

4.0 DESCRIPTION OF CHANGED CONDITIONS

The purpose and need for the project has not changed from the 1994 FEIS. The primary purpose and need for improvements, as stated in the FEIS, is to “reduce congestion on the existing facility, provide for planned growth and development, improve safety, provide for improved intermodal facility connections and provide for enhanced scenic values.”

The FEIS identified poor level of service (LOS D and E) in many locations, and a high percentage of trucks with limited opportunity for passing. LOS conditions were projected to worsen noticeably by the year 2015, with LOS E and F anticipated, resulting in significant delays to the traveling public. In addition, the FEIS identified higher than average accident rates, including significantly higher rates in the urban areas and in areas with multiple access points.

LOS goals for the 2015 design year were identified as:

- LOS C – rural areas
- LOS D – urban areas

The FEIS examined the impacts related to several alternatives, including a “No-Build” Alternative, three alternatives for the US 93 corridor, and five alternatives for the Whitefish area by-pass. The selected Preferred Alternative identified in the FEIS and ROD was Alternative A (COMBO) for the existing highway project area west of Whitefish.

Alternative A (COMBO) consists of a combination of both turn-lane and median cross-section designs. The application of the cross-sections with several lane configurations varies as indicated by the conditions and needs of the highway project area.

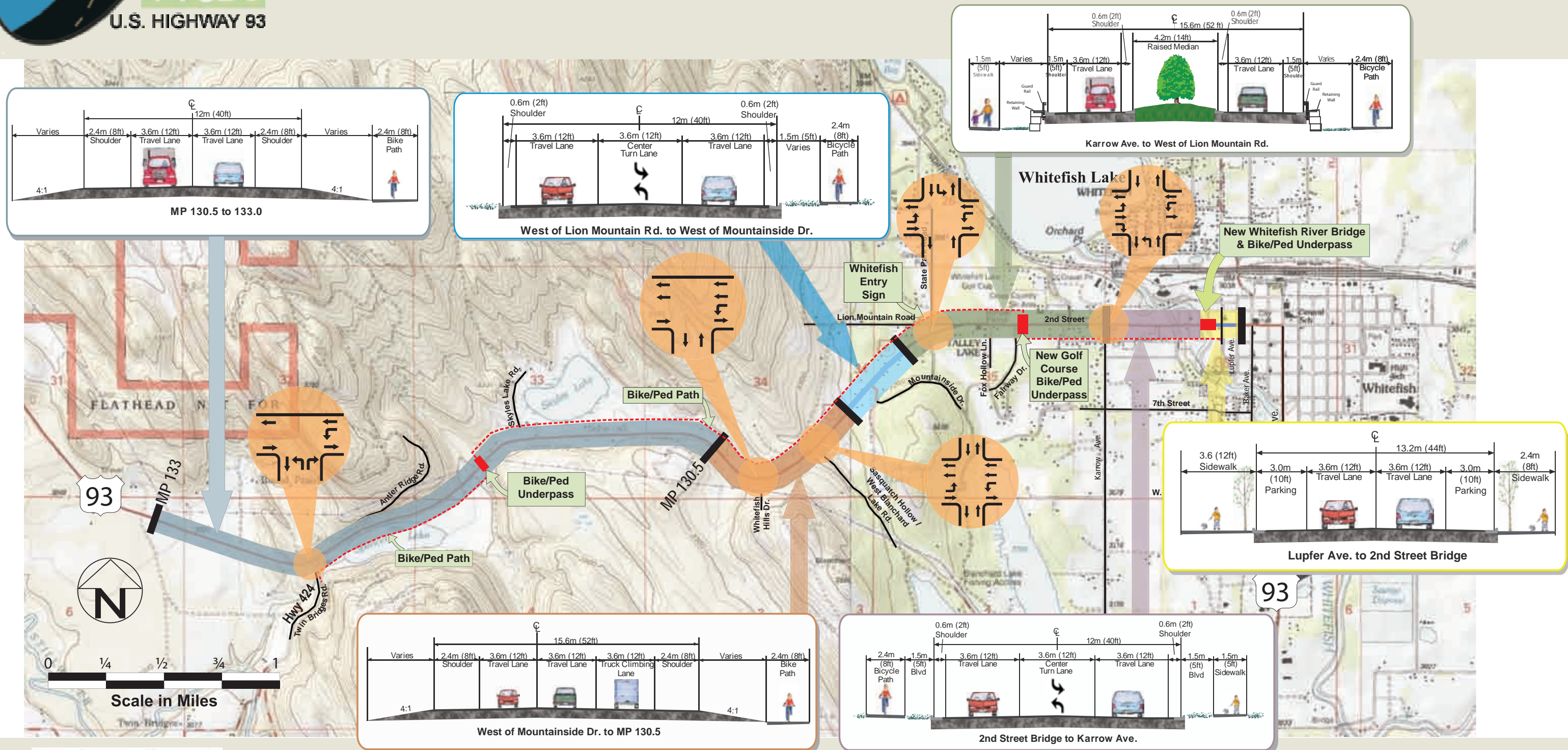
Updated population and traffic counts were compiled in 2003 for the Whitefish West project segment. Population and traffic growth since 1994 have been similar to the forecasts made in the FEIS. The number of large logging and chip trucks have declined with the closure of several nearby mills, but this traffic has been replaced by other large trucks (such as commercial haulers and construction vehicles). The overall percentage of large trucks remained consistent with the FEIS, at 8 to 13 percent.

