



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Federal Railroad
Administration**

May 23, 2017

Mr. Chad Fincher
Parks & Recreation Director
City of Kalispell
Department of Parks and Recreation
306 1st Avenue East
Kalispell, MT 59901

**Subject: Request for Concurrence
FRA Section 4(f) *De Minimis* Impact Finding for Depot Park
Glacier Rail Park/Kalispell Core Area Development and Trail Project**

Dear Mr. Fincher:

As you may be aware, the U.S. Department of Transportation has selected the City of Kalispell to receive a Fiscal Year 2015 grant award under its Transportation Investment Generating Economic Recovery (TIGER) program for construction of the Glacier Rail Park/Kalispell Core Area Development and Trail (Project). The USDOT's Federal Railroad Administration (FRA) is administering the TIGER grant, and the City's Department of Community and Economic Development is the Project Sponsor.

The purpose of this letter is to request the concurrence of the City of Kalispell's Department of Parks and Recreation with FRA's *de minimis* impact finding for Depot Park. Minor temporary proximity impacts (i.e., noise and the presence of construction equipment and personnel) are expected to result from implementation of Phase II of the Project, specifically the removal of the existing rail line and improvements to convert the abandoned railroad right-of-way (ROW) into a non-motorized public-use recreational trail. At this time, FRA and the Project Sponsor do not anticipate that there will need to be a temporary occupancy of any portion of the Depot Park property because the Project will be constructed from within the ROW. However, FRA and the Project Sponsor are taking a conservative approach and would like to plan for a possible temporary occupancy in case the need arises closer to the time of implementation of Phase II of the Project.

FRA has concluded that construction of the Project will not adversely affect the recreational activities that qualify Depot Park for protection under Section 4(f) of the U.S. Department of Transportation Act (49 U.S.C. 303). This letter summarizes the Project activities that may temporarily impact Depot Park, and proposed measures to mitigate those impacts.

Background

Because the Project is receiving federal funding from USDOT-FRA, it is subject to review under Section 4(f), which requires an analysis of the potential impacts of transportation projects on publicly owned public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. Under Section 4(f), an operating administration of USDOT, in this case FRA, may not approve a transportation project that uses a 4(f)-protected property unless there are no prudent or feasible alternatives and the project includes all possible planning to minimize harm to such properties. “Use” of a 4(f)-protected property can be permanent, temporary, or constructive. FRA may also find that the impacts to a 4(f)-protected property are *de minimis*, meaning that the use is generally minor in nature. In the case of a park, reserve, or recreation area, FRA may find that the impacts are *de minimis* if, after opportunity for public review and comment and taking into account avoidance, minimization, and/or mitigation measures, FRA finds that the transportation project will not adversely affect the activities, features, and attributes qualifying the property for protection under Section 4(f). FRA must also obtain written concurrence with its finding from the official with jurisdiction over the 4(f) property.

Additional information about the Project and potential impacts to Section 4(f) properties is provided in the Environmental Assessment (EA), which is available on the City’s website at http://www.kalispell.com/community_economic_development/. The EA is currently available for public review and comment through June 17, 2017.

Depot Park

As shown in the enclosed figure, Depot Park is bounded by Main Street (Hwy 93) to the west, Market Place Street to the north, 1st Avenue EN to the east, and East Center Street to the south. The Park occupies approximately 3.7 acres and is used as a public gathering area in the summer with a gazebo, sidewalks and benches, sculptures, and a Veterans’ Memorial. The former Great Norther Railway Depot is also located within the Park. Most events in the Park are held on the southern portion of the property located between the Depot Building and East Center Street.

The Project involves the removal of approximately 315 feet of rail, ties, and ballast bisecting the northeast corner of Depot Park and conversion of the ROW into the new Kalispell Trail.

