

**FIRST BIENNIAL REPORT  
TO THE  
STATE PRESERVATION REVIEW BOARD  
BY THE  
MONTANA DEPARTMENT OF TRANSPORTATION  
AS SPECIFIED BY SENATE BILL NO. 3  
ON THE STATUS AND NEEDS OF AGENCY HERITAGE PROPERTIES**

**January 2012**



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**Introduction**

This document constitutes the Montana Department of Transportation's (MDT) first biennial report to the Preservation Review Board as required under Montana Senate Bill No. 3, an act which requires State Agencies and the Montana University System to biennially report to the Preservation Review Board on the status and maintenance needs of agency heritage properties. The report includes the MDT's known heritage properties, their status, condition, and priority for preservation. It must be noted, however, that 23 of the heritage properties are archaeological sites of which only portions are located within the MDT right-of-way (ROW) and for which this agency has jurisdiction over. The portions of the heritage properties located outside the ROW are under private or public ownership and are not under the control of the MDT.

It must also be stated that nearly all of the heritage properties detailed in this report were documented and treated under Section 106 (36 CFR 800) of the National Historic Preservation Act as part of the MDT's regular cultural resource program. That regulation is applicable to federally-funded projects that have the potential to impact historic properties. Only state-funded MDT projects would fall under the authority of the Montana Antiquities Act (MAA). Because of the scope of maintenance activities conducted by MDT, few have impacted historic or heritage properties and only one property (24PW1044) was dealt with under the MAA.

It is recognized that the Montana Legislature intended Senate Bill No. 3 as a management tool for state agencies to administer their heritage properties. The MDT already has such a plan in place in its Historic Roads and Bridges Programmatic Agreement (PA). The PA does not, however, embrace archaeological sites, Traditional Cultural Properties, or pictograph sites. Those, again, were originally handled under the provisions of Section 106 and will be treated in the future under Section 106 and Senate Bill No. 3.

The MDT continues to pursue its obligations under Section 106, the MAA, and Senate Bill No. 3. MDT feels that all three regulations complement each other and have the same basic goal, the recognition and management of significant heritage properties. MDT has formatted this report to mirror the order of the requirements for State Agencies in Section 22-3-424, MCA Section 3(4).

**A. A list of the heritage properties managed by the agencies as those have properties have been identified pursuant to this section**

There are currently 96 heritage properties that are owned or partially owned by the MDT. This includes 23 archaeological sites that are partially located within MDT's ROW but are not maintained by MDT. The MDT routinely maintains 63 heritage properties, including 50 historic bridges, two buildings, nine road segments, the NRHP-listed Point of Rocks Historic Transportation Corridor, and a National Register-listed Traditional Cultural Property (Sleeping Buffalo Rock). Five pictograph/petroglyph sites are located within MDT ROW. Although they are not actively maintained by the MDT, it has allocated funds to protect and restore the Kila Buffalo Pictographs (24FH1006), the Kila Road County Pictographs (24FH1008), and the Kila Narrow Ledge Pictographs (24FH1009). Two heritage properties, the French Gulch Placers (24DL0757) and Old US Highway 2 Segments (24FH0490) are located within the ROW, but are not maintained by MDT. The heritage properties are located in 35 of Montana's fifty-six counties.

In May 2011, the Montana State Historic Preservation Office (SHPO) presented the MDT with a list of heritage properties that had been recorded and evaluated by the MDT from 1979 until May 2011. The list included 3,871 heritage properties. The MDT was able to weed out 2,511 properties that had been determined ineligible for the National Register of Historic Places and for which National Register eligibility was either undetermined or unresolved. For the remaining 1,360 properties on the list, the MDT removed those that were privately owned and those that had been destroyed before January 1, 2011. The MDT cultural resource staff was able to whittle the number of heritage properties down to 252 which were believed to be located within MDT ROW. The staff reviewed each site form and determined that for many archaeological sites, non-contributing portions of the sites were located within the ROW, or, for some, mitigation had resulted in the removal of archaeological remains within the ROW. For many, projects conducted by the Federal Highway Administration's Western Federal Lands Office on federally-owned land were classified as MDT properties in the Cultural Resources Information System (CRIS) database. Those properties were also removed from the MDT list. As of January 1, 2012, the MDT has 96 known heritage properties under its jurisdiction.

The MDT has listed nine heritage properties in the National Register of Historic Places, with seven sites pending for NRHP listing. The NRHP-listed sites are: the Hardy Bridge (24CA0389), Missouri River Bridge near Wolf Creek (24LC0131), the Sheep Creek Bridge (24LC1157), Carter Bridge (24PA0841), Yellowstone River Bridge at Fallon (24PE0618), Powder River Bridge near Terry (24PE1810), Big Horn River Bridge near Custer (24TE0120/24YL1603), the Point of Rocks Historic Transportation Corridor (24MN122/164), and the Sleeping Buffalo Rock (24PH1002). The NRHP-pending sites are: the O.S. Warden Bridge at Great Falls (24CA0401), Fred Robinson Bridge (24FR0804/24PH1059), Orange Street Underpass (24MO0361), Marias River Bridge south of Shelby (24TL0401), Mossmain Overpass near Laurel (24YL0698), the Yellowstone River Bridge at Huntley (24YL0656), and the Beartooth Highway

(24CB1964). An NRHP nomination is currently (January 2012) in preparation for the Old US Highway 91 Historic District (24CA1313/24LC2112).



**Figure 1. Sleeping Buffalo Rock (24PH1002)**

Twenty-two of the 23 archaeological sites were discovered and inventoried as part of the MDT's Section 106 process in association with federally-funded highway reconstruction projects. In all cases, more than 90% of the NRHP-eligible archaeological sites are located outside the existing MDT ROW boundaries. The portions of the sites within the ROW were often disturbed during the original road construction, frequently lack integrity and often do not contribute to the overall significance of the sites (the Crow Agency II site in Stillwater County is an exception). The portions of the sites outside the ROW are not under MDT ownership and the agency has no jurisdiction over them. In those cases, the MDT has not monitored the conditions of the sites where they are located outside the ROW. Portions of the sites that were impacted by MDT undertakings have been mitigated. In 83% of the cases, however, the MDT was able to avoid the sites and no mitigation was necessary and the sites remain undisturbed.

All historic road and bridges that could potentially be impacted by federally-funded MDT projects were treated under the department's Historic Roads and Bridges Programmatic Agreement (PA). The agreement, implemented in February 2007, defines how the MDT treats National Register-eligible historic roads and bridges (Appendix 1). The PA was

developed as a management tool for the MDT to administer these historic resources. It makes provisions for the Adopt-A-Bridge program, Historic Bridge Rehabilitation Program,<sup>1</sup> Historic Road Program,<sup>2</sup> and requires that the MDT consider rehabilitation of



**Figure 2. The National Register-listed Missouri River Bridge near Wolf Creek (24LC0131)**

all National Register-eligible bridges rather than replacement during the planning phase of MDT bridge projects. The agreement also delineates the process by which the MDT mitigates impacts to historic bridges.

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<sup>1</sup> Fourteen historic bridges owned and administered by the MDT are included on the rehabilitation list: the Big Hole River/Kalsta Bridge (24BE2061), the Hardy Bridge (24CA0389), O.S. Warden Bridge (24CA0401), Fred Robinson Bridge (24FR0804/24PH1059), Missouri River Bridge near Wolf Creek (24LC0131), Sheep Creek Bridge (24LC1157), Orange Street Underpass (24MO0706), Carter Bridge (24PA0841), Yellowstone River Bridge at Fallon (24PE0618), Powder River Bridge near Terry (24PE1810), Big Horn River Bridge near Custer (24TE0120/24YL1603), Marias River Bridge (24TL0401), and the Yellowstone River Bridge at Huntley (24YL0656).

<sup>2</sup> Eight of the ten road segments listed as an MDT Heritage property are on the Historic Road Program: Old US Highway 91/Recreation Road (24CA1313/24LC2112), Yellowstone Trail (24TE0133/24YL1671), Roosevelt Highway/US 2 (24BL1944), Roosevelt Highway/Secondary 246 (24VL1865), Vigilante Trail (24MA2203), Jefferson Canyon Road (24JF1883), Yellowstone Trail (24JF1884/24MA2202), and the Electric Highway/Old Montana 6 (24ME0848)

The MDT has many well-known and significant heritage properties under its jurisdiction. These include the Beartooth Highway, Sleeping Buffalo Rock, and Crow Agency II.

In 1994, celebrated newsman Charles Kurault called the Beartooth Highway (24CB1964) “the most beautiful drive in America.” Completed in 1936, the spectacular highway provides a connection over the scenic Beartooth Plateau between Red Lodge and the northeast entrance of Yellowstone National Park at Cooke City. The highway is located in Montana and Wyoming. The MDT is responsible for the maintenance of the highway on the Montana side of the border. The MDT has maintained the original alignment and width of the road. Maintenance projects have included resurfacing, guardrail replacement, and snow removal. In 2005, the MDT reconstructed a section of the highway after mud slides forced its closure. A National Register of Historic Places nomination for the Beartooth Highway is currently pending.