Traffic forecasts for the Whitefish West project segment were updated to a 2030 design year. LOS goals for the urban and rural areas remain consistent with the FEIS.

The Current Proposed Action for the Whitefish West segment is the Preferred Alternative identified in the FEIS and ROD with modifications to provide the desired level of service, safety, and benefits identified in the FEIS. These changes are described in the following sections; as well as changes in relevant laws, regulations, and local ordinances; and changes in the affected environment.

An exhibit illustrating the Current Proposed Action is included as **Figure 2**. Detailed conceptual plans and a summary of the proposed scope of work are included in **Appendix E**.

FIGURE 2: CURRENT PROPOSED ACTION



4.1 NEW OR REVISED FEATURES OF THE PREFERRED ALTERNATIVE

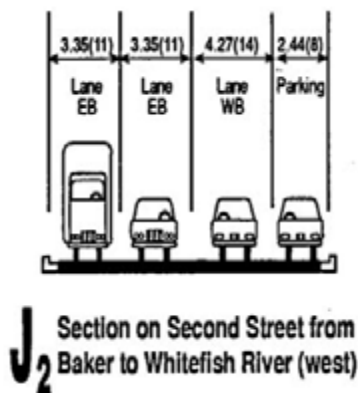
This section provides a detailed description of the new or revised features of the Preferred Alternative included in the Current Proposed Action, and an explanation of why these changes were made.

Development of a more detailed preliminary design revealed that, due to the rolling terrain, it was not possible to meet current design standards for clear zones and stopping sight distance in the FEIS typical sections without acquiring additional right-of-way from adjacent properties. Additional right-of-way would be required to accommodate utilities, signs, light poles, and construction of slopes and retaining walls. Traffic analysis identified the need for turn lanes at several new locations to safely remove turning vehicles from through traffic.

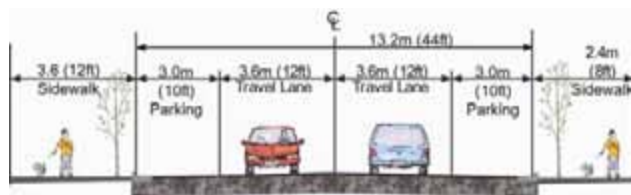
In addition, the City of Whitefish and Citizens Working Group identified a strong desire to preserve the character of downtown Whitefish and minimize right-of-way impacts to residences and businesses along the highway. Preserving downtown character and minimizing right-of-way impacts would result in changes to lane configurations, lane widths, and the use of a curb and gutter section at various locations within the Whitefish West project segment that were not included in the FEIS typical sections.

