lane continuity does not include any analysis or timeline for a four-lane highway north on Highway #16 to the Port of Raymond, or any indication of North Dakota's intention or analysis of a project to continue a four-lane highway east and south as a part of the Theodore Roosevelt Expressway.

16-B

2. The competitiveness of an isolated section of a 22-mile section of four-lane highway along the Theodore Roosevelt Expressway is questionable, with no plans for continuity north or south, and seems to be a very shallow argument of need.

16-C

3. User perception will only apply to a very short section of U.S. Highway 2 east and west and will have very little impact on user perception of the Theodore Roosevelt Expressway. The only user perception will likely be that perception of the beginning of a long-term project to four-lane U.S. Highway 2.

16-D

4. Design consistency for a four lane highway applies only to a very long term speculative design based on the Theodore Roosevelt Expressway, with no plans associated with or for further design consistency either north or south of U.S. Highway 2 by either Montana or North Dakota.

Response #16

16-A

Detailed analysis for a 4-lane highway north on Highway 16 will start when funding necessary for NEPA/MEPA clearance, right-of-way and construction becomes available.

The US 2 portion of the Theodore Roosevelt Expressway (TRE) is the highest priority portion of the TRE for the MDT, and will be completed as the first phase of subsequent efforts to 4-lane the entire TRE route. North Dakota has indicated it supports Montana's efforts to 4-lane US 2, which are in concert with recent 4-lane improvements along US 2 in North Dakota.

16-B

The proposed project must be viewed as an initial start to a much larger effort involving the entire TRE route. A Congressional earmark was secured and is specifically tied to transportation improvements on US 2. Additional funds will have to be sought to complete this and future phases.

16-C

The TRED Study and EA focused on the Theodore Roosevelt Expressway corridor and have no connections to any plans for four-laning US 2 farther to the west. See the response to 16-A.

16-D

As stated previously, current fiscal constraints require projected development of the corridor to cover an extended period of time. Changes in legislation or available funding could affect the process.

Culbertson East to North Dakota

Comment #16 (cont.)

16-E I have not seen traffic count data that shows the need for this project to be such high priority at this time. I believe traffic counts showing the need for the Belgrade Interchange or the Custer Interchange in Helena will show a much greater need. Additionally, I recognize the need for highway safety; however, I have not seen any accident data that shows that a real safety issue currently exists compared to other needed projects. With federal highway funding needs for other current high-priority projects in Montana, it seems more analysis is need before this project should move forward any further.

16-F In addition, an analysis of funding for this project is needed. As you know, the Montana Legislature restricted the use of state money for a four-lane project on U.S. Highway 2. This project could cost upwards of \$40million and the funding needs and sources need to be carefully analyzed. And then federal highway money should only be allocated to well documented project needs in Montana.

16-G Finally, the only alternative analyzed in the "EA" is a four-lane road. Why weren't other alternatives, such as a wide two-lane with passing lanes, analyzed that would meet the long-term needs of the travel corridor?

Until future analysis is completed, this project should not more forward at this time.

Respectfully submitted,

Senator Jim Peterson, SD#15

Response #16 (cont.)

16-E The need for improvements is not based on existing or projected traffic volumes. See Comment/Response #15A in response to need and #2 with respect to funding issues.

16-F MDT has conducted a preliminary assessment of funding needs for this proposed project, and as documented in the TRED Study and the EA, this project is in compliance with the existing state legislation. (See page 15 of the EA).

16-G See responses to 15A and 15B.

Finding of No Significant Impact



Comment #17



Public Hearing(s): March 24 and 25, 2008 APR - 7 2008
ENVIRONMENTAL

Response #17

We Invite Your Comments:

- 17-A** One of my main concerns is to make sure a bridge is installed on the highway where two culverts are now. This is located where I live.
- 17-B** The approaches need to be wider. The approach entering the highway needs to be level to highway for a distance of 100 feet. This is for semi's entering or returning.
- 17-C** A cattle pass for livestock crossing would be beneficial.
- 17-D** I asked a question at the meeting in Bainville if the state takes the minerals with the land for the new highway. I don't believe on the current highway the state has any minerals.

To receive further project information, please provide your name and address:

Name: David Parasuk
Address: 322 US Highway 2
Bainville, Mt.
59212

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ca.shtml. Deadline for comments during this phase is April 4, 2008.



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- 17-A** The Bainville – East & West project will include a bridge at Red Bank Creek, which we understand to be your subject location. A parallel structure would be installed at this location with the preferred alternative.
- 17-B** Approach locations and design will be coordinated with individual landowners during final design and right-of-way negotiations.
- 17-C** Stock passes will be negotiated during the right-of-way negotiation process.
- 17-D** MDT acquires land at an appraised value. MDT will acquire all rights to properties within the new right-of-way, with the exception of gas, oil and minerals beneath the surface. The landowner will retain the right to extract oil, gas, and minerals provided that in the exercise of such right, the surface shall not be disturbed, interfered with or damaged. This exception and reservation does not include sand, gravel and other road building materials, which are fully conveyed to MDT.

Culbertson East to North Dakota

Comment #17 (cont.)

Public Hearing(s): March 24 and 25, 2008

We Invite Your Comments:

- 17-E** The highway to the east is going to be lowered on the next hill. The approach to the north will be steeper. This needs to be looked into and come up with something.
- 17-F** The dam on the eastern part of the highway I was told will not have any impact on it. Is this true? I have a water right of DVRC that states it is a 52 acre high hazard dam. Seems to be some confusion on this issue. The DVRC measured it and I was there when the measuring was done.
- 17-G** I would like to trade land back that the State needs for right of way.
- 17-H** Wetland delineated and impacted area

To receive further project information, please provide your name and address:

Name: _____

Address: _____

Please leave your comments with Project Team staff at the meeting, or mail to:

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 District Administrator
 MDT
 503 N River Avenue
 PO Box 890
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Response #17 (cont.)

- 17-E** Approach locations and grades will be established during final design and reviewed with property owners during the right-of-way negotiation process.
- 17-F** The dam will be lowered with the *Bainville – East & West* project which is anticipated for construction in 2009. It is not anticipated that either that project, or the proposed *Culbertson – East to North Dakota* project would have any effect on existing water rights. A minimal effect on wetland 31 (0.1 acres) is anticipated as a result of the project in the area immediately outside the dam.
- 17-G** MDT may be able to negotiate a land trade during right-of-way negotiations.

Finding of No Significant Impact



Comment #17 (cont.)

Public Hearing(s): March 24 and 25, 2008

Response #17 (cont.)

We Invite Your Comments:

17-I

of 31, 29, 27B need to be addressed.
Prime farm land is also another issue.

17-J

fence removal and replacement also are
an issue.

17-K

If the old highway is removed
after the construction of the new highway can
I acquire that land next to me?

17-L

The irrigation culvert and ditch need
to be explained better.

17-M

Also land in CRP is another
issue that needs to be addressed.

17-N

The tree on the north end of the
Mon Dak road is an old land mark where the
Mon Dak road either starts or ends.

Also where I live with the

17-II

Wetland impacts have been identified at each of these locations, and permitting will be coordinated with the US Army Corps of Engineers.

17-I

The impacts to Prime and Statewide Important farmlands are relatively minor given the amount of similar farmlands in the surrounding area.

17-J

Fences removed during construction will be replaced in coordination with individual landowners.

17-K

Depending on the current ownership of the highway right-of-way and the adjacent properties, abandoned highway right-of-way could revert back to or be purchased by adjacent landowners. This will be discussed with individual owners during final design and right-of-way acquisition.

17-L

Mitigation for impacts to irrigation facilities will be negotiated with individual property owners. All existing irrigation facilities would be perpetuated.

17-M

Acquisition of lands in CRP will be handled during right-of-way negotiations.

17-N

It is not anticipated that the tree you mention would be impacted by this proposed project.

To receive further project information, please provide your name and address:

Name: _____

Address: _____

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

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Culbertson East to North Dakota

Comment #17 (cont.)

Public Hearing(s): March 24 and 25, 2008

We Invite Your Comments:

17-0

new wider highway I believe traffic travel will be faster. There is a sign no passing zone. But people still pass going east on the level right in front of the approach where I live, then up the next hill to the east. There have been many close calls for several accidents. This is exactly what happened to my 3 uncles back in 1965 June 9. The semi following would either hit the car broad side driver side or passenger side. The semi loaded took the passenger side and tipped over in the ditch. The reason I know this is because the day before June 8 1965 I lost my Father, mother and youngest brother in a car accident.

To receive further project information, please provide your name and address:

Name: _____

Address: _____

Please leave your comments with Project Team staff at the meeting, or mail to:

Ray Mengel
District Administrator
MDT
503 N River Avenue
PO Box 890
Glendive, MT 59330-0890

You may also submit your comments online at www.mdt.mt.gov/pubinvolve/eis_ea.shtml. Deadline for comments during this phase is April 4, 2008.



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Response #17 (cont.)

17-0

MDT anticipates that the widened roadway will improve safety as compared to the existing roadway configuration and geometry.

Finding of No Significant Impact



Comment #18

To Montana DOT,

I would to say thank you to Montana DOT dept and its' staff, and the Montana Gov. and its' staff for their work to date on Culbertson TRED study, and the now current Culbertson - East to North Dakota State EA study.

As Culbertson Chamber President, Culbertson Council member, this project will serve NE Montana cargo truck needs well, after this project has been completed. Thanks for moving the EA study forward and to aid NE Montana in getting this project to this point.

As Board member and VP of Theodore Roosevelt Expressway, which serves Montana, North Dakota and South Dakota, the Montana portion of the TRE, which is a part of Great Plains Trade Corridor is years ahead of North Dakota and South Dakota with their own EA study. This progressive attitude will help promote interest within North & South Dakota to get their EA studies started. Thanks to your work to date, Montana is 2-3 years ahead of my 2 other states on this project.

Thank You
W Bruce Houle
Culbertson Chamber President
Culbertson Town Council Member
Vice Pres. TRE

Response #18

Comment noted.

Culbertson East to North Dakota

The following comments have been transcribed from the Public Hearing held on the EA on March 24 and 25, 2008. Responses have been developed by MDT and FHWA subsequent to the Hearing.