Listed on the National Register of Historic Places, the Sleeping Buffalo Rock is significant to Montana’s native people, who revere this boulder that once perched high atop a wind-swept ridge overlooking the nearby Cree Crossing on the Milk River. The ancient, weather-worn effigy resembled the leader of a herd of reclining buffalo in an outcrop of gray granite. Ancient markings define its horns, eyes, backbone and ribs. Since late prehistoric times, native peoples of the Northern Plains have honored the Sleeping Buffalo’s spiritual power. Oral traditions passed down among the Cree, Chippewa, Sioux, Assiniboine and Gros Ventre as well as the more distant Blackfeet, Crow and Northern Cheyenne tell how the “herd” fooled buffalo-hunting parties. The Sleeping Buffalo Rock is currently located within the MDT ROW about eighteen miles east of Malta on US Highway 2. The MDT constructed and maintains a shelter that protects the effigy.

Established in 1875 when the federal government moved it from near Livingston to Rosebud Creek, Crow Agency II is a significant archaeological site that reflects the transition from the Crow Indians’ lives as bison hunters to its dependence on the US government. Although all the above ground buildings and structures associated with the agency until it was abandoned in 1884 are gone, the site features intact archaeological deposits associated with the operation of the agency. Some of those intact deposits are located within the existing MDT ROW. In the 1980s, the MDT programmed a project to reconstruct the road through a portion of the site and has conducted archaeological excavation of the site in 2007 and 2011. The MDT has also collaborated with the Crow Indians and Project Archaeology to document the site. The MDT is in the process of redesigning the segment of the roadway that passes through the site to minimize impacts to it.



**Figure 3. Archaeological Excavation at Crow Agency II (24ST0089) during Summer of 2011**

One of the provisions of the Historic Roads and Bridges PA stipulates that the MDT prepare National Register of Historic Places Multiple Properties Documents (MPD) for each of the four bridge types present in Montana. In 2010, the MDT successfully prepared an MPD for historic steel truss bridges in Montana. The document included National Register nominations for ten steel truss bridges, including five that are owned by the MDT (see list above). The following year, in 2011, the MDT completed an MPD for reinforced concrete bridges. It includes two reinforced concrete bridges owned by the MDT: the Sheep Creek Bridge (24LC1157) and the Carter Bridge (24PA0841). An MPD for historic steel stringer and girder bridges was presented

to the Montana State Historic Preservation Review Board at its January 2012 meeting. That MPD includes eight bridges of which six are under MDT jurisdiction (see list above). Finally, in 2012 or 2013, the State Review Board will consider the final MPD for historic timber stringer bridges.<sup>3</sup> Bridges owned by the MDT and listed in the MPDs have been included in the agency's Historic Bridge Rehabilitation Program. Especially prominent bridges include the Missouri River Bridge near Wolf Creek (24LC0131), the Carter Bridge (24PA0841), the Yellowstone River Bridge at Fallon (24PE0618) and the Fred Robinson Bridge (24FR0804/24PH1059) across the Missouri River in Phillips and Fergus counties.

## **B. The status and condition of each heritage property**

Sixty of the MDT's 96 heritage properties are in excellent condition. Fifty of those properties are bridges. The MDT regularly maintains and inspects its bridges every two years. Also included on the list are nine regularly maintained historic road segments. Maintenance includes snow removal and plowing, weed control, culvert and ditch maintenance, striping, and patching. The MDT resurfaced none of the roads on the list in 2011. The Lima Port of Entry Station (24BE2077) at the I-15 Lima rest area and the Aeronautics Operations Building (24LC2192) in Helena are in excellent condition. The

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<sup>3</sup> Only one National Register nomination will be included with the timber bridge MPD: the Cottonwood Creek Bridge (24CR0643). The bridge is owned and maintained by Custer County.

port of entry station was recently restored during the construction of the new rest area. There were no alterations or other activities that impacted the Aeronautics Operations Building other than routine maintenance in 2011. The Point of Rocks Historic Transportation Corridor is owned by the MDT, but is only minimally maintained. Maintenance in 2011 included the removal of fallen trees and rocks from the trail. In 2011, the MDT regularly removed litter from the Sleeping Buffalo Rock site and placed gravel surfacing on the turn-out.

None of the five pictographs/petroglyphs within MDT ROW are regularly maintained by the agency. The MDT has placed no signing to draw visitors to the sites in order to protect them from deterioration and prevent them from being vandalized. The MDT has allocated \$10,000 for the restoration of the Kila Pictograph Site (24FH1006-24FH1009, 24FH0420), but is awaiting concurrence from the Confederated Salish & Kootenai Tribes before proceeding with that project.

All 23 archaeological sites are only partially located within MDT ROW. All but one of the sites (24PW1044) was documented as part of the MDT's on-going cultural resource program under Section 106 of the National Historic Preservation Act. Mitigation work has been conducted at four of the 23 sites because of impacts caused to them by MDT construction projects within the last five years.<sup>4</sup> Mitigation work was conducted on only one site in 2011: Crow Agency II (24ST0089). Work on the remaining three sites was conducted prior to 2011. The MDT does not install directional or interpretive signing at archaeological sites.

Only one heritage property is in poor condition: the Old US Highway 2 Segments (24FH0490) in Flathead County. The segments are located within the existing MDT ROW and have not been actively maintained since the roadway was realigned in the wake of a catastrophic flood in 1966. The road segments are not actively used and there is no potential for the MDT to maintain the abandoned road segments.

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<sup>4</sup> The sites are: Black Bear Coulee (24PW0308), Crow Agency II (240089), and the Alkali Creek Site (24YL1607).





**Figure 4. Kila Pictograph**

One heritage property has partially failed : the Alkali Creek archaeological site (24YL1607) in Yellowstone County. The site was located on both sides of Airport Road (Montana Highway 3) in Billings, Montana. It was discovered in 2005 as part of the MDT's Airport Road project and the City of Billings' Aronson Couplet project. Because the Airport Road project was federally funded, the Section 106 process was conducted for the site. Consequently, MDT determined that the project would have an Adverse Effect to the NRHP-eligible site. The MDT and Aaberg Cultural Resources Consulting Services developed a mitigation plan, which was implemented in 2007. The site on the south side of the highway has been destroyed by construction activities; there are still intact portions of the site on the north side of Airport Road adjacent to Alkali Creek and within MDT ROW. A report describing the site and its findings is currently in progress (January 2012).

There are 12 threatened heritage properties under the administration of the MDT. Eleven of the properties are bridges: the Lodge Creek Bridge (24BL1050), Montana Ditch Bridge (24BW0956), Lower French Creek Bridge (24DL0269), Silver Bow Creek Bridge (24DL0707), Milwaukee Road Overpass (24FR0803), Flathead River Bridge (24FH0517), Little Boulder River Bridge (24JF0813), Northern Pacific Railway Overpass (24PA1137), Yellowstone River Bridge (24PA1246), the German Gulch

Overpass (24SB0762), and the Jones Coulee Bridge (24TT0125). All were programmed by the MDT as part of its on-going road improvement program. All ten bridges went through the Section 106 process and were treated under the terms of the Historic Roads and Bridges Programmatic Agreement. The MDT evaluated all of the bridges for rehabilitation potential. MDT determined rehabilitation not feasible based on economics, traffic demands, safety issues, and structural condition. Although eligible for the NRHP, it isn't feasible to offer the bridges for adoption because of the bridge types (reinforced concrete and steel girder). In addition, there was no community interest in preserving or rehabilitating the structures was expressed at the public hearings held for the projects. Six of the bridges are steel girder structures built between 1936 and 1961, two are treated timber stringer bridges and two are reinforced concrete bridges built in 1928 and 1931 (widened in 1939). The MDT followed the terms of the PA in mitigating the bridges. The Section 106 process was completed for nine of the ten bridges before Senate Bill 3 was enacted in March 2011.<sup>5</sup>



**Figure 5. The Flathead River Bridge (24FH0517)**

The Crow Agency II (24ST0089) is also a threatened site. A significant portion of the archaeological site is located within the existing MDT ROW south of Absarokee in Stillwater County. The MDT has a project that involves the reconstruction of Montana Highway 78 in proximity to the site. The MDT has a Memorandum of Agreement and mitigation plan in place for Crow Agency II. At the time of this writing, the MDT is attempting to redesign the roadway at Crow Agency II to minimize impacts to this important archaeological site.

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<sup>5</sup> Section 106 consultation is on-going in regards to the Flathead River Bridge (24FH0517).

**C. The stewardship efforts in which the agencies have engaged to maintain each heritage property and the cost of those activities.**

The MDT oversees the maintenance of 11,758 miles of Interstate, primary, secondary, and urban roads. It also is responsible for the maintenance of 2,440 bridges on those roads. Fifty-nine of the heritage properties owned and administered by the MDT are components of that road and bridge system. Consequently, the maintenance of those facilities is critical to Montana. It is also the responsibility of the MDT to serve the public by providing a transportation system and services that emphasize quality, safety, cost effectiveness, economic vitality and sensitivity to the environment.

