

APPENDIX C. AGENCY COORDINATION REGARDING SECTION 4(F)
RECREATIONAL PROPERTIES

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COLORADO
Department of Transportation
Region 1

Planning & Environmental
2000 South Holly Street,
Denver, CO 80222-4818
Office: 303-859-9535

September 26, 2014

Mr. Thaddeus Noll
Summit County Assistant Manager
Community Development and Public Works
PO Box 68
208 E. Lincoln Ave., 3rd Floor
Breckenridge, CO 80424

RE: *De Minimis* Impact Concurrence Request for the Blue River Bikeway – SH 9 Iron Springs Alignment

Dear Thad,

This letter and attached materials constitute a request for review and concurrence on a finding of *de minimis* impact to the Summit County Recreational Pathway System's Frisco-Farmer's Korner-Blue River Bikeway (referred to herein for brevity as the Blue River Bikeway or the Bikeway) from the referenced project. The Colorado Department of Transportation (CDOT) and Federal Highway Administration (FHWA) are proposing the realignment of a portion of State Highway (SH) 9 south of Frisco, including a section of the Blue River Bikeway. As described in the SH 9 Iron Springs Alignment Environmental Assessment (EA) (CDOT and FHWA, 2014), the purpose of the project is to improve transportation along SH 9 by decreasing travel time, to improve safety, and to support the transportation needs of local and regional travelers while minimizing impacts to the surrounding environment and communities along the SH 9 corridor. Included in this letter are descriptions of the improvements for the SH 9 Proposed Action, the No Action Alternative, the Blue River Bikeway, and Section 4(f) use. These descriptions are followed by the measures proposed to mitigate, minimize, or enhance uses of the Blue River Bikeway; public involvement; and the finding of *de minimis* impacts.

At this time, CDOT and FHWA anticipate selecting the Proposed Action for implementation. For this reason, this Section 4(f) *de minimis* concurrence request evaluation focuses on the Proposed Action.

Section 4(f) Explained

Section 4(f) refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for considering a "use" of publicly owned and operated parks and recreational lands, wildlife and waterfowl refuges, and historic sites in transportation project development.

Use of a Section 4(f) property occurs: (1) when land is permanently incorporated into a transportation facility; or (2) when there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose; or (3) when there is a constructive use (a project's proximity impacts are so severe that the protected activities, features, or attributes of a property are substantially impaired).

For publicly owned public parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that will not adversely affect the activities, features, or attributes of the property. A *de minimis* impact determination does not require analysis to determine if avoidance alternatives are feasible and prudent, but consideration of avoidance, minimization, mitigation or enhancement measures should occur.

The FHWA is ultimately responsible for making all decisions related to Section 4(f) compliance. These include whether Section 4(f) applies to a property, whether a use will occur, whether a *de minimis* impact determination



may be made, assessment of each alternative's impacts to Section 4(f) properties, and determining whether the law allows the selection of a particular alternative after consulting with the appropriate officials with jurisdiction.

Proposed Action

As part of implementation of the SH 9 improvements between Frisco and Breckenridge, CDOT and FHWA are proposing to realign approximately 1.3 miles of existing SH 9 just south of the Town of Frisco (see **Figure 1**). This stretch of SH 9 between mileposts 93 and 95 would be realigned to provide a four-lane reduced section roadway away from Dillon Reservoir. This Proposed Action, also referred to as the Iron Springs Alignment, would shorten SH 9 by approximately 0.4 mile. The Proposed Action would provide roadway safety benefits and water quality and drinking water protection benefits to Dillon Reservoir by straightening the highway to remove a tight, compound curve (known as Leslie's Curve) adjacent to the reservoir. The existing condition on Leslie's Curve is considered substandard and contributes to accidents in the area.

The Proposed Action would include realignment of a portion of the existing Blue River Bikeway (see **Figure 1**). This portion of the Bikeway would be moved to the alignment currently occupied by SH 9, which would be approximately 0.4 mile longer than the existing bikeway and at a gentler grade than the current alignment. In addition, the Dickey Day Use Parking Lot would be moved west to a new parking lot location, to be constructed as part of the project. Access to the new lot location would be provided via Recreation Way, using the existing signalized intersection at SH 9 and Recreation Way. A new trail connection would be provided to link the proposed parking lot with the realigned bikeway and existing trail, which currently begins at the old Dickey Day Use Parking Lot. Additional detail about the Proposed Action, including typical sections, is provided in the EA main text and on the project drawings in Appendix A1 of the EA.

No Action Alternative

If the Proposed Action is not selected for implementation, SH 9 would be widened to provide a four-lane reduced section roadway along the existing alignment as previously approved in the SH 9 Frisco to Breckenridge Environmental Impact Statement (EIS) and Record of Decision (ROD) (CDOT and FHWA, 2004) (**Figure 2**). The 2004 Preferred Alternative is considered the "No Action Alternative" for the SH 9 EA and is used as a baseline for comparison with the Proposed Action. These improvements would be implemented if the Proposed Action is not selected.

Widening along the existing alignment would require large rock cuts and retaining walls, which would be difficult to construct, and the highway would remain in close proximity to Dillon Reservoir. The length of SH 9 would remain the same as that of the existing highway. The tight Leslie's Curve would not be eliminated; however, safety features such as a barrier between opposing lanes would be installed to improve safety. With this alternative, approximately 0.8 mile of the existing Blue River Bikeway would be realigned to allow space for the highway widening. The length of bikeway would not change appreciably and the current relatively steep grades on the path would remain. Additional detail about the No Action Alternative, including typical sections, is provided in the EA main text and on the project drawings in Appendix A1 of the EA.

Section 4(f) uses with the No Action Alternative were described in the 2004 ROD (CDOT and FHWA, 2004), and further information is available in that document. If the No Action Alternative were to be selected (which is not currently anticipated), a reevaluation of the previously identified Section 4(f) uses would be needed.

Description of Blue River Bikeway

The Blue River Bikeway, an approximately 10-mile-long paved recreation and commuter bikeway and multi-use path, connects Frisco and Breckenridge. It is part of the Summit County Recreational Path System, which provides approximately 55 miles of bikeways connecting towns and resort areas within Summit County. **Figure 3** shows the portion of the Blue River Bikeway located within the study area, as well as the impacts and mitigation for the Proposed Action. The Bikeway starts in Frisco, skirts the southern edge of town, and traverses the White River National Forest and Summit County/Continental Divide Land Trust (CDLT) open space land before intersecting SH 9 near milepost 93.5. From there, it turns southward, paralleling the highway for



approximately 8 miles, where it ends at Watson Avenue in Breckenridge. Along its length, the Bikeway lies within easements and license agreements on property owned by the Town of Frisco, United States Forest Service (USFS), Summit County, CDOT, and the Town of Breckenridge. The Bikeway is operated and maintained under the jurisdictions of Summit County, Town of Frisco, and Town of Breckenridge. The portion of the Blue River Bikeway located in the study area is under the jurisdiction of Summit County, who administers its use and management. Recreational and some commuter bicyclists, walkers, and roller-bladers heavily use the Blue River Bikeway. Various organizations use the Bikeway for special cycling events, mostly on non-winter weekends. The Bikeway is not plowed in the winter but sees some use by walkers, snowshoers, and cross country skiers in winter months.

Proposed Action Section 4(f) Use of Blue River Bikeway

The full effects of the project on the Section 4(f) resource, as shown on **Figure 3**, would involve the realignment of SH 9 under the Proposed Action, resulting in a direct impact to approximately 1 mile of the Bikeway. This would require realignment of this portion of the Bikeway, first to a temporary alignment during highway construction and then to a permanent alignment when highway construction is completed, as described below in the mitigation section. For the portion of the Bikeway on National Forest land, realignment will require amendment of the current special use authorization granted to Summit County by the USFS.

Proposed Action Mitigation, Minimization, and/or Enhancement Measures

The realigned bikeway will be approximately 0.4 mile longer than the existing bikeway but will be at a much gentler grade than the current bikeway alignment in this stretch. The bikeway will first be moved to a temporary alignment along the northern side of SH 9, separated by a barrier from SH 9 traffic. This temporary realignment will be in place while the new alignment of SH 9 is being constructed. Once SH 9 is completed and traffic is shifted to the new SH 9 alignment, the extra width of asphalt along the existing SH 9 alignment will be removed and the Bikeway will be established in its permanent location along the current SH 9 alignment. The connection to the existing portions of the Bikeway will be via grade separated crossings (underpasses through which the Bikeway will pass beneath SH 9) at either end of the new bikeway alignment. For portions of the existing bikeway to be closed, the asphalt will be removed and the area reseeded with native seed, where it is outside the footprint of the new SH 9 alignment. In addition, where asphalt along the current SH 9 is removed in conjunction with the realignment of the Bikeway, these areas will be reseeded with native seed.

