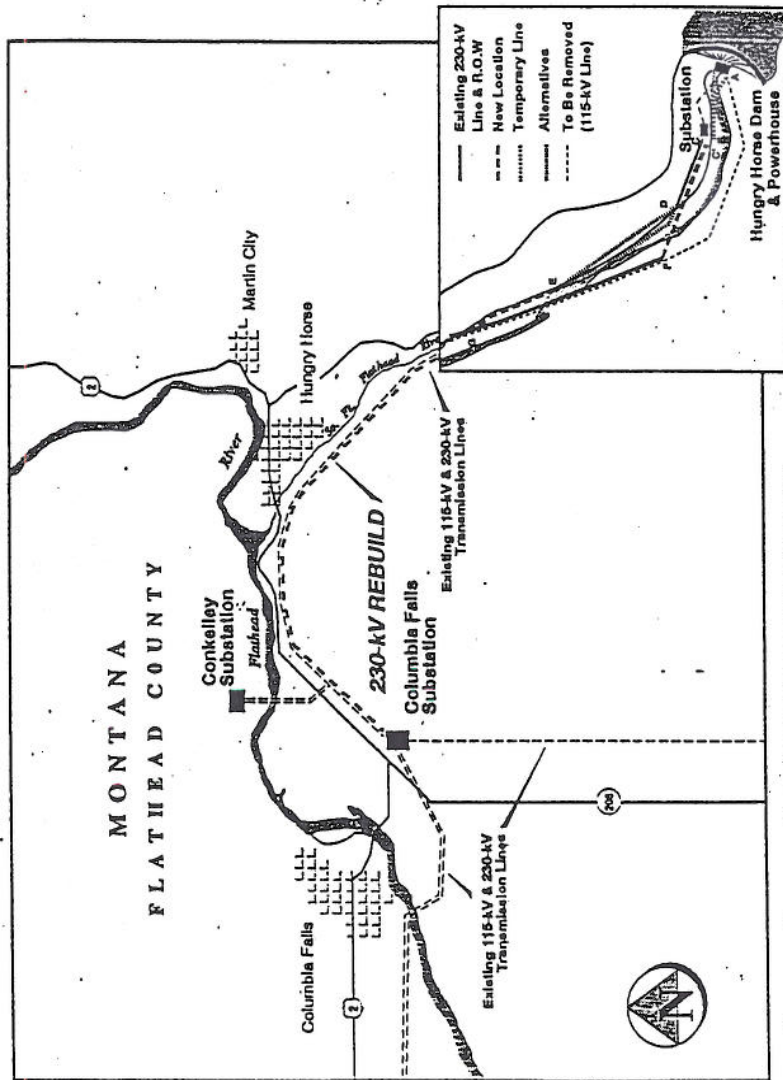


VI-50



Hungry Horse - Columbia Falls Line Rebuild



DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

ROBERT PECCIA & ASSOCIATES  
DEC - 3 1992

ED  
ENVIRONMENTAL BUREAU  
Edrie Vinson, Environmental Supervisor  
Preconstruction Bureau  
Department of Transportation  
2701 Prospect Avenue  
Helena, MT 59620

Dear Edrie:

The Department of Natural Resources and Conservation (DNRC) is participating with Bonneville Power Administration (BPA) in the preparation of an environmental assessment (EA) for the proposed rebuild of 8 miles of electric transmission line between Hungry Horse Dam and the Columbia Falls substation. DNRC is participating in this joint effort at BPA's request to facilitate preparation of a single NEPA/MEPA document to satisfy the permit needs of federal and state agencies.

The proposed project would replace an aging 115-kV transmission line with a new 230-kV line. The construction would require some relocation of an existing 230-kV line and removal of the old 115-kV line, resulting in two parallel 230-kV lines between the dam and the Columbia Falls substation. This action would improve the present siting of lines in this area by eliminating lines crossing one another and reducing the total number of river crossings. The proposed action would be completed in two phases timed to allow for the Bureau of Reclamation's upgrade of the Hungry Horse switching station located downstream of the dam. A brief description of the project is enclosed.

This letter is to begin state agency coordination for this project and to identify the information your agency would like to see documented in the EA or provided separately. I would appreciate your review of the attached information and a reply by December 11. After the EA is prepared, I will forward a copy to you for review within your agency. If you have questions or would like additional information, please call me at 444-6795.

Sincerely,  
*Kevin Hart*  
Kevin Hart  
Environmental Program Manager  
Energy Division

KJH/jb  
c: EQC  
OBPP  
Governor's Office  
Attachment (1)

Date Recd.	const 12-4-92	S. Johnson
MAILED	ROUTE	
30 Preconst Engr		
30 Assistant		
30 Office Mgr		
31 Safety Mgmt		
32 Road Desigr		
33 Environment		
34 Hydraulics		
35 Survey & Mapping		
36 Traffic Engr		
37 Traffic Operations		
38 Consumer Des.		
39 Road		
RPA		
File		
Brayda		

LEGISLATIVE BUILDING  
1520 EAST SIXTH AVENUE

HELENA, MONTANA 59620-2301

MASTER FILE COPY  
cc: H. S. Larson  
D. S. Johnson  
Jim Weaver

1-2(39)138

CENTRALIZED SERVICES DIVISION (406) 444-6700

CONSERVATION & RESOURCE DEVELOPMENT DIVISION (406) 444-6767

ENERGY DIVISION (406) 444-6897

OIL AND GAS DIVISION (406) 444-6871

WATER RESOURCES DIVISION (406) 444-6801



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
215 NORTH 17TH STREET  
OMAHA, NEBRASKA 68102-4978

September 2, 1992

MASTER FILE  
COPY

9-29-92

Date Recd.	Preconst	Act	Info	MAIL ROUTE
				30 Preconst Engr
				30 Assistant
				30 Office Mgr
				31 Safety Mgmt.
				32 Road Design
				33 Environment
				34 Hydraulics
				35 Survey & Mapping
				36 Traffic Eng.
				37 Traffic Operations
				39 Consultant Des.
				JT Weaver
				Legal
				D. Paulson - FHWA
				ride
				R.P.A.

RECEIVED

SEP 30 1992

Planning Division

Mr. David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
2701 Prospect Avenue  
Helena, Montana 59620

Dear Mr. Johnson:

We have reviewed the U.S. Highway 2-Columbia Heights to Hungry Horse Project F1-2(39)138 Draft Environmental Impact Statement (DEIS).

The proposed project is within the regulatory jurisdictional boundaries of the Omaha District of the Corps of Engineers; and therefore, one of our particular responsibilities in reviewing this document is ensuring that it adequately addresses any Section 404 issues.

On page S-6 of the document, it is stated that before any fill is placed in the Flathead River, a Section 404 permit must be issued. This sentence should also include that before any fill is placed in any wetland or waterway of the United States, a Section 404 permit must be issued. In addition, it is recognized on this page that a 404(b)(1) Evaluation will need to be prepared. This evaluation should be prepared and attached as an appendix to the Final DEIS. A standard format for a Section 404(b)(1) Evaluation is enclosed for your reference.

On page III-11 of the DEIS, it is noted that a document "evaluating the importance of each affected wetland, the severity of the impact, and measures to avoid or minimize harm to wetlands is on file with MDT in Helena." On page IV-18, it is stated that mitigation for impacts to wetlands will be reassessed once MDT has redelineated wetlands in the project area and that the findings of this reassessment will be incorporated into the Final EIS. A detailed mitigation plan should be developed and included as part of the Final DEIS, so that comments may be provided regarding planned mitigation strategies.

Because it appears that there will be unavoidable impacts to wetlands and waterways of the United States due to the proposed project, coordination with the Corps of Engineers Regulatory Field Office in Helena, Montana should continue.

RESPONSE TO COMMENTS ON DRAFT EIS  
Department of the Army Corps of Engineers (Omaha)  
Richard D. Gorton, Chief, Environmental Analysis Branch  
Planning Division (9/2/92)

1. RESPONSE: This sentence was revised for the Final EIS to read as follows:

If the proposed action advances to the design stage, the U.S. Army Corps of Engineers must issue the appropriate Section 404 permit before there is any placement of fill in the Flathead River system or any wetland in the project area.

The text discussing water quality in the Final EIS has been revised to better reflect considerations outlined in the Section 404 (b)(1) Guidelines. The proposed action's impacts relative to 404(b)(1) considerations has been included in a separate appendix in the Final EIS.

2. RESPONSE: MDT's reassessment of wetlands in the project corridor according to WET II procedures allows mitigation efforts to be based on the values and functions that each wetland provides rather than solely on the acreages lost or affected. A plan identifying MDT's proposed mitigation strategies for wetland impacts is included in the Final EIS.
3. RESPONSE: The Corps of Engineers is a Cooperating Agency for this EIS and coordination with the agency will continue through the permitting stage of the proposed action.

VI-51

The proposed project site is within the civil works jurisdictional boundaries of the Seattle District, and therefore, this office does not have access to the Flood Insurance study maps to verify floodway location. However, based on the report, we offer the following comments regarding flood plain issues.

On page III-4, in the fifth paragraph, it is stated, "None of the existing alignment falls within the area designated by Flood Emergency Management Agency as floodprone." Figure 14 does not agree with this statement, as the alignment crosses the South Fork of the Flathead River.

The text states that the build alternative will have a minimal effect on the 100-year flood and flood plain. Within designated floodways, this impact is supposed to be zero.

If you have not already done so, the Seattle District of the Corps of Engineers should also be consulted regarding flood plain concerns. This office may be contacted through:

Mr. William Spurlock  
Chief, Flood Plain Management Branch  
U.S. Army Engineer District, Seattle  
4735 East Marginal Way South  
Seattle, Washington 98134

Thank you for the opportunity to review this document. If you have any questions, please contact Ms. Julie Swoboda of our staff at (402) 221-4895.

Sincerely,



Richard D. Gorton  
Chief, Environmental  
Analysis Branch  
Planning Division

4. **RESPONSE:** The proposed alignment for the new bridge across the South Fork of the Flathead River crosses an area designated as the approximate 100-year flood boundary on FEMA's Flood Boundary and Floodway Map. This area delineates the 100-year floodplain, not a FEMA-designated floodway. The statement on page III-4 was revised to correctly identify that the 100-year floodplain is crossed by the proposed action.

5. **RESPONSE:** The floodplain analysis conducted for the Draft EIS was reviewed based on this comment. The analysis showed that depending upon the river location, build alternatives incorporating a riprap fill would result in no change in 100-year flood elevations or would reduce 100-year flood elevations by 0.03 to 0.06 feet. The text of the Final EIS was modified to clarify this impact.

Comments on the Draft EIS suggested that measures to reduce the encroachment on the Flathead River in Badrock Canyon be investigated. In response to these comments, a variety of design options (such as steepened embankments, vertical retaining walls, and building the road on a cantilevered structure or piers) were examined for the Final EIS. These measures were shown to provide substantial reductions in the amount of fill material below the ordinary high water mark. This also suggests that such measures would not change the elevation of the 100-year floodplain in the project area.

6. **RESPONSE:** Copies of Mr. Gorton's letter and the Draft EIS/Section 4(f) Evaluation were forwarded to Mr. William Spurlock, Chief, Flood Plain Management Branch, U.S. Army Corps of Engineers on December 1, 1992. To date, no comments have been received from Mr. Spurlock.

VI-52



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
215 NORTH 17TH STREET  
OMAHA, NEBRASKA 68102-4978  
August 4, 1993

MASTER FILE  
COPY



REPLY TO  
ATTENTION OF

Planning Division

Mr. David S. Johnson, P.E.  
Montana Department of Transportation  
2701 Prospect Avenue  
PO Box 201001  
Helena, Montana 59620-1001

Reference: Columbia Heights - Hungry Horse EIS  
US 2 Reconstruction, Flathead County, MT  
Project NH 1-2 (68) 138, Control No. 1290

Dear Mr. Johnson:

Thank you for the opportunity to review your responses to our September 2, 1992 letter in which we commented on your Draft Environmental Impact/Section 4(f) Evaluation for US 2 Reconstruction in Flathead County, Montana. We have reviewed your responses and offer the following comments.

We feel you have adequately addressed our concerns about possible weaknesses in your Draft EIS and have made the appropriate changes in order to finalize your EIS.

If you have not already done so, we recommend you send a copy of your responses to our previous letter to the Seattle District of the Corps of Engineers.

If you have any questions, please contact Ms. Jeanette Conley at (402) 221-3133.

Sincerely,

Richard D. Gorton  
Chief, Environmental  
Analysis Branch  
Planning Division

RESPONSE TO MDT FOLLOW-UP LETTER CONTAINING  
RESPONSES TO AGENCY COMMENTS ON DRAFT EIS

Department of the Army Corps of Engineers (Omaha)  
Richard D. Gorton, Chief, Environmental Analysis Branch  
Planning Division (8/4/93)

1. RESPONSE: A copy of the responses to comments contained your 9/2/92 letter and this letter were sent to Mr. William Spurlock of the Seattle District of the Corps of Engineers on September 27, 1993.

V-53

Date Recd.	Preconst	8-16-93
Act	Info	MAIL ROUTE
		30 Preconst Engr
		30 Assistant
		30 Office Mgr
		31 Safety Mgmt.
		32 Road Design
		33 Environment
		34 Hydraulics
		35 Survey & Mapping
		36 Traffic Eng.
		37 Traffic Operations
		39 Consultant Con.



United States  
Department of  
Agriculture

Forest  
Service  
406-755-5401

Flathead National Forest  
1935 Third Avenue East  
Kalispell, MT 59901

Reply to: 2730/7710

Date: December 15, 1993

David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
2701 Prospect Avenue  
Helena, MT 59620

Dear Mr. Johnson:

We have the following comments to offer on the Draft Environmental Impact Statement Section 4(f) Evaluation for U.S. Highway 2 - Columbia Heights to Hungry Horse Project F1-2 (39) 138.

Page S-6 - Transfer of Forest Service Land.

This statement, while true in our opinion, is contradicted several places in the document.

Page IV-6 - Part 3 - Wild and Scenic River Impacts.

The first paragraph indicates that MDT holds an easement. Our records do not indicate that an easement has been issued.

Page IV-33 - Cumulative Impacts.

In our opinion the sentence disproportionately emphasizes timber harvest activities. Residential development, subdivision, and recreation, all can play a part in reducing amount and quality of habitat.

RECEIVED

DEC 21 1992

ROBERT PECCIA  
& ASSOCIATES

VI-54

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RESPONSES TO COMMENTS ON DRAFT EIS  
Joel D. Holtrop, Forest Supervisor  
USDA Forest Service Flathead National Forest (12/15/92)

1. RESPONSE: These apparent contradictions have been corrected in the Final EIS.
2. RESPONSE: This sentence was deleted from the text of the Final EIS. Additional text was added to this part describing the discrepancy between USFS and MDT records about whether a highway easement exists on the 0.64 acres of land in the Flathead Recreational River Corridor. The new text reads as follows:

Based on comments on the Draft EIS/Section 4(f) Evaluation from the Forest Supervisor of the Flathead National Forest, some uncertainty exists as to whether or not an easement for US 2 exists on the 0.64 acres of land in the Middle Fork of the Flathead Wild and Scenic River Corridor affected by the proposed action. "As-built" plans for a previous improvement project on this section of US 2 completed in the 1960's show the entire parcel of land to be within the existing highway right-of-way. Subsequent investigations by both the USFS and MDT have not produced an easement or deed for this property. Documentation does exist showing that the roadway has been in this same general location since 1916.

If no easement exists for the highway, MDT must apply for an easement from the USFS. Before such an easement can be granted, the USFS must prepare a Letter of Consent. This transfer of land must be completed prior to beginning construction on the proposed project.

MDT's proposed use of land within the Middle Fork of the Flathead Wild and Scenic River Corridor would be for highway purposes, the same use that presently exists within the Corridor. As correspondence from the Hungry Horse District Ranger and the Acting Regional Forester indicates (see pages VI-37, VI-62, and VI-76 of the Draft EIS), the proposed action is not likely to produce adverse impacts on the values of this segment of the River Corridor.

3. RESPONSE: The first sentence in the Cumulative Impacts discussion was revised to read:

The timber harvesting, residential development, rural subdivision, and recreational activities that continue to occur in the NCDE will eventually reduce the amount and quality of habitat necessary for the security of grizzly bears.

The comment that the Weigh Station will be abandoned is of concern unless it will be relocated in the area. There is considerable truck traffic over this route, some of which is generated on the National Forest. The scale at the present location probably is instrumental in keeping loads "legal" on Forest roads as well as on this section of U.S. Highway 2.

4

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		12-17-9
		MAIL ROUTE
		30 Preconst. Engr
		30 Asst. Engr
		30 Office Mgr
		31 Safety Mgmt
		32 Road Design
		33 Environment
		34 Hydraulics
		35 Survey & Mapping
		36 Traffic Eng.
		37 Traffic Operations
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*Handwritten notes:*  
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 2. MAIL ROUTE  
 3. 30 Preconst. Engr  
 4. 30 Asst. Engr  
 5. 30 Office Mgr  
 6. 31 Safety Mgmt  
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 73. 99 Consultant, Dsn.  
 74. 100 Consultant, Dsn.



The following statement is not true to the best of our knowledge. "MDT made this determination because lands within the river management zone affected by the proposed action were acquired by MDT for use as right-of-way during previous highway reconstruction in the corridor". We can find no evidence that an easement was ever issued for this segment.

5

Thank you for the opportunity to comment.

Sincerely,

*Joel D. Holtrop*  
 JOEL D. HOLTROP  
 Forest Supervisor

- cc: Reesman
- Van Natta
- HH
- R.O. (Bruce Allen)
- R.O. (Bill Harper)

VI-55

4. **RESPONSE:** Although the current weigh station in Columbia Heights would be abandoned, the construction of a GVW "B" site within the corridor has been recommended as a part of this project. A GVW "B" site is a widened area adjacent to the highway where portable scales can be set up to monitor the weights of large commercial vehicles. MDT's Project Analysis & Programming Engineer recommended that the site be constructed adjacent to the westbound travel lanes on the north side of the new highway. In this situation, the portable scales could be used to monitor westbound vehicles on US 2. A specific location for this facility would be determined during the final design of the project.

5. **RESPONSE:** The issue about whether or not an easement exists for the 0.64 acres of land in Section 6 of Township 30 North, Range 19 West is discussed above in the response to comment 2.

Based on the uncertainty about a highway easement for this parcel of land in the Flathead Wild and Scenic River Corridor, the paragraph on page V-3 of the Draft EIS containing the statement referenced in this comment has been revised to read:

The Middle Fork Recreational River segment and its associated management zone are not considered in this Section 4(f) Evaluation. This determination was made because lands within the river management zone are not managed specifically for recreation or other Section 4(f) activities. This conclusion was based on the management direction for these lands contained in the Flathead National Forest Plan and from correspondence from the Flathead National Forest Hungry Horse District Ranger dated May 4, 1990 and March 12, 1991 included in Part VI of the Final EIS. As indicated in the District Ranger's March 12, 1991 letter, the proposed action is not anticipated to have any significant impacts on the Flathead Wild and Scenic River Corridor.



United States  
Department of  
Agriculture

Forest  
Service  
406-755-8401

Flathead National Forest  
1935 Third Avenue East  
Kalispell, MT 59901

Reply to: 7710/1950

Date: August 13, 1993

**RECEIVED**

AUG 18 1993

ROBERT PECCIA  
& ASSOCIATES

David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
P.O. Box 201001  
Helena, MT 59620-1001

Dear Mr. Johnson:

We have reviewed your proposed responses to our comments on the DEIS for Columbia Heights-Hungry Horse EIS, Project NF 1-2(68) 138, Control No. 1290.

We suggest the following change for statement three. As currently written it does not indicate the highway reconstruction effect on Cumulative Impacts.

"Human activities, including the reconstruction of Highway 2, timber harvest, residential and commercial development, rural subdivision, and recreation use have and will continue to have cumulative impacts that reduce capacity for the grizzly bear. The existence of the current highway in the canyon is having effects, but effects will not substantially increase due to the currently proposed improvement."

We suggest adding the following to the second sentence for response number five.

Add the following after - river management zone - "effected by this proposal".

Your responses to items 1, 2 and 4 are acceptable to us. Thank you for the opportunity to comment.

Sincerely,

JOEL D. HOLTROP  
Forest Supervisor

cc: Van Natta  
Hungry Horse  
Planning

**RESPONSE TO MDT FOLLOW-UP LETTER CONTAINING  
RESPONSES TO AGENCY COMMENTS ON DRAFT EIS**

Joel D. Holtrop, Forest Supervisor  
USDA Forest Service Flathead National Forest (8/13/93)

1. **RESPONSE:** Based on your comment, the text referring to cumulative impacts on Environmentally Sensitive Areas has been modified for the Final EIS to read:

**Cumulative Impacts** - Human activities, including the reconstruction of US 2, timber harvest, residential and commercial development, rural subdivision, and recreation use have and will continue to have cumulative impacts that reduce the capacity for the grizzly bear. The existence of the current highway in Badrock Canyon is having effects, but effects will not substantially increase due to the proposed improvement of the route.

2. **RESPONSE:** The sentence referenced by your comment has been revised for the Final Section 4(f) Evaluation to read:

This determination was made because lands within the river management zone affected by the proposed action are not managed specifically for recreation or other Section 4(f) activities.

VI-56

1

2





United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

L7619 (FNP/774)  
ER-92/0710

Mr. Henry D. Honeywell  
Division Administrator  
Federal Highway Administration  
Montana Division Office  
301 South Park Street  
Drawer 10056  
Helena, Montana 59626

Dear Mr. Honeywell:

This responds to your request for the Department of the Interior's comments on the Draft Environmental Impact Statement (DEIS)/Section 4(f) Statement for US-2 (Columbia Heights to Hungry Horse), Flathead County, Montana.

SECTION 4(f) STATEMENT COMMENTS

We concur that there are no feasible and prudent alternatives to the proposed use of a Section 4(f) property, Berne Memorial Park, discussed in the Draft Section 4(f) Evaluation. We also concur with measures to minimize harm.

ENVIRONMENTAL IMPACT STATEMENT COMMENTS

The National Park Service offers the following observations:

The preferred alternative includes a continuous turn lane between Columbia Heights and the entrance to Badrock Canyon. We suggest that the design be modified to provide a turn lane only at the junction of Highway 206, and at the proposed river access site near the entrance to Badrock Canyon.

Date Recd. Preconst.			Attach	Initial
Act	Info	MAIL ROUTE		
		30 Preconst Engr		
		30 Assistant		
		30 Office Mgr		
		31 Safety Mgmt.		
		32 Road Design		
		33 Environment		
		34 Hydraulics		
		35 Survey & Mapping		
		36 Traffic Eng.		
		37 Traffic Operations		
		39 Consultant Dan.		
		J. T. Weaver		
		Legal		
		D. Paulson FHWA		
		RPA		

RECEIVED  
SEP 30 1992  
21 1992

RESPONSES TO COMMENTS ON DRAFT EIS

U.S. Department of the Interior, Office of the Secretary, Jonathan P. Deason, Director, Office of Environmental Affairs, (9/21/92)

1. RESPONSE: DOI's concurrence is noted.
2. RESPONSE: An undivided 64-foot wide four-lane road between Columbia Heights and Berne Road was initially considered before a four-lane road with a continuous median/left turn lane was selected as the preferred alternative. The primary reason for not choosing an undivided four-lane design was that transitions to and from road widenings for left turn lanes at Monte Vista Drive and at the replacement park area near Berne Road would consume nearly 1.3 of the 1.7 miles in this segment of the corridor.

If left turn lanes were provided at Monte Vista Drive and at the proposed replacement park/river access, two short areas of intervening undivided four-lane road (a 0.35 mile-long section between Columbia Heights and Monte Vista Drive and a 0.10 mile-long section between Monte Vista Drive and Berne Road) would exist in this part of the corridor. These brief and frequent transitions to and from areas with left turn lanes are undesirable from a safety standpoint and may be confusing to drivers. The paved surface width and the area disturbed by construction would not vary substantially from that of MDT's preferred design for this section of the corridor.

VI-57



Considerable undeveloped land remains along the highway corridor between Columbia Heights and the entrance to Badrock Canyon. This undeveloped land significantly contributes to the visual quality of the approach to Glacier National Park, the Great Bear Wilderness, the Flathead Wild and Scenic River, and other nearby wildland areas, as well as to the integrity of important regional wildlife habitat. The proposed continuous turn lane would stimulate additional strip development in this area. Such development is not consistent with Flathead County's Master Plan that calls for the development of viable compact rural commercial centers located in existing communities and discourages strip development along rural highway corridors.

Discussion on page IV-34 attempts to justify the continuous turn lane by noting that, in the absence of zoning, "there are no discernible differences between the build alternatives in the stimulation of secondary development in the project corridor." This argument discounts the recent decision by Flathead County Commissioners to initiate the zoning process for all of Flathead County, as well as recent citizen initiated efforts to begin developing a consensus land use plan for the Canyon area. It is likely that before this portion of US-2 is reconstructed the project area will, in fact, be zoned.

There is also no precedent for providing a median turn lane on US-2 between Columbia Heights and West Glacier. When US-2 was widened to 4 lanes through the nearby communities of Hungry Horse and Coram, no central turn lane was provided.

We suggest that project design be modified to include the construction of a park and ride facility near the junction of Highway 206 and US-2 in Columbia Heights. Such a facility would benefit the large number of National Park Service, Forest Service, and other employees that live in the Flathead Valley and commute into the Canyon area to work. A park and ride facility should result in an overall reduction in traffic volume on this portion of US-2 and should conserve energy by promoting carpooling.

We applaud efforts by the Montana Department of Transportation (MDT) to acquire landholdings in and around Badrock Canyon as a means of controlling incompatible land use. We urge that negotiations for purchase in fee or for the purchase of conservation easements be continued so that much, if not all, of the Badrock Canyon area can be protected from future development. We strongly urge MDT to complete negotiations for the purchase of the private parcel of land fronting US-2 and Berne Road opposite the House of Mystery (p. IV-54).

3. **RESPONSE:** Reconstruction of the highway is only one of the factors that may contribute to additional commercial development along US 2 in and out of the project corridor. The lack of land use controls, the presence of Glacier National Park, the promotion of the Flathead region as a year round vacation destination, and the increasing population base in the county are other factors that may contribute to such development. Combined, these factors provide a favorable situation for development by entrepreneurs hoping to capitalize on the influx of visitors and the increasing numbers of county residents. These factors likely outweigh the effect of providing a continuous median/left turn lane as stimuli for commercial development along US 2.

4. **RESPONSE:** The text of the Draft EIS was modified for the Final EIS to reflect the recent decision to implement county-wide zoning made by the Flathead County Commissioners.

The comments from the Flathead Economic Development Corporation and the newly formed Canyon Citizen Initiated Zoning Group (CCIZG), suggests genuine concern about increased strip commercial development in Flathead County. The citizen-initiated efforts and the support of various federal, state, and local agencies demonstrate a community desire to control development along the US 2 corridor.

The text of the Draft EIS was also revised for the Final EIS to discuss recent citizen-initiated efforts to control land uses in the project corridor and that MDT has agreed to contribute a portion of the funding necessary to hire a professional land use planner to develop a growth management plan for the US 2 corridor in Flathead County, as requested by the CCIZG.

5. **RESPONSE:** The proposed action will include the development of a park-and-ride lot on lands near the intersection of US 2 and FAS 206 with the project. The facility will enhance the project area by helping to reduce energy consumption and vehicle trips within the corridor.

6. **RESPONSE:** In addition to the property surrounding the House of Mystery that has already been acquired by MDT, a parcel of land opposite the House of Mystery west of Berne Road was recently purchased by the agency. Negotiations for acquiring additional private lands in Badrock Canyon have been unsuccessful.

The purchase of private lands in Badrock Canyon for other than right-of-way and the acquisition of scenic or conservation easements can only occur if property owners are willing to sell such properties or easements.