MDT maintenance activities on its roads consist of snow removal and plowing, weed control, culvert and ditch maintenance, striping, and patching. Highways are resurfaced on a regular cycle. Often it consists of simple pavement preservation, chip/seal or overlay projects, but also could include more substantial resurfacing projects. Maintenance work is usually conducted with State funds and is not federally funded. None of the nine road segments included on the MDT's Heritage Properties List were resurfaced in 2011. Maintenance work has largely concentrated on snow removal and plowing, which does not cause any damage to the roadway, nor result in the removal or destruction of historic features associated with the roadway. It is estimated that the MDT spent approximately \$240,000 on roadway maintenance for the nine historic road segments in 2011.

The MDT inspects its bridges on two year cycles. In any one year, 813 bridges are inspected by the department. Inspections are non-invasive and consist primarily of the visual inspections of the structures' components. Federal law mandates that on-system and specific county-owned bridges are inspected every two years. Again state money is used to conduct the inspections. For the fifty historic bridges listed as MDT Heritage Properties, the cost of the inspections every two years is \$25,000. The MDT has programmed eleven bridges for replacement. Until the time they are removed, they will undergo routine maintenance and biennial inspections. Routine maintenance of bridges includes patching potholes on bridge decks, guardrail repair, and cleaning debris away from piers and abutments. That activity is conducted on an as-needed basis and is the result of regular visual inspections by MDT maintenance section staff.

It is estimated that the MDT spent approximately \$280,000 on routine maintenance of historic roads and bridges in 2011. None of the completed work compromised the integrity of any of the heritage properties according to the guidelines stipulated in the Historic Roads and Bridges PA. The National Register status of eligible properties has not changed because of the MDT's maintenance activities. It is not anticipated that the future maintenance activities would adversely affect any heritage properties owned and administered by the MDT.

For 22 of the 23 archaeological properties, no work was conducted on them by the MDT or its contractors in 2011. The only active archaeological excavation in 2011 was at

Crow Agency II (24ST0089). The work was conducted in association with the MDT's on-going road and bridge programs and were treated under Section 106 of the National Historic Preservation Act. The estimated cost for this work will be \$359,000 and consisted 87% federal funds associated with those construction projects. Approximately 99% of the archaeological sites remaining on the list were treated under federally-funded projects that occurred before 2011. Only portions of the entire sites are located within MDT ROW with the remainder on land not under MDT jurisdiction. These sites are not monitored on a regular basis and it is assumed, unless mitigation work had previously occurred on them, that they are undisturbed and in the same condition as when originally discovered.

The Kila pictograph site (24FH1006-24FH1009 and 24FH0420) in Flathead County is located within the MDT ROW. In 1997, the MDT replaced a chain link fence at one of the Kila Pictograph panels for approximately \$2,500. The MDT has allocated \$10,000 for the restoration/protection of the Kila Pictographs Day Count Shelter (24FH1007). However, no work has been done pending the approval and participation of the Confederated Salish & Kootenai Tribes in the project. The MDT has spent \$2,000 to install fencing to protect the Kila Buffalo Pictographs (24FH1006), the Kila Road County Pictographs (24FH1008), and the Kila Narrow Ledge Pictographs (24FH1009). No maintenance funds have been allocated to the Musselshell River pictographs, but they are periodically visited by MDT personnel to determine their present conditions.

The Virgelle (24CH1192) and McClellan (24BL1162/24FR0922) ferries are administered by the MDT, managed by the counties, and inspected by the US Coast Guard. It is not known the inspection and maintenance costs of the McClelland and Virgelle ferries.

The MDT recently restored the Lima Port of Entry Station (24BE2077) and placed it at the Lima rest area, where it has been interpreted. The Aeronautics Operations Building (24LC1292) in Helena is routinely maintained as it is a functioning administration site. No routine maintenance activities in 2011 impacted the historic integrity of the structures and they are eligible for the National Register of Historic Places.

The Point of Rocks Historic Transportation Corridor (24MN133/164) was listed on the National Register of Historic Places in 2009. It is maintained as an unimproved hiking/interpretive trail. Maintenance is conducted on it to remove fallen timber and rocks from the trail. The MDT's cost for maintenance to the site is less than \$500 per year.



**Figure 6. The Point of Rocks Historic Transportation Corridor (24MN133/164)**

There are no on-going maintenance activities to the Old US Highway 2 Segments (24FH0490) or Bad Rock Trail (24SA0343). The properties are located within the MDT ROW, but are not subject to maintenance activities and remain undisturbed in the state in which they were originally discovered.

The MDT completed two successful stewardship efforts in 2011: the Lima Port of Entry Station (24BE2077) and the O. S. Warden Bridge (24CA0401).

The Lima Port of Entry Station was the only contributing component of the Lima Maintenance Site. Built in 1936, the station was originally located at Monida and moved to the Lima Maintenance Site in 1947. There it remained open until 1957 when the MDT ended the Port-of-Entry program. There were originally nine port-of-entry stations scattered across Montana in the late 1930s. Each station housed two attendants, who distributed maps and other tourism information to visitors of the state. The stations were a significant part of Montana's early tourism program. The Lima port-of-entry station was used as storage from 1957 until the early 21<sup>st</sup> century when it was incorporated into the MDT's new Lima rest area facility. The station, which is in excellent condition both on the interior and exterior, was placed on a concrete foundation on the rest area site and will be used for interpretive purposes. The relocation and preservation of the station cost approximately \$10,000 and is associated with the construction of the new rest area.

The O.S. Warden Bridge (24CA0401) is a 26-span steel girder and reinforced concrete bridge that was constructed in 1951. When completed, the bridge, at 2,092 feet in length, was the longest bridge in Montana. The bridge is eligible for the National Register of Historic Places as an excellent example of an early 1950s-style steel girder bridge and because of the impact it had on the commercial development of Tenth Avenue South and Great Falls. In 2010, the MDT programmed a project to replace the worn-out concrete deck of the bridge, which was last replaced in 1964. The MDT replaced the deck in 2011 at an estimated cost of \$535,000. The new deck is the same width and thickness of the original deck and there was no appreciable change in the appearance or function of the Warden Bridge as a result. No work was done to the superstructure, piers, or guardrails of the structure. The bridge is pending for listing on the National Register of Historic Places.



**Figure 7. The Lima Port of Entry Station (24BE2077)**

#### **D. A prioritized list of the maintenance needs for properties**

Historic roads and bridges are aging facilities that require monitoring to ensure they remain open and safe for traffic. The MDT must strike a balance between preserving its heritage properties and continued operations as transportation facilities. The MDT's Maintenance Division district and section personnel regularly inspect the Interstate, primary, secondary, and urban roads under their jurisdiction. Maintenance generally conducts spot repairs (patching), weed control, snow removal, guardrail repairs, and culvert and ditch cleanings as part of the routine maintenance of the MDT's roads. On regular cycles, broader Maintenance projects include crack sealing, chip/seal, and limited resurfacing projects. These projects are conducted to extend the lives of the facilities. It does not include extensive work that has the potential to compromise the National Register eligibility of the heritage properties.

After reviewing the MDT's heritage property list (Appendix 2), the MDT has prioritized three properties that may require future preservation maintenance needs:

1. Crow Agency II (24ST0089)
2. Yellowstone River Bridge at Gardiner (24PA0790)
3. Sleeping Buffalo Rock (24PH1002)

While the MDT is attempting to redesign Montana Highway 78 through Crow Agency II in order to minimize impacts to it, some portions of the site within the existing MDT ROW will be impacted. The extent of those impacts as of this writing is not known. In 2010, an extensive inspection of the Yellowstone River Bridge at Gardiner revealed significant structural problems involving both the sub- and superstructures of the bridge. It is clear that something will have to be done to maintain a crossing of the river at the north entrance of Yellowstone National Park. It is not known if it would involve the rehabilitation of the structure or the construction of a new bridge. The MDT has not yet programmed a project involving the bridge.

Sleeping Buffalo Rock is a Traditional Cultural Property that is listed in the National Register of Historic Places. It is currently housed under a shelter at a turn-out adjacent to the junction of US Highway 2 and Secondary Highway 243 about 18 miles east of Malta. While the site is often visited by Native Americans who leave offerings there, it is also visited by others who leave offerings of a different sort at the site that aren't particularly respectful of the effigy. The MDT and the owners of the Sleeping Buffalo Resort maintain the site, but occasionally there are indications that the MDT would like to build a more attractive shelter and improve the turn-out to, hopefully, discourage littering and vandalism.



**Figure 8. The Yellowstone River Bridge at Gardiner (24PA0790)**

Eleven bridge replacement projects for which the Section 106 process has been completed are described above in Section A. Eleven of the MDT's thirteen threatened heritage properties are historic bridges that have been scheduled for replacement as part of the MDT's on-going programs. All were treated under Section 106 of the National Historic Preservation Act and the bridges mitigated under the terms of the MDT's Historic Roads and Bridges Programmatic Agreement. Agency personnel evaluated the bridges for rehabilitation, but it was determined that rehabilitation was not an option based on structural condition, safety, and current and projected traffic demands. The structural types of the bridges do not make them conducive to relocation and/or adoption.

The MDT currently has no endangered heritage properties.



