

Permitting Workshop
MT DNRC Floodplain Resource Seminar
July 17th, 2012



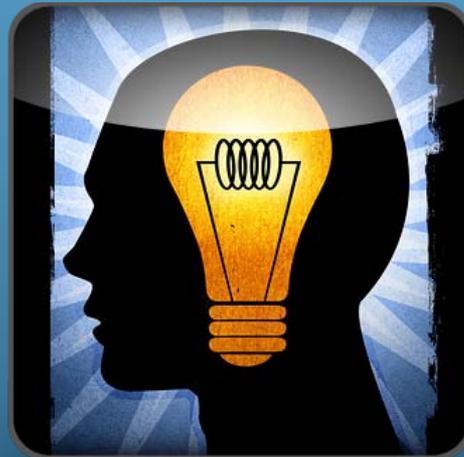
Permitting Basics for the Local
Community

Bri Shipman, MT DNRC

Permitting Workshop

Intent of Session:

Focus on the various agencies involved in the joint application process and provide clarification about agency roles and considerations



Thank you:

-Todd Tillinger, USACE Omaha District

-Chris Evans, Lewis & Clark CD

-Beau Downing, FWP

-Jeff Ryan, MT DEQ

-Marijo Brady, FEMA Region VIII

-Sean O'Callaghan, Gallatin County

-Larry Schock & Traci Sears, MT DNRC



The Joint Application for Proposed Work in Streams, Lakes & Wetlands in Montana – What is it?



****One or more permits may be required
for work on or near a Montana
waterway.**

****Conservation Districts and other
agencies developed a joint form
intended to reduce the number of forms
that must be completed and submitted
to obtain necessary permits.**

******Intended to increase coordination
and streamline the permitting process.**



Who Uses the Joint Application?

§ Conservation Districts – 310 permits

§ MT Fish, Wildlife, and Parks – SP 124 permits

§ Community Floodplain Administrators – floodplain development permits

§ US Army Corps of Engineers – Section 404/Section 10 permits

§ MT Department of Environmental Quality – 318 (turbidity) Authorizations

§ MT Department of Natural Resources & Conservation – navigable river land use licenses and easements

The Local Perspective – Joint Application Considerations

***Development activities are tied to the local community ordinance. The local ordinance should be carefully reviewed for specific development requirements.

***Per the NFIP, “**development**” is defined as any human-caused change to improved or unimproved real estate including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Floodplain Administrators and the Application Process: the Notes of the Joint Application Symphony

*****Local floodplain administrators play a crucial role in floodplain management**

******Tasked with numerous and varied responsibilities including the local floodplain permitting process.**

******For proposed work in Special Flood Hazard Areas, NFIP participating communities require a floodplain development permit.**

Floodplain Administrators and the Application Process: the Notes of the Joint Application Symphony

***** A local FPA must:**

- ensure that permits are applied for**
- process permit applications**
- coordinate with other agencies and programs for additional required permits**
- ensure all projects are built according to approved permits**

Floodplain Administrators and the Application Process: the Notes of the Joint Application Symphony

- 1. First Contact**
- 2. The Application – a Breakdown**
- 3. Application Received: Now What?**
- 4. Site Visits**
- 5. Adjacent Landowner Notification**
- 6. Requesting Assistance – DNRC Regional Engineers**

First Contact

No, not this kind of first contact...

First Contact

*****Opportunity to thoroughly gather information, provide clarification about additional activities that may not be clearly defined, and advise about the joint application and its multi-agency use and implications.**

*****First contact with a potential applicant can yield important details about a proposed project that may not necessarily come to light until the application has already been submitted.**

*****FPA's should always recommend the applicant contact the agencies listed on the joint application to find out if other permits are required.**

*****This can save considerable time and angst as well as pre-empt possible violations.**

First Contact

A successful first contact could turn this:

“My buds and I just bought some jet skis, and I want to put a dock and some rocks in. The Kawasaki rep told me to call you.”



First Contact

Into this:

“I am interested in constructing a boat dock on my property in addition to applying some bank protection measures , i.e. vegetation or perhaps rip-rap, to reduce bank erosion. I have already contacted the USACE, the local conservation district, DEQ, and FWP to inquire about other necessary permits.”



The Application – A Breakdown

1. Before You Begin
2. How to Apply
3. Instructions for Filling out the Joint Application
 - A. Applicant Information
 - B. Project Site Information
 - C. Project Information
 - D. Additional Information for Section 404, Section 10, and Floodplain Permits Only
 - *Additional Information Required for Floodplain Permit Applications Only
 - E. Signature Requirements



The Application – A Breakdown

*****Local FPA: responsible for providing assistance to applicants throughout the permitting process.**

*****Taking the time to thoroughly explain the joint application and requirements before the application is submitted will enable a proper application submittal and aid in streamlining the permitting process.**

The Application – A Breakdown

***If FPA knows that a complicated, multi-agency involved project is coming up, should be proactive and start planning to accommodate the short time frame allotted for application review.