Potential Project Impacts to Depot Park

The Project Sponsor anticipates commencing Phase II construction activities in April 2020, and anticipates that it will take approximately two days to complete the rail removal and approximately five days to prepare and pave the ground and add landscaping, lighting, and signs to the new Kalispell Trail. These activities will likely be restricted to Monday – Friday 7:00 am to 7:00 pm, and will temporarily increase noise levels in the vicinity of Depot Park, particularly at the north end of the property. Existing sources of noise include traffic on the four-lane Hwy 93 and commercial businesses surrounding the Park.

At this time, the Project Sponsor anticipates that all activities will be confined to the current BNSF ROW, which will be acquired by the City following abandonment. During construction of the Kalispell Trail, the Project Sponsor's contractor would have access to the site from Hwy 93 and 1st Ave EN and there will likely be no need to access the site through Park property. Therefore no physical disturbance is anticipated to occur to existing landscaped areas, parking spaces, or roadway within Depot Park.

Therefore, at this time, the Project Sponsor does not anticipate that there will be *any* Section 4(f) use of Depot Park. However, FRA and the Project Sponsor would like to be prepared in case a temporary occupancy of Depot Park becomes necessary in order to stage construction equipment and/or gain access to the construction site.

Minimization and Mitigation

To minimize disruption and mitigate for temporary construction impacts, the Project Sponsor proposes to notify Parks and Recreation five business days prior to the commencement of the rail removal and Trail construction activities. If desired and at the request of the Department of Parks and Recreation, the Project Sponsor's contractor will avoid carrying out construction activities during times that events are scheduled in Depot Park.

Conclusion

FRA finds that the Project may have a *de minimis* impact to Depot Park, a Section 4(f) property. FRA respectfully requests your consideration of the potential effects of the Project on Depot Park. FRA and/or the Project Sponsor will notify the Department of Parks and Recreation if there are changes to the Project schedule and/or anticipated impacts to Depot Park, and will consult with the Department of Parks and Recreation to develop additional mitigation measures if necessary prior to implementation of Phase II of the Project.

If you concur with FRA's description of the potential impacts to Depot Park identified at this time, please sign below documenting your written concurrence as the official with jurisdiction over this resource. Please submit your concurrence to Ms. Laura Shick, FRA Environmental Protection Specialist, at the mailing or email address below.

Kalispell Parks and Recreation, as the Official with Jurisdiction over Depot Park, concurs with FRA's *de minimis* impact finding and description of the potential impacts of the Glacier Rail Park/Kalispell Core Area Development and Trail Project as described herein to Depot Park, a Section 4(f) resource, as defined in 49 U.S.C. 303(d).

Signature: _____ Date: _____
Chad Fincher
Parks and Recreation Director

If you would like additional information or would like to discuss the Project and/or FRA's Section 4(f) finding, please contact Katharine Thompson, the City's Assistant Director for Community and Economic Development, at (406) 758-7713 or kthompson@kalispell.com, or Ms. Shick at (202) 366-0340 or laura.shick@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael M. Johnsen", followed by a long horizontal flourish.

Michael M. Johnsen
Supervisor Environmental Protection Specialist
Environmental & Corridor Planning Division
Office of Railroad Policy and Development

cc: Laura Shick, FRA (*Mailing address: USDOT-Federal Railroad Administration, RPD-13, 1200 New Jersey Avenue SE, Washington, DC 20590*)
Katharine Thompson, City of Kalispell

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Signature:  Date: 5/24/17
Chad Fincher
Parks and Recreation Director

From: Chad Fincher <cfincher@kalispell.com>
Sent: Wednesday, May 24, 2017 9:58 AM
To: Shick, Laura (FRA)
Cc: Katharine Thompson; Kniss, Valarie (FRA)
Subject: RE: Glacier Rail Park & Kalispell Trail Project - FRA Section 4(f) determination for Depot Park
Attachments: DOC015.PDF

Laura,

I had a brief conversation with Katharine yesterday via email and don't have any reservations based on her responses. Let me know if our department can assist any further.

