“FINDING OF NO SIGNIFICANT IMPACT”

For Proposed Improvements to Rimini Road

MT PFH 98-1 (1)

Lewis and Clark County, Montana

TABLE OF CONTENTS

Finding of No Significant Impact

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**Federal Highway
Administration**

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For Proposed Improvements to Rimini Road
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The Western Federal Lands Highway Division (WFLHD) of the Federal Highway Administration (FHWA) has determined that the selected course of action for the improvement of the 6.1-mile segment of Rimini Road beginning at the junction with U.S. Highway 12 and continuing 6.1 miles (mi) south along Rimini Road will have no significant impact on the human environment. The selected course of action is described as the *Preferred Alternative* in the *Rimini Road Improvement Project, MT PFH 98-1(1), Environmental Assessment* (FHWA, October 2010) (EA).

This project is being developed as part of the Forest Highways category of the FHWA Public Lands Highway Program, which is financed by the Federal Highway Trust Fund. FHWA is the lead agency for National Environmental Policy Act (NEPA) compliance for this road reconstruction project. In addition to NEPA compliance, FHWA will design the project, issue a construction contract, and administer the actual construction. FHWA is developing this project in cooperation with the U.S. Forest Service (USFS), Montana Department of Transportation (MDT), and Lewis and Clark County, Montana (County).

BACKGROUND AND NEED

The purpose of the Rimini Road project is to improve the road's operational safety for current and future traffic demands, reduce annual maintenance efforts, improve safety and capacity at two recreational sites adjacent to the road, and to reduce sedimentation to Tenmile Creek.

The existing road has a gravel surface with potholes and wash-boarding which can compromise driver safety. Drivers of Rimini Road have limited sight distance due to narrow shoulders with tall vegetation at the road edge in many places. The road has some sharp curves, and the roadway width is inconsistent. Especially for those who are unfamiliar with the road, these factors are safety concerns due to unexpected sharp curves and sudden narrowing of the driving surface.

Three of the five bridges on the road are structurally deficient; the County has made some short-term repairs to structural integrity such as the addition of iron beams and lowering the speed limit over the bridges to 10 miles per hour (mph) for loaded trucks. There is a need to replace these bridges before they deteriorate to the point where collapse is a very real possibility.

County maintenance crews smooth the road surface with a grader, but maintaining an even surface requires frequent grading operations. Due to insufficient road maintenance funds, the County cannot reasonably meet the necessary grading frequency.

Additionally, as the road has been graded over the years, side casting of road material has tended to inadvertently widen the road, further contributing to sedimentation of Tenmile Creek by pushing gravel closer to the creek and by clogging or otherwise diminishing the functionality of drainage ditches. The road lacks drainage ditches in many areas so storm water runs directly from the road surface down the road bank into the adjacent Tenmile Creek, carrying with it sediments from the gravel surface and road bank and leading to increased sedimentation of the creek.

SELECTED (PREFERRED) ALTERNATIVE

The selected alternative is shown as the *Preferred Alternative* in the EA. The *Preferred Alternative* was developed to best address the project's purpose and need. FHWA has developed this alternative by taking into consideration the concerns of area residents as well as federal, state, and local agencies identified during the scoping process. This alternative will introduce a uniform paved width of 28 feet with 12 ft lanes and 2 ft shoulders from the junction of Rimini Road with Highway 12 to Bridge #1 at milepost (MP) 1.1, and a uniform paved width of 24 feet with 10 ft lanes and 2 ft shoulders from Bridge #1 to the end of the project. The *Preferred Alternative* will soften the two sharp corners on the road and will upgrade existing roadside features. The *Preferred Alternative* will replace the first three bridges. Additionally, this alternative will improve safety at recreational areas by enlarging and paving the parking areas at the Tenmile Environmental Education Trail and Tenmile Picnic Area; these two parking areas will be sized appropriately to allow a large vehicle such as a school bus or RV to safely turn around without backing into the roadway. Finally, the *Preferred Alternative* will reduce sedimentation to Tenmile Creek by improving the substandard road including paving the surface of the road and, where feasible, moving the road away from the creek and improving roadside drainage features.

The first three bridges will be replaced with structures designed to better accommodate high storm and debris flows. The first two bridges will be replaced with new bridges, while the third bridge at MP 3.3 will most likely be replaced with a large box culvert with a natural bottom to allow passage of aquatic species.

By paving Rimini Road, the *Preferred Alternative* will reduce sedimentation to Tenmile Creek. Where feasible and where the road is in close proximity to the creek, the road will be moved away from the creek, and the roadside will be planted with vegetation to provide a buffer to allow more sediment to filter out of storm-water runoff before entering the creek. Improved drainage ditches will also allow sediment to settle out of the road runoff before entering the

creek. In areas where the road cannot be moved away from the creek or where it may need to be moved closer to the creek, the road bank will be planted with riparian vegetation to provide a buffer or a retaining wall will be constructed to minimize the area of impact.

Clearly designated lane markings on the paved surface will provide drivers with an improved sense of travel space and reduce the tendency for drivers to speed down the center or travel near the edge of the roadway. Softening the sharp curves at the beginning of the project will improve safety by making the curves more easily negotiable for the 35-mile per hour (mph) design speed of the road, potentially reducing road departures. An area cleared of obstacles such as trees, mailboxes and fences will improve safety for errant vehicles that depart from the roadway by providing space to recover without crashing. Improved road signage will help drivers anticipate road conditions by informing them of appropriate travel speeds and potential travel hazards.

Roadway maintenance efforts will decrease substantially with the Preferred Alternative. The paved surface will require less frequent maintenance because the new surface will be more durable than the existing gravel surface. The pavement will eliminate the problem of wash-boarding, and it will be more resistant to potholes. While there are other maintenance activities that may be required for a paved surface such as repairing cracks and periodic maintenance such as chip seals, they are needed less often, and the repairs are relatively long-lasting. Additionally, the wider road width and pavement striping will concentrate the pavement load (tire tracks) farther from the road edges, protecting the pavement edges.

The estimated cost to construct the Preferred Alternative is between $7.7 million and $10.5 million.

The EA described mitigation measures that will be performed if the *Preferred Alternative* were implemented. All mitigation measures related to the *Preferred Alternative* as described in the EA will be implemented.

PUBLIC INVOLVEMENT

Project scoping and public involvement occurred early in the project development phase, and scoping comments were received between 2002 and 2005. Early design plans of the proposed project included widening the entire length of the project, introducing curves to the straight sections of road, and increasing the design speed from 35 miles per hour (mph) to 45 mph. While some of the comments received during the scoping process offered full support for the project as initially proposed, others indicated concerns over potential detrimental effects of the project. Based on these comments, some features of the *Preferred Alternative* were changed and a second alternative, the *Partial Pavement Alternative*, was considered and analyzed in the EA. Changes to the *Preferred Alternative* included the following: dropping the design speed back to the existing 35 miles per hour (mph) rather than the proposed 45 mph; changing the alignment from the proposed curvilinear alignment which would have adversely impacted larger areas of wetlands and historic sites to one that only softens two sharp curves at the north end of the road and slightly moves the road away from the creek where possible; introducing a wildlife underpass at one of the bridges and installing wildlife warning signs; and minimizing slope cuts and using a chip seal surface to reduce visual impacts of the project. The *Partial Pavement*

Alternative was added to the analysis to address public concerns over the *Preferred Alternative*'s potential effects to traffic speed, growth and development in the watershed, and wildlife habitat fragmentation. The *Partial Pavement Alternative* is nearly identical to the *Preferred Alternative,* with the only difference being pavement would be applied only to the first 1.1 miles of Rimini Road. The remaining five miles of the project would have a gravel surface.

The Rimini Road EA was released for public review on October 22, 2010. Because a formal draft U.S. Department of Transportation Act Section 4(f) evaluation was included as a chapter in the EA, a 60-day review by the Department of Interior (DOI) was utilized. The public review period closed on December 22, 2010.

During this review period, FHWA received a total of 21 written comment letters and emails regarding the project. Of these comments, 16 were from local residents, one was from Helena Hunters & Anglers Association, one was from Montana Fish, Wildlife, & Parks, one was from the Baxendale Fire Department, one was from the Lewis & Clark County Sheriff's Office, and one was from the Lewis & Clark County Rural Fire Council.

In summary, the nature of the comments is as follows:

In Favor of *Preferred Alternative*. 13 of the respondents were in support of the *Preferred Alternative* as described in the EA. Organizations and public agencies supporting the *Preferred Alternative* include Baxendale Fire Department, Lewis & Clark County Rural Fire Council, Lewis & Clark County Sheriff's Office, Montana Fish, Wildlife & Parks, and one was from the Mill Site Homeowner's Association representing twenty landowners who live adjacent to Rimini Road.

Additional Comments or Considerations. Two of the respondents asked for additional considerations and had no objections or were in favor of the *Preferred Alternative*.

Concern with Analyses. One of the respondents had concerns regarding the analyses but had no objection to the *Preferred Alternative.*

In Favor of the No Action Alternative or the Partial Pavement Alternative if a number of additional environmental commitments are met. One of the respondents, Helena Hunters & Anglers Association, had concerns regarding the analyses and was in favor of the *Partial Pavement Alternative,* but only if FHWA met a number of environmental commitments.

In Favor of the No Action Alternative. One respondent opposed both alternatives but was in favor of a different alternative that would improve safety and reduce sedimentation to the creek without altering the road at all.

Attached is a list of all unresolved comments and considerations and how they were resolved or addressed. This list, *Response to Comments,* is incorporated as part of this Finding of No Significant Impact (FONSI).

ENVIRONMENTAL ISSUES

The EA analyzed the effects of the proposed action on numerous resources including: transportation and circulation; land use; vegetation; water resources; wetlands; floodplains; fish and wildlife species, including threatened and endangered species and USFS Sensitive species; archaeological and historical resources; recreation; section 4(f); soils and geology; noise; visual quality; hazardous material; air quality; prime farmland, rangeland, and forestland; socioeconomics; environmental justice; and cumulative impacts for all these topics. FHWA's findings with respect to the environmental effects of the *Preferred Alternative* on those resources measurably affected or with residual minor issues are discussed below. These findings are based on the evidence and conclusions set forth in the EA, the following minor modifications, and the attached *Response to Comments*.

Land Use

As stated in the EA, the Preferred Alternative will have little influence on people moving to the area. Other factors limit development in the Upper Tenmile Creek watershed. The federal Superfund designation which impacts the available potable water, the limited number of suitable septic drain field sites, no winter road maintenance south of Rimini, and the general steep and inaccessible private properties all reduce the potential of development within the drainage. Furthermore, much of the land in the Upper Tenmile Creek drainage is publicly owned. There has not been a trend, even in the boom years of the last decade, for development of this area. It is not expected that this project, which does not even reach the town of Rimini, will affect land use in any meaningful way. Accordingly, the *Preferred Alternative* will not result in a significant impact to land use.

Fish and Wildlife

Wildlife:

Review of the *Preferred Alternative* and the factors that adversely affect wildlife (direct mortality, displacement and avoidance, habitat fragmentation, direct habitat loss, and associated development) indicates that the *Preferred Alternative* will not result in a substantial adverse change from existing conditions. It is expected that because of increased control, visibility, and signage, direct mortality will not be expected to demonstrably change as currently exists. Existing displacement and avoidance behaviors will continue, and there will be a minor direct loss of habitat. Existing habitat will not be substantially fragmented by the *Preferred Alternative* because an increased rate of development on private lands is not likely to result from implementation of this alternative. The indirect impacts due to potential increased use of public resources are not anticipated to be appreciable. Because the *Preferred Alternative* keeps a relatively small barrier-free width and minimizes impacts to habitat, existing movement patterns will not be substantially altered by the road itself. Accordingly, the *Preferred Alternative* will not result in a significant impact to wildlife.

Aquatic Organisms and Fish:

Aquatic organisms may be impacted by increased sediment from construction activities and increased runoff from the paved surface of the road. However, sediment increases from construction activities are expected to be short-term and minimized by implementation of best management practices (BMPs) during construction. Stormwater

runoff from the paved surface is expected to be only slightly higher than the amount of runoff from the existing highly compacted road surface; potential effects would be minimized due to more stable vegetated slopes and drainage features. Also, the improved features would have long-term beneficial effects on fish and amphibians by reducing sedimentation and providing for passage of all life stages of fish species. With the use of BMPs during construction, efforts to minimize sedimentation, and improvements to stream crossing structures, the *Preferred Alternative* will result in temporary minor adverse impacts but long term beneficial impacts to aquatic species.