Recorded Comment: A

(**Senator Frank Smith**) Regarding the arms on the railroad signal. When they put them up is that going to fall back to the county or the state to keep it up?

Recorded Comment: B

(**John Brenden, Scobey**) I was recently on the Fish and Game Commission so I understand what you have to do for fish and wildlife mitigation when you build highways and that can be a long process. I think you folks are ahead of the curve on that one because it doesn't appear you have too much to worry about. We had a railroad abandonment at Scobey in the 1980's. We won the case but they still abandoned it anyway. Now from Plentywood to Scobey they haven't abandoned it, but it is abandoned; it just pulls train parts. So you know what it has done to the highway system when we take our grain coming from Scobey or Plentywood or Wakefield. We need good roads. I hope we can be expeditious in the building of these good roads. I'll give you a great example. In about 1989 U.S. Hwy 93 got all balled up in politics. That road is just being finished right now from Whitefish to Kalispell. There were many, many people in that 15-17 year period that were killed or hurt because of the delay and that is unfortunate. So I would hope that we could be expeditious in this project. I don't know of anybody in Montana that wouldn't be for a road somewhere, but we have felt for a long time that Hwy 2 has been especially neglected. So the more that we can do and the faster we can get it built, we will be better off. I hope it isn't like my water rights that I've been trying to litigate for 30 years; I don't believe my great grandchildren will be able to see those adjudicated. So let's build the road, let's build it safe, and let's build it as cost efficient as we can so that we can get more miles. Thank you.

Formal Response: A

The railroad arms and signal would be maintained by the railroad, and maintenance of the crossing would be the responsibility of MDT.

Formal Response: B

Please refer to Comment/Response #2 regarding future steps.

Finding of No Significant Impact



Recorded Comment: C

(Ed Smith) I'm a former Commissioner of the Transportation Commission and I certainly am in support of this because we have tried for years to get some things done in northeastern Montana and I want to congratulate you and the Commission for supporting this highway. It is certainly something that is needed. When I was on the Commission I proposed to have the highway from Plentywood to the Canadian border finished because when you got to Plentywood you more or less have a cow trail to get over. With the number of trucks now traveling from here to Canada and back to the States, we need something done and done quickly because of all the rural development and all the products we get from Canada. So many people ask why we should build it so they can bring more cattle down, but you can't believe the number of people who have to get all of their fertilizer and all of their gas and fuel from Canada. So something is needed. When I proposed the highway construction from Plentywood to the border, which ends up into Regina, I had opposition from the Director. Jim I appreciate that you are here and supporting this. We got the highway finished from Plentywood to the Canadian border and we have an excellent highway now. As a matter of fact, when they were building that highway I suggested they put another inch and three-quarter overlay on the highway for the increased truck traffic. So I certainly want to go on record as supporting this proposal. Thank you.

Formal Response: C

Comment noted.

Culbertson East to North Dakota

Recorded Comment: D

(Gordon Oelkers, Mayor of Culbertson) I want to go on record in support of the project also. As the City and City Council, we have written to the Montana Department of Transportation about ending it. Unfortunately this ends right in the middle of Culbertson. You have no authority to go north and you have no authority to go further west. So right at the intersection of Me-2 Pizza it stops and that is going to cause a problem. It is a safety issue, a flow issue, and we've requested that you move back two blocks and choke it down to a two-lane again for the last two blocks so when the traffic goes north trucks won't be going into the Me-2 Pizza parking lot so much. I've never seen any design showing us how you are going to make that turn north. You have no authority and there's not been an EA done north, so you can't do anything and you can't mitigate with the school going to the west. There is a lot of stuff you can do if you had the authority to go north but you don't. So part of the total project is that it has to be a four-lane to be consistent and the project is all four-lane; consistency is important. But we are asking for two blocks to be choked down to two-lane and keep it as wide and make the sidewalks just like your proposal – you want the width there by the motel and you will have to buy some of the motel. It is impossible for a truck with a four-lane right at Me-2 Pizza, if they are in that north lane to turn north; they can't do it. It is nearly impossible to do the way it is designed now. They would be over in the far lane of the north highway. So we have requested that to be choked down so they are in the spot they are in right now as they are turning north. That could be designed so as you are saying it is going to be a four lane, it is going to be a right-turn only as soon as we get the authority to go north and design a north route. We can mitigate with the school to get a wider intersection there and make it safer. We've requested and have been turned down by MDT because you have to have it be a four-lane all the way to very end which just doesn't make sense. You are going to be doing north eventually, so it should somehow be able to be written in that as soon as we get authority to go north and do a study north that it will all be four lane right to the intersection of the four lane going north. Everything else we've asked for in town you guys have agreed upon, i.e., the curb and gutter, the sewer, taking away the water which is a problem, and curb and gutter all the way out to the weigh scale. It is going to be a great project, but that turning north is very much a concern.

Formal Response: D

See Comment/Response #14 on turning movements.

As indicated in MDT's letter dated February 15, 2008, "MDT will not be able to consider this request and include it in the environmental document because it conflicts with the purpose and need for the project. The section of roadway that the Town requested to be modified is within the Theodore Roosevelt Expressway and was included in a Transportation Regional Economic Development (TRED) study. Based on results of the TRED Study, including technical analysis, public input, and an analysis of alternatives, MDT has identified a four-lane highway from the intersection of MT 16 (north) in Culbertson to the North Dakota state line as the Preferred Alternative in this corridor. The purpose of the proposed project is to ensure transportation system continuity and roadway configuration consistency with existing segments of the Theodore Roosevelt Expressway. MDT has determined that the major intersection with MT 16 on the west and the state line on the east represent logical termini for this proposed project and that this investment of federal money has independent utility even if no other improvements are made to US 2 or MT 16.

The projects described in the environmental assessment will include a 4-lane facility beginning at the intersection of US 2 & MT 16, with the westbound traffic having a right turn only in the outside 12-foot lane. The inside 11-foot lane will be the through lane for traffic heading west."

Impacts to the Me-2 Pizza will be evaluated and negotiated with the landowner during the final design and right-of-way acquisition process.

Finding of No Significant Impact



Recorded Comment: E

(Frank Smith) Do you remember the highway going north out of Minot – Hwy 53? They are already in the final stages of designing a four-lane to Canada if Canada wants to work with them. Are we going to sit back and wait for North Dakota to do all their roads or we are going to start moving ahead? Thank you.

Formal Response: E

Comment noted. See Comment/Response #2 on funding.

Recorded Comment: F

(Gary MacDonald, Roosevelt County Commissioner) I want to thank all of you for being so positive on this. I've been through the past administrations and they were very negative toward Hwy 2. I see this new body and Director Jim Lynch is all on the positive side and I want to thank you for that and I want to go on record for myself and for Roosevelt County as supporting this project.

Formal Response: F

Comment noted.

Recorded Comment: G

(Nancy Espy, Chairman of the Montana Transportation Commission) I took Ed Smith's place on the commission. I could never say I replaced him because he was irreplaceable. Believe me when I say he worked very hard for this district. District Four had no opposition from any of the other districts when this project came up for discussion and eventually for vote. So I want you to know that we do support this project and we are anxious to see it completed. It is a small step in a very big project and eventually many projects to complete what we hope to have in eastern Montana. Thank you all for participating because the public is all we have – this is what the federal people are going to listen to and this is what the state is going to listen to so don't hesitate to tell them what you think could be better or what you think they have done right; they like to hear this. Thank you very much for allowing me to be your Commissioner through these years. Thank you, Ed, for your support. Thank you.

Formal Response: G

Comment noted.

Culbertson East to North Dakota

Recorded Comment: H

(Bob Sivertson) There is a sense of urgency here. I can tell you that there is real concern that all that is on the agenda for MDT is the project from Bainville to the state line and that is a widened two-lane and I don't hear anything after this study is done about what's out in the future. That is a long, long time. The sense of urgency comes because, and we talked about this last fall, but there is a group from Wayburn that has organized and are really lobbying hard with the new Prime Minister of Canada to take the four-lane Hwy 39 from Moosejaw to Wayburn and then down to Portal and hit Hwy 52 and come in just west of Minot and hit Hwy 2. I talked to a person in Highways and Infrastructure in Saskatchewan and he agreed that there is a real lobbying effort going on. If we don't take the leadership here and if all we are going to do is build a widened two lane, folks the Teddy Roosevelt Expressway then becomes moot because we won't get that trade corridor. Minot has a lot more influence on the North Dakota Governor than Williston has. So there is a sense of urgency here. I have posed this question time and time again and I would like to hear something from MDT as to a time line when this might take place. We have fought awfully hard and finally we have a Governor that has made us a lot of promises but has not delivered on any of them. It is time that we the people stand up and start asking the question "when is it going to happen? I hope it is a lot sooner than "in the future". Thanks.

Formal Response: H

Please refer to Comment/Response #2 regarding next steps.

Finding of No Significant Impacts



Culbertson East to North Dakota

Appendix C - Hearing Transcripts

The following pages contain a transcript of the Public Hearings.

Finding of No Significant Impacts



Culbertson East to North Dakota

TRANSCRIPT OF PUBLIC HEARING

CN 6388

CULBERTSON EAST TO NORTH DAKOTA ENVIRONMENTAL ASSESSMENT

3/24/08

Culbertson, MT

Opening

Jim Lynch: Welcome, my name is Jim Lynch, Director of the Montana Department of Transportation. As you know we were in this community not too long ago talking about the EA and the direction we are going. The Department has finished the Environmental Assessment on this project from Culbertson to North Dakota, dealing with a four-lane highway from Culbertson to North Dakota and the various types of four lanes between those particular areas. We are back here today to go over the Environmental Assessment and go over any question you might have. I'm going to turn this over to Paul Grant in a minutes and he will then turn it over to Darryl James of HKM Engineering who did the Environmental Assessment for us.

Before I do that I want to introduce some special people. A very good friend of mine, Nancy Espy who is our Commissioner and Chairman of the Transportation Commission is here tonight. Senator Frank Smith is also here. Gary McDonald is here. Jim Shanks, Roosevelt County Commissioner. Connie Thompson representing the Ft. Peck Tribe Indian Road Program is here tonight. Gordon Oelkers, Mayor of Culbertson. Past Commissioner Ed Smith, and a good friend, is here tonight. Some Montana Department of Transportation employees who are here tonight and have worked hard on this project. Ray Mengel, District Administrator; Kraig McLeod, Project Manager; Kevin Gilbert, Project Design Engineer; Gene Kaufman, Federal Highway Administration; and Paul Grant, Public Involvement, who is the one who gets this organized and makes sure everything is working and puts on these public meetings.

