

# JOINT APPLICATION FOR PROPOSED WORK IN MONTANA’S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES INFORMATION FOR APPLICANT

**Please read carefully.**

## **BEFORE YOU BEGIN**

1. Review “*A Guide to Stream Permitting in Montana*” to determine which permits are applicable to your project. This guide is available from all participating agencies and on line at [www.dnrc.mt.gov/licenses-and-permits/stream-permitting](http://www.dnrc.mt.gov/licenses-and-permits/stream-permitting). Please note: permits may be required from other agencies than those listed on this form. You must apply to those agencies on separate forms if the law applies.
2. Most agencies require that you attach a plan or drawing to the application. An applicant may be required to hire a professional engineer and/or surveyor depending on which permit type and the potential project impacts.
3. Keep in mind that you will be required to design your project in a manner that minimizes impacts, including sedimentation and erosion during and after project construction. Consider how the project is designed to preserve and protect the river or stream keeping it in as natural condition as possible. Contact agencies to find out if specific criteria apply to your project.
4. It is recommended that you do not purchase materials for project construction until all permits are issued. The size and type of materials may be modified during the permitting process.
5. Most agencies require that you provide a project site legal description and a site map. You may obtain land descriptions by contacting the county assessor or clerk and recorder office. Aerial photographs sometimes may be obtained by contacting your local conservation district, or if you have the internet, you may obtain photos of the project site through the state’s natural resource inventory system ([www.nris.mt.gov](http://www.nris.mt.gov)), or through a mapping website such as map quest or google earth.
6. Know that vegetation is important to the stability and health of the stream. Detail your plan to limit vegetation removal, limit the amount of bare ground at the project site, and the weed control methods to be utilized in association with this project.
7. The use of clean equipment can help prevent the spread of aquatic invasive species. How will you ensure that your equipment is free of weeds, weed seeds, and excess grease before using it in a waterway? Cleaning mud and aquatic plants from heavy machinery or other equipment before moving between waters and work sites can help prevent the spread of weeds and aquatic invasive species. Draining water from machinery and letting the machinery dry before moving to another location is a useful tool in preventing the spread of aquatic invasive species. The following website shows waterbodies that are known to be infested with invasive species:  
<https://fwp.mt.gov/conservation/aquatic-invasive-species>.
8. For a reference guide, most participating agencies have copies of a notebook entitled “*Montana Stream Permitting: A Guide for Conservation District Supervisors and Others*,” that contains information about stream dynamics and describes various options for projects. The book is also available on DNRC’s website: at [www.dnrc.mt.gov/licenses-and-permits/stream-permitting](http://www.dnrc.mt.gov/licenses-and-permits/stream-permitting).

## **HOW TO APPLY:**

**The joint application form can be used to obtain permits from the local, state, and federal agencies listed in the box below.** The box below describes the joint application participants and the permits covered; contact information; application procedures; time frames; and fees.

**After completing this form, send the required number of copies, with original signatures when required, to each applicable agency.** Each agency issues separate permits. You must obtain individual authorizations or permits from each agency to which you apply before conducting your work.

Fees listed are for information only. Contact the responsible agency for information about fees.

✓	PERMIT/ WHO MUST APPLY	AGENCY	AGENCY CONTACTS / ADDRESSES AND ADDITIONAL INFORMATION	APPROX. REVIEW TIME	FEES –
	<b>310 Permit</b> Private citizens and companies working in or near perennial streams.	Local Conservation District	Submit application, maps, and plans to conservation district. To locate local office, call MT Assoc. of Conservation Districts (406) 443-5711 or Conservation Districts Bureau, DNRC (406) 444-6667; or visit <a href="http://dnrc.mt.gov/divisions/cadd/conservation-districts">http://dnrc.mt.gov/divisions/cadd/conservation-districts</a>	30 – 60 days	No fee

