

3.13 ENVIRONMENTAL JUSTICE

The assessment of the proposed project's potential impacts on environmental justice relate to this definition, offered by the U.S. Environmental Protection Agency (EPA 2009d):

“Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair Treatment means that no group of people, including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal environmental programs and policies.”

Analysis of the potential impacts entails comparing two scenarios of the future: one without the project and one with it, with the proposed project's impacts being the difference between the two. The scenario without the project is commonly called the expected baseline.

3.13.1 Environmental Setting

This subsection describes the current conditions relevant to the environmental justice analysis in the study area, and the expected future conditions without the proposed project, which together constitute the baseline. This baseline also serves as the no action alternative, required under NEPA. The study area for the environmental justice analysis extends 6 miles from the proposed project route. Census data provide the basis for identifying areas with a sufficiently high concentration of low-income or minority racial and ethnic populations to warrant concern that they might bear a disproportionate share of the negative environmental consequences resulting from the proposed project. Methods for identifying these populations of concern are described in Subsection 3.13.4.

3.13.1.1 Current Environmental Justice Setting

Tables 3.13-1 and 3.13-2 show the percentages of low-income and minority populations in the study area and at the state level. Table 3.13-1 shows the percentage of the population with 1999 income below the poverty level for the core study area counties and statewide for Montana and Idaho. Table 3.13-2 shows the percentage of the population in the core study area and statewide for Montana and Idaho who identified themselves as a racial or ethnic minority in the 2000 Census.

Tables 3.13-3 through 3.13-8 report the Census Block Groups within each zone that contained more than 20 percent low-income and 25 percent racial and ethnic minorities. Census Block Groups that exceed 50 percent of the population of the study area are shown in bold text. Tables in Appendix C.13 show the percentage of the population that identified themselves as an ethnic or racial minority in each census block group, tract, and alternative, by zone, and the percentage of the population below the poverty level in each census block group, tract, and alternative, by zone. Appendix C.13 also provides maps of the census tracts, by zone.

Zone 1. Table 3.13-3 shows the Census Block Groups within 6 miles of the alternatives in Zone 1 in which 20 percent or more of the population lived below the poverty level in 1999. On average, almost 14 percent of the population of the Census Block Groups within Zone 1 had incomes below the poverty level. The highest concentration of people living below the poverty level was in Silver Bow County, where more than 60 percent of the population in Census Block Group 5 in Census Tract 1 was below the poverty level. Census Block Group 4 in Census Tract 1 had the next highest concentration, 47.5 percent.

Table 3.13-1. Low-Income Populations in the Core Study Area

Jurisdiction	Percentage of Population with 1999 Income Below the Poverty Level
Montana	15.0
Beaverhead	17.1
Broadwater	10.8
Deer Lodge	15.8
Jefferson	9.0
Madison	12.1
Silver Bow	14.9
Idaho	12.0
Bingham	12.4
Blaine	7.8
Bonneville	7.4
Butte	18.2
Clark	19.9
Jefferson	10.4
Jerome	13.9
Lincoln	13.1
Minidoka	14.8
Power	16.1

Source: ECONorthwest, with data from the U.S. Census Bureau (2000c)

Table 3.13-2. Racial and Ethnic Minority Populations in the Core Study Area

Jurisdiction	Percentage of Population Racial or Ethnic Minority
Montana	10.0
Beaverhead	5.2
Broadwater	3.3
Deer Lodge	4.4
Jefferson	4.3
Madison	3.8
Silver Bow	5.3
Idaho	13.0
Bingham	23.9
Blaine	15.0
Bonneville	10.8
Butte	8.1
Clark	39.9
Jefferson	15.3
Jerome	21.1
Lincoln	20.9
Minidoka	34.0
Power	24.9

Source: ECONorthwest, with data from the U.S. Census Bureau (2000a)

Table 3.13-3. Low-Income Populations that Exceed 20 Percent of the Total Population in Zone 1