Paul Grant: Thank you for being here tonight. I'm Paul Grant, Public Involvement Coordinator with MDT. I've seen a lot of you at the past public meetings and I appreciate you coming out tonight. This is the Public Hearing for the Environmental Assessment for the project known as Culbertson East to North Dakota in Roosevelt County. Before we begin with the presentation we have few housekeeping details we need to go through so you have some idea of what to expect tonight. This hearing is different than the public meetings we have had in the past.

We are here for many reasons: we are here to briefly summarize the preferred alternative in Culbertson East to North Dakota Environmental Assessment, also known as an EA; we are here to explain the elements of the preferred alternative and the potential impacts of the preferred alternative; we are here to get public comment from you because we want to meet the needs of the community and the only way we can do that is to hear how this is going to work for you. There are sign-in sheets at the back and we request everyone to sign in so we have a public

Finding of No Significant Impacts



record of who was here tonight. There are six pamphlets in the back regarding MDT's policy on non-discrimination which you are welcome to take and review. As the Title VI Representative for the department, if there are any questions about Title VI and discrimination issues please see me after the hearing. The locations where the EA is available for public review are up on the screen (referring to graphic). If you haven't had a chance to look at the EA, these are the locations where it can be seen.

Tonight's meeting will be in three parts. There will be a presentation given by Darrel James of HKM Engineering, Inc., from Helena. His presentation will go through the history and the project development process; he will describe the National Environmental Policy Act also known as the NEPA process; the purpose of the proposed project; and the proposed impacts and mitigation. After the presentation we will go into the EA clarification period where you will be able to ask specific questions about the corridor study. Please keep in mind that this a time for questions about the study. If the questions fall outside the parameters of the Environmental Assessment, Darryl may ask you to return during the comment period which will follow, and state your question or comment at that time. We are not trying to avoid your questions; it is simply a formality that we must follow. After the question and answer period, we will go into the formal hearing period. That is when we will open things up for the formal hearing. Please remember this hearing is a formal process of collecting comments and testimony not a question and answer period. It is an opportunity for you to let us know what you think about this particular Environmental Assessment document.

If you are not prepared to make comments tonight, the comment period is open until April 4th. You can submit your comments in writing and leave them in the comment box at the back. We also have a station where you can record your comment and Heidi Bruner will record those comments for you. You can take the comment sheets home and submit your comments by mail or email. All that information is on the comment sheets. All comments received by April 4th will be considered by the Montana Department of Transportation and the Federal Highway Administration. Based on the public comments received, proposed improvements and mitigation presented in the EA will be refined in the decision document. If significant impacts are identified the Montana Department of Transportation would need to prepare an Environmental Impact Statement if we were to proceed with this project. If no significant impacts are found a Finding of No Significant Impact document will be completed and signed by the Department of Transportation and the Federal Highway Administration. The public will be notified of the final decision document, the final design, and the right-of-way acquisition.

To reiterate again, we will have a presentation by Darryl, the EA clarification session where you can present your questions regarding the corridor study, and finally we will have the formal hearing session where you can give you comments about the Environmental Assessment. Again no questions will be answered during that portion of the hearing; MDT and the Federal Highway Administration will just be present to hear your comments. Now I will turn this over to Darryl who will begin the formal presentation discussing the National Environmental Policy Act.

Culbertson East to North Dakota

Presentation: Darryl James, HKM Engineering, Inc.

This is my fourth time in coming to Culbertson for this project. Regarding the project history, how many of you are familiar with the studies that have lead up to this project? In 2005 Congress named the Theodore Roosevelt Expressway through this area as part of the national high priority corridor system. That basically starts you on this policy direction and outlines the importance of this route from a national perspective. MDT took that initiative and developed a corridor plan and we've moved into the NEPA process and we are nearing completion of that process which means we can move into final design, right of way acquisition, and actual construction of this project. It may feel like it has been a long time coming, but you are very close to wrapping up the policy analysis part of this project.

NEPA / MEPA

NEPA/MEPA – The National and Montana Environmental Policy Acts. The intent of these acts is to ensure a full and fair discussion of the social, economic and environmental impacts that might be imposed by any state or federal actions that involves federal funding.

Paul talked about the fact that we are doing an Environmental Assessment for this project. There are three types of NEPA or MEPA documents – (1) a Categorical Exclusion for a very minor project, i.e., shoulder widening or small safety improvement type projects; (2) an Environmental Assessment where we really just don't know from the outset what the impacts might be then you do an Environmental Assessment to figure out whether they are significant or not; and (3) an Environmental Impact Statement where you know going in that you probably have some pretty significant impacts, i.e., right-of-way acquisition, wetlands or wildlife impacts.

This project started out with an Environmental Assessment basically because we didn't really know what type of impacts we were going to have and we wanted to make sure we provided ample opportunity for public input. It is your highway so your input tonight is critically important. We did know that with a four-lane highway through the middle of town we stood to have some pretty substantial impacts.

Critical pieces of the NEPA Decision Making Process

The Purpose and Need Statement. Why are we proposing to spend federal dollars on a highway project? That was explored through the TRED Study and supported through this Environmental Assessment – why are we building this?

Alternatives Investigation. Again that was done in the TRED Study and pulled into this Environmental Analysis. This Environmental Assessment looked at the No Build and a Four-Lane Highway in varying configurations either divided or undivided.

Finding of No Significant Impacts



Affected Environment. Again that is all the community interests, wetlands, wildlife habitat and economic concerns within the corridor. We had to look at impacts and proposed mitigation to compensate for those types of impacts.

Public Input and Agency Coordination. Two of the most critical pieces of the NEPA and MEPA processes are public input and agency coordination. There are a number of state and federal agencies we have to coordinate with, and get permits from to make sure we can move forward and construct the project.

Purpose of Project. The purpose of the project that came out of the TRED Study is “to provide consistent continuity on the Theodore Roosevelt Expressway.” There are planned segments for this Theodore Roosevelt Expressway all the way from Canada to Mexico and this four-lane highway is the first chunk of that.

The piece of this corridor that connects with this international trade route basically goes from the North Dakota state line to Culbertson, then from Culbertson north to the Canadian state line. This Environmental Assessment looks at just the Highway 2 portion from Culbertson to the North Dakota state line. Anything else on the Theodore Roosevelt Expressway would be looked at under a separate project.

Bainville East Project. You might be aware that there is also another construction project that is scheduled to begin next year from Bainville East to the North Dakota state line. That is proposed to just improve the existing two-lane with eight foot shoulders, and some of the curves will be addressed through that project. That project will begin next year and has no impact on the schedule for future design, right-of-way, or construction of this project; it has just been programmed and the funding is available and it will begin next year.

Culbertson Project: This project will begin that the junction of MT 16 here in Culbertson and provide four lanes all the way to the North Dakota state line. The aerials up here give you an idea of how it relates to the Bainville East and West project whether it goes north or south of that improvement. We can answer questions about that in the back.

Proposed Widening: In Culbertson we are looking at a four-lane roadway; two 11-foot interior lanes, 12-foot exterior lanes, five-foot shoulders, and five-foot sidewalks. It is about the narrowest width we could provide and still provide that system continuity throughout the route. We tried to minimize the impacts in town and I believe that was presented at a City Council Meeting a month or so ago. As we leave Culbertson we go on an undivided four lane; we basically provide eight-foot shoulders. You are still looking at four 12-foot travel lanes pushed together. We get to the bridge at Clover Creek and then we go to a divided four-lane section all the way up to just west of Bainville; so you’ve got a median in the middle. In Bainville we are trying to avoid some wetlands in that curve where there is a boggy area; so we are trying to bring that back in to an undivided section and get it as narrow as possible to avoid or minimize those wetland impacts. That takes us down to this straight section (referring to graphic) and then we go back out to a divided four-lane section. You’ll notice on the left side we have eight foot shoulders on each side; that is the newly constructed Bainville East and West project that will

Culbertson East to North Dakota

start next year. Then the other section will be built with two 12-foot travel lanes, a four-foot inside shoulder and an eight-foot outside shoulder. Are there any questions on the typical sections? Within Culbertson there will be two interior 11-foot travel lanes, exterior 12-foot travel lanes, five-foot shoulders, and five-foot sidewalks. The impacts in Culbertson are shown on the board over here.

Proposed Mitigation

Land Use and Right-of-Way within this corridor – this project will take about 180 acres of new right-of-way that are beyond the limits of the existing right-of-way. The Department of Transportation in this preliminary or conceptual design has really tried to minimize those impacts as much as possible but there will be a substantial amount of new right-of-way required. Any right-of-way that is acquired through this project has to go through a formal federal process. I think there are some pamphlets in the back that outline the right-of-way acquisition process and if you have any questions don't hesitate to ask.

There are about 10 acres of Prime Farmland that is Irrigated. That is a classification put together by the Natural Resource Conservation Service based on soil type and irrigation, and about 20 acres of Farmland of Statewide Importance. No mitigation is required; it is a relatively small amount adjacent to the existing highway so we don't see any real substantial impacts there.

Social and Economic Impacts. Acquisition of right-of-way from several existing residential and commercial properties mostly here in Culbertson. There are several rural farm approaches and accesses that might be modified during final design. Again that is something that is negotiated on an individual basis during right-of-way negotiation.

Pedestrian and Bicyclists. We are not aware of a very high usage of this route by bicycles and pedestrians but we do have wide shoulders on this roadway that will provide ample space and meets all the AASHTO standards which are the federal guidelines for highway design.

Air Quality/Noise. You are within an area where air quality standards would not come into play. There are no noise impacts anticipated so we are not proposing any mitigation.

Surface Water, Irrigation, and Water Quality. We took a pretty serious look at surface water, irrigation and water quality issues within the corridor and there are a number of new bridge structures proposed, a number of culverts that will be replaced, and there are some irrigation facilities that might require additional piping or slight relocations. Again during right-of-way negotiations anything that is impacted would be negotiated with you to make sure your irrigation water is flowing and you've always got a reliable source out there. We do have some additional flood plains within Culbertson that will be mitigated basically through the final design.

