

*see 3rd page
for FP exception*

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DECISION MEMO

for

BEARTOOTH SCENIC BYWAY ROCK SOURCE

and

RECONSTRUCTION OF THE VISTA POINT SCENIC OVERLOOK AND TRAIL

BEARTOOTH RANGER DISTRICT, CUSTER NATIONAL FOREST

Carbon County, State of Montana

PROPOSED ACTION

The State of Montana, Department of Transportation (MDT), in cooperation with the Federal Highway Administration; United States Department of Transportation (FHWA), plans to resurface and accomplish various reconstruction work on the Montana portion of the Beartooth Scenic Byway, Highway 212. Decisions related to reconstruction activities within the December 23, 1985 Easement to the FHWA are documented in the Montana Department of Transportation's April 30, 1993 Categorical Exclusion. The environmental analysis of this action included activities associated with the project that are located outside the delineated easement. Use of National Forest System lands outside the easement requires Forest Service authorization. Specifically, authorization includes:

1. The use of approximately 26,000 cubic yards of common minerals for road surface aggregate. The proposed action is to make a single entry to use material from an existing rock source for the aggregate. The site is located in section 29, T.9S., R.19E. MPM, adjacent to the highway, near the Wyoming-Montana State Line, hereinafter referred to as "Pit A". Following use, Pit A will be reclaimed to provide an access road and trailhead. Disturbed areas not needed for the trailhead will be restored to contour and revegetated.
2. Reconstruction of the trail, viewing platform and installation of toilets at the Vista Point Scenic Overlook located in section 17, T.9S., R.19E., MPM. to provide barrier free access for Forest visitors with disabilities, to provide a more natural appearing setting, and to reduce public sanitation and health concerns.

Detailed plans of these actions are included in the project file.

DECISION

It is my decision to permit the MDT to utilize Pit A for the purpose of extracting approximately 26,000 cubic yards of common minerals to be used in resurfacing the Montana portion of the Beartooth Scenic Byway, Highway 212, and also to reconstruct the trail, viewing platform and install toilets at the Vista Point Scenic Overlook. Reclamation of Pit A will provide off-highway parking for trailhead use and restore the contour and native vegetation to areas not needed for trailhead facilities.

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REASONS FOR CATEGORICALLY EXCLUDING THE PROPOSED ACTION

This action, approving the removal of mineral materials from an existing community pit or common-use area, and reconstruction of the trail, viewing platform and installation of toilets at the Vista Point Scenic Overlook can be excluded from documentation in an Environmental Impact Statement or an Environmental Assessment.

Implementation direction for the National Environmental Policy Act is included in Forest Service Handbook (FSH) 1909.15. Categories of actions excluded from documentation in an Environmental Impact Statement or an Environmental Assessment, but which require a Project File and Decision Memo are listed at FSH 1909.15, section 31.2. Category #1, applies to the reconstruction of the trail and viewing platform at the Vista Point Scenic Overlook and as examples includes "Constructing or reconstructing a trail to a scenic overlook and "[reconstruction of] an existing trail to allow use by handicapped individuals." Similarly, category #3, applies to the use and reclamation of Pit A and states "Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land." An example of such use is "Approving the removal of mineral materials from an existing community pit or common-use area."

Since both the reconstruction at Vista Point and use and reclamation of Pit A are "connected" to the project to be accomplished by the MDT, they are logically combined in this Decision Memo. These actions were addressed by the MDT in its analysis and documentation of the "Beartooth Pass - North" project. The Custer National Forest, is a cooperating agency on the project. The lead agency is the FHWA through the MDT in accordance with 23 CFR 771.111(d), and the MEMORANDUM OF UNDERSTANDING ON PROCEDURES RELATED TO STATE HIGHWAYS OVER NATIONAL FOREST LANDS signed by MDT, the FHWA, and the Forest Service in January, 1993. The documentation of the analysis and MDT's decision, with the concurrence of the FHWA, are hereby incorporated by reference into the project file.

No extraordinary circumstances, as defined at FSH 1909.15, section 30.3, exist in regards to this action which might cause the action to have significant effects. Documentation of analysis of the project's effects on cultural resources, biological and botanical resources, and threatened or endangered species are included in the project file.

