

## 5.0 DRAFT SECTION 4(F) EVALUATION

FHWA prepared this Section 4(f) evaluation because the proposed project would adversely affect an historic property, Segments 1 and 2 of Fernan Lake Road, eligible for listing on the National Register of Historic Places (NRHP). The evaluation describes the proposed action and how it might affect Section 4(f) properties, discusses alternatives that would avoid the use of the Section 4(f) properties, and describes measures undertaken to minimize harm to the properties.

### 5.1 PURPOSE OF THE SECTION 4(F) EVALUATION

Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303 Section 4(f)) declared that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.” Section 4(f) properties are publicly owned parks, recreation areas, or wildlife and waterfowl refuges of national, state, or local significance, and historic resources eligible for listing on the National Register of Historic Places or are locally significant. Section 4(f) specifies that:

“the Secretary [of Transportation] may approve a transportation program or project...requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if there is no prudent and feasible alternative to using that land; and the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.”

Section 4(f) “use” generally occurs when:

- Section 4(f) land is permanently acquired for a transportation facility,
- There is a temporary occupancy of Section 4(f) land that is adverse in terms of the Section 4(f) purposes, or
- Section 4(f) land is not incorporated into the transportation project, but the project’s proximity impacts are so severe that the purpose for which the Section 4(f) site exists are substantially impaired. (This use is also known as “constructive use.”)

### 5.2 PROPOSED PROJECT

FHWA and the partner agencies (IPNF, ITD, and ESHD) propose to reconstruct or resurface 17.2 km (10.7 mi) of Idaho Forest Highway 80 (ID FHP 80), which is commonly known as Fernan Lake Road. Reconstruction of the existing road alignment is proposed for all or most of Segment 1 along Fernan Lake and all of Segment 2 along

Fernan Creek valley. Only maintenance repair and resurfacing is proposed for Segment 3 within the IPNF boundary (Figure 5-1).

