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Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001

Consultant Design				
Action	Info	Date 4/13/07 Routing	Attach	Initial
	✓	Bureau Chief		
		Consultant plans Eng		
		Design Supervisor		
		CTEP Engineer		
	✓	All Bureau Engineering Staff		
	✓	All Design Consultants		
	✓	File		

Memorandum

To: Distribution

From: Paul Ferry, P.E.
Highways Engineer

Date: April 6, 2007

Subject: Wildlife Fence Issues

A number of questions have been raised concerning wildlife-friendly fencing.

The first issue was whether or not wildlife friendly fence is a legal fence. Lyle Manley submitted a legal opinion on the statutes concerning fencing. In Lyle's opinion, the definition of "legal fence" in 81-4-101, MCA does not apply to fencing along highway right-of-way. Consequently, a wildlife friendly fence can be used as a R/W fence where it is appropriate and the landowner is in agreement. Other considerations may dictate that a certain type of fence is necessary, such as a fence to keep livestock off the Interstate.

Another issue is that if a landowner does not want a wildlife friendly fence, we could construct the fence on highway R/W and the landowner could not dispute what kind of fence was installed. I am opposed to this approach as it appears to circumvent the negotiation process and the spirit of cooperation that we try to establish with landowners. If we used this method, we would be obligated to let the landowner know what we were doing. The landowner could still require us to install a standard farm fence on his property as part of the agreement for the purchase of the land.

Another issue is the use of the "standard" wildlife friendly fence (Detailed Drawing 607-50 – it should be noted that the detail for wildlife barrier fence is shown on the same drawing). This fence has 4 strands with smooth top and bottom strands. The top strand is at 42" and the bottom strand is at 16". This compares to the Type F4 farm fence which has 4 barbed strands, with the top strand at 48" and the bottom strand at 12" (Detailed Drawing 607-00). In an effort to install a fence that is acceptable to the landowner and still provide as much benefit to wildlife as possible, the following options should also be considered:

- Smooth strand on top at 42"; barbed bottom strand at 16"
- Smooth strand on top at 48"; barbed bottom strand at 16"
- Barbed strand on top at 42"; barbed bottom strand at 16"
- Any combination of the above.

The use of these options would give the R/W agent something to offer the landowner when the preferred wildlife friendly fence is not acceptable to them.

To summarize:

- Wildlife friendly fence can be used as R/W fence where appropriate and where the landowner is in agreement
- Building a wildlife friendly fence on highway R/W to circumvent the landowner's preference is generally not an acceptable practice
- Some options that are not as desirable as the preferred wildlife friendly fence, but still provide some benefit to wildlife should also be considered.

If you have any questions, please contact me at 444-6244.

Distribution:

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