<p><b>SPA 124 Permit</b> Governmental entities working in any stream.</p>	<p>Montana Department of Fish, Wildlife &amp; Parks (DFWP)</p>	<p>Submit a set of preliminary plans or sketches with application. To locate appropriate office, call DFWP in Helena (406) 444-2449. For projects sponsored by DOT, send two sets of plans to Helena DFWP, Box 200701, Helena, MT 59620-2701.</p>	<p>30 days</p>	<p>No fee</p>
<p><b>Floodplain Permit</b> Applicants proposing new construction within designated floodplains.</p>	<p>City or County Floodplain Administrator</p>	<p>All required local, state, and federal permits must be issued before a floodplain permit can be issued. An applicant may be required to hire a professional engineer. Prior to submitting this application form, contact the local floodplain administrator at the city or county office. To locate the appropriate office, contact DNRC Water Resources Division (406) 444-0860 or visit: <a href="http://dnrc.mt.gov/divisions/water/operations/floodplain-management">http://dnrc.mt.gov/divisions/water/operations/floodplain-management</a></p>	<p>60 days</p>	<p>Varies city or county. Inquire locally. (\$25 - \$500+)</p>
<p><b>Section 404 Permit</b> Applicants working in any stream and in wetlands. <b>Section 10 Permit</b> Applicants working on Yellowstone, Missouri, or Kootenai Rivers or their reservoirs.</p>	<p>U.S. Army Corps of Engineers (COE)</p>	<p>Submit one copy of application plus a set of construction plans or sketches of the proposed project, if available. See special signature requirements following "Information for Applicant". Submit to <a href="mailto:montana.reg@usace.army.mil">montana.reg@usace.army.mil</a> or US Army Corps of Engineers, 10 West 15<sup>th</sup> Street Suite 2200, Helena MT 59626; (406) 441-1375.</p>	<p>30 - 120 days</p>	<p>Varies (\$0 - \$100) You will be contacted if fee applies.</p>
<p><b>318 Authorization</b> Activities that cause temporary turbidity in any state water. Applies only for work carried out in water.  <b>401 Certification</b> Activities that may adversely affect state water quality standards.</p>	<p>Montana Department of Environmental Quality (DEQ)</p> <p>Montana Department of Environmental Quality (DEQ)</p>	<p><b>Do not send this form directly to DEQ if applying for a 310 or 124 permit.</b> You will be notified if you must apply directly to DEQ during the 310 or 124 permit review. If you are not applying for a 310 or 124 permit, apply directly to DEQ with \$250 fee enclosed. Dept. of Environmental Quality, Permitting and Compliance Division, Water Protection Bureau, Box 200901, Helena MT 59620-0901; (406) 444-3080.</p> <p>Depending on the type of 404 permit you may have obtained from the U.S. Army Corps of Engineers, a 401 Water Quality Certification of that 404 permit by DEQ might be necessary. To determine if a 401 Certification is necessary, contact the U.S. Army Corps of Engineers (406) 441-1375 or DEQ (406) 444-3080.</p>	<p>30 days after application and fee are received.</p>	<p>\$250 (318) Fees do not apply to Conservation Districts, Counties or Municipalities</p> <p>\$400 - \$20,000 (401) Fees do not apply to Conservation Districts, Counties or Municipalities</p>
<p><b>Navigable Rivers Land Use License/Lease/Easement --</b> Projects in, on, under, or over navigable waters.</p>	<p>Montana Department of Natural Resources and Conservation (DNRC)</p>	<p>Additional fees, a land survey, and other information will be required. Contact the local DNRC land office for information about whether a waterway is navigable. To locate appropriate Land Office, call (406) 444-2074.</p>	<p>License – up to 60 days. Lease or Easements – up to 90 days.</p>	<p>\$50, plus additional fee</p>

## **INSTRUCTIONS FOR FILLING OUT THE JOINT APPLICATION:**

The sections indicated below correspond with sections on the application form. Sections A, B, and C must be completed for all applications. Section F is to be completed only if you are applying for a Floodplain Permit, Section 404 Permit, or Section 10 permit.