Wetlands. In addition to the impacts from the Bainville East and West project we would add about 3.8 acres of additional wetland impacts. For a project of this size that is not a very substantial number. Again the Department of Transportation took great effort in that Bainville

Finding of No Significant Impacts



area to pull in right-of-way and pull in the construction limits to really minimize the impacts to that area.

Water Bodies, Wildlife Resources and Habitat. Again just based on the topography and the existing wildlife usage within the corridor, we are not seeing substantial impacts.

Threatened and Endangered Species. There are no threatened and endangered species that would be impacted by this project, so there is no mitigation required there.

Cultural and Historical Resources. There is the rail line that runs through the corridor right near Bainville that is part of the historic rail line. We would be widening the crossing of that area so we have to coordinate with the State Historical Preservation Office. That is a pretty easy consultation process, so there is no barrier there.

Hazardous Waste. We've identified no hazardous wastes but, as part of the standard specifications, if the Department turns up any contaminated soil, there is a standard specification on how they deal with that.

Inconvenience to Travelers. We do anticipate temporary inconveniences to the travelers in this corridor. With any reconstruction project the Department of Transportation will work with the community to minimize that impact.

Public Input. The point of our meeting tonight is just to ask some questions of you and to get your feedback.

Before the Federal Highway Administration issues a Finding of No Significant Impact (FONSI) basically these questions have to be answered:

Does the proposed project meet the purpose and need? We are talking about system continuity – does this proposed project provide system continuity on the Theodore Roosevelt Expressway?

Are the alternatives fairly considered? Again looking at the TRED Study and the Environmental Assessment – did MDT and Federal Highways take a good look at all the alternatives available and decide on the best one?

Are the impacts significant, are they substantial, and are they inordinate? Your input on that is also important. If they are significant, can they be mitigated or can we mitigate any of these impacts? That is what we try to address through this Environmental Assessment.

It is the Department of Transportation's intent after getting your feedback to go to the Federal Highway Administration and request a Finding of No Significant Impact. If the impacts are significant and can't be mitigated, we would have to move into an Environmental Impact Statement which is a much lengthier process, with a more detailed investigation of alternatives.

Culbertson East to North Dakota

So we would either do that or the Department of Transportation and the Federal Highway Administration can decide to select the No Build Alternative and would just do routine maintenance, overlays, and pavement preservation-type projects in this corridor. If the impacts are not significant or can be mitigated to where you don't see a significant impact, then the Federal Highway Administration would sign a Finding of No Significant Impact which means we can move forward with final design and right-of-way acquisition.

At this point we are at the public input stage. The Environmental Assessment has been available for two-three weeks at the Library, the web page, and I've got a couple of copies here tonight if anyone wants it. The public comment period ends on April 4th and at that point we will compile all the comments, prepare a response to the comments, and request a formal decision from the Federal Highway Administration. At this point we will start taking any questions or clarifications on the Environmental Assessment on this project. If you have formal comments, please hold those; we want to make sure those are on the formal record.

Question/Clarification Period:

Com: (Director Jim Lynch) A point of clarification – comments are what you make but are not responded to.

Com: (Paul Grant) This is the question/answer portion of the meeting right now. This is the portion of the meeting where you can ask a question regarding the corridor study. If you are going to make any comments, save those comments until the hearing portion which will follow this section. If you have questions go ahead and raise your hand and I'll come around with the microphone.

Com: (Jim Lynch) I just want to make sure everyone doesn't think we are being rude when you stand up to make a comment and we don't respond. At that point you make your comment and we record it.

Q: (Bob Sivertson) It took a little longer to do this study because of some issues that were raised, not so much by the public but by government agencies. Have all of those been resolved?

A: (Darryl James) We did have an agency coordination meeting in Helena a few months ago. We had some preliminary design and some impact calculations. The wetland impacts near Bainville were over a certain level ... if you get over a certain level of impact on wetlands, the Corps of Engineers shifts gears on the type of permit they issue and it gets to be a much more involved process. The Department of Transportation was able to pull in the construction limits substantially and minimize those wetland impacts, and we have tacit approval from the Corps of Engineers that is acceptable to them. We have requested comment from US Fish and Wildlife, Fish Wildlife and Parks, Corps of Engineers, EPA, and virtually have received no comment back. We are not anticipating

Finding of No Significant Impacts



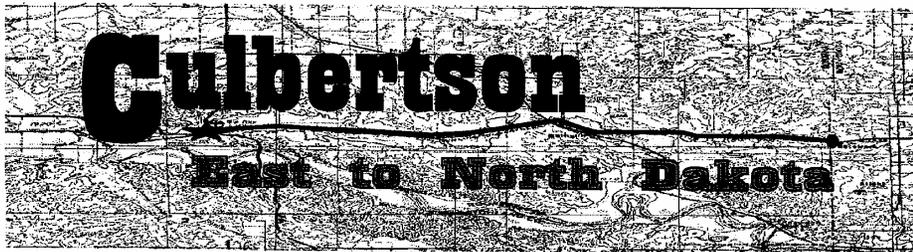
any substantial comment from either state or federal agencies. They have until April 4th to comment.

- Q: (Allen Peterson) You were talking about staying in the railroad tracks. Going back and forth most of the time in the last four or five trips, there are so many trucks stopping and going through there, is there going to be quite a hazard about doing something like making an overpass on that road? You are not seeing trains go by but everybody is talking about the trains.
- A: (Darryl James) We did look at whether that grade crossing would require a grade separation. There are federal regulations ... well at least a strong suggestion to provide a grade separation when the rail line is a principal line and the roadway is also a high priority corridor. Hwy 2 is a high priority corridor but the rail line is not on the priority corridor list for the federal program. It does have a fairly low volume of trains on it. So when we did a cost-benefit analysis on that, everybody decided that it probably wasn't worth it.
- A: (Ray Mengel) Darryl is exactly right, we did take a look at that railroad and it was determined that the crossing would be a four-lane. We did even take a look at having advanced signalization down stream and that was determined as a result of our meeting with the railroad, but it also was not warranted. So it will be an at-grade railroad crossing there.
- Q: (Allen Peterson) If you have a four-lane and you've got two trucks stopped side-by-side and two trucks on the other side stopped, I can see ... when these trains go by it becomes a stop for the trucks. With a four lane you could have four trucks side-by-side and some car comes whizzing by because the trucks all stop there.
- A: (Ray Mengel) With our meeting with the railroad, it was determined to not just have a signalized crossing there but to also have gates that will come down US 2, so that will provide some safety there.
- A: (Jim Lynch) Even though the railroad is not required to do some sort of advanced signalization; it does not preclude MDT from doing that in the final design process of this project. So we go through it and if our safety engineers think that down the road it may be needed, we can at least put the hardware in and the wiring or even possibly put up the signs. It doesn't preclude us from doing something.

Public Hearing

Formal Hearing comments are contained in Appendix B.

Culbertson East to North Dakota



Public Hearing

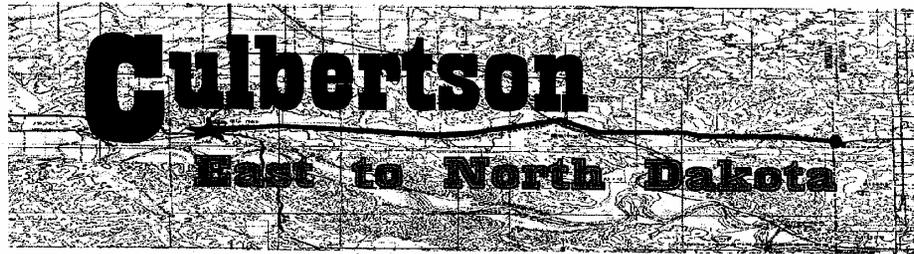
March 24, 2008
Culbertson Town Hall

Please Sign In:

	Name and/or Agency	Address:	Phone:	E-mail:
1	Searchlight	P.O. Box 496 Culbertson, 59218	406-787-5821	
2	ORVIS Nelson	534 Big Lake Road, 59242	" 963-2554	
3	Kitch Matelin	Box 498-59218 (With Culbertson Museum)	787-5337	
4	Rodney M. Johnson	Box 168 59218	787-5265	
5	Nancy Epp	Box 326 Broadus, MT 496-2588		
6	Wage K. Kaufman	Box 746 Culbertson, MT	787-5861	
7	William H. Synon	Box 269 CULBERTSON MT	787-5350	
8	W. Bruce Haulp	Box 539 Culbertson MT	787-6643	on file
9	Frank Smith	Box 729 Poplar MI.	768-9841	
10	Alexis Brockmeyer	Box 576 Wolf Point MT.	653-6247	
11	AARON Snyder	Box 96 Culbertson MT	787-5797	
12	Don Collier	Box 2 Cell.	787-5266	
13	John A. Brenden	Box 970 Seeley	793-5394	
14	Ed Smith	288 Sandhill Rd Danmore Rd	483-3484	
15	MARK COLVIN	Box 503 Culbertson, MT	787-5822	



Finding of No Significant Impacts



Public Hearing

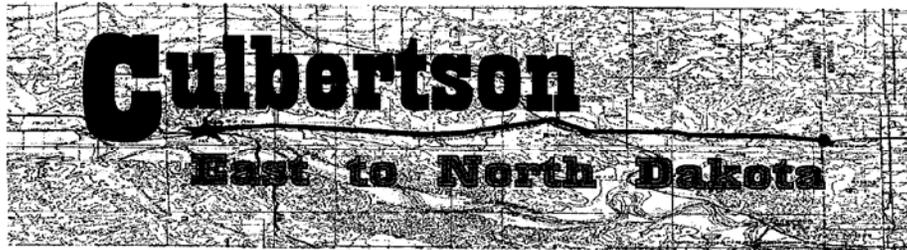
March 24, 2008
Culbertson Town Hall

Please Sign In:

	Name and/or Agency	Address:	Phone:	E-mail:
1	JIM Espy	Broadus Mt	486 2588	
2	Ross Holm	520 2nd Ave E 59218	787-5377	
3	Joni Rasmussen	Box 50 Culbertson, MT.	787-5252	
4	Bob Sivertson	PO Box 2226 Havre mt.	262-2346	
5	Larry A. Wynn	302 ONE O ONE RD SIDNEY MT	701-565-2257	
6	Jimi Shanks	Box 247	Brockton MA ⁷⁴⁹ 486 -2595	
7	Tom Nelson	1725 Rd 2055	Culbertson mt.	
8	Connie Thompson	Box 1027	Poplar MT 406 768-3208	
9	Cudrey LePore	Box 644	Culbertson	
10	Jim LePore	Box 644	Culbertson	
11	Mark Nelson	P.O. Box 749	Culbertson	
12				
13				
14				
15				



Culbertson East to North Dakota



Public Hearing

March 24, 2008
Culbertson Town Hall

Please Sign In:

	Name and/or Agency	Address:	Phone:	E-mail:
1	Thema Hodges	Culbertson	787-6363	CPHDGS@yahoo.net
2	Ed Bowers	"	787-5533	
3	W. Lermieux	"	787-5363	
4	CLYDE JACOBI	"	787-5865	
5	Bob Oelker	"	787-5315	BobOelker@Montana.net
6	Robert Peterson	"	787-5231	
7	Ray Oelker	"		
8	Allen Peterson	"	787 5373	ahp4emp@yahoo.com
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Finding of No Significant Impacts



TRANSCRIPT OF PUBLIC HEARING

CN 6388

CULBERTSON EAST TO NORTH DAKOTA ENVIRONMENTAL ASSESSMENT

3/25/08

Bainville, MT

Opening

Jim Lynch: Welcome, my name is Jim Lynch, I'm the Director of the Montana Department of Transportation. As you know this meeting is on the Culbertson to North Dakota Environmental Assessment which we prepared at the Department of Transportation to look at a four-lane on that particular portion of the highway from Culbertson to North Dakota. Time flies but it was four months ago that we came here and explained to the community that we thought we could run a Categorical Exclusion on this particular highway but we found there were some impacts that needed to be mitigated that moved us into an Environmental Assessment. That has moved along very well. We are actually done with the Environmental Assessment as far as the portion of work we need to do at the Department of Transportation and we've also had the EA looked at by other agencies, such as Corps of Engineers, EPA, DEQ, Fish Wildlife and Parks, and others. They've had a chance to look at it twice. Once in the development stage and gave us some suggestions and then again in the finished stage, which they've had since March 4, 2008. They have until April 4th to issue final comments. We are through with the EA portion of it and tonight we are going to explain the project and give you an opportunity to ask questions about the EA and to comment. Paul Grant will explain all the rules for the meetings.

Before Paul does that I want to introduce some special people. Connie Thompson representing the Ft. Peck Tribe Indian Road Program is here tonight, she was also at the Culbertson meeting last night. There was a pretty good size crowd at Culbertson last night listening to the same thing, so they may have felt they didn't need to come to Bainville, but your County Commissioners and some elected officials were at Culbertson last night and saw what was going on in the particular project. Other officials here tonight are Gene Kaufman, Federal Highway Administration, Nancy Espy, Commissioner of the Transportation Commission, Loran Frazier Montana Department of Transportation in Helena, ... (inaudible) ...

Thank you for welcoming us back to your community to tell you what we've got planned at the Department of Transportation for improving this stretch of roadway from Culbertson to Bainville. We still have the Bainville project and it is still scheduled to go. So that will move as scheduled but the two-lane portion of the Bainville project will be constructed in a way that if we get through this EA and everything is approved, when we go to widen the roadway to a four lane, we will not have to remove what we just put in. It is being designed and built in a way to accommodate an additional two lanes. Darryl James with HKM Engineering will go through that and show you the particulars of that design. HKM Engineering is who the Department hired

Culbertson East to North Dakota

to do the Environmental Assessment. Right now I'll turn it over to Paul Grant with the Montana Department of Transportation out of Helena

Paul Grant: Welcome to the hearing tonight; a lot of you have attended both former meetings and we appreciate your attendance tonight. I'm Paul Grant, Public Involvement Coordinator with MDT. This is a formal Public Hearing for the Environmental Assessment for the project known as Culbertson East to North Dakota in Roosevelt County. Before we begin with the presentation we have few housekeeping details we need to go through so you have some idea of what to expect tonight. This hearing is different than the public meetings we have had in the past.

We are here for many reasons: we are here to briefly summarize the preferred alternative in the Culbertson East to North Dakota Environmental Assessment, also known as an EA; we are here to explain the elements of the preferred alternative and the potential impacts of the preferred alternative; we are here to get public comment from you because we want to meet the needs of the community and the only way we can do that is to hear how this is going to work for you. There are sign-in sheets at the entrance and we request everyone sign in so we have a public record of who was here tonight. There are six pamphlets in the back regarding MDT's policy on non-discrimination which you are welcome to take and review. As the Title VI Representative for the department, if there are any questions about Title VI and discrimination issues please see me after the hearing. The locations where the EA document is available for public review are indicated on this slide (referring to graphic). If you haven't had a chance to look at the EA, these are the locations where it can be seen and you are welcome to do that.

Tonight's meeting will be in two parts. There will be a presentation given by Darryl James of HKM Engineering, Inc., from Helena. His presentation will go through the history and the project development process; he will describe the National Environmental Policy Act also known as the NEPA process; the purpose of the proposed project; the potential impacts and mitigation. After his presentation he will include an EA clarification period where you will have the opportunity to ask specific questions about the corridor study. Please keep in mind that this is a time for questions about the study. The questions need to be specific to the corridor study and if the question falls outside the parameters of the Environmental Assessment, Darryl may ask you to return during the comment period which will follow, and state your question or comment at that time or he may direct you to talk to one of the staff as well. After the question and answer period, we will move into the formal hearing period. This is the process for collecting your comments and your testimony. Please remember this hearing is a formal process of collecting comments and testimony not a question and answer period. It is an opportunity for you to let us know what you think about what is contained in this particular Environmental Assessment document.

If you haven't had an opportunity to review the EA or if you are not prepared to give comments tonight, the comment period is open until April 4th. You can submit your comments in writing and leave them in the comment box at the back. You can take the comment sheets home and submit your comments by mail or email. All that information can be found on the comment sheets. All comments received by April 4th will be considered by the Montana Department of

Finding of No Significant Impacts



Transportation and the Federal Highway Administration. Based on the public comments received, the proposed improvements and mitigation presented in the EA will be refined in the decision document. If significant impacts are identified, the Montana Department of Transportation would need to prepare an Environmental Impact Statement (EIS) if we were to proceed with this project. If no significant impacts are found, a Finding of No Significant Impact (FONSI) document will be completed and signed by the Department of Transportation and the Federal Highway Administration. The public will be notified of the final decision document, the final design, and the right-of-way acquisition.

To reiterate again, we will have a presentation by Darryl, then the EA clarification session where you can present your questions regarding the corridor study, and finally we will move into the formal hearing session where you can give you comments about the Environmental Assessment. Again no questions will be answered during that portion of the hearing; MDT and the Federal Highway Administration will just be present to hear your comments. Now I will turn this over to Darryl who will begin the formal presentation and discussing the National Environmental Policy Act.

Presentation: Darryl James, HKM Engineering, Inc.

I see a lot of familiar faces and I think a lot of you are familiar with the studies that have been conducted over the past several years in this corridor and know about what we've been up to over the last 12 months with this Environmental Assessment.

Project History

To recap the history, in 2005 Congress named the Theodore Roosevelt Expressway as part of the National High Priority Corridor System as part of the National Highway System; it is part of the Great Plains International Trade Corridor that goes from Canada to Mexico. Within Montana we've got two chunks of this (referring to map): Highway 2 from Culbertson to the North Dakota state line and then Highway 16 that goes from Culbertson up to the Canadian border. In this EA we are only talking about U.S. Hwy 2 from Culbertson to the North Dakota state line; any other action within this corridor will be covered by a separate environmental document.

The TRED Study. How many of you are familiar with or were involved in public meetings regarding the TRED Study that was conducted in the area? That was really kind of a broad look at the types of improvements that might be considered within the general region and what those improvements might do. The TRED Study is more of a corridor-wide plan that developed the purpose and need for improvements within the corridor and looked at a number of different alternatives that might satisfy that purpose and need.

NEPA/MEPA. Then we moved into the NEPA and MEPA processes – the National Environmental and Policy Act and the Montana Environmental Policy Act. As you can see we are nearing the end of that

Culbertson East to North Dakota

analysis phase and the next part would be actual project implementation which starts with final design, right of acquisition, and then finally actual construction.

Funding. We can talk later about funding and the design process, but that is something that has been coordinated and been an on-going effort to look forward and find out what kind of funding might be available. You may have been contacted by some of the design engineers on some specific issues on your individual properties.

NEPA / MEPA

NEPA/MEPA – The National and Montana Environmental Policy Acts. What is the NEPA/MEPA process? It is basically just an open coordination process with the public and the agencies that have jurisdiction over permits and different lands within this corridor to ensure that we have a full and fair discussion about the potential social, economic, and environmental impacts within this area that might be imposed by this project. Director Lynch mentioned the Department looked at whether we could do this under a Categorical Exclusion but about one year ago the Federal Highway Administration and the Montana Department of Transportation decided that we really didn't know what kind of impacts might be incurred by this project, so it was decided to do an Environmental Assessment since we really didn't know how significant those impacts might be. If we find there are no significant impacts, the project is done from a NEPA/MEPA clearance process. If we still don't know or we think there might be significant impacts we would move into an Environmental Impact Statement.

Why an EA for this project? Again we wanted to have an opportunity to come out and talk with the public and make sure you were fully supportive of this concept and to make sure we understood the issues and concerns that you have and what impacts might be imposed by this project. We knew we had potential for some fairly substantial impacts within Culbertson. We have had opportunity to discuss that with the community; there has been a presentation with the town council and they are very supportive of a four-lane roadway through town. I have a couple of copies of the EA with me tonight and it is also available at these locations for your review.

Critical pieces of the NEPA Decision Making Process

The Purpose and Need Statement. Why are we proposing to spend federal dollars on a highway project? That was explored through the TRED Study and supported through this Environmental Assessment – why are we building this?

