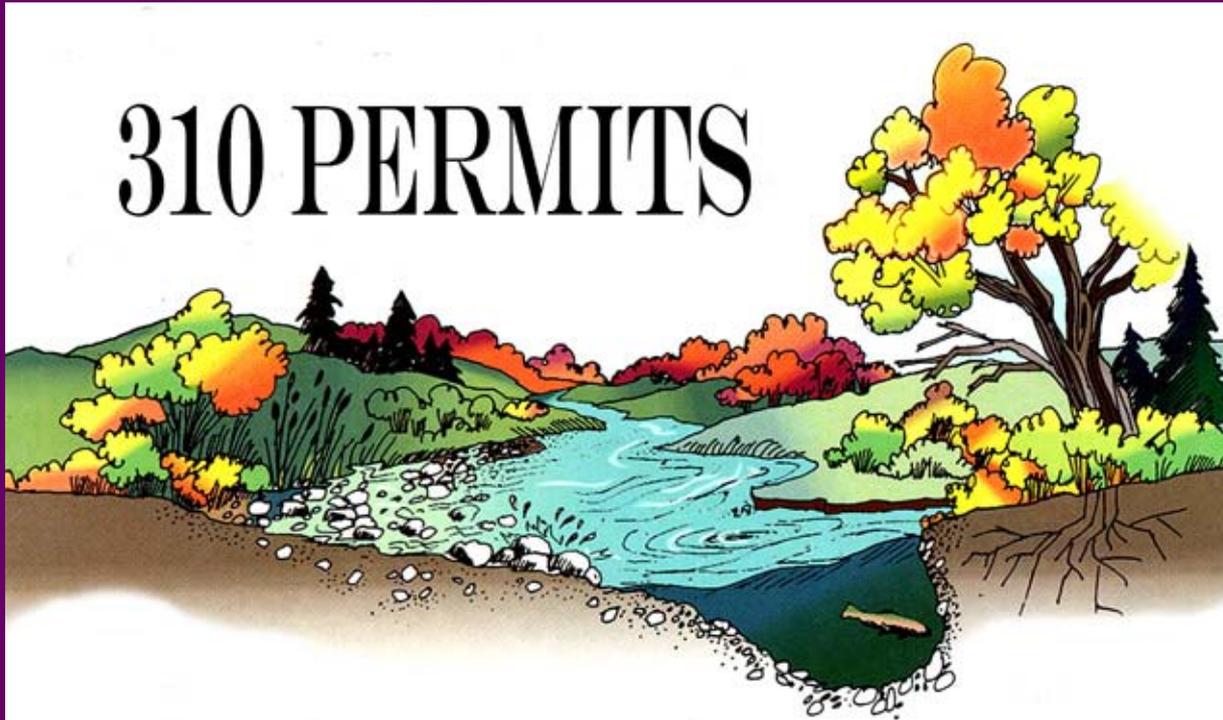


310 PERMITS



Montana's Natural Streambed
and Land Preservation Act

310 Basics

- Law
- Administrative Rules of Montana
- Local Rules

Purpose of the Law

- Protection of streams and land adjacent to them
- Preservation of streams in their natural or existing state
- Minimization of soil erosion except as necessary and appropriate after consideration of all factors

Purpose of the Law

- Needs of irrigation and agricultural uses
- Need to protect the use of water for beneficial purposes