With respect to the Blue River Bikeway, the Proposed Action would provide the following benefits to the recreation resources and users that the No Action Alternative would not provide:

- Bicyclists and other users will experience a gentler grade along the realigned portion of the Bikeway, which is more consistent with the overall grades on the Blue River Bikeway as a whole, thus providing a safer biking experience for inexperienced bicyclists. CDOT has coordinated extensively with Summit County on the Bikeway realignment. Summit County has expressed that the gentler grade will be a benefit in terms of safety, consistent with the use of this bikeway by inexperienced bicyclists and tourists unfamiliar with the area. Other bicycling options exist in the area for bicyclists desiring more challenging grades. Access to and from the Bikeway will also be improved for the Frisco Peninsula Recreation Area, USFS Peninsula Recreation Area, and Dillon Reservoir Recreation Area: Blue River Inlet.
- Bicyclists will be able to complete a loop around Dillon Reservoir on the recreation path system without the need to cross SH 9 at grade. The grade separated underpasses will provide safer crossings of SH 9 than crossings at grade at intersections. The realigned portion of the Blue River Bikeway will also provide scenic lake shore views.
- The realignment of SH 9 away from Dillon Reservoir and the realignment of the Bikeway along the current SH 9 will provide a direct connection for non-motorized users between the recreation areas and also will reduce the traffic noise at the shoreline.



Public Involvement

The SH 9 Iron Springs Alignment EA was made available for a 30-day public review and comment period from July 9, 2014, through August 8, 2014. A public hearing for the project was held during the public comment period on July 29, 2014, at the Summit County Community and Senior Center where the public was specifically asked to comment on the impacts to the Blue River Bikeway. During the public comment period, comments on any aspect of the project could be submitted in writing via e-mail, through the project website, by mail, by fax, or on a comment form provided at the public hearing. Verbal comments were also received at the public hearing.

During the public comment period, a total of 14 comments were received related to the realignment of the Blue River Bikeway including the two proposed bikeway underpasses. Most comments on the realignment of the Blue River Bikeway focused on the benefits of locating the proposed bikeway closer to Dillon Reservoir, due to the scenic views and a safer alignment, because the steep grades and sharp curves would be eliminated. They supported the proposed relocation because it would minimize additional site disturbance and road cuts, as well as enhance the recreational experience along the Dillon Reservoir shoreline once the highway is moved further away from the shoreline. Also noted were improvements to the recreation experience, water quality, safety, and views from the new path along the reservoir.

Some commenters noted concerns about the location of the bike path during the 2-year construction period. Some commenters preferred the existing alignment because it was shorter and included challenging hills and curves. A few commenters also questioned the width and design details, including pullouts, and landscaping of the realigned bikeway. In the public hearing, CDOT stated that the Bikeway would typically be 12 feet wide and the design details would be worked out in final design in consultation with the agency stakeholders.

In addition, some commenters raised specific questions/concerns about the design detail of the proposed bikeway underpasses, including safety, lighting, flooding, compatibility with wildlife, and some suggested pedestrian and bike overpasses. Through the final design process, CDOT and FHWA will work with agency stakeholders to incorporate design measures to ensure the safety and utility of the underpass structures. Due to geometric constraints, pedestrian/bicycle overpasses are not appropriate for this project.

Summit County Consultation

Consultation with Summit County, the official with jurisdiction for the Bikeway, was conducted during scoping and development of the EA. Summit County has been very supportive of the Blue River Bikeway realignment and has partnered with CDOT and FHWA by communicating the benefits of the realignment to other interested bikeway stakeholders in the project area. It is CDOT's understanding that Summit County agrees with CDOT and FHWA that this project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).

Based on the information presented above and on the attached documentation, the effects of this proposed improvement on the Blue River Bikeway are considered a *de minimis* impact and the requirements of 23 USC 138(b), 49 USC 303(d), and 23 CFR 774 have been satisfied. This finding is considered valid unless new information is obtained or the proposed effects change to the extent that consultation must be reinitiated.



Should you have questions concerning the Section 4(f) process any anything else related to this project, please feel free to contact me at 303.859.9535 or at my email address: chuck.attardo@state.co.us.

Your concurrence is hereby requested. If you concur with this finding, please sign below.

Sincerely,



Chuck Attardo
Region Planning and Environmental Manager

Enclosures
Figure 1 – Proposed Action
Figure 2 – No Action Alternative
Figure 3 – Blue River Bikeway – Proposed Action

cc: Grant Anderson, CDOT
Troy Halouska, CDOT

I concur:  Chair 10-29-14
Signature Name Title Date
Karn Stiegelmeier



Figure 1. Proposed Action

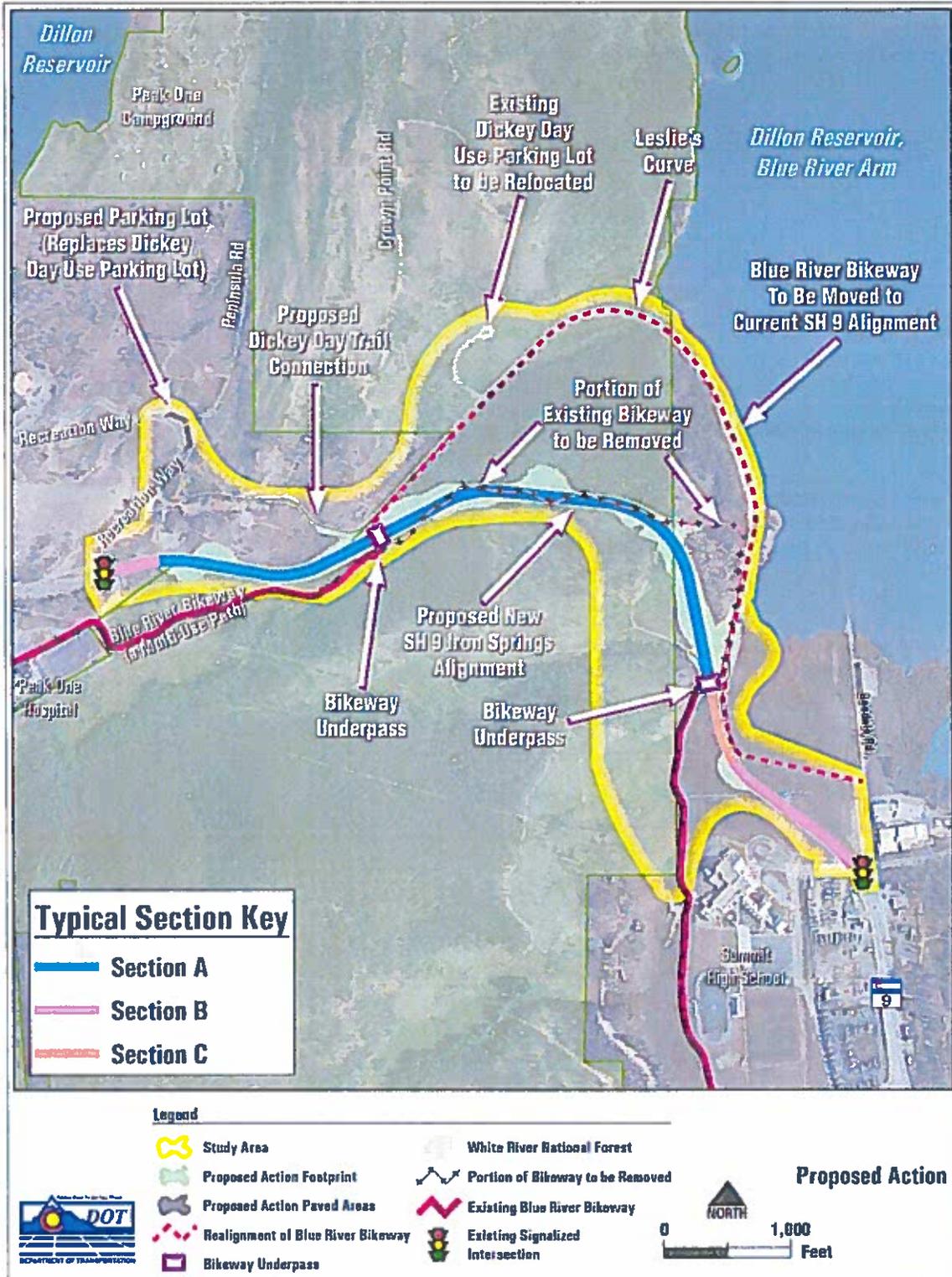


Figure 2. No Action Alternative (Previously Approved)