***FPA's should strongly encourage a pre-application meeting (first contact) prior to application submittal.

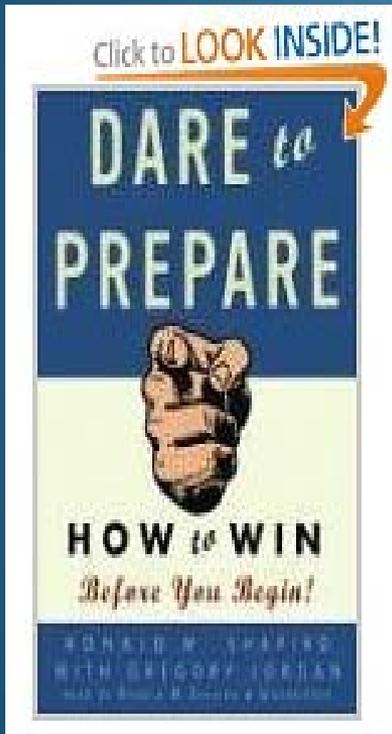
***Typically, communities per their local floodplain management ordinance have 60 days to approve, approve with conditions, or deny a floodplain permit.

***This timeframe incorporates other required permits from other agencies: these permits **MUST** be obtained prior to rendering the floodplain permit decision.

The Application – a Breakdown

Before You Begin – information applicant should obtain before completing application

1. Review “A Guide to Stream Permitting in Montana” to identify which permits may be necessary to a proposed project.
2. Advise applicant that a project plan or drawing must be included with the application – some agencies require that this be provided by a professional engineer or other expert.
3. Keep in mind design considerations that minimize impacts i.e. sedimentation/erosion during and after project construction. Projects must be designed to preserve/protect river or stream in as natural condition as possible.



The Application – A Breakdown

Before You Begin – information applicant should obtain before completing application continued...

- 4. Obtain project site legal description and site map.**
- 5. Be informed of vegetation and its significance to stream health and stability – minimize vegetation removal and plan to replant bare ground.**

The Application – A Breakdown



*****A floodplain permit is required for new construction or development within designated floodplains.**

*****All required local, state, and federal permits must be approved before a floodplain application is considered complete.**

*****The completed application form with original signatures should be routed to each applicable agency. The application should be signed by the applicant, the person responsible for the project, and the landowner.**

The Application – A Breakdown

Instructions for filling out the Joint Application

A. Applicant Information

*****This section entails all pertinent applicant information and identifies the applicant as the responsible party for the project and the main point of contact for project details, coordination, and permitting questions.**

*****The applicant is charged with obtaining necessary landowner authorization.**

*****If the landowner's name and address is different than the applicant's the information must be specified.**

*****Provide contact information for contractors involved in the project.**

*****Good practice for the FPA to cc the landowner on all correspondence since ultimately the landowner is responsible for development on their property.**

The Application – A Breakdown

Instructions for filling out the Joint Application

B. Project Site Information



*** Applicant should have a clear understanding of exactly where on the property the project will take place.

*** Precise directions to the site, Geocode information, and a site map reflecting the project location and identifying landmarks should be included in this section.

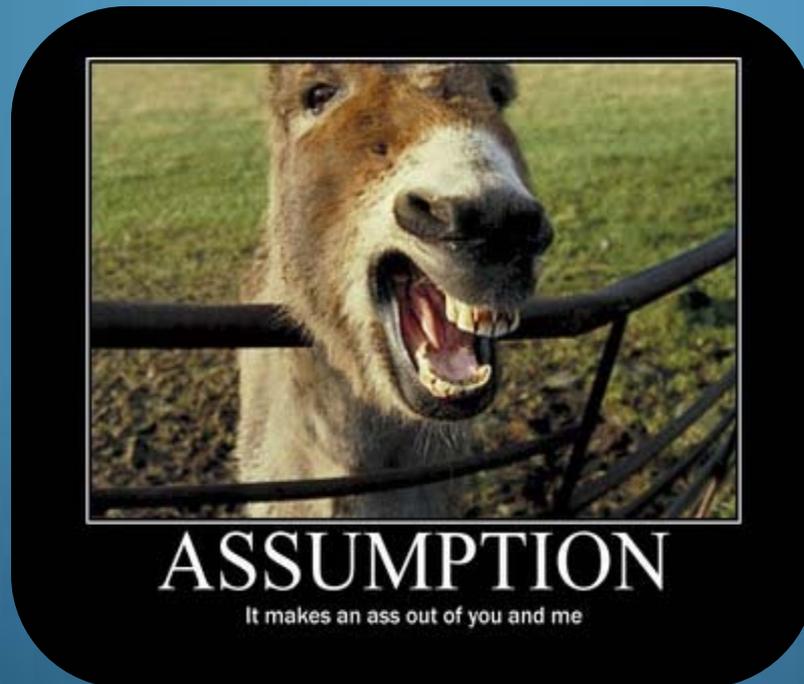
*** The FPA should coordinate with the landowner to schedule site visits.