Threatened and Endangered Species:
The EA addressed the effects of the *Preferred Alternative* on federally listed threatened and endangered (T&E) species identified by the USFWS that potentially occur in the project area. FHWA completed Section 7 consultation with the USFWS. The USFWS issued their concurrence on informal consultation December 16, 2008. The informal consultation was issued for the *Preferred Alternative* when it involved introducing a curvilinear alignment that would disturb more roadside habitat.

On November 10, 2010, USFWS sent WFLHD an e-mail stating that their concurrence with a finding of "May Affect, Not Likely to Adversely Affect" is still valid for the *Preferred Alternative* as described in the EA.

The T&E species that reside in the project area is the Canada lynx. The gray wolf was delisted effective May 5, 2011. For purposes of this evaluation, the impacts on the gray wolf have been evaluated as if the gray wolf was listed. As described in the EA, the *Preferred Alternative* will result in the following, for which the effect determinations of which USFWS concurred are included:

Canada lynx – The risk of increased vehicle collisions with any dispersing Canada lynx is expected to be minor because the project area is located in a lower elevation outside of potential lynx habitat. Additionally, because the design speed will remain low (35 mph), future traffic volumes will continue to be relatively low, and because lynx tend to move at night when traffic levels are even lower, the risk of vehicle collisions with dispersing lynx will be low. Lynx may be indirectly affected by the improved road conditions and the potential increase of recreational use in upper reaches of the watershed. Much of the Upper Tenmile Creek watershed is mapped as potential lynx habitat. The potential development of this area could result in negative impacts on lynx. However, under the *Preferred Alternative*, development is not expected. The creation of snowmobile trails or potential thinning of lynx foraging habitats could result in negative impacts on lynx, but neither of these actions is expected to occur as a result of the proposed project. Ruediger et. al (2000) set forth conservation measures including no net increase in groomed or designated over-the-snow routes and snowmobile play areas on Federal land for each Lynx Analysis Unit (LAU)[1]. In consideration of the above

[1] An LAU is a habitat unit designated by USFS representing the average territory size for a female lynx approximately 16,000 to 25,000 acres), and is intended to provide an analysis unit of an appropriate scale to analyze potential effects of projects on individual lynx.

potential impacts, FHWA has determined and USFWS concurs that the *Preferred Alternative may affect but is not likely to adversely affect* Canada lynx.

Gray wolf – The largest threat to wolves as a result of the *Preferred Alternative* is the indirect effect that may occur as a result of improved road conditions. Improving conditions of Rimini Road could increase the potential for human activity in the drainage, which gray wolves are known to use occasionally as a movement area. In general, wolves avoid human contact. Improving the road and increasing the potential for human recreational use of the area will increase the potential for wolf/human interactions, which may result in wolves avoiding the area, loss of available habitat due to increased use, or degradation of habitat.

A second potential indirect effect on wolves as a result of the *Preferred Alternative* is the potential for increased road kill of the wolf's prey base as a result of improving the road. Increases in road kills of deer, elk, and moose as a result of the *Preferred Alternative* could affect gray wolves, which are closely tied to their prey base and food availability. However, due to the small size of the project (6.1 miles), the relatively low levels of traffic on Rimini Road (compared with traffic and road kill levels on a state or interstate highway), efforts to minimize vehicle/wildlife collisions through design features of the *Preferred Alternative*, and the fact that wolves are known only to pass through the area and do not reside there, the effects of the Rimini Road project will have a negligible impact on wolf populations. In consideration of the above potential impacts, FHWA determined and USFWS concurred prior to the delisting of the gray wolf that the *Preferred Alternative may affect but is not likely to adversely affect* the gray wolf.

Vegetation

Between 35 and 40 acres of low to marginal quality roadside vegetation will be removed with the *Preferred Alternative* through cutting back slopes and placement of fill. Of this, between three and four acres will be permanently removed, and the rest of it will be temporarily impacted during construction until the exposed areas can be re-vegetated. Accordingly, the *Preferred Alternative* will not result in a significant impact to vegetation.

COMPLIANCE WITH OTHER LAWS

Wetlands Finding

In accordance with Executive Order 11990, Protection of Wetlands, FHWA closely evaluated the *Preferred Alternative* and its impacts to wetlands. An estimate of approximately 0.26 acre, or 7.2%, of jurisdictional wetlands in the project corridor will be impacted as a result of the proposed project. Wetland impacts have been consciously reduced through avoidance and minimization during the design phase of the project. Avoidance and minimization measures include road alignment adjustments, steepened slopes, and retaining walls.

Compensation for impacts to wetlands will be determined through partnering with the U.S. Army Corps of Engineers. Any required mitigation will be conducted in the project corridor or through a wetland mitigation bank in coordination with the Corps of Engineers.

There is no practical alternative to the proposed construction in wetlands that would meet the purpose and need for the project. The *Preferred Alternative* includes all practicable measures to minimize harm to wetlands.

Archaeological and Historic Resources
In accordance with Section 106 of the National Historic Preservation Act, FHWA completed consultation with the Montana State Historic Preservation Office (SHPO). In their letter to FHWA dated June 17, 2008, the SHPO concurred with FHWA's findings that the proposed project will result in an "Adverse Effect" to the Old Helena Water Supply Ditch and the abandoned grade of the Northern Pacific Railroad – Helena to Red Mountain Line (NPR Railroad Grade). In their letter to FHWA dated March 14, 2008, the SHPO concurred with FHWA's findings that the proposed project will result in "No Adverse Effect" to nine other historic properties eligible for listing on the National Register of Historic Places (NRHP).

Section 4(f)
Description of the 4(f) Properties:

Two historic properties, the abandoned NPR Railroad Grade and the Old Helena Water Supply Ditch, would be adversely affected by construction of the Preferred Alternative. A map showing the locations of the NPR Railroad Grade and the Old Helena Water Supply Ditch is attached to this FONSI.

1. The NPR Railroad Grade: The NPR Railroad Grade consists of the remnants of the main rail line completed from Helena to Rimini in 1886. It originally extended 15.6 miles from the main Northern Pacific line in Helena to Rimini, but the first four to five miles out of Helena appear to have been destroyed by highway construction and various other developments. The grade is visible at its intersection with present-day Highway 12 about 2.3 miles east of the Rimini Road turnoff and can be seen extending west-southwesterly across private rangeland to its intersection with Rimini Road. From this intersection, the grade continues south, generally on the west side of the valley, to Rimini. Although all rails, ties, and bridges have been removed from the grade, some bridge pilings are still visible where the rail line crossed Tenmile Creek in several places. A circular turntable foundation at the end of the line in Rimini is still visible, as is the foundation for an aerial tram that carried ore from Red Mountain to the railroad. The grade is eligible for NRHP listing because of its association with a pattern of events that were important in history, and although portions of the grade have been eroded or otherwise disturbed, and rails, ties and bridges have been removed, it still retains some historic fabric and integrity of location.

Nationally, the grade is associated with westward expansion of American culture, and it was constructed during a time of intense competition between railroad companies. On the state level, it is associated with the "railroad war" between the Northern Pacific Railroad and the Montana Central Railroad; the NPR-HRM line is also directly associated with the development of the community of Rimini and mining in the Red Mountain and Lee Mountain areas in the upper Tenmile Creek valley. The grade is also eligible for NRHP listing because of the engineering accomplishment and engineering and design aesthetics that suggest significance of the site. Where the grade passes along valley toe slopes, it sometimes cuts through solid bedrock and sometimes passes through steep, unstable talus slopes. In this environment, it was sometimes constructed as a raised grade or was other times constructed as a "cut" bed where adjacent side

slopes had to be stabilized with rock retaining walls. Most of the dry-laid stone retaining walls were extremely well-constructed and have not deteriorated at all.

A detailed description of the localities of project impacts for the grade is set forth in Section 4.8.2 of the EA. The grade is owned by several private parties and by Lewis and Clark County. It does not serve any present cohesive function, but it forms a feature in the landscape leading to the town of Rimini.

2. The Old Helena Water Supply Ditch: The old Helena Water Supply Ditch/Tenmile Ditch most likely dates to the 1860s. In many places it is open and appears to have been lined with cobbles for much of its length. In a few areas the ditch includes stone and mortar work that has survived in very good condition. In a few areas the ditch route cuts through solid bedrock where the water may have been carried in an open flume for a short distance. Some segments appear as pads or footings of dry-laid stone that could not have functioned as a ditch, but likely supported an above-ground flume. The site includes a stone and mortar headgate at the mouth of Minnehaha Creek; the headgate likely served as the main intake for the ditch. The oldest portion of the ditch is likely the segment from Minnehaha Creek northward to the Tenmile Water Treatment Plant. It is likely that the ditch south of the Minnehaha headgate is part of a more recent supplementary ditch for the Helena water supply. Dates for the southern portion of the ditch have not been confirmed, but it is shown in a survey map from April 1908. The Tenmile ditch, Tenmile Reservoir, and Chessman Reservoir were historically, and are currently still, part of a system of water supply for Helena; the system appears to have been the single largest component in Helena's early water supply system (ACRCS 2004).

The ditch is eligible for NRHP listing because it is associated with the earliest municipal water supply for the city of Helena, and it was important in the modernizing of the city and in the growth and development that changed Helena from a mining camp to a true city.

Segments of the ditch are well preserved and most of the alignment retains integrity of setting. The ditch is also eligible for NRHP listing because of its engineering design and because of the portions that exhibit remarkable and durable examples of stone and mortar and dry-laid stone construction.

A detailed description of the localities of project impacts for the water supply ditch is set forth in Section 4.8.2 of the EA. The water supply ditch is owned by several private parties and by Lewis and Clark County. It does not serve any present cohesive function, but it forms a feature in the landscape in the Tenmile Creek valley.

Impacts to the Section 4(f) Properties:

The *No Action Alternative* would not have any impact to the Section 4(f) properties. Both the *Preferred Alternative* and the *Partial Pavement Alternative* would essentially have the same impacts to these two properties. Both alternatives would impact approximately 2,263 linear feet of the NPE Railroad Grade and would impact approximately 5,600 linear feet of the Old Helena Water Supply Ditch. The impacts would be composed of the expansion and slight movement of the road prism resulting in the destruction of a greater portion of these properties than is currently present. These impacts would constitute adverse impacts to the properties.

Avoidance Alternatives:

The No Action Alternative is the only alternative that would not require a "use" of the NPR-HRM Railroad Grade and the Old Helena Water Supply Ditch. The two action alternatives include widening the road to a consistent width and changing the alignment slightly to move the road away from Tenmile Creek. Through careful designing, the proposed alignment minimizes impacts to these historic resources to the maximum extent possible. However, the action of widening the road to a consistent width would result in some take of these resources. These actions would therefore result in a use of the NPR-HRM railroad grade and the Old Helena Water Supply Ditch.

The Rimini Road is situated in the bottom of a narrow valley. The NPR-HRM railroad grade and the Old Helena Water Supply Ditch are also both situated in the bottom of the valley. All three linear features traverse back and forth between the east side and west side of the valley with a few crossings over Tenmile Creek. The Old Helena Water Supply Ditch, however, is primarily on the east side of the valley, while the NPR Railroad Grade is primarily on the west side. An action alternative that would completely avoid Section 4(f) resources is not possible due to the proximity of the existing road to the railroad grade and the ditch. Where the existing road intersects with the railroad grade or the old water ditch, any expansion of the road would adversely impact those features because the features occur on both sides of the roadway in those locations. In other places along the existing alignment, the railroad grade and/or the old water ditch runs parallel or directly adjacent to the road. In these locations, any expansion of the road prism would likely impact the respective Section 4(f) resource.

Alternative B of replacing bridges only, which alternative was not advanced, would have less impact to Section 4(f) resources, but such alternative does not meet the purpose and need of the project. The alternative does not address the safety concerns, the maintenance concerns, or the sediment concerns of the road.

The only way to avoid these features entirely would be to take the road out of the valley. Building an entirely new road in a new location along steep hillsides is not feasible or prudent. The impacts to the environment would be vastly increased and the cost would be prohibitive. Accordingly, there are no feasible and prudent alternatives that meet the purpose and need for the project.