Alternatives Investigation. Again that was done in the TRED Study and pulled into this Environmental Analysis. This Environmental Assessment looked at the No Build and a Four-Lane Highway in varying configurations either divided or undivided. A No Build would mean they would do pavement preservation projects, a mill and overlay, fill potholes, but no major expansion would occur. The Build Alternative or the Preferred Alternative is a four-lane highway, divided or undivided based on terrain and different constraints within the corridor.

Finding of No Significant Impacts



Affected Environment. Again this is a description of what is out there, i.e., wetlands, wildlife habitat and economic concerns within the corridor – those kinds of built and natural constraints within the corridor.

Impacts and Mitigation. We had to look at impacts and proposed mitigation to compensate for those types of impacts. How many acres of wetlands are we impacting? How many homes do we have to acquire through this process? Then how do we mitigate for those different impacts?

Public Input and Agency Coordination. Two of the most critical pieces of the NEPA and MEPA processes are public input and agency coordination. We have to talk to the agencies to find out what they are allowed to permit under their own processes. Again your input is critical because this is your highway and your taxpayer dollars, so your input is a critical part of this whole process.

Purpose of Project. The purpose of the project that came out of the TRED Study is “to provide system continuity on the Theodore Roosevelt Expressway.” There are a number of pieces from Canada to Mexico that are already four lanes and there are plans in other states for additional four-lane pieces of this highway. This is Montana’s first shot at a four-lane Hwy 2 from Culbertson to North Dakota to provide a continuous four-lane system along that International Trade Route.

Bainville East Project & the Culbertson Project. We’ve got two different projects: the Bainville East and West Project which is actually scheduled to begin construction in 2009. It starts just west of Bainville and goes to the North Dakota state line. It is an improvement of your existing two-lane roadway. It is a widening that would provide two eight-foot shoulders and would straighten out a few curves but generally just a widening of the existing alignment. The project we are talking about in the EA goes from Culbertson to the North Dakota state line. We would utilize that newly construction two-lane roadway as either the east-bound or the west-bound lane. We can show you on the aerials where that transition occurs. That would be salvaged and used as one set of the new four-lane roadway and then two new lanes would be constructed immediately adjacent to that. If you have questions, please stop me and ask.

Proposed Widening: We’ve got several different sections throughout the corridor. In Culbertson we are looking at a four-lane roadway section with two 11-foot interior lanes, two 12-foot exterior lanes, five-foot shoulders, and five-foot sidewalks. Through discussions with the community we wanted to keep it as narrow as possible and still provide that four-lane continuous route. That begins at MT 16 as it heads north and extends east. In town we have an undivided four-lane, at that point we just drop the sidewalks and shoulders and have an eight-foot shoulder on either side but it is still four lanes packed in tight together. Once you get outside of town, we go to the divided four-lane section (referring to graphic) where you have a large median in the middle with two 12-foot travel lanes going eastbound, two 12-foot travel lanes going westbound with the median in the middle and eight-foot outside shoulders and four-foot inside shoulders. As we move closer to Bainville we have a wetland complex and a railroad crossing, so we’ve got some constrains we’re concerned about so we would go back to an undivided four-lane section. So we would get rid of that median and pull in as close as we can. We had some pretty

Culbertson East to North Dakota

substantial wetland impacts in that big marshy area out by the railroad crossing. The Corps of Engineers were concerned about the level of impact so the Department of Transportation steepened up the side slopes in that area and might even have some guardrail in there. We are still working out the design details but to minimize impacts the footprint of the roadway was narrowed up to this undivided four-lane section with still maintaining the surface width but pulling in some of those side slopes. Once we get back on this straight section heading east we go back into a divided four-lane with a median.

Keep in mind that you've got one piece that is already built by the Bainville East and West project with eight-foot shoulders and two 12-foot travel lanes that would be maintained, and then we would build an additional two lanes with a four-foot shoulder inside shoulder and an eight-foot outside shoulder just like the other section. Again we can walk through how that is done to the north end part of it and how it transitions to the south end of it based on roadway geometry. We spoke in Culbertson and they passed a resolution to support this configuration in town with 11-foot interior lanes, 12-foot exterior lanes, five-foot shoulder and a five-foot sidewalk.

Proposed Impacts and Mitigation

Land Use and Right-of-Way within this corridor – this proposed project will require about 180 acres of new right-of-way that are beyond the limits of the existing right-of-way. The Department of Transportation in this preliminary or conceptual design has really tried to minimize those impacts as much as possible but there will be a substantial amount of new right-of-way required to maintain a safe roadway. Any right-of-way that is acquired through this project has to go through a formal federal process namely The Uniform Relocations Assistance and Real Property Acquisition Act. We have some information on those policies if you are interested in that.

Farmland Impacts. The Natural Resource Conservation Service sets up criteria qualifying the quality of farmlands. There are two types of farmlands within this corridor that would be impacted. There are about 10 acres of Prime Farmland that is Irrigated and about 20 acres of Farmland of Statewide Importance. NRCS is not looking at those as being a significant impact so there is really no mitigation required for those.

Social and Economic Impacts. Again this project requires acquisition of right-of-way from several existing residential and commercial properties in Culbertson and a number of access relocations or modifications whether a farm-field approach or your driveway as it approaches Hwy 2 might require some minor modification. That is something that is discussed with you and negotiated during final design and right-of-way negotiation.

Pedestrian and Bicyclists. We didn't see any evidence and didn't hear during community participation that bike and pedestrian use in this corridor is very high but with the design that is proposed an eight-foot shoulder on the outside is more than adequate and meets all federal and state guidelines on safe bicycle use. So that facility is there and available and should satisfy any bike and pedestrian concerns that might come up.

Finding of No Significant Impacts



Air Quality/Noise. We don't have any concerns with air quality. We didn't see a significant number of residences or parks or anything like that might be impacted by noise, so we are not looking at any kind of noise barriers or anything like that.

Surface Water, Irrigation, and Water Quality. There will be several new bridge structures constructed in the corridor: Red Bank Creek, Shotgun Creek, and Clover Creek at least at this point we are anticipating will be new structures replaced at those locations. There are also some irrigation dikes, head gates, and ditches that might be impacted by the roadway widening. Those would all be coordinated individually with either the ditch owner or the land owner to make sure those are perpetuated. Because of the increased width we are also looking at increased runoff particularly in Culbertson which was an issue, so we are looking at opportunities to divert that water and get it out of town. Everything else is obviously in compliance with any other state and federal laws on water quality to make sure any runoff is treated.

Wetlands. I talked about how the Department of Transportation has pulled in the side slopes to minimize impacts outside of Bainville. The total project is anticipated to impact about 3.8 acres of wetlands throughout the corridor. We've discussed this with the Corps of Engineers and have at least tacit approval that it looks acceptable and should not be a major permitting issue. So we will go through all the 404 Permit requirements but we are not seeing that as any kind of an obstacle at this point. MDT, during final design, will also look at additional opportunities to avoid or minimize those impacts.

Water Bodies, Wildlife Resources, and Habitat. Again we didn't see any significant impact on adjacent wildlife habitat or wildlife species, so we will go through the required coordination process but we again we are not seeing many issues there.

Floodplain impact. We do have a floodplain within Culbertson that would have the potential to be impacted, but the final design would make sure the floodplain elevation is not affected by this roadway. I don't think there are any other delineated floodplains within the corridor but the Department is responsible for making sure that we talk with several people about drainage issues and during final design they will look at culvert sizes and pipes and make sure they all work hydraulically.

Threatened and Endangered Species. There is no evidence we have a significant threatened and endangered species issue in the corridor nor do we anticipate any impacts.

Cultural and Archeological Resources. There are a couple of cultural and archeological resources within the corridor. The rail line is considered a historic element within the corridor by the State Historic Preservation Office. We will maintain the existing crossing with a wider roadway. They do not see that as a substantial impact, so that is a pretty easy permitting issue. Within Culbertson there is also a historic residence and we'll be taking a small portion of that front yard and that is also being coordinated with the State Historic Preservation Office. Again that is not a major stumbling block.

Culbertson East to North Dakota

Hazardous Waste. We are not anticipating any but if any is encountered the contaminated soils would be treated and removed according to MDT's standard specifications.

Construction Impacts. With any construction project you are going to have some minor delays just with tearing up the roadway and re-routing traffic or trying to maintain traffic during construction. Again the Department of Transportation will try and do everything they can to try and minimize those impacts and make sure people are flowing through this corridor, but we do anticipate some minor disruptions during construction.

That is a real quick summary, does anybody have any questions about what I just went over and the impacts we are talking about or the scope or scale of any of these?

Q: (Susan Soto) I live in the coulee down by the state line and you had a brown line down there, and I'm wondering why you never said anything about what you are going to do there?

A: (Darryl James) Good question, thank you. These brown portions are the undivided four-lane section (referring to graphic). We talked about being on a four-lane divided section with a center median, as we get closer to the very eastern end there is a dam at Mr. Panasuk's property. With the Bainville East and West project we are looking at lowering the top of that dam and providing a wider surface to build that two-lane roadway. It will be wide enough to accommodate the four-lane if we can pull it in with some minor modifications to the side slopes. Based on that constraint and the fact that we've got to get back into a two-lane section once we get across the North Dakota state line, that is the reason we are pulling back into an undivided section there. So it is narrower than this (referring to graphic) to get across that dam and transition back into a two lane.

Public Input. The point of our meeting tonight is just to ask some questions of you and to get your feedback.

There are four basic questions that the Department of Transportation and the Federal Highway Administration have to consider:

Does the proposed project meet the purpose and need? Again the purpose and need is system continuity on the Theodore Roosevelt Expressway and the part we are considering is on Hwy 2.

Are the alternatives fairly considered? The TRED Study looked at a number of alternatives and this Environmental Assessment is looking at the No Build and the Preferred Alternative which is a four-lane roadway divided or undivided depending on constraints within the corridor.

Are the impacts significant? If they are determined to be significant, then we have to pick another track. If they are not significant, then the Federal Highway Administration would consider issuing a Finding of No Significant Impact.