We also applaud MDT's efforts to enhance the scenic qualities of the Canyon area by attempting to purchase scenic easements. As noted on page IV-45, MDT purchased some scenic easements as mitigation for the recent reconstruction of US-2 between Hungry Horse and West Glacier, yet was only successful in acquiring 11 of the 39 easements originally proposed. Officials at Glacier National Park have observed an increase in citizen concern for the future of the Canyon area since this earlier reconstruction effort was completed and thus are hopeful that MDT will be more successful in its attempt to purchase scenic easements as mitigation for the Columbia Heights to Hungry Horse project.

Evidence of local support for maintaining scenic and other qualities of the Canyon are found in the results of the *Future of the Canyon Survey* (1992) that was compiled by the Flathead Economic Development Corporation. A copy of these results can be obtained by writing to the Flathead Economic Development Corporation at 777 Grandview Drive, Kalispell, Montana 59901.

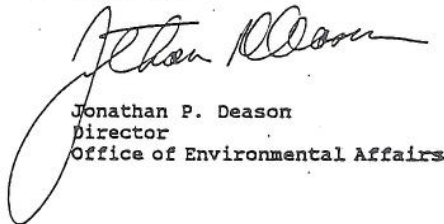
We also urge MDT to consider off-site mitigation by purchasing lands in fee or by purchasing conservation or scenic easements elsewhere along the US-2 corridor through the Canyon area. We encourage MDT officials to contact the Canyon Citizens Initiated Zoning Group (Nancy Omholt, telephone (406) 387-5331 or (406) 752-2338) and the Flathead Economic Development Corporation (Carol Daly, telephone (406) 756-8548) regarding how MDT might help their efforts to develop a consensus land use plan for the Canyon area.

The National Park Service has no plan to relocate 200 Park Service housing units to an area between Hungry Horse and West Glacier (p. III-18).

SUMMARY COMMENTS

The Department of the Interior has no objection to Section 4(f) approval of this project.

Sincerely,



Jonathan P. Deason  
Director  
Office of Environmental Affairs

cc:  
Mr. David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
2701 Prospect Avenue  
Helena, Montana 59620

- 7
7. RESPONSE: The results of the *Future of the Canyon Survey* compiled by the Flathead Economic Development Corporation have been obtained and reviewed by the preparers of the EIS.
- 8
8. RESPONSE: MDT officials are working with representatives of the CCIZG, Flathead County, and other agencies interested in developing a growth management plan and land use controls for the US 2 corridor between Columbia Heights and Marias Pass. MDT has agreed to contribute a portion of the funding necessary to retain professional services to complete this land use planning effort.
- 9
9. RESPONSE: The sentence indicating plans for relocating 200 NPS housing units was deleted from the text of the EIS.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
 REGION VIII, MONTANA OFFICE  
 FEDERAL BUILDING, 301 S. PARK, DRAWER 10096  
 HELENA, MONTANA 59626-0096

RESPONSE TO COMMENTS ON DRAFT EIS

U.S. Environmental Protection Agency, Montana Office  
 Eric W. Finke for John F. Wardell, (9/10/92)

Ref: 8MO

September 10, 1992

Dale Paulson  
 Project Development Engineer  
 Federal Highway Administration  
 301 South Park Street  
 Drawer 10056  
 Helena, Montana 59626

Re: U.S. Highway 2-Columbia Heights to Hungry Horse  
 Project F1-2 (39) 138  
 Flathead County, Montana  
 Draft Environmental Impact Statement

Dear Mr. Paulson:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the Environmental Protection Agency's Region VIII Montana Office (EPA) has reviewed the above-referenced Draft Environmental Impact Statement (DEIS).

The Federal Highway Administration (FHA) proposes to reconstruct 4.4 miles of U.S. Highway 2 between Columbia Heights and Hungry Horse. The construction of a new bridge over the South Fork of the Flathead River is also discussed.

Four (4) alternatives and a no-action alternative were developed to address this project proposal. The FHA has selected Alternative 1 as the preferred alternative. This would consist of a new four lane highway with median and left turn lane with widths varying from 64 feet to 82 feet, and replacement of the existing bridge over the South Fork of the Flathead River.

The EPA does have concern over the placement of fill in, and encroachment upon, the Flathead River. The amount of fill, approximately 8,300 cubic yards (1,450 feet in length), is major and would require an individual 404 permit. This new highway alignment will have negative impacts on water quality, fish resources, wildlife (especially the bald eagle), wetlands, riparian vegetation, and other human resources (Part IV, page 9). The EPA believes that evaluation of alternatives should document those alternatives that avoid or minimize encroachment upon the river as not practicable. The EPA would bring to the attention of the FHA the 404(b)(1) Guidelines for discussion and guidance

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1. RESPONSE: The Corps of Engineers, a cooperating agency for the EIS, has indicated that the proposed encroachment on the Flathead River would require an individual Section 404 permit.
2. RESPONSE: The text of the Final EIS has been revised to reflect considerations outlined in the Section 404 (b)(1) Guidelines. MDT has also documented the project's impacts relative to 404(b)(1) considerations in a separate appendix, APPENDIX 14, in the Final EIS. Both the Draft Section 404 (b)(1) Evaluation and Part II of the Final EIS contain discussions about the identification and selection of practicable alternatives for this proposed action.

regarding evaluation of "practicable" alternatives. Encroachment upon the river should not occur unless the need for such action is well documented and justified through alternatives analysis in conformance with the 404(b)(1) Guidelines.

The EPA would suggest the same type of alternative as proposed by several local groups, a two lane highway with turnouts for slow moving vehicles and such design to allow for little or no impacts to the river or adjacent areas. The public comments supported this two lane alternative by approximately 60 percent (Part VI, Table 18, page 8).

The EPA asks for the water quality analysis that discloses the potential sediment increases to the Flathead River from highway construction, runoff, fill sites, and future flooding. What direct or cumulative impacts could be expected to Flathead Lake from these future activities?

3. **RESPONSE:** Two-lane alternatives will not adequately accommodate current or projected traffic volumes within the corridor. As the Draft EIS indicates, two-lane alternatives do not meet the specified purposes and needs of the proposed action, therefore, they are not reasonable alternatives for the project.

As text on page VI-7 of the Draft EIS indicates, much of the public support for the two-lane alternatives was generated through mail-in commenting campaigns organized by the Coalition for Canyon Preservation. The CCP-generated forms allowed respondents to select only two-lane alternatives and did not list other alternatives as options for the proposed reconstruction of US 2. Additionally, many respondents sent similar comments to MDT in more than one form (CCP form, postcards, and letters).

4. **RESPONSE:** In January of 1993, MDT finalized its *Highway Construction Standard Erosion Control Work Plan* which contains guidance for developing erosion control plans for highway construction projects. The procedures outlined in the *Workplan* were used to determine where and what type of erosion control measures are most appropriate during the construction of the project.

The *Erosion Control Workplan* is based on seven major principles of soil erosion and sedimentation control including:

- planning the development to fit the project setting;
- minimizing the extent of disturbed area and duration of exposure;
- stabilizing and protecting disturbed areas as soon as possible;
- keeping runoff velocities low;
- protecting disturbed areas from runoff;
- retaining sediment with the corridor or site area; and
- implementing a thorough maintenance and follow-up program.

The *Work Plan* incorporates these principles and recognizes that the prevention of erosion from the site is the best way of controlling sediments and its potential adverse effects on the Flathead River system.

The *Work Plan* provides highway designers with a process to identify Best Management Practices (BMPs) for erosion control. The selection of BMPs is based on the distance to surface water or wetlands, precipitation intensity, soil properties, slopes, and the presence of critical resources (like threatened or endangered species habitat, prime fisheries, cultural sites, and hazardous materials/wastes). BMPs fall into three categories including slope protection measures, sediment retention, and waterway protection. APPENDIX 13 in the Final EIS identifies BMPs and locations where such measures may be appropriate for this project given conditions in the area.

A Storm Water Erosion Control Plan must be developed and submitted for approval from the State Water Quality Bureau prior to the construction of the proposed project. The primary objective of developing a Storm Water Erosion Control Plan incorporating appropriate BMPs for the proposed highway construction project is to minimize the erosion of disturbed areas during the construction and post construction phase of the project.

Will an individual storm water permit and erosion control plan be discussed and included in the Final Environmental Impact Statement (FEIS)? How will construction blasting impact water quality standards? All appropriate pollution and erosion control measures should be listed in the FEIS and implemented during construction to assure protection of water quality and aquatic habitat.

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With the proper design, implementation, and monitoring of the Storm Water Erosion Control Plan, sedimentation impacts to the Flathead River and Flathead Lake are not likely to occur as a result of this proposed action.

5. **RESPONSE:** One of the primary reasons that the *Highway Construction Standard Erosion Control Workplan* was developed was to ensure compliance with the Montana Pollutant Discharge Elimination System and to successfully apply for General Discharge Permits for storm water associated with construction activities.

The Final EIS will not include an Erosion Control Plan or a storm water permit for the proposed action since the development of final design plans for this project can not be authorized until necessary design and location approvals have been obtained. The text of the Final EIS has been modified to identify the need for a storm water permit. The text of the Final EIS also contains a new Appendix which identifies Best Management Practices for erosion control in the project area and locations where such measures should be employed during construction.

An Erosion Control Plan will be developed and submitted to the State Water Quality Bureau along with an application form for a General Discharge Permit for Storm Water Associated With Construction Activities during the final design phase of the project.

6. **RESPONSE:** Rock blasting is anticipated only at the western end of Berne Memorial Park where a large rock outcrop exists. Blasting would occur to the south of the existing highway and would not occur along or within the river. Text has been added to the Final EIS to better identify the potential impacts of blasting on the project area.

The Contractor performing the blasting must submit a blasting plan to the Project Engineer for review well in advance of the proposed blasting activities. Blasting shields or mats would be used to contain loosened rock from the cliff. This local rock material would be used as fill in other portions of the project area or crushed and used as aggregate for asphalt surfacing.

Discussion was added to the text of the Final EIS describing the general effects of construction blasting on water quality standards. The primary water quality concern related to blasting is the potential for the liberation of nitrogen from blasting compounds. If substantial amounts of nitrogen enters surface or groundwater, the quality of local waters and even those in Flathead Lake could be degraded. These concerns and measures to offset or minimize adverse effects are addressed in the Draft Section 404(b)(1) Evaluation and in text describing the water quality impacts of the proposed action contained in Part IV of the Final EIS.

The MDHES Water Quality Bureau was contacted during the preparation of the Final EIS in an effort to help identify the impacts of blasting on water quality.

The EPA would recommend a more innovative means of riverbank protection than standard rock riprap. The placement of logs, root wads, and vegetative plantings should be intermixed with rock placement along the South Fork of the Flathead River to stabilize riverbanks where encroachment occurs. The logs, root wads, and vegetative plantings provide a more natural appearance to the bank stabilization, and also provide additional habitat value (shading and cover). The enclosed diagrams provide an example of this type of stabilization.

The display and discussion of wetlands impacts is confusing. Appendix 6 describes ten types of wetland communities in the project area and identifies 16.4 acres of wetlands within the existing highway right-of-way including; 0.1 acre of rooted emergent wetlands (type 1); 0.9 acre riparian shrub wetlands (type 6); 5.4 acres of riparian cottonwood and conifer forest wetlands (type 7); 4.0 acres of seeps and springs (type 8); and 6.0 acres of disturbed area wetlands (type 9 and 10). Part III, page 11, indicates that the proposed action will affect 16.2 acres of type 1 (rooted, emergent species), type 2 (riparian grasses) and type 7 (riparian cottonwood and conifer forest) wetlands. Part IV, pages 17 and 18, suggests other wetlands impacts. Please comment on these apparent discrepancies.

The EPA also had a difficult time understanding Part IV, Table 13 (Impact on Vegetation), page 16. Please define the acronyms like PTW and others.

The EPA is also very concerned over the continued loss of productive farmland and those vegetated lands which contribute to a stable worldwide environment.

7. **RESPONSE:** The incorporation of alternative riverbank protection measures into the design of the proposed action was discussed at meetings with the EPA held during December, 1992 and April, 1993. As the result of the most recent meeting with Steve Potts, Environmental Coordinator for the EPA's Montana Office, it was understood that reducing the proposed encroachment on the Flathead River was preferable to incorporating the riverbank stabilization measures recommended by EPA into the design of the fill area proposed in the Draft EIS.

Based on concerns about the extent of the Badrock Canyon encroachment expressed by the EPA and in some comments from the public, measures that may reduce the amount of fill material placed in the river were investigated. Such measures included the use of steepened riprap fill slopes, the installation of retaining walls, the placement of gabions along the riverbank, and the use of cantilevered structures or piers to support the roadway. A tunnel through Badrock Canyon was also investigated in more detail for the Final EIS.

A summary of the costs, feasibility, and impacts of incorporating these design measures has been included in Part II: Alternatives of the Final EIS and in a discussion of practicable alternatives in the Section 404(b)(1) evaluation. As a result of these investigations the preferred alternative for US 2 in Badrock Canyon has been modified to include a vertical retaining wall. This measure would reduce the amount of fill placed below the ordinary high water mark to 1,350 cubic yards as compared to the 8,300 cubic yards required by the design proposed in the Draft EIS.


8. **RESPONSE:** Wetlands within the project corridor were reassessed according to WET II procedures. The Final EIS contains new wetland descriptions and maps that clearly delineate jurisdictional and nonjurisdictional wetlands within the corridor. The Only Practicable Alternative Wetlands Finding is presented in APPENDIX 15 of the Final EIS.
9. **RESPONSE:** Vegetation and wetlands impacts have been revised to reflect the acreage of each wetland or community type present within the right-of-way needed for the build alternatives. The acreage of each vegetation community or wetland disturbed by construction has also been included in the Final EIS.
10. **RESPONSE:** Table 13 in the Draft EIS was revised for the Final EIS to focus only on the vegetation or wetland impacts within proposed right-of-way for each build alternative. The acronyms referenced in the comment have been deleted from the table.
11. **RESPONSE:** Conversion of important farmland to highway right-of-way is unavoidable in the project corridor. The effects of this conversion were evaluated according to the requirements of the Farmland Policy Protection Act. Evaluations determined that the land affected by the project is farmland of low potential and that consideration of alternatives to avoid impacting these lands was not necessary.

Please refer to the discussions about the impact of the proposed farmland conversion contained in Parts IV of the Final EIS.

The EPA was pleased to see that mitigation of wetlands impacts will comply with the procedures outlined in the Montana Interagency Wetlands Group Memorandum of Understanding. We also agree with the recommendations of Part IV, page 27, on bald eagle enhancement opportunities and purchase of riparian habitats within the project area.

In accordance with the criteria that EPA has established for rating Draft Environmental Impact Statements, we have rated this DEIS as category EO-2 (Environmental Objections - Insufficient Information). A copy of EPA's rating criteria is attached. If you wish to discuss these EPA comments, please feel free to contact Jeff Bryan of my staff at 406-449-5486. 12

Sincerely,

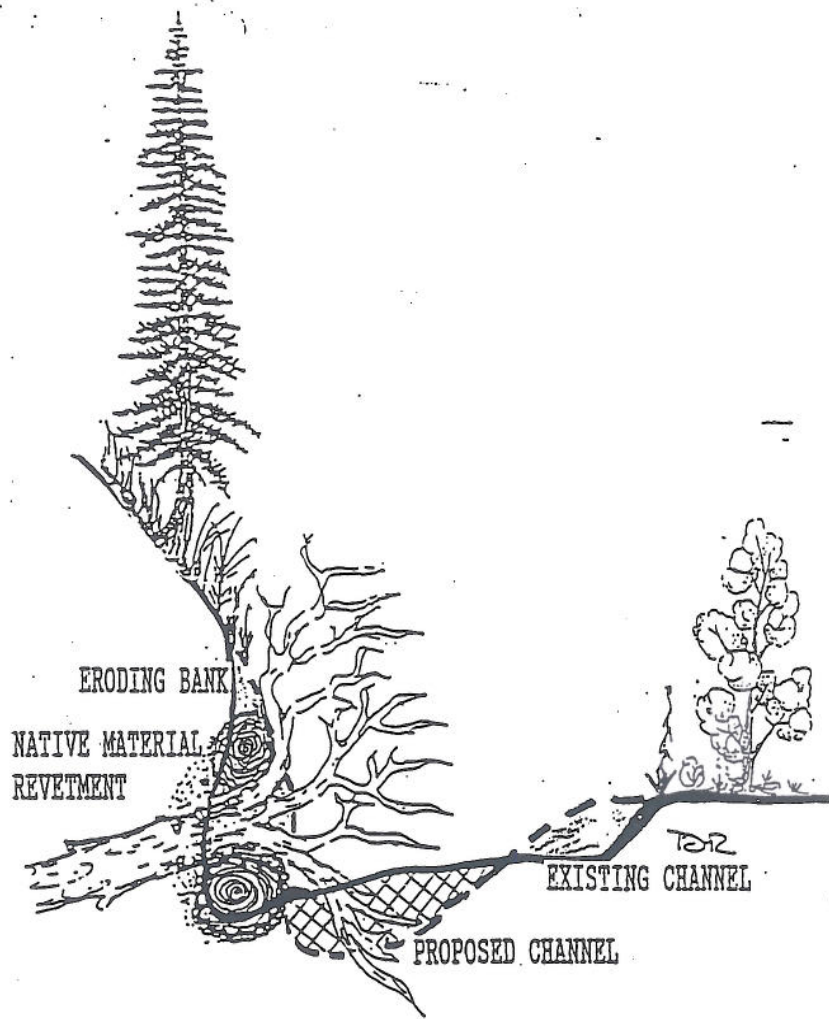
  
John F. Wardell, Director  
Montana Office

Attachments

cc: Phyllis Williams, 8WM-EA  
Pearl Young, OFA-A104  
David S. Johnson, MDOT

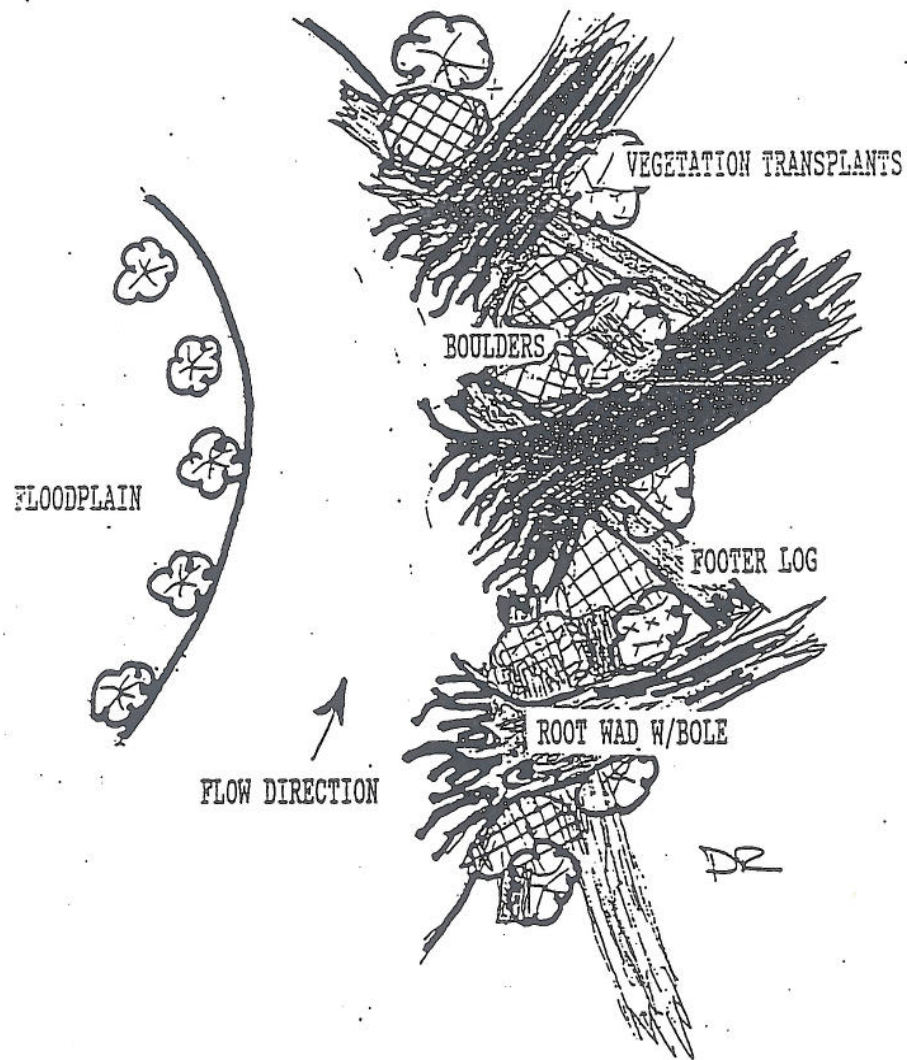
12. **RESPONSE:** Efforts to provide additional information about this proposed project and its impacts were made during meetings held on December 3, 1992 and on April 5, 1993. The issues raised in this letter were discussed with representatives of the EPA's Montana Office.

VI-65



DESIGN SPECIFICATION #2  
SLOPE STABILIZATION/BANK EROSION CONTROL/FISH HABITAT

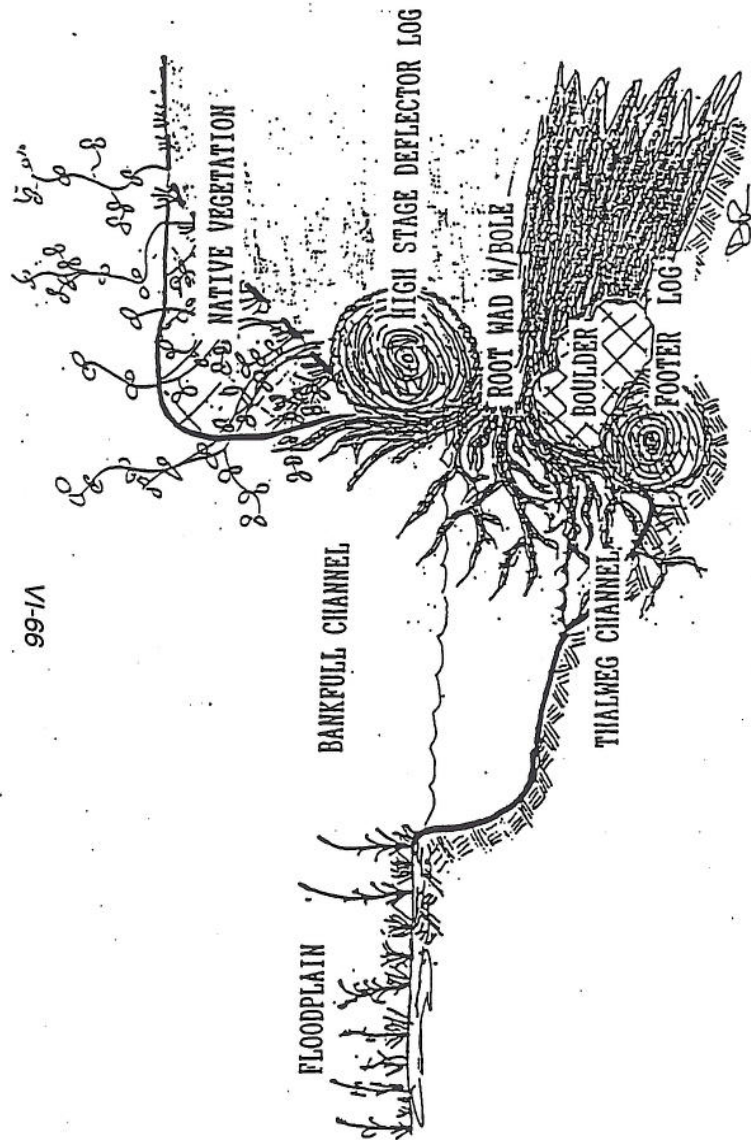
E20



DESIGN SPECIFICATION #3  
PLANVIEW OF NATIVE MATERIAL REVETMENT

E21





**DESIGN SPECIFICATION #4**  
**NATIVE MATERIAL REVETMENT FOR BANK STABILIZATION**  
**AND FISH HABITAT ENHANCEMENT**

E22

SUMMARY OF RATING DEFINITIONS

ENVIRONMENTAL IMPACT OF THE ACTION

LO--LACK OF OBJECTIONS

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC--ENVIRONMENTAL CONCERNS

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO--ENVIRONMENTAL OBJECTIONS

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU--ENVIRONMENTALLY UNSATISFACTORY

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

CATEGORY 1--ADEQUATE

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

CATEGORY 2--INSUFFICIENT INFORMATION

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

CATEGORY 3--INADEQUATE

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 109 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Impacting the Environment."



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII, MONTANA OFFICE  
FEDERAL BUILDING, 301 S. PARK, DRAWER 10098  
HELENA, MONTANA 59626-0098

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RESPONSE TO MDT FOLLOW-UP LETTER CONTAINING  
RESPONSES TO AGENCY COMMENTS ON DRAFT EIS

U.S. Environmental Protection Agency, Montana Office  
William E. Engle for John F. Wardell, (8/17/93)

Ref: 8MO

August 17, 1993

Mr. David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
2701 Prospect Avenue  
P.O. Box 201001  
Helena, Montana 59620-1001

Re: Columbia Heights - Hungry Horse EIS

Dear Mr. Johnson:

This is in response to your request to EPA for a followup letter regarding the Montana Department of Transportation's (MDT) response to EPA's comments on the Draft Environmental Impact Statement (DEIS) for the above referenced project.

The EPA will carry out a detailed review of the MDT responses to our DEIS comments upon our review of the Final EIS for this project. We note that determination of the adequacy of the MDT responses to our DEIS comments depends upon our review of information in the FEIS, such as the 404(b)(1) analysis, which is to be included as an appendix to the FEIS.

We do agree that encroachment upon the river should not occur unless such action is justified and adequately mitigated through application of the 404(b)(1) Guidelines. We look forward to receipt of the FEIS. If you have any questions please call Mr. Steve Potts of my staff at 449-5486.

Sincerely,

*William E. Engle*

for John F. Wardell, Director  
Montana Office

No responses are required. EPA will be provided a copy of the Final EIS/Section 4(f) Evaluation for review.

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DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES

AIR QUALITY BUREAU

STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

(406) 444-3454  
FAX # (406) 444-1374

HELENA, MONTANA 59620

September 15, 1992

David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
2701 Prospect Avenue  
Helena, MT 59620

Dear Mr. Johnson:

This is in response to your letter of July 22, 1992 requesting the Montana Department of Health and Environmental Sciences (DHES) comment on the Draft Environmental Impact Statement (EIS) for the U.S. Highway 2 - Columbia Heights to Hungry Horse Project F1-2(39)138 in Flathead County, Montana. After reviewing the EIS extensively, DHES would like your department to consider the following comments and suggestions.

As stated on page IV-11 of the EIS, "...simplified CO analyses and previous general analyses for similar projects... have shown that air quality standards will not be exceeded." DHES partly agrees with this statement in that the project will not produce adverse impacts upon the carbon monoxide air quality standards. However, the EIS has not taken into account the significant impact the construction could have upon the exceedance of the particulate (PM-10) air quality standards.

The proposed highway project is only a few hundred yards from a federally designated nonattainment area for PM-10. Columbia Falls was designated as nonattainment on November 15, 1990 due to violations of the PM-10 ambient air quality standard. As a result of this designation, DHES and the Flathead City-County Health Department developed a PM-10 emission control plan for Columbia Falls as a modification of the Montana State Implementation Plan (SIP).

A map of the Columbia Falls nonattainment area is attached. These boundaries are based on ambient monitoring data, population and terrain. The nonattainment area encompasses all of the populated area around Columbia Falls and assures that essentially all of the emissions contributing to violations of the PM-10 standard are covered by the control strategies.

Highway projects, especially during the construction phase, have historically contributed significant emissions of PM-10 from re-entrained road dust due to normal traffic and heavy equipment travel on unpaved surfaces and tire carry-on of material onto paved sections. In addition, slash burning from right-of-way clearing can also add to PM-10 levels.