Measures to Minimize Harm:

Every effort was made in the design of this project to avoid and minimize impacts to Section 4(f) properties. Measures to avoid and minimize impacts include narrowing the road width to 24 feet for the last 5 miles of the project; retaining walls to minimize the width of the road prism at locations where the alignment is constricted by a Section 4(f) property on one side and Tenmile Creek on the other; and adjustments to early alignment proposals so as to avoid unnecessarily impacting Section 4(f) properties. Unavoidable impacts to the NPR Railroad Grade and the Old Helena Water Supply Ditch will be mitigated by following stipulations set forth in a Memorandum of Agreement between FHWA and SHPO.

Coordination:

FHWA has coordinated with the Montana SHPO with regard to these two historic properties. A Memorandum of Agreement between FHWA and SHPO to mitigate the adverse effects of the Rimini Road project was signed on July 17, 2009. FHWA also has coordinated with the U.S. Department of Interior (DOI) and in a letter dated December 23, 2010, DOI concurred that there was no reasonable or prudent alternative to the taking of these two properties and that all measures have been taken to minimize harm to the properties. The Section 4(f) Evaluation (Chapter 5 of the EA) indicates that FHWA would coordinate with the U.S. Department of Agriculture (USDA) regarding the adverse effects to these two historic properties; this statement was made in error as the USDA does not have jurisdiction over these historic properties. Coordination was carried out with SHPO and DOI because they were the applicable agencies with jurisdiction over these two historic properties.

Conclusion:

As noted above, there are no feasible and prudent alternatives to the use of Section 4(f) land. The *No Action Alternative* does not meet the purpose and need of the project. The safety concerns of the road would not be addressed. The maintenance needs of the road would not be met. And the sedimentation concerns would continue with impacts to Tenmile Creek and aquatic organisms. There is no alternative that would avoid using the Section 4(f) resource that is possible, given the narrow valley and the longitudinal nature of the two Section 4(f) resources and the road. It is impossible to shift the road slightly or create a consistent road structure without using the Section 4(f) land. Further, moving the road out of the valley and away from the resources would require the construction of a new road across very rugged terrain, which even if feasible would have new impacts on the environment and would be cost prohibitive. Such environmental impacts and cost would be of an extraordinary magnitude.

The proposed action includes all possible planning to minimize harm to the Section 4(f) resources. FHWA has narrowed the road considerably to a 24 foot road width to minimize harm to the Section 4(f) resources. Further narrowing the road would create additional safety concerns. Other planning to minimize harm includes retaining walls to minimize road prism width and adjustments to earlier alignment proposals that would have had greater impacts to the Section 4(f) resources. The *Preferred Alternative* is a feasible and prudent alternative because it meets the purpose and need of the project without the exceptional costs and environmental impacts that would be associated with an avoidance alternative that would take the road out of the valley and build it on an entirely new alignment. Additionally, measures have been taken in the design process to minimize harm to the Section 4(f) resources to the extent possible while still maintaining the 24 foot road width required to minimize safety concerns associated with a narrower road width.

As noted above, the headquarters office of DOI by letter dated December 23, 2010 has concurred that there is no reasonable or prudent alternative to the taking of these two properties and that all measures have been taken to minimize harm to the properties. A copy of the concurrence letter received from DOI is attached to this FONSI. DOI had no concerns and no public comments received by FHWA raised any questions on Section 4(f) issues.

Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the NPR Railroad Grad and Old Helena Water Supply Ditch and the proposed action includes all possible planning to minimize harm to the two Section 4(f) properties resulting from such use.

There are 9 other historic sites and three recreation sites that qualify for protection under Section 4(f) in the project area. One of the three recreation sites would not be affected by the Rimini Road project. The project will have a *de minimis* impact to the other two recreation sites and on the nine other historic sites.

Floodplains

The *Preferred Alternative* will increase the template of the road within the floodplain. However, the floodplain is not a FEMA-regulated floodplain and any increase will be minimal. The proposed bridge replacements that would occur with the *Preferred Alternative* will be designed to pass a 100-year flood event. The bridges will have a minimum 10-foot clearance between the deepest part of the stream channel and the lowest part of the bridge to provide an adequate bridge opening for passage of future floods with associated debris. The new bridges will also be longer than the existing bridges, further improving flood passage. And where feasible, under the *Preferred Alternative*, Rimini Road will be moved farther away from Tenmile Creek. Due to the improved flood conveyance at the new bridges and moving the road farther from Tenmile Creek, construction of either of the *Preferred Alternative* will ultimately improve flood conveyance within the project area and any impacts to floodplains will be beneficial.

Permits

The following permits will be required for the Rimini Road project:

1. A Section 404 authorization will be required from the regulatory branch of the Corps under the Clean Water Act of 1977, for impacts to wetlands and improvements to stream crossings. Montana Department of Environmental Quality (DEQ) will ascertain whether a 401 Water Quality Certification will be needed as part of the 404 permit.
2. A Montana Pollution Discharge Elimination System permit from the DEQ will be required because the *Preferred Alternative* will result in disturbance greater than 1 acre.

CONCLUSION

FHWA finds the EA, including the attached *Response to Comments* and minor modifications described above, and related documentation adequately and accurately addresses the need, environmental issues, impacts of the proposed action, and contains appropriate mitigation measures. Furthermore, FHWA finds that the EA, including the information listed above, documents full compliance with the NEPA and other related environmental laws, executive orders, and implementing regulations. The EA with the supplemental information in this FONSI provides sufficient evidence and analyses for determining that the proposed project will have no significant impact on the environment and that an Environmental Impact Statement is not required.

RECOMMENDED BY:

David K. Kennedy
Environmental Program Manager

5/20/2011
Date

APPROVED BY:

for Clara Conner, Division Engineer
Western Federal Lands Highway Division
Federal Highway Administration

5/20/11
Date

RESPONSE TO COMMENTS

Helena Hunters & Anglers Association (HHAA) – Comment #1
The "Assumptions and Potential Error" sheet listed in the EA states…ten assumptions associated with sedimentation. The first one states: *1. The primary factor that will reduce sediment reduction is the paving of the road surface as part of the road improvement project*…Excessive road material has been graded off the road rather than pulled up from the sides to help crown the road…With skillful grading, we do not think that this incremental widening and sediment damage to riparian areas and streams would have occurred…the EA admits that 701 tons of sediment are pushed off into Tenmile Creek every year, and for the most part, that sedimentation is attributed to road grading. Technique adjustments and training in grading could have avoided much of the sedimentation problem, and would be an appropriate alternative to consider.
Response #1
Pages 8-9 of the Environmental Assessment (EA) state that road grading contributes to sedimentation of Tenmile Creek, and the Federal Highway Administration (FHWA) agrees that improved grading techniques would reduce sedimentation to the creek. The Road Sediment Assessment which derived the 701 tons/year of sediment, did not factor in the amount of sediment actively pushed into the creek during grading activities. The Road Sediment Assessment models the amount of sediment carried from the road to the creek by surface erosion only.

Changing the grading methods for the road will not result in any reduction from the 701 tons/year of sediment presently being generated. Further, changing grading methods will not meet the other purposes and needs for the project. For these reasons, a grading method change alternative was not considered.

HHAA – Comment #2
We are concerned with the filling of wetlands that we observe along the proposed route. This action is likely illegal prior to completion of the National Environmental Policy Act (NEPA) process. The proposed mitigation for wetland filling is not addressed in the EA and certainly needs to be part of any project.
Response #2
Any filling of wetlands currently taking place is not related to the Rimini Road project. Any wetland impacts from the Rimini Road project will be mitigated and coordinated with the U.S. Army Corps of Engineers (Corps). Mitigation measures for this project are addressed in Section 4.5.4 of the EA.

HHAA – Comment #3
It does not appear as though the Cumulative Impact Assessment relative to wildlife habitat addresses… Illegal road occurrence and proliferation. …under the Fish and Wildlife Impact summary the EA notes that only "Minor loss of roadside habitat will occur." We take issue with this and feel the EA was insufficient in addressing secondary impacts…as a result of high road densities that will be exacerbated with greater recreational access provided by the Rimini Road. Although some routes have been illegally created, miles of recently upgraded mine waste haul roads also parallel the Continental Divide wildlife linkage corridor… And on the other side of the Tenmile divide, there are miles and miles of upgraded haul roads…also parallel the Divide…

Severely belated travel planning…from either the Helena National Forest or the Beaverhead Deerlodge National Forest. In fact, the BDNF intends to increase road densities in this area… A paved Rimini Road would funnel ever more recreationists into the forest.

Response #3

FHWA acknowledges the upgraded mine waste haul roads, but as stated in Section 4.7.5 of the EA, the Environmental Protection Agency (EPA) and USFS plan to return these roads to their previous primitive condition upon completion of the mine waste cleanup activities in the next five years. Additionally, as stated in the Land Use Section of Chapter 4.2 of the EA, FHWA does not anticipate changes in land use as a result of the *Preferred Alternative*. The concerns regarding the increased road densities do not seem to be a function of this project, but of general management of the area. The HNF is the land management agency and is thereby responsible for managing road density in accordance with their forest management plan.

FHWA does not believe that the proposed paving of the 6.1 miles of road prior to the town of Rimini will likely have any meaningful impact on the density of roads in the area. The individuals who are presently deterred from using the public lands because of the existing gravel road are likely to continue to be deterred from accessing the public lands beyond the end of the paved section. They are not likely to be more willing to traverse non-paved roads into the surrounding areas simply because they can travel six miles further on a paved road. The paved section will not take the drivers out of the Tenmile Creek valley and into the surrounding terrain. Those who are not deterred from traveling because of non-paved roads are not likely to be much affected in their choice of use of the area because the six miles of the road will now be paved. Accordingly, FHWA does not believe that paving the road will result in a meaningful increase in pressure on road densities in the area. And FHWA notes that paving this road has no direct impact on road densities, as the project is on an existing road.

HHAA – Comment #4

…we note that while 91 of the 290 parcels are already developed in some manner, habitation of the remaining 69 percent of private parcels may not be "customary;" in fact, site inspection reveals that many inhabitants of these parcels live on site without running water or standard septic systems and access their properties via eroding roads. This type of habitation will be facilitated by speedier access and improvements… A straightened, widened, paved highway will exacerbate this "inhabitation" problem… The EA incorrectly states, "Potentially higher growth rates, but most likely to be similar to No Action." The type of living – without infrastructure – that is occurring…will be encouraged by ease of access.

Response #4

FHWA hired a professional land use specialist to conduct an analysis of the area, and this analysis is documented in the Land Use Section of Chapter 4.2 of the EA. FHWA does not have record of inhabitants living on their properties without running water or standard septic systems. FHWA believes that if this is happening, paving the proposed section of the road is not likely to change the number of such uses in any meaningful way. Individuals will still need to go off of the paved roads to access such sites. Those likely deterred at present by a gravel road from accessing such sites are not likely to be the type of people willing to live without running water and septic systems. Accordingly, the paving of this section of the road is not likely to increase the number of people who are willing to live in such primitive conditions.

HHAA – Comment #5
HHAA would be more supportive of the Partial Pavement Alternative if the U.S. Forest Service…would help balance increasing use of public lands by committing to travel management for the Divide Travel Plan that would decommission all illegal motorized routes, bring route densities within Forest Plan standards, and remove the haul road…once mine waste hauling is complete.
Response #5
FHWA will share your comments with the U.S. Forest Service (FS) about your concerns. The FS has the management responsibility for the public lands in this area. As explained in the response to comment #3, FHWA does not see this project as contributing in any meaningful way to illegal motorized routes. Further, as also stated in that response, the roads that were upgraded to remove mine waste will be returned to their two-track condition once the mine waste removal activities cease.

HHAA – Comment #6
We firmly believe from decades of past experience, that illegal user created routes will be encouraged as a result of proposed highway construction due to the ease and attraction that a highway to the Upper Tenmile country will provide. Because HNF personnel have candidly and repeatedly expressed that they do not expect USFS law enforcement to be able to adequately meet the challenges of illegal road builders, HHAA urges WFL and USDOT to work with the USFS to implement non-motorized area management for the entire upper Tenmile watershed where judiciously placed but limited, designated routes would be sanctioned. If such an approach were implemented, law abiding recreationists would be able to help police appropriately sanctioned use of public lands.
Response #6
See Response to Comment #3. FHWA acknowledges the concern. However, FHWA is not a land management agency. For purposes of analyzing the impacts of the present proposed project, FHWA does not believe that paving this section of Rimini Road will have a meaningful impact on road densities in the area. The U.S. Forest Service (USFS) is responsible for management of the public lands in the area.