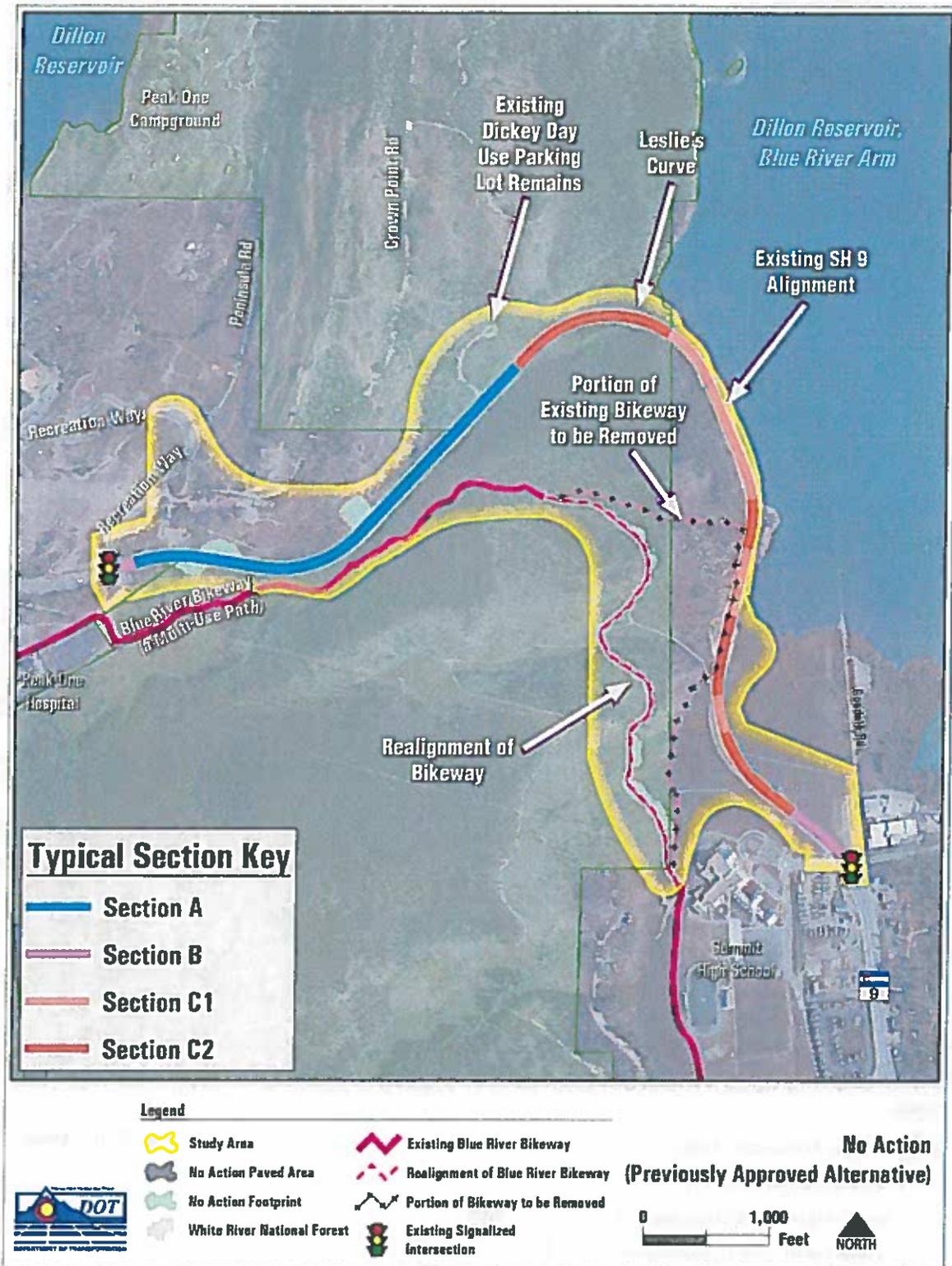
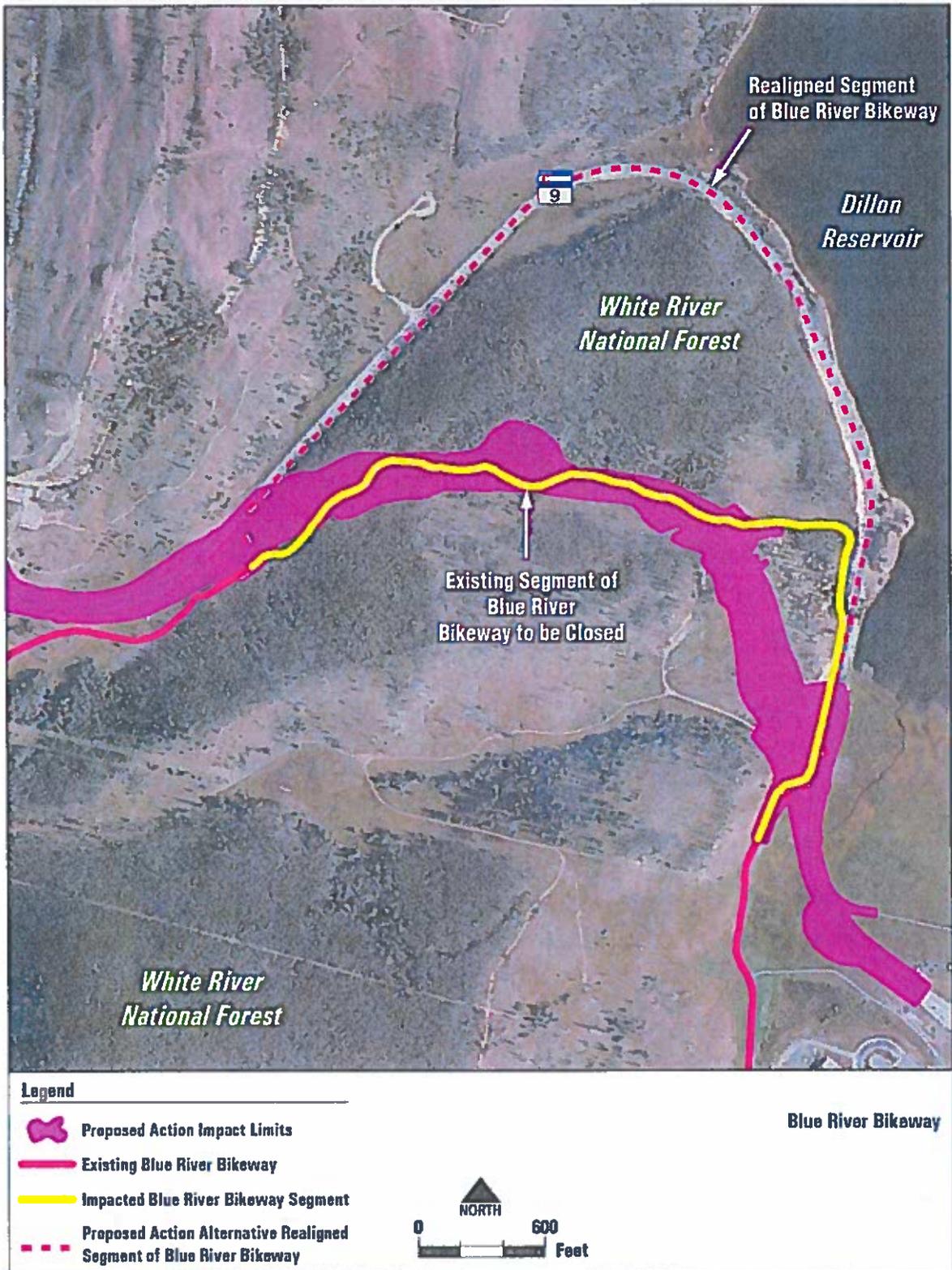


Figure 3. Blue River Bikeway – Proposed Action





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September 30, 2014

Mr. Bill Efting
Town Manager
Town of Frisco
PO Box 4100
1 Main Street
Frisco, CO 80443

RE: *De Minimis* Impact Concurrence Request – Frisco Peninsula Recreation Area

Dear Bill:

This letter and attached materials constitute a request for review and concurrence on a finding of *de minimis* impact to the Frisco Peninsula Recreation Area from the referenced project. The Colorado Department of Transportation (CDOT) and Federal Highway Administration (FHWA) are proposing the realignment of a portion of State Highway (SH) 9 south of Frisco, including a section of the Summit County Recreational Pathway System's Frisco-Farmer's Korner-Blue River Bikeway (referred to herein for brevity as the Blue River Bikeway or the Bikeway). As described in the SH 9 Iron Springs Alignment Environmental Assessment (EA) (CDOT and FHWA, 2014), the purpose of the project is to improve transportation along SH 9 by decreasing travel time, to improve safety, and to support the transportation needs of local and regional travelers while minimizing impacts to the surrounding environment and communities along the SH 9 corridor. Included in this letter are descriptions of the improvements for the SH 9 Proposed Action, the No Action Alternative, the Frisco Peninsula Recreation Area, and Section 4(f) use. These descriptions are followed by the measures proposed to mitigate, minimize, or enhance uses of the Frisco Peninsula Recreation Area; public involvement; and the finding of *de minimis* impacts.