Census Block Group	Alternatives	Percentage of Population Below the Poverty Level
Block Group 5, Census Tract 1, Silver Bow County	1B, 1C	60.5
Block Group 4, Census Tract 1, Silver Bow County	1B, 1C	47.5
Block Group 1, Census Tract 2, Silver Bow County	1C	42.0
Block Group 2, Census Tract 3, Deer Lodge County	1A, 1B, 1C	32.8
Block Group 4, Census Tract 6, Silver Bow County	1B, 1C	32.5
Block Group 6, Census Tract 1, Silver Bow County	1B, 1C	31.8
Block Group 7, Census Tract 1, Silver Bow County	1B, 1C	30.7
Block Group 2, Census Tract 2, Silver Bow County	1B, 1C	29.4
Block Group 3, Census Tract 3, Deer Lodge County	1A, 1B, 1C	28.4
Block Group 1, Census Tract 2, Deer Lodge County	1A, 1B, 1C	26.0
Block Group 3, Census Tract 4, Deer Lodge County	1A, 1B, 1C	23.2
Block Group 4, Census Tract 4, Deer Lodge County	1A, 1B, 1C	22.8
Block Group 3, Census Tract 6, Silver Bow County	1B, 1C	22.8
Block Group 7, Census Tract 2, Silver Bow County	1B, 1C	21.6
Block Group 3, Census Tract 2, Silver Bow County	1B, 1C	21.1
Block Group 5, Census Tract 6, Silver Bow County	1B, 1C	20.5

Source: ECONorthwest, with data from the U.S. Census Bureau (2000c)

In Zone 1, the only county where 25 percent or more of the population reported a racial or ethnic affiliation as a minority is in Block Group 6, Census Tract 2, in Silver Bow County. There, 25 percent of the population self-identified as something other than white alone. The average of all Block Groups within Zone 1 is about 94 percent white alone, and about 6 percent racial or ethnic minority.

Zone 2. Table 3.13-4 shows the Census Block Groups within 6 miles of the alternatives in Zone 2 in which 20 percent or more of the population lived below the poverty level in 1999. On average, almost 15 percent of the population of the Census Block Groups within Zone 2 had incomes below the poverty level. The highest concentration of people living below the poverty level was in Silver Bow County, where more than 60 percent of the population in Census Block Group 5 in Census Tract 1 was below the poverty level. Census Block Group 4 in Census Tract 1 had the next highest concentration, 47.5 percent.

In Zone 2, no Census Block Groups had a racial or ethnic minority population greater than 25 percent. The average of all Block Groups within Zone 2 was about 94 percent white alone, and about 6 percent racial or ethnic minority.

Zone 3. Table 3.13-5 shows the Census Block Groups within 6 miles of the alternatives in Zone 3 that had greater than 20 percent of the population living below the poverty level in 1999. On average, about 17 percent of the population of the Census Block Groups within Zone 3 had incomes below the poverty level. The highest concentration of people living below the poverty level was in Beaverhead County, where more than 29 percent of the population in Census Block Group 2 in Census Tract 1 was below the poverty level. Census Block Group 2 in Census Tract 3 had the next highest concentration, 29 percent.

Table 3.13-4. Low-Income Populations that Exceed 20 Percent of the Total Population in Zone 2

Census Block Group	Alternatives	Percentage of Population Below the Poverty Level
Block Group 5, Census Tract 1, Silver Bow County	2C	60.5
Block Group 4, Census Tract 1, Silver Bow County	2C	47.5
Block Group 2, Census Tract 3, Deer Lodge County	2A, 2B, 2C, 2D	32.8
Block Group 4, Census Tract 6, Silver Bow County	2C	32.5
Block Group 6, Census Tract 1, Silver Bow County	2C	31.8
Block Group 7, Census Tract 1, Silver Bow County	2C	30.7
Block Group 2, Census Tract 2, Silver Bow County	2C	29.4
Block Group 3, Census Tract 3, Deer Lodge County	2A, 2B, 2C, 2D	28.4
Block Group 1, Census Tract 2, Deer Lodge County	2A, 2B, 2C, 2D	26.0
Block Group 3, Census Tract 4, Deer Lodge County	2A, 2B, 2C, 2D	23.2
Block Group 4, Census Tract 4, Deer Lodge County	2A, 2B, 2C, 2D	22.8
Block Group 3, Census Tract 6, Silver Bow County	2C	22.8
Block Group 7, Census Tract 2, Silver Bow County	2C	21.6
Block Group 3, Census Tract 2, Silver Bow County	2C	21.1
Block Group 5, Census Tract 6, Silver Bow County	2C	20.5