In order to reduce the emissions of PM-10 from this project, DHES strongly suggests the following actions:

RESPONSES TO COMMENTS ON DRAFT EIS  
MDHES, Air Quality Bureau  
Robert Raisch for Gretchen Bennett, (9/15/92)

1. **RESPONSE:** The text of the Final EIS was modified to reflect the recent change in PM-10 attainment/nonattainment status for the Columbia Falls area. The text of the final document was also modified to indicate that the Flathead City-County Health Department developed a PM-10 emission control plan for Columbia Falls as a modification of the State Implementation Plan.

2. **RESPONSE:** MDT acknowledges that vehicles operating on the highway and construction activities generate particulate matter.

David S. Johnson  
Page Two  
September 15, 1992

- 1) Daily street sweeping on both ends of the project during the construction phase. This will reduce the impact of carry-on dirt from the project onto the paved streets within the nonattainment boundaries.
- 2) If any detours are unpaved, they should be watered and/or chemically stabilized so that the emissions are less than 20% opacity.
- 3) Any slash being burned due to right-of-way clearing should be hand-piled or stacked with a brush blade and cured. Open burning restrictions must be followed, and a major open burning permit and fee may be required from the county.
- 4) Asphalt plants and gravel crushers in the immediate vicinity are also significant contributors to the PM-10 emissions from highway construction. An air quality permit must be obtained from our office to operate crushers and asphalt plants in Montana. Obtaining a permit for a location in or near the nonattainment area may require emission offsets and therefore may be difficult to obtain.
- 5) Although an air quality analysis was performed for carbon monoxide, one should also be performed for PM-10. The analysis should address both the construction and post construction scenarios.

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During the construction phase it should address fugitive dust emissions from construction activity and any associated crushers or asphalt plants as well as re-entrained road dust from vehicle traffic on unpaved surfaces and paved surfaces subject to heavy carry-on. The analysis should also consider mitigating measures such as water or chemical stabilization and daily sweeping.

The post-construction scenario should primarily consider any potential increases in VMT within the nonattainment area due to the project. Generally VMT increases will result in increased emissions of PM-10.

DHES supports your efforts to upgrade the Montana highway system. However, due to the close proximity of this project to a PM-10 nonattainment area, we strongly suggest further analysis and that the above measures be taken to reduce the emissions of PM-10.

If you would like to discuss this further, please contact me or Bob Raisch at (406) 444-3454.

Sincerely,



Gretchen Bennitt  
PM-10 SIP Coordinator

3. **RESPONSE:** Recommendations outlined in the letter from the Air Quality Bureau will be incorporated into the construction specifications for the project should the proposed action be advanced to the construction phase.

If slash burning associated with right-of-way clearing activities is necessary within a closed burning season, a burning permit will be obtained from the Montana Department of State Lands.

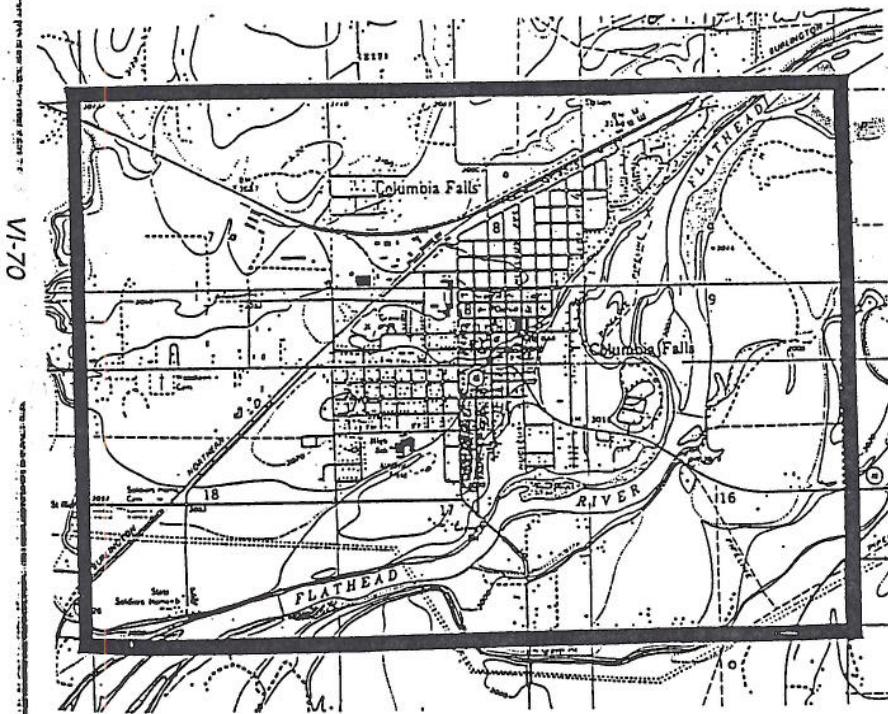
4. **RESPONSE:** The Final EIS includes the results of a PM-10 analysis for the project corridor. The MDHES Air Quality Bureau was consulted to determine the appropriate analysis methodology and for emissions factors to predict concentrations of PM-10 and/or total suspended particulates levels generated during the construction and post-construction phases of the project.

The Air Quality Bureau was also given an opportunity to review and comment on a draft PM-10 analysis prior to the completion of the Final EIS. Comments from the agency have been incorporated into the final PM-10 analysis and the text of the EIS.

GB:d1  
Attachment

VI-69

COLUMBIA FALLS NONATTAINMENT AREA



5. **RESPONSE:** The Air Quality Bureau provided this map showing the location of the Columbia Falls nonattainment area as an attachment to their comments.

Although the proposed action does not lie within the nonattainment area, the project's beginning (the intersection of US 2 and FAS 206) is less than one-quarter mile from the east boundary line of the nonattainment area. The location of the project relative to the Columbia Falls PM-10 nonattainment area is important because particulate emissions from construction activities and traffic on this section of US 2 could contribute to exceedances of PM-10 standards within the nonattainment area.

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES  
AIR QUALITY BUREAU

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(408) 444-3454  
FAX (408) 444-1374

STATE OF MONTANA

COGSWELL BUILDING  
1400 BROADWAY

PO BOX 200601  
HELENA, MONTANA 59620-0601

July 29, 1993

David S. Johnson, P.E.  
MT Department of Transportation  
2701 Prospect Avenue  
Helena, MT 59620-1001

Dear Mr. Johnson:

This is in response to your letter of July 21, 1993 which requests a response on whether the Air Quality Bureau's concerns were adequately addressed on the Columbia Heights - Hungry Horse EIS Project NH 1-2(68)138, Control No. 1290.

The bureau has reviewed the letter and has one comment to make. Response #3 states that a "burning permit will be obtained from the Montana Department of State Lands." The State Lands fire control permit is NOT what the bureau is referring to when discussing the Air Quality Open Burning requirements. I have attached a copy of the State of Montana Air Quality Rules which refers to the open burning requirements. Flathead County administers a similar regulation and the bureau would like to state once again that a major open burning permit and fee may be required from the county. Other than this concern, the bureau is satisfied that its remaining air quality concerns have been addressed.

Additionally, the bureau has worked closely with Dan Norderud of Robert Peccia & Associates on a PM-10 analysis of the project and is satisfied with the results of the analysis. Thank you for the opportunity to comment on the project and for addressing our air quality concerns.

Sincerely,

*Gretchen Bennett*  
Gretchen Bennett  
Air Quality Specialist

GB:d1

Enclosure

RESPONSE TO MDT FOLLOW-UP LETTER CONTAINING  
RESPONSES TO AGENCY COMMENTS ON DRAFT EIS

Montana Department of Health and Environmental Sciences, Air Quality Bureau, Gretchen Bennett, Air Quality Specialist (7/29/93)

1. **RESPONSE:** On the basis of your comment the text of Part VI, H. Permit Requirements, in the Final EIS has been modified to read:

**Permits for Open Burning** - If open burning would occur with the right-of-way clearing activities for the proposed highway improvement project, several permits may be required before such an action can be undertaken. A fire control permit may be required from the Department of State Lands for burning during restricted seasons. Additionally, open burning permits may have to be obtained from both the MDHES Air Quality Bureau and from Flathead County.

VI-71

DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES  
WATER QUALITY BUREAU

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STATE OF MONTANA

FAX (406) 444-1374  
Phone # (406) 444-2406

Room A-206  
COGSWELL BUILDING  
1400 BROADWAY

PO BOX 200901  
HELENA, MONTANA 59620-0901

July 8, 1993

David S. Johnson, P.E.  
Preconstruction Engineer  
Preconstruction Bureau  
Montana Department of Transportation  
2701 Prospect Ave.  
Helena, Mt 59220-1001

Dear Mr. Johnson;

I have reviewed the Draft Environmental Impact Statement for U.S. Highway 2-Columbia heights to Hungry Horse Project F1-2 (39) 138 and have discussed it with Daniel Norderud. It appears that this project could cause violations of the nondegradation laws of Montana.

These violations could possibly occur due to the liberation of nitrogen from blasting compound residue. If significant amounts of this nitrogen enters surface or ground water it would violate the nondegradation law.

It may be possible to avoid these violations of the law and thus remove the need for becoming involved in the nondegradation review or exception process. If this cannot be done there will be considerable expense involved and perhaps more importantly the process is quite lengthy. It is with this possibility in mind that I suggest that the water quality degradation from this source be analyzed in the final EIS.

If there will be significant impacts from nitrogen if the waste rock is placed in the river it may be desirable to modify the project to prevent these impacts. It may be possible to avoid the potential impacts from the blasting residue in several different ways. The most obvious of these is to place the waste rock in a "no impact" storage/disposal site. This ideal site would be above the ground water table and would have a cover such that percolation would not pass through the waste rock. Such a site may be difficult to locate and the cover may be expensive. A second alternative would be to place the waste rock and it's

RESPONSE TO COMMENTS ON DRAFT EIS

Montana Department of Health and Environmental Sciences,  
Water Quality Bureau, Environmental Sciences Division,  
Abe Horpestad, Supervisor, Technical Studies and Support, (7/8/93)

1. **RESPONSE:** A study was performed to evaluate the potential for nitrogen residues (nitrates) from blasting to degrade local water quality. Three "worst case" situations for the introduction of nitrates to local surface or ground water were evaluated including placing excavated rock directly into the river, precipitation washing nitrates off the excavated rock face, and precipitation leaching through a pile of excavated rock stored in the project corridor. Analyses indicated that nitrates introduced to the river in these ways would produce only minor and short term adverse effects on this water quality parameter. In most cases, the predicted changes in water quality were barely measurable.
2. **RESPONSE:** Since the release of the Draft EIS, the design of the preferred alternative through Badrock Canyon has been modified to include a vertical retaining wall between the new highway and the river. As proposed, the retaining wall would most likely be a reinforced earth type wall with precast facing panels. This design modification will eliminate the need to place excavated rock in the river.

Excavated rock would be used as road bed material or crushed and incorporated into asphalt surfacing if testing determines the material is suitable for such use.

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David S. Johnson  
July 8, 1993  
Page 2

residue under the road, again in a location where ground water would not pass through it and to utilize the road and a lined shoulder as the cover. Finally it may be possible to crush the waste rock and use it in the asphalt.

We will be glad to work with you to prevent impacts to water quality while minimizing the expense and time involved in this or other highway projects. 3

Sincerely yours,



Abe Horpestad, PhD.  
Supervisor, Technical Studies and Support  
Water Quality Bureau  
Environmental Sciences Division

cc: Edrie Vinson  
AH:dd/Vinson2

VI-73

3. **RESPONSE:** The MDHES Water Quality Bureau was provided with an opportunity to review and offer comments on the study of the effects of nitrates from blasting compounds on water quality. MDT representatives also met with Mr. Horpestad on October 1, 1993 to discuss the study's conclusions.

During the October 1 meeting, Mr. Horpestad indicated that the proposed highway reconstruction could also elevate phosphorus levels in the Flathead River. As with nitrates, the primary concern is the potential for this nutrient to contribute to the productivity of waters in Flathead Lake. As a result of the meeting, the text of the Final EIS has been supplemented to consider the effects of the reconstruction on phosphorus levels in the Flathead River system.

The most likely way that highway reconstruction could contribute to phosphorus levels in the Flathead River system is by the erosion and transport of sediments from the project site during precipitation events. Phosphorus attached to sediments could be transported to the river by surface runoff over areas disturbed during construction or by runoff from the facility after the road is in use.

The Draft EIS proposed that excavated rock be placed directly into the river to allow the location of the highway to be shifted. This situation presented the opportunity for sediments containing phosphorus to be introduced to the river along with excavated rock. The use of a retaining wall in Badrock Canyon as now proposed will reduce the chance that fill material with sediments containing phosphorus are introduced directly into the river.

MDT's newly developed *Highway Construction Erosion Control Workplan* contains procedures that highway designers must follow to determine best management practices (BMPs) for erosion and sediment control within the project area during and after construction. With the proper design, implementation, and followup actions, the BMPs will minimize erosion and the transport of sediments containing phosphorus to surface waters.



DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL SCIENCES  
WATER QUALITY BUREAU

Room A-206  
COGSWELL BUILDING  
1400 BROADWAY



STATE OF MONTANA

FAX (406) 444-1374  
Phone # (406) 444-2406

RECEIVED  
PO BOX 200901  
HELENA MONTANA 59620-0901

March 23, 1994

MAR 28 1994

ROBERT PECCIA  
& ASSOCIATES

Mr. Daniel M. Norderud  
Robert Peccia & Associates  
P.O. Box 5653  
Helena, Montana 59604

Dear Mr Norderud:

We have reviewed the material submitted regarding the potential water quality impacts of the Columbia Falls-Hungry Horse Highway Reconstruction Project F 1-2 (39) 138.

Based on this review and the requirements of 75-5-301 (c), we have concluded that this project as proposed will result in nonsignificant changes in water quality.

If you have any questions please contact Abe Horpestad at the address given in the heading of his letter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Abe Horpestad".

Abe Horpestad, PhD  
Supervisor, Technical Studies and Support  
Water Quality Bureau  
Environmental Sciences Division

AH:



# Flathead Regional Development Office

MASTER FILE  
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November 13, 1992

723 5th Avenue East - Room 414  
Kalspell, Montana 59901

Phone: (406) 752-5300 Ext. 279

David S. Johnson, P.E.  
Preconstruction Engineer  
Montana Department of Transportation  
2701 Prospect Avenue  
Helena, MT 59620

RECEIVED

NOV 18 1992

ROBERT PECCIA  
& ASSOCIATES

Re: Comments on DEIS for Project FL-2(39) 138, "Reconstruction of U.S. Highway 2 between Columbia Heights and Hungry Horse"

Dear Mr. Johnson:

Enclosed are comments regarding the draft Environmental Impact Statement of the above referenced project. Many of the comments are editorial in nature, some are based on factual inconsistencies within the text of the document. Following the item-by-item comments is a review of the project and its expected impacts from a land-use planning perspective. Thank you for the opportunity to comment on the project.

The first paragraph of the Floodplain Impacts section on page IV-7 gives a misleading definition of the base flood (popularly called the "100-year" flood). This flood is defined as "a flood event of specific magnitude with the probability of recurring once every 100 years." The NFIP definition of the base flood is that flood which has a one percent (1%) chance of being equaled or exceeded in any given year. The definition used gives credence to the notion that the base flood only happens every one hundred years when, in fact, there have been at least five "100-year" floods on the Flathead River in the last 96 years. For this reason, either the NFIP definition should be used or more information of the flood history of the Flathead should be given.

Reference is made to NFIP regulations that allow construction to increase the flood elevation by up to one foot. Montana and Flathead County regulations allow only a six-inch increase in the base flood elevation.

1. RESPONSE: The text of the Final EIS was modified to define the base flood as a flood event which has a 1% chance of being equaled or exceeded in any given year. This definition is consistent with the NFIP definition of a base flood. Text was also added indicating that flood events of this magnitude have occurred at least five times on the Flathead River in the past 100 years.
2. RESPONSE: Hydraulic calculations for three locations on the mainstem of the Flathead River where complete river cross-sections were surveyed show that construction of any of the build alternatives would reduce flood elevations slightly (0.03 to 0.06 feet) or would not change the elevation of the base flood. This conclusion was based on preliminary highway designs through Badrock Canyon which employed 2:1 fill slopes. MDT's preferred design would employ a vertical retaining wall in the area of encroachment. This measure would be expected to produce similar effects on base flood elevations.

The text of the Final EIS was also modified to indicate that Montana and Flathead County floodplain regulations permit only a six-inch increase in the elevation of the base floodplain.

VI-75

1

2

Providing Community Planning Assistance  
• Flathead County • City of Columbia Falls • City of Kalspell

30	Preconst Eng	
30	Asstent	
30	Office Mgr	
31	Safety Mgmt	
32	Road Design	
33	Environment	
34	Hydrology	
35	Survey & Map	
36	Traffic Eng	
37	Truck Operat	
39	Consultant	
40	Admin	
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Use Recd. Preconstl. MAIL ROUTE 11-17-92

David Johnson  
Re: DEIS Project  
November 13, 1992  
Page 2

On page IV-9 is a statement that the flood elevations would not be "substantially increased", but no indication of the amount of increase is made. Given the reference made in the preceding paragraph, a clearer definition of a "substantial increase" is needed.

The first line on page VI-12 states that the required floodplain development permit can be obtained from "DNRC's Floodplain Management Section or the county floodplain development coordinator...." This is incorrect. Flathead County administers the floodplain regulations in the project area and is the sole agency that can issue the permit. 3

Figure 14, Floodplains, shows the "Approximate 100-year Flood Boundary" and the "Floodway" as being the same. In much of the area, this is accurate; however, the FEMA maps designate a portion of the area within the 100-year flood boundary as floodway fringe. This area (which is different from the floodway) should be shown as such or the term "floodway" should be replaced with "floodplain". Also, the effective date of the maps listed in the caption is given as September 5, 1985. The correct date is September 5, 1984. 4

On page III-18, in Zoning and Land Use Controls, the statement is made that "the land use designations" in the applicable Master Plans "have no means of being implemented or enforced." This is incorrect. The land uses suggested in the Master Plan are implemented by the use of zoning, which is also the regulatory or enforceable means of land use management. This process is available although the project area has not been zoned as of the present. Work to institute County-wide zoning is underway and will probably be in place by the time this road project is completed. 5

Reference is made on page IV-44 to other governmental entities with responsibilities for land use management in the project area. The only entity listed is Flathead County. The U.S. Forest Service should also be included since the easternmost portion of the project runs through Forest Service land. 6

3. RESPONSE: The text was revised to indicate that Flathead County is the sole agency that can issue the floodplain development permit.

4. RESPONSE: Figure 14 was reprinted for the Final EIS and the word "floodway" was replaced with "floodplain" as suggested. The figure was revised to show September 5, 1984 instead of September 5, 1985 as the date of the FEMA map.

A similar comment is addressed in the response to comment 5 contained in a September 2, 1992 letter from Richard D. Gorton, Chief, Environmental Analysis Branch, Planning Division of the Department of the Army Corps of Engineers.

5. RESPONSE: This statement is incorrect and needs clarification. The text of the Final EIS was changed to indicate that the land uses suggested in the Master Plans are implemented by the use of zoning, which is also the enforceable means for controlling land uses. The new text also states that the process is and has been available throughout the project area, however, no areas have presently been zoned.

6. RESPONSE: The text of the sentence has been revised to state that the U.S. Forest Service also has management responsibilities for land uses in the project corridor.

VI-76

David Johnson  
Re: DEIS Project  
November 13, 1992  
Page 3

On page IV-2 is the statement that the cumulative impact of this and other (MDT?) projects in the County could lead to "a major loss of important farmland", but no further comment or mitigation strategy is offered. This statement should be more fully addressed since the agricultural industry plays such a major role in the Flathead Valley.

The last sentence of Indirect Impacts on page IV-49 states, "(s)ome facility users may choose alternate travel routes to avoid construction sites." In several cases earlier in the document, the lack of alternate routes is used as justification for the project being done.

This apparent inconsistency should be straightened out. The first complete paragraph on page IV-4 states that the proposal would have a "projected design year ADT of less than 8,000 vehicles per day...." However, Table 4 on page II-8 lists the project year ADT as 8,400.

The parenthetical note under the category label "Site Number" in Table 12 on page IV-13 says, "See Fig. 9". This should refer to Figure 16.

The caption on Photo 1 on page I-5 states the photo was taken "west of the intersection with US 2". For clarity, the caption should probably read "southwest".

Figure 9, Schematic Layout of Alternatives, incorrectly depicts the intersection of US 2 and Montana Highway 206. The westernmost portion of the project would transition into Highway 206, not U.S. 2. That is, Highway 206 is perpendicular to Monte Vista Drive and Berne Road.

The applicable label on Figure 13 should read, "Hungry Horse Reservoir".

The last item on page IV-55 should be changed from "Flathead County residents" to "Flathead County authorities".

On page IV-64, Note 37 should read "Dakin", not "Dagen". On the same page, Note 38 should be "Daly" instead of "Dayley"; change "Council" to "Corporation".

Appendix 10 should be amended to include PSI, Pavement Serviceability Index.

7. RESPONSE: By nature, many of the soil associations within the Flathead Valley meet the SCS's definitions of prime and unique farmland or locally important farmland. This statement is meant to indicate that continuing development of any kind in the Flathead Valley runs the chance of affecting soils that meet SCS definitions of important farmland. Conversion of important farmland to highway right-of-way is unavoidable in the project corridor. The effects of this conversion were evaluated according to the requirements of the Farmland Policy Protection Act. Evaluations determined that the land affected by the project is farmland of low potential and that consideration of alternatives to avoid impacting these lands was not necessary.
8. RESPONSE: This statement suggests that a certain portion of the users (particularly local residents) may elect to avoid construction delays and use other routes to reach their destinations. This would certainly occur if the public is notified in advance that long delays may be experienced in the project area. This is an indirect impact that may occur only during the construction period. The statement is not inconsistent with the reference to a lack of alternate routes through the area as one of many considerations that justify the project.
9. RESPONSE: This inconsistency was corrected in the Final EIS. The sentence referenced in the comment was changed to indicate a projected design year ADT of 8,850, not less than 8,000 as indicated in the Draft EIS. Note that this change was prompted by the consideration of 1992 traffic count data in the regression analysis used to project traffic volumes for the design year.
10. RESPONSE: The reference in Table 12 of the Draft EIS was revised as recommended in your comment.
11. RESPONSE: Reprinting the entire photo page to correct this minor discrepancy would be costly and is not warranted.
12. RESPONSE: Because several typical cross-sections are included with each of the build alternatives, Figure 9 is a simplified way to illustrate the major design features of each alternative. Some "artistic liberties" were taken with the scale of the drawing to ensure that the layouts of the alternatives would meet page limits for printing. This representation of alternatives is schematic by nature and US 2 and FAS 206 are clearly labeled for readers of the EIS. Changing the layout of the graphic to more realistically show the alignment of US 2 is unnecessary since the figure clearly shows the information it was designed to present to the reader.
13. RESPONSE: Figure 13 incorrectly identifies Hungry Horse Reservoir as "Hungry Horse". The figure was reprinted for the Final EIS to ensure that the reader is not confused about the location of the Hungry Horse community, the eastern terminus of the project.
14. RESPONSE: The text for the Final EIS was revised as suggested in the comment.
15. RESPONSE: The text for the Final EIS was revised as suggested in the comment.
16. RESPONSE: The text for the Final EIS was revised as suggested in the comment.

VI-77

David Johnson  
Re: DEIS Project  
November 13, 1992  
Page 4

Critical Planning Perspectives

Issues: The current situation in the corridor where the project is proposed creates, in effect, a bottleneck that tends to limit traffic moving through Badrock Canyon. This bottleneck, by association, also limits potential, possibly adverse development in the area. Adverse development may be defined in relation to the Flathead County and Columbia Falls Master Plans as strip commercial/industrial development or residential development in unsuitable areas removed from service centers.

Removing the bottleneck would open up the Canyon to more development and the associated impacts on the aesthetic, economic, and quality-of-life aspects of the project area. On page 3-4 under the heading Adverse Impacts of the Project is the statement, "(p)ossible encouragement of additional development in the corridor." However, in the draft EIS this possibility is not seen as a major impact on its own. From the planning perspective of Flathead County, this is a serious problem that demands special review, since unplanned or uncontrolled development would disrupt the unique qualities of the scenic corridor from Columbia Heights to West Glacier.

Proposal:

In order to anticipate and otherwise mitigate the likely development that would occur in the Badrock Canyon area with the completion of the proposed project, a grant to Flathead County through the Flathead Regional Development Office to conduct citizen participation strategies and development an implementable land-use plan for the Canyon area. The grant would finance a staff planning position, associated secretarial and other support, supplies, and public meeting space (as needed).

If begun early enough, the Canyon area plan could incorporate guidelines regarding commercial and industrial development, residential subdivisions, and recreational facilities. The plan could also serve as a basis for developing land-use regulations, if necessary. Preferably, a creative system of land-use controls (transferable development rights, restrictive covenants, or other means, for example) would be developed in the participatory planning process.

17. **RESPONSE:** Please see the response to comment 4 contained in correspondence from Jonathan P. Deason of the U.S. Department of the Interior presented in his letter dated September 21, 1992.

MDT has agreed to contribute a portion of the funding necessary to retain professional land use planning services for the US 2 corridor as requested by the Canyon Citizens Initiated Zoning Group.

David Johnson  
Re: DEIS Project  
August 31, 1992  
Page 5

In this way, the project would not only address and improve the safety and design facets of the Badrock Canyon corridor, but also more fully address the economic, cultural, and recreational qualities of the area and the effect that the completion of the highway would have on them.

I certainly appreciate the opportunity to comment on this project and hope that Flathead County and Montana Department of Transportation continue the cooperative effort.

Sincerely,

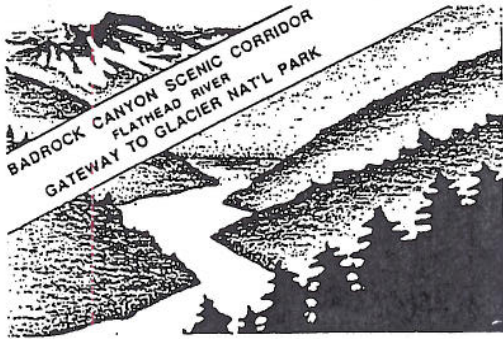


Stephen F. Herbaly  
Planning Director

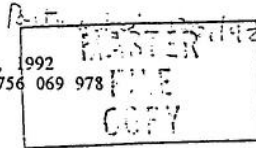
VI-79

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December 21, 1992  
Certified# P 756 069 978



RECEIVED  
MONTANA DEPARTMENT  
OF TRANSPORTATION  
DEC 23 1992  
LEGAL SERVICES

Attn: (new) Secretary DOT & Dir.FHWA-D.C.  
(new) Director MDT& FHWA-Helena,MT  
MT Congressmen

RE: FHWA-MT-EIS-92-02-D/4(f)

## PART I - MAJOR ERRORS IN DEIS/4(f)

(1) Oral & Written evidence of Battles at Bad Rock is ignored The DEIS/4(f) Evaluation wrongly claims there is no evidence of Indian battles, V-8. However, Library of Congress # 70-97513, written history of battle at Bad Rock Canyon, was provided to Applicant MDH/Peccia on 10/5/90 and at public hearing, 12/10/92. Contact Curly Bear Wagner for oral history on another battle. Bad Rock Canyon was a strategic location for warfare and control of access to the eastside Buffalo hunting grounds and the sacred mountains of ancient "Backbone of the World", now Glacier National Park. Bad Rock is the westgate of prehistoric travel routes to the Bear or Marias, Red Eagle, and Cutbank passes. Applicant MDT/Peccia received this evidence in 1990-91: (1) Man in Glacier, C.W. Buchholtz, Lib. Cong. #76-2988, map + pgs.3-7,21,29. (2) Transcript of Ted Ross - identifies old Indian Trail/original wagon road at Bad Rock Canyon.