At this time, CDOT and FHWA anticipate selecting the Proposed Action for implementation. For this reason, this Section 4(f) *de minimis* concurrence request focuses on the Proposed Action.

Section 4(f) Explained

Section 4(f) refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for considering a "use" of publicly owned and operated parks and recreational lands, wildlife and waterfowl refuges, and historic sites in transportation project development.

Use of a Section 4(f) property occurs: (1) when land is permanently incorporated into a transportation facility; or (2) when there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose; or (3) when there is a constructive use (a project's proximity impacts are so severe that the protected activities, features, or attributes of a property are substantially impaired).

For publicly owned public parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that will not adversely affect the activities, features, or attributes of the property. A *de minimis* impact determination does not require analysis to determine if avoidance alternatives are feasible and prudent, but consideration of avoidance, minimization, mitigation or enhancement measures should occur.



The FHWA is ultimately responsible for making all decisions related to Section 4(f) compliance. These include whether Section 4(f) applies to a property, whether a use will occur, whether a *de minimis* impact determination may be made, assessment of each alternative's impacts to Section 4(f) properties, and determining whether the law allows the selection of a particular alternative after consulting with the appropriate officials with jurisdiction.

Proposed Action

As part of implementation of the SH 9 improvements between Frisco and Breckenridge, CDOT and FHWA are proposing to realign approximately 1.3 miles of existing SH 9 just south of the Town of Frisco, Colorado (see Figure 1). This stretch of SH 9 between mileposts 93 and 95 would be realigned to provide a four-lane reduced section roadway away from Dillon Reservoir. This Proposed Action, also referred to as the Iron Springs Alignment, would shorten SH 9 by approximately 0.4 mile. The Proposed Action would provide roadway safety, water quality, and drinking water protection benefits to Dillon Reservoir by straightening the highway to remove a tight, compound curve (known as Leslie's Curve) adjacent to the reservoir. The existing condition on Leslie's Curve is considered substandard and contributes to accidents in the area.

The Proposed Action would include realignment of a portion of the existing Blue River Bikeway (see Figure 1). This portion of the Bikeway would be moved to the alignment currently occupied by SH 9, which would be approximately 0.4 mile longer than the existing bikeway and at a gentler grade than the current alignment. In addition, the Dickey Day Use Parking Lot would be moved west to a new parking lot location in the Frisco Peninsula Recreation Area, to be constructed as part of the project. Access to the new lot location would be provided via Recreation Way, using the existing signalized intersection at SH 9 and Recreation Way. A new trail connection would be provided to link the proposed parking lot with the realigned bikeway and existing trail, which currently begins at the old Dickey Day Use Parking Lot. Additional detail about the Proposed Action, including typical sections, is provided in the EA main text and on the project drawings in Appendix A1 of the EA.

The Proposed Action would require land along the southern edge of the Frisco Peninsula Recreation Area for the widening of SH 9 and associated grading and water quality features.

No Action Alternative

If the Proposed Action is not selected for implementation, SH 9 would be widened to provide a four-lane reduced section roadway along the existing alignment as previously approved in the SH 9 Frisco to Breckenridge Environmental Impact Statement (EIS) and Record of Decision (ROD) (CDOT and FHWA, 2004) (see Figure 2). The 2004 Preferred Alternative is considered the "No Action Alternative" for the SH 9 EA and is used as a baseline for comparison with the Proposed Action. These improvements would be implemented if the Proposed Action is not selected.

Widening along the existing alignment would require large rock cuts and retaining walls, which would be difficult to construct, and the highway would remain in close proximity to Dillon Reservoir. The length of SH 9 would remain the same as that of the existing highway. The tight Leslie's Curve would not be eliminated; however, safety features such as a barrier between opposing lanes would be installed to improve safety. With this alternative, approximately 0.8 mile of the existing Blue River Bikeway would be realigned to allow space for the highway widening. The length of bikeway would not change appreciably and the current relatively steep grades on the path would remain. Additional detail about the No Action Alternative, including typical sections, is provided in the EA main text and on the project drawings in Appendix A1 of the EA.

Section 4(f) uses with the No Action Alternative were described in the 2004 ROD (CDOT and FHWA, 2004), and further information is available in that document. If the No Action Alternative were to be selected (which is not currently anticipated), a reevaluation of the previously identified Section 4(f) uses would be needed.

Description of Frisco Peninsula Recreation Area

The Frisco Peninsula Recreation Area (see Figure 3) is approximately 216 acres that have been developed for various outdoor recreation activities. It is located on the north side of SH 9, adjacent and southwest of the



United States Forest Service (USFS) Peninsula Recreation Area. The property includes a disc golf course, skate park, ball fields, one multi-purpose field, an outdoor roller-blade park, picnic facilities, and several miles of walking, hiking, and bicycling trails. Winter uses include the Nordic Center with cross country skiing and snowshoe trails, a tubing hill, sleigh rides, and a day lodge.

The Frisco Nordic Center maintains approximately 25 miles of cross country skiing and snowshoe trails, during winter months, with trails traversing most of the Frisco Peninsula Recreation Area and the adjacent USFS Peninsula Recreation Area.

More than 300 summer visitors per day use the recreation area and facilities. An estimated 20,000 visitors use the trail system and sleigh ride facilities in the winter. There are two parking areas and vehicular access to the recreation area.

Proposed Action Section 4(f) Use of Frisco Peninsula Recreation Area

The Proposed Action would require 2.85 acres of right-of-way easement from the Frisco Peninsula Recreation Area (see Figure 3). This land would be needed for the widening of SH 9 and associated grading and water quality. This land is along the southern edge of the property, adjacent to SH 9, and the conversion of this land to right-of-way would not have a direct impact on recreation facilities and features.

In addition, the Proposed Action would include the construction of a new parking lot and a new bikeway and trail connection (Figure 3). These would provide mitigation for the closure of the Dickey Day Use Area Parking Lot, located in the USFS Peninsula Recreation Area. The new parking lot with bikeway and trail connection would not have an impact on recreation facilities and features of the Frisco Peninsula Recreation Area. This replacement parking lot with bikeway and trail connection does not constitute a Section 4(f) use, but the right-of-way acquisition from the Frisco Peninsula Recreation Area does.

Proposed Action Mitigation, Minimization, and/or Enhancement Measures

The replacement parking lot with the new bike and trail connection will be designed and constructed so that they are compatible with the Frisco Nordic Center trail network (see Figure 3). Impacted terrain outside the paved areas will be reseeded with native seed.

With respect to the Frisco Peninsula Recreation Area, the Proposed Action would provide the following benefits to the recreation resources and users that the No Action Alternative would not provide:

- Access to and from the Blue River Bikeway will also be improved for the Frisco Peninsula Recreation Area, USFS Peninsula Recreation Area, and Dillon Reservoir Recreation Area: Blue River Inlet.
- The realignment of SH 9 away from Dillon Reservoir and the realignment of the Bikeway along the current SH 9 will provide a direct connection for non-motorized users between the recreation areas and also will reduce the traffic noise at the shoreline.
- The replacement parking lot will be paved and will have approximately the same number of parking spaces as the existing unpaved Dickey Day Use Parking Lot to be closed.

Public Involvement

The SH 9 Iron Springs Alignment EA was made available for a 30-day public review and comment period from July 9, 2014, through August 8, 2014. A public hearing for the project was held during the public comment period on July 29, 2014, at the Summit County Community and Senior Center where the public was specifically asked to comment on the impacts to the Frisco Peninsula Recreation Area. During the public comment period, comments on any aspect of the project could be submitted in writing via e-mail, through the project website, by mail, by fax, or on a comment form provided at the public hearing. Verbal comments were also received at the public hearing.



During the public comment period, no comments were received regarding the use of the 2.85 acres of land needed from the Frisco Peninsula Recreation Area for widening of SH 9 and associated grading and water quality facilities.

Ten comments were received during the public comment period regarding the new parking lot (replacing the existing Dickey Day Use Lot) and the Bikeway connection to be constructed within the Frisco Peninsula Recreation Area. The commenters did not object to the construction of these facilities, but rather expressed concern regarding the added distance of approximately 3,000 feet, or one mile round trip, from the proposed lot to the Dillon Reservoir shoreline. Commenters stressed that the existing parking lot and trail provide quick access to the lakefront for fishermen, walkers, runners, and mountain bikers, including residents and visitors. Suggestions included a gravel road to provide access to the current lot (one commenter suggested a connection from Peak One Rd.), and relocation of the lot closer to the existing location. A secondary natural surface trail was suggested to best mitigate the relocation of the existing parking lot.