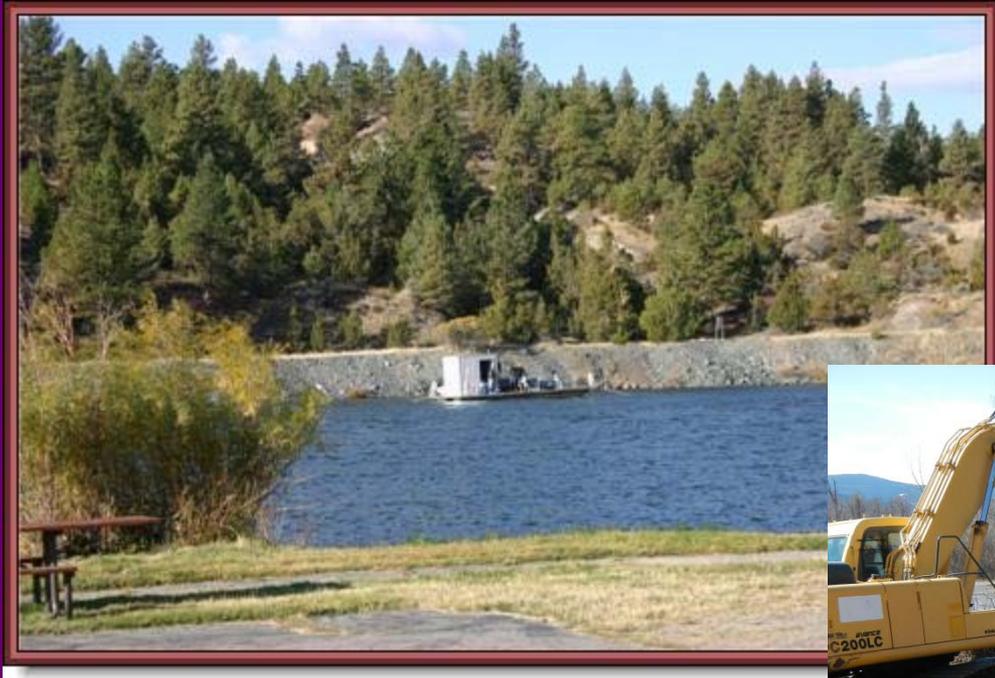
APPLICABILITY

Law applies to:

- Perennial-flowing streams
- Perennial streams affected by dewatering or drought
- Immediate banks
 - Above high water mark to a point where a project doesn't physically alter a stream

**What types of
projects require a
310 Permit?**

Channel Changes/Dredging



Culverts



Bridges



Dams , Reservoirs, Ponds



New Diversions and diversion maintenance



Stream Bank Protection Projects



Fords



Trenching in Pipelines



Boat Ramps / Docks



Application Process

- A complete 310 application includes a plan and/or drawing
- Also required is a site map
- Incomplete applications may be rejected
- Applications are reviewed and accepted at the monthly district meetings or by an approved staff member
- An on-site inspection may be required

Revised: 2/16/12 (310 form 270) Form may be downloaded from: www.dnrc.mt.gov/permits/default.asp	AGENCY USE ONLY: Application # _____ Date Received _____ Date Accepted _____ / Initials _____ Date Forwarded to DFWP _____
<i>This space is for all Department of Transportation and SPA 124 permits (government projects).</i> Project Name _____ Control Number _____ Contract letting date _____ MEPA/NEPA Compliance <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, #14 of this application does not apply.	

**JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS,
AND OTHER WATER BODIES**

Use this form to apply for one or all local, state, or federal permits listed below. The applicant is the responsible party for the project and the point of contact unless otherwise designated. "Information for Applicant" includes agency contacts and instructions for completing this application. To avoid delays, submit all required information, including a project site map and drawings. Incomplete applications will result in the delay of the application process. Other laws may apply.

The applicant is responsible for obtaining all necessary permits and landowner permission before beginning work.

<input checked="" type="checkbox"/>	<u>PERMIT</u>	<u>AGENCY</u>	<u>FEE</u>
	310 Permit	Local Conservation District	No fee
	SPA 124 Permit	Department of Fish, Wildlife and Parks	No fee
	Floodplain Permit	Local Floodplain Administrator	Varies by city/county (\$25 - \$500+)
	Section 404 Permit, Section 10 Permit	U. S. Army Corps of Engineers	Varies (\$0 - \$100)
	318 Authorization 401 Certification	Department of Environmental Quality	\$250 (318); \$400 - \$20,000 (401)
	Navigable Rivers Land Use License or Easement	Department of Natural Resources and Conservation, Trust Lands Management Division	License \$25; Easement \$50, plus annual fee

A. APPLICANT INFORMATION

NAME OF APPLICANT (person responsible for project): _____
 Has the landowner consented to this project? Yes No
 Mailing Address: _____
 Physical Address: _____
 Day Phone: _____ Evening Phone: _____ E-Mail: _____

NAME OF LANDOWNER (if different from applicant): _____
 Mailing Address: _____
 Physical Address: _____
 Day Phone: _____ Evening Phone: _____ E-Mail: _____

NAME OF CONTRACTOR/AGENT (if one is used): _____
 Mailing Address: _____
 Physical Address: _____
 Day Phone: _____ Evening Phone: _____ E-Mail: _____

B. PROJECT SITE INFORMATION

NAME OF STREAM or WATER BODY at project location _____ Nearest Town _____
 Address/Location: _____ Geocode (if available): _____
 _____ 1/4 _____ 1/4 _____ 1/4, Section _____, Township _____, Range _____ County _____
 Longitude _____, Latitude _____

The state owns the beds of certain state navigable waterways. Is this a state navigable waterway? Yes or No. If yes, send copy of this application to appropriate DNRC land office – see Information for Applicant.
--

PROCESS

- CD Receives Application
- Initially Reviews and Accepts or Rejects
- Time Frame Starts When Accepted
- Notify FWP
 - FWP has 5 days to say if they want an inspection
 - Though their participation is required, it is advisory only to the Board of Supervisors

Site Inspection Process

- On-site review team consists of
 - District representative
 - Montana Fish, Wildlife and Parks representative
 - Landowner or landowner's representative
- Waiver of participation in the on-site inspection
- Members submit report (recommendations) for review at the next district meeting

PROCESS

- Law requires supervisors to determine:
 - The purpose of the project
 - If the project is reasonable
 - Law sets forth criteria to determine reasonableness
 - Information gathered on application
 - Team member reports has checklists

PROCESS

- 15-day waiting period after supervisors decision (permit)
- A team member may ask for arbitration if they disagree with board's decision. They may also choose to take any disagreement to district court.