1a

### RESPONSE TO COMMENTS ON DRAFT EIS Coalition for Canyon Preservation Sharlon L. Willows (12/21/92)

- 1a. **RESPONSE:** As the text on page III-25 of the Draft EIS indicates, representatives of the Cultural Committees of the Salish, Kootenai, and Blackfeet Tribes were consulted regarding this project. None of the representatives could place the battle at a specific location in Badrock Canyon.

In 1993, further investigations about the site of the Indian battle referenced by the historical marker in Badrock Canyon were performed. The findings of this additional research is summarized in an April 5, 1993 Memorandum from Jon Axline, MDT Historian, to Edrie Vinson, Chief of MDT's Environmental and Hazardous Waste Bureau. Mr. Axline researched historical records and found no references to a battle in Badrock Canyon in Flathead County prior to the installation of the historical marker on US 2 in 1938.

The placement of the marker prompted a response from a long-time resident (H.P. Stanford) indicating that the canyon was named for the tote road that passed over the mountain. The Indian "battle" occurred near the Soldiers' Home in Columbia Falls sometime between 1840 and 1879. According to Stanford, the Piegan Blackfeet raided into the valley and were met by the Salish and Kootenai. The Piegans then retreated to Badrock Canyon along the north side of the canyon and took up positions midway up Teakettle Mountain.

Salish-Kootenai "historian" Olga Weydemeyer Johnson reported an account of a battle in the Badrock Canyon area sometime around 1840. Johnson indicates that the Blackfeet were ambushed near the mouth of the canyon and driven toward Flathead Lake. Like Stanford's version, Johnson's narrative suggests that very little, if any, of the confrontation actually took place in Badrock Canyon.

Mr. Axline also found that another Bad Rock exists in Sanders County along the Clark Fork River between Plains and Thompson Falls. The historical record contains references to Bad Rock as early as 1809 and there are several accounts of violent confrontations between the Salish, Kootenai, and Blackfeet in this vicinity after that time.

Copies of the Mr. Axline's Memorandum were provided to the Blackfeet Tribal Chairman, Curly Bear Wagner of the Blackfeet Cultural Program, Clarence Woodcock of the Flathead Culture Committee, and Patricia Hewankorn of the Kootenai Culture Committee.

An evaluation of the old Indian trail/wagon road ("tote" road) in Badrock Canyon was completed in May, 1994. The text of the Final EIS/Section 4(f) has been supplemented in Parts III, IV, and V to include discussions of this feature of Badrock Canyon.

Refer to CCP Research paper raising a series of substantive issues and exhibits titled "Peccia/HRA's Report is Inadequate as Cultural Resource Survey and totally insufficient as 4(f) Evaluation", 4/22/92. The Wilkes/ Berne actual homestead (boundaries) were eliminated from consideration while the study focused on the dump. HRA's survey missed Billie Berne's pond & water system, still intact. HRA missed assessment and recording the Memorial Lions Fountain, that IS in operation (DEIS erroneously states otherwise, V-5). HRA failed to conduct a *local* historical literature search as required by CA contract. The County libraries at Columbia Falls, Whitefish, and Kalispell are extensive and filled with local history.

1b

- 1b. **RESPONSE:** Criteria used to determine National Register eligibility was applied to the Berne homestead. It was determined that due to a loss of integrity, this property did not have the qualities that make it eligible for the National Register. The Montana SHPO concurred with this conclusion.

## (2) Geology & Grade Misrepresented

The "Affected Environment" section of DEIS erroneously states "the elevation of the (project) corridor ranges from 3,000 to 3,100 feet above sea level between Columbia Falls and Hungry Horse", III-1. First of all, the project elevation of 3,000 is at Columbia Heights, not Columbia Falls city which is lower. Secondly, the description totally omits that elevation at Bad Rock Canyon is 3,020 at Fishermans' Rock, USGS Geodetic Survey Marker. The 1984 FIRM Floodplain map shows Reference Marker 87 located 700 ft. west of Berne Road along U.S.2 to be elevation of 3,073. In other words, the DEIS is covering up the fact this project is one grade down (80 ft. drop from Columbia Heights to Fishermans' Rock) and another grade up (90 ft. climb from Fishermans' Rock to Hungry Horse). The Capacity Analysis for this project does not consider grade either.

2

2. **RESPONSE:** The Affected Environment section of the Draft EIS is intended to provide a single description of the general project area. The identification of a general range in ground elevation along the US 2 highway corridor between Columbia Falls and Hungry Horse is appropriate. Many of the graphics in the Draft EIS, like Figure 12, are depicted on U.S. Geological Survey topographic maps. These maps fully disclose elevations within the project area.

Consistent with the procedures contained in the *Highway Capacity Manual, Special Report 209* (Transportation Research Board, 1985 and subsequent updates), a general terrain methodology was used in the highway capacity analyses performed for this project. This methodology estimates average traffic operational measures along a section of highway based on average terrain, geometric, and traffic conditions. Terrain is classified as level, rolling, or mountainous. The general terrain methodology was used instead of an analysis of separate grades because none of the grades associated with the existing or proposed highway would substantially impact (cause slow uphill travel speeds or increase downhill travel speeds) the operation of vehicles using the facility.

(2)(A)(i) AASHTO Violation - Applicant failed to consider 50mph speed design for project that meets mountainous terrain criteria. This DEIS does not disclose nor consider project grades, a prerequisite for application of AASHTO design speed principles, "Green Book" p. 461. EIS preparers have erred by ignoring actual project grade. The Bad Rock Canyon segment of the project (House of Mystery to Hungry Horse) most certainly meets Mountainous Terrain design speed criteria (50mph), "Green Book" p.536. "Reduce speeds at Canyon or Heights" was listed as a very significant scoping issue identified by the public, DEIS VI-4. However, the EIS does nothing.

3

3. **RESPONSE:** Page A4-6 in the Draft EIS shows the proposed vertical alignment of the new highway and lists specific grades.

According to AASHTO's *A Policy on Geometric Design of Highways and Streets* (also known as the "Green Book" (pages 226 and 227 of the 1990 Edition):

Terrain classifications pertain to the general character of a specific route corridor. Routes in valleys or passes of mountainous areas that have all the characteristics of roads or streets traversing level or rolling terrain should be classified as level or rolling."

VI-81



(2)(A)(ii) Section 4(f) Violation -Applicant fails to consider Avoidance Alternative. Section 4(f) Evaluation presents blatant lies in "Avoidance Alternatives Discussion"- a tunnel has NOT been actively considered as claimed, p.V-10. All of DEIS action alternatives involve floodplain and significant river construction that should be avoided. All of DEIS action alternatives require "blowing up" a massive portion of Columbia Mountain that includes a reknowned photogenic waterfall, the west side of Berne Memorial Park, DEIS V-9. A tunnel alternative IS reasonable for consideration in this case (see AASHTO Green Book, pgs 421-423).

4a

Further,

"Mountainous terrain is that condition where longitudinal or transverse changes in the elevation of the ground with respect to the road or street are abrupt and where benching and side hill excavation are frequently required to obtain acceptable horizontal and vertical alignment."

The project area has only one short area at the west end of Badrock Canyon where side hill excavation is needed and it does not have long, sustained grades that cause substantial reductions in travel speeds. Rolling terrain more aptly describes the general character of the project area. Therefore, a design speed of 60 mph is an acceptable design parameter for rural areas in rolling terrain. The posted speed limit for the corridor would be 55 mph.

The Draft EIS indicates that detailed engineering studies will be conducted to determine signalization and crossing needs in Columbia Heights. Likewise, travel speeds must be monitored and evaluated after the facility is in operation to determine if any change to the posted speed limit is warranted.

- 4a. **RESPONSE:** The concept of constructing a tunnel through Columbia Mountain as a means of avoiding impacts to Berne Memorial Park has been further investigated for the Final EIS. Contacts were made with the state highway agencies in California, Colorado, Minnesota, and Washington to obtain information on engineering requirements, construction techniques, and costs associated with tunnel construction. Additional text about the feasibility of incorporating a tunnel with the proposed action has been added to Part II: Alternatives of the Final EIS.

The information provided by other highway agencies was used to determine an appropriate range of costs for incorporating a tunnel on US 2 through Badrock Canyon. Based on this information, the estimates for constructing a two-lane tunnel for eastbound traffic ranged from \$46.5 to \$68.3 million. "Rough" information from the BPA, indicated that incorporating electrical transmission lines into a highway tunnel would conservatively add about \$4.5 million to the cost of a tunnel.

US 2 is included on the Interim National Highway System (NHS) designated by the State of Montana as required by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Excluding the Interstate System, the Interim NHS presently consists of some 2,100 miles of principal arterial roads. Estimates place Montana's total apportionment of federal funds for the NHS at about \$36.2 million for 1993 and successive years covered under ISTEA. The federal share of NHS-eligible projects is 86.58 percent. The State must provide the remainder of the funds for such projects.

Consideration of tunnel alternative was identified in scoping , however the EIS does nothing but give bogus excuses,II-11. BPA/DOE and FHWA could pool federal funds to build a tunnel in approximate BPA powerline easement area for two lanes east plus powerlines. Two lanes west would then qualify as State Historic Roadway through Bad Rock Canyon/Berne Memorial Park. DEIS ignores concurrent federal agency proposal to rebuild powerlines over Bad Rock Canyon (S-1), a NEPA violation.

4b

DEIS wrongly claims "impacts on the use of Berne Memorial Park" as a reason for eliminating a tunnel from consideration,II-11. In fact, the tunnel will fully preserve the historic and spectacular drive through Bad Rock Canyon/Berne Memorial Park for future use. A tunnel west entrance to Glacier National Park/Great Bear & Bob Marshall Wilderness merits actual consideration and would create many more jobs for local economy while preserving the outstanding resource for tourism and marketing.

4c

As indicated above, including a tunnel (with no BPA facilities included) in Badrock Canyon could add as much as \$68.3 million to the cost of the proposed action. This would require a commitment of funds equal to nearly two years worth of Montana's apportionment for the entire NHS. To put the magnitude of the expenditure required for a tunnel into perspective, \$68.3 million is enough to completely reconstruct about 102 miles of typical rural two-lane road in Montana. Clearly, such a major funding commitment is unreasonable in light of other equally important needs for reconstructing segments of the National Highway System in Montana.

- 4b. **RESPONSE:** Contacts were made with the Bonneville Power Administration (BPA) during the development of the Draft EIS, however, the agency's reconstruction proposal for the powerline corridor was not specifically known until after the publication of the Draft EIS. MDT was formally contacted by the Montana Department of Natural Resources and Conservation, Energy Division regarding this proposal and the agency's intent to prepare an Environmental Assessment on December 3, 1992 . This governmental action in the project area has been discussed in the appropriate sections of the Final EIS.

The option of placing the electrical transmission lines underground or within a tunnel was addressed in the BPA's Draft Environmental Assessment as an alternative eliminated from further consideration. The primary reasons BPA eliminated this alternative were technical limitations on transmitting electricity underground, the excessive costs, and the visual intrusion into the area due to the need for constructing "mini-substations" at each end of the underground section of transmission line.

- 4c. **RESPONSE:** The statement that a tunnel would cause impacts on the use of Berne Memorial Park was made for several reasons. Since the tunnel would separate traffic flows on US 2, a connection between the eastbound and westbound travel lanes would be needed to allow eastbound motorists to turn around to visit the park without going all the way to Hungry Horse. It is likely that some current users of the park (particularly seasonal visitors to the area that spontaneously stop at the park) would not bother to "backtrack" to visit the park. The construction of connection between the east and westbound travel lanes could itself be the source of major environmental concerns.

It is conceivable that boring a tunnel through a portion of Columbia Mountain behind Berne Memorial Park could disrupt the flow of water at the spring in the park. This concern is raised without the benefit of detailed hydrogeological investigations about the water source.

Even with the provision of a tunnel in Badrock Canyon, substandard geometric conditions are present along the existing alignment for westbound traffic. Modifying the alignment to correct these deficiencies may still require cliff excavation, affect features of the park, or encroachments on the Flathead River and associated riparian areas.

(2)(B) LANDMARK & LANDFORM

DESCRIPTIONS HAVE BEEN OMITTED \*DEIS fails

to disclose that Bad Rock Canyon is a geologic natural landmark, a serpentine gorge cut over the centuries by the icy onslaught of Montana's famous Flathead River. The erosional power of the river for thousands of years, and glaciation forces for millions of years, has created the distinctive cliffs at Bad Rock Canyon/Berne Memorial Park. The Bad Rock geologic landform serves as a significant landscape for the entire Flathead Valley region (ie. three historic feature photos in "Stumptown to Ski Town", Lib.Cong.#73-80255,pgs24,30,34). The FEIS should appropriately feature the Bad Rock Canyon landscape on its' cover and within the content.

\*DEIS fails to disclose Bad Rock Canyon is a prehistoric landmark, the geologic gateway to what is now Glacier National Park/Great Bear & Bob Marshall Wilderness areas, what was known to the ancient indigineous peoples as the sacred "Backbone of the World". Historic context has been eliminated from EIS as validated by SHPO, VI-38. See Glacier Park's 1988 Cultural Resources Management Plan - indigineous peoples have used the area 12,000 B.C. to present, p.7. Bad Rock Canyon/Berne Memorial Park meet federal criteria for both Historic and Natural Landmark,36 CFR 62.5 &65.4.

5

5. RESPONSE: MDT acknowledges that Badrock Canyon is a distinctive natural landform.

6a

6a. RESPONSE: The boundaries of Glacier National Park and the Wilderness Areas were established by Congress.

6b

6b. RESPONSE: Glacier National Park's Cultural Resources Management Plan and other supplemental information on the history of the area provided by the CCP is by reference incorporated into the EIS.

Only the Secretary of the Interior can designate Natural and Historic Landmarks. Even if this area were designated as a Natural or Historic Landmark, no additional protection beyond Section 4(f) would have been afforded to the property.

7a. RESPONSE: The statements made in the Biological Assessment and the Draft EIS questioned by this comment were the opinions of wildlife management officials familiar with the situation in the project area.

A statement was added to the text of Part IV in the Final EIS indicating that wildlife observation forms provided by the CCP show that grizzly bears have been sighted in the general area of US 2 between the House of Mystery and Hungry Horse.

(3) Major Error - Section 7 Mitigation & review IS required for Grizzly crossing at BadRock's wooded travel corridor

There IS evidence of bear crossings and grizzly bears have been sighted near or in the project area, contrary to *falsified information in Biological Assessment (BA-p.10) and DEIS (IV-29,30)*. These substantive issues, field observation forms, and request for correction of major error were raised substantially by CCP, 4/30/92 (please refer to this package for evidence this corridor IS known to be valuable for bears moving n/s of US2). See attached map recording bear crossings at the Bad Rock river corridor, west entrance to NCD Grizzly Bear Ecosystem. Bad Rock is the only segment of wooded crossing corridor between BMUs linking N. Swan/S.Whitefish Ranges. Further Section 7 Consultation is required to develop Conservation Measures for bear crossing such as maximum retention of wooded security cover and reforestation to within 15 ft. of paved shoulder (see BO for Coram-W.Glacier, 8/25/81). *The DEIS provides no mitigation whatsoever for major logging proposed for the Bad Rock corridor, wrongly hidden under "Miscellaneous Local Impacts", IV-39.*

7a

The USFWS concurred with the conclusion that the proposed action will not adversely affect the grizzly bear in its Biological Opinion (see pages VI-63 through VI-68 of the Draft EIS). The agency made no recommendation for further consultation regarding the proposed action's effects on grizzly bears or habitat.

7b

7b. RESPONSE: Vegetation must be cleared from areas of new right-of-way to accommodate the construction of the new highway. Page IV-39 of the Draft EIS suggests that some areas where right-of-way clearing would occur may have marketable timber and could generate some revenue if it was cut and sold. The extent of timber cutting and other right-of-way clearing would be controlled by the construction limits of the final design for the highway.

Abandoned areas of the existing highway between Berne Memorial Park and Hungry Horse will be reclaimed by removing the old road surfacing and reforesting the right-of-way.

VI-84

(3) (A) MORE ERRORS IN GRIZZLY SECTION - (1) The BA (p9) and DEIS (IV-29,33) give erroneous location for project area that lies in the South Fork Grizzly Bear Management Unit. The Whitefish unit is on the other side of the Flathead River ! (2) Situation 1 Grizzly habitat DOES lie to the north and south of the *Bad Rock Canyon* project section. DEIS erroneously states "project corridor south of Bad Rock Canyon does not lie within grizzly bear habitat", IV-29. (3) DEIS misrepresents supposed "field studies conducted by MDFWP biologists" that do NOT exist that we know of. CCP research will be investigating Consultant's series of phonecalls to verify actual statements of MDFWP biologists. (4) Footnote #32 is wrong.

8

8. **RESPONSE:** The *Grizzly Bear Recovery Plan*, Second Draft (June 1992), states that recovery zones for the species are the areas contained in each grizzly bear ecosystem within which the population and habitat criteria for achievement of recovery will be measured. Each recovery zone is divided into areas designated as Bear Management Units (BMUs) which are used for habitat evaluation and population monitoring.

Figure 23 in the Draft EIS was taken from graphical information presented in the *Final Programmatic Environmental Impact Statement Summary, The Grizzly Bear in Northwestern Montana* prepared by the Montana Department of Fish, Wildlife & Parks (FWP) in March, 1986. This document referenced Grizzly Bear Management Units (BMUs), however, the term related to a management situation where the hunting of the grizzly bear was permitted. The FWP's use of the term BMU is applied to grizzly bear ecosystems management in an entirely different context than that referenced in the *Grizzly Bear Recovery Plan*. For this reason, Figure 23 has been deleted from the EIS.

Henry Rivera, USFS Wildlife Biologist for the Hungry Horse Ranger District, was contacted during the preparation of the Final EIS about the location of the proposed action in relation to BMUs within the Northern Continental Divide Grizzly Bear Ecosystem (NCDE). Mr. Rivera indicated that based on detailed mapping of the NCDE recovery zone and associated BMUs, the project area lies within the Hungry Horse Bear Management Unit.

Figure 24 clearly shows that the project corridor lies entirely within Management Situation 2 grizzly bear habitat. The figure also shows that Management Situation 1 habitat exists some 2-3 miles south of US 2 and more than 5 miles north of the existing highway. Mapping for grizzly bear habitat in the vicinity of this project obtained from Mr. Rivera in June, 1993 verified the statement made in the Draft EIS.

The sentence on page IV-29 of the Draft EIS has been modified for the Final EIS to read:

"The portion of the project corridor west of Badrock Canyon does not lie within grizzly bear habitat."

Reference 32 in the Draft EIS was correct based on the graphics in the *Final Programmatic Environmental Impact Statement Summary, The Grizzly Bear in Northwestern Montana* prepared by the Montana FWP. However, based on new information provided by Henry Rivera, this reference was modified for the Final EIS to read: Henry Rivera, USFS Wildlife Biologist, Hungry Horse Ranger District, Hungry Horse, MT. Personal Communication June 9, 1993.

(4) Major Error - See Section 4(f)

Deficiencies. Part III of this comment, pgs ~~10~~ - 12.

(5) Major Errors in Biological Assessment (&DEIS):

(A) Habitat affected by the proposed action (Fig. 4/BA) is in error. Bad Rock Canyon's primary Bald Eagle foraging and perching location has been omitted from Fig. 4 and discussions of Direct Effects.

9

(B) The Wetland and Riparian Assessment is in error (Fig.2 in BA/Fig.17 in DEIS):

(i) Eagle habitat between mp 140.2-140.5 is "7" (Mature Cottonwood and conifer habitat).

(ii) Berne Memorial Park is "7" (Cottonwood and conifer habitat).

(iii) Upper homestead at west entrance to Bad Rock Canyon is open water (Billie Berne's pond & water system = wetland).

(iv) Plant community on NE side of Columbia Mountain is cedar/yew.

The Riparian Assessment distorts information and impact analysis by misuse of "Disturbed" as wetland/landtype.

10

9. **RESPONSE:** Specific milepost references for areas where bald eagles historically congregated were not used to describe the habitat affected by the proposed action. However, the text on page 4 of the Biological Assessment and on page IV-22 of the Draft EIS provides a description of the area between the House of Mystery and Berne Memorial Park historically used by bald eagles.
10. **RESPONSE:** The Final EIS contains a redelineation of wetlands in the project corridor based on the 1987 Corps of Engineers Wetlands Delineation Manual. The redelineated wetlands are shown on FIGURE III-6 in the Final EIS. The figure now identifies wetlands and riparian communities and specifies where jurisdictional and non-jurisdictional wetlands exist according to the guidelines contained in the Manual.

## PART II - MAJOR OMISSIONS IN DEIS

In 1982, the prior EIS denoted Badrock as a sensitive area because of its importance to Native Americans, Bald Eagles, and Berne Memorial Park, III-15. The 1982 FEIS was developed pursuant [632 F.2d 774-786 (1980), Ninth Circuit]. Now, this 1992 DEIS on Badrock Canyon denies and omits that importance.

(1) PREHISTORY OMITTED FROM DEIS - Prehistory is another of Bad Rock Canyon's significant and outstandingly remarkable values under National Natural & Historic Landmark Law @ 36 CFR 62.5/65.4 and National Wild and Scenic Rivers Act (WSRA) @ PL 90-542 (1968); PL 94-486 (1976-Flathead River); (Bad Rock "port of entry" eligible @) 47 FR 39457-8 (1982). Prehistoric significance of Bad Rock Canyon listed below.

(2) BAD ROCK CANYON IS OMITTED FROM DEIS As validated by SHPO, "The whole question of Bad Rock Canyon is also left unaddressed "...VI-38,39. Significances of Bad Rock Canyon are:

(A) Significant regional landscape -ie. see Stump Town to Ski Town, Lib. Cong.#73-80255, historic photos on pgs 24,30,34. Bad Rock Canyon is the geologic west entrance to Glacier National Park and the Great Bear and Bob Marshall Wilderness Areas. The DEIS provides no visual representation of Bad Rock Canyon. Geology is another of the outstandingly remarkable values at Bad Rock Canyon that make it eligible for protection under WSRA. EIS information on Geology omits and obfuscates unique features at Bad Rock Canyon (such as elevation @ Fisherman's Rock is 3,020,III-1).

(B) Significant prehistoric travel corridor - ie. Transcript of Ted Ross, 6/3/83, "the old Indian trail is still there" (at Bad Rock Canyon,p3)-provided to MDH/SHPO, Feb. 1991. The old "tote" or wagon road followed the original Indian trail.

(C) Bad Rock Canyon was strategic location for warfare and control of access to prehistoric travel routes Bad Rock Canyon is the west entrance to the Bear or Marias Pass, Red Eagle and Cutbank passes that traverse the Continental Divide to eastside Buffalo hunting grounds. The Blackfeet controlled this westgate for 100 years between 1750-1850's, strategically keeping westside tribes and whitemen out of the ancient "Backbone of the World", now

11a. **RESPONSE:** Text in the Draft EIS and supplemental materials prepared for the document are devoted to the very features and resources (particularly Berne Memorial Park and habitat used by bald eagles) that are listed in the comment as reasons that this area is sensitive.

Substantial effort was devoted to examining design and location options for US 2 through Badrock Canyon that would minimize impacts to these sensitive resources. Formal consultation with the USFWS was undertaken because of the proposed action affects bald eagle habitat in the project area. Similarly, the Section 4(f) Evaluation focused almost entirely on effects of highway reconstruction on features of Berne Memorial Park.

11b. **RESPONSE:** Please review the responses to similar comments made previously in comments 6a and 6b.

12a. **RESPONSE:** CCP comments about the misrepresentation of the geology of the area are addressed in the response to comment 2 presented earlier.

12b. **RESPONSE:** A cultural resource evaluation of the "tote" road was completed in May, 1994 by Historical Research Associates of Missoula. Research and field investigations found little evidence that relates Native American travel through the area to the specific route followed by the "tote" road. The historical records and personal accounts do indicate that Badrock Canyon was generally used as a travel corridor by Native Americans. However, the most notable and readily observed features of the "tote" road relate to its construction and use after 1891 when the Great Northern Railroad was built through the area.

Additional text identifying the "tote" road and its location relative to the proposed action were added to Part III of the EIS. Text describing the impacts of the proposed action on this old road has been added to Part IV of the Final EIS and to the Section 4(f) Evaluation. Comments made by Mr. Ross have been included in the Final EIS.

12c. **RESPONSE:** Materials provided by CCP regarding historic use of the area were reviewed during the preparation of the Draft EIS. The material does provide a general historical context to the Flathead-Glacier region and discusses the movements of Native Americans across the Continental Divide. However, these sources do not present information specific to the area affected by the proposed highway reconstruction project.

Glacier National Park. Contact Curly Bear Wagner, Blackfeet Cultural Director. Other resources went unused that CCP Research sent to MDH/Peccia (5/14/90) showing the prehistoric trail network (see Man In Glacier, Lib. Cong.#76-2988, travel route map + pgs. 3-7,21-22).

(D) Significance of the Rocks at Bad Rock Canyon The DEIS does admit "Precambrian rocks form the distinctive cliffs of Bad Rock Canyon", III-2. These rock protrusions in the canyon were used as ambush and lookout locations. The Bad Rocks are a distinct visual and historic quality that are not given due consideration. The DEIS arbitrarily claims rock cliffs at Berne Park are not "actively used" (V-4), when in fact, these distinctive & scenic cliffs are the primary scenery ! Contact Curly Bear Wagner about significance of the rocks. Please note the correct historical name is Bad Rock (two words) - this needs correction throughout the FEIS/4(f).

The wall of ice that forms at the west cliff spring is famous, making the front page photography of news in 1991 when mountain climber practiced here. *This significant photogenic feature and function of the Park has been ignored.* The DEIS arbitrarily attempts to portray this area as not "actively used" ! There are numerous welltravelled mountain trails leading to the various rock cliffs. Applicant has wrongfully ignored economic "worth" of aesthetic/visual/scenic functions and characteristics at Bad Rock/Berne Park. As stated at the public hearing, whomever wrote the (EIS,Chap.V) obviously has never been to Berne Memorial Park. Chapter V exemplifies gross, arbitrary and capricious, knowing bad faith violation of 23 CFR 771.135(p).

12d

12e

Curly Bear Wagner and other members of the Blackfeet Culture Committee were contacted during the preparation of the Draft EIS. These contacts did not locate anyone knowledgeable of the battle described by the historic marker at Berne Memorial Park in Badrock Canyon. A memo documenting the contact with Mr. Wagner is on file with MDT.

Please review the response to comment 1a for additional research about the relevance of the historical marker in Badrock Canyon.

12d. **RESPONSE:** As indicated above, Curly Bear Wagner was contacted during the preparation of the Draft EIS and related documents. MDT has and will continue to maintain regular contacts with Tribal Cultural Committees during the subsequent development of the proposed action.

Tribal Culture Committees have expressed concern to MDT that sacred places not be made public. MDT respects this concern, and the location of non-impacted cultural sites are not discussed in any public document.

12e. **RESPONSE:** The predominant location where activities occur in Berne Memorial Park is the turnout itself. The turnout is used every time a park visitor stops to view the roadside exhibits, collects water at the spring, picnics or hikes in the cliffs above the park, or just pulls over to allow traffic to pass. MDT recognizes that other recreational uses occur within the legally defined boundaries of the park and at Fisherman's Rock, a recreation site outside the boundaries of the park.

The 1.8 acres of "active" recreation area at the park identified in the Draft Section 4(f) Evaluation refers to the area encompassed by turnout and the area where picnic tables are located in the rocks above the park. This designation attempted to make a distinction between the areas of the park where frequent use occurs and those available for other uses.

This designation may be confusing to some readers of the document. To clarify this matter, the last sentence in the first paragraph on page V-5 was modified for the Final EIS to read:

"Most of the man-made features at Berne Memorial Park occur on about 1.80 acres of the 8.45 acre property. This acreage includes the area occupied by the existing roadside turnout and the area above the fountain where picnic tables are positioned. Recreational use of one kind or another can occur on nearly all of the property."