**E. Record of the agencies' compliance with subsections MCA 22-3-424 Section 3(1) and (2).**

Most MDT projects with the potential to impact heritage properties are federally-funded in order to comply with MDT's mission to "serve the public by providing a transportation system and services that emphasize quality, safety, cost effectiveness, economic vitality and sensitivity to the environment." Consequently, most MDT projects do not occur under the Montana Antiquities Act, but rather with Section 106 of the National Historic Preservation Act (36 CFR 800) and Section 4(f) of the Department of Transportation Act of 1966. The process outlined in Section 106 is mirrored in the Montana Antiquities Act.

The MDT has a prescribed system in regards to heritage properties that follows the procedure delineated by Section 106: identification of heritage properties, assessment of effect, and mitigation if necessary. The goal of Section 106, moreover, is to minimize or avoid impacts to heritage properties. Section 4(f) ensures that the MDT takes measures to avoid impacts to heritage properties when there are reasonable and prudent alternatives. Because of those two federal laws, and under the provisions of the National Environmental Policy Act (NEPA), the identification and protection, when possible, are a significant part of the MDT's Section 106 process. Heritage properties are treated in Chapter 30 of the MDT's Environmental Manual, which can be viewed at <http://www.mdt.mt.gov/publications/docs/manuals/env/preface.pdf>. The manual provides the guidelines for how the MDT and its consultants treat heritage properties.

Fully 100% of the consultation between the MDT and the Montana State Historic Preservation Office in 2011 occurred under Section 106 of the National Historic Preservation Act. Consultation under 22-3-424 occurred only as a result of state-funded MDT Maintenance Division projects. Only one MDT heritage property, 24PW1044, was treated under the Montana Antiquities Act.

It is not currently known how many undocumented or unevaluated historic sites the MDT owns. That undocumented and unevaluated historic sites are owned by the MDT is unquestioned, but they will likely not be documented and evaluated unless undertakings are programmed that may impact them. When they are discovered, documented and evaluated, they will be dealt with under the terms of Section 106 and the Montana Antiquities Act. No doubt there are archaeological sites at least partially located within the MDT's ROW in Montana that have not been documented or evaluated. The MDT has not surveyed its entire ROW and does so only when projects are programmed that require additional ROW or have the potential to disturb the existing ROW. As part of its on-going program, the MDT will continue to document and evaluate heritage properties located at least partially within the ROW. Those properties will be treated under Section 106 and the Antiquities Act where necessary.

The MDT cultural resource staff is responsible for the agency's Section 106 and Montana Antiquities Act compliance. When projects that may potentially impact heritage properties are programmed by the department, the staff is notified as part of the planning

process. Consequently, no heritage property management training is conducted by the MDT's cultural resource staff.

The major challenge for the MDT is balancing the needs to meet the MDT's mission and to preserve heritage properties when possible. In the past, the MDT has had success in preserving historic bridges, but they were off-system, county-owned structures that did not experience the same traffic demands placed on state-owned structures. More recent successes include the development of the National Register Multiple Property Documents and the listing of bridges on the National Register of Historic Places. The MPD's will function as a management tool and, hopefully, listing on the National Register will provide an incentive to the MDT to rehabilitate those structures rather than replace them out of hand. Thirteen state-owned bridges are also included in the Historic Roads and Bridges Programmatic Agreement's Historic Bridge Rehabilitation Program.

The MDT will continue to identify and evaluate heritage properties as part of its on-going cultural resource program in conjunction with the MDT's federal and state-funded programs. The MDT's cultural resource program is governed by Section 106 of the National Historic Preservation Act. Where possible, the MDT will avoid heritage properties and/or minimize impacts to them. Under Senate Bill No. 3, however, the MDT will take into account the impact of its undertakings on heritage properties under its jurisdiction.

## **Appendix 1**

### **Montana Department of Transportation's Historic Roads and Bridges Programmatic Agreement**

**PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL HIGHWAY ADMINISTRATION,  
THE MONTANA DEPARTMENT OF TRANSPORTATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
AND  
THE MONTANA STATE HISTORIC PRESERVATION OFFICE  
REGARDING HISTORIC ROADS AND BRIDGES  
AFFECTED BY MONTANA DEPARTMENT OF TRANSPORTATION  
UNDERTAKINGS IN MONTANA**

WHEREAS, the Federal Highway Administration, Montana Division (FHWA), proposes to make Federal funding available to the Montana Department of Transportation (MDT) for that agency's on-going program to construct or rehabilitate highways and bridges; and

WHEREAS, the FHWA has determined that this federally-assisted program may have an effect upon a certain class of properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) and has consulted with the Advisory Council on Historic Preservation (Council) and the Montana State Historic Preservation Office (SHPO) pursuant to Section 800.14 of the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the FHWA and the MDT developed an Historic Preservation Plan (HPP) regarding historic roads and bridges in 1997 and that document was subject to review under 36 CFR 800.14 and was adopted by FHWA, SHPO, and the Council and implemented through Programmatic Agreements in 1997 and 2001 with amendments in 1999 and 2003, respectively; and

WHEREAS, the FHWA and MDT in consultation with SHPO has re-evaluated the 1997 HPP and the 1997 and 2001 Programmatic Agreements and their amendments to determine what products and actions have been completed, have been effective, or should be dispensed, revised or restated in a new Programmatic Agreement; and

WHEREAS, this Programmatic Agreement (Agreement) shall supercede all of the previous Programmatic Agreements and their amendments regarding undertakings affecting historic roads and bridges in Montana; and

WHEREAS, the MDT participated in the consultation and has been invited to concur in this Agreement; and

WHEREAS, all references to 36 CFR 800 within this Agreement are to the Council's revised regulations, effective August 5, 2004;

NOW THEREFORE, the FHWA, the MDT, the Council, and the Montana SHPO agree that the Montana historic roads and bridges program addressed in this Agreement shall be

administered in accordance with the following stipulations to satisfy the FHWA's Section 106 responsibility for all individual undertakings of the program.

### **Stipulations**

The FHWA will ensure that the following measures are carried out:

#### **1. MONTANA DEPARTMENT OF TRANSPORTATION AND MONTANA STATE HISTORIC PRESERVATION OFFICE COOPERATION**

- A. MDT and SHPO will strive to work cooperatively in all matters concerning the identification, evaluation and treatment of historic roads and bridges.
- B. MDT will routinely encourage, invite, and support SHPO participation in on-site field visits and meetings for MDT undertakings involving historic roads and bridges.
- C. SHPO will routinely provide constructive reviews and comments to all written requests for consultation from MDT and will routinely communicate, advise and meet with MDT to share information and seek to resolve issues pertaining to historic roads and bridges before they arise.

#### **2. FOR UNDERTAKINGS INVOLVING HISTORIC ROADS**

- A) This Agreement will apply to all historic roads constructed in Montana after 1859.

##### ***B) Montana Historic Highway Program***

For those roads built after 1859 under the jurisdiction of the MDT, the following program will be established:

- 1) The MDT Environmental Services Bureau in consultation with SHPO will compile a list of a minimum of 12 (twelve) historic road segments in Montana that are especially significant for their historic associations and/or engineering and associated features (i.e. bridges, roadside architecture, proximity to abandoned segments of historic road, etc.) for inclusion in a Montana Historic Highway Program.
  - a) The MDT Environmental Services Bureau historian, in consultation with SHPO, will identify proposed segments in a draft list for inclusion in this program by June 30, 2007.
  - b) A segment is defined as a recognizable section of roadway that retains a significant portion of its original design features, alignment and associated features (i.e. roadside architecture,

bridges, etc.) to meet the criteria for inclusion in the National Register of Historic Places.

- c) The draft list will be distributed to the FHWA, MDT Highways and Planning Division Administrators, MDT District Administrators, and the MDT Highways Bureau for comment.
  - d) A final list with map (to be included as **Attachment 1** to this Agreement) will be mutually approved by MDT and SHPO by December 31, 2007 for inclusion in the Montana Historic Highway Program to be implemented by this Agreement.
- 2) If not already inventoried and evaluated and prior to any undertaking with the potential to impact the road segments identified above, the MDT will record each identified historic road segment in the Montana Historic Highway Program as a minimally defined linear site and assign it Smithsonian trinomial number. The MDT will evaluate the historic significance and integrity of the road in consultation with SHPO, pursuant to 36 CFR 800.4.
  - 3) For the historic road segments in the Montana Historic Highway Program, MDT will seek whenever prudent and feasible to preserve or incorporate into the design of all proposed undertakings as many of the historic features associated with the designated roadway as is possible based on current American Association of State Highway and Transportation Officials (AASHTO) standards. Specifically, MDT will incorporate preservation and context sensitive design early in the planning process, including (but not limited to):
    - a) MDT will consider the historic road and features associated with it under the guidelines delineated in *Saving Historic Roads: Design & Policy Guidelines* (National Trust for Historic Preservation, 1998).
    - b) MDT will ensure that when a segment of designated historic roadway is programmed for widening or reconstruction, the MDT Preconstruction Bureau will notify the MDT Environmental Services Bureau prior to the Preliminary Field Review for early consideration for preservation of historic values.
    - c) MDT will use design exceptions as necessary and allowable to minimize impacts to historic highway features that may be located within the right-of-way (R/W) or clear zone.
    - d) MDT will integrate existing historic road features into changes in the proposed roadway. If necessary and feasible to move features, they will be relocated to correspond to their original context (i.e. concrete R/W markers and retaining walls).
    - e) MDT will coordinate historic preservation with MDT's mandate to provide safe and efficient roadways for the traveling public.
  - 4) For all undertakings involving roads in the Montana Historic Highway Program, MDT will explicitly identify the roads as part of the Montana

Historic Highway Program and invite the public in the early stages of planning to comment upon the potential for impact to historic values. Public comments may be solicited through regular MDT procedures as part of the National Environmental Policy Act (NEPA) process as specified in 36 CFR 800.8 (a). MDT will document public comment on impacts to historic values.