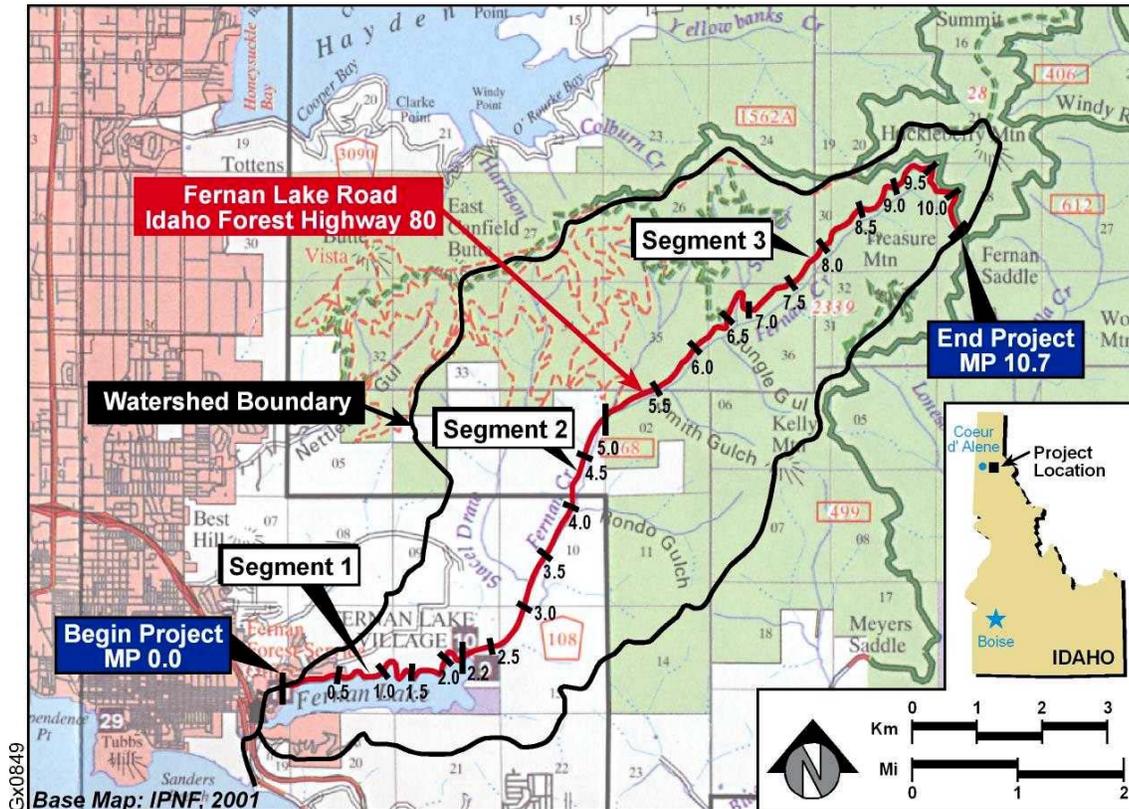


Figure 5-1. Project Location Map

**Purpose and Need**

The three primary reasons for the proposed road improvements are:

- To maintain an efficient transportation link between the City of Coeur d’Alene and IPNF at Fernan Saddle that safely accommodates traffic projected through 2030.
- To upgrade stormwater treatment along Fernan Lake Road to protect water quality in Fernan Creek and Fernan Lake.
- To provide a roadway that can be reasonably maintained in a sustainable manner by ESHD.

The needs and objectives for the project are described in more detail in Chapter 1 of this EIS in terms of:

- Transportation needs including safety concerns, traffic volumes, system linkages, and roadway condition,
- Maintenance needs,

- Environmental needs, and
- Needs of existing and planned land uses.

### *Alternatives Analyzed in Detail*

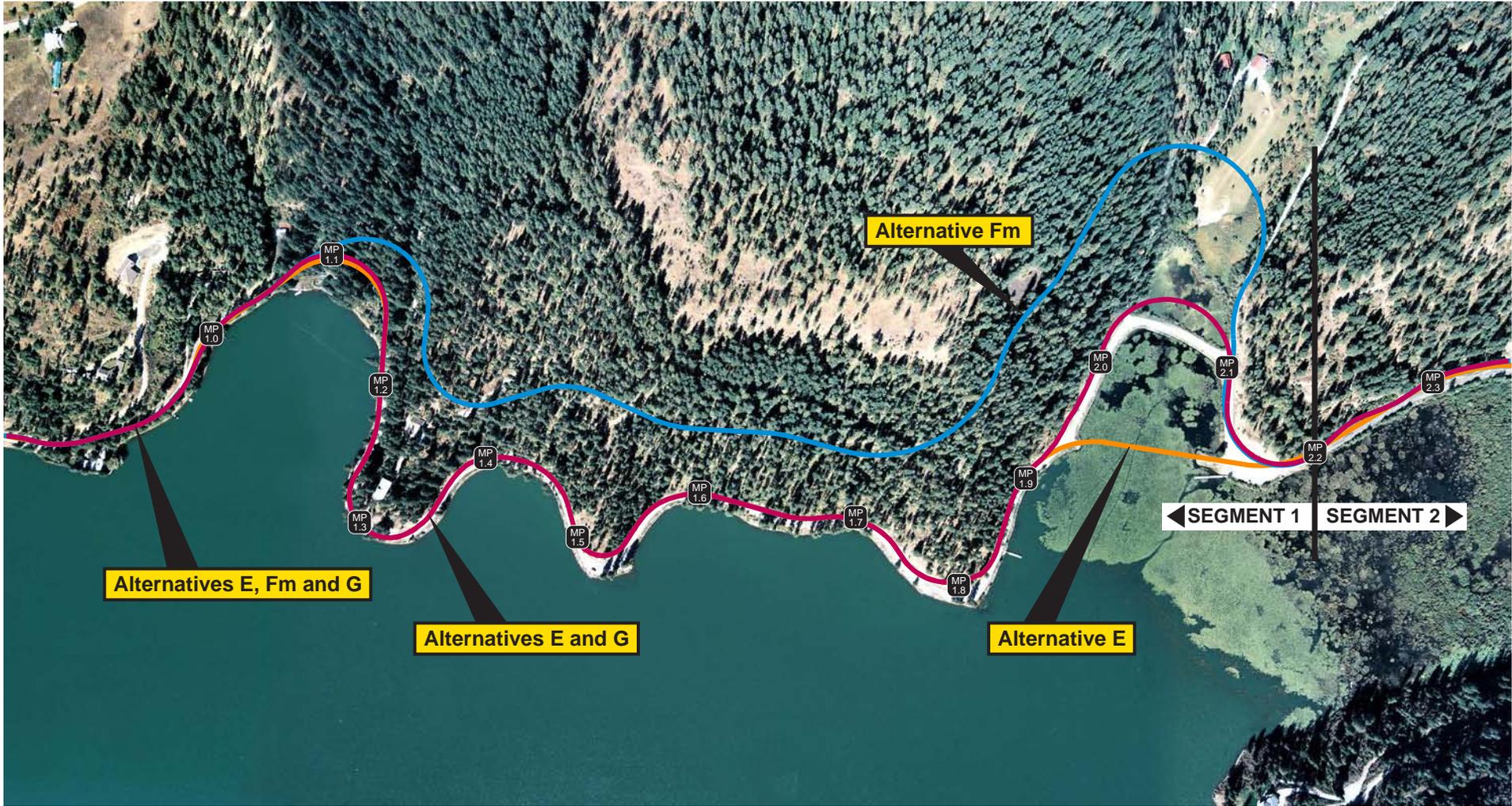
Alternatives E, Fm, Preferred Alternative G, and the No Action Alternative are analyzed in this EIS. All three build alternatives would include:

- Constructing a new road surface composed of crushed aggregate base and asphalt concrete pavement.
- Installing adequate drainage structures and stormwater treatment.
- Installing sub-surface drainage features and subgrade stabilization measures.
- Widening the road to accommodate current and projected vehicular and recreational use and necessary maintenance activities.
- Removing existing fill and roadway across Lilypad Bay.
- Improving parking areas and pullouts adjacent to the road.
- Upgrading signs, striping, guardrails, and other safety-related features.
- Implementing environmental commitments to reduce or mitigate environmental impacts.

Most differences among the build alternatives occur between MP 1.0 and the end of Segment 1 at MP 2.2 (Figure 5-2). Alternatives Fm and G would also introduce a new minor curve between MP 2.2 and MP 2.3 to slow westbound traffic before the major curve north and then west around Lilypad Bay.

Alternative E in Segment 1 would follow the existing road alignment until approximately MP 1.9, where a new bridge would cross Lilypad Bay in the same place as the original bridge that was removed in the early 1960s.

Alternative Fm would leave the current road alignment between MP 1.0 and MP 1.1 and transverse the adjacent hillside (Figure 5-2). It would eventually descend the hill and cross the draw north of Lilypad Bay as curved roadway elevated up to 15.2 m (50 ft) high on fill material. The new road would continue descending south and rejoin the existing alignment near MP 2.1.



- Alternative E
- Alternative Fm
- Alternative G

Base: 1996 Aerial Photography



**Figure 5-2**  
Build Alternatives Between MP 1.0 and MP 2.3

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**Fernan Lake Road Safety Improvement Project**  
Final Environmental Impact Assessment



If the ROD selects Alternative Fm, FHWA anticipates modifications to the preliminary design of this alternative during final design so that it would follow the terrain better and be aligned farther down the hillside, thereby reducing the height of fill needed for crossing the draw north of Lilypad Bay.

Preferred Alternative G would follow essentially the same alignment as Alternative E to approximately MP 1.9. Here Alternative G would continue north nearly on the existing road alignment and then cross Lilypad Bay on a new curved bridge just north of the existing road crossing constructed on fill. This alternative then rejoins the existing road alignment near MP 2.1.

The No Action Alternative would not reconstruct Segments 1 and 2 of Fernan Lake Road nor repair and resurface Segment 3. Routine maintenance and repairs would occur as needed. Some areas would remain below the 1981 FEMA 100-year flood elevation. Stormwater treatment of runoff from the road would not be improved.