Subsequent discussions under D. Impacts to Berne Memorial Park on pages V-6 through V-13 were revised for the Final Section 4(f) Evaluation to identify that the 1.80 acres refers primarily to the area occupied by the existing roadside turnout. Similarly, Figure 26 will be revised.

The author of the Draft Section 4(f) Evaluation visited Berne Memorial Park on to identify and photograph features of the park area. The author also met with a representative of the Kootenai Culture Committee at the park to discuss potential impact on sacred places in Badrock Canyon.

(3) DEIS entirely omits Streambank Protection measures as required by State law, MCA 87-5-501-509. DEIS pretends that significant removal of mature cottonwood/conifer vegetation along the river bank has no value whatsoever for prevention of erosion. Large trees stabilize the steep river bank, mp 140.2-140.5. State-of-the-art in streambank protection is needed to save Bald Eagle perch trees located along the Flathead River/US2 where the bank is steep. Large wire containers full of rock (Gabins) should be considered to reinforce the bank while maintaining riparian vegetation.

13

(4) DEIS Omits Mitigation - Access Control Plan Needed

The need for Access control was identified as a significant planning issue, however, the DEIS does nothing. DEIS presents access control as a mitigation (IV-44) but admits nothing has been done yet (Apl-1). This major omission needs correction in Final EIS. An access control plan is needed for rural areas to control ugly strip development and billboards at scenic west entrance to the Canyon. The MDT proposed 4-access-per-mile for rural areas south of Kalispell - this should appropriately be considered a reasonable mitigation for the rural areas adjacent Bad Rock Canyon.

14

13. **RESPONSE:** The encroachment on the Flathead River necessary to construct the preferred alternative begins immediately east of Fisherman's Rock. The construction limits for proposed the new road in the area identified as MP 140.2 to 140.5 by the CCP generally do not extend beyond the edge of the existing road nearest the river, therefore, no impacts to this riparian vegetation will occur as a result of highway reconstruction.

Development of the proposed river access on the property near the House of Mystery would remove less than one-half acre of riparian vegetation. This impact was disclosed in the Biological Assessment and the Draft EIS. The USFWS considered the impact of removing this vegetation in its Biological Opinion.

This comment assumes that no change in the alignment of US 2 in this area is necessary. Impacts on the riparian cottonwoods and conifers located opposite Berne Memorial Park and beginning at about MP 140.9 or MP 141 could only be avoided by shifting the proposed alignment of the new highway away from the river toward the easternmost cliff at Berne Memorial Park. Such an alignment shift would produce unacceptable impacts on all of the park's features.

MDT investigated the use of alternate design measures, such as the placement of gabions, steepened fill slopes, a retaining wall, a cantilevered roadway section, and building the road on piers to minimize the encroachment on the Flathead River. The results of these investigations are documented in Part II: Alternatives and in Part IV: Environmental Consequences, 4. Floodplain Impacts of the Final EIS.

14. **RESPONSE:** The EIS is a disclosure document that identifies the impacts of this proposed reconstruction project on US 2, it's purpose is not to determine whether or not an access control plan is necessary. Control of access is presented on page IV-44 together with a number of other measures that can be implemented in certain instances that would help control land use adjacent to the highway. Zoning based on sound land use planning is the only sure way that future land uses develop along the highway in a manner acceptable to the majority of local residents.

An Access Control Plan was prepared for this project in June, 1990. The text of the Final EIS in Part IV and Appendix 1 has been revised to indicate that this document is available and on file with MDT. Because the real estate market in Flathead County is volatile and changes may occur before the project is completed, the Access Control Plan will be reviewed before right-of-way acquisition begins so changes in approach needs can be designed into the project.



Part III - Arbitrary Capricious & Bad Faith  
(Critical Omissions/Distortions)

Background:

1980 - # FHWA-MT-EIS-81-02-D Consultant Peccia&Assoc received CA contract to prepare EIS/4(f) ordered by the Ninth Circuit Court for Bad Rock Canyon area, Hungry Horse-W. Glacier, CCP v. Bowers (1980), 632 F.2d 774-786.

1984 - (See 1989-90 Scoping records for FHWA-MT-EIS-92-02-D - Summary of Peccia's 1984 violations, CCP v Barnhart)

1989 - Consultant Peccia&Assoc. received the second Certification Acceptance Contract for preparation of EIS/4(f), this time for Bad Rock Canyon *per se*. Peccia received the second EIS contract for the Canyon area because of his "approach", not because he was the low bidder (Beck, MDH Legal).

1992 - # FHWA-MT-EIS-92-02-D Applicant MDH/Peccia release DEIS/4(f) for public and agency review (July-Dec). CCP Research shows Peccia *again* perpetrated innumerable bad faith schemes (in concert and initiated by MDH/MDT officials) to manipulate essential decisionmaking information in this EIS/4(f) for Bad Rock Canyon *per se*. Applicant proposes to "blow up" culturally & environmentally sensitive Bad Rock Canyon/Berne Memorial Park, a geologic and historic landmark, US2 west entrance to Glacier National Park and the Great Bear/Bob Marshall Wilderness complex.

15

15. **RESPONSE:** The CCP has no factual basis for asserting that MDT and the Consultant retained for this project have violated federal or state environmental laws.

Consultant selection was based on approved policies for the agency. Cost is only one of the considerations for the selection of consultants.

The preparers of the EIS have followed appropriate Federal and State guidance and policies for the preparation of environmental impact statements.

Section 7/ESA Deficiencies:

(1) (A) Bear Crossing thru wooded corridor at Bad Rock has not been disclosed/mitigated (N.Swan/S.Whitefish Range travel corridor). Disruption of wildlife travel corridor was identified as a very important EIS scoping issue (DEIS VI-4). A review of NEPA/ESA scoping records shows (4) bear crossings were reported into project records. *Consultant failed to reveal these bear sightings and failed to use and apply expertise on bear management for the project area (Pl. Exhibit 33, Dr. Charles Jonkel)*. In bad faith, the Biological Assessment (BA) wrongly concludes "no evidence/impacts" and arbitrarily decides that existing wooded cover close to the highway is not important to grizzly bears for crossing cover (p.10). The DEIS reflects these misrepresentations and errors ,IV-29,30. The EIS conceals a major logging operation for the project under "Miscellaneous Local Impacts" for which no mitigations have yet been developed (IV-39). Further Section 7 Consultation is required.

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16. **RESPONSE:** Please review previous responses to comments 7a and 7b.

(1)(B) Bald Eagle Impact Disclosure Needed.

DEIS fails to disclose that a known Bald Eagle foraging area at the west entrance to Bad Rock Canyon will be totally impacted (DEIS misrepresents the impact as "removal of a few trees", IV-23). The DEIS fails to disclose that all perching trees for a major spawning/foraging area are scheduled for removal (to be replaced with an informational exhibit !). The DEIS fails to assess further destruction of riverside perching habitat created by "Replacement Park" proposal. The DEIS fails to disclose BadRock Canyon's primary Bald Eagle perching/foraging concentration site, mp 140.2-140.5, is at the west Canyon entrance alongside US2.

17

17. **RESPONSE:** The Draft EIS clearly identifies that these riparian cottonwoods and conifers would be removed with the proposed highway reconstruction in the following locations (see pages S-2, S-3, S-4, III-11, IV-15, IV-16, IV-17, IV-23, IV-24, IV-25, VI-66 and VI-67 of the document).

Major kokanee spawning areas along the Flathead River in the vicinity of the project were identified in narrative fashion on pages III-12 and IV-22 of the document and referenced in the Biological Opinion written by the USFWS. It is equally important to note that indicates that migratory salmon populations have collapsed in recent years and bald eagle use of the area has dramatically declined from previous levels (see text on page IV-22 of the DEIS). The attachment provided by CCP presenting bald eagle sightings in the area would seem to indicate substantial decreases in bald eagle observations after 1985.

A supplemental discussion of the impacts to 0.4 acres of riparian vegetation (in the general area referenced by the CCP as MP 140.2 to 140.5) due to the proposed construction of the river access site was submitted to the USFWS prior to the issuance of the agency's Biological Opinion. The Draft EIS discloses the impact on riparian vegetation resulting from construction of the river access on page IV-24. Highway reconstruction would not disturb riparian vegetation in the MP 140.2 to 140.5 area.

The proposed action's impacts on habitat important to bald eagles was the reason undertaking both informal and formal consultation with the USFWS during this project. The development of an exhibit at the replacement park area that discusses bald eagles and their use of the area was a conservation measure aimed at increasing the public's awareness of the species and its habitat needs. Many visitors to the area are not present during the time when bald eagles may be more numerous in the region. The Biological Opinion lists the conditions required for reinitiating formal consultation about this proposed action.

18. **RESPONSE:** Mr. McClelland's comments were made in correspondence to Mr. Rob Hazelwood, Endangered Species Biologist with the USFWS dated May 7, 1991. Mr. Hazelwood was the primary agency representative contacted by MDT during informal and formal consultation with the USFWS. He was also extensively involved in drafting the Biological Opinion.

Mr. Hazelwood served as Chairperson of the Montana Bald Eagle Working Group during the development of the *Montana Bald Eagle Management Plan* completed in 1986. Mr. McClelland was also a member of the Bald Eagle Working Group during the same time. The USFWS issued its Biological Opinion with full knowledge of Mr. McClelland's and other with similar concerns about habitat fragmentation. The Biological Opinion quotes a part of his May 7, 1991 letter (see page VI-67 in the second paragraph under Cumulative Effects).

18

Arbitrary "Conclusions" (DEIS, IV-26) are NOT supported by Bald Eagle expert. The DEIS fails to disclose and adopt Bald Eagle Expert's scientific expertise - "avoid further habitat destruction...it is no longer reasonable to look at each relatively small habitat change as inconsequential, particularly in riparian areas...imperative that no more screening or perching vegetation be cut along the river in the Badrock Canyon area"-B. Riley McClelland's comment of 5/7/91. BadRock Canyon is one of the few locations where motorists can view Bald Eagles "cruising the river" as they drive by. The known worth of "watchable wildlife" has been ignored. See PART I(5)-Major Errors in Biological Assessment/DEIS, p\_\_ of this comment. The DEIS omits Streambank Protection measures as required by state law, MCA 87-5-501-509, pretending all the riverbank riparian vegetation scheduled for removal has no value for erosion prevention !

On 1/25/90, CCP Research entered 71 pages of Bald Eagle sightings and behavior descriptions for Bad Rock Canyon into project records (Natural History Field Observation Forms - 1981,83,84,85). Applicant MDT/Peccia made no use whatsoever of this project specific information (OEA Research simply returned the information to CCP on 11/27/91, without use or application).

19

## Section 4(f) Deficiencies:

(2) Draft EIS/4(f) Misrepresents Berne Park Functions, is V-5.10. - The DEIS does not disclose recreational functions of the project's only State "Historic Site" in the region, Bad Rock Canyon/Berne Park. The scoping process for this DEIS clearly showed preservation of the historic park to be the primary public concern in this EIS process, VI-5. Nevertheless, popular Berne Memorial Park was eliminated from DEIS list of project Recreation sites, III-25.

20

Mr. McClelland was also contacted during the preparation of the Draft EIS and of the Biological Assessment. Both documents occasionally make references to his concerns over the continued loss of habitat for the species. The *Montana Bald Eagle Management Plan* discusses habitat loss and was consulted for habitat management recommendations during the development of the Biological Assessment.

MCA 87-5-501 through 509 which outline the stream protection responsibilities of the Montana Department of Fish, Wildlife & Parks (DFWP) requires that plans and specifications for a construction project that may affect stream environments must be provided to the DFWP. The statutes also require the DFWP to review construction plans and offer recommendations or alternative plans to eliminate or minimize adverse effects. Even though this proposed action has yet to receive design approval, it has already been coordinated with the DFWP's Stream Protection Coordinator. Further development of this project will be carried out in compliance with the Stream Protection Act.

19. **RESPONSE:** OEA Research reviewed the bald eagle observation forms provided by CCP. Little use of this information was made because of the collapse in kokanee salmon populations in the mid-1980's dramatically affected bald eagle use of the area. The Draft EIS and the Biological Assessment acknowledge frequent use of the area by concentrations of bald eagles prior to the loss of salmon as a major food source in the mid-1980's. The observation forms for 1981 through 1985 provided by CCP clearly show high use of the area by eagles but are not representative of drastically reduced numbers of eagles that now use the area since the decline of an important an important food source.

Contacts were made with B. Riley McClelland and with Gary Gregory in an effort to determine bald eagle use in the Badrock Canyon area of the Flathead River and in the region after kokanee populations collapsed. The results of these contacts were incorporated in discussions contained in the Draft EIS and Biological Assessment.

20. **RESPONSE:** The list of recreation sites on page III-25 did not include Berne Memorial Park. However, the Draft Section 4(f) Evaluation, whose purpose is to identify the effects of a proposed action on recreational, historic sites, and other properties was devoted almost entirely to Berne Memorial Park. The list of recreation sites presented on page III-25 of the Draft EIS has been expanded to include Berne Memorial Park as recommended by the comment.

(2) (A) EIS does not meet 4(f) Information

Requirements - To justify the "Replacement Park", DEIS/4(f) wrongly assumes that a major function of Berne Memorial Park is rafting access. This is not true. CCP Research spent 32 hours taking vehicle use counts @ Berne Park during peak hours/peak summer traffic for three recent years (1986,1988,1989). Persons accessing river with rafts from Berne Park are rare. These data sheets were submitted to Applicant during scoping in good faith. Results showed an average 52 vehicle stops/hr during peak summer use. The 4(f) Evaluation process made no effort to assess or define existing use, then arbitrarily demeaned substantial use data provided by CCP Research ("the data is unverifiable and insupportable", V-6. Then, the 4(f) Evaluation misrepresents CCP Research at Berne Park- 32 total *hours* of 15-minute long vehicle counts were taken during peak summer traffic (EIS preparers misrepresent CCP data as 32 15-minute counts, V-6). These are examples of bad faith and wrongful NEPA/4(f) procedural planning.

21a

- 21a. **RESPONSE:** The Draft EIS/4(f) Evaluation indicates that floater/fisherman access to the Flathead is one of several uses available at Berne Memorial Park and does not present rafting as a "major" use. The document stresses the safety concerns caused by people accessing the river by parking at Berne Memorial Park and crossing the highway.

The replacement parkland will include a boat ramp to provide river access. This facility was proposed by the USFS since the agency has identified the need for a river access along this stretch of river for years. The site near the House of Mystery fulfilled the needs of the agency for developing such a facility and offered a chance to enhance recreational opportunities for the public.

21b

- 21b. **RESPONSE:** The CCP counts of vehicles at Berne Memorial Park made over three years on various days during the summer, primarily the month of July. The comment that the data was "unverifiable and insupportable" was made because the CCP extrapolated one average use number (40 vehicles per hour) from short-term counts collected only during one month of the year.

Reconstructing the average use numbers from the raw data provided by CCP was difficult since the counts appear to be focused on traffic turning into the park from one direction only while ignoring park users from the other direction. We could not understand how an accurate count of use could be made if this procedure was used.

Based on the data in our files from CCP, the Draft Section 4(f) Evaluation correctly represents the use information for Berne Memorial Park as 32 15-minute long counts. A tabulation sheet provided with the CCP vehicle use forms (see page 4 of CCP letter to Roger Scott, FHWA Division Administrator dated February 28, 1990) identifies the information as "32 15-minute manual counts of vehicle use at Berne Park." The data tabulated by CCP represents 8 hours of counts not 32 hours as the comment suggests. (Please note that a subsequent follow-up memo from Sharon Willows presented later in this document corrected her misstatement in this comment.)

The Draft EIS does acknowledge that the CCP data suggests "frequent public use, especially during the summer" on page V-6. In response to this comment, a summary table presenting CCP's tabulation of vehicle use at Berne Memorial Park in the Final EIS/Section 4(f) Evaluation. The information is shown in TABLE V-1 of the Final Section 4(f) Evaluation.

(2) (B) Functions & Use Characteristics of Berne Park are:

viewing scenery, river photography, fishing from Fishermans' Rock, stopping to rest in cool shade of large cottonwood & conifer, picnic, getting cool drink of water, reading the shaded historic exhibits, wandering up the cool mountain, fleamarket sales, obtaining quantities of water, and wildlife viewing.

22

(3) Elaborate Scheme to Violate Section 4(f) @ 23 CFR

771.135(p)- The DEIS skillfully defrauded the DEIS/4(f) by eliminating essential information, major omissions and errors, and various schemes to circumvent Section 4(f)/NEPA/WSRA. This document is excessively biased (not one scenic or historic photo of Bad Rock Canyon is presented), a "snow job" of useless bulk at open odds with purpose and intent of numerous federal laws. The entire Section 4(f) Statement was performed outside of explicit new regulations for "constructive use" of public parkland.

23a

23b

23c

*Applicant MDT/Peccia concealed the "taking" of public parkland with wrongful claim that recreational use occurs on only 1.8 acres of the 8.4 acre property (V-5,6). In fact, ALL 8.4 acres of Berne Park are used for recreation!* The bogus "unused park areas" (V-4) include numerous well worn mountain trails, park shade trees, picnic areas and unique scenic features such as the west cliff waterfall. This EIS/4(f) is an overall bad faith attempt to downplay and obfuscate the functions and characteristics of a significant historic and natural landmark, Bad Rock Canyon and Berne Memorial Park.

VI-94

22. RESPONSE: The text of the Draft Section 4(f) Evaluation (see page V-5 "Function of or Available Activities") identifies virtually all of the activities listed in this comment in a somewhat less eloquent manner. Viewing scenery or wildlife will be added to the section of the Final Section 4(f) Evaluation that describes available activities at the park.

Commercial enterprises may occur, however, these activities are not permitted within highway rights-of-way.

23a. RESPONSE: The EIS focuses on impacts to the entire highway corridor between Columbia Heights and Hungry Horse, not just the portion of the project located in Badrock Canyon.

23b. RESPONSE: Section 4(f) permits the "use" of land for a transportation project from properties like Berne Memorial Park only when there is no feasible or prudent alternative to such use and when the project includes all possible planning to minimize harm to the property resulting from such use. There are no feasible and prudent alternatives to the use of land from Berne Memorial Park. For these reasons, mitigating measures, like the development of replacement parkland near the House of Mystery and others identified in the Draft Section 4(f) Evaluation, have been proposed for impacts on the park.

23 CFR 771.135 indicates that a "use" of Section 4(f) land occurs:

- when land is permanently incorporated into a transportation facility;
- when there is a temporary occupancy of such land that is adverse according to Section 4(f) statutes; and
- when there is a constructive use of such land.

A constructive use occurs when the transportation project does not incorporate land from a Section 4(f) resource by the project's proximity impacts are so severe that the activities, features, or attributes that qualify the resource for protection under Section 4(f) are substantially impaired. The concept of constructive use is not appropriate in this instance, since the proposed action would permanently incorporate land from Berne Memorial Park into the transportation facility.

Either the direct use of Section 4(f) land or the constructive use of a 4(f) resource triggers the need to evaluate the impacts of the proposed action and identify measures to minimize harm to the resource according to provisions established under 23 CFR 771.

23c. RESPONSE: Please review the response to comment 12e presented previously.

(4) 4(f) Evaluation Misrepresents Impacts to Berne Park & circumvents 23 CFR 771.135(p)(2)(4)(ii)(iii)- The actual plan to impact Berne Park is not revealed in the 4(f) Evaluation, but instead, is shown @ Figure 21,IV-5. Figure 21 shows complete restriction of free access to all park functions, no parking, only access provided will be 2-3 vehicles at a time , lined up to get water and contained within a 1-way modern controlled access berm. There will no longer be free access to any of the Park features.

24

(5) Major Errors -Section 4(f) Evaluation:

(A) All of the alternatives substantially restrict access to the spring, the stone fountain, the picnic sites and shaded rest area (IV-5). The 4(f) Evaluation falsifies this proposal for complete access restriction by stating "none of the alternatives would affect (use of these park facilities)... "most of the facilities would not be directly impacted...", V-9.

25

24. **RESPONSE:** In this instance, the Draft Section 4(f) Evaluation is a companion document to the DEIS. The Draft Section 4(f) Evaluation discloses the impacts to Berne Memorial Park on pages V-6 through V-13. Repetition has been reduced by referencing or summarizing other Draft EIS materials pertinent to the Draft Section 4(f) Evaluation.

Plans for the Berne Memorial Park area near the public water source (including a reference to Figure 21) is included on page V-13 of the Draft EIS/Section 4(f) Evaluation. This material indicates that modifications to access, parking and circulation in this area is proposed.

25. **RESPONSE:** Text on page V-9 indicates that the use of some park facilities would be affected by the loss of vehicle parking is disclosed on page V-9. Access to features at Berne Memorial Park would change with the proposed reconstruction through this part of Badrock Canyon. Unrestricted traffic in and out of the existing roadside park is an undesirable source of traffic conflicts, particularly during the summer when traffic on US 2 is high. After the proposed reconstruction and widening of US 2, the roadside area remaining at Berne Memorial Park would not large enough to accommodate well designed parking areas and internal circulation for a high use recreation site.

The construction of the preferred alternative would affect the westernmost cliff area the park but not the spring, fountain, or natural areas above much of the park. The extent of construction in the vicinity of the spring and fountain is limited and enough of the turnout would remain to provide a separated turnout for users of the water source.

The proposal to develop replacement parkland at an area just west of Badrock Canyon is intended to help offset the loss of recreational opportunities at Berne Memorial Park. Affected features like the exhibit signs would be relocated to the replacement park.

The sentence on page V-9 referenced in this comment has been revised to say most of the "features" instead of facilities.

96-1A

(B) Criteria for "Active Recreation Area Lost" on Table 16 (V-13) is bogus, a bad faith intent to diminish and obfuscate total direct impact to all park function and features. The 4(f) Evaluation does not discuss impairment to the characteristics that make the site historic (such as free access to enjoy Park facilities, shade, scenery, and recreation features). Instead, the 4(f) Evaluation makes an arbitrary determination that 1.3 acres is "actively used park" and the rest of the park is not used for recreation ! Shade trees and scenic park features such as the distinctive cliffs and water fall are wrongly considered "unused park area".

26

26. RESPONSE: Please review the response to comment 12e presented previously.

(C) Replacement Park does NOT replace the unique features and functions of historic Berne Memorial Park. In exchange for "taking" Berne Park, the DEIS/4(f) proposes a "Replacement Park" located on top of the hill outside west Bad Rock Canyon in a treeless noxiousweed-infested dry field adjacent the House of Mystery, V-13,17. Instead of controlling access, the proposal calls for increasing access with construction of a massive 4-way urban intersection on the hill/curve at scenic west entrance to Bad Rock Canyon. Replacement Park is wrong with unsafe access- the recreational intersection should be relocated completely away from the hill/curve at the west entrance to the Canyon. Applicant MDT's determination that a hot dry field (that never belonged to Billie Berne) is "appropriate location" to replace Berne Park is arbitrary, V-13. Scenic riverside areas between Berne Park and South Fork Bridge would be comparable alternative location for "Replacement Park" proposals.

27a

27a. RESPONSE: Although Figure 29 in the Draft EIS is very detailed, it is intended only to illustrate the features proposed for the replacement park area. No detailed design has been prepared for this site. The preliminary layout proposed for the intersection of Berne Road and the approach to the replacement park area is elaborate because high seasonal use of these recreational facilities is anticipated. Separation of turning and through traffic on US 2 would help to minimize traffic conflicts at this future high use location.

27b

The elevation of the new road surface would be raised above that of the existing roadway and the curve in this area would be made less severe. These proposed alignment modifications would eliminate the two conditions that presently restrict the view of oncoming vehicles on US 2 for motorists stopped on Berne Road. The new intersection would be designed so that motorists wishing to enter US 2 from the approach to the recreation site or from Berne Road would have views of oncoming traffic that meet geometric guidelines and sight distance requirements. Enhancement measures, including tree plantings, will be included in the design of the new facility. The area will be improved substantially from its present conditions. Efforts are currently underway to develop and implement a reclamation plan to eliminate noxious weeds at the proposed replacement parkland area.

27b. RESPONSE: Other locations within the project corridor including riverside locations toward Hungry Horse were investigated for possible use as replacement parkland. For reasons like parcel size, terrain limitations, and the ability to provide easy and safe access to the area, these other sites were eliminated from consideration. The USFS's interest in developing a river access site in the area was also a consideration in choosing the replacement park area. This development proposal provides a possibility to enhance recreation opportunities in the area in addition to helping mitigate the project's impacts on Berne Memorial Park.

The portion of the Berne homestead east of Berne Park was eliminated from consideration because of the presence of the 230 KV electrical transmission line and the fact that the river could not be accessed without crossing the highway. Acquiring property previously owned by Billie Berne was not the primary consideration for locating a site for replacement parkland.

(D) Further Obfuscation of Park Features- EIS photos of historic plaque and exhibits are fuzzy and unreadable, further obfuscating the issues (V-8). Clear photos should be used to disclose the content of exhibits. The photo of Fishermans' Rock makes this notable feature appear miniscule and insignificant (V-7).

Prehistoric and historic cultural resource properties are not disclosed, instead, are presented as nameless numbers (V-2,3). The Memorial Stone Fountain IS operable at present (error,V-5). The spring commemorated by the bronze plaque and small waterfall are located at the western cliffs of Berne Park scheduled for removal (error, V-5 wrongly locates them "near the stone fountain"). The bronze plaque was placed at a distinctly separate spring other than the primary water source.

28a

28b

## Part IV WRONG PROCEDURES - HEARING REQUIREMENTS HAVE NOT BEEN MET, 23 USC 128.

### (1) ONE-ON-ONE DISCUSSIONS VIOLATED SECTION

4(F)/SECTION 128 -Explanation at the public hearing did not include adverse environmental impacts required @ 23 CFR 771.111(h)(2)(i)(v)(A)(C). *Explanation at public hearing provided false information about adverse impacts to 4(f) property* (State Historic Site/Berne Memorial Park). Applicant proposes to cut down the shade trees, remove free access, eliminate all parking for picnic/hike/photo rest opportunities, and "blow up" a wellknown spectacular winter waterfall/ unique cliff at Bad Rock Canyon while ignoring constructive use statutes @ 23 CFR 771.135(p)(1)(i)(2)(4)(ii)(iii)(v), et al. See attached Affidavit from Lee Proctor, public participant of a one-on-one discussion at public hearing where agency official lied about impacts to Berne Park ("It would look just the same as it does now, and parking would be just the same"). This documented misinformation and bad faith misconduct calls into question all comments written by highway officials.

29

### (2) 23 CFR 771.111(h)(2)(vi) IMPROPER HEARING

PROCEDURE BY APPLICANT MDT/PECCIA -"The transcript will be accompanied by copies of all *written statements from the public...*" The Applicant perpetrated a scheme to obtain support for their project featuring "one-on-one discussion with highway officials" , a squad of highway officials were acting like secretaries, transcribing public comments into written format . We express concern about this improper procedure to obtain project support and request that all comments written by agency officials be individually signed by responsible officials and kept separately from actual written statements from the public.

30

28a. **RESPONSE:** The photos and descriptions in the document sufficiently identify of the park features mentioned in the comment. The photos of the inscriptions on the plaque and exhibits are readable.

28b. **RESPONSE:** Cultural resource properties are typically identified by the use of such a numbering scheme because many sites discovered through surveys can not be linked with commonly identified names or features. The integrity of cultural properties, even those that are not important sites, can be preserved by not fully disclosing their specific locations. Detailed maps of sites are typically contained in cultural resource surveys and used for impact assessment purposes.

The fountain appeared inoperable during several stops at the Berne Memorial Park made by the preparers of the EIS. However, the text of the Section 4(f) Evaluation has been revised to indicate that the fountain is operable condition.

The text of the EIS was modified to indicate that the bronze plaque dedicates a spring located at the west end of Berne Memorial Park not the main spring located at the turnout.