Source: ECONorthwest, with data from the U.S. Census Bureau (2000b)

Table 3.13-5. Low-Income Populations that Exceed 20 Percent of the Total Population in Zone 3

Census Block Group	Alternatives	Percentage of Population Below the Poverty Level
Block Group 2, Census Tract 1, Beaverhead County	3A, 3B, 3C	29.5
Block Group 2, Census Tract 3, Beaverhead County	3B	29.0
Block Group 3, Census Tract 3, Beaverhead County	3B	20.4
Block Group 3, Census Tract 1, Beaverhead County	3A, 3B, 3C	20.3

Source: ECONorthwest, with data from the U.S. Census Bureau (2000c)

In Zone 3, no Census Block Groups had a racial or ethnic minority population greater than 25 percent. The average of all Block Groups within Zone 3 was about 94 percent white alone, and about 6 percent racial or ethnic minority.

Zone 4. Only one Census Block Group within 6 miles of the alternatives in Zone 4 had greater than 20 percent of the population living below the poverty level in 1999. On average, about 20 percent of the population of the Census Block Groups within Zone 4 had incomes below the poverty level. The highest concentration of people living below the poverty level was in Clark County, where more than 27 percent of the population in Census Block Group 2 in Census Tract 9501 was below the poverty level.

In Zone 4, the only county where 25 percent or more of the population reported a racial or ethnic affiliation as a minority was in Block Group 1, Census Tract 9501, in Clark County. There, 40 percent of

the population self-identified as something other than white alone. The average of all Block Groups within Zone 4 was about 63 percent white alone, and about 37 percent racial or ethnic minority.

Zone 5. Table 3.13-6 shows the Census Block Groups within 6 miles of the alternatives in Zone 5 that had greater than 20 percent of the population living below the poverty level in 1999. On average, about 12 percent of the population of the Census Block Groups within Zone 5 had incomes below the poverty level. The highest concentration of people living below the poverty level was in Bingham County, where 37 percent of the population in Census Block Group 2 in Census Tract 9508 was below the poverty level. The next highest concentration was more than 28 percent in Block 4, Census Tract 9701, in Butte County.

Table 3.13-6. Low-Income Populations that Exceed 20 Percent of the Total Population in Zone 5

Census Block Group	Alternatives	Percentage of Population Below the Poverty Level
Block Group 2, Census Tract 9508, Bingham County	5C	37.0
Block Group 4, Census Tract 9701, Butte County	5A, 5B	28.3
Block Group 2, Census Tract 9501, Clark County	5A, 5B, 5C, 5D	27.3
Block Group 3, Census Tract 9601, Jefferson County	5A, 5B, 5C, 5D	23.3
Block Group 3, Census Tract 9505, Bingham County	5C	20.1

Source: ECONorthwest, with data from the U.S. Census Bureau (2000c)

Table 3.13-7 shows the Census Block Groups within 6 miles of the alternatives in Zone 5 that had a racial or ethnic minority population greater than 25 percent. The highest concentration of racial and ethnic minorities was more than 88 percent in Block Group 2, Census Tract 9508, in Bingham County. The next highest concentration was more than 82 percent in Block Group 1, Census Tract 9508, in Bingham County. The average of all Block Groups within Zone 5 was about 81 percent white alone, and about 19 percent racial or ethnic minority.

Zone 6. Only one Census Block Group within 6 miles of the alternatives in Zone 6 had greater than 20 percent of the population living below the poverty level in 1999. On average, about 14 percent of the population of the Census Block Groups within Zone 6 had incomes below the poverty level. The highest concentration of people living below the poverty level was in Minidoka County, where almost 23 percent of the population in Census Block Group 4 in Census Tract 9803 was below the poverty level.