### **5.3 SECTION 4(F) PROPERTIES AND ENVIRONMENTAL EFFECTS**

There are no public parks, recreation areas, or wildlife refuges in the project area that require Section 4(f) evaluation. Three recreational facilities managed by Kootenai County Parks and Waterways on Fernan Lake either are not publicly owned or not affected by the project. Parking areas near MP 5.0 and the project terminus at Fernan Saddle are publicly owned, but not managed as formally designated recreation areas by IPNF, and neither would be effected by the proposed build alternatives. The shooting range operated under a special use permit from IPNF is only open to members of the Fernan Rod & Gun Club and not the general public. No wildlife or waterfowl refuges occur in the project area.

Two historic properties that were determined eligible for listing on the NRHP occur in the project area. Segments 1 and 2 of Fernan Lake Road comprises one, and would be adversely affected by all three build alternatives. The other is the Kelly homestead near MP 4.1, and none of the build alternatives would affect it. Thus the remainder of this 4(f) evaluation focuses on the road segments that are considered a historic property.

The Forest Service used two types of federal public works programs to construct Fernan Lake Road between 1934 and 1941. Enrollees in Civilian Conservation Corps (CCC) and the crews from Works Progress Administration (WPA) worked on the road. Various modifications have since been made in response to increased timber harvest and associated log hauling, and increased use by the general public. The original bridge built in 1937 across Lilypad Bay deteriorated and was replaced in the early 1960s by the current curving road constructed on fill, but the old bridge abutments remain.

Segments 1 and 2 of Fernan Lake Road are considered eligible for listing on NHRP because they are associated with events that made significant contribution to broad patterns of history. These segments retain the original narrow width and curving

alignment of the road. The basic route and design of the road and its relationship to its setting along the lake and up the Fernan Creek valley remain unaltered.

Stonework constructed by CCC and blasted rock walls continue to provide strong indications of the workmanship required in the construction. A strong sense of feeling and association with the New Deal era, public works projects, and CCC remains.

#### **5.4 AVOIDANCE ALTERNATIVES**

The No Action Alternative would avoid adverse affects because Segments 1 and 2 would not be reconstructed. Maintenance and repairs would continue when necessary as currently occurs, but underlying deficiencies and problems would not be corrected. Tight curves and restricted sight distances would continue to contribute to the high accident rate on Fernan Lake Road. The failure to improve safety for the travelling public would be contrary to a major reason for considering this an historic road, which is to allow the public to experience and appreciate the strong sense of feeling the road in its environmental setting. Thus the No Action Alternative would not fulfill the purpose and need for the project and would not be a prudent alternative.

Alternative Routes 4, 5, 6, 7, 8, 9, and 10 (Figure 5-3) would entirely avoid Fernan Lake Road and are described in more detail in Section 2.5. Alternatives 4 and 5 would require substantial new road construction on ridgelines. Alternatives 7 and 8 would route logging trucks and recreational vehicles for miles along the Lake Coeur d'Alene shoreline, increasing the probability of traffic-related water pollution to this lake. All seven of these routes have substantial portions following ridgelines at higher elevations than the current road to Fernan Saddle. Thus they would either be closed when snow-covered or require frequent plowing for long distances to remain open in winter.

None of these alternatives would meet the project purpose and need related to correcting the safety, maintenance, and stormwater treatment deficiencies of Fernan Lake Road, which would need to remain open for residences and recreational facilities along the road. None of these routes could be constructed with the available funding, either because of the length of new road construction in difficult terrain, or because of the total length of roadway to improve. Thus Alternatives Routes 4, 5, 6, 7, 8, 9, and 10 would not be prudent alternatives.