- 5) For all undertakings involving roads in the Montana Historic Highway Program, MDT will explicitly identify the roads as part of the Montana Historic Highway Program, submit documentation including description, public comment and assessment of effect; and invite SHPO to comment pursuant to 36CFR800.5 upon the potential for impact to historic values. SHPO will have 30 days to respond.
  - 6) If MDT, in consultation with SHPO, determines that a road in the Montana Historic Highway Program will be adversely affected pursuant to the criteria as defined in 36 CFR 800.5(a), FHWA and MDT will consult with the Council, SHPO and any other consulting parties to resolve the adverse effect pursuant to 36 CFR 800.6-7, including development of a Memorandum of Agreement (MOA), as necessary.
- C) For undertakings involving all other historic roads *not* included as part of the Montana Historic Highway Program, the following procedures will apply:
- 1) The MDT and FHWA will comply with 36 CFR 800.3-6 for consideration and consultation on historic properties in the Area of Potential Effect (APE) other than historic roads.
  - 2) For the historic roads, MDT will identify, record, and assign Smithsonian trinomial site numbers to historic-age (> 50 years old) roads or road segments located within the Area of Potential Effect (APE) of MDT's undertakings.
  - 3) MDT in consultation with SHPO will seek to avoid impacts to all intact historic features associated with the historic-age roads.
  - 4) If MDT and SHPO determine that a particular road contains historically significant features that are eligible for listing in the National Register of Historic Places on a *statewide* or *national* level, MDT will consult with SHPO to develop and implement a plan to avoid or incorporate the features into the agency's undertaking in a manner that preserves their historical significance and integrity.

### **3. FOR UNDERTAKINGS INVOLVING HISTORIC BRIDGES**

- A) MDT will comply with 36 CFR 800.4 with regard to identifying and evaluating, in consultation with SHPO, the National Register eligibility of historic-age (>50 years old) bridges.
1. MDT will identify, record, and obtain Smithsonian trinomial site numbers from the state Site Records Office, The University of Montana, for all bridges to be evaluated for eligibility to the NRHP.
  2. MDT will consider national, state, and local levels of significance in determining the eligibility of bridges to the NRHP.
- B) For NRHP-eligible bridges that may be impacted by MDT undertakings, including proposed bridge replacement, FHWA and MDT will consider preservation in place and historic bridge rehabilitation alternatives early and thoroughly in the planning and public comment process.
1. Where applicable, FHWA and MDT will encourage use of Community Transportation Enhancement Program (CTEP) and Treasure State Endowment Program (TSEP) funds for the preservation and rehabilitation of NRHP-eligible bridges rather than bridge demolition or removal.
- C) For all NRHP-eligible bridges that MDT concludes, after planning and public comment, that the bridge will be affected by an undertaking, (including those considered for the Montana Adopt-A-Bridge Program or the Montana Historic Bridge Rehabilitation Program [see below Stipulation 3E and 3F] ), MDT will implement the following actions:
1. MDT will notify SHPO and any other consulting parties and invite their comment on the undertaking. SHPO and other consulting parties shall have at least 30 days to comment. MDT will take into consideration the comments of SHPO and other consulting parties in implementing the undertaking
  2. MDT will consult with the National Park Service's Historic American Engineering Record (HAER) to determine the level of documentation necessary and appropriate for recording the bridge.
    - A. If accepted by HAER for official record-keeping, MDT will submit original documentation to HAER and copies to the SHPO, The University of Montana Site Records Office (as a site update), the Montana State University-Bozeman, interested local historical societies and/or museums, and new owners, as applicable (i.e., Montana Adopt-A-Bridge Program).
    - B. If not accepted by HAER for official record-keeping, MDT will submit original documentation to SHPO and copies to The University of Montana Site Records Office (as a site update),



interested local historical societies and/or museums, and new owners, as applicable (i.e., Montana Adopt-A-Bridge Program).

3. As allowable and appropriate, MDT will salvage historic components (i.e. trusses, masonry abutment walls, guardrails, etc. ) for reuse on new bridges and/or include structural features in the design of new bridges that closely approximate historic structural components and design.
- D) For all bridges determined to be not NRHP eligible that will be affected by a MDT undertaking, MDT will update the historic property record (site form) to reflect the impact of the undertaking.
1. Updated information, including before and after photographs, will be submitted to The University of Montana Site Records Office as a site update.

**E) *Montana Adopt-A-Bridge Program***

1. MDT will initiate and promote a Montana Adopt-A-Bridge program to find new locations, uses and/or owners for certain historic bridges that are NRHP eligible and have been designated for replacement or demolition because rehabilitation and preservation in-place is not feasible.
2. The Montana Adopt-A-Bridge program will encompass all historic truss and steel girder bridges with a structural rating of three (3) or above. At its discretion, MDT may also consider other bridges for adoption.
3. A determination of suitability of an historic truss or steel girder bridge for inclusion in the Montana Adopt-A-Bridge program will be made during the preliminary field review of the proposed project by the appropriate District Administrator, in consultation with the MDT Bridge Bureau and the MDT's Environmental Services Bureau historian.
  - a. The MDT Bridge Bureau's recommendation will be based on the structural condition of the bridge and its suitability for relocation.
  - b. The MDT Environmental Services Bureau historian's recommendation will be based on the bridge's historic and/or structural significance.
  - c. MDT will notify SHPO of the bridge's selection or non-selection for the Montana Adopt-A-Bridge Program and given fifteen (15) calendar days to comment.
4. MDT will prepare and distribute a brochure that provides information about the Montana Adopt-A-Bridge program to the general public.
  - a. The brochure will be available through the MDT headquarters and each of the five district offices. Copies of the brochure will also be provided to the 56 Montana counties. It will also be distributed at public hearings where bridges deemed eligible for the program are discussed.

- b. The brochure will include specific guidance on the issue of legal liability and insurance.
5. If deemed suitable for the Montana Adopt-A-Bridge Program, the bridge will be advertised for adoption in the local newspapers, radio public service announcements (PSAs), and on the MDT's Internet website.
  - a. The MDT Environmental Services Bureau historian will prepare the advertisement and submit it to the appropriate newspaper(s) at least ninety (90) days before the scheduled ready date for the project.
  - b. MDT will offer potential owners the demolition cost of the bridge as an incentive to adopt the historic bridge.
    - (i). If the bridge will be adopted and relocated, then the demolition money may be applied to the reimbursement for the move.
    - (ii). If the bridge will be adopted and left in-place, then the money must be applied to the restoration, rehabilitation or insurance liability for the historic bridge.
    - (iii). Where possible, MDT will encourage and give preference to the adoption of bridges in-place.
6. Upon receipt of and consideration of response(s), MDT will determine the disposition of bridges in the Montana Adopt-A-Bridge Program as follows:
  - a. The MDT Bridge Bureau will contact all interested new owners of the historic bridge and request they provide information in writing regarding: the proposed new or in-place location; the intended use of the bridge when adopted; and the ability to assume the liability and responsibility for the bridge.
    - (i) If it is determined that a potential recipient of an historic bridge intends to demolish it for its value as scrap metal, then he/she will be removed from further consideration.
  - b. An FHWA representative, the appropriate MDT District Administrator, the Chief Bridge Engineer, the MDT attorney and the MDT Environmental Services Bureau historian will together select a new owner among viable interested owners based on the written information provided and using criteria described in **Attachment 2** to this Agreement.
  - c. The selected new owner (2nd Party) must agree, in writing, to maintain the bridge and the features that give it its historical significance and assume the liability and responsibility for the bridge once he/she has taken possession of the structure. MDT and/or the county in which the bridge resides or is taken will not be held liable for the bridge once ownership has been transferred to the 2nd Party. A sample copy of the agreement is included as **Attachment 3** to this Agreement.
    - (i) No demolition funds will be provided to the 2nd Party until they have assumed the liability and responsibility for the bridge.
  - d. The MDT Environmental Services Bureau historian will conduct HAER-level documentation of the bridge prior to its adoption (see above, Stipulation 3C).