**A. APPLICANT INFORMATION.** The applicant must possess the authority to undertake the work described in the application or to act as the duly authorized agent of the landowner. The applicant is the responsible party for the project and the main point of contact for permitting questions, scheduling inspections, and other project details. The landowner's name and address is required if different from the applicant. If a contractor will be used to do the work, provide the contractor's name and contact information. Be aware that the issuance of any permit does not give permission to carry out a project on land that is not owned by the applicant. The applicant has the duty to secure necessary landowner authorization.

### **B. PROJECT SITE INFORMATION.**

1. This information is required to locate the site and the water body where the work will be completed. If it is not clear how to get to the site, be sure to include written directions. Attach an additional sheet or site map that clearly shows the project location and any identifying landmarks. Geocodes help locate the property where the project will be constructed and are available online at: <http://geoinfo.msl.mt.gov/>. Leave the Geocode line blank if you don't have access to the internet.
2. Projects located in general, core or connected sage grouse habitat may require a consultation letter from the Montana Sage Grouse Habitat Conservation Program. More information can be found here: <https://sagegrouse.mt.gov/ProgramMap>
3. Contact DNRC at 406-444-2074 to determine if your project will be conducted on a state navigable waterway. If so, a copy of this application must be mailed to DNRC's Trust Land Management office along with the non-refundable \$50 application fee. You can call any local Land Office, or the number listed above.
4. Current Condition. Describe the current condition of the site. Include the bank condition, slope, and height of bank. Note structures such as riprap, dikes, bridges, irrigation facilities, road crossings, or homes that are near the site. Also include a description of any nearby wetlands that may be disturbed as a result of the proposed project. You may provide photos in addition to the description.

**C. PROJECT OR ACTIVITY INFORMATION.** This section provides space for you to describe your project and the steps you will take to minimize impacts. Projects must be constructed in a way that minimizes impacts to the water body and that keeps rivers and streams in as natural state as possible. Some agencies and conservation districts may require you to follow specific standards for project design, materials used, or re-vegetation.

1. Type of Project. Check all boxes that apply to the proposed work. If your project type is not listed, check "Other" and describe what type of project you are proposing.
2. Annual Maintenance. Conservation districts may authorize minor maintenance activities for up to ten years. If the proposed work will be conducted each year, check this box and attach an annual plan of operation. An annual plan of operation must include the nature and extent of work to be conducted each year. It should also include, at minimum, a detailed description of the work to be done, the timing of the work proposed, and the amount of streambed materials to be removed or disturbed, as well as other information required by the district. If the conservation district authorizes an annual maintenance permit, you still may be required to seek approval from other agencies each year prior to doing work.
3. Provide background on why the project is necessary including what the intended purpose and goal(s) are.
4. Brief Description. Describe briefly what you propose to do and how you plan to construct it. Other places in the application will allow for more detailed information.
5. Describe what other alternatives were considered for accomplishing the project.
6. Project Benefits or Potential Impacts - Describe anticipated natural resource benefits that will occur as a result of your project, such as improved water quality, improved riparian vegetation, improved fish habitat, etc. Describe planned efforts to minimize project impacts. Consider the impacts of the proposed project, even if they are temporary. All projects create impacts. Projects must be designed and constructed in a manner that minimizes impacts and keeps natural rivers and streams in as natural a state as possible. Use the space provided to describe

what you plan to do to minimize the impact of the proposed project during and after construction. Examples would include using sediment fences along the bank or below the proposed work, installing coffer dams to direct flow away from the project area, constructing fish friendly diversions or stream crossings, protecting existing vegetation or re-vegetating disturbed areas, timing of the project, designing projects that fit into the natural area, minimizing disturbance to the area, or selecting carefully the sites and methods used to construct the project, including practices that avoid spreading of aquatic invasive species.