CONSISTENCY WITH THE FOREST PLAN

Provisions of the National Forest Management Act require this action be consistent with the Custer National Forest Land and Resource Management Plan (Forest Plan) approved on June 10, 1987. Pit A and Vista Point are located within the area viewed from U.S. Highway 212 and are assigned to Management Area (MA) T. The goal for MA T is as follows:

"To provide facilities, information and interpretation to Forest visitors regarding the human and natural history of the landscape seen from the highway corridor. The requirements of the Executive Order 5949 of 1932, which established a 250-foot right-of-way on either side of U.S. Highway 212 that is free of entry, will be honored." (Forest Plan, page 98)

The trail and viewing platform at Vista Point Scenic Overlook provides visitors the only developed information and interpretation facility on the Montana portion of the Beartooth Scenic Byway. The present facility does not conform to standards now required by the Americans with Disabilities Act, the Architectural Barriers Act, and Title 6 of the Civil Rights Act. Reconstruction of the trail and platform will bring the facility into full compliance with these Acts and provide a more natural-appearing recreation setting.

The basic facility required to visit the Beartooth Scenic Byway is the highway itself. Over the course of time, the effects of traffic and the natural elements have affected the road to an extent that repairs and resurfacing are required. The "Purpose and Need" of the MDT project is described in the MDT Categorical Exclusion (page

2) and would result in repaving the road, fill reconstruction areas, retaining walls, guardrails, and other work. The MDT and Forest Service considered several potential sources for aggregate to repair the highway and provide for a safer and more functional facility for Forest visitors. This evaluation, which is included in the project file, concluded that Pit A was the most appropriate rock source.

EXCEPTION TO A FOREST PLAN STANDARD

Management Standards for MA T include the following:

"Permits will not be issued for the removal of mineral materials except for incidental use of slough rock collected from ditches of U.S. Highway 212." (Forest Plan, page 99)

Implementation of this decision requires an exception to the Forest Plan. Exceptions to Forest Plan Standards are permitted:

"If it is determined during project design that the best way to meet the management area goals of the Forest Plan conflicts with a Forest Plan standard, the Forest Supervisor may approve an exception to that standard for that project; such exceptions and the rationale, therefore, must be described in documentation of the project" (Forest Plan, page 13).

Pit A which was part of the original highway construction, was not rehabilitated after use. The existing condition of this site does not meet Forest Plan direction. This entry affords the opportunity to rehabilitate the site to meet Forest Plan goals and objectives.

Pit A also serves as the southern trailhead for the Line Creek Plateau Trail. The rehabilitation plan for Pit A will include development of a trailhead by accomplishing the following work:

- Repair of the short access road to the trailhead.
- Placement of natural boulders around the perimeter of the parking area to define the limits of trailhead parking.
- Installation of hitch rails.
- Development of a parking area sloped for drainage and designed to accommodate a maximum of 5 highway vehicles and 5 trucks with horse trailers.

Details of the trailhead and reclamation planned are included in the project file.

I have determined based upon my review of Pit A's existing condition, evaluation of the effects and costs of using other rock sources, and the opportunity to provide trailhead facilities as a result of reclamation, that an exception to the Forest Plan standard cited above is warranted to best meet the goals for MA T.

SCOPING AND PUBLIC INVOLVEMENT

Scoping and public involvement for this action was done in conjunction with the MDT. As a cooperating agency under 40 CFR 1508.5, the Forest Service worked closely with the MDT to identify environmental issues associated with the project and to provide opportunity for the public to become involved in the development of the proposal. The scoping and public involvement accomplished by MDT is described on pages 22-25 and in the Appendix of the Beartooth Pass- North Categorical Exclusion signed on April 30, 1993. This information is incorporated by reference into the project file.

FINDINGS REQUIRED BY OTHER LAWS

This project complies with the provisions of the National Environmental Policy Act, the Endangered Species Act, the Antiquities Act, and the National Historic Preservation Act. Completion of this project will bring the Vista Point Scenic Overlook into compliance with the Americans with Disabilities Act, the Architectural Barriers Act, and Title 6 of the Civil Rights Act.

IMPLEMENTATION DATE

Implementation of this action may begin 7 days following the publication of notice of this decision in the Billings Gazette newspaper. It is anticipated that the MDT will not award a construction contract for the project before September 30, 1993. Construction could begin on the project as a whole at that time, but work on the rock source and scenic trail will probably not occur until the summer of 1994 and would be completed in the summer of 1995.

ADMINISTRATIVE REVIEW/APPEAL OPPORTUNITIES

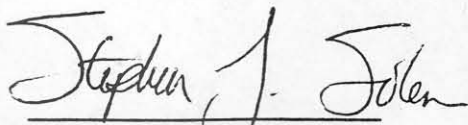
This decision is subject to appeal pursuant to 36 CFR 217. Any notice of appeal to this decision must be fully consistent with 36 CFR 217.9, "Content of Notice of Appeal", and must be filed within 45 days of the date of publication. Notice of appeal and statement of reasons must be submitted, in duplicate, to:

DAVID F. JOLLY, Regional Forester
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P.O.Box 7669
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STEPHEN J. SOLEM
Acting Forest Supervisor

7/23/93
Date