The Current Proposed Action includes the following new or revised features in the Whitefish West project area:

Lupfer Avenue to 2nd Street Bridge



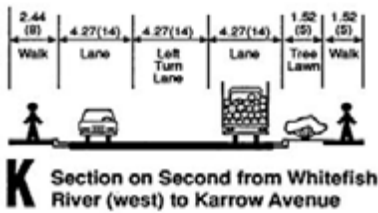
FEIS Section J2



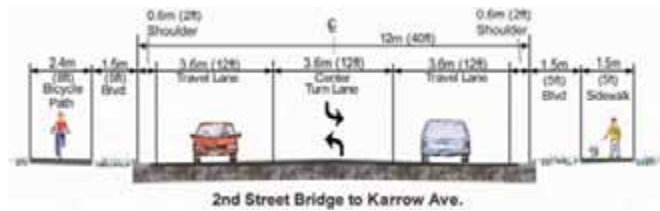
Current Proposed Action

New or Revised Feature	Reason for Change
The lane configuration would be revised to two 3.6 m (12 ft) travel lanes, with 3.0 m (10 ft) parking lanes on each side. The overall width of the street would not change.	The City of Whitefish and the CWG expressed a strong desire to preserve downtown character and minimize impacts to businesses. The Current Proposed Action maintains the existing lane configuration pending the outcome of the Whitefish Urban Corridor Study.
Variable width sidewalks were shown in Section J1 in the FEIS.	This is not a changed condition.

2nd Street Bridge to Karrow Avenue



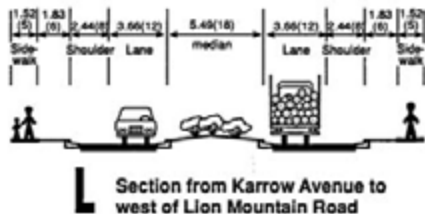
FEIS Section K



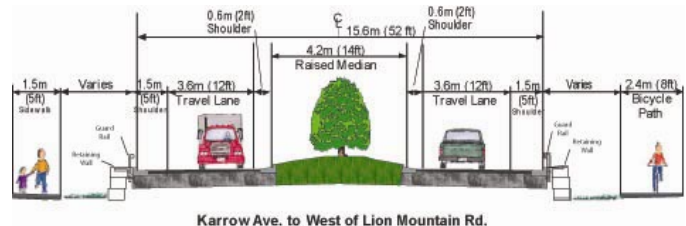
Current Proposed Action

New or Revised Feature	Reason for Change
The travel lanes and the center turn lane would be reduced from 4.2 m (14 ft) to 3.6 m (12 ft).	The City of Whitefish and the CWG expressed a strong desire to promote lower speeds and minimize right-of-way impacts.
A 0.6 m (2 ft) shoulder would be added on both sides of the road.	The shoulder provides the necessary shy distance from the face of curb, and would be striped to give the appearance of a narrower lane.
1.5 m (5 ft) boulevards would be added between the curb and sidewalk where feasible. The addition of boulevards would increase the amount of right-of-way required.	Boulevards provide additional separation of pedestrians from vehicles, snow storage, and landscaping opportunity.

Karrow Avenue to West of Lion Mountain Road



FEIS Section L

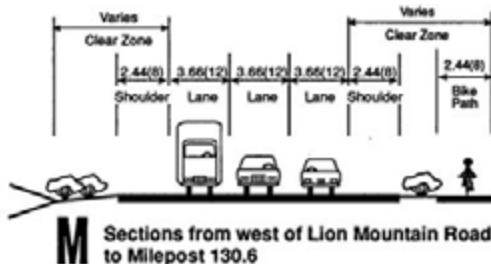


Current Proposed Action

New or Revised Feature	Reason for Change
Raised median width would be reduced from 5.5 m (18 ft) to 4.2 m (14 ft) with 0.6 m (2 ft) inside shoulders. The outside shoulder width would be reduced from 2.4 m (8 ft) to 1.5 m (5 ft).	This change is proposed to avoid impacts to 4(f)/6(f) properties (golf club and park).
The intersection with Lion Mountain Road would be relocated approximately 90 m (300 ft) west of the existing intersection, including accommodation for a future signal and a new approach from the south.	This change is proposed to safely accommodate future access needs at Lion Mountain Road/State Park Road.