**For 310 applicants only:** The criteria listed below will be used by an inspection team and the conservation district in reviewing your application. In addition to filling out this question, during the review process, you may be requested to provide more specific information about the alternatives you considered. The kind of information that may be requested from you may include, but is not limited to:

1. Other reasonable alternatives that may have been considered prior to selecting the project described in the application.
2. Costs of the alternatives.
3. Impacts of the alternatives, including:
  - a. Sedimentation and/or erosion.
  - b. Stream channel alterations.
  - c. Disturbance to vegetation.
  - d. Water quality changes (during and after construction).
  - e. Stream flow changes.
  - f. Fish and aquatic habitat.
  - g. Changes to the natural condition of the area

#### **D. CONSTRUCTION DETAILS**

1. **Proposed Construction Date.** The timing of construction is an important factor in determining impacts to water quality, fish, and aquatic life. Authorizations/permits may contain timing restrictions on construction activities. Note when you plan to start work and how long it will take to complete. Keep in mind it can take 30-120 days or more after an application is complete to receive permits needed to begin your project. Plan ahead
2. **Project Dimensions.** Generally describe the impact area of your project and provide dimensions of your project, including linear feet, area of impact (square footage or acreage), distance the work will encroach into the water body, as well as extend away from the water body (linear feet). Use the high-water mark as a point of measure. If you are unsure of the high-water mark or it isn't applicable to the project, specify another point of measure. Describe each specific impact individually in terms of the project dimensions.
3. **Equipment.** List all equipment that will be used for construction of the project. How will the equipment be used, especially on the bank and/or in the water body? Make sure your equipment is clean and free of weeds, weed seeds, organic debris, and excess grease before using it in the waterway. To prevent the spread of aquatic invasive species, to the extent practical, remove mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites, especially in waters known to be infested with aquatic invasive species. Drain water from machinery and let machinery dry before moving to another location. <https://fwp.mt.gov/conservation/aquatic-invasive-species>.

#### **Montana Rules Regarding Equipment and the Introduction and Spread of Aquatic Invasive Species:**

Requirements are in place in Montana for equipment to be used in water. To prevent the spread of aquatic invasive species, remove **(CLEAN)** mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites. **DRAIN** water from machinery/equipment and let **DRY** completely before moving to another location.

- a. Be sure the equipment is clean and free of weeds, weed seeds, organic debris and excess grease before using it in the water waterway.
- b. Be sure you remove mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites, especially in waters known to be infested with aquatic invasive species. [https://fwp.mt.gov/binaries/content/assets/fw/conservation/ais/reports/2019-aisdist\\_inverts.pdf](https://fwp.mt.gov/binaries/content/assets/fw/conservation/ais/reports/2019-aisdist_inverts.pdf)  
[https://fwp.mt.gov/binaries/content/assets/fw/conservation/ais/reports/2019-aisdist\\_plants.pdf](https://fwp.mt.gov/binaries/content/assets/fw/conservation/ais/reports/2019-aisdist_plants.pdf)
- c. Drain water from machinery/equipment and let dry before moving to another location.
- d. Mandatory inspections are now required for all equipment that:
  - Has been previously used outside of Montana

- Are destined for waters in Montana west of the Continental Divide that has been previously used east of the Continental Divide
- Are destined for waters of the Flathead Basin that have been previously used outside of the Flathead Basin.

<https://fwp.mt.gov/binaries/content/assets/fwp/conservation/ais/maps/2021-flathead-basin-map-handout.pdf>

Any equipment that falls into the scenarios laid out above **must** be inspected prior to operation in a waterbody. Schedule an inspection by calling the state's Aquatic Invasive Species line at (406) 444-2440 at least one week in advance of planned use.

4. Materials. What materials are going to be used for your project? Where will the materials be obtained? How much are you planning to use? All materials used must be of adequate size and dimension for the project and be free of pollutants. If streambed or other materials are removed from the bed of a stream, they must be removed from the area, so they don't reenter the stream. When possible, choose materials that are natural to the area to construct your project. It is recommended that you do not purchase materials until all permits are issued because the size and type may be modified during the permitting process. Provide a statement specifying the type of material and total amount of fill proposed to be placed within the floodplain along with supporting calculations.

## E. REQUIRED ATTACHMENTS

## F. ADDITIONAL INFORMATION FOR U.S. ARMY CORPS OF ENGINEERS (USACE) SECTION 404, SECTION 10 AND FLOODPLAIN PERMITS

Information in Section F is specific to Section 404, Section 10, and Floodplain permits. Answer Questions 1-8 if you are applying for a Section 404 or Section 10 permit from the US Army Corps of Engineers. Answer all of Section F for Floodplain permits.