Other comments supported the proposed relocation because it would minimize additional site disturbance and road cuts, and enhance the recreational experience at the Dickey Day Use Area, once the highway is removed from the area. Also noted were improvements to recreation experience, water quality, safety, and views from the new path along the reservoir.

The proposed realignment of SH 9 Iron Springs and Blue River Bikeway resulted in the need to relocate the Dickey Day Use Parking Lot. CDOT considered six options for the relocation of the parking lot. The proposed location was selected due to access via Recreation Way and compatibility with the Nordic trail system and Frisco Peninsula Recreation Area management plans. Moving the Bikeway to the alignment currently occupied by SH 9, removing, and restoring the existing SH 9 road would provide an enhanced recreation experience along the Dillon Reservoir.

The increased distance is not inconsistent with the purpose of the trail, which is walking or mountain biking. In addition, the access for vehicle parking will be made safer because access from SH 9 will be via a signalized intersection at Recreation Way rather than the current unsignalized access to the Dickey Day Use Parking Lot.

One commenter expressed concern that the new parking lot and Bikeway connection should not impact the Nordic Center operation and Nordic trails. The conceptual design has been developed to avoid adverse impacts to the Nordic Center, and this will be carried through in final design.

Town of Frisco Consultation

Consultation with the Town of Frisco, the official with jurisdiction for the Frisco Peninsula Recreation Area, was conducted during scoping and development of the EA. The Town of Frisco has been very supportive of the project and has partnered with CDOT and FHWA by communicating the benefits of the realignment to other interested stakeholders in the project area. It is CDOT's understanding that the Town of Frisco agrees with CDOT and FHWA that this project will not adversely affect the activities, features, and attributes that qualify the Frisco Peninsula Recreation Area property for protection under Section 4(f).

Based on the information presented above and on the attached documentation, the effects of this proposed improvement on the Frisco Peninsula Recreation Area are considered a *de minimis* impact and the requirements of 23 USC 138(b), 49 USC 303(d), and 23 CFR 774 have been satisfied. This finding is considered valid unless new information is obtained or the proposed effects change to the extent that consultation must be reinitiated.



September 30, 2014
Mr. Bill Efting
Page 5

Should you have questions concerning the Section 4(f) process or any anything else related to this project, please feel free to contact me at 303.859.9535 or email me at: chuck.attardo@state.co.us.

Your concurrence is hereby requested. If you concur with this finding, please sign below.

Sincerely,



Chuck Attardo
Region Planning and Environmental Manager

Enclosures:

- Figure 1 – Proposed Action
- Figure 2 – No Action Alternative
- Figure 3 – Frisco Peninsula Recreation Area – Proposed Action

cc: Grant Anderson, CDOT
Troy Halouska, CDOT

I concur: Bill Efting 10-2-2014
Bill Efting, Town Manager Date



Figure 1. Proposed Action

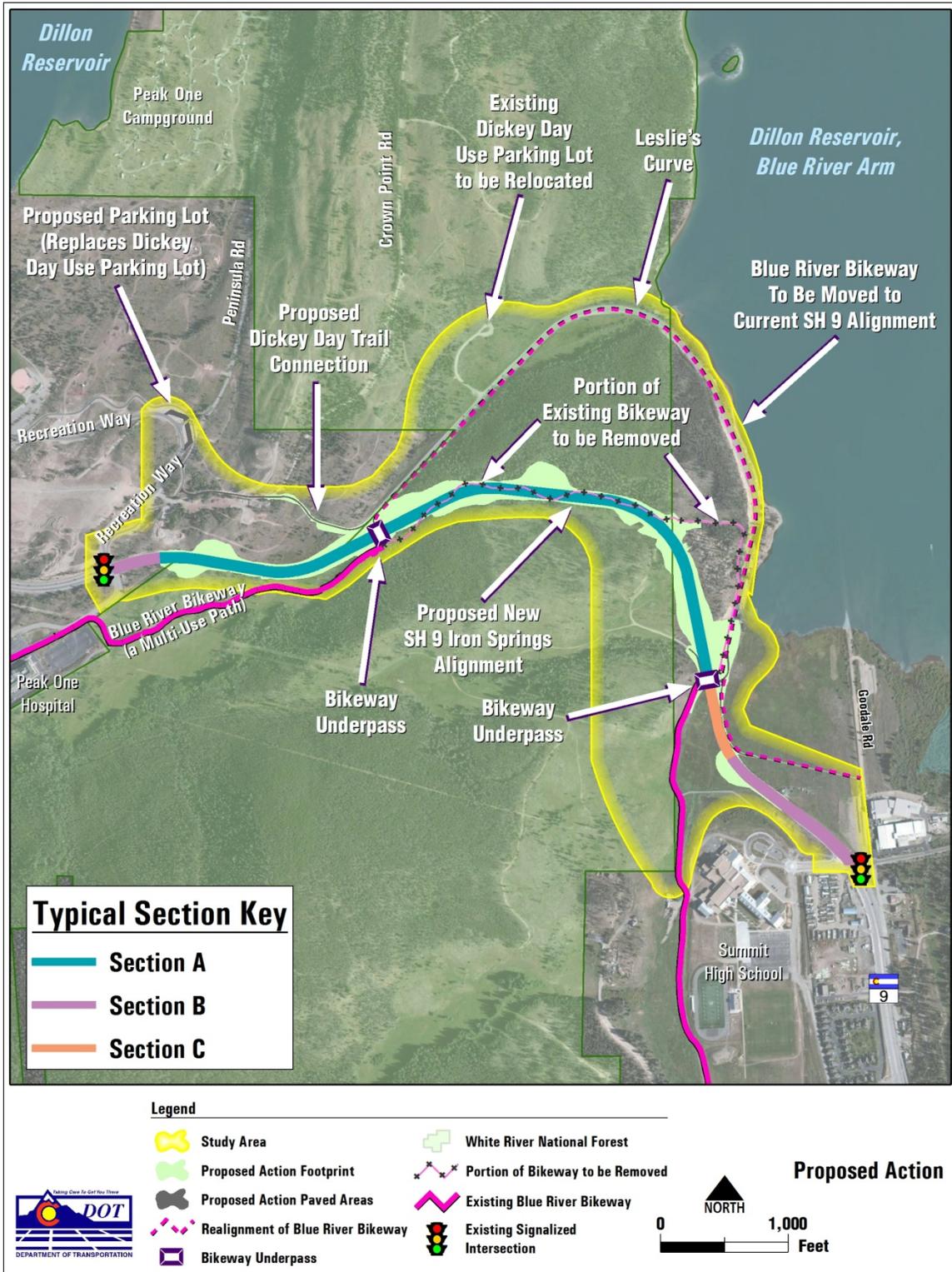


Figure 2. No Action Alternative (Previously Approved)

