

# NATURAL STREAMBED AND LAND PRESERVATION ACT

**References** -(Section 75-7-101 through 124, MCA)

## **Purpose of the Law**

It is the policy of the State of Montana that its natural rivers and streams and the lands and property immediately adjacent to them within the state are to be protected and preserved to be available in their natural or existing state and to prohibit unauthorized projects and in so doing to keep soil erosion and sedimentation to a minimum, except as may be necessary and appropriate after due consideration of all factors involved. Further, it is the policy of the state to recognize the needs of irrigation and agricultural use of the rivers and streams of the state of Montana and to protect the use of water for any useful or beneficial purpose as guaranteed by the Constitution of the State of Montana. (Section 75-7-102, MCA.)

## **Role of the Conservation District**

The district board of supervisors administers the 310 law. A person planning a project must contact the conservation district office to obtain a permit application, and the permit must be approved prior to any activity in or near a stream.

## **Model Rules**

Model rules and minimum standards for implementation of the law were established by the Montana Board of Natural Resources and Conservation (BNRC). Each district was required to hold a public hearing prior to adoption of project guidelines that meet or exceed the minimum standards adopted by BNRC.

## **Application Procedure and Time Line**

After an application is submitted to the conservation district office, district supervisors must determine within five days of their meeting whether the proposed activity is a project. If the activity is determined to be a project, a team comprised of a district supervisor or representative, a fisheries biologist or other representative of the Department of Fish, Wildlife and Parks (DFWP), and the landowner or representative conduct a site inspection. The supervisors have 60 days from the date of application to approve or deny the permit.

Administration of the permit program requires an indefinite amount of time and paperwork by supervisors and district clerks. There are application, team inspection, complaint, and board decision forms to be filled out, and additional time is spent on site inspections. There is no charge for a 310 permit.

## **Violations**

Failure to obtain a 310 permit may result in a misdemeanor or civil penalty<sup>21</sup> charge and a fine of \$25 to \$500 for each day that the person continues the unauthorized activity. Additionally, restoration of the damaged stream may be required.

### **Activities Requiring a 310 Permit**

- Culverts--installation and removal
- Bridges--installation and removal
- Riprap
- Diversions
- Dams
- Equipment crossings
- Pond construction
- Dredging
- Channel changes
- Fords
- Any other activity that physically alters or modifies the bed or banks of a perennial stream

### **Who Must Apply?**

Any **nongovernmental** entity that proposes to alter or modify the bed or banks of a perennial stream on public or private land must apply. However, **governmental** entities must instead comply with the Stream Preservation Act of 1963 administered by the Department of Fish, Wildlife and Parks.

### **Role of the Conservation Districts Bureau, DNRC**

Upon request, the Conservation Districts Bureau provides technical and legal assistance to the districts.

For more information, contact:

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