1. A list of Nationwide Permits can be found at: <http://www.nwd.usace.army.mil/Missions/Civil-Works/Regulatory-Program/Permits/>
2. Calculate the amount of fill material that will be placed within a water of the US by multiplying the length x height x width of the proposed fill. Calculate area of impact length x width Do not report the amount of fill that will not be placed within waters of the US here. Delineations of aquatic resources on site are a requirement for pre-construction notifications, wetlands need to be delineated in accordance with the 1987 wetland manual and regionally appropriate supplement. See definitions listed below for aquatic areas, wetlands, fill material, ordinary high-water mark, waters of the US, and for information on how to calculate materials and impacted areas.  
<https://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/Wetlands/>
3. Provide a brief explanation of the avoidance and minimization of impacts to waters of the United States on the project site. This includes incorporating best management practices, sediment and erosion and control methods, and incorporation of vegetation.
4. Provide a brief description of how impacts to Waters of the United States will be compensated for, or a brief statement explaining why compensatory mitigation should not be required for those impacts. Typically, any impacts greater than 300 linear feet or 0.10 acre require compensatory mitigation. See definition of compensatory mitigation below. More information about mitigation can be found at: <http://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/Mitigation/>
5. The Upper Missouri National Wild and Scenic River section starts at Fort Benton, Montana, and runs 149 miles downstream ending at the James Kipp Recreation Area Flat Head River is designated wild and scenic starting at the North Fork from the Canadian border downstream to its confluence with the Middle Fork. The Middle Fork from its headwaters to its confluence with the South Fork. The South Fork from its origin to the Hungry Horse Reservoir. East Rosebud Creek from its source in the Absaroka-Beartooth Wilderness downstream to East Rosebud Lake and Fossil Lake, and from immediately below, but not including, the outlet of East Rosebud Lake downstream to the Custer Gallatin National Forest boundary. Go to <https://www.rivers.gov/montana.php> for more information.

6. Contact the Montana Regulatory Office in Helena by phone at (406) 441-1375 or e-mail [montana.reg@usace.army.mil](mailto:montana.reg@usace.army.mil) if you have any questions about any possible Corps federally authorized civil works project.
7. Contact your local U.S. Fish and Wildlife Service office at (406) 449-5225 or go online to IPaC (Information for Planning and Consultation) and determine if endangered and threatened species and critical habitat occur within your project area and will your project have an impact: <https://ecos.fws.gov/ipac/user/login>
8. Contact Montana State Historic Preservation Office to determine if any Historical Properties are in your project area and if your proposed project has the potential to affect those properties. <https://mhs.mt.gov/Shpo>
9. For floodplain permits, all local, state, and federal permits must be in place before a floodplain permit can be issued. Provide copies of each issued, waived, denied, or pending permits.
10. Attach a list of adjacent property owners and their mailing addresses. This includes properties adjacent to and across from the project site. Be advised that many communities require a certified adjoining property owner list. (You can get this information from the community's planning/zoning/GIS office or through a title company. Also can be found at <http://svc.mt.gov/msl/mtcadastral/> ). At its discretion, the permitting agency may contact these landowners.
11. If your project site is in a designated floodplain, the waterway should have a Flood Insurance Study (FIS) and/or floodplain map number (FHBM, FIRM, DFIRM). Contact the local floodplain administrator to obtain this information.
12. Check with the local government to see if special planning or zoning regulations apply.