Review of Timeline Considerations

From date of accepting an application:

- The CD has 10 days to notify FW&P
- 5 days for FWP to respond
- 20 days to inspect
- 30 days to make a decision

Decision Process

- Within 60 days of application acceptance, the district will:
 - Approve
 - Modify
 - Deny
- 60 day period can be extended to collect further information.

Considerations

Effects:

- On *soil erosion* and *sedimentation*, considering the methods available to complete the project and the nature and economics of the various alternatives
- On *Flooding or erosion problems upstream or down*
- On *stream channel alteration*
- On *stream flow, turbidity, and water quality* caused by materials used or by removal of ground cover

Considerations, continued

- On *fish and aquatic habitat*
- *Reasonable alternatives to reduce disturbance or better accomplish the purpose*

EMERGENCIES

What is emergency activity?

- As defined in 310 law, emergency means:
 - Unforeseen event or combination of circumstances that calls for immediate action to safeguard life, including human or animal, or property, including growing crops, without giving time for the deliberate exercise of judgment or discretion under the act

EMERGENCIES

- Landowner or operator must notify Conservation District within 15 days
- If no action required, then nothing further
- If project needs more work
 - Applicant must fill out application to mitigate
 - Normal 310 process starts

Emergency # _____

STATE OF MONTANA
NATURAL STREAMBED AND LAND PRESERVATION ACT
NOTICE OF EMERGENCY
(This is not a permit application)

When emergency action has been taken to safeguard life, property, or crops the following information must be received by the conservation district within 15 days of the activity.

1. Name of Applicant _____

Address _____ Telephone No. _____

City/State/Zip _____ Location of Activity _____

Stream name _____ County _____

Location _____¹/₄ _____¹/₄ _____¹/₄ Section _____ Township _____ Range _____

3. Date emergency action was taken _____

4. Explanation of emergency causing the need for the actions described above

(attach additional sheets if necessary)

5. Description of emergency action taken

Emergency Process

What is the process?

Applicant obtains a Form 275, fills it out and returns it to the Conservation District within 15 days following the activity.

Within 5 days of Supervisors determining activity to be a “project”, a copy is forwarded to FWP.

Within 20 days of receipt of the notice of emergency, an on-site inspection is held.

Each team member may give recommendations. The board reviews the inspection report and makes a decision. Applicant is notified within 60 days.

Emergency Decisions

TO BE COMPLETED BY CONSERVATION DISTRICT

1. Date notice of emergency received

2. Does the action taken meet the definition of a project? _____

2a. If no, date person notified _____

2b. If yes, date notice sent to Department _____

3. Team inspection requested. (Must request on site inspection within 20 days of notice.)

Date

4. Date of inspection

5. Action taken

Approved (no further action required by applicant)

Modified (applicant must submit form 270 within 90 days to mitigate damages from emergency action)

Denied (applicant must submit form 270 within 90 days to remove project)

Project does not meet definition of an emergency

VIOLATIONS/COMPLAINTS

A **Violation** of the Act occurs when:

- a) A project is initiated without written consent of the Board of Supervisors;
- b) An entity performs activities outside the scope of written consent of Supervisors;
- c) A person violates emergency procedures or places junk vehicles in the stream.

COMPLAINTS



What is a complaint?

- May be written, or simply phoned in. May or may not be anonymous
- Any person may file a complaint alleging violation of the Act.
- Supervisors or their designated representative shall investigate the complaint to collect evidence such as photos, interviews and correspondence.

COMPLAINTS cont.....

•WHAT IS THE PROCESS?

- Notification by mail, certified mail or telephone that a complaint has been received and to arrange an inspection of the site. This notification usually includes “cease and desist” wording.
- The alleged violator will be notified within 15 days of the decision if it is determined that no violation has occurred.
- If attempts at voluntary compliance have been unsuccessful, the evidence gathered and all supporting documents will be submitted to the county attorney for enforcement.
- The county attorney is authorized to enforce the act and may prosecute if action of the individual require.

Partner Agencies

- **Fish Wildlife and Parks**
- **Army Corps of Engineers**
- **Flood Plain Administrators**
- **DNRC Navigable Rivers**
- **DEQ**

Communication between partners, especially in regard to inspections, is helpful.

**For forms and more
information:**

<http://dnrc.mt.gov/Permits/StreamPermitting/NaturalStreambedLandPreservationAct.asp>