



Laughlin-Bullhead City Bridge Project De Minimis Explanation

Section 4(f) *De Minimis* (*minimis* = minimal or trivial)

The U.S. Department of Transportation (DOT) Act was passed in 1966, and Section 4(f) of that legislation protects four special types of land uses (publicly owned parks, recreation areas, historic resources, and wildlife or waterfowl refuges) from impacts from Federal Highway Administration (FHWA) and other DOT projects. In 2005, Section 6009 of SAFETEA –LU, Section 4(f) amended previous legislation to simplify the processing and approval of projects that have de minimis impacts on 4(f) lands. On March 12, 2008 FHWA issued a Final Rule on Section 4(f). In addition, the Final Rule moves the Section 4(f) regulation to 23 CFR 774.

Under the 1966 regulations, where an FHWA project would have an impact to one or more of the four protected uses, an analysis must be done to show that:

1. there is no “feasible and prudent” alternative; and
2. all possible planning has been included to minimize harm.

In other words, a complete and thorough analysis of alternatives is required, and if there is a feasible and prudent alternative that avoids the use of a 4(f) resource, then that alternative must be selected.

However, under the current de minimis regulations, if FHWA has determined that the impacts are de minimis (a transportation use of public park lands would not adversely affect the activities, features, or attributes of the property) then an analysis to determine if avoidance alternatives are feasible and prudent is not required. Of course impact avoidance, minimization, mitigation, or enhancement measures must still be considered in the process.

The *de minimis* process contains several important steps:

1. Evaluate effects to the activities, features and attributes of the park from the project and determine that they would be minimal and not adverse.
2. Inform the agencies with jurisdiction over the park about the project and that the de minimis process is proposed. Because jurisdictional agencies must concur with the de minimis conclusions, they must be in agreement or the process cannot be used.
3. Prepare a written description of the park and the impacts and the conclusion that the effects will not be adverse. This can be a separate stand-alone finding or it can be included in the NEPA document. HDR has experience with both approaches; for the Laughlin–Bullhead City Bridge project, we are expecting to provide a section of text within the EA.
4. Prepare a concurrence letter from the project applicant, to the park jurisdictional agencies. The letter needs to include signature blocks for both Bullhead City and the BLM to sign that they are in agreement, as well as for FHWA/DOT.
5. Give the public notice that they will have an opportunity to review and comment on the effects to the park and on the use of the 4(f) de minimis process.
6. Conduct a public meeting. This can be combined with another required public meeting.
7. Collect concurrence signatures from all appropriate agencies. It's important to have the public meeting before you get the signatures, in case the public raises any issues that might affect the agreement.
8. Attach the letter and the Finding to the NEPA document as an appendix. The EA must include written concurrence from all necessary agencies.

De minimis is an appropriate approach for the Riverview alignment because impacts to Rotary Park are minimal and would not adversely affect the activities, features, or attributes of the park.