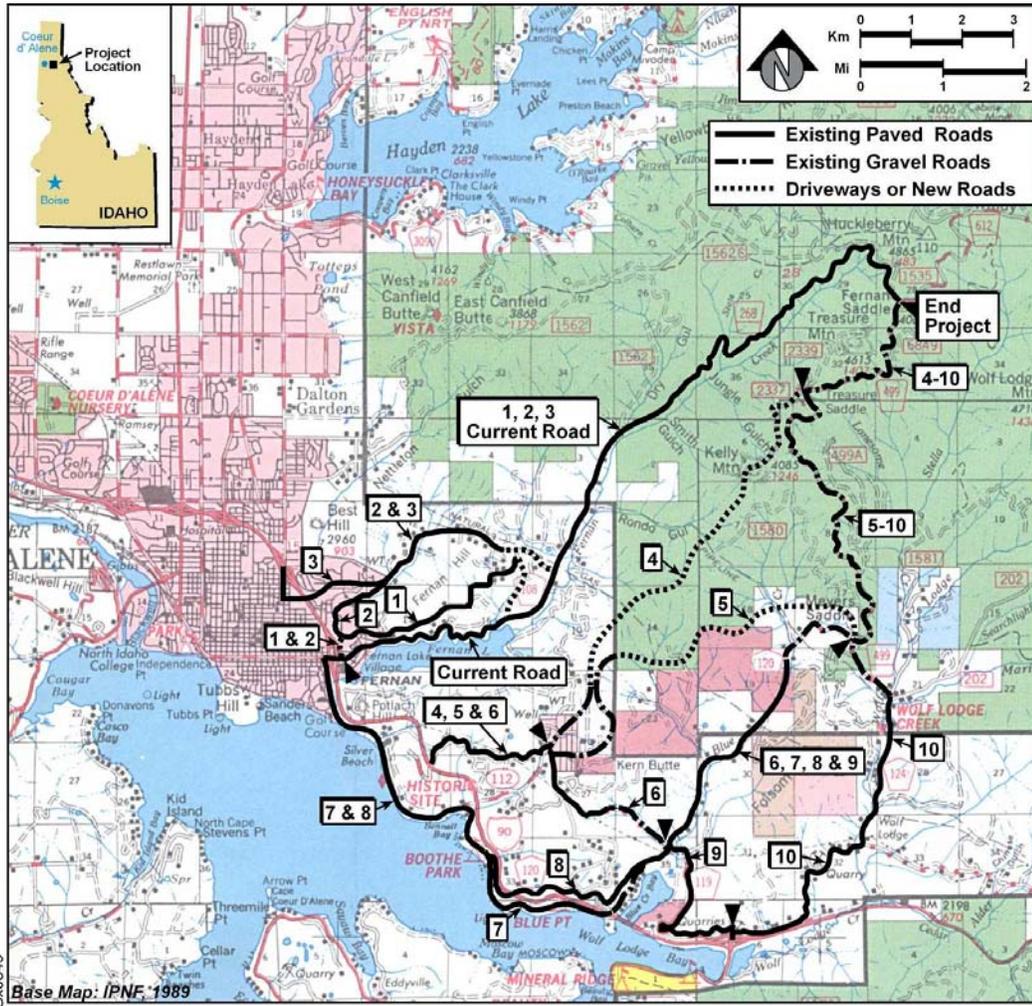


Figure 5-3. Alternative Routes

## 5.5 MEASURES TO MINIMIZE HARM

Alternative Routes 1, 2, and 3 (Figure 5-3) would avoid Segment 1 but would reconstruct all or part of Segment 2. Thus they reduce adverse effects to the historic road rather than avoiding them. All three would route logging trucks and recreational vehicles through residential streets and neighborhoods, creating new safety concerns. The City of Coeur d'Alene has expressed opposition to all three routes. None of these three alternatives would improve tight curves, restricted sight distances, maintenance issues, and stormwater treatment deficiencies of the existing road along the Fernan Lake, which needs to remain open for access to residences and recreational facilities. Therefore, Alternatives Routes 1, 2, and 3 would not meet the project purpose and need and would not be prudent alternatives.

Before the Record of Decision is issued that selects a build alternative for this project, FHWA and Idaho SHPO will develop and sign a Memorandum of Agreement for mitigating adverse effects of reconstructing Segments 1 and 2 of Fernan Lake Road. Mitigation of adverse effects to this historic resource would include documentation with photographs or drawings of the culverts, retaining walls, and bridge abutments that are

remaining features of the original road. These features are described in Section 3.5 of this EIS.

As additional mitigation FHWA would develop an interpretive sign or display and would provide funds to support printing of a driving tour of historical locations that includes Fernan Lake Road. Although it most likely would be located at the East Fernan Boat Launch, placement of the sign or display would be determined by IPNF, which would be responsible for its maintenance after construction. The driving tour publication is nearing completion by the Museum of North Idaho. The cultural resources technical report was the primary source of information on Fernan Lake Road.