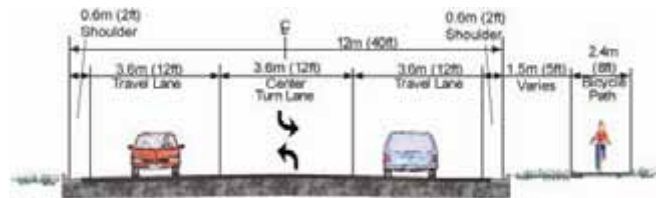
New or Revised Feature	Reason for Change
The sidewalk would be modified to a 2.4-m-wide (8 ft) shared bicycle/pedestrian path.	This change is proposed to provide a continuous bicycle path. A continuous separated bicycle path was identified in the FEIS, where feasible. The CWG and City of Whitefish indicated a strong desire to include the path throughout the project with grade separated crossings at appropriate locations.
An eastbound right-turn lane at Karrow Avenue would be added.	Traffic analysis indicated a right-turn lane is warranted at this location. This change is proposed to meet the purpose and need of the project, which is to improve overall safety conditions.

West of Lion Mountain Road to West of Mountainside Drive



M Sections from west of Lion Mountain Road to Milepost 130.6

FEIS Section M

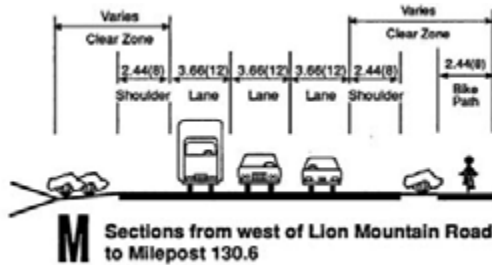


West of Lion Mountain Rd. to West of Mountainside Dr.

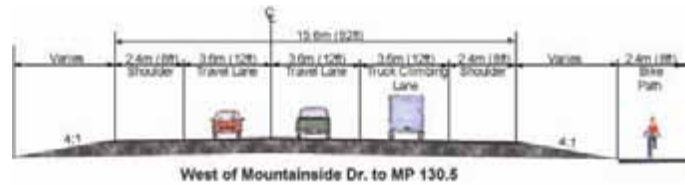
Current Proposed Action

New or Revised Feature	Reason for Change
Curb and gutter would extend to station 32+00 (approximately 350 m (1,150 ft) west of Mountainside Drive).	This change is proposed to reduce right-of-way impacts to businesses and residences.
The eastbound truck climbing lane (approximately 805 m (2,600 ft)) would be eliminated and the westbound truck climbing lane would be shortened from approximately 1,448 m (4750 ft) to 483 m (1,584 ft).	This change is proposed to reduce right-of-way impacts to businesses and residences. Traffic analysis indicated that reducing or eliminating the truck climbing lane would have only minor effects on safety and operations.
A 3.6 m (12 ft) center turn lane would be added.	Traffic analysis indicated that a turn lane would improve safety by removing turning vehicles from the through lanes. This change is proposed to meet the purpose and need of the project, which is to improve overall safety conditions.

West of Mountainside Drive to MP 130.5



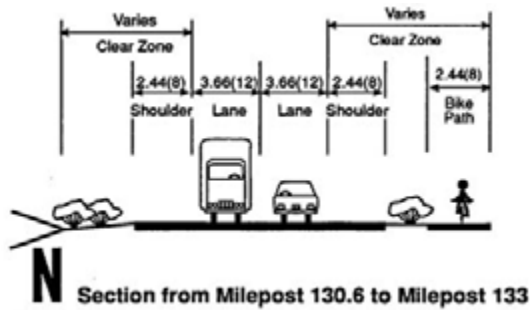
FEIS Section M



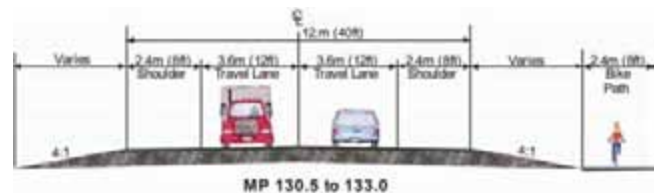
Current Proposed Action

New or Revised Feature	Reason for Change
Left-turn lanes would be added at Mountainside Drive and Sasquatch Hollow/West Blanchard Lake Road.	Traffic analysis indicated that a turn lane would improve safety by removing turning vehicles from the through lanes. This change is proposed to meet the purpose and need of the project, which is to improve overall safety conditions.

