BEFORE THE DEPARTMENT OF
NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

IN THE MATTER OF THE DESIGNATION OF THE FLOODPLAIN BOUNDARIES OF THE BIG HOLE RIVER IN BEAVERHEAD, MADISON AND ANACONDA-DEER LODGE COUNTIES	**FINAL ORDER**

ORDER:

The Montana Department of Natural Resources (Department), having acquired and evaluated flood data and having consulted and exchanged information with local officials and the public as required by Mont. Code Ann. § 76-5-201, and having determined the base flood elevations and 100-year flood plain boundaries with reasonable hydrologic certainty for 116 miles of the Big Hole River from its confluence with Pioneer Creek downstream to the Anaconda-Deer Lodge/Butte-Silver Bow County boundary and from the Butte-Silver Bow/Madison County boundary downstream to its confluence with the Jefferson River, with this Order establishes the designated floodplain for that stretch of river pursuant to Mont. Code Ann. § 76-5-202. The base flood elevations and 100-year floodplain boundaries shall be according to the flood plain study more fully described with this Order. This designation establishes the areas in which the affected counties may establish land use regulation to prevent and alleviate flooding threats to life and health and reduce private and public economic losses according to the policy and purposes established by the Montana Legislature in Mont. Code Ann. § 76-5-102.

STATUTORY AUTHORITY:

The Montana Legislature has determined that recurrent flooding is detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of Montana and that the public interest necessitates

management and regulation of flood-prone lands. Mont. Code Ann. § 76-5-101. To implement such management and regulation, the Department is to study and acquire flood hazard information including consultation with local officials and interested persons in order to determine areas prone to flooding and associated damage pursuant to Mont. Code Ann. § 76-5-201. After study and sufficient information is gathered, the Department is to designate by order after public hearing the flood plain within which a political subdivision may then establish land use regulation. Mont. Code Ann. § 76-5-202. "Flood plain" is defined as "the area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency, except for sheetflood areas that receive less that 1 foot of water per occurrence." Mont. Code Ann. § 76-5-103(10). These regulatory areas may only be designated when the base flood elevations have been determined with reasonable hydrologic certainty. Mont. Code Ann. § 76-5-202(3). Once the Department establishes the designated flood plain or floodway the agency is to furnish the data, maps, and suggested minimum standards to the political subdivision with jurisdiction over the area. Mont. Code Ann. § 76-5-205. The political subdivision may then adopt the maps and land use regulations for the flood plain area. Mont. Code Ann. § 76-5-301.

FLOODPLAIN STUDY:

The Department, in cooperation with the Montana Department of Environmental Quality, the Big Hole Watershed Committee, Future West, Beaverhead County, Madison County, Butte-Silverbow County, and Anaconda Deer-Lodge County initiated a floodplain study for 116 miles of the Big Hole River, from its confluence with Pioneer Creek downstream to the Anaconda-Deer Lodge/Butte-Silver Bow County boundary and from the Butte-Silver Bow/Madison County boundary downstream to its confluence with the Jefferson River. The Department contracted with Atkins, an engineering consultant with expertise in floodplain studies, to conduct the study. Prior to this study, a 100-year floodplain had not been identified or mapped for those portions of the Big Hole River, with the exception of a 22 mile stretch along the Anaconda-Deer Lodge County boundary, which had an approximate floodplain designated by order by the Montana Board of Natural Resources and Conservation, *Floodplain Designation of*

Streams in Anaconda-Deer Lodge County, October 11, 1985 and as shown on the Flood Insurance Rate Maps for Anaconda-Deer Lodge County, dated December 18, 1985. This new study is more detailed and current and provides an approximate level floodplain analysis with base flood elevations to better understand the flood hazard and refine the 100-year floodplain boundary for 116 miles of the Big Hole River. As part of this study, additional survey data was collected in the town of Wisdom to more accurately depict the floodplain boundary within the urbanized area of Wisdom.

The following draft reports and maps were provided to the Department and affected counties:

> Flood Discharge-Frequency Hydrologic Analysis for the Big Hole River, Montana – Hydrologic Analysis Report, dated March 15, 2013
>
> Big Hole River Approximate Level Floodplain Study, Hydraulic Analysis and Floodplain Mapping, dated May 24, 2013

Information about the floodplain study, including copies of the draft reports, maps and supplemental study products, were posted on the Department's Floodplain Management website. Public notice was provided and public meetings were held to consider the proposed base flood elevations and 100-year floodplain boundaries, as described in this Order.