Alternative E analyzed in this EIS would build a bridge across Lilypad Bay in the same location as the original bridge built in 1937 and removed in the early 1960s. Although this would not be minimization or mitigation per se, it would provide travelers an opportunity to experience a drive across the bay similar to that of the original road. Additional mitigation opportunities may be explored if this build alternative is selected.

## **5.6 COORDINATION**

Table 5-1 presents the results of research on properties potentially regulated by Section 4(f), as well as Section 6(f) of the Land and Water Conservation Fund Act of 1965 (and successors of these laws). Table 5-2 presents the agency staff contacted to confirm the accuracy of the research and conclusion relative to 4(f) and 6(f) eligibility and requirements. Kootenai County Parks and Waterways concurred with the research findings for the three properties where it manages recreational facilities.

The National Park Service, IPNF, and Idaho SHPO provided concurrence with the research findings as comments on the Draft EIS and Draft 4(f) Statement (Appendix D, comments 96, 104-106). IDFG did not indicate any concerns or problems regarding Section 4(f) in their comments on the Draft EIS (comments 216-226). Idaho Department of Parks and Recreation did not comment on the Draft EIS or Draft 4(f) Statement.

FHWA and Idaho SHPO have continued to consult in compliance with Section 106 during the Section 4(f) evaluation for Fernan Lake Road.

**Table 5-1. Properties Evaluated for Section 4 (f) and Section 6(f)**

| <b>Property / Location / Agency</b>  | <b>Research Results</b>  | <b>4(f) / 6(f) Conclusion</b>  |
|--|--|--|
| Fernan Park<br>Western Fernan Lake, before<br>project starts at MP 0.0<br>Kootenai County Department of<br>Parks and Waterways | 1. Publicly owned and managed<br>recreation facility/property<br>2. LWCFA funds used<br>3. Public access not affected<br>4. No take, use, or conversion              | 4(f) – Eligible but not<br>taken or used<br>6(f) – Eligible but not<br>converted                   |
| Fernan Fishing Dock<br>Eastern Fernan Lake, project MP<br>1.85<br>Kootenai County Department of<br>Parks and waterways         | 1. Publicly managed<br>2. No public ownership or<br>agreement for recreational use<br>3. LWCFA funds not used  | 4(f) – Not eligible<br>6(f) – Not Eligible   |
| East Fernan Boat Launch<br>Eastern Fernan Lake, project MP<br>2.18<br>Kootenai County Department of<br>Parks and Waterways     | 1. Publicly managed<br>2. No public ownership or<br>agreement for recreational use<br>3. LWCFA funds not used  | 4(f) – Not Eligible<br>6(f) – Not Eligible   |
| Canfield Mountain Trailhead<br>Project MP 5.1, west side of road<br>Idaho Panhandle National Forests                           | 1. Publicly owned and managed<br>2. No take, use, or conversion<br>planned<br>3. LWCFA funds not used  | 4(f) – Eligible but not<br>taken or used<br>6(f) – Not Eligible                                    |
| Forest Service Shooting Range<br>Project MP 5.1, east side of road<br>Idaho Panhandle National Forests                         | 1. Publicly owned, not a managed<br>site<br>2. No take, use, or conversion<br>planned<br>3. LWCFA funds not used   | 4(f) – Not taken or used,<br>regardless of eligibility<br>6(f) – Not Eligible                      |
| Fernan Rod and Gun Club<br>Project MP 5.3<br>Idaho Panhandle National Forests  | 1. Publicly owned, operated under<br>IPNF special use permit<br>2. Open to club members only<br>3. No take, use, or conversion<br>planned<br>4. LWCFA funds not used | 4(f) – Not Eligible<br>6(f) – Not Eligible   |
| Fernan Saddle Trailhead<br>After project ends at MP 10.7<br>Idaho Panhandle National Forests                                   | 1. Publicly owned and operated<br>2. No take, use, or conversion<br>planned<br>3. LWCFA funds not used   | 4(f) – Eligible but not<br>taken or used<br>6(f) – Not Eligible                                    |
| Fernan Lake Road<br>Project Segments 1 & 2, MP 0.0 to<br>5.0<br>Idaho SHPO   | 1. Eligible for NRHP-listing<br>2. Adversely affected by<br>reconstruction<br>3. LWCFA funds not used  | 4(f) – Eligible and<br>Taken/Used,<br>Evaluation/Documenta<br>tion Required<br>6(f) – Not Eligible |
| Kelly Homestead<br>Project MP 4.1, east side of road<br>Idaho SHPO   | 1. Possibly eligible for NRHP-<br>listing<br>2. Not in Area of Potential Effect<br>3. LWCFA funds not used   | 4(f) – Possibly eligible<br>but not taken or used<br>6(f) – Not Eligible                           |