HHAA Comments #7 through #17 refer to points made in a scoping comment submitted by Montana Fish, Wildlife & Parks to FHWA in 2002, and which HHAA feels were not adequately addressed in the EA

HHAA – Comment #7
Consequences to the hunting public as a result of "…increased future hunting pressure that will come with improved access to the area, and to wildlife populations in relation to reduced security, increased harvest, and altered male age structure within populations of deer and elk."
Response #7
Studies have shown that increased road density results in increased pressure on mammal populations (Rowland et al., 2004). However, as discussed in the response to HHAA Comment #3, road density will not be increased as a result of the *Preferred Alternative.* In addition, as discussed under Comment #3, the roads that have been upgraded for mine waste hauling will be returned to their previous primitive conditions following completion of the EPA's cleanup activities. Traffic levels on side roads in the watershed are not expected to increase in any

meaningful measure as a result of this project. The side roads will continue to be non-paved roads and some will be significantly downgraded once the mine waste hauling is completed. Studies have indicated that hunter density and hunting methods (such as archery versus rifle hunts) play a greater role in depleting fat reserves in elk and deer, and therefore a reduced chance of non-harvested animals surviving the winter, than the level of daily vehicle traffic through deer and elk habitat (Johnson et al., 2004). The results of these studies indicate that better design and management of access and hunting seasons, as well as setting limits on the size of bull elk harvested, may result in more benefit to deer and elk populations through the winter (Rapp 2006). As discussed in the response to HHAA Comment #6, the USFS is the road management agency; issues of balancing road density and hunter density to best meet deer and elk population goals should be worked out cooperatively between wildlife management agencies and the USFS.

HHAA – Comment #8
Cumulative impact issues with respect to impacts on wildlife… Minnehaha Road has been substantially upgraded so increased traffic will funnel from the Tenmile Road to the Continental Divide
Response #8
Minnehaha Road has been only temporarily upgraded as a mine waste haul road for the EPA's current activities in the watershed. This road will be returned to its previous primitive state following completion of EPA activities.

HHAA – Comment #9
Cumulative impact issues with respect to impacts on wildlife… Mine waste hauling road along the crest of the Continental Divide – this road was substantially expanded to accommodate multi-ton mine waste hauling trucks
Response #9
This road will be returned to its previous primitive state following completion of the EPA mine waste cleanup activities within the next five years.

HHAA – Comment #10
Cumulative impact issues with respect to impacts on wildlife… Increased duration of mine waste cleanup due to federal budget fluctuations may extend the clean-up disturbance on the Continental Divide and in the Tenmile, Basin Creek, and Prickly Pear Creek drainages up to or beyond 20 years
Response #10
The EPA expects to complete their mine waste cleanup activities within five years.

HHAA – Comment #11
Cumulative impact issues with respect to impacts on wildlife… Obstacles to wildlife movement along the Continental Divide (due to mine waste activity for 10-20 more years) and the secondary movement corridors through Beaver Creek-Park Lake-Frohner Basin which wildlife are now using to avoid the Continental Divide activity. This route however, requires wildlife to cross the Tenmile valley floor and the Rimini Road as they travel east and west.
Response #11
EPA work is expected to be completed in the next five years. Following completion of the EPA's mine waste cleanup activities, the segment of the road past the community of Rimini will no

longer be maintained in its current upgraded state and will return to its previous primitive state. FHWA does not expect a substantial increase in traffic on the road as a result of the project. To deal with wildlife crossing in the valley floor, FHWA is designing mitigation measures such as visual cues to reduce speeding and a wildlife underpass into the *Preferred Alternative* to minimize vehicle-wildlife interactions.

HHAA – Comment #12
Cumulative impact issues with respect to impacts on wildlife… Private property along drainage bottoms and in-holdings within the national forest that will be ripe for development, that include not only direct loss of habitat on private lands but also on public lands surrounding these areas
Response #12
Section 4.2 of the EA discussed the potential for changes in land use resulting from the Rimini Road project. FHWA hired a professional land use analyst and concurs with the analyst's determination that there was negligible to no potential for the project to cause an increase in growth or development due to the limited land available for development, physical constraints, slow past development rates, and limited potable water.

HHAA – Comment #13
Cumulative impact issues with respect to impacts on wildlife… Demands for "fire control" (thinning and logging) to protect human structures and thus severely alter natural environments (naturally burned areas create natural habitats for fire dependent species, but standing burned trees and thus the specialized habitat that occurs is usually considered "salvage timber" and is thus destroyed
Response #13
FHWA does not see a correlation between fire control in the Tenmile watershed and upgrading the road to a paved surface. Because the land use analysis (Chapter 4.2 of the EA) demonstrates that increased development in the watershed is unlikely as a result of the *Preferred Alternative*, fire control demands are likewise not expected to increase as a result of the project.

HHAA – Comment #14
Cumulative impact issues with respect to impacts on wildlife… Increased recreational usage and dispersal throughout the Tenmile drainage and adjacent areas (Prickly Pear, Basin Creek, Little Blackfoot)
Response #14
Recreational use may increase as a result of the project, especially at the improved parking areas for the Tenmile Environmental Education Trail and the Tenmile Picnic Area. Users of Rimini Road may continue to explore some of the side roads that have been temporarily upgraded to accommodate large EPA mine waste haul trucks. It is not anticipated that the proposed project will cause a meaningful increase in such traffic. There is no plan to provide new signage directing recreation users to other areas in or outside of the Tenmile watershed. It is expected that once the EPA finishes the mine waste cleanup activities and the roads are returned to their primitive state, recreational use of these non-paved roads will be reduced.

HHAA – Comment #15
Cumulative impact issues with respect to impacts on wildlife… Adjacent vegetation manipulation projects in the Little Blackfoot and Prickly Pear drainages…and consequences

including road development for timber harvest, increased human recreational access, decreased wildlife security…and habitat effectiveness…increased seasonal stress factors such as encouragement of snowmobiling and cross-country skiing in wintering areas, and antler hunting on spring ranges

Response #15

Cumulative impacts looks at the impacts of other projects together with the proposed project to see if the proposed project will push the total impacts into an area of significance. The EA has evaluated the impacts of this project on wildlife and found the effects to be negligible. Such negligible effects are limited largely to the unknown of potential increased wildlife collusions. The species likely affected do not include threatened or endangered species, or species that would be substantially affected by a small incremental increase in mortality, if additional collisions were to occur. As stated in the EA, the loss of habitat because of the project is truly miniscule compared to the watershed, even in relation to all other past, present, and foreseeably future projects. Because FHWA does not anticipate that the road will cause meaningful increases in use of the area away from the immediate context of the paved road, FHWA does not see the project affecting wildlife in a way that, together with other projects, would tip the scale of impact into an area of significance. See responses to HHAA Comments #3, 7, 12, 13, 14.

HHAA – Comment #16

Cumulative impact issues with respect to impacts on wildlife… Any proposals to "fire proof" Tenmile Creek and the attendant roads and timber harvest; Tenmile Creek currently provides the last substantial block of secure habitat for bull elk south of Helena

Response #16

FHWA is unaware of any proposals to "fire proof" Tenmile Creek. As discussed in the response to HHAA Comment #13, demand for fire control is not expected to increase as a result of the *Preferred Alternative*. Further, the project's impact on bull elk will largely be limited to direct collisions, and whether that impact will be positive or negative remains to be seen. But in either case, it is not anticipated that the impact will be more than miniscule and will not be sufficient to tip the scale of impact into significance, even if further fire suppression activity is conducted in the Tenmile Creek drainage.

HHAA – Comment #17

Cumulative impact issues with respect to impacts on wildlife…Lack of clearly defined motorized travel routes and inadequate seasonal use restrictions on important seasonal wildlife habitats.

Response #17

The analysis in the EA does not indicate that there will be any measureable impact to wildlife as a result of paving the road, although there may be some minor disturbance during the road construction as identified in the EA. Accordingly, the impacts of the proposed project, even when combined with past, present, and reasonably foreseeable future actions, will not be sufficient to tip the scales to significance. As stated in Response to Comment #15, FHWA does not anticipate the project causing meaningful increase in the use of the area of concern and thereby increase pressure on wildlife. Restrictions on seasonal wildlife habitat are a matter under the control of the land management agency; FHWA has no authority over seasonal use restrictions. See also responses to HHAA Comments #3 and #7.

HHAA – Comment #18

However, to help address sedimentation concerns to Tenmile Creek, an aggregate surface with minimal road widening or straightening would help to retain a more natural character in the drainage. An aggregate surface is preferable to a paved surface to reduce speed and slippery surfaces that would contribute to speed and inattention by motorists and thus collisions with wildlife. A speed limit of 35 mph should be retained.

Response #18

The existing 35 mph speed limit will be retained. An aggregate surface would not help address sedimentation concerns because, as shown in the Road Sediment Assessment, the existing aggregate surface contributes an estimated 701 tons of sediment to the creek each year. Paving the existing surface would reduce sedimentation to the creek. Additionally, the design of the road has changed since Montana Fish, Wildlife & Park's 2002 letter, and the *Preferred Alternative* now includes minimal road widening and straightening. A chip seal surface will provide greater traction and improved stopping distance over the gravel surface (Phan 2011).

HHAA – Comment #19

We note that there was no discussion in the EA relative to these MFWP's points…we wish to highlight the first point:

- Consequences to the hunting public as a result of "…increased future hunting pressure that will come with improved access to the area, and to wildlife populations in relation to reduced security, increased harvest, and altered male age structure within populations of deer and elk."

Response #19

FHWA has not found any evidence that paving the portion of the road that is planned for this project will lead to increased hunting pressure. First, the present gravel road is maintained for passenger vehicle use. Paving the portion of the road subject to this project will not open the road to a different class of vehicle. To the extent that it may entice those who are averse to gravel roads to now traverse the paved road, such enticement ends at the proposed pavement end, which is before the town of Rimini and before the upper drainage where the concerns relating to wildlife are greatest. Second, hunters who are likely deterred from hunting because of a gravel road are not likely to find a paved road ending before the town of Rimini much help. To reach the roads in the upper drainage area, one would continue to need to drive over miles of gravel road. Accordingly, FHWA does not believe that paving this lone portion of the road will result in increased future hunting pressure. FHWA notes that there are no plans to pave the road further, either into the town of Rimini, or beyond.

HHAA – Comment #20

Repeated use of the undefined term "recreational trails" within the EA suggests that the concern over illegally created routes was glossed over. Our concern to promote fair chase hunting could be addressed with…a USFS (partner in this project) commitment to bring motorized route density standards beneath 1.5 miles per square mile called for in the Helena National Forest plan… We advocate for area management with carefully placed designated routes.

Response #20

FHWA will pass the concern for area management on to the USFS, which is the responsible land managing agency. "Recreational trails," as used in the EA, refers to the two trails that abut this project: the Tenmile Environmental Education Trail (a foot trail) and the snowmobile trail that starts at the historic Camp Rimini site and follows the Minnehaha road up to connect to the

Rimini-Elliston-Basin Snowmobile Loop, which is a cooperative venture with Helena Snowdrifters Snowmobile Club and Montana Fish, Wildlife, & Parks. As stated in the Response to Comment #19, FHWA does not anticipate additional pressure on illegally created routes due to paving this segment of Rimini Road.

HHAA – Comment #21
The EA is remiss in not fully addressing the very real possibility (there certainly appears to be intent for future additional paving given that the road is proposed to stop at the Chessman turnoff) of extension of the paving through to Clancy via Chessman Reservoir or through to Basin via Banner Creek and Basin Creek.
Response #21
There is no intention to pave either of these routes in the future. The paving extends to the Chessman turnoff because traffic counts have shown the majority of forest-bound traffic turns off of Rimini Road at that location, and because extending pavement further south on Rimini Road would have had potentially adverse impacts to many historic buildings and would have required federal acquisition of more privately owned property for project right-of-way. Daily traffic counts on the road to the Chessman Reservoir are not high enough to warrant paving in order to keep maintenance costs down.

HHAA – Comment #22
HHAA notes that the Rimini Road is already one of the straightest rural roads in the entire county. Two curves in a 7 mile long county road are to be expected and should be accepted, particularly given the level of disturbance that straightening would entail. A reduced and enforced speed limit in this rich wildlife habitat along Tenmile Creek, along which the road is located for its full length, will help minimize wildlife collisions that are all too common.
Response #22
Crash data for the Rimini Road shows that the majority of crashes occur at these two sharp curves, and local residents even refer to a boulder opposite one of the curves as "Rollover Rock," as several vehicles have landed on or near it after leaving the roadway. The roadside habitat will be revegetated with native plant species following construction. While enforcing the 35 mph speed limit is the responsibility of local law enforcement, the 10- to 12-feet wide striped travel lanes are expected to give visual cues to drivers. Studies have shown that visual cues (such as narrower lanes, trees along the road, etc.) can lead to reduced speeds (FHWA 2005). Furthermore, the road will be posted for 35 miles per hour (mph), and warning signs will be posted where there will be limited sight distance on the road or where curves are designed below 35 mph.