Finding of No Significant Impacts



If we do have something that might be a significant impact, can that be mitigated to the point of an acceptable level? If the impacts are so significant and can't be mitigated, you would have to move into an Environmental Impact Statement which is a lengthier more detailed process, with more public involvement and more agency involvement but based on what we've seen and heard we are not anticipating that. If the impacts are not significant or they can be mitigated, the Federal Highway Administration and MDT would sign a Finding of No Significant Impact (FONSI). That would be the final determination that this project is acceptable and you can move into final design and right-of-way acquisition.

At this point, you've been with us a long time and a number of you who have been working on this for a decade or longer feel like this has taken forever to get to this point. We are now at the public input stage. We have a 30-day public comment period on the Environmental Assessment that wraps up on April 4th. We need your comments in either this evening or mail or email them into us by that date. That would be the final point for public involvement in this process. Then the Federal Highway Administration and the Montana Department of Transportation would issue a formal decision document. We are anticipating that sometime this spring or early this summer.

Question/Clarification Period:

(Darryl James) At this point we will entertain any questions or clarifications on the EA or anything on the presentation. If you've got a specific design question or anything like that, we would like to do that now. Once we do that, then we will move into a formal comment period where we are here just to listen. We will take any comments but we won't necessarily respond tonight. An attachment to the Finding of No Significant Impact will document your comment and provide an official response from the Department of Transportation and the Federal Highway Administration, but we won't answer those questions or address those comments this evening. So to be clear, right now we will answer any questions, then we will close that period and move into a formal hearing where we just listen to your comments.

Q: (Terry Traeger) I'm a landowner out here and got here late so I just want to know if we are talking about an improved two lane or a four lane?

A: (Darryl James) There are two different projects. From Bainville to the North Dakota state line is a project that has been designed and will actually go to construction in 2009 that is an improved two lane. So that will straighten out a few of the curves and is generally mapped on the graphics over here. It will have two 12-foot travel lanes and eight-foot shoulders from just west of Bainville to the North Dakota state line. This Environmental Assessment would start at MT 16 heading north and go all the way to the North Dakota state line with a four-lane roadway. It would reconstruct the two lanes here and just add an additional two lanes adjacent to that project.

A: (Jim Lynch) The Department of Transportation didn't want to stop this two-lane project for a lot of good reasons. However, it is designed so that when we get through the

Culbertson East to North Dakota

Environmental Assessment and we get a FONSI signed, we can then design the second two lanes.* So let's assume that all happened, you would see the first two lanes already constructed and when you went to build the next project, the existing traffic wouldn't be impacted during the next construction of the other two lanes. We would not tear up what we just put down; that would remain and when the total four-lane section of the highway was complete you would have the two lanes that were just constructed in 2009 and the new two lanes.

Q: (Terry Traeger) So is Hwy 16 going to be four lane from Culbertson to Plentywood?

A: (Jim Lynch) Under this Environmental Assessment it is not. Right now what we are considering is from Culbertson to North Dakota.

Q: (Terry Traeger) But is all part of that Theodore Roosevelt Expressway – so why have a four lane if it only goes to Culbertson and goes back to a two lane?

A: (Jim Lynch) That is correct. When we got to this particular project we had to look at – there are two ways that Environmental Assessments and Environmental Impact Statements are done and one is to look at the whole corridor. We found over time that in order to get something built, it is better to look at smaller sections of highways. So you'll see in the future, not only in this state but in other states, they won't be looking at full-blown corridors; they will look at what they call "logical termini" and you will find logical termini between Culbertson and North Dakota is what was identified and that is what this EA addresses. As we move forward and as we look at how we have to build a traffic system within the State of Montana we will be looking at Hwy 16 going north and we will do the same thing there. You have to start with an Environmental Assessment and look at what impacts will take place and determine whether you can stay with a Cat Ex, an EA, or an EIS.

Q: (Connie Thompson) I'm with the Ft. Peck Tribes. There are three bridge projects and then the dam project – are they going to be with the first part or the second part?

A: (Darryl James) I think most of the bridge replacements are on the western part of the project. The dam reconstruction or dam modification will be done on the Bainville East and West project. If and when we get to final design on this project, we would have to make sure the four-lane would fit on that same top. We talked about maybe adding some sliver fills on the side to make sure we have adequate width. But at this point preliminarily it looks like the modifications would be made to the dam in the Bainville East and West project with the first two-lane but also accommodate the four lane. I believe most of the other bridge replacements are on the western portion of the project so it would be outside the Bainville East and West project. If there is a bridge replacement that is being done under the Bainville East and West project, MDT would build a new

* This statement was based upon the assumption that no significant impacts would be found.

Finding of No Significant Impacts



bridge adjacent to that, so it would be on a separated section and they wouldn't tear down the bridge and build a four lane.

Q: (David Panasuk) What are they actually going to do with the present No. 2 highway when they get this other highway completed? Will this come out completely?

A: (Darryl James) After the Bainville East and West Project?

Q: (David Panasuk) Yes from Bainville to the state line.

A: (Darryl James) From Bainville to the state line, the newly constructed roadway would have two 12-foot travel lanes and eight-foot shoulders. That would be maintained as the westbound travel lanes. Two new travel lanes with a four-foot shoulder and an eight-foot shoulder would be constructed to the south and those would serve as your eastbound travel lanes.

Q: (David Panasuk) What are they going to do with the current highway? Will that come out or stay?

A: (Darryl James) Anything there today that is not built back into this configuration would be obliterated. It would be completely taken out, recontoured and reseeded and in effect go away and nothing would be left that is not incorporated into the new roadway.

Q: (David Panasuk) I see where they've got some wetlands, if you actually take some out, do you have to create some wetlands someplace else?

A: (Darryl James) It is done through coordination with the Corps of Engineers. There is a formula they determine based on the quality of that wetland and what type of mitigation is required. We've got a fairly small anticipated level of impact, so it will either be wetland construction within this corridor or within this general watershed, or you can bank wetlands outside the area if you can't do it within. That is a permitting process with the Corps of Engineers that would occur after the decision is made and we get closer to the final design and construction.

Q: (David Panasuk) That dam that is close to the North Dakota state line, is that going to be impacted from that wetland according to the map I looked at tonight?

A: (Darryl James) The dam wouldn't be impacted by the wetland. If during the final design of the new four-lane project it looks like we might have to add a sliver-fill on the side of that dam then you might have some additional wetland impacts. I'm not sure if we are looking at about 1/10 of an acre impact. That is based on preliminary design and that could change as we move forward with final design and figure out what actually fits on top. There could be minor impacts on wetlands but it wouldn't stop the project and wouldn't require any kind of re-design. We are anticipating it will fit and it will be permissible by the Corps of Engineers.

Culbertson East to North Dakota

- Q: (Shane Garman) I'm here in Bainville. I was wondering about the road going down the river, Hwy 323. That has been slated to be paved for years, is that one now behind this one?
- A: (Jim Lynch) That is a State Secondary Highway and is a totally separate process. The State Secondary funding program is a separate funding category. We are in District 4, so all of the County Commissioners get together and they nominate and set a list of priorities and they fund those priorities through the Secondary Road Program. So it is totally independent of this project. You couldn't use that money for this project. What money goes to build this project couldn't be used on the Secondary nor could the Secondary funding be used on this project. This uses federal money. A lot of people think that the Department of Transportation under federal funding receives X-billion dollars sitting in a bank account that we can use to spend, but it really doesn't work that way. We get an appropriation from the federal government that gives the State of Montana X-billions of dollars over the next six years to spend, however, they specify that it is to be spent in these 18 different categories and sets the amount allocated for each category that can only be used on certain highways. We will only receive 1/6 of that over the time period. Then to add even more confusion, the Department of Transportation has to hire the engineer, hire the contractor, build it and pay for it out of State revenues and then ask for the federal government to reimburse us. Now the federal government is very quick; their reimbursement to the state is usually within seven days. But that is how the process works. There isn't a bank account anywhere and we don't have a huge pot of money to just go build anything. A lot of our money is earmarked and categorized into certain silos and then projects have to fit those silos.
- Q: (Darrel Rasmussen) This corridor is earmarked as a high priority by the federal government; do you anticipate this corridor being part of a federal interstate highway system?
- A: (Jim Lynch) The way it looks right now is that the interstate across this county is complete. Again we are looking into a crystal ball but all the national meetings I've attended, the interstate system is finished. They've built about as many interstate highways as they are going to build in this county. ... (inaudible) ...
- Q: (David Panasuk) This project from Bainville to the state line is that going to be three new bridge structures?
- A: (Darryl James & Ray Mengel) There will be three new structures on the section from Bainville to the stateline.
- Q: (David Panasuk) I'm still confused on the impact to the dam from the Bainville to the State line project. I heard there was no impact, now I hear there is a possibility of an impact, I'm still confused can somebody try to clarify that.

Finding of No Significant Impacts



A: (Darryl James) What we're saying in the EA is "the height of the dam would be lowered to accommodate a 40-foot top for the *Bainville – East & West* project, which would also accommodate the proposed four-lane widening under this proposed project. The proposed roadway across this dam would consist of four undivided 12-foot travel lanes and two four-foot shoulders." So we're narrowing the shoulders to get across the dam. "This would require widening the dam and adding guardrails. The dam is not classified as a high-hazard dam by the DNRC, but would likely be treated as such during design and construction." So while we don't have to meet those specific criteria the Department of Transportation will likely treat it as such during final design and construction. So the impact to dam structure is from the widening and the sliver fills to the sides. Most of it would be accommodated by lowering the height but some sliver fills would be necessary.

Q: (David Panasuk) The DNRC has classified the dam as high hazard.

A: (Darryl James) We do have correspondence with DNRC saying the dam is not high hazard. This was coordinated several months ago and we do have a letter on file.

Q: (David Panasuk) The DNRC did measure the dam so I don't know how we have two different agencies with different opinions as to the classification of the dam.

A: (Darryl James) The same agency, DNRC, has written a letter to the Department of Transportation saying they do not consider the dam to be high hazard. They may have told you in the field the dam was high hazard but they have done additional analysis and determined the dam is not high hazard. We can provide you a copy of the correspondence.

Q: (David Panasuk) The DNRC may have corresponded with you but why wasn't I involved in the correspondence. ...(inaudible)...