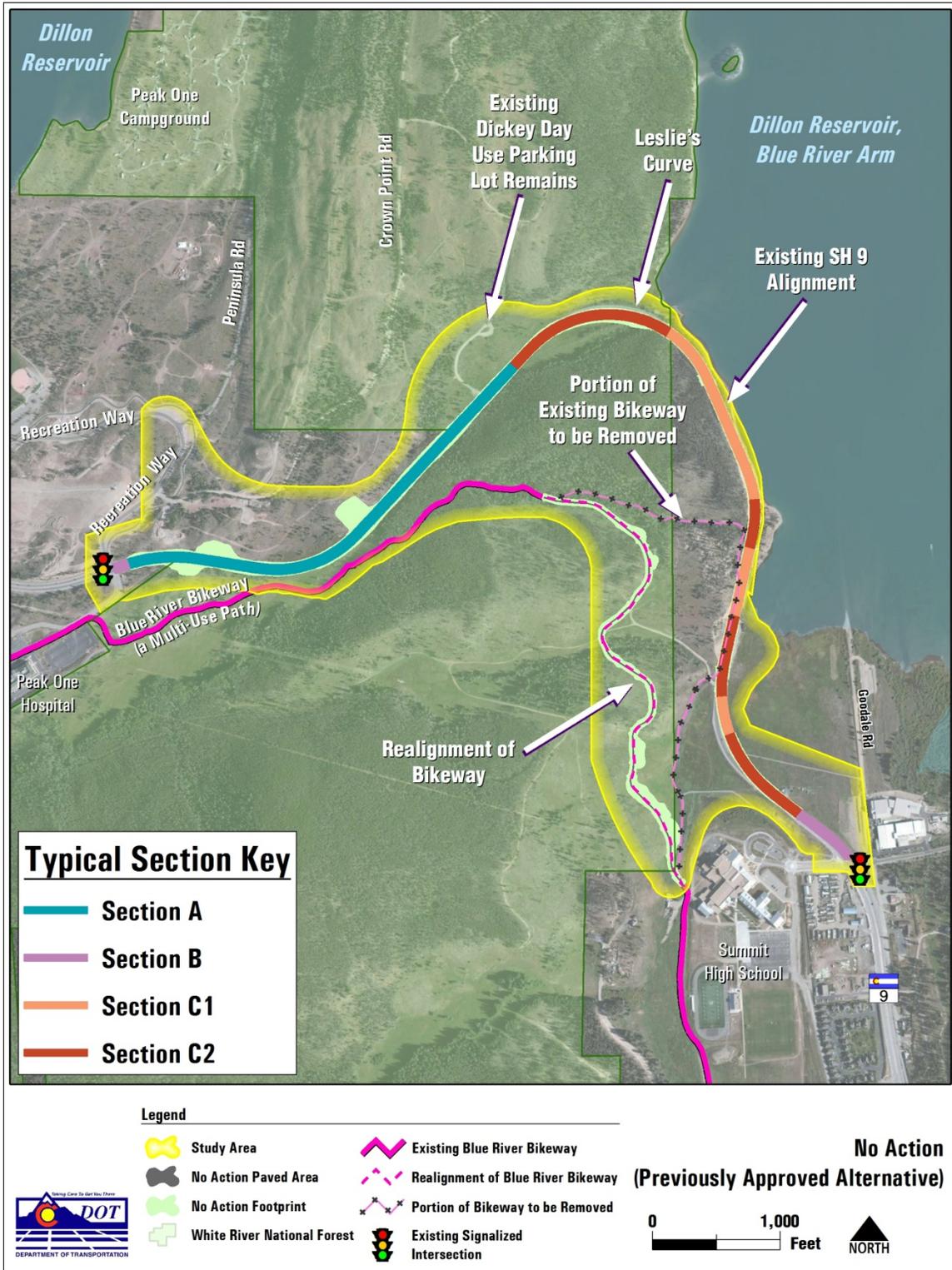
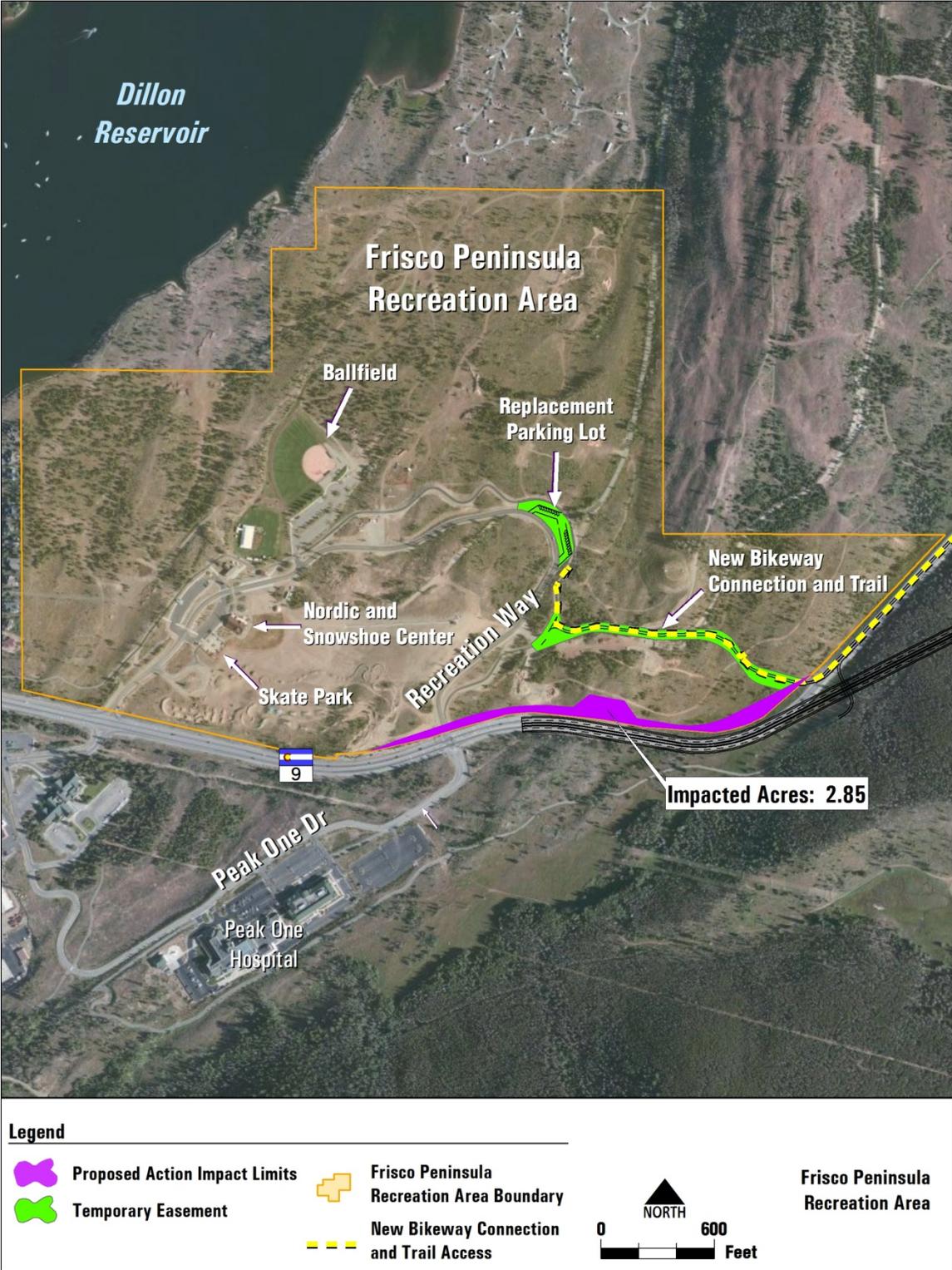


Figure 3. Frisco Peninsula Recreation Area – Proposed Action





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Department of Transportation
Region 1

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September 26, 2014

Ms. Jan Cutts
District Ranger
US Forest Service, Dillon Ranger District
PO Box 620
680 Blue River Parkway
Silverthorne, CO 80498

RE: *De Minimis* Impact Concurrence Request – United States Forest Service (USFS) Peninsula Recreation Area

Dear Jan:

This letter and attached materials constitute a request for review and concurrence on a finding of *de minimis* impact to the USFS Peninsula Recreation Area from the referenced project. The Colorado Department of Transportation (CDOT) and Federal Highway Administration (FHWA) are proposing the realignment of a portion of State Highway (SH) 9 south of Frisco, including a section of the Summit County Recreational Pathway System's Frisco-Farmer's Korner-Blue River Bikeway (referred to herein for brevity as the Blue River Bikeway or the Bikeway). As described in the SH 9 Iron Springs Alignment Environmental Assessment (EA) (CDOT and FHWA, 2014), the purpose of the project is to improve transportation along SH 9 by decreasing travel time, to improve safety, and to support the transportation needs of local and regional travelers while minimizing impacts to the surrounding environment and communities along the SH 9 corridor. Included in this letter are descriptions of the improvements for the SH 9 Proposed Action, the No Action Alternative, the USFS Peninsula Recreation Area, and Section 4(f) use. These descriptions are followed by the measures proposed to mitigate, minimize, or enhance uses of the USFS Peninsula Recreation Area; public involvement; and the finding of *de minimis* impacts.

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Use of a Section 4(f) property occurs: (1) when land is permanently incorporated into a transportation facility; or (2) when there is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose; or (3) when there is a constructive use (a project's proximity impacts are so severe that the protected activities, features, or attributes of a property are substantially impaired).

For publicly owned public parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that will not adversely affect the activities, features, or attributes of the property. A *de minimis* impact



determination does not require analysis to determine if avoidance alternatives are feasible and prudent, but consideration of avoidance, minimization, mitigation or enhancement measures should occur.

The FHWA is ultimately responsible for making all decisions related to Section 4(f) compliance. These include whether Section 4(f) applies to a property, whether a use will occur, whether a *de minimis* impact determination may be made, assessment of each alternative's impacts to Section 4(f) properties, and determining whether the law allows the selection of a particular alternative after consulting with the appropriate officials with jurisdiction.

Proposed Action

As part of implementation of the SH 9 improvements between Frisco and Breckenridge, CDOT and FHWA are proposing to realign approximately 1.3 miles of existing SH 9 just south of the Town of Frisco, Colorado (see **Figure 1**). This stretch of SH 9 between mileposts 93 and 95 would be realigned to provide a four-lane reduced section roadway away from Dillon Reservoir. This Proposed Action, also referred to as the Iron Springs Alignment, would shorten SH 9 by approximately 0.4 mile. The Proposed Action would provide roadway safety, water quality, and drinking water protection benefits to Dillon Reservoir by straightening the highway to remove a tight, compound curve (known as Leslie's Curve) adjacent to the reservoir. The existing condition on Leslie's Curve is considered substandard and contributes to accidents in the area.