- e. If the adopted bridge will be relocated, the 2nd Party must remove the bridge from the construction site within 30 days of notification by the MDT Project Manager. The 2nd Party will be provided with the demolition funds once the MDT Bridge Bureau has been notified by the MDT Project Manager that the bridge has been removed from the construction site and relocated.
  - f. If the abutments are determined historically significant, they will be left in place if practicable. MDT will make this determination on a case-by-case basis.
  - g. MDT will ensure that the 2nd Party must maintain the bridge and the features that contribute to its historical significance for a period of no less than 10 years, to be established in the agreement between the 2<sup>nd</sup> Party and the MDT.
  - h. The 2nd party must assume all future legal and financial responsibility for the bridge, holding MDT harmless in any liability action.
  - i. The 2nd Party will permit access to the relocated bridge by the MDT Environmental Services Bureau historian for up to ten years for monitoring and follow-up documentation purposes. MDT will notify the 2nd Party of any inspection of the bridge ten working days before the visit. MDT shall invite SHPO to participate.
  - j. If the adopted bridge is to be left in-place, the 2nd Party will be provided the demolition funds once documentation detailing plans for restoration or rehabilitation has been received and approved by the MDT District Administrator, the MDT Bridge Bureau and the MDT Environmental Services Bureau historian and an agreement to this effect has been executed. The MDT may consult with the SHPO regarding the plans for restoration or rehabilitation. Rehabilitation shall meet the *Secretary of the Interior's Standards and Guidelines for Rehabilitation* (36 CFR 67).
    - (i) MDT will give the 2<sup>nd</sup> party a copy of the HAER-level documentation and also specific guidance for historic preservation of the bridge.
    - (ii). MDT will ensure that the 2nd Party must maintain the bridge and the features that contribute to its historical significance for a period of no less than 10 years, to be established in the agreement between the 2<sup>nd</sup> Party and the MDT.
  - k. The 2nd Party will be responsible for securing any and all necessary permits and easements from appropriate federal and state agencies (i.e. Army Corps of Engineers, Montana Department of Natural Resources and Conservation, etc.), as applicable for the relocation or preservation in-place of an adopted bridge.
7. If no interested new owners respond or no suitable owners are identified, MDT may proceed with the replacement and demolition of the bridge after following the procedures established in Stipulation 3C above.
8. As part of the biennial Agreement implementation report (Stipulation 5), the success of the Montana Adopt-A-Bridge Program will be reviewed by MDT in consultation with SHPO. If the Montana Adopt-A-Bridge

program is deemed deficient or ineffective in its purpose to preserve historic bridges under public or private ownership, either in place or at alternate locations, then it may be revised through consultation between MDT and SHPO and amendment to this Agreement, pursuant to Stipulation 7.

F). ***Montana Historic Bridge Rehabilitation Program***

1. The Montana Historic Bridge Rehabilitation Program will apply to a select group of NRHP-eligible or potentially eligible state-administered on-system bridges as well as county or city maintained off-system bridges.
  - a. On-system bridges will be selected for the program by the MDT Bridge Bureau and District Administrators, in consultation with the MDT Environmental Services Bureau historian and SHPO.
    - (i) The public will be solicited for its input in the selection process through advertisements in local newspapers.
  - b. Off-System bridges will be selected for the program by the appropriate city and county governments in consultation with the MDT Bridge Bureau and District Administrators, the MDT Environmental Services Bureau historian, and SHPO.
2. The program will initially include 25 NRHP-eligible or potentially eligible bridges (preferably 5 bridges from each of the MDT's five administrative districts). A draft list of these bridges is attached as **Attachment 4** to this Agreement.
3. The selection of bridges for the program will be made by December 31, 2007.
4. All bridges included in the program will be programmed in initial planning by MDT as bridge rehabilitation rather than replacement projects.
5. MDT will address all undertakings with the potential to affect bridges within the Montana Historic Bridge Rehabilitation Program pursuant to all policies and procedures established in 36 CFR 800.
  1. All rehabilitations will meet the *Secretary of the Interior's Standards and Guidelines for Rehabilitation* (36 CFR 67).
  2. Rehabilitation project designs will be reviewed by the MDT historian and submitted to SHPO for consultation pursuant to 36 CFR 800.5-7.
6. In the unlikely event that if, at the time of an undertaking, MDT and SHPO agree that a bridge in the program cannot in fact be rehabilitated because of a new structural condition or other unforeseen factors, another NRHP-eligible bridge must be selected under this Stipulation to replace it in the program within 6 months of the mutual determination.

7. Once a bridge in the program has been successfully rehabilitated, another NRHP-eligible bridge must be selected under the terms of this Stipulation to replace it in the program within 6 months of the completion of the rehabilitation, thereby maintaining 25 bridges in the program at all times. At such time as MDT determines, in consultation with SHPO, that fewer than 25 bridges exist that are eligible for the program, the number of total bridges in the program may decrease accordingly.
8. Within 1½ years of a completed rehabilitation project, MDT will nominate the bridge to the National Register of Historic Places and provide an interpretive sign describing the history and significance of the bridge along with details acknowledging the rehabilitation project.
9. The MDT may develop further procedures for administering the Montana Historic Bridge Rehabilitation Program and submit them to SHPO for comment and concurrence. If MDT and SHPO agree, these procedures may be amended to this agreement, pursuant to Stipulation 7.

#### **4. NATIONAL REGISTER OF HISTORIC PLACES NOMINATIONS AND CONTEXT DEVELOPMENT**

##### *For Roads*

- A. MDT will nominate the Point of Rocks Segment of the Mullan Military Road (24MN133), with or without the adjacent abandoned Milwaukee Road Railroad grade, to the National Register of Historic Places by December 31, 2007.
  - 1) Within 1 year of the National Register listing, MDT will install interpretive markers about the Mullan Military Road at the I-90 Dena Mora Rest Area and the parking area located adjacent to the road segment at MP 72 on I-90.
- B. MDT will nominate at least one historic road segment in the Montana Historic Highway Program to the National Register of Historic Places every three (3) years beginning in 2008 (see Stipulation 2B) until such time that all roads in the program have been nominated.

##### *For Bridges*

- C. MDT in consultation with SHPO will develop National Register Multiple Property Documents (MPD's) for steel truss, reinforced concrete, steel stringer, girder, and timber bridges in Montana.
  1. MDT will submit the draft MPD's to SHPO as they are completed and SHPO will provide comments to MDT within 90 days.

2. Once mutually agreed upon by MDT and SHPO, the MPDs will provide the basis on which historic bridges are evaluated by MDT and SHPO according to the National Register criteria, pursuant to 36 CFR 63 (see Stipulation 3A)
3. As time and opportunity allow, the MDT and SHPO will collaborate to nominate eligible bridges to the National Register of Historic Places under the MPDs and submit both the MPDs and the bridge nominations to the Keeper.

## 5. EDUCATION AND OUTREACH PROGRAMS

### *For Roads*

- A. MDT will provide funding for the development and installation of five new roadside interpretive markers describing the history and significance of pre-1913 historic roads. The markers will be adjacent to Montana's existing primary and secondary highway system. The marker locations will be determined by MDT in consultation with SHPO.
- B. MDT will expand its historical marker program to MDT-administered Rest Areas to concentrate specifically on Montana's transportation history.
  - a. Ten new markers will be established at Rest Areas by 2015.
  - b. The first interpretive marker will be installed at the Interstate 90 Dena Mora Rest Area and describe the history and significance of the Mullan Military Road to west central Montana (see Stipulation 4A).
  - c. This first marker will be installed by December 31, 2007.
- C. MDT will finance the updating and republishing (with the Montana Historical Society Press or other publisher) of *Montana's Historical Highway Markers* when the current print run of the volume has been exhausted.
- D. MDT will revise and expand its 1993 unpublished document, *Roads to Romance: The Origins and Development of the Road and Trail System in Montana*, by December 31, 2009. Copies will be distributed to SHPO, the Montana Historical Society Library, and other interested parties, organizations, and agencies.

### *For Bridges*

- E. MDT will develop, deploy and maintain a Statewide Bridge Database/GIS in consultation with the Montana SHPO and the Montana State Library's Natural Resource Information System (NRIS) program.
  - a. The initial Statewide Bridge Database/GIS will be completed by December 31, 2007.

- b. Information in the database will include locations, Smithsonian trinomial numbers, National Register evaluations, photographs, bridge type, and brief narrative descriptions and histories of each bridge.
- c. The production and maintenance of the database will encourage and solicit multi-agency participation, including not only SHPO and NRIS, but also the Forest Service, National Park Service, U.S. Bureau of Land Management, Bureau of Reclamation, Indian Tribal governments, and the Bureau of Indian Affairs.
- d. The Statewide Bridge Database/GIS will be made available to and shared with the public, interested parties and agencies via the Montana State Library's NRIS website.

F. MDT will sponsor an historic bridge workshop or seminar in 2008 and again at least once every five (5) years thereafter.

- a. The workshops/seminars will address issues associated with the preservation and rehabilitation of historic bridges.

*For Roads and Bridges*

G. MDT will encourage and support the attendance of appropriate MDT employees at regional and national forums (workshops, seminars, conferences) dealing with the preservation of historic roads and bridges.

H. MDT will develop a "History of the Montana Department of Transportation" PowerPoint presentation, advertise and make it available to the public and interested agencies and organizations. The presentation will be completed by March 31, 2008.

I. MDT will develop and distribute a "Compilation of Montana Historical Highway Maps" to appropriate schools and agencies by June 30, 2007.

J. MDT will seek to participate as possible in other historic transportation-related educational and outreach programs on a can-do basis as they may become known.