Thanks you,

Chad Fincher

Parks and Recreation Director
 Kalispell Parks and Recreation
 P.O. Box 1997
 Kalispell, MT 59903
 (406) 758-7960 office
 (406) 758-7719 fax

http://www.kalispell.com/parks_and_recreation/



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From: Shick, Laura (FRA) [<mailto:Laura.Shick@dot.gov>]
Sent: Tuesday, May 23, 2017 9:25 AM
To: Chad Fincher
Cc: Katharine Thompson ; Kniss, Valarie (FRA)
Subject: Glacier Rail Park & Kalispell Trail Project - FRA Section 4(f) determination for Depot Park

Good morning Mr. Fincher,

Please review the attached letter and let FRA know if you concur with the finding or have any questions or concerns.

Thank you,

Laura A. Shick

Environmental Protection Specialist
 U.S. Department of Transportation
 Federal Railroad Administration
 Office of Railroad Policy and Development
 1200 New Jersey Avenue, SE



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

May 23, 2017

Ms. Mary Josie Blanchard
Deputy Director
Office of Environmental Policy and Compliance
MIB, MS-2340
US Department of Interior
1849 C Street NW
Washington, DC 20240

**Re: 4(f) Evaluation
Glacier Rail Park/Kalispell Core Area Development and Trail Project
Kalispell, Flathead County, Montana**

Dear Ms. Blanchard.

By way of this letter, the Federal Railroad Administration (FRA) requests review by the Department of Interior (DOI) of its 4(f) evaluation for the Glacier Rail Park/Kalispell Core Area Development and Trail Project (Project).

Background

The U.S. Department of Transportation (USDOT) has selected the City of Kalispell, Montana (City), to receive a Fiscal Year 2015 grant award under its Transportation Investment Generating Economic Recovery (TIGER) program. FRA is administering the TIGER grant. The Project consists of the following two phases:

Phase I: Construction and operation of the new Glacier Rail Park (Rail Park), which will include 10,000 linear feet of new rail to serve industrial users in the rail park and provide a new rail turnaround adjacent to the rail park allowing for the removal of the existing track that bisects Kalispell; improvements to access roads on the north and east sides of the new Rail Park; traffic signal and roadway improvements for truck access to Montana Highway 2; and installation of utilities in the Rail Park to provide tenants access to City water and sewer, power, gas, and fiber optics. The new Rail Park will improve the efficiency of existing freight rail operations by relocating operations to a dedicated and appropriately sized facility and eliminating the need for the rail line to bisect the community.

Phase II: A rail-to-trail component known as the Kalispell Trail, which will include the removal of nearly two miles of existing BNSF rail line from milepost 1225.19 to the west side of Meridian Street at milepost 1226.79, construction of a public-use recreational trail in the abandoned railroad right-of-way (ROW), and the construction of up to three

complete street connections in the Kalispell Core Area. Phase II will not begin until construction of the Rail Park has been completed and is operational, the existing rail line has been abandoned by BNSF in coordination with the Surface Transportation Board and the ROW subsequently acquired by the City, and freight rail traffic has been moved off the line.

FRA and the City have prepared an Environmental Assessment (EA) for the Project in accordance with the National Environmental Policy Act (NEPA) and FRA's NEPA implementing procedures. As documented in the EA, Phase I of the Project would not result in a 4(f) use of any Section 4(f) properties and Phase II of the Project would result in an adverse effect to the historic Great Northern Railroad and three historic architectural properties adjacent to the railroad ROW that were historically served by the railroad; these four historic properties are also considered Section 4(f) properties. A copy of the EA is enclosed in hard copy and on CD. The EA and all appendices are also available on the City's website at http://www.kalispell.com/community_economic_development/ and via FRA's website at <https://www.fra.dot.gov/Page/P1038>.