HHAA Comments #23 through #27 directly quote FHWA's 2002 Project Checklist
General Response to Comments #23 through #27
As stated in the 2002 *Project Checklist*, under ***Purpose of the Project Checklist***, "The checklist also contains an initial estimate of environmental resources and potential impacts." At the time the Project Checklist was written, no environmental resource studies had yet been done.

HHAA – Comment #23
The area functions as a vital linkage zone between the Bob Marshall Wilderness complex and the Greater Yellowstone Ecosystem, especially for grizzlies, lynx, wolves, and wolverines.

Response #23
The *Wildlife Highway Mortality and Linkage Assessment: A Prioritization and Planning Tool for Western Montana*, released by American Wildlands in 2009, does not identify the project area as a vital linkage zone. Rather, it shows that the immediate project area is not a priority linkage zone, and the habitat on the opposite side of the Continental Divide from the project area is only a low priority.

HHAA – Comment #24
…since the Tenmile Creek corridor is heavily utilized by wildlife and the road and the creek parallel one another closely up the drainage, change in the character of the road will greatly influence wildlife activity.
Response #24
The *Project Checklist* mistakenly spoke so definitively of the potential impacts of the project prior to carrying out any research. Following biological resource studies, analysis in the EA, consultation with the U.S. Fish and Wildlife Service, and communication with USFS and Montana Fish, Wildlife & Parks biologists, FHWA believes the *Preferred Alternative* may influence wildlife activity in the short term, it is not likely to "greatly influence" wildlife activity in the long term.

HHAA – Comment #25
Paving the road will encourage people to drive faster and would likely increase the number of animal/vehicle collisions that occur. Paving the road would also funnel more people into remote areas (like the divide and the headwaters of Tenmile Creek) that are havens for many species, especially some of the listed carnivores.
Response #25
See Responses to HHAA Comments #14, 19, 20 and 22

HHAA – Comment #26
Opportunities to develop private property in the area will increase with improved road access.
Response #24
See Responses # 4 and #12. This issue is further addressed in Section 4.2 of the EA

HHAA – Comment #27
Currently, the road beyond the proposed project that leads to Chessman Reservoir is quite primitive and discourages use and/or forces drivers to use caution. Paving the Rimini Road may encourage future improvements to this road and may create a need for year-round access to roads that are seasonally closed. It also may encourage opening or improving roads that are currently gated or used as foot trails. Increasing road density in the area and encouraging human encroachment will impact the quality of habitat in the area and may discourage use by many species of wildlife, especially carnivores. The Helena National Forest is already experiencing problems with ATVs in restricted and sensitive areas.
Response #25
See Responses #5, 6, 7, 8, 9, 19, and 20

HAAA – Comment #28

Measures to alleviate, mitigate or compensate for wildlife impacts are not provided, yet we believe such measures (listed below) should and could be offered if the project were to move forward. Otherwise we strongly support the No Action Alternative in order to retain a less developed and less alluring human attraction that a paved highway would impose on wild Montana country.

FHWA believes the Partial Pavement Alternative for the proposed project should only move forward if the partners on this project agree to maintain wildlife and their habitats by implementing the following:

Comment #28a
Manage and enforce road densities on Helena National Forest lands in Upper Tenmile at less than 1.5 miles per square mile as called for in the current Forest Plan.
Response #28a
The *Preferred Alternative* adds no new length of road and FHWA does not believe that the project will affect road density on the Helena National Forest. FHWA will pass this concern for better management of road densities to the USFS.

Comment #28b
Decommission illegally created routes.
Response #28b
FHWA will pass this concern on to the USFS.

Comment #28c
Remove the haul road from the crest of the Continental Divide (heart of the wildlife linkage corridor)
Response #28c
FHWA understands that the haul road will not be removed from the crest of the Continental Divide, but the road will be returned to the primitive state it was in prior to EPA mine waste cleanup activity.

Comment #28d
Rimini Road speed limit of 35 mph (regardless of surfacing).
Response #28d
The road will be designed with a speed limit of 35 mph.

Comment #28e
Maintain or enhance all riparian areas, and compensate for losses occurring to date.
Response #28e
One of the purposes of the project is to reduce sedimentation which will enhance the quality of the riparian areas. Further, FHWA will take responsibility for mitigation of any wetland losses occurring as a result of the project.

Comment #28f
Assure that operators of road graders pull material from the sides of the road up to the crown of the road to reduce side-casting of sediments.

Response #28f
The *Preferred Alternative* is to surface the road with pavement eliminating the need to grade the road.

Comment #28g
Pledge that U.S. DOT/WFL projects would not occur beyond the Beaver Creek turnoff (end of 6.1 mile project).
Response #28g
There are no plans to construct any future projects beyond the Chessman Reservoir turnoff.

Public Comment #1
The project would increase fragmentation of important wildlife habitat, increase wildlife mortality from collisions with motor vehicles driving at higher speeds on the paved portion of the road, lead to pressure for development of adjoining forest roads and roadless areas, jeopardize the safety of people recreating in the narrow Tenmile Creek corridor due to higher vehicle speeds, and result in spread of noxious weeds from construction activities.
Response
See Responses to HHAA Comments #12, 19, 21, and 22. As described in Section 4.7 of the EA, the project is unlikely to increase habitat fragmentation because it will not substantially reduce the amount of available habitat, will not include new structures that may dissuade wildlife from crossing the road, and is not likely to have an effect on the rate of development in the watershed. Because the project includes safer parking areas at the Tenmile Environmental Education Trail and at the Tenmile Picnic Area, and because other measures are included to prevent drivers from speeding (see response to HHAA Comment #22), FHWA disagrees that the *Preferred Alternative* will jeopardize the safety of people recreating in the corridor. FHWA is aware of the existing issue of noxious weeds along Rimini Road. As described in Section 4.3.4 of the EA, mitigation measures such as weed control before, during, and immediately following construction, using only certified weed-free material, and washing construction equipment prior to entering USFS land will be implemented to help control the spread of noxious weeds.

Public Comment #2
Some improvements to the Rimini Road may be appropriate to enhance safety and to reduce sedimentation into Tenmile Creek and improve the fishery, but improvements could be made without paving or substantial widening or straightening of the road or intruding upon the creek bank.
Response
See response to HHAA Comment #1 for more information on sedimentation reduction and why paving the road will have the greatest reduction in sediment delivery to the creek. Without softening the two curves where the majority of crashes occur on this road, safety would not be improved to a level that meets the purpose and need of the project. The *Preferred Alternative* does not straighten the road but instead is slightly adjusted to better follow the contours of the valley bottom in the effort to move the road away from the creek. In areas where the road cannot be moved away from the creek and otherwise encroaches on the creek bank, the *Preferred Alternative* includes retaining walls to minimize encroachment. FHWA will coordinate with the Department of Environmental Quality (DEQ) water resource specialists to minimize impacts to water quality.

Public Comment #3
The current speed limit on the Rimini Road is 35 miles per hour. Even if that speed limit is still posted, improving the road will lead to increased speed. A person who lived in Rimini for years told me that he drove portions of the gravel road at 60 mph. Paving and widening the road is likely to increase traffic speeds to much greater than 35 miles per hour.
Response
See response to HHAA Comment #22. As is the case on any road with any posted speed limit, some drivers are likely to speed regardless of road conditions.

Public Comment #4
Due to its close proximity to Helena, the Tenmile Creek area is a very popular recreation area, especially, for families. Recreation along the Rimini Road includes camping at the Moose Creek Campground, picnicking at the Tenmile Picnic Area, fishing, berry picking, hiking from two popular trailheads, and cross-country skiing. Because the valley is very narrow, increased traffic speeds will pose a serious safety hazard for people recreating along the creek, who often cross the road near the picnic area or who are very close to the creek. Increased traffic and traffic speeds also will seriously diminish the peace and quiet of the area.
Response
See response to HHAA Comments #18 and #20. FHWA will likely include pedestrian warning signs at the Tenmile Environmental Education Trail and Tenmile Picnic Area to warn drivers that pedestrians may be in or near the roadway. As discussed in the response to HHAA Comment #14, the *Preferred Alternative* is not expected to substantially increase traffic on Rimini Road. Because the *Preferred Alternative* is not expected to substantially increase traffic, and because tires on pavement are not as noisy as tires on gravel, FHWA believes that the road will not noticeably diminish the peace and quiet of the area.

Public Comment #5
The Switchback Ridge Trail, maintained by the Wild Divide Chapter of the Montana Wilderness Association, runs west from near the Tenmile Picnic Area up to the Continental Divide National Scenic Trail and toward the Jericho Mountain Roadless Area. The Tenmile Environmental Education Trail runs in the opposite direction from the Tenmile Picnic area east up Lazyman Gulch into the Lazyman Roadless Area, which includes Black Mountain, Colorado Mountain, and Blackhall Meadows. The roadless lands in the area provide valuable wildlife security, watershed protection, and opportunities for nonmotorized recreation. Improving the Rimini Road may lead to pressure to similarly improve the adjoining road to Chessman Reservoir and the Minnehaha Road, leading to further degradation of natural values and development on private lands in the area.
Response
Thank you for this information. See response to HHAA Comment # 8 and #21 regarding pressure for improving other area roads. See response to HHAA Comment #12 regarding development on private lands. There are no plans to improve the road to Chessman Reservoir and the plans are to return the Minnehaha Road to a more primitive state.

Public Comment #6

Paving the road will increase access by off-road motorists, many of whom are likely to use trails closed to motorists and create their own off-road routes. Illegal off-road motor traffic already is a significant problem on the Helena National Forest, and this project is likely to increase the problem.

Response

See Response to HHAA Comment #5 and #6.

Public Comment #7

Lands on both sides of the Rimini Road contain critical wildlife habitat, and the nearby Continental Divide provides a critical wildlife corridor. Various species, including deer, moose, black bears and smaller mammals, regularly cross the road. Federally listed species also use the area, including grizzlies, wolves, and lynx. A higher-speed paved road likely will result in long-term avoidance of the area and habitat fragmentation for some species and directly cause increased mortality for other species, through increased collisions with motor vehicles.

Response

See Response to HHAA Comments #12, #20, and #22

Public Comment #8

The Rimini Road can be very dusty and full of washboards in the summer. However, it is a rural, forest road and dust and washboards are common on such roads in Montana.

Response

Dust was not identified as a major issue on this road. Washboarding is identified in the purpose and need as a deficiency of the road, as it can lead to loss of vehicle control due to reduced contact between tires and the surface of the road.

Public Comment #9

I strongly disagree with the conclusion that paving the road is unlikely to increase private development in the area. Paving the road will substantially increase the value of private property for development.

Response

See Response to HHAA Comment #12.

Public Comment #10 is identical (word for word) to HHAA Comments #23 through #27. See FHWA Responses to those comments.

Public Comment #11 (this comment is in regards to FHWA's 2002 Project Checklist)

Clearly, U.S. DOT is aware of the potential serious adverse consequences of this proposed project for wildlife habitat and non-motorized recreation opportunities. In view of these acknowledged consequences, the no action alternative should be selected, and the project should not proceed.

Response

As stated in the General Response to HHAA Comments #23 through #27, the 2002 Project Checklist was an initial estimate of environmental resources and potential impacts. Additionally, the project as proposed in 2002 included an additional mile of road work through the community of Rimini. Now that resource studies and resource agency consultation has been completed and

environmental impacts have been assessed in the EA, FHWA estimates the *Preferred Alternative* will have the minimal impacts as identified in Chapter 4 of the EA.

Public Comment #12
Also, it may be appropriate to consider alternative methods of maintaining the current road that would reduce sedimentation of the creek from the road.
Response
See Response to HHAA Comment #1

Public Comment #13
The proposed project would have significant adverse impacts on the environment of the area and should not proceed. If the project proceeds anyway, an environmental impact statement should be prepared to more thoroughly evaluate the adverse impacts to wildlife security and non-motorized recreational opportunities.
Response
FHWA does not believe that the proposed project will have significant impacts on the environment. FHWA has analyzed the impacts on the environment in the EA and has not found any of the impacts to approach the level of significance. While the paving surface of the road will be changed and some small changes will be made to the alignment to improve safety, the changes do not increase road capacity, do not change the type of vehicle for which the road is designed, will have minimal effect on wildlife, will have some beneficial effect on aquatic species by reducing sedimentation, will not likely impact land use, and will improve safety. FHWA has taken a hard look at the likely impacts and have not found any that would rise close to the level of significance. FHWA does not believe that an environmental impact statement is warranted.