**6. PROGRAMMATIC AGREEMENT IMPLEMENTATION REPORT**

- A. Biennially, MDT will complete and distribute a report providing a stipulation-by-stipulation accounting of the implementation of this Agreement.
- B. The report will be provided to the signatories to this Agreement for review and comment.
- C. The first report will be prepared two years from the execution of this Agreement, and every two years thereafter.

## **7. AGREEMENT MONITORING, AMENDMENT, AND TERMINATION**

- A. This Agreement will remain in force until such time that it is terminated by one or more of the signatory parties.
- B. Any signatory to this Agreement may terminate it by providing, in writing, forty-five (45) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek arrangement on amendments or other actions that would avoid termination. In the event of termination, FHWA will comply with 36 CFR 800 with regard to each individual undertaking covered by this Agreement.
- C. The Council and SHPO may monitor any activity carried out pursuant to this Agreement, and the Council will review such activities if so requested. MDT and FHWA will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.
- D. Any signatory of this Agreement may request that it be amended, whereupon the signatories will consult to consider such amendment. An amendment will go into effect when agreed to in writing by all the signatories.

## **8. OBJECTIONS, DISPUTE RESOLUTION, AND FAILURE TO FULFILL**

- A. Should any signatory to this Agreement object within sixty (60) days to any action proposed or undertaken pursuant to this Agreement, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objections cannot be resolved, the FHWA shall forward all documentation relevant to the dispute to the Council, including the FHWA's proposed response to the objection. Within thirty (30) calendar days after receipt of all pertinent documentation, the Council will either:
  - 1. advise the FHWA that it concurs with the FHWA response, whereupon the FHWA will respond to the objection accordingly; or
  - 2. advise the FHWA that it should enter into adverse effect consultation pursuant to 36CFR800.6; or
  - 3. provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding the dispute; or
  - 4. notify the FHWA that it will comment pursuant to 36 CFR 800.7(c), and proceed to comment on the subject of the objection. Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR 800.7(c)(4) with reference only to the subject of the dispute; the FHWA and MDT's responsibility to carry



out all actions under this Agreement that are not the subjects of the dispute will remain unchanged.

5. If the Council fails to provide recommendations or to comment within the specified time period, the FHWA may implement that portion of the undertaking subject to dispute under this Stipulation in accordance with the documentation submitted to the Council for review.
- B. At any time during implementation of the measures stipulated in this Agreement, should any objection to any such measure or its manner of implementation be raised by a member of the public or other non-signatory to the Agreement, the FHWA shall take the objection into account and consult as needed with the objecting party, the SHPO or the Council to address the objection.
  - C. In the event that the FHWA or MDT does not carry out the terms of this Programmatic Agreement, it shall not take any action or make any irreversible commitment that would result in an adverse effect to historic properties or would foreclose the Council's consideration of modifications or alternatives to the undertaking.

Execution and implementation of this Programmatic Agreement evidences that the FHWA has satisfied its Section 106 responsibilities for all individual undertakings subject to the terms of the Agreement.

**MONTANA DIVISION, FEDERAL HIGHWAY ADMINISTRATION**

By: *Ted Burch*  
Ted Burch, Program Development Engineer

Date: *12/12/2006*

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By: *John M. Fowler*  
John M. Fowler, Executive Director

Date: *2/1/07*

**MONTANA STATE HISTORIC PRESERVATION OFFICE**

By: *Mark F. Baumler*  
Mark F. Baumler, State Historic Preservation Officer

Date: *12/18/2006*

**CONCUR:**

**MONTANA DEPARTMENT OF TRANSPORTATION**

By: *Jim Lynch*  
Jim Lynch, Director MDT

Date: *1/09/07*

APPROVED FOR  
LEGAL CONTENT  
Date *Nov. 1, 2006*  
By *Style Manley*  
Signature

## Attachment 1

### Historic Road Segments

	Name	MP to MP		County	Era
1.	Recreation Road	0 - 44	Old US 91	L & C/Cascade	1930s
2.	Convict Grade			Park	1910s
3.	Camels Hump Road		Old US 10	Mineral	1910s- 1930s
4.	Yellowstone Trail	0 - 10	S-311	Yellowstone/Treasure	1910s
5.	Roosevelt Highway/US 2	0 - 11	S-246	Blaine	1920s
6.	Old Hardin Road/US 87			Yellowstone/Big Horn	1920s- 1930s
7.	Yellowstone Trail	0-35		Fallon, Custer, Prairie	1910s
8.	Roosevelt Highway/S-246	0-11		Valley	1920s- 1930s
9.	Virginia City Road	13-23	MT 287	Madison	1860s- 1930s
10.	Jefferson Canyon Road	Jct. - Whitehall	MT 2	Madison/Jefferson	1930s
11.	Yellowstone Trail	0-15	S-359	Madison	1920s
12.	Old Montana Highway 6	0-27	S-294	Meagher	1930s

Road segments highlighted in red are county-owned.

**Attachments 2 and 3 currently under revision by the MDT**

## Historic Bridge Rehabilitation Program Bridges

	<i>Bridge</i>	<i>MDT ID No.</i>	<i>Smithsonian No.</i>
	<b>Missoula District</b>		
1.	Swan River at Bigfork*	L15672000+02001	24FH0743
2.	Blackfoot River south of Clearwater Junction*	L32406002+06001	24MO0371
3.	Clark Fork/Scenic*	L31170000+02001	24MN0304
4.	Noxon Bridge*	L45260000+01001	24SA554
5.	Little Blackfoot River SW of Avon*	L39311000+01001	24PW0633
6.	Orange Street Underpass	R08107002+07001	24MO0706
	<b>Butte District</b>		
7.	Ferry Creek Bridge NE of Livingston*	L34003001+07001	24PA1077
8.	Missouri River at Toston (truss)*	L04415000+01001	24BW0814
9.	Big Hole River near Glen (Kalsta Bridge)	L01311022+02001	24BE2061/24MA2094
10.	Red Rock River 4 mi. NW of Lima*	L01266000+05001	24BE2064
11.	Gallatin River/Axtell Bridge*	L16494000+05001	24GA1676
12.	Yellowstone River/Carbella Bridge*	L34301000+03001	24PA1237
13.	Divide Bridge*	L47017000+01001	24BE1803/24MA0588
14.	Yellowstone River/Carter Bridge	S005400031+06621	24PA0841
	<b>Great Falls District</b>		
15.	Missouri River NE of Wolf Creek	L25003011+00001	24LC0131
16.	25 <sup>th</sup> Street North at Great Falls*	U05217001+05401	24CA0331
17.	Marias River/Pugsley Bridge*	L26038005+01001	24LT0076
18.	Missouri River at Hardy	L07604006+04001	24CA0389
19.	Little Prickly Pear Creek/Jack Walsh Bridge*	L25005007+00001	24LC1166
20.	Missouri River/O. S. Warden Bridge	P00060094+08282	24CA0401
21.	Sheep Creek Bridge	L25003005+02001	24LC1157
22.	Marias River Bridge	L51306006+06001	24TL0401
	<b>Glendive District</b>		
23.	Powder River at Locate*	L09307000+03001	24CR0772
24.	Bad Route Creek*	L11109020+03001	24DW0423
25.	Locate Creek*	L09305003+03001	24CR0761
26.	Yellowstone River at Fallon	L40114001+05001	24PE0618
27.	Powder River west of Terry	L40004006+02001	24PE1810
	<b>Billings District</b>		
28.	Bluewater Creek southeast of Fromberg*	L05302008+06001	24CB1309
29.	Fred Robinson Bridge	P00061088+00671	24FR0804/24PH1059
30.	Big Horn River at Custer	L56104002+05001	24YL1603
31.	Dry Wolf Creek*	L23101010+04001	24JT0251
32.	Beaver Creek Bridge*	L14339001+00001	24FR0821
33.	Yellowstone River SE of Reed Point	L48115000+08001	24ST0361
34.	Yellowstone River at Huntley	L56788012+07001	24YL0656

Bridges highlighted in red are either listed on the National Register of Historic Places or their listing is pending.