MP 130.5 to MP 133.0



FEIS Section N



Current Proposed Action

New or Revised Feature	Reason for Change
West of Skyles Lake, the bicycle/pedestrian path would be revised to cross US 93 and follow the highway on the south side. An underpass would be provided at this location. The bicycle/pedestrian path would be revised to end at Twin Bridges Road, where it would connect with the planned Whitefish Trail System.	This change is based on input from the City of Whitefish and the CWG to provide improved safety for path users, better connections to recreational areas at Spencer Lake, and better integration with the planned Whitefish Trail System.
A westbound left-turn lane at Whitefish Hills Drive would be added.	This change is proposed to meet the purpose and need of the project, which is to improve overall safety conditions.

4.2 NEW OR REVISED LAWS, REGULATIONS, AND LOCAL ORDINANCES

The following relevant laws, regulations, and local ordinances have been adopted or changed since the 1994 FEIS was written. The affects of these changed conditions are considered in **Section 5**.

Clean Air Act

This project is affected by the 1967 Clean Air Act and amendments (1972, 1977, and 1990) (42 U.S.C. 7401 et seq). The US Environmental Protection Agency (EPA) has designated Whitefish as a non-attainment area for small particulate matter (PM₁₀) since 1993. Section 110 of the Clean Air Act required states to develop State Implementation Plans (SIPs). The FEIS identified this issue and noted that a SIP for Whitefish had not been adopted. The FEIS listed possible mitigation measures related to the highway reconstruction activities that were expected to minimize air quality violations.

An implementation plan to comply with the Clean Air Act was adopted in Montana in 1996. Air Quality provisions and standards were defined and adopted in the Montana Code Annotated (MCA), Title 75, Chapter 2. Section 75-2-301 MCA established local air pollution control programs. The Flathead County Health Department administers the County Air Pollution Control regulations within the project area. New policies and procedures that define requirements for reduction of small particulate matter in the Whitefish airshed are contained in Sub-Chapter 7, Whitefish District Rules.

In March 2001, the EPA issued a final rule on Controlling Emissions of Hazardous Air Pollutants from Mobile Air Sources under provisions of the Clean Air Act. This requires the EPA to characterize, prioritize, and control emissions of Mobile Source Air Toxics (MSATs) as appropriate. The effect of these new regulations is described in **Section 5.8** (Air Quality) of this document.

Montana Water Quality Integrated Report 2004

The Federal Clean Water Act requires an ongoing program of water quality assessments and reporting to help protect and improve water quality of waterbodies in the state. In recent years the data was reported in two separate reports known as the 303(d) List and the 305(b) Report. Now under EPA's direction, the two separate reports are being combined into an "Integrated Report". Waterbody categories have been developed to define when a Total Maximum Daily Load (TMDL) must be developed to address the factors causing the waterbody impairment or threat. In 2004, The Whitefish River was added to the impaired waterbody list requiring a TMDL scheduled for completion in the next few years. The effect of these new regulations is described in **Section 5.10** (Water Resources and Quality) of this document.

Executive Order (E.O.) 13112

Executive Order (E.O.) 13112, signed on February 3, 1999, addresses federal agency responsibilities with respect to invasive species (noxious weeds). As a partially federally funded action, the project is subject to the provisions of E.O. 13112. According to the Invaders Database System (Rice 2005), twenty-two noxious weeds have been identified in Flathead County since 1985. These species are listed in the BRR, along with their Category ranking and whether or not they were observed on-site during the field reconnaissance.

Flathead County Growth Policy (2007)

On March 19, 2007, Flathead County adopted a new growth policy. The Flathead County Growth Policy seeks to allow the market to benefit naturally from the desirable impacts of growth and land use changes while protecting the community from the accompanying undesirable impacts to public health, safety, morals, convenience, order or general welfare.

The Growth Policy defines numerous policies developed to achieve their stated goal to manage and mitigate the concerns of the community. For US 93 related activities, the transportation section of the Growth Policy recommends implementing improvements that closely resemble the Preferred Alternative described in the 1994 FEIS and Record of Decision. The effect of these new regulations is described in **Section 5.2** (Land Use) of this document.

2007 Whitefish City-County Growth Policy (updated from the 1996 Whitefish City-County Master Plan)

On November 19, 2007, the Whitefish City Council adopted the City-County Growth Policy. The growth policy sets forth a broad body of public policy that is founded in a community vision, and that addresses growth and development issues through natural resources, economic development, land use, community facilities, housing and transportation. The growth policy contains community goals, policies and recommended actions for achieving those goals. The Whitefish City-County Growth Policy includes several recommended actions pertaining to transportation including:

- Make construction of new sidewalks and pathways a priority in areas where they do not currently exist.
- The City shall make the provision of sidewalks, pathways and other non-motorized transportation facilities part of a concurrency program and policy.
- Through the community-wide transportation plan, the City shall assess the need and feasibility of a highway-by-pass to alleviate through traffic in the downtown area.
- Coordinate with the Montana State Department of Transportation in developing corridor studies for state highways within the planning jurisdiction.