Table 3.13-8 shows the Census Block Groups within 6 miles of the alternatives in Zone 6 that had a racial or ethnic minority population greater than 25 percent in 2000. The highest concentration of racial and ethnic minorities was nearly 55 percent in Block Group 4, Census Tract 9803, in Minidoka County. The next highest concentration was about 35 percent in Block Group 2, Census Tract 9801, in Power County. The average of all Block Groups within Zone 6 was 78 percent white alone, and 22 percent racial or ethnic minority.

3.13.1.2 Expected Future Environmental Justice Setting without the Proposed Project

Recent demographic and socioeconomic trends indicate that, for the foreseeable future, the locations with concentrations of low-income or minority racial/ethnic populations high enough to raise environmental justice concerns likely will remain unchanged from those that exist today.

Table 3.13-7. Racial and Ethnic Minority Populations that Exceed 25 Percent of the Total Population in Zone 5

Census Block Group	Alternatives	Percentage of Population Racial or Ethnic Minority
Block Group 2, Census Tract 9508, Bingham County	5C	88.5
Block Group 1, Census Tract 9508, Bingham County	5C	82.2
Block Group 1, Census Tract 9501, Clark County	5A, 5B, 5C, 5D	40.4
Block Group 2, Census Tract 9506, Bingham County	5C	40.0
Block Group 1, Census Tract 9601, Jefferson County	5B, 5C, 5D	31.4
Block Group 3, Census Tract 9505, Bingham County	5C	27.8
Block Group 3, Census Tract 9601, Jefferson County	5A, 5B, 5C, 5D	25.5
Block Group 1, Census Tract 9715, Bonneville County	5B, 5C, 5D	25.1

Source: ECONorthwest, with data from the U.S. Census Bureau (2000a)

Table 3.13-8. Racial and Ethnic Minority Populations that Exceed 25 Percent of the Total Population in Zone 6

Census Block Group	Alternative	Percentage of Population Racial or Ethnic Minority
Block Group 4, Census Tract 9803, Minidoka County	6A	54.9
Block Group 2, Census Tract 9801, Power County	6A	34.6
Block Group 1, Census Tract 9501, Cassia County	6A	26.7
Block Group 1, Census Tract 9701, Jerome County	6A	25.2

Source: ECONorthwest, with data from the U.S. Census Bureau (2000a)

3.13.2 Regulatory Setting

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, issued by President Clinton in 1994 (Federal Register 1994), requires that each federal agency develop an environmental justice strategy that identifies and addresses “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” The President specifically directed agencies to analyze the effects of potential actions on minority and low-income communities through the NEPA review process (CEQ 1997).

3.13.3 Public Attitudes and Concerns

During the scoping process (PBS&J 2009d) commenters raised concerns about the proposed project’s impact on low-income, disabled, and elderly populations. The concerns related to how the proposed project would affect these populations financially, because they operate on a fixed income and may not be able to move or afford legal representation. Other commenters raised concerns about the proposed project’s disproportionate impacts on Native Americans. Some comments addressed issues related to the distribution of costs and benefits associated with the project. Commenters raised the issues of potential lack of fair compensation paid to those who suffer damages resulting from construction of the proposed project and the likelihood that the affected states would not benefit economically from the proposed project.

3.13.4 Analysis Methods

For the environmental justice analysis, data are analyzed by Census Block Group, the smallest geographic unit for which the U.S. Census Bureau publishes sample data. Data for the minority and low-income populations were collected and reviewed from the 2000 Census, the most recent data available, for the Census Block Groups within 6 miles of the proposed project alternative routes. Low-income populations were identified as those with 1999 income below the poverty level, as reported in the 2000 Census data. Minority populations were identified with racial data from the 2000 Census data. Detailed 2000 Census data and maps for each Census Block Group included in this analysis are in Appendix C.13.

The Council on Environmental Quality (CEQ 1997) directs environmental justice analyses to consider concentrations of ethnic and racial minority populations and low-income populations that the proposed project could affect. Geographic areas where ethnic and racial minorities exceed 50 percent of the population must be identified. Geographic areas where the percentage of the ethnic and racial minority population is “meaningfully greater” than the percentage in the surrounding area should also be identified. For the purposes of this analysis, geographic areas where the ethnic and racial minority populations constitute 25 percent of the total population are identified. This threshold is 10 percent higher than the overall percentage of the population in the counties where the proposed project is located. Low-Income populations are identified using the U.S. Census Bureau’s definition of a poverty area, where 20 percent of the population is below the federal poverty level, based on their income in 1999 (U.S. Census Bureau 2009b).