Public Comment #14
I feel that the EA needs more specifics on the design with typical section drawings of the proposed alternatives along with a typical section drawing of the existing roadway.
Response
A copy of the preliminary plans is included as an attachment to this Response to Comments.

Public Comment #15
I didn't see flammulated owls, a sensitive species, mentioned in the document. The Forest Service has documentation from surveys done in the past few years.
Response
The EA included all information we had in the biological resources report provided by the consultant hired to do the surveys and reports; flammulated owls were mistakenly left out of the biological resource report.

FHWA has coordinated with the USFS biologist to determine what, if any, impacts the *Preferred Alternative* might have on flammulated owls. Recent surveys for flammulated owls have demonstrated presence of flammulated owls in nearby watersheds but not in the Upper Tenmile watershed. According to Brent Costain, Wildlife Biologist with the Helena National Forest, this species prefers nesting cavities in large Ponderosa pines within contiguous stands of other large trees. There are few such stands in the drainage, and removing individual trees (as long as they

are not active nesting trees) from the roadside is unlikely to affect the species or its ability to occupy the area in the future (Costain 2011).

Public Comment #16
Clearing and grubbing should be confined to the construction fill limits to minimize impacts to vegetation.
Response
Clearing and grubbing will be minimized to the extent possible.

Public Comment #17
Page viii. "Wider, paved road may alter rustic feeling of the valley," there is no doubt in my mind that this project will, not may, alter the rustic feeling of the valley, which a lot of us enjoy about the road.
Response
FHWA acknowledges this comment. The *Preferred Alternative* includes what will likely be a chip seal pavement. Chip seal offers a lighter color and rougher surface than asphalt pavement. Combined with an alignment that follows the contours of the terrain more closely than the existing alignment, a chip seal surface may help maintain the rustic feel of the road. An analysis of visual impacts is described in more detail in Section 4.13 of the EA.

Public Comment #18
Page 1. Provide traffic count data to support the statement "With most of the forest-bound public traffic leaving the road at Chessman Reservoir intersection…" I lived in Rimini for 15 years and observed most of the Forest bound traffic leaving Rimini Road at Minnehaha or continuing through the community of Rimini.
Response
Traffic counts were taken at milepost (MP) 0.0, MP 1.5 and MP 6.0, and these counts show traffic levels dramatically dropping off at MP 6.0. The Chessman Reservoir intersection is at approximately MP 6.0. The Minnehaha Road is approximately 0.5 mile from the Chessman turnoff and traffic counts were not taken between the two roads. However, whether the majority of traffic leaves Rimini Road at Minnehaha or at the Chessman turnoff does not remarkably affect the impacts analysis in the EA.

Public Comment #19
Page 2. In addition to the bridge at MP 2.4, the other two bridges should be designed for wildlife to pass under with sufficient dryland passage on at least one bank, not including riprap.
Response
Constructing all three bridges with wildlife paths is not feasible due to the substantial grade raises and increased bridge lengths that would be necessary to provide a crossing that would be used by a variety of species. The bridge at MP 2.4 provides the best opportunity for a wildlife passage due to the existing morphology of the stream and the presence of high quality habitat at this location.

Public Comment #20
Page 7. Under "The conditions requiring relief are: …lack of clear shoulders due to tall vegetation, private fences and mailboxes in the right-of-way;" sounds like most county roads in

the area. Is FHWA designing the right-of-way (ROW) with no tall vegetation? That seems like a significant amount of vegetation disturbance.

Response

The USFS is in the process of transferring ROW ownership over to Lewis & Clark County, and the ROW boundary would extend 30 feet from either side of the road's centerline. FHWA does not propose clearing the entire ROW of tall vegetation, but only providing a clear recovery zone for errant vehicles. As described later on Page 7 of the EA, "The clear zone is defined as an unobstructed, relatively flat area beyond the edge of the traveled way that allows a driver to stop safely or regain control of a vehicle that leaves the traveled way."

Public Comment #21

Page 7. Provide justification for the statement "removing objects from the right-of-way provides a larger, safer recovery zone for errant vehicles" I thought that was the function of the clear zone. I hope FHWA is not proposing to remove every shrub, tree, large rock in the right-of-way. Mailboxes are in county and state right-of-ways throughout Montana. Is FHWA proposing that the mailboxes be placed in another location other than the ROW?

Response

This discussion in the EA was not written as clearly as it should have been, and we apologize. As this commenter implies, there is a difference between "clear zone" and "right-of-way," and we did not clarify that we propose only a clear zone for recovery of errant vehicles, but we do not intend to remove every obstacle in the right-of-way. See Public Comment #20.

Public Comment #22

Page 8. "The County estimates an annual expenditure of $50,000 to $60,000 to maintain the road… does not include the costs of winter maintenance…". I think this is an estimate, a high estimate, as in the last 20 years the County typically only graded the road 3 or so times, but no more than 6 times annually, which is a lot for one guy and a grader for 2-3 days per time, you do the math!

Response

We contacted the County maintenance department, and this is the information they gave us specific to Rimini Road. Typical expenditures for grading and rolling gravel roads in Montana are approximately $9,000 per mile annually.

Public Comment #23

Page 9. "Furthermore, due to a lack of proper drainage features…". In the last 20 years I have not seen the road flooded as stated, provide justification for this statement.

Response

This statement was made in the 2001 Project Identification Report authored by FHWA. The origin of this information is unknown, and as this claim is unsubstantiated, we retract this statement.

Public Comment #24

Page 10. "The counts for these years…in Table 2." I didn't see the table in the text with ADT data.

Response

This was a mistake. The traffic counts for 2006 through 2009 were not included in Table 2 because they included EPA mine waste remediation truck traffic, and we decided those counts would skew the future traffic estimates too much. Table 2 shows actual 2002 traffic counts and projected traffic counts for 2013 and 2033. Due to a mistake in the page layout, Table 2 is shown on Page 11 rather than on Page 10, and is actually Table 3.

Public Comment #26
Page 15. "These areas would provide an area large enough…". Provide a design for each recreational site along Rimini Road, at a minimum the design specifications, that shows the size of the parking areas that would accommodate a school bus to safely turn around without backing out onto Rimini Road. How many sites are there, and where are they located?
Response
As stated on page 15 of the EA, these two areas would be located at the existing parking areas for the Tenmile Environmental Education Trail and the Tenmile Picnic Area. At this stage of the project development process, we have not designed these two parking areas. However, if the Preferred Alternative is selected, FHWA will honor its commitments as stated in the EA. The USFS will work with us on designing these two parking areas.

Public Comment #27
Page 16. Maintenance would be required…" The County hasn't done dust abatement or hauled in gravel to replenish the gravel surface in 20 years. Has the County agreed to apply a dust abatement to the road surface every other year?
Response
The quote from the document refers to the Preferred Alternative. If selected, the chip seal surface will not require any dust abatement. However, based on the current conditions, the County has not agreed to apply a dust abatement to the road surface every other year. At this time they do not have money in their budget to do so. The County applied dust abatement several years ago; this was paid for by the EPA to minimize dust from their haul vehicles.

Public Comment #28
Page 20. "Improvements to Rimini Road…" However, this increase is expected to be minimal…" The paved road will result in a lot more traffic through the community of Rimini, and more traffic using the other Forest Roads like Minnehaha.
Response
See Response to HHAA Comment #11 and Public Comment #24. FHWA does not expect a substantial increase in traffic as a result of the *Preferred Alternative*. For more information on traffic increases expected *regardless* of whether Rimini Road is paved, please see Section 2.3 and Table 3 in the EA.

Public Comment #29
Page 25. (Wilson 2010). Not found in references.
Response
This reference was a typographical error. The reference should have read (Bishop 2010). The full reference information can be found in Chapter 10 of the EA.

Public Comment #30

Page 26. Lewis and Clark County Planning staff…" Research has shown…" With the improvements to the roads in the area by the EPA, development in the upper Tenmile south of Rimini and up Chessman Roads has increased significantly in the last 10 years, and this project will only exacerbate the situation.

Response

See Section 4.2.1.3 of the EA for the County records our land use specialist had to work with. County records show no development in the watershed in the last 10 years. The land use analysis in Section 4.2 of the EA provides further information on the limitations to development in the watershed. Additionally, the roads that have been upgraded to accommodate the EPA haul trucks will be returned to their former conditions following completion of EPA cleanup activities in the next five years.

Public Comment #31

Page 27. (Pinus ponderosae). Delete the e.

Response

Thank you for alerting us to this typographical error.

Public Comment #32

Page 28. "Although no federally listed or USFS sensitive plants are known…" No USFS sensitive or listed plant species…" When was the sensitive plant study conducted and by whom? Cite study at end of paragraph and in references.

Response

This study was conducted in 2003 by Herrera Environmental Consultants. We will coordinate with USFS biologists prior to construction to confirm whether this information is still applicable.

Public Comment #33

Page 28. Most of this land would be revegetated…, but between three and four acres…" Who will maintain, perhaps water, and replace dead plants following the revegetation. The estimate of 3-4 acres of permanent vegetation disturbance seems low, based on earlier statements about the clearing of vegetation, etc. in the clear zone and even out to the ROW. Please clarify.

Response

FHWA will establish a reimbursable agreement with the USFS to revegetate the project area using native plants grown from seeds collected from Helena National Forest and other nearby Forests; these seedlings are adapted to life in this particular climate, and this improves the rate of success of revegetation efforts. This reimbursable agreement will also provide for monitoring to ensure the success of the revegetation efforts. Of the 35 to 40 acres of vegetation removal, all will be revegetated except 3 to 4 acres. The 3 to 4 acres represents the new road surface that would be created as part of the project. The clear zone will not be a desolate swath of dirt. Ditches and shoulders will be planted with grasses and other plants that help with erosion control and help filter stormwater running off the road. The plant species that will be selected will not grow large enough to obstruct drivers' views of the upcoming road or decrease a driver's ability to return a wayward vehicle to the roadway.

Public Comment #34

Page 30. Construction vehicles would be washed…". Is FHWA proposing to have a wash station(s) along Rimini Road? Where will it/they be located?

Response
FHWA will designate a wash station at the cleared area near the Tenmile Water Treatment Plant at the junction of Highway 12 and Rimini Road. This area is also the proposed staging area for the project. While it will be designated in the plans and specifications, the contractor has the option to select another site that meets the conditions in Section 3.4 of the EA.

Public Comment #35
Page 35. "Relocating, realigning, or recreating the Tenmile Creek stream…" Are there plans to do this, and if so, it should have been disclosed in this document.
Response
The entire sentence referred to reads "Relocating, realigning, or recreating the Tenmile Creek stream channel where it flows close to the roadway corridor would be avoided where possible." At this time, there are no plans to move the channel. However, design is less than 50% complete, and at this time we cannot definitively say that we will not need to relocate, realign or recreate the channel.

Public Comment #36
Page 35. The wetland inventory was conducted in July 2003. The U.S. Army Corps of Engineers (USACE) has regulatory guidance regarding a 5 year "shelf-life" for a wetland inventory. According to the guidance the project would need to be re-inventoried using the latest USACE wetland delineation documents and field forms.
Response
We are aware that the wetland inventory will need to re-inventoried. We will update the wetland delineation and work with USACE on a wetland mitigation plan prior to construction of the project.

Public Comment #37
Page 36. (*Maienthemum racemosa*). There is no such plant, and if you meant *Maienthemum racemosum*, it does not occur in Montana.
Response
This plant may have been wrongly identified in the 2003 wetland inventory.

Public Comment #38
Page 39. Based on 18 years of conducting wetland studies, I'm nearly certain that at least one wetland area was missed during the 2003 inventory in an abandoned channel of Tenmile Creek at approximately station 10+500 left.
Response
Thank you for this information. See response to Public Comment #36. We will be sure this area is included in the updated delineation.