The effect of these new regulations is described in **Section 5.2** (Land Use) of this document.

SAFETEA-LU

On August 10, 2005, President George W. Bush signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This new law establishes extensive new resources and opportunities to advance highway safety throughout the country in a comprehensive, strategic manner. SAFETEA-LU builds on the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21) by supplying the funds and refining the programmatic framework for investments needed to maintain and grow transportation infrastructure.

Whitefish Downtown Master Plan (2005)

The 2005 Whitefish Downtown Master Plan identified key elements to ensure efficient, safe auto and truck movement without negatively affecting the pedestrian and bicycle environment through downtown. Key elements for Highway 93 improvements included:

- Improve auto and truck circulation by providing a couplet along Spokane Avenue and Baker Avenue.
- Maintain on-street parking along Second Street for a minimum of a half block on either side of Central Avenue (to alleys).
- Improve access options by providing a “contra-flow” lane along Baker Street.
- Provide turn lanes and improve truck-turning radii at the intersection of Second Street and Baker Avenue.
- Prohibit left turn lanes from Second Street onto Central Avenue.
- Provide a new bridge crossing at Seventh Street.

4.3 CHANGES IN THE AFFECTED ENVIRONMENT

This section describes changes to the existing environmental conditions evaluated in Chapter 3 of the 1994 FEIS. The effects of these changes are described in **Section 5** of this document.

Water Resources and Quality

In 2004, the Whitefish River was listed as an impaired waterbody in the Integrated Water Quality Report prepared by the Environmental Protection Agency (EPA) and the Montana Department of Environmental Quality. The water quality-monitoring database lists the Whitefish River as poor fish rearing and spawning habitat, with very low populations of trout. Development of a Total Maximum Daily Load (TMDL) is required to address the impairment.

One of the causes of impairment is the Whitefish Wastewater Treatment Plant. From Whitefish Lake to Hodgson Road Bridge, the river reach condition is listed as suffering from moderate to severe impairment (Mathieus, personal communication, 2005).

Another cause of impairment is contaminated sediments near the old railroad facility. Polycyclic aromatic hydrocarbons, polychlorinated biphenyls, and concentrations of diesel and other oils are well above natural levels. Benthic sediment data from the EPA's website shows that lead exceeds aquatic life standards in the Whitefish River.

Wetlands

In 2008, a wetland delineation of the Whitefish West project segment was completed by PBS&J. It identified seven new wetland areas not previously identified in the 1994 FEIS. These were in addition to the eight wetlands identified in the FEIS within the Whitefish West segment.

Fisheries and Wildlife

The Montana Natural Heritage Program (MTNHP) data search results indicated three known occurrences of wildlife species of concern within a 3.2 km (two mile) radius of the proposed project (MTNHP 2005a), which were not identified in the FEIS.

- Common Loons (*Gavia immer*) are known to nest at nearby Whitefish and Blanchard Lakes, and were seen during the field survey utilizing Spencer Lake near the west end of the project. Nesting at Spencer Lake has not been documented.
- Le Conte's Sparrow (*Ammodramus leconteii*), which typically occupies wet meadow peat lands, is the other sensitive wildlife species documented in the project area, although the most current record for this species is from 1987 (MNHP 2005a).
- Bald Eagle (*Haliaeetus leucocephalus*) was removed from the threatened and endangered species list in 2007 and is currently designated a sensitive species in Montana. The greater Kalispell area including Whitefish supports the highest density of nesting Bald Eagles in the state; however, no active Bald Eagle nest sites are known to occur within five kilometers (three miles) of the proposed action. The nearest nesting records occur towards the north end of Whitefish Lake and along Swift Creek, a tributary to Whitefish Lake.

In addition, the BRR identified six amphibian species, seven reptilian species, and common small mammals that may occur in the project area that were not discussed in the FEIS.

