MONTANA TRANSPORTATION COMMISSION

Policy No. 010

SURFACE TRANSPORTATION PROGRAM FUNDING ELIGIBILITY FOR ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT PROJECTS

BACKGROUND

1. The MDT currently invests significant highway program resources in environmental mitigations. Some of these investments are located outside of state right-of-way limits. However, all of these investments benefit highway project development and/or operation.
2. With enactment of the Transportation Equity Act for the 21st Century (TEA-21), 23 U.S.C. 133 (b), as amended, creates funding eligibility of up to 20% of total project costs for "environmental restoration and pollution abatement to address water pollution or environmental degradation caused or contributed to by transportation facilities."
3. Relative to this eligibility, MDT has been informed by resource agencies of significant unfunded needs for environmental restoration projects beyond highway rights-of-ways.
4. While Montana realized a funding increase under TEA-21, significant unmet highway construction needs exist statewide. In addition, there is no certainty that TEA-21 funding levels will continue beyond the TEA-21 authorization period.

POLICY: Based on this background, it is the policy of the Montana Transportation Commission that:

1. Any expenditure of federal or state transportation resources for environmental restoration or pollution abatement must be preceded by agreement from the resource agencies with jurisdiction that MDT will receive credit leading to permitting, clearance or approval of a specific highway construction project or group of projects.
2. Any expenditure of federal or state transportation resources for environmental restoration or pollution abatement shall not exceed the proportional impact to the resource from the highway project or projects under development.
3. Analyses assigning or describing proportional share of impacts are appropriately developed by resources agencies with jurisdiction but must also be concurred in by MDT staff.
4. Any environmental restoration or pollution abatement undertaken beyond the right-of-way of the project must demonstrate cost benefits to the project or projects relative to other mitigations which could be undertaken within the right-of-way of the construction project(s).

Signature on File
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Thorm R. Forseth, Montana Transportation Commission Chair

HISTORY
Updated: 2/10/2026