3.13.5 Impact Analysis

The analysis of existing low-income and racial and ethnic minority populations within the study area, presented in Subsection 3.13.1.1, identifies four Census Block Groups within the study area where there are racial and ethnic minority populations and populations below the poverty level that exceed 50 percent of the total population:

- Census Block Group 5 in Census Tract 1 in Silver Bow County, where more than 60 percent of the population was below the poverty level.
- Census Block Group 2 in Census Tract 9508 in Bingham County, where more than 88 percent of the population identified themselves as a racial or ethnic minority.
- Census Block Group 1 in Census Tract 9508 in Bingham County, where more than 82 percent of the population identified themselves as a racial or ethnic minority.
- Census Block Group 4 in Census Tract 9803 in Minidoka County, where almost 55 percent of the population identified themselves as a racial or ethnic minority.

Alternatives 1B, 1C, 2C, 5C, and 6A would impact these populations.

Several other Census Block Groups in the study area have low-income and minority population that falls below the 50 percent standard, but is higher than the surrounding areas and higher than the county and state levels. Tables 3.13-9 and 3.13-10 list these areas.

Table 3.13-9. Low-Income Populations that Exceed 20 Percent of the Total Population in the Study Area

Census Block Group	Alternatives	Percentage of Population Below the Poverty Level
Block Group 5, Census Tract 1, Silver Bow County	1B, 1C, 2C	61.0
Block Group 4, Census Tract 1, Silver Bow County	1B, 1C, 2C	48.0
Block Group 1, Census Tract 2, Silver Bow County	1C	42.0
Block Group 2, Census Tract 9508, Bingham County	5C	37.0
Block Group 2, Census Tract 3, Deer Lodge County	1A, 1B, 1C, 2A, 2B, 2C, 2D	33.0
Block Group 4, Census Tract 6, Silver Bow County	1B, 1C, 2C	33.0
Block Group 6, Census Tract 1, Silver Bow County	1B, 1C, 2C	32.0
Block Group 7, Census Tract 1, Silver Bow County	1B, 1C, 2C	31.0
Block Group 2, Census Tract 1, Beaverhead County	3A, 3B, 3C	30.0
Block Group 2, Census Tract 2, Silver Bow County	1B, 1C, 2C	29.0
Block Group 2, Census Tract 3, Beaverhead County	3B	29.0
Block Group 3, Census Tract 3, Deer Lodge County	1A, 1B, 1C, 2A, 2B, 2C, 2D	28.0
Block Group 4, Census Tract 9701, Butte County	5A, 5B	28.0
Block Group 2, Census Tract 9501, Clark County	4A, 5A, 5B, 5C, 5D	27.0
Block Group 1, Census Tract 2, Deer Lodge County	1A, 1B, 1C, 2A, 2B, 2C, 2D	26.0
Block Group 3, Census Tract 9601, Jefferson County	5A, 5B, 5C, 5D	23.3
Block Group 3, Census Tract 4, Deer Lodge County	1A, 1B, 1C, 2A, 2B, 2C, 2D	23.2
Block Group 4, Census Tract 9803, Minidoka County	6A	22.9
Block Group 4, Census Tract 4, Deer Lodge County	1A, 1B, 1C, 2A, 2B, 2C, 2D	22.8
Block Group 3, Census Tract 6, Silver Bow County	1B, 1C, 2C	22.8
Block Group 7, Census Tract 2, Silver Bow County	1B, 1C, 2C	21.6
Block Group 3, Census Tract 2, Silver Bow County	1B, 1C, 2C	21.1
Block Group 5, Census Tract 6, Silver Bow County	1B, 1C, 2C	20.5
Block Group 3, Census Tract 3, Beaverhead County	3B	20.4
Block Group 3, Census Tract 1, Beaverhead County	3A, 3B, 3C	20.3
Block Group 3, Census Tract 9505, Bingham County	5C	20.1