**Table 5-2. Agencies Contacted / Consulted on Section 4(f) and Section 6(f)**

| <b>Agency / Contact</b>  | <b>Address</b>   | <b>Phone / Email</b>                     |
|--|--|--|
| Kootenai County Parks and Waterways<br>Kurtis Robinson, Director         | 10905 North Ramsey Road<br>Hayden, ID 83835              | 208-446-1275<br>krobinson@kcgov.us       |
| Idaho Department of Fish and Game<br>Ned Horner, Fisheries Biologist     | 2750 Kathleen Avenue<br>Coeur d'Alene, ID 83814          | 208-769-1414<br>nhorner@idfg.state.id.us |
| Idaho Dept. of Parks and Recreation<br>Brian Miller, North Region Grants | P.O. Box 83720<br>Boise, ID 83720                        | 208-334-4180<br>bmiller@idpr.state.id.us |
| Idaho State Historic Preservation Officer<br>Mary Anne Davis             | 210 Main Street<br>Boise, ID 83702                       | 208-334-3847<br>mdavis@ishs.state.id.us  |
| Idaho Panhandle National Forests<br>District Recreation Specialist       | 2502 East Sherman Avenue<br>Coeur d'Alene, ID 83814-5899 | 208-769-3066<br>jdorrell@fs.fed.us       |
| Idaho Panhandle National Forests<br>Cort Sims, Forest Archaeologist      | 3815 Schreiber Way<br>Coeur d'Alene, ID 83815-8363       | 208-765-7306<br>csims@fs.fed.us          |
| National Parks Service<br>Gloria Shinn, Outdoor Rec. Coord.              | 909 First Avenue<br>Seattle, WA 98104                    | 206-220-4126<br>gloria_shinn@nps.gov     |

## **5.7 MEMORANDUM OF AGREEMENT FOR CULTURAL RESOURCES**

The following pages present the MOA between FHWA and Idaho SHPO that for the Fernan Lake Road project. This MOA would be signed by both agencies before FHWA issues a ROD selecting a build alternative.

MEMORANDUM OF AGREEMENT  
BETWEEN  
U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY  
ADMINISTRATION, WESTERN FEDERAL LANDS HIGHWAY DIVISION  
AND THE  
IDAHO STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE  
FERNAN LAKE ROAD SAFETY IMPROVEMENT PROJECT ID PFH 80-1(1)  
KOOTENAI COUNTY, IDAHO

WHEREAS, the U.S. Department of Transportation, Federal Highway Administration, Western Federal Lands Highway Division (WFLHD) has determined that the Fernan Lake Road Safety Improvement Project (undertaking) may have an adverse effect on a portion of the Fernan Lake Road (10-KA-388) which is eligible for the National Register of Historic Places, and has consulted with the Idaho State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470); and

WHEREAS, in accordance with 36 CFR Section 800.6(a)(1), WFLHD has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination with specified documentation and the Council has chosen not to participate in the consultation pursuant to 36 CFR Section 800.6(a)(1)(iii);

NOW, THEREFORE, WFLHD and the Idaho SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

WFLHD shall ensure that the following measures are carried out:

1. **HISTORIC PROPERTY DOCUMENTATION.** Prior to construction of the Fernan Lake Road Safety Improvement Project, the historic segments of the Fernan Lake Road will be documented to provide a permanent record of the Civilian Conservation Corps (CCC) built features including the road alignment and rock retaining walls and culverts, as well as the roads setting along the lakeshore. The documentation will be determined in consultation with SHPO, but shall include large format black and white photographs. The Historic American Engineering Record (HAER) standards should be used as a guideline for processing, printing, and preparing photographs and negatives for submission to the Idaho SHPO. This will include one set of photographs, one set of negatives, and a photograph index. The second set of photographs shall be provided to the Museum of North Idaho.