\* Indicates county-owned, off-system bridges

## **Appendix 2**

### **List of the Montana Department of Transportation's Heritage Properties**

	Heritage Property	Status	Cond.	Cost	Priority
	<b>Beaverhead County</b>				
1.	Poindexter Slough Bridge (24BE0538)	S	E	\$500	5
2.	Union Pacific Railway Overpass (24BE0539)	S	E	\$500	1
3.	Old Airport Road Bison Kill Archaeological Site (24BE1002)	U	U	\$0	5
4.	Big Hole River/Kalsta Bridge (24BE2061)	S	E	\$500	5
5.	Lima Port of Entry Station (24BE2077)	S	E	\$11,000	5
	<b>Big Horn County</b>				
6.	Little Big Horn River Bridge (24BH2872)	S	U	\$500	5
7.	Lodge Grass Creek Bridge (24BH2873)	S	E	\$500	5
8.	Unnamed Archaeological Site (24BH2901)	W	U	\$0	5
9.	Unnamed Archaeological Site (24BH2902)	U	U	\$0	5
	<b>Blaine County</b>				
10.	Lodge Creek Bridge (24BL1050)	T	G	\$500	1
11.	McClelland Ferry (24BL1162/24FR0922)	S	U	Unk	5
12.	Roosevelt Highway/Secondary 396 (24BL1944)	S	E	\$0	5
	<b>Broadwater County</b>				
13.	Montana Ditch Bridge (24BW0956)	T	F	\$500	1
14.	Jefferson River Bridge (24BW0974)	S	G	\$500	5
	<b>Carbon County</b>				
15.	Beartooth Highway (24CB1964)^	S	E	\$150,000	5
	<b>Cascade County</b>				
16.	Sand Coulee Bridge (24CA0258)	S	E	\$500	5
17.	Hardy Bridge (24CA0389)*	S	E	\$500	5
18.	Novak Creek Bridge (24CA0394)	S	E	\$500	5
19.	Fort Shaw Canal Bridge (24CA0395)	S	G	\$500	5
20.	Missouri River/O.S. Warden Bridge (24CA0401)^	S	G	\$535,500	5
21.	Missouri River Bridge @ Cascade (24CA0402)	S	G	\$500	5
22.	Unnamed Archaeological Site (24CA0412)	U	U	\$0	5
23.	Prewitt Creek Bridge (24CA0642)	S	E	\$500	5
24.	Old US Highway 91/Recreation Road (24CA1313/24LC2112)	S	E	\$5,000	5
	<b>Chouteau County</b>				
25.	Unnamed Archaeological Site (24CH0593)	U	U	\$0	5
26.	Virgelle Ferry (24CH1192)	S	U	Unk	5
	<b>Daniels County</b>				
27.	County Line Archaeological Site (24DN0057/24SH0633)	U	U	\$0	4
	<b>Deer Lodge County</b>				
28.	Lower French Creek Bridge (24DL0269)	T	E	\$500	1
29.	Big Hole Site (24DL0470)	S	F	\$0	3
30.	Silver Bow Creek Bridge (24DL0707)	T	G	\$500	5
31.	French Gulch Placer Mines (24DL0757)	W	U	\$0	2

	<b>Heritage Property</b>	<b>Status</b>	<b>Cond.</b>	<b>Cost</b>	<b>Priority</b>
	<b>Fergus County</b>				
32.	Big Springs Creek Bridge (24FR0801)	S	E	\$500	5
33.	Milwaukee Road Overpass (24FR0803)	T	E	\$500	1
34.	Fred Robinson Bridge (24FR0804/24PH1059)^	S	E	\$500	5
	<b>Flathead County</b>				
35.	Leo Petroglyph (24FH0420)	S	E	\$0	5
36.	Old US Highway 2 Segments (24FH0490)	S	P	\$0	5
37.	Flathead River Bridge (24FH0517)	T	E	\$500	1
38.	Kila Buffalo Pictographs (24FH1006)	W	E	\$1000	1
39.	Kila Pictographs Day Count Shelter (24FH1007)	W	E	\$10,000	1
40.	Kila Roadcount Pictographs (24FH1008)	W	E	\$500	1
41.	Kila Narrow Ledge Pictographs (24FH1009)	W	E	\$500	1
	<b>Gallatin</b>				
42.	Baker Creek Bridge (24G0800)	S	E	\$500	5
43.	Drainage Bridge near Manhattan (24GA1069)	U	G	\$500	5
44.	Gallatin River Bridge (24GA1511)	S	E	\$500	5
	<b>Granite County</b>				
45.	Fred Burr Creek Bridge (24GN0844)	S	E	\$500	5
	<b>Jefferson County</b>				
46.	Little Boulder River Bridge (24JF0813)	T	E	\$500	5
47.	Jefferson Canyon Highway/Montana Highway 2 (24JF1883)	S	E	\$5,000	5
48.	Yellowstone Trail/Secondary 359 (24JF1884/24MA2202)	S	E	\$5,000	5
	<b>Judith Basin County</b>				
49.	Utica Bison Kill Site (24JT0324)	S	U	\$0	5
	<b>Lewis &amp; Clark County</b>				
50.	Missouri River Bridge near Wolf Creek (24LC0131)*	S	E	\$500	5
51.	Wegner Creek Bridge (24LC0133)	S	E	\$500	5
52.	Sheep Creek Bridge (24LC1157)*	S	E	\$500	5
53.	Cokahlarishkit Forks Camp Archaeological Site (24LC1210)	U	U	\$0	4
54.	Aeronautics Operations Building (24LC1292)	S	E	\$10,000	5
	<b>Madison County</b>				
55.	Beaverhead River Bridge @ Twin Bridges (24MA2177)	S	E	\$500	5
56.	Vigilante Trail/MT 287 (24MA2203)	S	E	\$5,000	5
	<b>Meagher County</b>				
57.	Cooper Creek Site (24ME0806)	S	E	\$0	5
58.	Electric Highway/Montana Highway 6 (24ME0848)	S	E	\$45,000	5
	<b>Mineral County</b>				
59.	Point of Rocks Historic Transportation Corridor (24MN133/164)*	S	E	\$500	5
	<b>Missoula County</b>				
60.	Orange Street Underpass (24MO0361)^	S	E	\$500	5



	<b>Heritage Property</b>	<b>Status</b>	<b>Cond.</b>	<b>Cost</b>	<b>Priority</b>
61.	Rattlesnake Creek Bridge (24MO0706)	U	E	\$500	5
	<b>Park County</b>				
62.	Yellowstone River @ Gardiner (24PA0790)	W	E	\$500	2
63.	Carter Bridge (24PA0841)*	S	E	\$500	5
64.	Northern Pacific Railway Overpass (24PA1137)	T	E	\$500	5
65.	Baltz Archaeological Site (24PA1200)	U	U	\$0	5
66.	Yellowstone River Bridge (24PA1246)	T	E	\$500	5
	<b>Phillips County</b>				
67.	Sleeping Buffalo Rock (24PH1002)	W	G	\$500	3
	<b>Powell County</b>				
68.	Black Bear Coulee Archaeological Site(24PW0308)	W	E	\$100	1
69.	Milepost 12 Archaeological Site (24PW1044)	W	E	\$100	1
70.	DARR Chert Quarry (24PW0788)	W	G	\$100	3
	<b>Prairie County</b>				
71.	Yellowstone River Bridge @ Fallon (24PE0618)*	S	E	\$500	5
72.	Powder River Bridge near Terry (24PE1810)*	S	E	\$500	5
	<b>Richland County</b>				
73.	Unnamed Archaeological Site (24RL0295)	U	U	\$0	5
	<b>Rosebud County</b>				
74.	McRae Bison Kill Site (24RB1861)	U	U	\$0	5
75.	Musselshell River Bridge (24RB1878)	S	E	\$500	5
	<b>Sanders County</b>				
76.	Sears/Weeksville Archaeological Site (24SA0155)	S	F	\$0	5
77.	Bad Rock Trail (24SA0343)	S	G	\$0	4
	<b>Silver Bow County</b>				
78.	German Gulch Overpass (24SB0762)	T	E	\$500	4
	<b>Stillwater County</b>				
79.	Crow Agency II (24ST0089)	T	U	\$359,000	1
80.	Dale Creek Bridge (24ST0286)	S	E	\$500	5
81.	Stillwater River Bridge (24ST0289)	S	E	\$500	5
82.	Yellowstone River Br. near Reed Point (24ST0361)	S	E	\$500	5
	<b>Teton County</b>				
83.	Jones Coulee Bridge (24TT0125)	T	E	\$500	1
	<b>Toole County</b>				
84.	Great Northern Railroad Viaduct (24TL0300)	S	E	\$500	5
85.	Marias River Bridge S. of Shelby (24TL0401)^	S	E	\$500	5
86.	Galata Bison Kill (24TL0777)	W	G	\$0	1

	<b>Heritage Property</b>	<b>Status</b>	<b>Cond.</b>	<b>Cost</b>	<b>Priority</b>
	<b>Treasure County</b>				
87.	Big Horn River Bridge N. of Custer(24TE0120/24YL1603)*	S	E	\$500	5
88.	Yellowstone Trail/Old US Highway 10 (24TE0133/24YL1671)	S	E	\$0	5
	<b>Valley County</b>				
89.	Lithic Scatter Site (24VL1374)	W	G	\$0	4
90.	Roosevelt Highway (24VL1865)	S	E	\$30,000	5
	<b>Wheatland County</b>				
91.	Unnamed Archaeological Site (24WL0149)	U	U	\$0	5
92.	Milwaukee Road Overpass @ Harlowton (24WL0221)	S	E	\$500	5
	<b>Yellowstone County</b>				
93.	Unnamed Archaeological Site (24YL0251)	U	U	\$0	5
94.	Yellowstone River Bridge @ Huntley (24YL0656)^	S	E	\$500	5
95.	Mossmain Overpass E. of Laurel (24YL0698)^	S	E	\$500	5
96.	Alkali Creek Site (24YL1607)	E	F	\$0	1

Properties designated by a \* are listed in the National Register of Historic Places

Properties designated by a ^ are pending for listing in the National Register of Historic Places.

Properties highlighted in red have been programmed for replacement by the MDT