FRA Finding

An integral element of the Project's Purpose and Need is to improve the efficiency of freight rail operations, improve safety for motorists and pedestrians, provide opportunities for revitalization of downtown Kalispell, and provide non-motorized transportation options through the relocation of freight rail operations and conversion of the abandoned railroad ROW to a public-use trail. Because "rail-to-trail" is part of the Project's Purpose and Need, FRA has determined that there are no feasible and prudent alternatives to avoid the use of Section 4(f) properties, namely the Great Northern Railroad itself. In accordance with Section 106 of the National Historic Preservation Act (Section 106), FRA has consulted with the Montana State Historic Preservation Officer (MT SHPO) and other consulting parties to develop a draft Memorandum of Agreement (MOA) to resolve the adverse effects of the Project on historic properties. The measures stipulated in the draft MOA represent "all possible planning," defined in 23 CFR 774.17, to minimize harm and mitigate for adverse impacts of the Project on Section 4(f) properties. A copy of the draft MOA is enclosed in hard copy and on CD, and is also available on the City's website.

FRA would appreciate receiving an acknowledgement of DOI's review with any comments within 45 days of your receipt of this submittal. To facilitate timely receipt of your response and obligation of the TIGER grant, FRA requests that DOI email its response to Ms. Laura Shick, FRA Environmental Protection Specialist, at laura.shick@dot.gov. Following DOI's concurrence and execution of the MOA, FRA intends to finalize its Section 4(f) determination to allow the City to proceed with the Project.

If you have any questions or require additional information, please contact Ms. Shick at (202) 366-0340 or by email.

Sincerely,

A handwritten signature in black ink, appearing to read "Marlys Osterhues". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

^{Sr}
Marlys Osterhues
Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development

Enclosures

cc: Laura Shick, FRA
Jessica Bush, MT SHPO
Katharine Thompson, City of Kalispell



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Denver Federal Center, Building 67, Room 118
Post Office Box 25007 (D-108)
Denver, Colorado 80225-0007

June 20, 2017

ER-17/0256

Marilyn Osterhues
Chief, Environmental and Corridor Planning Division
Office of Railroad Policy and Development
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Ms. Osterhues:

Thank you for the opportunity to review and comment on the Department of Transportation (DOT), Section 4(f) Evaluation for the Environmental Assessment Glacier Rail Park/Kalispell Core Area Development and Trail Project, Kalispell, Flathead County, MT.

SECTION 4(f) EVALUATION COMMENTS

The Department of the Interior (Department) appreciates that you have coordinated with various agencies regarding this project and the development of the Section 4(f) Evaluation. We encourage continued coordination with these agencies throughout the life of this project. The Department acknowledges that Federal Railroad Administration (FRA) has preliminarily determined that this project during construction of the Kalispell Trail will have an indirect effect on the Depot Park Section 4(f) property, due to temporary occupancy during construction resulting in a *de minimis* finding. The Department also acknowledges that FRA has consulted with the Montana State Historic Preservation Office (SHPO) to determine that Phase I of the proposed project would result in “no historic properties affected”.

We acknowledge that this project during Phase II (Construction of the Kalispell Trail) would adversely affect four historic properties. Further, we understand that you are preparing a Memorandum of Agreement (MOA) in consultation with the Montana SHPO and consulting parties to minimize these adverse effects. Following our review of the Section 4(f) Evaluation, we concur 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. Please note however, this concurrence is contingent upon execution of the MOA amongst the consulting parties and concurrence of Kalispell Parks and Recreation in the *de minimis* finding.

We appreciate the opportunity to review this document. Should you have questions in response to Section 4(f) comments, please contact David Hurd, Environmental Protection Specialist, National Park Service Inter-mountain Regional Office at 303.987.6705.

Sincerely,

Robert F. Stewart
Regional Environmental Officer

cc:

SHPO MT Mark Baumer (mbaumer@mt.gov)

DOT FRA – L. Shick (laura.shick@dot.gov)