#### Definitions:

5. **Aquatic areas** include (but are not limited to) rivers, streams, creeks, lakes, reservoirs, wetlands, wet meadows, oxbows, and sloughs. Named and unnamed drainages that flow intermittently, as well as streams with perennial flow, are aquatic areas (waters of the United States).
6. **Dredged material** means material that is excavated or dredged from waters of the United States, including material removed or excavated from wetlands, lakes, ponds, streams, and other waters.
  - **Fill material** refers to rock, sand, soil, or any material that replaces an aquatic area with dry land or changes the bottom elevation of a water body. Prohibited fill material includes junk metal, car bodies, construction debris, trash, etc.
  - **Ordinary high-water mark** means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. This list is not exhaustive.
  - **Mitigation** means avoiding and/or minimizing impacts to aquatic areas and compensating for unavoidable impacts.
  - **Compensatory mitigation** refers to replacing aquatic resources that have been lost, with similar aquatic resources. Compensatory mitigation may include creating new, restoring degraded, or enhancing existing aquatic areas.
  - **Waters of the United States** includes the area below the ordinary high-water mark of stream channels and lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made channels, may be waters of the United States in certain circumstances, which must be determined on a case-by-case basis.
  - **Wetlands** include areas that are inundated or saturated with water long enough to support vegetation typically adapted for life in saturated conditions. Wetlands are generally determined on a site-by-site basis. If you are not sure whether a wetland will be impacted by your proposed project, contact the Corps of Engineers.
  - **To calculate impacted area**, measure the length and width that the fill material will occupy. Length x width = area, usually expressed in square feet, square yards or acres. If your project involves a stream, measure the length of bank that will be affected on both sides of the stream.
  - **To calculate the volume of material**, measure the length, width, and depth of the fill material. Length x width x depth = volume, usually stated in cubic feet or cubic yards.

## **ADDITIONAL INFORMATION REQUIRED FOR FLOODPLAIN PERMIT APPLICATIONS ONLY:**

Provide the following on separate sheets and attach to the floodplain permit application copy of the joint application.

1. A detailed site plan of the proposed project, drawn to scale, showing the following:
  - a. Property boundary lines of the subject property and those in the immediate vicinity of the proposed project;
  - b. Approximate location of all floodplain boundaries in the vicinity of the proposed project as depicted on the floodplain maps mentioned above;
  - c. Location of the existing improvements in the vicinity of the proposed project, including driveways, roads, culverts, bridges, buildings, wells, septic systems, other improvements;
  - d. Location of all existing physical features in the vicinity of the proposed project, including ponds, swales, streams, and irrigation ditches;
  - e. Location and dimensions of all proposed improvements, including driveways, roads, culverts, bridges, ponds, buildings, wells, and other structures; and
  - f. Location for all fill proposed to be placed into the floodplain.
2. A statement specifying the type of material and total amount of the fill proposed to be placed within the floodplain along with supporting calculations.
3. Certain projects may require and licensed Montana engineer to design to the following criteria:
  - a. The project can withstand a 100-year flood event;
  - b. The project will not adversely affect surrounding landowners upstream, downstream, across stream, or adjacent to the proposed project area; and
  - c. The effect of the proposed project on the 100-year base flood elevation.

## **G. SIGNATURE REQUIREMENTS:**

**\*If you are a landowner** submitting this application and proposing to undertake a project on your own behalf on your own property, please sign and date both the “Signature of Applicant” and “Signature of Landowner” lines.

\*If you are an applicant, other than the owner of the site, submitting this application and proposing to undertake a project, sign and date the “Signature of Applicant” only.

**\*If you are a contractor/agent** acting as an agent on behalf of a landowner, or applicant, please sign and date only the line designated “Signature of Agent” and indicate your title. The applicant/landowner must sign and date the “Signature of Applicant” and “Signature of Landowner” lines to indicate authorization for you to act on his/her behalf.

**\*If a utility company submits this application**, a representative of the company should sign and date the “Signature of Applicant” line. Landowner signatures are not required.

**\*It is the applicant’s responsibility to obtain landowner permission** to do work on land not owned by the applicant.

## **DISPUTES:**

**For 310 permit applicants only:** If you disagree with the conservation district’s decision to approve, modify, or deny your permit, you may request arbitration to settle the dispute, or you may seek judicial review in district court. The conservation district will provide you with more information with their permit decision.

If you disagree with the conservation district jurisdictional issues, and wish a formal decision from the conservation district, you should petition the conservation district for a declaratory ruling (see 75-7-125, MCA, for more information). If this petition is submitted while you have a pending application before the conservation district, you should ask for an extension of time while the conservation district is processing the declaratory ruling petition.