Threatened or Endangered Species

Under Section 7 of the Endangered Species Act, as amended, activities conducted, sponsored, or funded by federal agencies must be reviewed for their effects on species federally listed or proposed for listing as threatened or endangered. The 1994 FEIS and its accompanying biological assessment described the occurrence of two threatened or endangered species within the project corridor:

- Bald Eagle (*Haliaeetus leucocephalus*)
- Peregrine Falcon (*Falco peregrinus*)

These species have since been delisted from the USFWS list of threatened or endangered species. An updated Biological Resources Report (BRR) was prepared for the Whitefish West project in 2008 (PBS&J). Based on the current USFWS list of threatened, endangered, and proposed species that may be present in Montana counties (USFWS 2004), and range/habitat descriptions found in technical literature, the following listed species were considered with respect to this project:

- Gray Wolf (*Canis lupus*: endangered)
- Grizzly Bear (*Ursus arctos horribilis*: threatened)
- Canada Lynx (*Lynx canadensis*: threatened)
- Bull Trout (*Salvelinus confluentus*: threatened)

The findings and determination of effect of the Current Proposed Action on listed species are described in the BRR and summarized in **Section 5.14** (Threatened or Endangered Species) of this document.

Cultural and Historic Resources

On May 15, 2001, the State Historic Preservation Office (SHPO) concurred with MDT's finding that the number of historic properties along West Second Street (US 93) was insufficient to qualify as a historic district. Consequently, only impacts to ten properties individually eligible for listing on the National Register of Historic Places (NRHP) would be assessed under Section 106 of the National Historic Preservation Act in the Whitefish West project segment.

- Masonic Temple (24FH558)
- Duncan Samson Block (24FH559)
- J.A. Samson House (24FH560)
- Hennessey Log Bungalow (24FH569)
- Harlow House (24FH570)
- Midby Bungalow (24FH571)
- Whitefish Country Club (24FH573)
- Patten Mattress Factory (24FH497)
- Westermark Place (24FH579)
- Woodsman Cottage (24FH580)

SHPO correspondence is included in **Appendix D**

Parks and Recreation

One new park was developed after completion of the 1994 FEIS. Kay Beller Park is a City-owned facility located south of West Second Street and east of the Whitefish River. The park has one formal paved access point on West Second Street (US 93). Situated in an area overlooking the Whitefish River, Kay Beller Park comprises 0.4 ha (1 ac) and includes Whitefish River access and other amenities such as a walking path and observation deck. The park was developed with federal assistance from the Land and Water Conservation Fund (LWCF), and is protected by Section 6(f) of the Land and Water Conservation Fund Act (LWCF Act).

Hazardous Materials

A Phase II Hazardous Materials Assessment completed in 2005 identified new hazardous materials sites that were not identified in the 1994 FEIS. Drilling and sampling was conducted to verify the extent of subsurface contamination within the right-of-way. Lab tests were conducted on the samples to determine whether special provisions would be needed to mitigate soil, sediment, and/or groundwater contamination during construction.

The Phase II Hazardous Materials Assessment identified 7 probable sites where project related work might encounter contamination in the Whitefish West project area. Two of the seven sites were identified in the FEIS; Michaels Auto Repair and the Whitefish River. A total of 5 newly identified sites were identified as having documented or potential hazardous material contamination issues. In general, these sites can be characterized as follows: 4 sites were documented by the Montana Department of Environmental Quality (MDEQ) as using, storing, or generating hazardous materials/wastes; and 1 site was a commercial user observed in the field

as having moderate to high probability of using, storing, or generating hazardous materials/wastes but were not listed by government agencies.

Subsurface petroleum impacts were identified along the Whitefish River at the Second Street Bridge. Soil impacts at the Second Street Bridge include potential worker breathing zone safety issues as well as aesthetics during construction activities. Petroleum impacted soil exceeding MDEQ Tier 1 Risk-Based Screening Levels could be encountered during construction activities. Composite soil samples would likely have to be collected from stockpiles of impacted soil excavated during construction work to characterize the waste for disposal (Maxim Technologies, 2005).

Environmental investigation and remediation work for the Burlington Northern fueling facility is regulated by the MDEQ. Remedial investigation reports and a draft ecological risk assessment prepared for the facility, including impacts to the river, are currently being reviewed by the MDEQ.