A: (Darryl James) We'll make sure we get you a copy of this correspondence with DNRC to you. The determination does not change the proposed design. MDT has already committed to treating it largely as a high hazard dam but for the purposes of DNRC it does not meet the criteria for a high hazard dam. ...(inaudible)... again the design as it's proposed will likely meet the criteria. We'll make sure we get you a copy of the correspondence.

Q: (Dave Holmes???)(inaudible)....

A: (Darryl James) Obviously what they've done with the profile of the roadway maintains a certain slope so it's not going to have a roller coaster effect. Ray can go into specifics on how much they are lowering the profile, but I don't think it's a substantial amount. Ten feet over a very long distance is not really that big of a deal.

Q: (Dave Holmes???)(inaudible)....

A: (Darryl James) If we look at the graphic here we've got two different lines in the *Bainville East and West* portion. The blue line represents the right-of-way limit established by

Culbertson East to North Dakota

the Bainville East and West project. That would be maintained with the four lane project. The red line shows where the expansion would occur with the four lane project. The new right-of-way limit resulting from the four lane project.

Q: (Dave Holmes???) If the road moves south, won't the right-of-way line also move south.

A: (Darryl James) It could. It depends on the criteria for sideslopes and right-of-way limits. ... (inaudible)...

Q: (Unknown) Is any part of this part of that NAFTA highway?

A: (Jim Lynch) No. I think what you're thinking of is a private highway built from Mexico to Canada. No this already all existing roadways. All of the connections you see here are actually highway numbers. ... (inaudible)...

Q: (Unknown) If that NAFTA highway comes up through there it's going to parallel this, how is it going to affect this?

A: (Jim Lynch) Do you really think that's going to happen?

Q: (Unknown) There's been a lot in the newspapers about it. You've got more of an idea than I do.

A: (Jim Lynch) That question is outside of what we are doing here. ... (inaudible)...

Q: (Unknown) Does the right-of-way that's acquired only include the surface rights or does it include the mineral rights as well?

A: (Jim Lynch) Because it's a publicly traveled roadway the State of Montana acquires all rights on that piece of property.[†]

Q: (Nathan Rasmussen) How long will this process take?

A: (Jim Lynch) What we're doing here right now is going through the Environmental Assessment process and it depends on the comments we receive, the type of comments and the amount of comments we have to respond to then we'll reach a decision if we have a Finding of No Significant Impact. ... (inaudible)... Then we'd have to program this project. With the Bainville project being built in 2009 it actually helps this project because there are two ways you can build roadways. You can either tear up existing two lane to build a four lane or in some states, like North Dakota, South Dakota, New Mexico and Texas, they'll actually build two highways, ... (inaudible)... so we'll a little bit ahead of ourselves ... (inaudible)... this particular area has tremendous potential with natural resources such as oil, gas, coal, ... (inaudible)... There

[†] See Comment/Response #8.

Finding of No Significant Impacts



are some pamphlets in the back which discuss how long it takes to build a roadway so please pick one up before you leave this evening.

Q: (David Panasuk) Why would the state have to acquire mineral rights when they purchase right-of-way?

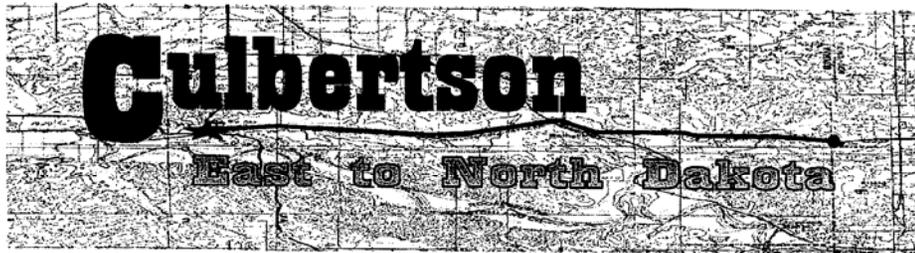
A: (Darryl James) If we can have you talk to the Director or Ray afterwards, it's really outside the scope of this Environmental Assessment. I don't mean to cut you off but we need to keep this moving.

A: (Jim Lynch) We'll have Ray talk with you and get you some documentation...(inaudible)...

Public Hearing

Formal Hearing comments are contained in Appendix B.

Culbertson East to North Dakota



Public Hearing

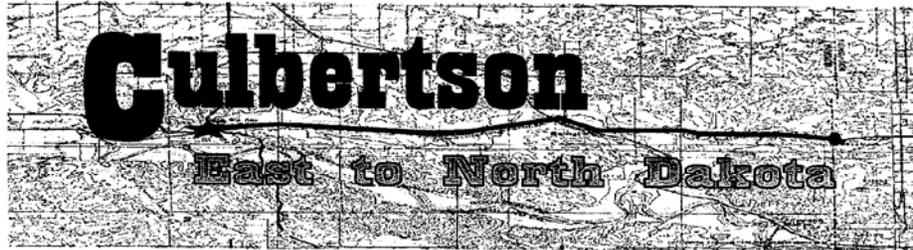
March 25, 2008
Bainville School

Please Sign In:

	Name and/or Agency	Address:	Phone:	E-mail:
1	Darrel Rasmussen	307 1st St Bainville	201-570-2119	
2	W. Bruce Houde	Box 539 Culbertson, MT 59218	406-787-6643	
3	David Panasuk	322 US Highway 2 Bainville, MT	406 769 2973	
4	Ramona Ross	1538 US 2 Culbertson MT	406 287-5368	
5	Keith Berwick	Box 25 Bainville, MT		keithberwick@nemont
6	Canora Berwick	PO Box 25 Bainville, MT	406 769 2721	
7	Bob Sivertsen	PO Box 2226 Havre		262-2346
8	Made Pacorsky	546 US 2 Bainville, MT	406 769 2971	
9	WALT PETERSON	P.O. Box 698 Wheaton, MD.		761-774-2710
10	Lee Romo	6211 Hwy 327 Bainville, MT	769-3102	
11	Susan Lota	60 US Hwy 2 Bainville	769-2027	
12	LeRoy PANASUK	5615 Rd 1004 Bainville, MT	769-2925	
13	Lawrence Romo	Box 36 " "	769-2075	
14	Carrie Hoops	Box 1027 Poplar, MT	768-3208	
15	Shaw Danna	Bainville, MT	769 2304	



Finding of No Significant Impacts



Public Hearing

March 25, 2008
Bainville School

Please Sign In:

	Name and/or Agency	Address:	Phone:	E-mail:
1	Clara Sauerbrey	1194 U.S Hwy 2	BAINVILLE	787 5285
2	Judith R. Meyer		"	769-2140
3	Denny Troger	1218 Rd 2060	Bainville	
4	Carl M. Sauer	Box 71	Bainville	769-2321
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Culbertson East to North Dakota

Appendix D - Official Correspondence

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

June 16, 2008

Kevin McLaury
Division Administrator
Federal Highway Administration
585 Shepard Way
Helena, MT 59601

RECEIVED
JUN 23 2008
MONTANA DIVISION

Dear Kevin:

I strongly support the proposed project to four-lane US Highway 2 between Culbertson and the North Dakota state line due to its importance to international trade and the economy of Northeastern Montana.

Alberta and Saskatchewan are experiencing explosive economic growth especially in the oil and gas sector. With over 170 billion barrels of recoverable oil at today's prices, the Athabasca Oil Sands are second only to Saudi Arabia in proven oil reserves. As oil prices increase and the US requires more secure sources of energy, the estimated \$100 billion in planned investments in the Athabasca Oil Sands will require significant improvements to highway freight corridors between the oil sands and equipment manufacturing and service facilities in the U.S. Four-laning US 2 between Culbertson and the North Dakota state line will greatly contribute to the efficiency of these trade routes.

As documented in the *US 2/MT 16 TRED Study*, the proposed improvement to this segment of the Theodore Roosevelt Expressway will also contribute to efforts to diversify and expand the economy of Northeastern Montana. Without these improvements, businesses and communities in this area will continue to struggle to compete in the US and World economies. One only has to look at the four-laning of US 2 across North Dakota to understand how important modern and safe highways are to isolated rural areas such as Northeastern Montana.

Please consider this as an expression of my support for this important project.

Sincerely,


BRIAN SCHWEITZER
Governor

STATE CAPITOL • P.O. BOX 200801 • HELENA, MONTANA 59620-0801
TELEPHONE: 406-444-3111 • FAX: 406-444-5529 • WEBSITE: WWW.MT.GOV

Finding of No Significant Impacts



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

June 16, 2008

Kevin McLaury, Division Administrator
Federal Highway Administration
585 Shepard Way
Helena, MT 59601

RECEIVED
JUL 11 2008
FHWA
MONTANA DIVISION

Subject: Support for four-lane alternative from Culbertson-East to North Dakota

Dear Kevin,

The proposed four-lane configuration for the segment of the Theodore Roosevelt Expressway between Culbertson and the North Dakota state line is necessary to support trade and system continuity.

The *US 2/MT 16 TRED Study* demonstrated the importance of this corridor to regional and international trade movements related to economic changes in the area and in Canada. The study estimated these changes will produce a dramatic increase in the percent of truck traffic on this Congressionally-named trade corridor. This increase in truck traffic, along with Montana's differential speed limits, justifies the proposed improvements on US Highway 2 between Culbertson and the North Dakota state line.

The proposed four-lane configuration is also consistent with recent and planned improvements to other nearby National Highway System routes. The North Dakota Department of Transportation (NDDOT), for example, is completing the four-laning of 330 miles of US Highway 2 across North Dakota.

NDDOT is very interested in working with the Montana Department of Transportation (MDT) to extend the four-lane configuration, which the Federal Highway Administration supported, further west on US Highway 2 to enhance system continuity. The proposed four-lane configuration between Culbertson and the North Dakota state line supports this cooperative effort to address interstate transportation needs.

Based on these considerations, I encourage you and your staff to continue to work with MDT to complete the required environmental process necessary to move these important improvements forward.

Sincerely,

Jim Lynch
Director

copies: The Honorable Brian Schweitzer, Governor

Director's Office
Phone: (406) 444-6201
Fax: (406) 444-7643

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Web Page: www.mdt.mt.gov
Road Report: (800) 226-7623 or 511
TTY: (800) 335-7592

Culbertson East to North Dakota

Appendix E – Environmental Assessment

Finding of No Significant Impacts