The Proposed Action would include realignment of a portion of the existing Blue River Bikeway (see **Figure 1**). This portion of the Bikeway would be moved to the alignment currently occupied by SH 9, which would be approximately 0.4 mile longer than the existing bikeway and at a gentler grade than the current alignment. In addition, the Dickey Day Use Parking Lot, currently located in the USFS Peninsula Recreation Area, would be moved west to a new parking lot location on the adjacent Frisco Peninsula Recreation Area, to be constructed as part of the project. Access to the new lot location would be provided via Recreation Way, using the existing signalized intersection at SH 9 and Recreation Way. A new trail connection would be provided to link the proposed parking lot with the realigned bikeway and existing trail, which currently begins at the existing Dickey Day Use Parking Lot. Vehicle access to the existing Dickey Day Use Area Parking Lot would be eliminated as a part of the Proposed Action. Additional detail about the Proposed Action, including typical sections, is provided in the EA main text and on the project drawings in Appendix A1 of the EA.

No Action Alternative

If the Proposed Action is not selected for implementation, SH 9 would be widened to provide a four-lane reduced section roadway along the existing alignment as previously approved in the SH 9 Frisco to Breckenridge Environmental Impact Statement (EIS) and Record of Decision (ROD) (CDOT and FHWA, 2004) (see **Figure 2**). The 2004 Preferred Alternative is considered the "No Action Alternative" for the SH 9 EA and is used as a baseline for comparison with the Proposed Action. These improvements would be implemented if the Proposed Action is not selected.

Widening along the existing alignment would require large rock cuts and retaining walls, which would be difficult to construct, and the highway would remain in close proximity to Dillon Reservoir. The length of SH 9 would remain the same as that of the existing highway. The tight Leslie's Curve would not be eliminated; however, safety features such as a barrier between opposing lanes would be installed to improve safety. With this alternative, approximately 0.8 mile of the existing Blue River Bikeway would be realigned to allow space for the highway widening. The length of bikeway would not change appreciably and the current relatively steep grades on the path would remain. Additional detail about the No Action Alternative, including typical sections, is provided in the EA main text and on the project drawings in Appendix A1 of the EA.

Section 4(f) uses with the No Action Alternative were described in the 2004 ROD (CDOT and FHWA, 2004), and further information is available in that document. If the No Action Alternative were to be selected (which is not currently anticipated), a reevaluation of the previously identified Section 4(f) uses would be needed.



Property Description of the USFS Peninsula Recreation Area

The USFS Peninsula Recreation Area comprises approximately 592 acres of forested and lakeside lands located on the north side of SH 9. It occupies most of a peninsula of land extending into Dillon Reservoir. The USFS Peninsula Recreation Area supports a variety of uses, including hiking, camping (limited to two developed campgrounds), bicycling, fishing, cross country skiing, and snowshoeing. **Figure 3** shows the southern portion of the USFS Peninsula Recreation Area in the vicinity of SH 9.

Within the study area, the main recreation uses are hiking, mountain biking, and fishing with vehicle access to trails from the Dickey Day Use Area Parking Lot, which has access from SH 9. The access road to the Dickey Day Use Parking Lot is not regularly maintained in the winter. In winter months, cross country ski trails are maintained across most of the property as part of the Frisco Nordic Center trail system.

Proposed Action Section 4(f) Use of the USFS Peninsula Recreation Area

The Proposed Action would not require any land from the USFS Peninsula Recreation Area because SH 9 would be relocated away from the property (see **Figure 3**). Because SH 9 would no longer be located adjacent to the property, vehicle access to the existing Dickey Day Use Area Parking Lot would be eliminated. The removal of the direct roadway access is considered a Section 4(f) use.

Proposed Action Mitigation, Minimization, and/or Enhancement Measures

Replacement parking for the Dickey Day Use Parking Lot with new bikeway and trail connections will be provided on the adjacent Peninsula Recreation Area (see **Figure 3**). The replacement parking and trail connections were identified through extensive agency coordination including Summit County, Town of Frisco, and USFS. Appendix B of the EA contains a summary of the alternatives examined during agency coordination. Vehicle access to the new parking lot will be via Recreation Way and its signalized intersection with SH 9. The new paved parking lot will have approximately 20 vehicle spaces, which is approximately the same number of vehicles that are currently accommodated in the existing unpaved Dickey Day Use Parking Lot. The new bikeway and trail connection will add approximately 1,500 feet of bikeway/trail to the Bikeway network. The distance from the parking lot to the Dillon Reservoir's shoreline will be increased by approximately 3,000 feet. This increased distance is not inconsistent with the purpose of the trail, which is walking or mountain biking. In addition, the access for vehicle parking will be made safer because access from SH 9 will be via a signalized intersection at Recreation Way rather than the current unsignalized access to the Dickey Day Use Parking Lot.

The Dickey Day Use Area Parking Lot and access road to be closed will be reclaimed and reseeded with native seed. Signage will be provided for the new bikeway and trail connection.

With respect to the USFS Peninsula Recreation Area, the Proposed Action would provide the following benefits to the recreation resources and users that the No Action Alternative would not provide:

- Access to and from the Blue River Bikeway will be improved for the Frisco Peninsula Recreation Area, USFS Peninsula Recreation Area, and Dillon Reservoir Recreation Area: Blue River Inlet.
- The realignment of SH 9 away from Dillon Reservoir and the realignment of the Bikeway along the current SH 9 will provide a direct connection for non-motorized users between the recreation areas and also will reduce the traffic noise at the shoreline.

Public Involvement

The SH 9 Iron Springs Alignment EA was made available for a 30-day public review and comment period from July 9, 2014, through August 8, 2014. A public hearing for the project was held during the public comment period on July 29, 2014, at the Summit County Community and Senior Center where the public was specifically



asked to comment on the impacts to the USFS Peninsula Recreation Area. During the public comment period, comments on any aspect of the project could be submitted in writing via e-mail, through the project website, by mail, by fax, or on a comment form provided at the public hearing. Verbal comments were also received at the public hearing.

During the public comment period, a total of 10 comments related to the relocation of the Dickey Day Use Parking Lot from its current location on the USFS Peninsula Recreation Area were received. Most commenters were concerned about the added distance of approximately 3,000 feet, or one mile round trip, from the proposed lot to the Dillon Reservoir shoreline. They stressed that the existing parking lot and trail provide quick access to the lakefront for fishermen, walkers, runners, and mountain bikers, including residents and visitors. Suggestions included a gravel road to provide access to the current lot (one commenter suggested a connection from Peak One Rd.), and relocation of the lot closer to the existing location. A secondary natural surface trail was suggested to best mitigate the relocation of the existing parking lot.

Other comments supported the proposed relocation because it would minimize additional site disturbance and road cuts, and enhance the recreational experience at the Dillon Reservoir shoreline once the highway is removed from the area. Also noted were improvements to the recreation experience, water quality, safety, and views from the new path along the reservoir.

The proposed realignment of SH 9 Iron Springs and Blue River Bikeway resulted in the need to relocate the Dickey Day Use Parking Lot. CDOT considered six options for the relocation of the parking lot. The proposed location was selected due to access via Recreation Way and compatibility with the Nordic trail system and Frisco Peninsula Recreation Area management plans. Moving the Bikeway to the alignment currently occupied by SH 9, removing, and restoring the existing SH 9 alignment would provide an enhanced recreation experience along Dillon Reservoir.

While the Proposed Action would result in a relocation of the parking lot and an increased distance to the shoreline, this is not inconsistent with the purpose of the trail, which is walking or mountain biking. In addition, the access for vehicle parking will be made safer because access from SH 9 will be via a signalized intersection at Recreation Way rather than the current unsignalized access to the Dickey Day Use Parking Lot.

USFS Consultation

Consultation with the USFS, the official with jurisdiction for the USFS Peninsula Recreation Area, was conducted during scoping and development of the EA. It is CDOT's understanding that the USFS agrees with CDOT and FHWA that this project will not adversely affect the activities, features, and attributes that qualify the property for protection under Section 4(f).

Based on the information presented above and on the attached documentation, the effects of this proposed improvement on the USFS Peninsula Recreation Area are considered a *de minimis* impact and the requirements of 23 USC 138(b), 49 USC 303(d), and 23 CFR 774 have been satisfied. This finding is considered valid unless new information is obtained or the proposed effects change to the extent that consultation must be reinitiated.



Should you have questions concerning the Section 4(f) process any anything else related to this project, please feel free to contact me at 303.859.9535 or email me at: chuck.attardo@state.co.us.