29. **RESPONSE:** The presentation at the hearing as well as a brochure available to the public upon entering the meeting room described beneficial and adverse impacts of the proposed action. Particular attention was devoted to identifying impacts in Badrock Canyon and at Berne Memorial Park.

30. **RESPONSE:** The "open forum" type format has been successfully used on other recent highway reconstruction projects not only in Montana but the rest of the country. The opportunity for the public to offer comments to agency representatives on a "one-on-one" basis was intended to encourage comments from those members of the public that are uncomfortable with speaking in front of a large group. All comments, whether supportive of the project or not, were encouraged from the public. Agency representatives transcribed oral comments into written form so they could be entered into the record for this project.



(3) 23 CFR 771.111(h)(2)(iv) - HEARING NOTIFICATION VIOLATES SECTION 128 -AND- REQUEST FOR FINAL EIS/4(f) HEARING TO RECTIFY NONCOMPLIANCE

Reasonable notice to the public about the hearing did NOT present compliance information; instead focused on adversarial proceeding: "Invitation is hereby extended to all interested persons to attend said hearing, to submit written briefs or verbal testimony either for or against the project", Project F1-2(39)138, 10/26/92. "Section 128 hearings are not adversarial; they are for the purpose of informing the public of the social, environmental and economic effects of the proposal", Publication #FHWA-CC-89-005, The Effects of Environmental Lawsuits on Program Operations, Dec. 1988.

31a

31a. **RESPONSE:** The hearing provided another opportunity for the public to comment on all aspects of this project and the Draft EIS. A presentation describing MDT's reconstruction proposal, the beneficial and adverse environmental impacts of the proposed action, and mitigation commitments was made during the meeting. Additionally, a brochure summarizing the ways comments could be made and major elements of the Draft EIS was made available to all those who attended the hearing.

We have further concerns about wrongful conduct at the hearing where only one highway official, Dan Bartsch, was in attendance while noisy "one-on-one" discussions were held on the other side of a curtain, making it very difficult to hear the testimony. Dan Bartsch did not ask those testifying to stop while the tape was being changed. The hearing was billed as having secondary importance to the "one-on-one" scheme that does NOT meet fundamental requirements for Federal-aid highway program compliance. *CCP Research hereby requests another formal hearing opportunity be held for the Final EIS/Section 4(f) Evaluation to rectify these improper administrative procedures and achieve Section 128 compliance in this EIS/4(f) process.*

31b

31b. **RESPONSE:** There were more than twenty representatives of the FHWA, MDT, and various cooperating agencies present at the meeting. Many of these representatives spent some or all of their time listening to public testimony.

The public hearing for this project was in held in accordance with all administrative requirements of the Federal highway program. Holding another hearing on this project is unwarranted.

PART V - DEIS/4(f) Evaluation fails to consider location "Avoidance Alternatives"

See Part I,(2)(A)(ii) on p.3 of this comment. The DEIS ignores concurrent BPA proposal to rebuild the powerlines over Bad Rock Canyon to Hungry Horse Dam; S-1. This is a violation of NEPA. There IS another major federal action proposed for the project corridor. Federal agencies could pool funding for a tunnel (2 lanes eastbound traffic plus bury the powerlines). Historic Berne Park would then be fully available for public use (2 lanes westbound - rock cliffs would not cause sight distance problems in this direction). The westbound roadway through Bad Rock/Berne Park would qualify for the Montana's Historic Roads Program.

32a

32a. **RESPONSE:** Please review the response to comment 4 presented previously.

The DEIS/Section 4(f) Evaluation makes false claim - *a tunnel has NOT been considered, V-10*. A tunnel alternative would straighten the alignment, avoid significant impacts to river floodplain, save longterm driving time/energy, remove the visual obtrusion of BPA powerlines, save historic Berne Memorial Park and the rugged beauty of Bad Rock's cliffs, and provide unique economic opportunity and jobs far surpassing existing proposal to "blow up" the spectacular landmark. What is the state-of-the-art in tunnel construction? This construction would be justified for the west gateway to one of our nation's last wilderness bear ecosystems remaining in the lower 48 states, NCD GBE (DEIS,III-15). A 1/2 mile tunnel for 2 lanes-plus-BPA powerlines should be considered in EIS process to achieve NEPA/4(f) requirements for consideration of

reasonable "feasible & prudent" alternatives. Appropriate for Bad Rock may be the "Daylight Portal" tunnel with striking examples on US Hwy 84/OR and along Old US2/WA. Testimony at the public hearing gave recent construction examples of tunnels in other states. *Other state-of-the-art environmental design alternatives for river construction have NOT been considered such as candeliver (bridge substructure using piers to build highway away from parkland).*

32b

PART VI - Bad Rock Canyon/Berne Memorial Park meet criteria for National Historic & Natural Landmark, 36 CFR 62.5.65.4. See Part I (2)(B) of this comment, p 3

33

PART VII- Comments on Affected Environment - Chap. III

(1) DEIS omits Berne Park - The description of developed Recreation sites on the project conspicuously omits Berne Memorial Park (p.25). Why was the most popular recreation site left off the list? Berne Park is a very significant historic recreation site on the project and cannot be eliminated from "Affected Environment" discussion in bad faith.

34

(2) Rural Approach to Canyon is NOT part of Columbia Heights unit -The EIS Landscape units do not make logical sense as described on p.III-27. The 1/2 mile of open lands between House of Mystery and the mouth of the Canyon should be part of the Badrock Canyon Landscape unit. The DEIS wrongly places the rural entrance to the Canyon in the Columbia Heights landscape unit. Milepoint 140.-140.5 is part of the Canyon unit where views of the river and bald eagle perching area begins. This area is NOT typical of the commercialized strip development of Columbia Heights ("Land uses change abruptly to open pastureland between the House of Mystery and Badrock Canyon", III-17). The river corridor between House of Mystery and the mouth of the Canyon is NOT part of Columbia Heights Landscape Unit. This EIS is playing politics rather than applying: (1) sound principles of environmental design, (2) WSRA guidelines for definition of river corridor area, and (3) ESA regulation for definition of action area.

35

32b. **RESPONSE:** Totally avoiding impacts on Berne Memorial Park and Fisherman's Rock can only be accomplished by building the proposed four-lane highway on a location away from the park. In this instance, two evident locations for the new road would be on an alignment incorporating a tunnel through Columbia Mountain or by shifting the location of the road further into the Flathead River. As discussed earlier in these responses to comments, the high cost of building a tunnel makes this location option unreasonable given limited amounts of funding.

Building the highway on an alignment well into the Flathead River to avoid Berne Memorial Park was examined during the preparation of the Section 4(f) Evaluation. Construction along such an alignment would require the use of piers or a massive fill to support the new road. While this alignment may be a means of avoiding or minimizing impacts on Berne Memorial Park, it would result in substantial encroachments on the Flathead River and would remove large amounts of the riparian cottonwoods/conifers that serve as bald eagle habitat.

For the reasons discussed above, building the proposed action on an entirely new location in Badrock Canyon was eliminated from consideration for this project. The use of a retaining wall, cantilevered structural system, piers, and other design modifications were investigated for the preferred alignment through Badrock Canyon. These measures offer a means to reduce the encroachment on the Flathead River. Based on these investigations, the preferred alternative in Badrock Canyon has been revised to include a vertical retaining wall along the Flathead River. This measure would reduce the encroachment by nearly 80% over the design proposed in the Draft EIS.

33. **RESPONSE:** Please review the response comment 6b presented previously.

34. **RESPONSE:** Berne Memorial Park has been added to the list of recreation sites presented on page III-25 of the Draft EIS. The Draft Section 4(f) Evaluation is devoted almost entirely to the recreational and other aspects of Berne Memorial Park.

35. **RESPONSE:** A 1988 publication titled *Visual Impact Assessment for Highway Projects* was developed by the FHWA Office of Environmental Policy to assist highway agencies in identifying visual resources and visual impacts. This publication provided the basic guidance for establishing landscape units in the project area. According to this publication, landscape units are usually enclosed by a clear underlying landform (like mountains or valleys) or landcover (surface waters, vegetation and manmade development) boundaries. A landscape unit can be thought of as a complete visual environment, while the different landscape types (landform and landcover) are perceived only as parts of that visual

## PART IX - Deficiencies Environmental Consequences Chap IV

(1) Logging the Canyon is Major Impact -- The EIS does NOT discuss conservation measures for the proposed logging operation, IV-39. Logging the Canyon is NOT a "Miscellaneous Local Impact" ! Exactly what is going to be logged ? Are minimum right-of-way clearings going to be used? Will selective cutting be used? What wildlife crossing mitigations are being taken to retain wooded cover? This last remaining wildlife crossing corridor between the N. Swan Range and Whitefish Range needs specific planning and mitigation. How will hiding cover be protected to maintain this travel corridor between BMUs within NCD GBE? In 1991 the Interagency Grizzly Bear Committee (IGBC) agreed that insularization of BMUs within bear ecosystems was not a DFC (Desired Future Condition).

36

## Part X - Errors, Errors, & More Errors Throughout DEIS/4(f)

(1) Re: Supplemental Discussion of Impacts for Biological Assessment, map of west Hungry Horse used for EIS is in error: 5th St. should read 6th St, 6th St. should read 7th St.

37

(2) Land Use description in error (III-17) stating "Lands between Berne Memorial Park are generally vacant...open lands". This area is generally heavily forested without development.

38

(3) DEIS misstates the true name of Flathead Economic Development Corporation, IV-64, #38.

39

The establishment of the two landscape units for the corridor was made based on the distinct change in underlying landform that occurs at the mouth of Badrock Canyon east of Berne Road. The broad Flathead Valley abruptly changes from level and rolling terrain to at steep cliffs at the mouth of the Canyon. There is no doubt that the extent of manmade development, the type of vegetative cover present, and the presence of surface water changes within the Columbia Heights landscape unit. However, these features are considered landscape components within the overall landscape unit.

None of the comments from management agencies indicate that the proposed highway reconstruction could cause a downgrading of the existing classifications of Wild or Scenic Rivers in the project area. Nor have any comments indicated the proposed action would foreclose future options to add the Flathead River through Badrock Canyon to the list of Inventory Rivers.

36. **RESPONSE:** Please review the response to comment 7b presented previously.

37. **RESPONSE:** The error in street labeling in Hungry Horse on page A4-5 of the Draft EIS has been corrected for the Final EIS.

38. **RESPONSE:** The sentence on page III-17 of the Draft EIS has been changed to read as follows in the Final EIS:

" Lands between Berne Memorial Park and Hungry Horse are generally heavily forested and undeveloped."

39. **RESPONSE:** Footnote 34 on page IV-64 of the Draft EIS has been revised for the Final EIS since neither Carol Daly's name or her organization is correct.

VI-101

(4) Floodplain Errors. DEIS erroneously disregards data from the 1964 flood and states "None of the existing alignment falls within the area designated by FEMA as floodprone", III-4. The entire alignment of US2 through the restricted Berne Park area is floodprone , was flooded in 1964, and was part of the Corps of Engineers' subsequent study area not disclosed in EIS .

*DEIS has failed to coordinate and consult local agency with full expertise in area flooding.* Contact Kalispell office of USGS, Jim Finley. Mr. Finley was very concerned about DEIS error disregarding 1964 flood data and stresses that "100 year flood" is a misnomer. The flood potential for this area has not been revealed. The area has been flooded several times in last 100 years (ie. 1833, 1948, 1964).

(5) Figure 15 (III-8) -and- Figure 19 (III-19) fail to apply criteria from new 1982 Final Guidelines for Eligibility and Management of Wild and Scenic River Areas, 47 FR 39454 . The Bad Rock Canyon river corridor is clearly eligible under these federal guidelines. All federal agencies involved have persistently ignored diligent application of these new planning requirements *in this EIS process.*

(6) TSM Alternatives assessment is in error, II-10. The new, 1991 ISTEA requires consideration of the efficient use of existing facilities and the effect of transportation decisions on land use and land development, while encouraging use of alternate routes to the same destination. The draft EIS is in error by stating "other routes enabling motorists to bypass the corridor and lessen congestion on US2 do not exist". This is false. Flathead County Route 486 accesses the high-standard Camas Road entrance to Glacier National Park. Whomever made the TSM assessment didn't bother to look at a map. This available alternate route to Glacier Park should be shown in FEIS. The overall ISTEA compliance is perfunctory and superficial.

(7) DEIS wrongly claims the project terrain is "level to gently rolling (therefore) 60 mph speed design is appropriate", A1-2. See PART I(2) of this comment showing project grade and geology has been grossly misrepresented/omitted in this EIS/4(f) process.

(8) Error: "The plaque commemorating the spring would be moved closer to the spring and fountain",V-13. There are two springs at Berne Park - the source of drinking water and the spring adjacent the west cliff waterfall where the plaque is located. The plaque commemorates a distinct springs and does not commemorate the water source.

40a

40a. **RESPONSE:** The statement on page III-4 of the Draft EIS is incorrect and was revised for the Final EIS. The revised sentence indicates that a portion of the existing alignment crosses a FEMA-designated floodprone area just downstream from the existing bridge over the South Fork of the Flathead River.

40b

40b. **RESPONSE:** Similar concerns about the definition of the 100-year flood contained in the Draft EIS were received from other agencies that reviewed the document. In response to these comments, the text for the Final EIS has been modified to define the base flood as a flood event which has a 1% chance of being equaled or exceeded in any given year. This definition is consistent with the National Flood Insurance Program definition of a base flood. The new text also indicates that flood events of this magnitude have occurred at least five times on the Flathead River in the past 100 years.

41

41. **RESPONSE:** The reach of the Flathead River located downstream from the Recreational River segment in the project area was not considered in the *Wild & Scenic River Study Report, Flathead River* (USFS, 1975). This segment was not studied because it generally lies outside of the proclaimed boundaries of the Flathead National Forest and the management responsibility for lands adjacent to the river fall under many jurisdictions.

42

47 Federal Register 39455 indicates that rivers can be added to the National Wild and Scenic Rivers System by either an act of Congress or by the Secretary of the Interior upon application by the Governor of Montana. Neither Congress or the Governor of Montana has requested that the portion of the Flathead River downstream from the Recreational River segment be added to the Wild and Scenic Rivers System.

43

It is notable that a coalition of federal, state, and county agencies recently secured technical planning assistance for the Flathead River corridor from the confluence of the South Fork and the main stem to the north shore of Flathead Lake. Personnel from the National Park Service's River and Trail Conservation Assistance Program will oversee and guide the development of a river management plan for the corridor. Fisheries, wildlife, recreation, agriculture, and water quality issues associated with the main stem of the Flathead will be addressed in the plan.

44

42. **RESPONSE:** While Flathead County Route 486 may be an alternate route from Columbia Falls to Glacier National Park, it does not provide a convenient connection to communities along US 2 between Columbia Falls and West Glacier.

New text about alternate routes and a figure showing their locations has been included in the Final EIS.

43. **RESPONSE:** Please review the response to comment 2 for information on how grade was analyzed in the highway capacity analyses.

44. **RESPONSE:** Remounting the plaque at a similar location on the newly excavated rock face can be included as a "special provision" work item for the contractor selected for this reconstruction project.

(9) DEIS description of "Existing Landscape" has numerous errors, III-26. "The project is situated on the north eastern edge of a broad valley..." The DEIS obfuscates the urban blight at Columbia Heights with the attributes of Bad Rock Canyon: "Natural scenic value and scenic quality" is descriptive of the Bad Rock Canyon river corridor, NOT a description of the "project corridor" as stated. Specifically, Columbia Heights/Col. Falls is located "about 15 miles southwest of Glacier", not Bad Rock.

45

(10) Re: "other highway users are exposed to views in Bad Rock Canyon unit for about three minutes", III-27. DEIS omits the fact that viewing scenery is a major function of Berne Memorial Park, where users can be exposed to spectacular views for much longer. DEIS attempts to trivialize the value of Bad Rock's scenery by stressing the short exposure time. In fact, numerous prolonged river vistas are seen on this drive, rather than "glimpses" as stated !

46

(11) Landscape Unit parameter in error: DEIS admits "the existing highway parallels the south side of the Flathead River through the (Bad Rock Canyon landscape unit)...the quality of the views in the corridor are the highest in the Bad Rock Canyon Unit...the rock cliffs and proximity of the river provide a substantial change in the landscape", III-27.

47

*The DEIS arbitrarily delegates a major segment of the river drive to the Columbia Heights Landscape Unit -mp. 140.2-140.5, further obfuscating the relevant issues.* The entire rural west entrance to the Canyon (approaching & along the river up to west cliff) is part of the Bad Rock Canyon Landscape Unit, NOT the Columbia Heights Unit ! This DEIS represents a concerted bad faith effort to ignore river informational study requirements, please defer to 47 FR 39454-61 new federal guidelines for river areas and to ESA definition of "Action Area", 50 CFR 402.2.

48

45. **RESPONSE:** The description on page III-26 of the Draft EIS has been revised for the Final EIS to indicate that the project corridor is situated at the "northeastern" edge of a broad valley as suggested by the comment.

This sentence is correct as stated in the Draft EIS and indicates project's general location relative to Glacier National Park, an area widely acclaimed for its natural scenic value and high visual quality.

46. **RESPONSE:** This section of text addresses views from the road for facility users. Consistent with FHWA guidance, the section describes the viewer groups that use the facility, the kind of views available from the road surface, and the typical length of time that motorists passing through this part of the corridor are exposed to visual resources.

As indicated earlier in these responses, viewing scenery from Berne Memorial Park has been added to the discussion of available functions and activities on page V-5 of the Draft Section 4(f) Evaluation as recommended. Text on page III-27 of the Draft EIS discussing views of the road was revised for the Final EIS to indicate that park users are afforded prolonged views of the nearby existing highway and Flathead River and distant views of the Flathead Valley and mountainous areas of Glacier National Park from vantage points in the cliffs of Badrock Canyon.

At an assumed travel speed of 40 to 50 miles per hour, the Flathead River is visible only for a short time as motorists travel the corridor from the House of Mystery area past Berne Memorial Park. Terrain and the dense vegetation obscures the river from view during much of the year at points east of the park.

47. **RESPONSE:** The landscape units were so designated because the Badrock Canyon section of the project area represents a substantial change in the visual environment from the area between Columbia Heights and the mouth of Badrock Canyon. Please review the response to comment 35 for information that provided the basis for designating landscape units within the project corridor.

48. **RESPONSE:** 47 Federal Register 39454-61 pertains to the National Wild and Scenic Rivers System and discusses studies of rivers for their suitability for inclusion in the system. These rules do not mandate consideration of specific landscape units when addressing the impacts of a potential project on the view.

It is assumed that this comment references 50 CFR 402.02 since there is no 50 CFR 402.2. The definition of "action area" contained in 50 CFR 402.02 indicates that the impacts of a proposed action (in this case highway reconstruction) on threatened or endangered species is not limited to the immediate project area. The definition of action area relates only to the Endangered Species Act of 1973, as amended and does not relate to the project's impacts on visual resources.

Discussions in the Draft EIS and Biological Assessment about indirect and cumulative impacts on threatened or endangered species were consistent with the concept of examining the effects of a proposed action beyond the strict limits of a project. The USFWS also examined the proposed action in accordance with the provisions of 50 CFR 402.

(12) DEIS misrepresents status of sensitive plant species review by pretending that one phone call is sufficient and wrongly implying that a study has been performed showing "no species of concern have been previously located within the study corridor", III-9,III-29(10). Professionals have raised concern about this error&omission ("The plant life on the north slope of Columbia Mountain is diverse and should be better studied", ex-Park Ranger Jerry DeSanto, 12/12/92). *The DEIS obfuscates the fact no sensitive plant study has been performed for the lush and unique vegetation in Berne Memorial Park/N. slope of Columbia Mountain.*

49

(13) DEIS (S-5) makes false claims about CCP's supposed assertions about location of the permanent traffic counter. Omit both false sentences beginning with "The group asserts...design."

50

(14) Re: Function of Available Park Facilities, V-5. Description errors by emphasizing "limited undeveloped trails" when trails are numerous, wellworn and easily found. Description errors by claiming the exhibit signs relate information on "historical background of the region", when in fact, it is "historical background of Bad Rock Canyon" *per se*. This description fails to inform that Bad Rock Canyon is one of the Montana's official Historic Points, see Historical Highway Markers, by Bradshaw (no. 89), sold by the Montana Historical Society. Description errors by omitting opportunity to view scenic features, a major function of Berne Park. The entire Park is a facility for viewing scenic features.

51a

51b

- (15)
(16)
(17)

49. RESPONSE: The Draft EIS makes the statements about plants of special interest or concern on the basis of contacts with the Montana Natural Heritage Program and with the USFS. The Natural Heritage Program maintains current records identifying the locations and results of previous vegetation studies performed in the state. OEA Research performed a field reconnaissance of the highway corridor during June, 1989 and did not find any sensitive plant species.

The last paragraph on page III-9 of the Draft EIS does imply that a study of sensitive plant species has been done for the project corridor when indeed no studies exist. The following paragraphs have been added to the text of the Final EIS:

Maidenhair spleenwort (Asplenium trichomanes), small yellow lady's slipper (Cyperidium calceolus var. parviflorum), spalding campion (Silene spaldingii), and spurred genetian (Halenia deflexia) are all species of concern that were historically (during the 1890's) observed but not recently confirmed in the vicinity of the proposed highway reconstruction project. The latter three species have been located in Flathead County but in areas considerably away from the US 2 corridor. Spleenwort has not been recently observed in Flathead County.

The Flathead National Forest lists giant helleborine (Epipactis gigantea), northern bastard toadflax (Geocaulon lividum), and blunt-weed pondweed (Potamogeton obtusifolius) as sensitive plant species that may occur on the Hungry Horse Ranger District in the vicinity of US 2.(10)

Marginal habitat for all of these plant species were encountered within the study corridor. None of the above mentioned species were found during a field reconnaissance conducted in late June, 1989.

50. RESPONSE: These sentences are correct as stated in the Draft EIS and refer to CCP's concerns about the use of the 30th highest hourly volume as a design parameter for the facility. A June 14, 1990 memo from CCP to MDOH and FHWA refers to the permanent counter as being located in an urban area and that other design hourly volumes are appropriate for this facility. Correspondence dated November 20, 1990 from CCP to Lyle Manley also refers to the permanent counter as being located in an urban area.

51a. RESPONSE: The word "undeveloped" in the referenced sentence was deleted for the text of the Final EIS/Section 4(f) Evaluation.

Please review the response to comment 1a previously presented for a discussion of the historical marker in Berne Memorial Park.

51b. RESPONSE: Please review the response to comment 22 previously presented.

PART XI - Overall Failure to Apply Legal Planning Guidelines and Regulations

(1) 1982 WSR Guidelines have not been applied, 47 FR 39454-61. Description of the river corridor is a requirement of these guidelines. The undeveloped west Canyon entrance is part of the Canyon river corridor and is NOT part of the Columbia Heights Landscape Unit, a commercial strip area. This DEIS represents a concerted bad faith effort to ignore river informational study requirements.

52

(2) DEIS fails to apply National Register Bulletin 22 - Evaluating properties that have achieved significance within the last 50 years. Bulletin 22 guidelines should be applied to Berne Memorial Park *per se* and to its collective memorials including the Stone Fountain.

53

(3) Extensive new 4(f) regulations for constructive use @ 23 CFR 771.135(p) have NOT been implemented. Neither did EIS preparers utilize recommended 4(f) advisory T6640.8A for informational requirements.

54

52. RESPONSE: Please review the response to comments 47 and 48.

53. RESPONSE: According to National Register Bulletin #15, the memorials at the park would be considered under Criteria Consideration F. Page 39 of this Bulletin states:

"They are not directly associated with the person's productive life, but serve as evidence of a later generation's assessment of the past. Their significance comes from their value as cultural expressions at the date of their creation [early 1950's in this instance]. Therefore, a commemorative property generally must be over 50 years old and must possess significance based on its own value, not on the value of the event or person[s] being memorialized."

Bulletin #15 also states that the property can not achieve significance with the event or person being memorialized and that the marker is not significant in and of itself. The marker must also be architecturally significant or retain symbolic value.

According to page 11 of National Register Bulletin #22:

" The National Register Criteria for evaluation encourage the listing of a property that has achieved significance within the last 50 years only if it is or exceptional importance or if it is a contributing part of a National Register eligible district."

Based on materials in the two National Register Bulletins, the memorials at the park can not be found eligible. They do not qualify under Criteria Consideration F and do not appear to meet any of the established criteria for evaluation of properties less than 50 years old. The memorials are not significant to the development of the Badrock Canyon/Hungry Horse area.

54. RESPONSE: In addition to 23 CFR 771.135(p) and the FHWA Technical Advisory T6640.8A, other guidance materials provided by the FHWA that interpret Section 4(f) requirements (including provisions regarding constructive use) were consulted extensively during the preparation of the Draft Section 4(f) Evaluation.

The Draft EIS/Section 4(f) Evaluation was subject to a legal review by the FHWA Region 8 Regional Counsel's Office and found to be sufficient.

See response to comment 23b presented previously for a discussion of constructive use.

VI-105

(4) NEPA's 10 tests for determination of significance @ 40 CFR 1508.27 should be systematically & honestly applied to achieve compliance, instead of the arbitrary chaos represented in this "snowjob" DEIS, a waste of taxpayers' money.

55

(5) EIS preparers have ignored ESA definition of "Action Area" @ 50 CFR 402.2. The Final EIS should clearly define and portray the action area as stated in the regs.

56

(6) Breach of Certification Acceptance contractual requirements for full compliance with "fundamental provisions of law in Title 23 with respect to the basic structure of the Federal-aid highway program", 23 CFR 640.105(d). Numerous substantial concerns have been raised throughout this EIS/4(f) process about existing breach of CA contract.

57

(7) AASHTO "Green Book" Compliance Problems: (A - H)

(7)(A) Five-lane continuous LTL is typical of urban (NOT rural) primary arterials. Four-lanes with LTL where needed @ access control sites is adequate for rural primary highways. The DEIS plan to extend urban 5-lane into the rural /lightly developed area such as Monte Vista flats and west entrance to Bad Rock is not warranted design procedure. Strip development is specifically opposed in this area (1987 Flathead County Master Plan, III-18), so why is the MDT advancing urban design in rural designated area ?

58

(7)(B) Oppose Dangerous Recreational Intersection proposed by DEIS for a hill/curve area at the west entrance to Bad Rock Canyon. DEIS proposal for "Replacement Park" increases access on hill/curve, rather than restricting access as needed. The recreational intersections should be relocated completely away from the hill/curve closer and/or adjacent to House of Mystery. Proposal for major intersection on a hill/curve area violates federal highway design and safety standards. A major intersection at scenic west entrance to the river corridor is a significant visual obstruction as well.

59

(7)(C) Capacity and Traffic Analyses for this DEIS failed to consider Grade in highway design as required for mountainous terrain. DEIS fails to reveal the overall geology of this entire project is grade -a 80 ft. elevation drop (from Columbia Heights down to Fishermans' Rock) then a 90 ft. elevation climb back up to Hungry Horse. At very minimum, the Bad Rock Canyon/Columbia Mountain section of the project corridor should be appropriately designated Mountainous Terrain, 50 mph speed design. This reduced speed design would generate mitigation.

60

55. RESPONSE: The potential impacts of the proposed action were evaluated for intensity and context to determine their significance according to 40 CFR 1508.27. The potential impacts of the proposed action met the "tests" identified in paragraphs (3), (7), (8), and (9) of 40 CFR 1508.27(b).

Text on page S-4 of the Draft EIS identifies the potential adverse impacts of the proposed action and indicates they were considered against the context and intensity criteria for significance.

56. RESPONSE: Please review the response to comment 48 presented previously.

57. RESPONSE: Certification Acceptance contractual requirements relate to Title 23 but not to the NEPA process.

58. RESPONSE: An undivided 64-foot wide four-lane road between Columbia Heights and Berne Road was initially considered before a four-lane road with a continuous median/left turn lane was selected as the preferred alternative for this section of the project. The primary reason for not choosing an undivided four-lane design was that transitions to and from road widening for left turn lanes at Monte Vista Drive and at the proposed replacement park area at Berne Road would consume nearly 1.3 of the 1.7 miles in this segment of the corridor.