Public Comment #39
Page 43. Non-Special Status Fish and Wildlife. There is no mention of the Migratory Bird Treaty Act, and the protections offered to nesting birds, such as the American dipper, that nest under the timber bridges that would be replaced.
Response

The Migratory Bird Treaty Act (MBTA) of 1918 offers protection to species or families of birds that live, reproduce, or migrate across international borders at some point during their lifecycle. The MBTA does not apply to actions where the taking would be inadvertent habitat destruction done for reasons other than to destroy the birds, as per Seattle Audubon Society v. Evans, 952 F.2d 297, 302 (1991). FHWA will take action to avoid the take of any bird or its eggs. To this end, FHWA will be working with USFS and USDA Wildlife Services.

Public Comment #40
Page 44. Another design aspect that is expected to reduce…" As stated earlier in my comments, in addition to the bridge at MP 2.4, the other two bridges should be designed for wildlife to pass under with sufficient dryland passage on at least one bank, not including riprap.
Response
Please see response to Public Comment #19.

Public Comment #41
Page 49. Regarding discussion that lynx prefer habitat with an abundance of snowshoe hares, snowshoe hare are often seen along Rimini Road in areas of thick riparian vegetation. I didn't see any mention that the section of Rimini Road on Helena National Forest is within a Forest Service designated Lynx Analysis Unit (LAU).
Response
We apologize for this omission. We are aware that a section of Rimini Road is within an LAU. This information was in the Biological Assessment used in consultation with the USFWS, but was mistakenly omitted when writing the EA. However, this omission does not change any of the conclusions from our analyses.

Public Comment #42
Page 49. There is no designated critical habitat…" Designated critical habitat for Canada lynx is mapped on the north side of U.S. Highway 12 at McDonald Pass which is in the vicinity of the project.
Response
This comment refers to a sentence which reads "There is no designated critical habitat for lynx in the project area." The project area is the *immediate project area*, and when discussing "Affected Environment," it is appropriate to identify the upper Tenmile Creek watershed as the project area. FHWA consulted with USFWS on potential impacts of the Rimini Road Project on Canada lynx. The Biological Assessment used in consultation with the USFWS discussed the proximity of the project area to the critical habitat on the north side of Highway 12, and USFWS concurred with our determination that the project "may affect, but is not likely to adversely affect" Canada lynx.

Public Comment #43
Page 49. "The risk of increased vehicle…outside of potential lynx habitat." Provide documentation that the project is outside of potential lynx habitat, since the road through Helena NF is mapped as a Lynx Analysis Unit by the Forest Service.
Response
A Lynx Analysis Unit (LAU) is an area of at least the size used by an individual lynx, from about 16,000 to 25,000 square acres (Ruediger et. al, 2000, as referenced in the EA). An LAU is

a unit for which the effects of a project would be analyzed; its boundaries should remain constant and suitable habitat does not necessarily exist within the entire LAU.

Brent Costain, Wildlife Biologist with the Helena National Forest, wrote in an email on May 14, 2008: About the site along Tenmile Creek north of Rimini: "It is not lynx habitat. In order to qualify as potential lynx habitat on the Helena Forest, an area needs to be in a cool/moist conifer habitat type above 5,500 ft elevation. This site is below 5,200 ft and is not a conifer forest habitat type. We have not mapped it as potential lynx habitat."

Public Comment #44
Page 50. I see no mention of Montana Fish, Wildlife & Parks winter track surveys documenting lynx near the project area.
Response
We received an email from Montana Fish, Wildlife & Parks (MFWP) several years ago documenting lynx tracks found along the Continental Divide above the project area, and this is documented in Section 4.7.3.1 of the EA. We have no other documentation. We received a letter from MFWP during the public comment period for the EA. They did not mention in that letter any other recent surveys documenting lynx near the project area.

Public Comment #45
Page 51. There is no mention of the gray wolf killed by a vehicle of a Rimini resident near Lazyman Gulch in the winter of 2009-2010. This wolf was in a pack of about 5 animals when killed. Montana Fish, Wildlife & Parks (MFWP) has the documentation on this wolf mortality.
Response
FHWA is aware that wolves do occasionally enter the project area, and states so in Section 4.7.3.2 of the EA. Although this incident was an unfortunate one, it does not affect the results of the effects analysis laid out in the EA. The project is not likely to impact the gray wolves in any meaningful way. FHWA also notes that the gray wolf was delisted as a protected species under the Endangered Species Act on May 5, 2011.

Public Comment #46
Page 54. Wolverine. Check with MFWP furbearer biologist as I believe this species has been documented in the project vicinity.
Response
As stated in the EA, wolverines are thought to enter the drainage occasionally, and the EA assesses the potential effects of the project on this species. This occurrence of a wolverine in the project vicinity does not change our analysis of the project's potential effects to the species.

Public Comment #47
Page 55. Goshawks have been documented in the project area…" Provide citation here and in references.
Response
This information in this sentence came from the 2003 Biological and Wetlands Resources Report by Herrera Environmental Consultants.

Public Comment #48

Page 80. “However a gravel surface would not have the pronounced change…” I totally agree with that statement. I like the rural and rustic feeling of the existing road, I don’t want to drive a paved road to nowhere!!

Response

FHWA acknowledges your preference. FHWA believes that the paved alternative best meets the needs of improving safety, reducing sedimentation, and reducing maintenance costs.

Public Comment #49

Page 94. We are in Tenmile Creek not Petty Creek as shown in Table 9.

Response

Thank you for finding this error in the EA. FHWA’s Petty Creek Road project is very similar to the Rimini Road Project, and some of the mitigation measures are the same. As such, some of the wording from the mitigation measures section of the Petty Creek Road EA was copied and pasted into the mitigation measures section of the Rimini Road EA.

Public Comment #50

Page 94. Work in streams will require coordination and SPA/124 permit from MFWP.

Response

FHWA will fully coordinate with MFWP in the development of the project.

Public Comment #51

Page 101. No reference for 2008 Biological Assessment.

Response

This was mistakenly omitted. The reference for the 2008 BA is as follows:

FHWA

2008 Biological Assessment for the Rimini Road Improvement Project, MT PFH 98-1(1). US Department of Transportation, Federal Highway Administration, Western Federal Lands Highway Division.

Public Comment #52

Appendix A, Page 1. This assessment …Highway 200 to approximately milepost 8.5 ??????

Response

This wording comes from another project, the Petty Creek Road project, which is very similar to this Rimini Road project. See response to Public Comment #49. Unfortunately, in copying language describing the methodology, some references to the Rimini Road project were not removed. We have looked at the areas and believe that using similar methodology for both projects was appropriate. Such error does not affect the validity of the conclusions reached in the sediment report.

Public Comment #53

Appendix A, Page 4. #5. Reference to Petty Creek Road???

Response

See response to Public Comment #52. This specific comment refers to #5 of the Assumptions and Potential Error section of the Road Sediment Assessment, which states: “There may be substantial error associated with determining drainage patterns on roads with flat grades, such as

are present on Petty Creek Road." As discussed before, the Petty Creek Road and the Rimini Road are very similar. This includes the gentle grade of both roads.

Public Comment #54
Page 15. Costs for the Preferred Alternative of $83,000/year for the 6.1 miles seems low.
Response
This is the average cost only for maintenance of the Preferred Alternative. It does not include initial construction cost which, as stated in the EA, is estimated to be between $7.7 million and $10.5 million. The $83,000/year estimate includes patching potholes, striping, and replacing the surface approximately every 6 years.

Public Comment #55
Page 16. Costs for Partial pavement $265,000/year for the 6.1 miles seems inflated. How can that figure be so much higher than paving the entire section?!! This figure does not seem correct.
Response
This estimate does not include initial construction costs. This is the average cost for maintenance of 1.1 miles of pavement and 5 miles of gravel. This estimate takes into consideration the maintenance effort required to maintain the road at an ideal level, not the low level at which it is currently maintained. This ideal level of maintenance would include grading and rolling the surface seven times per year, treating the surface with a dust suppressant every two years, and regraveling every four years with three inches of new gravel. Please see the attached spreadsheet for detailed estimates of maintenance costs for the No Action, Preferred, and Partial Pavement Alternatives.

Public Comment #56
Appendix E. Table indicated no fatalities in the project. Why is the accident data only for ten years? There was a white cross along the road a few years ago. And a long time resident recalls 3 fatalities in the last 35 years. I believe that the Preferred Alternative will cause people to drive faster than the proposed speed limit of 35 MPH, likely resulting in an increase in vehicle accidents and wildlife/vehicle mortalities.
Response
FHWA obtained crash data dating back to 1982. However, this data was incomplete and included the entire length of Rimini Road without always clearly reporting where along the road the crashes occurred. The crash data from 1999 through 2008 gave us the most complete and accurate history to work with. Of the older data, only one fatality was reported, and we were able to pinpoint that accident's location to a steep section of the road beyond the community of Rimini. Please see our response to HHAA Comment #20 regarding increased speeds on Rimini Road.

REFERENCES

Costain, Brent. Personal communication (email conversation with Erin Chipps, FHWA). U.S. Forest Service Wildlife Biologist. April 19, 2011.

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Johnson, Bruce K. and Alan A. Anger, James H. Noyes, and Norm Cimon. "Elk and mule deer responses to variation in hunting pressure." In: Transactions of the 69th North American Wildlife and Natural Resources Conference: 625-640. 2004. http://www.fs.fed.us/pnw/lagrande/starkey_na/PDFs_Preprints/ms-11_Johnson.pdf

Phan, Ninh. Personal Communication (conversation with Erin Chipps, FHWA). FHWA Highway Designer. April 14, 2011.

Rapp, Valerie. Pacific Northwest Research Station Science Update – Elk, Deer and Cattle: The Starkey Project. Issue 13. March 2006. http://www.fs.fed.us/pnw/pubs/science-update-13.pdf

Rowland, Mary M. and Michael J. Wisdom, Bruce K. Johnson, and Mark A. Penninger. "Effects of roads on elk: implications for management in forested ecosystems." In: Transactions of the 69th North American Wildlife and Natural Resources Conference: 491-508. 2004. http://www.fs.fed.us/pnw/lagrande/starkey_na/PDFs_Preprints/ms-04_Rowland.pdf

Map showing adversely affected Section 4(f) properties: Old Helena Water Supply Ditch (shown in blue) and NPR Railroad Grade (shown in red)

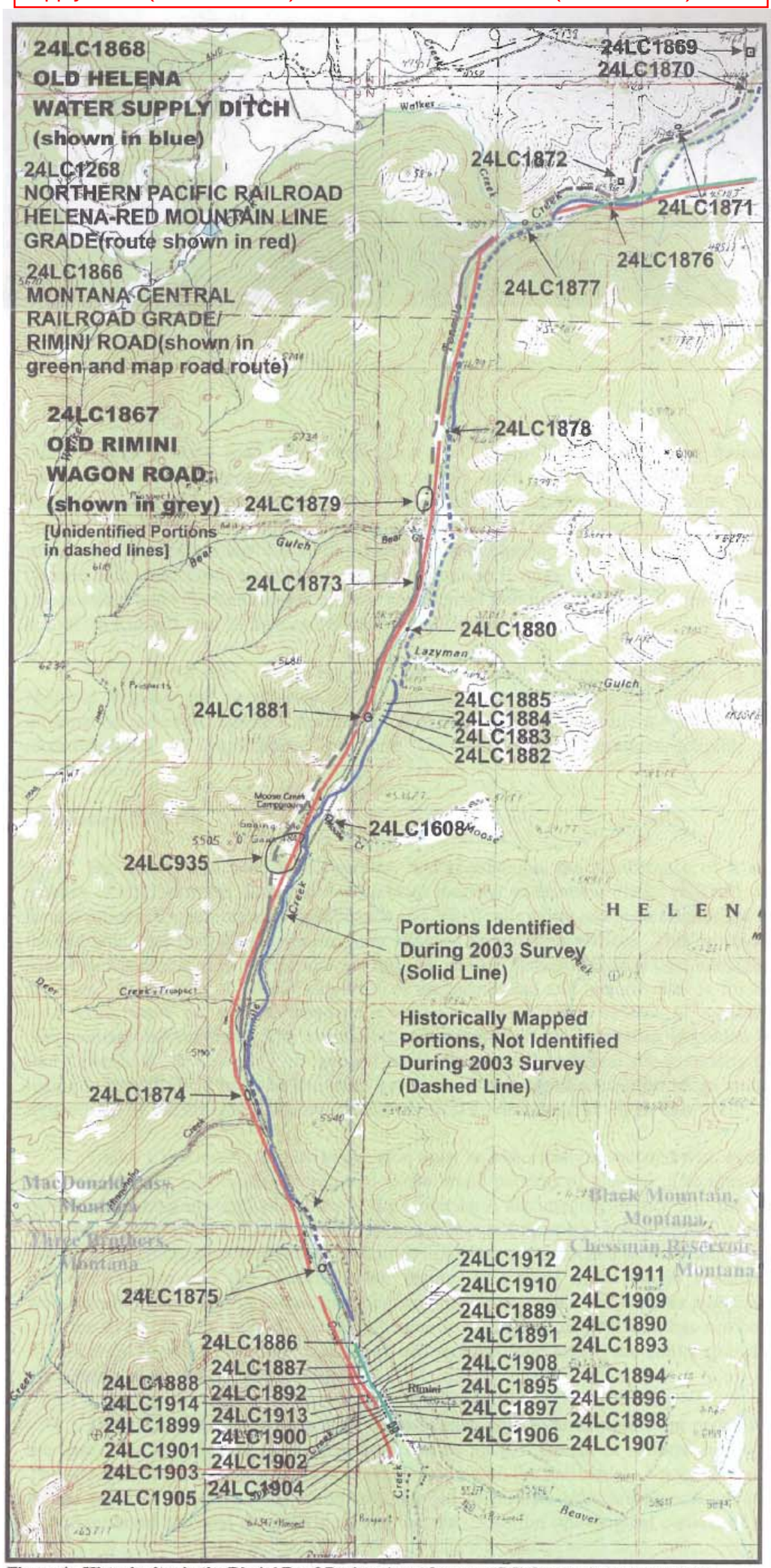

Figure 4: Historic sites in the Rimini Road Project Area shown on 7.5' Quads - MacDonald Pass, Black Mountain, Three Brothers and Chessman Reservoir.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