The Department reviewed the reports and maps, and reviewed and considered all of the public comments that were received. Based on this review, the Department requested minor revisions to the hydraulic analysis report. No revisions were made to the hydrologic analysis report. Atkins revised the hydraulic analysis report and provided the following final reports and maps to the Department and affected counties:

> Flood Discharge-Frequency Hydrologic Analysis for the Big Hole River, Montana – Hydrologic Analysis Report, dated March 15, 2013
>
> Big Hole River Approximate Level Floodplain Study, Hydraulic Analysis and Floodplain Mapping, dated August 15, 2014

These final reports and maps provide the delineation of the floodplain that is being established with this Order.

PARTICIPATION OF LOCAL OFFICIALS:

Staff from the Department's Floodplain Management Program met with the County Commissions of each of the three affected counties to review the floodplain study details, the project schedule and adoption process. Department staff met with the Beaverhead County Commission on December 11, 2012, the Madison County Commission on December 11, 2012, and the Anaconda-Deer Lodge County Commission on February 5, 2013.

County Commissioners and County staff were invited to review the draft reports and maps and attend the public meetings.

The County Floodplain Administrators from Beaverhead, Madison, Butte-Silverbow, and Anaconda-Deer Lodge Counties actively participated in the review of draft reports and maps, public notices, and the public meetings. County Floodplain Administrators provided information and updates to County Commissioners, local officials, boards, and other staff.

PUBLIC PARTICIPATION:

Public meetings were held to consider the proposed base flood elevations and 100-year floodplain boundaries for the Big Hole River on June 18, 2013 at the Wisdom Community Center in Wisdom Montana, on June 19, 2013 at Divide Grange Hall in Divide, Montana, and on June 20, 2013 at Twin Bridges High School in Twin Bridges, Montana. Notices of the meetings were published in:

The Dillon Tribune on May 22, May 29, and June 5, 2013

The Anaconda Leader on May 22, May 29, and June 5, 2013

The Montana Standard on May 23, May 30, and June 6, 2013

The Madisonian on May 23, May 30 and June 6, 2013

These notices were published at least 10 days prior to the meetings in accordance with Mont. Code Ann. 76-5-204. In addition, the Department issued a news release about the meetings on May 20, 2013 in accordance with ARM 36.15.503 (1989). News articles appeared in the Montana Standard on May 21 and 26, 2013 and on KXLF news on June 4, 2013. Letters about the meetings, proposed base flood elevations and proposed 100-year floodplain designations were mailed to 170 landowners in accordance with Mont. Code Ann. 76-5-208. Information about the floodplain study, including copies of the maps, studies, and supplemental information were posted on the Department's Floodplain Management website.

Following the public meetings, the public comment period remained open until July 31, 2013. Seventeen comments were received by the Department during the public comment period, by mail, email, phone call, and personal contact. Nine additional comments were received by the Department between July 31, 2013 and August 26, 2013. Four of the submitted comments requested clarification or correction of base features on the maps or tables. Two of the comments provided additional information from observations and an aerial survey. Eight of the comments were inquiries about the study, primarily how the floodplain mapping and base flood elevations related to particular properties located in Wisdom. The remaining comments, including a petition signed by 87 individuals, were submitted primarily by individuals in the Wisdom area expressing concern about potential economic impacts of designating floodplain boundaries, including flood insurance and property values, and requesting the maps not be adopted by the Department for economic hardship reasons.

The Department considered all comments and provided written or phone call responses to all individuals who submitted comments. None of the comments identified errors with the flood hazard data or floodplain boundaries. Several comments and the petition cited economic concerns, which are outside of the criteria for state floodplain designations.

Minor revisions were made to the draft reports and maps as a result of submitted comments. Revisions included road name labels, adjustments to base

features on maps and tables, and minor text corrections. None of the revisions resulted in changes to the flood hazard data or floodplain boundaries.

DISTRIBUTION:

This Order along with the final reports and maps will be distributed to each of the affected counties along with minimum State and Federal standards for county floodplain regulations. The counties may then adopt and enforce regulations that meet or exceed the minimum standards. This Order along with the final reports and maps will be posted to the Department's Floodplain Management website and submitted to the Federal Emergency Management Agency.

EFFECTIVE DATE:

This Order shall be effective upon signing.

APPEAL OF DESIGNATION:

This Order may be appealed pursuant to Mont. Code Ann. § 76-5-209. Appeals must be made to state District Court within 30 days after the Order's effective date.

DATED this 7th day of October, 2014

John Tubbs
Director
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