If left turn lanes were provided for westbound traffic at Monte Vista Drive and for traffic in both directions at the proposed replacement park/river access, two short areas of intervening undivided four-lane road (a 0.35 mile-long section between Columbia Heights and Monte Vista Drive and a 0.10 mile-long section between Monte Vista Drive and Berne Road) would exist in this part of the corridor. These brief and frequent transitions to and from areas with left turn lanes are undesirable from a design standpoint and may be confusing to drivers. The paved surface width and the area disturbed by construction would not vary substantially from that of the preferred design for this section of the corridor.

59. RESPONSE: Please review the response to comment 27a presented previously for a discussion of this concern.

60. RESPONSE: Please review the responses to comments 2 and 3 presented previously for a discussion of how grade was considered in the capacity and level of service analyses.



(7)(D) Re: Coram-West Glacier construction. The Blankenship and Lake Five turnoffs require remedial Safety Improvement Project to implement LTL. These LTL were obviously warranted in the first place, however, MDH/Peccia failed to perform turning movement counts and failed to appropriately design the highway to accommodate significant residential community access in these locations.

61

61. RESPONSE: The Blankenship and Lake Five turnoffs are not within this project area.

(7)(E) Re: Coram -West Glacier construction. The design of the KOA Campground curve is a violation of design principles for new construction on federal-aid primary highways. MDH/Peccia constructed a long dangerous curve that needs remedial Safety Improvement Project to implement 2-ft painted median and pullout for campground. Why wasn't this curve straightened out within available right-of-way *in the first place?*

62

62. RESPONSE: The section of US 2 referenced is not within this project area.

(7)(F) The entire Coram -West Glacier segment needs analysis by a special design expert for additional improvements to correct the fact it was wrongly designed to AASHTO Interstate rather than primary standards.

63

63. RESPONSE: The section of US 2 referenced is not within this project area.

See "As Constructs" for Coram-West Glacier, designed and perpetrated by MDH/Peccia, FHWA-MT-EIS-81-02-D.

(7)(G) Modernization 4R project is needed now on the Badrock Canyon project corridor. Shoulders and two paved/signed slow traffic pullouts are needed on the straightaway section between South Fork Bridge and Berne Park. A westbound climb lane is needed at mp 140.5-140.0 to achieve capacity relief where cue develops. At Monte Vista flats, consider possible pass lane, school bus pullout, and LTL as needed now to achieve reasonable safety.

64

64. RESPONSE: Your concerns for additional capacity and safety will be incorporated into the final design of the proposed action.


(7)(H) Implement 50 mph reduced speed limit through Berne Memorial Park.  
If MDH can justify a new wide 4-lane with speed limit of 45 mph on hill north of Martin City/US2, then speeds can be briefly reduced through Berne Memorial Park with appropriate MUTCD signage. Reduced speed is warranted for restricted areas and mountainous terrain such as N. slope Columbia Mtn.

65

65. RESPONSE: The operation of the new facility must be monitored before a determination can be made about adjusting the posted speed limit.

PART XII. - Petitions supporting  
Protection of Historic Bad Rock Canyon,  
preservation of Berne Memorial Park and  
WSR values Approximately 800 petition signatures/100 pages  
hereby entered into the official records for EIS/4(f)/WSR study  
process.

Comment on FHWA-MT-EIS-92-02-D/4(f) prepared by:

 C.L.A., Certified Paralegal Administrative  
Law.  
Enclosures:

66

66. RESPONSE: The preparers of the EIS acknowledge the receipt of these petitions.

The following pages (VI-108 to VI-135) contain materials that attached to Sharlon L. Willows 12/21/92 comment letter on the Draft EIS/Section 4(f) Evaluation. Most of these materials were previously submitted to MDT during scoping activities and the subsequent development of the Draft EIS/Section 4(f) Evaluation.

Concerns raised by these supplemental materials have generally been addressed in the responses to Ms. Willows 12/21/92 comments.

# Inter Lake

ELL, MONTANA, FRIDAY, DECEMBER 11, 1992 50 CENTS

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ts pack em in

## Loss of park stirs concern

By RICK HULL  
The Daily Inter Lake  
The idea of "blowing up" Berne Park didn't sit well with those attending Thursday's public hearing on plans for rebuilding U.S. 2 through Bad Rock Canyon.

About 70 people turned out for the evening public forum in Columbia Falls. It was billed as an informal session featuring one-on-one discussion with highway officials.

But most people gravitated to an accompanying formal hearing, at which speakers attacked the highway plan and each other.

Sharlon Willows, the final speaker, picked apart the project's environmental impact statement section by section. She accused the document's authors of shoddy work and said a previous project on another section of U.S. 2 in the Canyon had violated national safety standards.

Willows and her Coalition for Canyon Preservation fought a 10-year court battle against the earlier U.S. 2 project and succeeded in getting the four-lane design changed to a wide two-lane.

Mike Kreiter, a Coram resident, led off the testimony with a statement favoring the planned four-lane from Columbia Heights to Hungry Horse. His daughter had been in a car wreck on the highway; his son was hit at a school bus stop, he said.

He had started a petition drive supporting the highway, but petitions had been stolen and he had been harassed with phone calls, he said.



*We are in for a battle with the same organization that delayed it before.*  
— Mike Kreiter

"This shows that we are in for a battle with the same organization that delayed it before," he said.

Homer Steele of Columbia Heights said, "I'm all for making this highway as wide as they can, just as safe as they can, just as quick as they can."

But a number of speakers didn't like the idea of blasting away a cliff at the west entrance to Bad Rock Canyon and replacing Berne Park with a recreation area near the House of Mystery. The cool, mossy stopping spot would be replaced with a hot, weedy site, they said.

"I know it's a traffic problem, because everyone's in a stinking hurry," said Meryl Johnson. "I don't know why everyone's in such a hurry — go back to L.A."

Tourist come to the Flathead for its scenery, she added. "They can go somewhere else to see destruction."

A request for a highway grant to zone the Canyon received favorable reviews.

"Those living in the Canyon are beginning to think we'll be looking out between bungee

See CONCERN on Page A2

VI-108

### Concern

Continued from Page A1

for the other two lanes, the suggested. The Bonnyville Power Administration's new power lines across Bad Rock Canyon could be run in a parallel tunnel.

Gladys Shay asked how a tunnel could be built without blasting and without destroying the spring at the park.

But she added, "I have learned one thing — when you go through Berne Park, you stow down and smell the flowers."

Willows proposed running a tunnel through Columbia Mountain or building part of the highway on piers in the river.

"The tunnel construction may seem a little grand, but —" she said.

Two lanes could be run through a daylight portal tunnel, with the existing highway used

Sale work proceeds

These materials were submitted as attachments to Sharlon L. Willows  
12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

HUNGRY HORSE NEWS, Thursday, December 17, 1992

# Opinion split on Highway 2 rebuild

## Some concerned over Berne Park relocation

By BECKY SHAY  
Staff Writer

Opinion differed at the public hearing in Columbia Falls last Thursday on a proposal to rebuild Highway 2 to four lanes between Columbia Heights and Hungry Horse. But a strong undercurrent flowed through the crowd, as voiced by Kallispell businessman Wade Laint: "Nobody's arguing the road needs to be replaced," he said.

Nearly 70 people turned out to voice, and hear, opinions on the state Department of Transportation's plan to widen the highway and relocate Berne Park.

Residents' concerns varied, from Columbia Heights resident Homer Steele encouraging the road be punched through as "wide, safe and quickly as possible," to concerns over demolition of part of Berne Park.

"We need a road — that's fine — but, lets work with nature," said Jamey Willows who, like a number of others, was opposed to destroying part of Berne Park and relocating it to a field next to the House of Mystery.

Under DOT's preferred plan, Berne Park would be relocated to a river access built in conjunction with the U.S. Forest Service. Realigning Highway 2 would require dynamiting the westernmost cliff in the Berne Park area. The springs at Berne Park would be left intact, with access modified by a one-lane road through the site. Some trees eagles use for perches between the river and the highway across from the park would also

*"We need a road — that's fine — but let's work with nature."*

*— Jamey Willows*

be removed.

The U.S. Fish and Wildlife Service has determined that removing the trees "would not jeopardize the continued existence of (eagles)," according to Dan Nordenud, of Robert Peoria and Associates of Helena, chief consultant on project's Environmental Impact Statement (EIS).

Sharlon Willows, spokesperson for the Coalition for Canyon Preservation, said she wanted to "impress that there are alternative techniques to bring the four-lane through the Canyon and protect the resource." She said the "crux of the issue is for the state to keep abreast with state-of-the-art technology to preserve sites (such as Berne Park).

Willows suggested a half-mile-long tunnel to save cliffs marked for demolition under the EIS; or a bridge substructure that would skirt the cliffs and carry the roadway over the Flathead river on piers.

Nordenud said the road-widening project offers a chance to redesign the intersection of Highways 2 and 206,



Icicles hang frozen in time on a rock cliff face in Berne Park along Highway 2. Many area residents are concerned over

giving preference to the volume of traffic that flows on Highway 2.

He said the Columbia Heights truck weigh station would be removed due to "traffic conflicts" in

the area. The plan calls for construction of a new bridge just downstream from the current span across the South Fork.

Nordenud said some fill would

the state's plan to move the park near the House of Mystery to make room for a four-lane road.

have to be installed in the Flathead River to allow the highway to shift west away from Berne Park.

Public comment on the EIS and proposal action will be accepted until

Dec. 22. Send written comments to: Public Hearing Office, Montana Department of Transportation, 2701 Prospect Avenue, Helena, Mont. 59620.

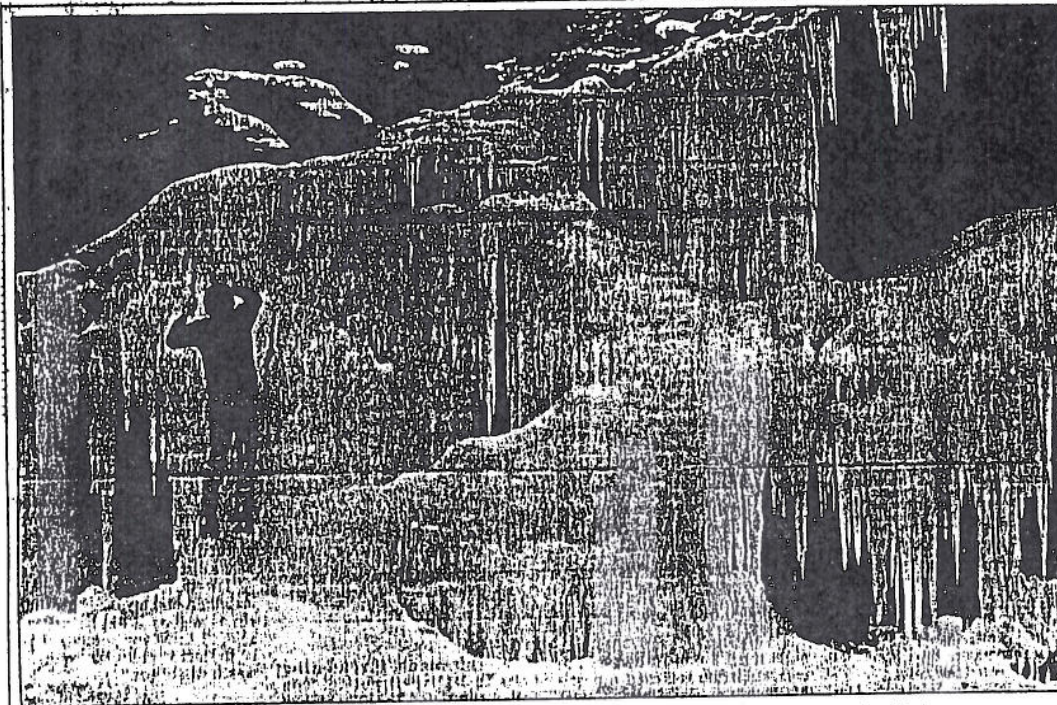
VI-109

These materials were submitted as attachments to Sharon L. Willows  
12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

# the daily **Inter Lake**



KALISPELL, MONTANA, THURSDAY, DECEMBER 26, 1991 50 CENTS



## Christmas climb

Columbia Falls native Jim Emerson, who now lives in Helena, spent Christmas afternoon testing out some new ice-climbing gear near Beme Park in Bad Rock Canyon. (Inter Lake photo by Karen Nichols)

VI-110



These materials were submitted as attachments to Sharon L. Willows  
12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

BADROCK CANYON

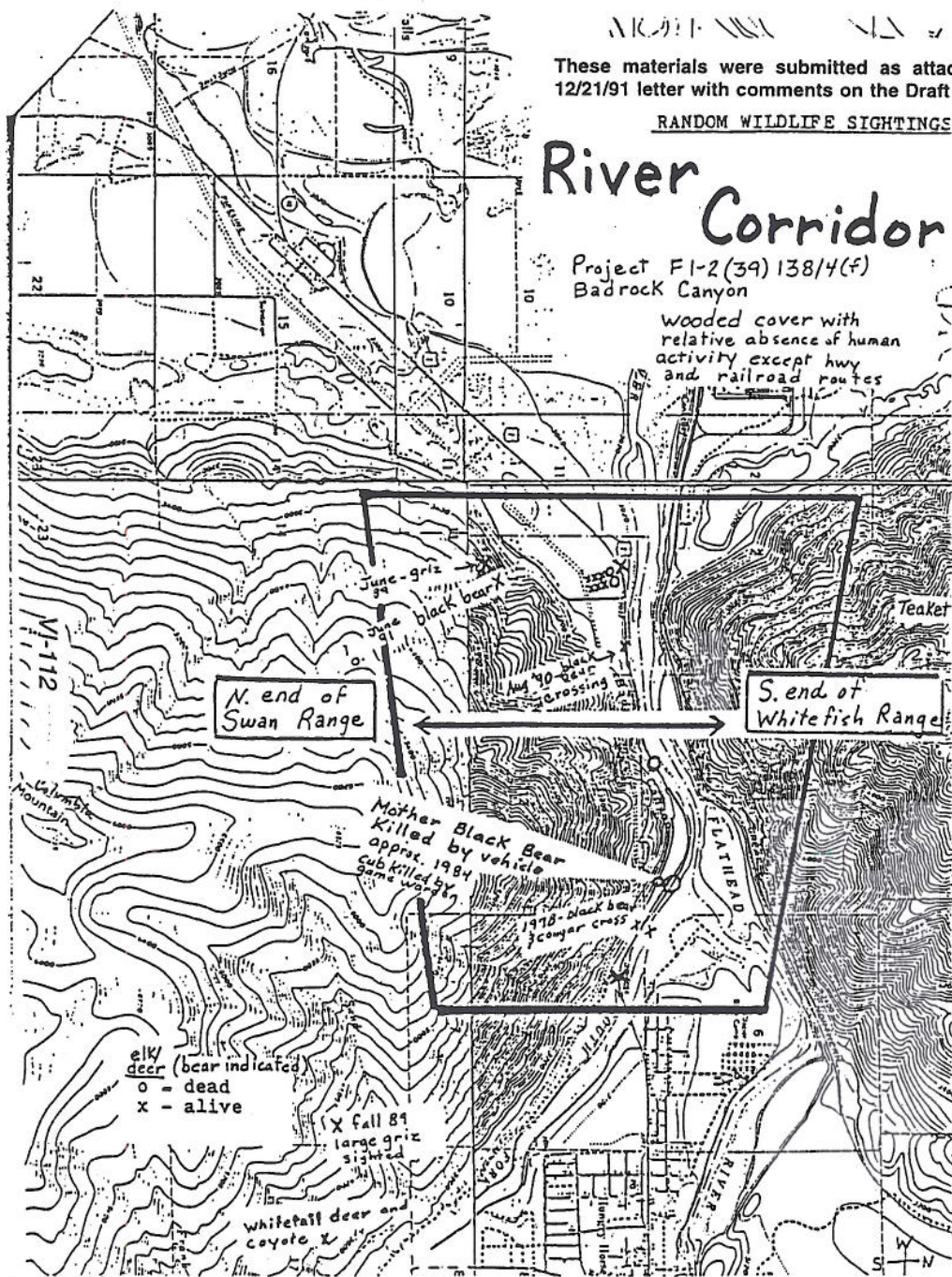
RANDOM WILDLIFE SIGHTINGS

GRIZZLY SIGHTING - BLACK BEARS  
WILDLIFE VIEWING

# River Corridor

Project F1-2(39) 138/4(f)  
Badrock Canyon

Wooded cover with  
relative absence of human  
activity except hwy  
and railroad routes



To: HHRD, GLAC, MDFWP Biologists, MDH/MDT

By: Jack Dorloque, Box 266 Hungry Horse, MT 59919

Date/Time: 8/20/92 7:00 pm

Large adult male griz sighted grazing about 100 ft. NW of US 2 near the tree nursery North of Martin City. A tour bus stopped with tourists getting out to take pictures and starting to approach. Jack Dorloque warned them against it. Another tourist parked at the site along highway had seen the griz just cross over from the Martin City side of highway. Griz was heading in NW direction toward river, was about 600-700 lbs. estimated, and was in no hurry. Observation reported to 911 on Aug. 20; reported to CCP Research on Aug. 21, 1992. Later sighted in Clarence Purdy's yard. Also witnessed by Sandy Sheldon, Box 243, Hungry Horse, MT 59919. Sandy thought the bear acted nervous.

Re: Black bear sow and cub Date: 8/27/92 and 8/28/92

BY: Shelly Powell, Box 382, Martin City, MT 59926 387-5404

Shelly and her mom Jenifer had heard from campers there was a sow and cub hanging out along the South Fork river road, SE of the South Fork bridge and Hungry Horse. So they drove down on this dirt road on 8/27/92 about 5:00 pm. They saw the mom and her cub on the town side of the river along the gravel road as was reported. Then the next day, on 8/28/92, the same bears were sighted from US 2 South Fork bridge upstream about 250 ft. The cub was swimming back and forth across the river while mom rested on the south bank watching. About 5 cars stopped on the bridge to view, around noon.

RE: Medium size Black Bear

date: 9/26/92 at 5:30 pm

By: Sharon L. Willows, Box 422, Hungry Horse, MT 59919  
387-5872

Saw a medium black bear this early evening on South Fork road that goes under the SF Bridge/US2. The bear was walking in the middle of the road heading northwest along the river. The bear was just around the bend as viewed from SF Bridge. I just backed up, back around the bend where I had come from. The bear was standing in the road, stopped to look at me about 200 yards away.

*Shelly Powell*  
Box 382  
Martin City  
387-5404

# Welcome to: "Wilderness & industry... Columbia Falls: the Gateway to Glacier National Park."

Wilderness and industry rub elbows in the city of Columbia Falls.

Industrial core of the Flathead Valley, with its lumber mills and employee-owned Columbia Falls Aluminum Company providing scores of jobs, the city is also the gateway to the South Fork of the Flathead River, the Hungry Horse reservoir, and the Bob Marshall and Great Bear wilderness areas.

The city is also the gateway to the west entrance to Glacier National Park. Visitors enjoy a trip through spectacular Bad Rock Canyon, with the Flathead River a stone's throw from the highway, between Columbia Falls and West Glacier.

Other tourism amenities in the area include the new Big Sky Waterslide, a go-cart track, easy fishing access to the Flathead River, and some of America's best big-game hunting in the nearby mountains.

For the winter recreationalist, Columbia Falls has excellent alpine skiing, snowmobiling, and cross-country skiing within a few miles.

According to statistics compiled

Veterans Home, with 150 beds, is adjacent to the city.

Rounding out the list of medical services available in Columbia Falls are six doctors, six dentists and an optometrist.

An extensive list of churches serves the spiritual needs of the community. Denominations include Roman Catholic, Episcopal, Assembly of God, Seventh-day Adventist, Pentecostal Church of God, Church of Christ, United Methodist, Fellowship Alliance, Polebridge Alliance, First Baptist, First Christian, Our Saviors Lutheran, Our Redeemer Lutheran, Church of Jesus Christ of Latter-day Saints, Jehovah Witness, New Covenant Fellowship, Flathead Christian Fellowship, and Columbia Bible Church.

The community is served by a branch of the Flathead County library in Columbia Falls, has seven full-time police officers, and has a 30-member volunteer fire department.

Banks available include the First Federal Savings Bank and the First Citizens Bank, with the CFAC Employees Federal Credit

These materials were submitted as attachments to Sharon L. Willows 12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

## MISSOULIAN EDITORIAL

9-14-92

# Eye-opening conference

### Watchable Wildlife session shows refreshing new vision

Even if you didn't attend the National Watchable Wildlife Conference, which ended Saturday in Missoula, it's worth noting the event's significance. As the first conference of its kind, the three-day meeting signaled an important — and welcome — evolution in attitudes about wildlife.

Wildlife once was valued primarily as a source of food. In this century, hunters interested in food and sport have been the principal benefactors of most wildlife, especially game animals. We believe the growing "watchable wildlife" movement reflects a broadening of the public's interest in the wild kingdom.

Of course, there's nothing new about watching wild animals and birds, as anyone with a backyard bird feeder or who's ever visited Yellowstone National Park can attest. And stereotypes notwithstanding, most sportsmen have always spent far less time stalking and killing animals than they have observing and admiring them.

What is new is a growing awareness of the value of wildlife as a source of enrichment for the economy, as well as the soul.

Montana's wildlife, for example, adds immeasurably to the quality of life here. Hunters and fishermen may have an exceptional interest in the wildlife here, but almost everyone can appreciate the beauty and wildness of the wildlife with which we share this state.

Tourists also like to see elk, deer, mountain sheep, bears and other animals, as well as eagles,

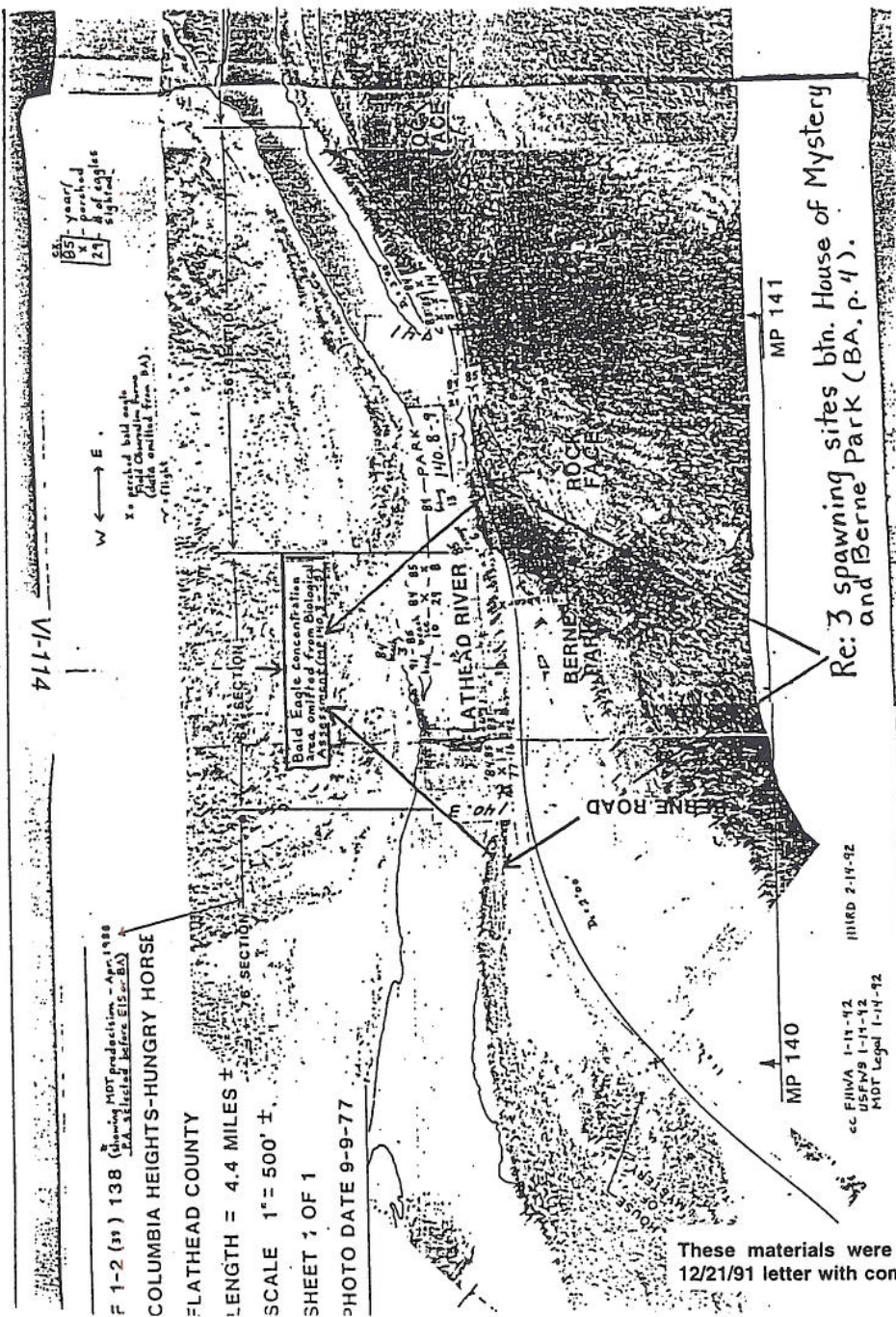
waterfowl and song birds. They travel long distances for the chance to see wildlife they can't see in the country's more urban settings, and they bring their money and credit cards when they come. Although the interests of wildlife and commerce often are portrayed as mutually exclusive, more and more businesses are awakening to the fact that there's money to be made accommodating the public's desire to view wildlife. So long as wildlife viewing opportunities are developed sensibly, they can provide tremendous benefits to tourists and residents alike.

There may be a tendency for sportsmen to view wildlife-watchers as a threat or a source of competition. (That seemed to be the case, for instance, when the state Fish and Game Commission was presented with a proposal to transplant bighorn sheep to Mount Sentinel, a site perfect for wildlife viewing but with limited opportunities for hunting. The commission rejected the proposal.)

While there may be instances where wildlife viewing and hunting aren't compatible, for the most part the two activities complement each other. Through greater opportunities to see and learn about wildlife should come a greater public understanding of wildlife population dynamics and management, as well as a better understanding of the necessary and positive role played by hunters.

What's more, wildlife-watchers could be mobilized as a large source of political and financial support for habitat protection and other work needed to keep wildlife secure. Sportsmen have carried the bulk of those burdens through license fees, special taxes and citizen involvement; reinforcements should be welcome.





These materials were submitted as attachments to Sharon L. Willows 12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

January 14, 1992

MEMORANDUM

TO: MDT Legal  
 FHWA  
 USFWS

Fr: Coalition for Canyon Preservation (CCP)

RE: Project F1-2(39) 138/4(f) Badrock Canyon's Biological Assessment

COMMENTS:

- \* Habitat affected by the proposed action (Fig 4) is in error. Refer to the attached map showing Badrock Canyon's primary foraging and perching location has been omitted from Fig 4 and the BA's discussion of "Direct Effects" (p.4). The critical high-use perching sites between Mile Point 140.2-140.5 (approx) have been omitted from Section 7 consideration and consultation. Tree removal and Bald Eagle habitat use and behavior specific to this critical location has not yet been discussed.
- \* The Wetland and Riparian Assessment is in error (Fig 2, plate2):
  - (1) Eagle Habitat between MP 140.2-140.5 is "7" (Cottonwood and conifer habitat).
  - (2) Berne Memorial Park is "7" (Cottonwood and conifer).