Source: ECONorthwest, with data from U.S. Census Bureau (2000c)

The Census Block Groups identified for the environmental justice analysis based on income status are located along the entire length of the proposed project, although they are concentrated in proximity to Alternatives 1B, 1C, and 2C in Silver Bow and Deer Lodge Counties, where 16 of the 26 Census Block Groups identified by poverty status are located. While a few of the Census Block Groups identified based on racial or ethnic minority status are located in Montana, they are primarily concentrated in the southern part of the study area, along Alternative 5C in Bingham County, Idaho.

Overall, the proposed project does not appear to exhibit systematic bias toward placing the proposed project in low-income or racial or ethnic minority communities. Of the 139 Census Block Groups within 6 miles of the proposed project, just 19 percent had greater than 20 percent of the population below the poverty limit, and just 9 percent had greater than 25 percent of the population describe themselves as a racial or ethnic minority.

Table 3.13-10. Racial and Ethnic Minority Populations that Exceed 25 Percent of the Total Population in the Study Area

Census Block Group	Alternatives	Percentage of Population Racial or Ethnic Minority
Block Group 2, Census Tract 9508, Bingham County	5C	89
Block Group 1, Census Tract 9508, Bingham County	5C	82
Block Group 4, Census Tract 9803, Minidoka County	6A	55
Block Group 1, Census Tract 9501, Clark County	4A, 5A, 5B, 5C, 5D	40
Block Group 2, Census Tract 9506, Bingham County	5C	40
Block Group 2, Census Tract 9801, Power County	6A	35
Block Group 1, Census Tract 9601, Jefferson County	5B, 5C, 5D	31
Block Group 3, Census Tract 9505, Bingham County	5C	28
Block Group 1, Census Tract 9501, Cassia County	6A	27
Block Group 3, Census Tract 9601, Jefferson County	5A, 5B, 5C, 5D	26
Block Group 1, Census Tract 9701, Jerome County	6A	25
Block Group 1, Census Tract 9715, Bonneville County	5B, 5C, 5D	25
Block Group 6, Census Tract 2, Silver Bow County	1C	25

Source: ECONorthwest, with data from U.S. Census Bureau (2000a)

That there appears to be no systematic bias in the proposed project’s placement, however, does not mean that the proposed project would not have disproportionate impacts on low-income and racial and ethnic minority populations within the study area. For example, low-income populations living near the proposed project will have lower disposable income to address health and other concerns they might have if the proposed project is located near their residence. Low-income populations and populations whose primary language is not English may be at a disadvantage in voicing their opinion regarding the proposed project, or hiring legal representation or other counsel to seek compensation for reductions in property value due to the placement of easements or towers on or near their land.

Disproportionate impacts may also occur should the proposed project increase the electricity rates of residents in the study area, as a commissioner of the Montana Public Service Commission has recently suggested might occur (Dennison 2009). This is because any increase in electricity rates would constitute a higher percentage of the disposable income of low-income households relative to high-income households (Eisenberg 2008).

Households with lower incomes also would have fewer economic resources to accommodate the adverse effects of the proposed project’s construction-related activities. If these activities were to generate dust or noise, for example, these households would have less disposable income to cover the costs of cleaning or dampening the noise. Hence, construction activities might have a disproportionate adverse effect on populations of concern if located in or routed through low-income communities.

3.13.6 Mitigation Measures

Although disproportionate impacts on low-income and minority populations in the study area may occur, the specific distribution and magnitude of these impacts are impossible to predict given available information. It is, therefore, difficult to develop specific mitigation measures to address these impacts at this stage in the planning process. To the extent possible, the project proponent should make its plans and communication efforts accessible to non-English-speaking populations. During construction activities, it should communicate clearly with potentially affected populations what they can do to report disruptions,

and it should respond promptly and fully to complaints and concerns. In the event the proposed project increases electricity rates, the project proponent should be prepared to analyze the effect specific impact rate increases would have on low-income populations and develop plans to minimize the impact on these populations.