Your concurrence is hereby requested. If you concur with this finding, please sign below.

Sincerely,



Chuck Attardo
Region Planning and Environmental Manager

Enclosures:

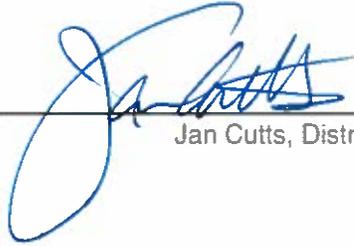
Figure 1 – Proposed Action

Figure 2 – No Action Alternative

Figure 3 – USFS Peninsula Recreation Area – Proposed Action

cc: Grant Anderson, CDOT
Troy Halouska, CDOT

I concur:



Jan Cutts, District Ranger

10/14/2014
Date



Figure 1. Proposed Action

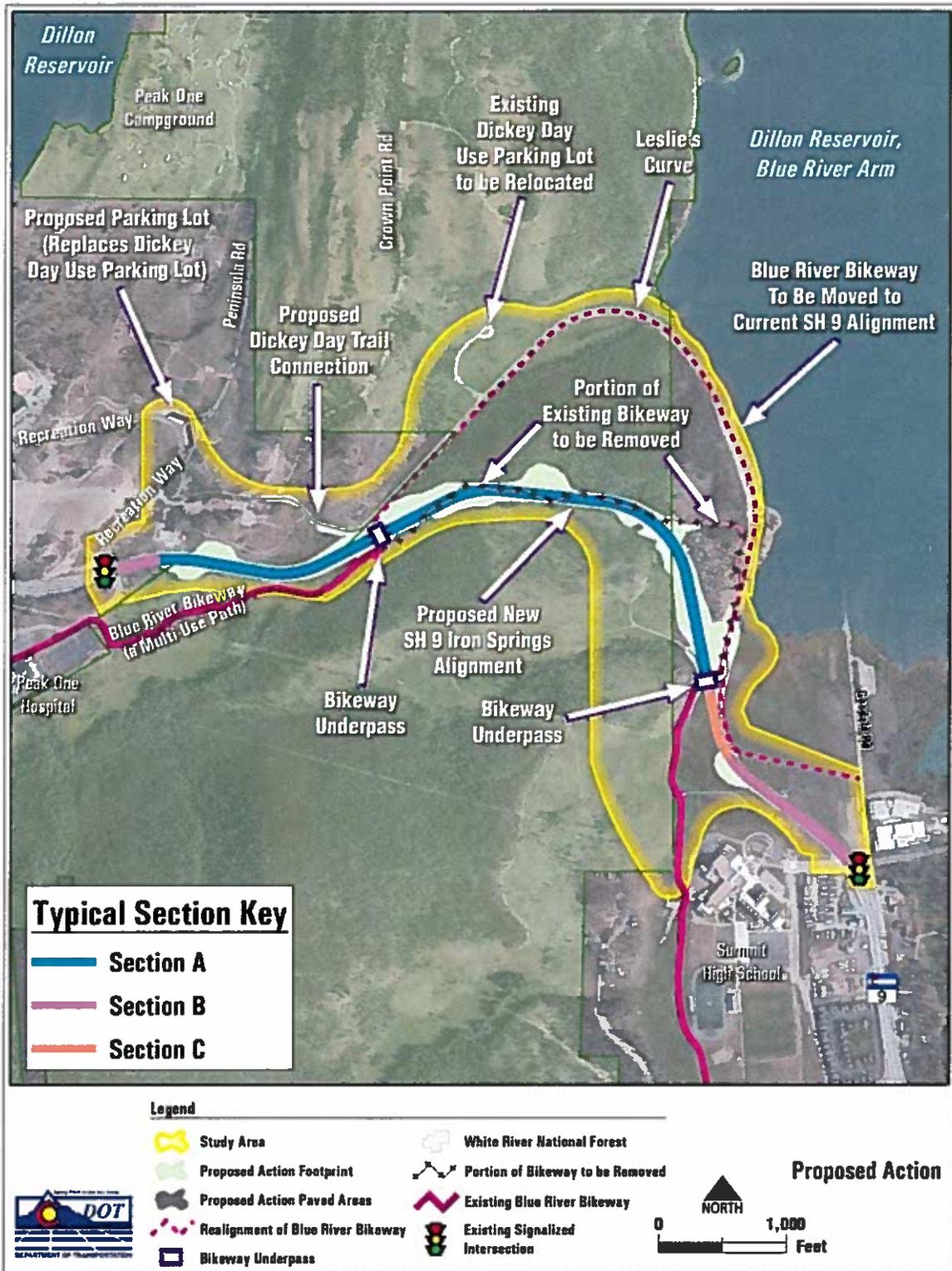


Figure 2. No Action Alternative (Previously Approved)

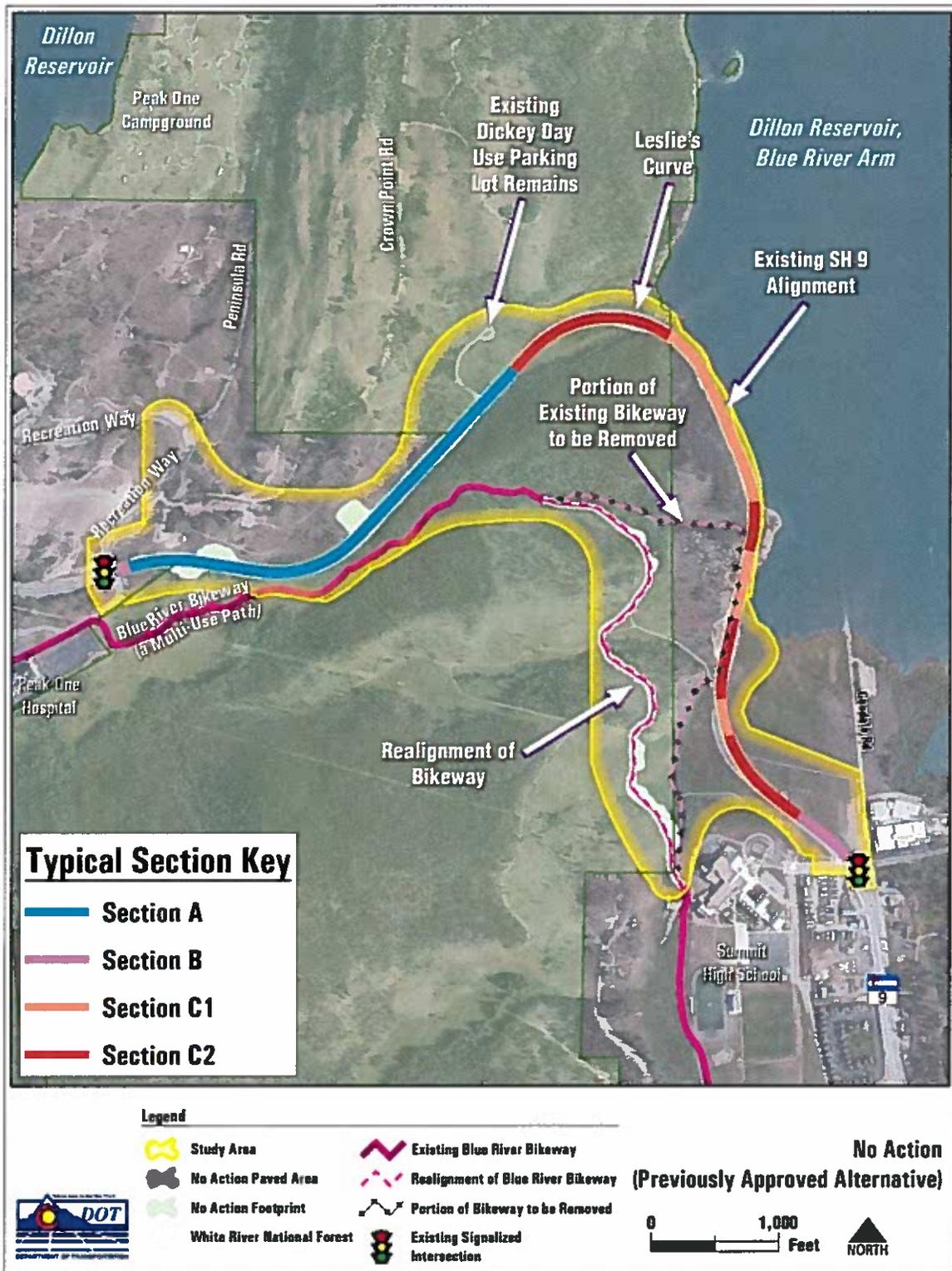


Figure 3. USFS Peninsula Recreation Area – Proposed Action