TAKE PRIDE IN AMERICA

DEC 23 2010

ER 10/0940

Ms. Erin Chipps
Environmental Protection Specialist
610 East Fifth Street
Vancouver, Washington 98661

Dear Ms. Chipps:

Thank you for the opportunity to comment on the Section 4(f) Evaluation for Rimini Road Improvement Project, Lewis and Clark County, Montana. The Department of the Interior (Department) has reviewed the document and submits these comments as an indication of our thoughts regarding this project.

SECTION 4(f) COMMENTS

Following our review of the Section 4(f) Evaluation, the Department concurs that there is no feasible or prudent alternative to the Preferred Alternative selected in the document, and that all measures have been taken to minimize harm to these resources. We acknowledge that you have consulted with the Montana State Historic Preservation Office, and will prepare a Memorandum of Agreement to minimize adverse effects to historic properties.

We appreciate the opportunity to review this document. Should you have questions about the Section 4(f) comments, please contact Julie Sharp at 307-987-6705.

Sincerely,

Willie R. Taylor
Director
Office of Environmental Policy
and Compliance

A

Year	Cost	Cost per mile
2009	$ 60,000.00	$ 9,836.07
2010	$ 61,800.00	$ 10,131.15
2011	$ 63,654.00	$ 10,435.08
2012	$ 65,563.62	$ 10,748.13
2013	$ 67,530.53	$ 11,070.58
2014	$ 69,556.44	$ 11,402.70
2015	$ 71,643.14	$ 11,744.78
2016	$ 73,792.43	$ 12,097.12
2017	$ 76,006.20	$ 12,460.03
2018	$ 78,286.39	$ 12,833.83
2019	$ 80,634.98	$ 13,218.85
2020	$ 83,054.03	$ 13,615.42
2021	$ 85,545.65	$ 14,023.88
2022	$ 88,112.02	$ 14,444.59
2023	$ 90,755.38	$ 14,877.93
2024	$ 93,478.04	$ 15,324.27
2025	$ 96,282.39	$ 15,784.00
2026	$ 99,170.86	$ 16,257.52
2027	$ 102,145.98	$ 16,745.24
2028	$ 105,210.36	$ 17,247.60
2029	$ 108,366.67	$ 17,765.03
2030	$ 111,617.67	$ 18,297.98
2031	$ 114,966.20	$ 18,846.92
2032	$ 118,415.19	$ 19,412.33
Total over life of project	$ 2,065,588.21	$ 338,621.02

(no action)

B

	Preferred Alt		Partial Pavement		No Action - Ideal Maint	
Year	Treatment	Cost	Treatment	Cost	Treatment	Cost
	6.1 mi pavement		1.1 mi pave, 5 mi gravel		6.1 mi gravel	
2012	New Construction - 6" Base Course and 3" HMAC		New Construction - 4" Top Course Treated with CaCl		New Construction - 4" Top Course Treated with CaCl	$ -
2013			Blade 7 times - water and roll 2 times	$ 45,000.00	Blade 7 times - water and roll 2 times	$ 54,900.00
2014			Top treat with CaCl - blade 7 times	$ 173,225.00	Top treat with CaCl - blade 7 times	$ 211,334.50
2015			Blade 7 times - water and roll 2 times	$ 47,740.50	Blade 7 times - water and roll 2 times	$ 58,243.41
2016			3" Regravel with CaCl - blade 7 times	$ 498,879.40	3" Regravel with CaCl - blade 7 times	$ 608,632.87
2017			Blade 7 times - water and roll 2 times	$ 50,647.90	Blade 7 times - water and roll 2 times	$ 61,790.43
2018	Chip Seal	$ 459,652.17	Chip Seal 1.1 mi. Top treat 5 mi with CaCl - blade 7 times	$ 277,854.36	Top treat with CaCl - blade 7 times	$ 237,858.84
2019			Blade 7 times - water and roll 2 times	$ 53,732.35	Blade 7 times - water and roll 2 times	$ 65,553.47
2020			3" Regravel with CaCl - blade 7 times	$ 561,493.16	3" Regravel with CaCl - blade 7 times	$ 685,021.66
2021			Blade 7 times - water and roll 2 times	$ 57,004.65	Blade 7 times - water and roll 2 times	$ 69,545.68
2022			Top treat with CaCl - blade 7 times	$ 219,436.25	Top treat with CaCl - blade 7 times	$ 267,712.22
2023			Blade 7 times - water and roll 2 times	$ 60,476.24	Blade 7 times - water and roll 2 times	$ 73,781.01
2024	Chip Seal	$ 548,848.73	Chip Seal 1.1 mi. 3" Regravel 5 mi with CaCl - blade 7 times	$ 730,938.22	3" Regravel with CaCl - blade 7 times	$ 770,997.91
2025			Blade 7 times - water and roll 2 times	$ 64,159.24	Blade 7 times - water and roll 2 times	$ 78,274.27
2026			Top treat with CaCl - blade 7 times	$ 246,977.43	Top treat with CaCl - blade 7 times	$ 301,312.46
2027			Blade 7 times - water and roll 2 times	$ 68,066.54	Blade 7 times - water and roll 2 times	$ 83,041.18
2028			3" Regravel with CaCl - blade 7 times	$ 711,282.74	3" Regravel with CaCl - blade 7 times	$ 867,764.94
2029			Blade 7 times - water and roll 2 times	$ 72,211.79	Blade 7 times - water and roll 2 times	$ 88,098.38
2030	Chip Seal	$ 655,354.09	Chip Seal 1.1 mi. Top treat 5 mi with CaCl - blade 7 times	$ 396,153.88	Top treat with CaCl - blade 7 times	$ 339,129.83
2031			Blade 7 times - water and roll 2 times	$ 76,609.49	Blade 7 times - water and roll 2 times	$ 93,463.58
2032			3" Regravel with CaCl - blade 7 times	$ 800,554.99	3" Regravel with CaCl - blade 7 times	$ 976,677.09
2033			Blade 7 times - water and roll 2 times	$ 81,275.01	Blade 7 times - water and roll 2 times	$ 99,155.51
Total $ over life of project, including initial construction		**$ 1,663,854.99**		**$ 5,293,719.13**		**$ 6,092,289.25**
Avg $ per mile per year, following initial construction		**$ 13,638.16**		**$ 43,391.14**		**$ 49,936.80**
Avg $ per year, following initial construction		**$ 83,192.75**		**$ 264,685.96**		**$ 304,614.46**

C

3% Inflation, using estimated costs per mile, as per standard costs for rural Montana Roads					
5 mi PPA			6.1 mi No Action		
Blade/Roller $9000 per mile	Top treat $25,375 per mile	3 inch gravel $63,021 per mile	Blade/Roller $9000 per mile	Top treat $25,375 per mile	3 inch gravel $63,021 per mile
$45,000.00			$ 54,900.00		
$46,350.00	$126,875.00		$ 56,547.00	$154,787.50	
$47,740.50	$130,681.25		$ 58,243.41	$159,431.13	
$49,172.72	$134,601.69	$ 315,105.00	$ 59,990.71	$164,214.06	$384,428.10
$50,647.90	$138,639.74	$ 324,558.15	$ 61,790.43	$169,140.48	$395,960.94
$52,167.33	$142,798.93	$ 334,294.89	$ 63,644.15	$174,214.69	$407,839.77
$53,732.35	$147,082.90	$ 344,323.74	$ 65,553.47	$179,441.14	$420,074.96
$55,344.32	$151,495.39	$ 354,653.45	$ 67,520.08	$184,824.37	$432,677.21
$57,004.65	$156,040.25	$ 365,293.06	$ 69,545.68	$190,369.10	$445,657.53
$58,714.79	$160,721.45	$ 376,251.85	$ 71,632.05	$196,080.17	$459,027.26
$60,476.24	$165,543.10	$ 387,539.40	$ 73,781.01	$201,962.58	$472,798.07
$62,290.52	$170,509.39	$ 399,165.59	$ 75,994.44	$208,021.46	$486,982.02
$64,159.24	$175,624.67	$ 411,140.55	$ 78,274.27	$214,262.10	$501,591.48
$66,084.02	$180,893.41	$ 423,474.77	$ 80,622.50	$220,689.96	$516,639.22
$68,066.54	$186,320.21	$ 436,179.01	$ 83,041.18	$227,310.66	$532,138.40
$70,108.53	$191,909.82	$ 449,264.38	$ 85,532.41	$234,129.98	$548,102.55
$72,211.79	$197,667.12	$ 462,742.32	$ 88,098.38	$241,153.88	$564,545.63
$74,378.14	$203,597.13	$ 476,624.59	$ 90,741.34	$248,388.50	$581,481.99
$76,609.49	$209,705.04	$ 490,923.32	$ 93,463.58	$255,840.15	$598,926.45
$78,907.77	$215,996.19	$ 505,651.02	$ 96,267.48	$263,515.36	$616,894.25
$81,275.01	$222,476.08	$ 520,820.55	$ 99,155.51	$271,420.82	$635,401.07

D

Chip Seal	Per mile	PA (6.1 mi)	PPA (1.1 mi)
2013	$ 65,000.00	$ 396,500.00	$ 71,500.00
2014	$ 66,950.00	$ 408,395.00	$ 73,645.00
2015	$ 68,958.50	$ 420,646.85	$ 75,854.35
2016	$ 71,027.26	$ 433,266.26	$ 78,129.98
2017	$ 73,158.07	$ 446,264.24	$ 80,473.88
2018	**$ 75,352.81**	**$ 459,652.17**	**$ 82,888.10**
2019	$ 77,613.40	$ 473,441.74	$ 85,374.74
2020	$ 79,941.80	$ 487,644.99	$ 87,935.98
2021	$ 82,340.06	$ 502,274.34	$ 90,574.06
2022	$ 84,810.26	$ 517,342.57	$ 93,291.28
2023	$ 87,354.56	$ 532,862.84	$ 96,090.02
2024	**$ 89,975.20**	**$ 548,848.73**	**$ 98,972.72**
2025	$ 92,674.46	$ 565,314.19	$101,941.90
2026	$ 95,454.69	$ 582,273.62	$105,000.16
2027	$ 98,318.33	$ 599,741.83	$108,150.17
2028	$ 101,267.88	$ 617,734.08	$111,394.67
2029	$ 104,305.92	$ 636,266.10	$114,736.51
2030	**$ 107,435.10**	**$ 655,354.09**	**$118,178.61**
2031	$ 110,658.15	$ 675,014.71	$121,723.96
2032	$ 113,977.89	$ 695,265.15	$125,375.68

Rimini Road maintenance cost estimate tables.

A. Estimated costs to maintain at existing level

B. Estimated costs to maintain Preferred, Partial Pavement and No Action Alternatives at ideal maintenance levels

C. Inflated cost estimates per year for various treatments required to maintain at ideal maintenance levels

D. Inflated cost estimates per mile per year for chip seal treatment on Preferred and Partial Pavement Alternatives