The photographic documentation will be accompanied by written data that shall include a location map and the history and description of the Fernan Lake Road. The written documentation shall incorporate data from *Cultural Resources Investigations from the Fernan Lake Road Safety Improvement Project, Kootenai County, Idaho*, by CJ Miss and NF Renk, 2003.

All of the documentation shall be submitted to and accepted by the Idaho SHPO prior to commencing construction along the Fernan Lake Road.

2. **ROADSIDE INTERPRETIVE DISPLAY.** An outdoor, roadside interpretive display will be developed, designed, and installed at an existing administrative, recreation or interpretive site near or along Fernan Lake Road. Said display shall convey information regarding the history, engineering, and construction of the road. The content, design, and location of the display shall be determined in consultation with the SHPO and in cooperation with the Idaho Panhandle National Forests and the Museum of North Idaho.
3. **DRIVING TOUR.** Funds shall be disbursed to the Museum of North Idaho to support printing of a driving tour of historical locations in Kootenai, Shoshone, and Benewah counties, Idaho. The publication is in draft form and has 8 tours, one of which includes the Fernan Lake Road. The draft driving tour shall be submitted to SHPO and WFLHD for review prior to publication. Two copies of the final tour publication shall be submitted to SHPO and WFLHD.
4. **DURATION.** This agreement shall expire when the project is complete.
5. **UNANTICIPATED DISCOVERY OF CULTURAL RESOURCES.** Prior to construction, an Unanticipated Discovery Plan shall be developed, submitted, and accepted by SHPO. This plan will ensure that no adverse effects occur beyond those incurred upon discovery of unanticipated cultural resources. The plan presents a protocol for handling discoveries that includes halting construction in the vicinity of the discovery, notification of agency personnel, evaluation of the resource, and development of a treatment plan as necessary, and encompasses all types of cultural resources including human remains.
6. **DISPUTE RESOLUTION.** Should any party of this agreement object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, WFLHD shall consult with the objecting party(ies) to resolve the objection. If WFLHD determines, within 30 days, that such objections cannot be resolved, WFLHD will;
  - A. Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR Section 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise WFLHD on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the parties to the MOA, will be taken into account by WFLHD in reaching a final decision regarding the dispute.
  - B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, WFLHD may render a decision regarding the dispute. In reaching its decision, WFLHD will take into account all comments regarding the dispute from the parties of the MOA.
  - C. WFLHD's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. WFLHD will notify all parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. WFLHD's decision will be final.
7. **AMENDMENTS AND NONCOMPLIANCE.** If any signatory of this MOA, including any invited signatory, determines that its terms will not or cannot be carried out or that

the amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this MOA pursuant to 36 CFR Part 800.9(c)(7) and 800.6(c)(8). This amendment will be effective on the date a copy signed by all of the original signatories is filed with the Council. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation 8 below.

8. TERMINATION. If a MOA is not amended following the consultation set out in Stipulation 7, it may be terminated by any signatory or invited signatory. Within 30 days following termination, the WFLHD shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR Part 800.6(c)(1) or request the comments of the Council under 36 CFR Part 800.7(a) and proceed accordingly.

Execution of this MOA by WFLHD and the Idaho SHPO, the submission of documentation and filing of this MOA with the Council pursuant to 36 CFR Part 800.6(b)(1)(iv) prior to WFLHD's approval of this undertaking, and implementation of its terms evidence that WFLHD has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

SIGNATORIES:

\_\_\_\_\_ Date  
Ronald W. Carmichael, P.E., Division Engineer  
Federal Highway Administration, Western Federal Lands Highway Division

\_\_\_\_\_ Date  
Steve Guerber, Idaho State Historic Preservation Officer  
Idaho State Historical Society