Therefore, these two critical sites have been omitted from the "total acres of riparian cottonwood and conifer habitat that exists between Berne Road and Hungry Horse" (Direct Effects, p.4).
- \* "Total acres of riparian cottonwood and conifer habitat" is not specifically relevant unless usable mature perch sites are available. The proposed action appears to be affecting nearly 100% of the primary Bald Eagle use area between Mile Point 140.3 and MP 141.3.
- \* USFWS recommended "the final Assessment should present a brief summary of what is known or available...about present/recent winter use of Badrock Canyon by bald eagles; this summary should include quantitative data, as well as qualitative information" (Jan. 4, 1991).
- \* On Jan. 25, 1990, the CCP entered 71 pages of Bald Eagle sightings and behavior descriptions for Badrock Canyon use into project records (Natural History Field Observation Forms - 1981,83,84,85). MDT, Peccia and Associates, and OEA Research made no use whatsoever of this project specific information to discern "habitat use and behavior of listed species in the project area" (as recommended by USFWS Aug. 28, 1989). The Bald Eagle concentration area (MP 140.3-140.5) as documented by the Field Observations was instead entirely omitted from impact analysis and Section 7 required Biological Assessment.

cc: HHRD, 2-14-92

SUMMARY  
1984 BALD EAGLE SIGHTINGS  
BADROCK CANYON

Perch locations:

W. of Berne Park along US2 in cottonwood/birch (mp 140.3-5)-  
forms # 5b,13a,13b,14a,15a,15b,16a,16b,17b,18a, 19a,  
19b,20b,21b,22a,22b,23a,23b,24a,24b,25a,25b,27a,27b.  
\* this area was eliminated from Biological Assessment.

N. side of river, across river from B. Park, adjacent beach-  
forms #  
8a,13b,15a,16a,16b,19a,19b,20b,21b,22a,23a,24b.

Sta 609-613 (BA-Fig.4) -Floodplain across hwy from B. Park-  
forms # 10a,12b,13a,14a,15a,17a,17b,19a,23a.

Flathead River Ranch and/or South Fork side of confluence -  
e. of confluence - forms # 5a,8b,11b,15b,19a,  
20b,21b,22b,23a,23ab,25b.  
w. of confluence - forms #17b,19a,20b,22a,23a.

Foraging/fishing:

Berne Park area  
forms # 14b,19a,24a.  
Landed on ice/beach across river W. of Berne Park  
forms # 8a,15b,19b

Flight sightings:

W. Badrock/Berne Park area-  
forms#3a,7a,11a,13b,14b,15b,16b,17a,21a,24a,26b,27b.  
South Fork River/Bridge-  
forms#4a,6ab,7b,9a,9b,11b,12a,18b,24a.

cc: 27 pages of Natural History Observation Forms with maps - 1984 sightings  
OEA Research, 1/25/90 (returned to CCP w/o use or application, 11/27/91)  
USFWS, 2/24/92

\*Note: After USFWS review, return to FHWA project records, Dale Paulson.

SUMMARY  
1985 BALD EAGLE SIGHTINGS  
BADROCK CANYON

Perch locations:

W. of Berne Park, along US 2 in cottonwood/birch  
Sighting Forms: 1a,1b,2a,16a,17a,19a,23a,28b,29b

N. side of river, across river from Berne Park, adjacent beach  
Forms: 15b,17b

Sta 609-613 (BA-Fig.4) -Floodplain across hwy from Berne  
Park  
Form: 21a

Flathead River Ranch - South Fork side of confluence.  
Forms: 2b,3b,4a,4b,5a,5b,6a,7b,8b,12a

Misc. Canyon sites - Forms: 18a, 21a,24b

Foraging/fishing:

Berne Park area - Forms: 9b,15a,17b,30a  
Landed on ice/beach across river W. of Berne Park  
Forms: 14a,15b,16b,17b,22b,24a,25a  
Confluence - Form 21b

Flight sightings:

W. Badrock/Berne Park area - Forms:  
9b,12b,13a,15b,16a,16b,17b,18b,19b,22a,25b,26a,29a,30a  
SF Bridge - 18a,20a  
Misc. Canyon sites - 9a, 28b

cc: 30 pgs. of Natural History Field Observation Forms - 1985 sightings  
OEA Research 1/25/90 (returned to CCP w/o use or application, 11/27/91)  
USFWS Gary Wood 2/25/92 (after EWS review, return to FHWA project records,  
Dale Paulson)

These materials were submitted as attachments to Sharon L. Willows  
12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

VI-115

JUN 25 1991

ROBERT PECCIA & ASSOCIATES

VI-116

May 7, 1991

U. S. Fish and Wildlife Service  
Attn: Rob Hazlewood  
Endangered Species Biologist  
Box 10023  
Helena, MT 59624

Dear Mr. Hazlewood:

Our concern about the potential for bald eagle habitat loss in the Badrock Canyon area (Highway 2 south of Hungry Horse Montana) was first recorded in 1981 (see attached letter).

Studies of bald eagle migration and habitat use during the past 14 years have clearly documented the use of the Flathead River, including Badrock Canyon, as a major flyway and foraging area for eagles (Young 1983, McClelland P.T. - in prep.). On 4 December 1985, we counted 41 eagles between the House of Mystery and Hungry Horse Reservoir. At least 7 bald eagle roosts have been identified on the east side of Columbia Mountain. Many of the eagles from these roosts use the river corridor through Badrock Canyon; continuing roost use was documented after the kokanee collapse.

Although the recent collapse of the kokanee salmon population in Flathead Lake has resulted in fewer eagles foraging in the Badrock Canyon area, eagles continue to perch in the cottonwoods and spruce between the road and the river. Perhaps most importantly, that vegetation strip serves as screening which allows eagles and other wildlife foraging opportunities on waterfowl and shoreline carrion. The increased distance at which eagles flush from human activity when such screening is lacking is well documented (e.g., Stalmaster 1987). Much of the screening vegetation along the river in the western portion of Badrock Canyon has been removed over the years. Further removal of any vegetation along the river would exacerbate previous destruction of riparian habitat. Loss of the kokanee food base in the river, with consequent reduction of eagle-foraging opportunities, cannot be used legitimately as a rationale for vegetation removal along the river for the following reasons:

- 1) Bald eagles continue to use this area as a migration corridor even though the food base has diminished (see Spencer et al. 1991). This persistent flyway use will continue to make possible a rapid response to any future (unpredictable) increase in prey base (e.g., lake Whitefish). Elimination of remaining perch and screening vegetation would render the habitat unsuitable regardless of prey base improvement.

2) The loss of kokanee already has placed additional stress on migrating eagles (see McClelland et al. 1983 and Spencer et al. 1991). Logically this should result in greater care for remaining and potential foraging areas, even those not currently supporting large numbers of birds.

3) Although bald eagle nesting success in Montana has shown some encouraging signs in recent years (sufficient to elicit a consideration of downlisting from endangered to threatened status), we continue to "whittle away" at remaining habitat. These whittings are cumulative. This is a long-term concern in relation to migrating eagles as well as those that nest in the state. Habitat fragmentation and loss of riparian habitat, if not carefully regulated and limited, will in the long run make continent-wide recovery of the bald eagle impossible. It is no longer reasonable to look at each relatively small habitat change as inconsequential, particularly in riparian areas. In a wider context the Badrock Canyon issue epitomizes the new challenges as well as the heightened conflict. Roads need to provide aesthetically pleasing routes that include wildlife values, not just wide swaths to get people from point to point.

With all the concern now being expressed about wildlife mitigation costs in the South Fork of the Flathead (where the Hungry Horse Dam destroyed many miles of riparian habitat) it is essential to avoid further habitat degradation that leads to mitigation efforts, which tend to be expensive and never fully satisfactory.

In relation to sound long-term management of bald eagle habitat in the Flathead, we believe it is imperative that no more screening or perching vegetation be cut along the river in the Badrock Canyon area.

Sincerely,

*B. Riley McClelland*

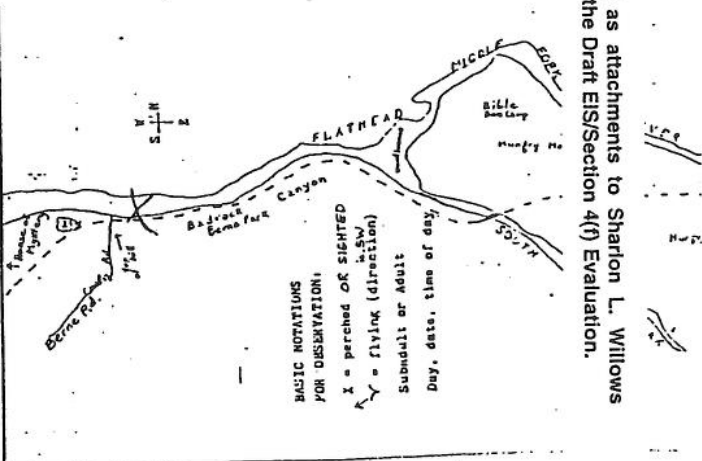
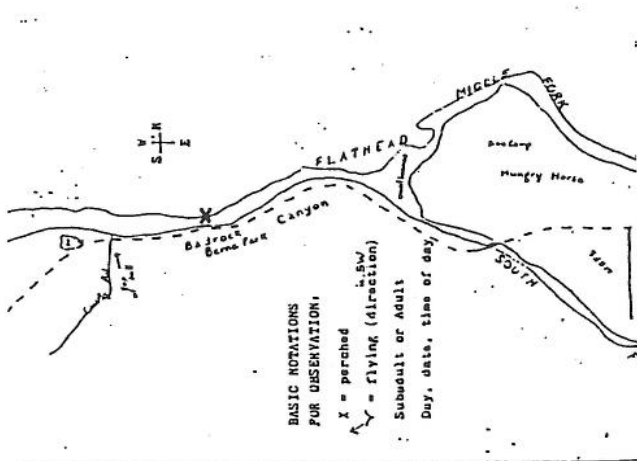
B. Riley McClelland  
Professor, University of Montana

*Pat McClelland*

Pat McClelland  
Wildlife Biology Graduate Student, University of Montana

cc: HHRD, 2-14

These materials were submitted as attachments to Sharon L. Willows 12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.



OBSERVATION 9400

*big adult Bald Eagle*

Location *across the river from Fisherman's Rock and Beane Park*

Date (Month, Day, Year) *1-30-91* Time (a.m., p.m.) *10:00 a.m.* Weather *overcast*

Description, Behavior, Number, Sketch, Map, Etc.  
*eagle was on the beach drinking*

BE ACCURATE - DO NOT GUESS

Observed by: *Melvin Barber*

address: 305 JPRD Whitefish, MT 59937 NATURAL HISTORY FIELD OBSERVATION

OBSERVATION 94

*Black Bear*

Location *Crossed the highway going towards the river. Stopped on the highway.*

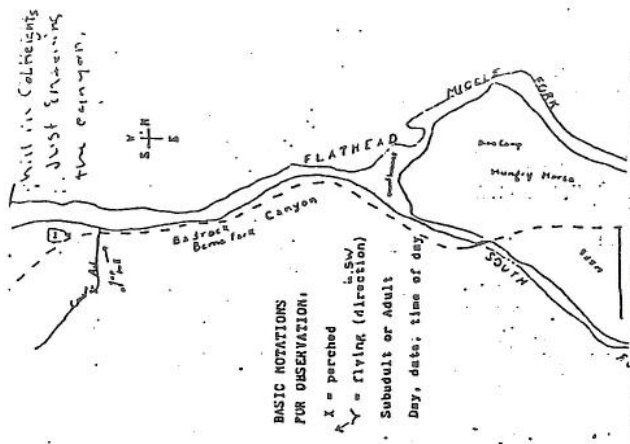
Date (Month, Day, Year) *Aug 90* Time (a.m., p.m.) *4:00 AM* Weather *clear*

Description, Behavior, Number, Sketch, Map, Etc.  
*3m black bear - calm - seemed used to people & cars. He jumped the guard rail & went to the river.*

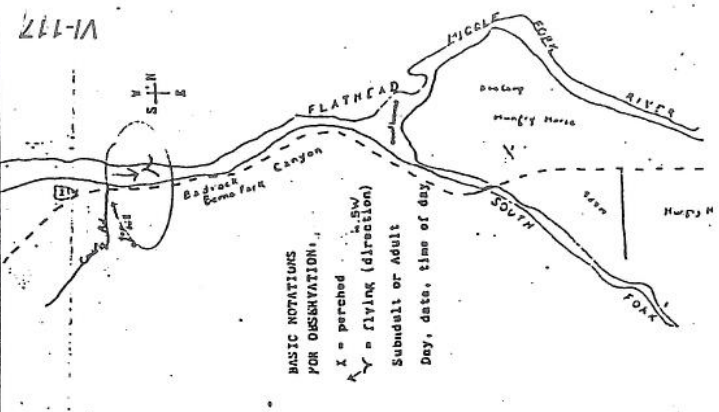
BE ACCURATE - DO NOT GUESS

Observed by: *Jim & Linda*

address: Box 314 Hungry Horse, MT 59812 NATURAL HISTORY FIELD OBSERVATION



**BASIC NOTATIONS FOR OBSERVATION:**  
 X = perched  
 Y = flying (direction)  
 Subadult or Adult  
 Day, date, time of day



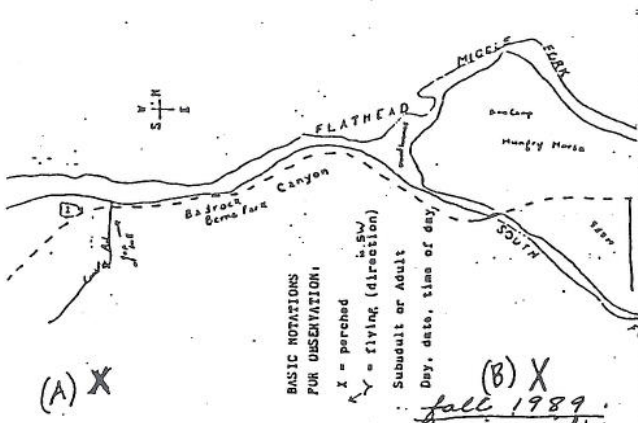
**BASIC NOTATIONS FOR OBSERVATION:**  
 X = perched  
 Y = flying (direction)  
 Subadult or Adult  
 Day, date, time of day

OBSERVATION **Black Bear** 9400  
 Location **East of Mt. Heights - bump to Sheep Perfection on hill**  
 Date (Month, Day, Year) **June 91** Time (a.m., p.m.) **4:00 pm** Weather **good**  
 Description, Behavior, Number, Sketch, Map, Etc. **fairly Big Black Bear front paws hanging on guard rail went by about 5 mi per hr. Bear got spooked as I drove up to W stream of B.**

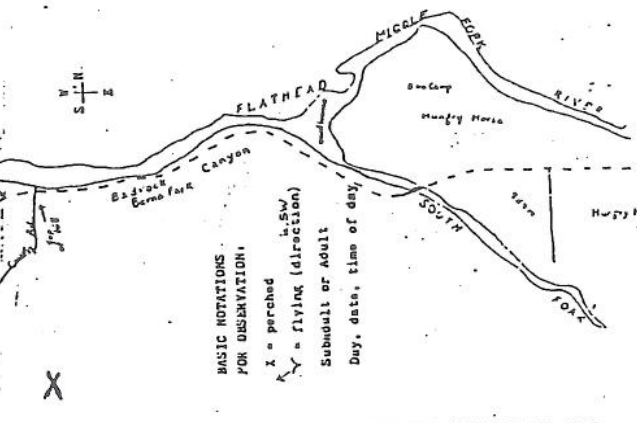
**BE ACCURATE - DO NOT GUESS**  
 Observed by: **Jim Cassette**  
 address: **Box 514 Hungry Horse, MT 59919** NATURAL HISTORY FIELD OBSERVATION

OBSERVATION **Bald Eagle** 9400  
 Location **Canyon - Gali Falls - Mt**  
 Date (Month, Day, Year) **10-2-91** Time (a.m., p.m.) **4:30** Weather **clear - warm**  
 Description, Behavior, Number, Sketch, Map, Etc. **just flying low over the water. Curious. Maple fisher.**

**BE ACCURATE - DO NOT GUESS**  
 Observed by: **Judi Cassette**  
 address: **Box 514 Hungry Horse, MT 59919** NATURAL HISTORY FIELD OBSERVATION  
 cc: **Paola 4-27-91**



**BASIC NOTATIONS FOR OBSERVATION:**  
 X = perched  
 Y = flying (direction)  
 Subadult or Adult  
 Day, date, time of day



**BASIC NOTATIONS FOR OBSERVATION:**  
 X = perched  
 Y = flying (direction)  
 Subadult or Adult  
 Day, date, time of day

OBSERVATION **(A) Subadult Grizzly (B) Adult Griz** 9400  
 Location **Columbia Mtn. Trail**  
 Date (Month, Day, Year) **6-20-89** Time (a.m., p.m.) **1 pm** Weather **overcast**  
 Description, Behavior, Number, Sketch, Map, Etc.

**See Map Above.**  
**(A)** Approx. 1 mi. from hwy where I hiked 2x/wk. Running down the rty. about 20ft. in front of me across the trail. cinnamon colored, big butt & long butt hairs. Relatively certain it was grey - big shoulder. Saw bear scat on trail another day that month.

**BE ACCURATE - DO NOT GUESS**  
 Observed by: **Sharon L. Willows**  
 address: **Box 422 Hungry Horse, MT 59919** NATURAL HISTORY FIELD OBSERVATION

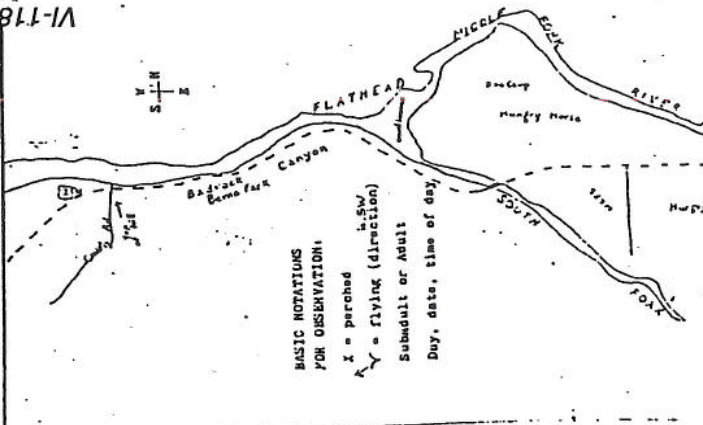
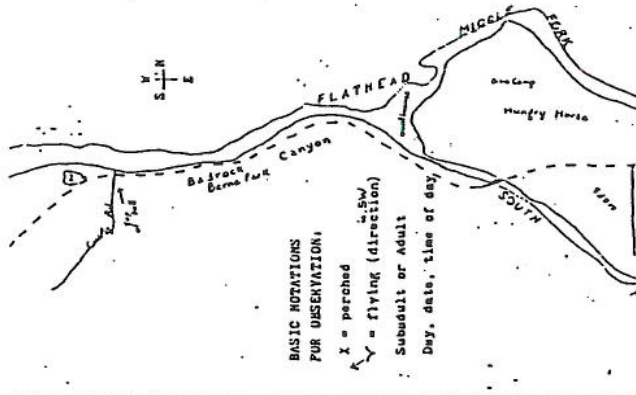
OBSERVATION **Subadult black bear** 9400  
 Location **(old) Columbia Mtn. Trail**  
 Date (Month, Day, Year) **June 1991** Time (a.m., p.m.) **2:30 pm** Weather **Sunny**  
 Description, Behavior, Number, Sketch, Map, Etc.

**Several of us hiking. The kids saw the bear in bushes making noise, then looking at us with curiosity. Continued down trail. NOTE: land holders at base of Col. Mtn. trail say they have seen random Griz over the years.**

**BE ACCURATE - DO NOT GUESS**  
 Observed by: **Sharon L. Willows**  
 address: **Box 422 Hungry Horse, MT 59919** NATURAL HISTORY FIELD OBSERVATION

These materials were submitted as attachments to Sharon L. Willows 12/27/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

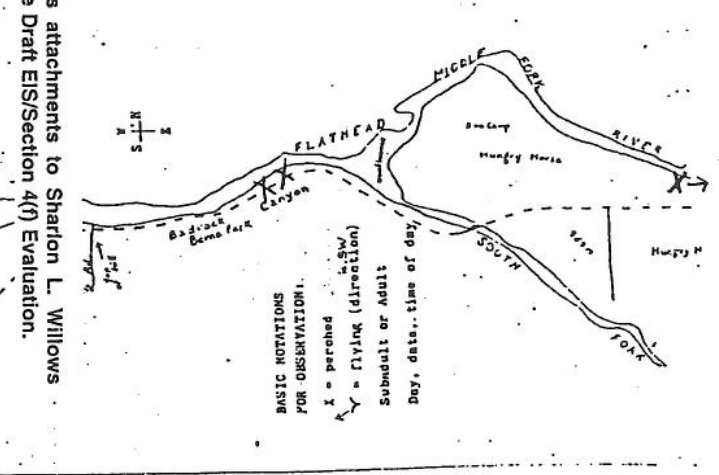
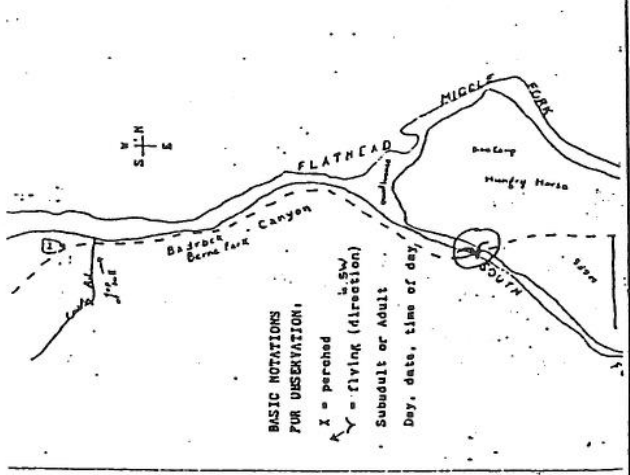
VI-11A



OBSERVATION 9400  
**Grizzly Bear**  
 Location: swimming the Middlefork N. of CORAM  
 Date (Month, Day, Year): Spring 1982 Time (a.m., p.m.):  Weather:   
 Description, Behavior, Number, Sketch, Map, Etc.: heading toward Glacier/teakettle → other side of river.  
 BE ACCURATE - DO NOT GUESS  
 Observed by: George Milke  
 address: Hungry Horse News, Col. Falls, 59912 was reported to S. Willows

OBSERVATION 941  
**Bald Eagle adult**  
 Location: Middlefork - Lot 12 Wagsmith's Villa e. H. Horse along river  
 Date (Month, Day, Year): Nov. 12-30-91 Time (a.m., p.m.): noon to 4 pm Weather: overcast  
 Description, Behavior, Number, Sketch, Map, Etc.: → noon to 4 pm - adult eagle perched on snag along river in east Hungry Horse. Eagle perched 60 ft from Jim & Judy Cosatt's house.  
 BE ACCURATE - DO NOT GUESS  
 Observed by: Judy Cosatt  
 address: S. Willows NATURAL HISTORY FIELD OBSERVATION  
called sight info. to S. Willows

These materials were submitted as attachments to Sharon L. Willows 12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.



OBSERVATION 9400  
**Adult Bald Eagle**  
 Location: flying low over SF bridge/river  
 Date (Month, Day, Year): 12-30-91 Time (a.m., p.m.): 11:30 am Weather: cloudy  
 Description, Behavior, Number, Sketch, Map, Etc.: above  
 BE ACCURATE - DO NOT GUESS  
 Observed by: Sharon Willows  
 address: Bx 422 Hungry Horse MT 59919

OBSERVATION 9400  
**Cougar & Black Bear**  
 Location: above X  
 Date (Month, Day, Year): 9 77-78 Time (a.m., p.m.): AM Weather: overcast  
 Description, Behavior, Number, Sketch, Map, Etc.: animals crossing highway  
 BE ACCURATE - DO NOT GUESS  
 Observed by: Sharon Willows  
 address: Box 16571 Whitefish, MT 59957

**Flathead River**  
**Nat'l Wild & Scenic River System**  
 designated 1976 with  
 "Port of Entry" at  
 Badrock Elligible

These materials were submitted as attachments to Sharon L. Willows  
 12/21/91 letter with comments on the Draft EIS/Section 4(f) Evaluation.

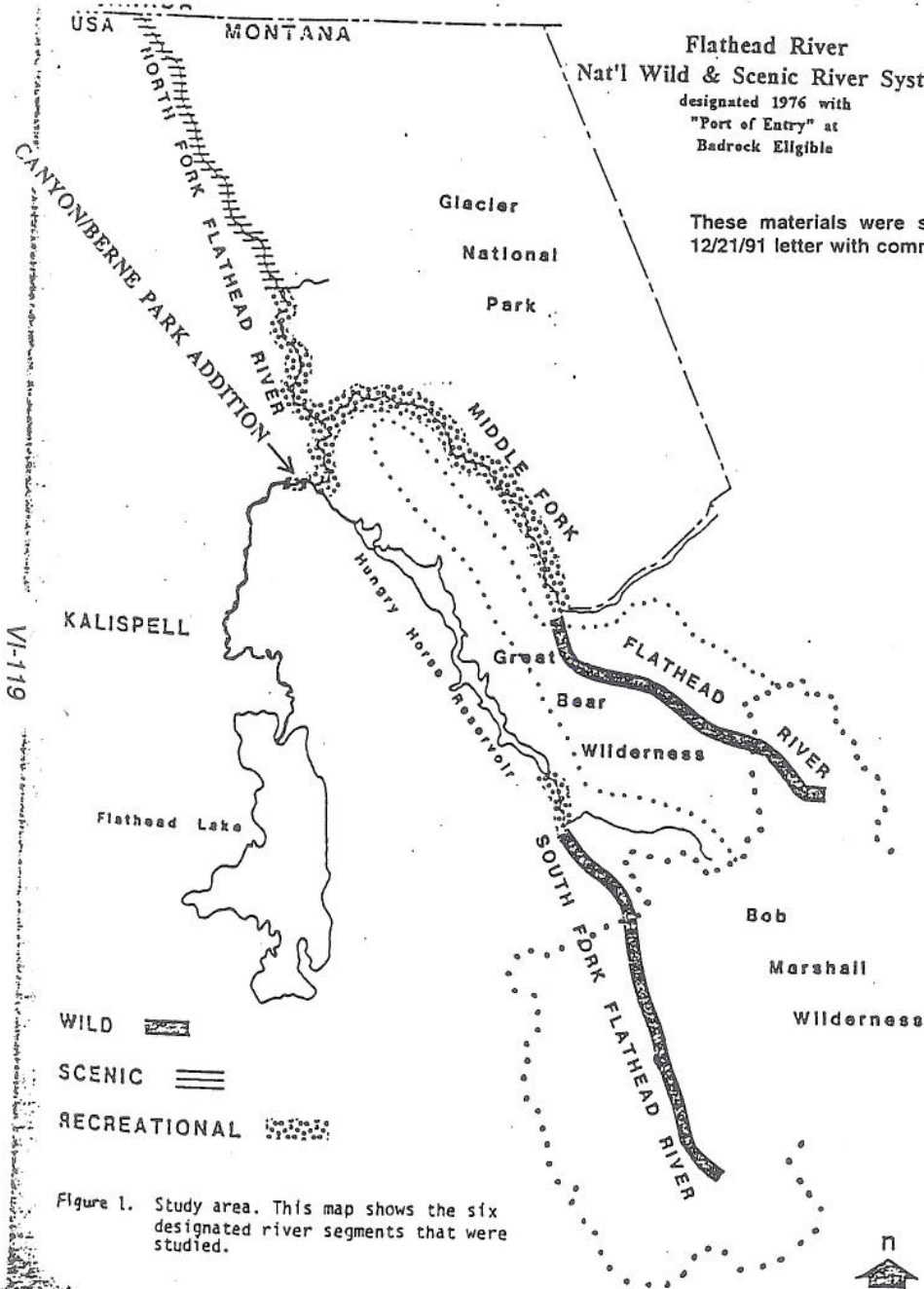


Figure 1. Study area. This map shows the six designated river segments that were studied.