The Application – A Breakdown

Instructions for filling out the Joint Application

C. Project Information

The floodplain administrator should always request detailed information about **EVERYTHING** – take nothing at face value.



The Application – A Breakdown

Instructions for filling out the Joint Application

C. Project Information

This section of the application provides an opportunity to accurately describe the proposed project and the steps that will be utilized to minimize impacts to the natural integrity of the river or stream.

The Application – A Breakdown

Instructions on filling out the Joint Application

C. Project Information

There are 14 specific information considerations on this section of the application, and there are typical deficiencies routinely reflected on sub-par application submittals:



The Application – A Breakdown

Instructions for filling out the Joint Application

C. Project Information-typical deficiencies

1. Type of project (1) – often the applicant checks one box when really multiple selections apply.
2. Proposed construction date (4) – this should include a start date and anticipated completion date.
3. Provide a brief description of the proposed project (6) – “A boat and other stuff”. Should be unacceptable!
4. Materials – describe the materials used and how much (10) – “Wood and Rock”. What are the real implications? Need to provide specifics on what kind of materials, how many cubic yards or linear feet, and the source of the materials.
5. Describe planned efforts to minimize project impacts (12) – “N/A”. The applicant should provide specific details! “N/A” serves as a red flag to floodplain administrators and dictates the need to conduct a site visit.

The Application – A Breakdown

Instructions on filling out the Joint Application

C. Project Information – aka DETAILS, DETAILS, DETAILS!



The Application – A Breakdown

Instructions on filling out the Joint Application

D. Additional Information for Floodplain Permits



The Application – A Breakdown

Instructions on filling out the Joint Application

D. Additional Information for Floodplain Permits

The floodplain administrator should inform the applicant on the requirements of questions **3-6** in this section:

3. A list of adjacent property owners and the corresponding mailing addresses should be included – many communities require a certified adjoining property owner list.
4. All local, state, and federal permits must be in place before a floodplain permit can be issued – copies of each permit must be provided with the joint application.
5. Provide Flood Insurance Study (FIS) information and floodplain map panel numbers for projects in a designated floodplain.
6. Identify any special local planning or zoning considerations.

The Joint Application – A Breakdown

Instructions on filling out the Joint Application

Additional Information Required for Floodplain Permit Applications Only



The Application – A Breakdown

Instructions on filling out the Joint Application

Additional Information Required for Floodplain Permit Applications Only

The floodplain administrator should inform the applicant of the following additional information necessary to submit for a floodplain permit:

1. A detailed site plan of the proposed project, drawn to scale and meeting the identified specifications.
2. A statement clarifying types of material and total amount of proposed fill intended for placement in the floodplain, with accompanying supporting calculations.
3. Some projects may require a licensed Montana engineer to design to the following criteria:
 - *the project can withstand the 100 year flood
 - *the project will not adversely affect adjacent or surrounding landowners
 - *the effect of the proposed project on the 100 year base flood elevation

The Application – A Breakdown

Instructions on filling out the Joint Application

E. Signature Requirements



Anyone ever felt this way?

Application Received – Now What?

NOW WHAT?

***Once a local floodplain administrator receives a complete application, the FPA will review and evaluate the application and shall **approve**, **approve with conditions**, or **deny** the application within **60** days of receiving the correct and complete application.

***For poorly completed applications, FPA's should communicate the application deficiencies to the applicant **in writing**. Input and recommendations for application modifications should also be documented **in writing**.

***If the applicant corrects the identified deficiencies and resubmits the application, the FPA shall notify the applicant whether the application contains all required elements.

***This process repeats until the applicant submits an application containing all required components, or the application is withdrawn.

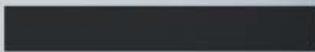
Site Visits

***Site visits are crucial, and it may be necessary for the FPA to conduct **more than one**.

***A site visit should be conducted **as soon as the application is received** and **before the permit is issued**, as well as **when work has been completed** to ensure compliance with the permit requirements.

***If a structure is a project component, a site visit should be conducted **once the foundation is poured**. The FPA should coordinate with the property owner to coordinate site visits.

L E S S

is NOT 

MORE

Adjacent Landowner Notification

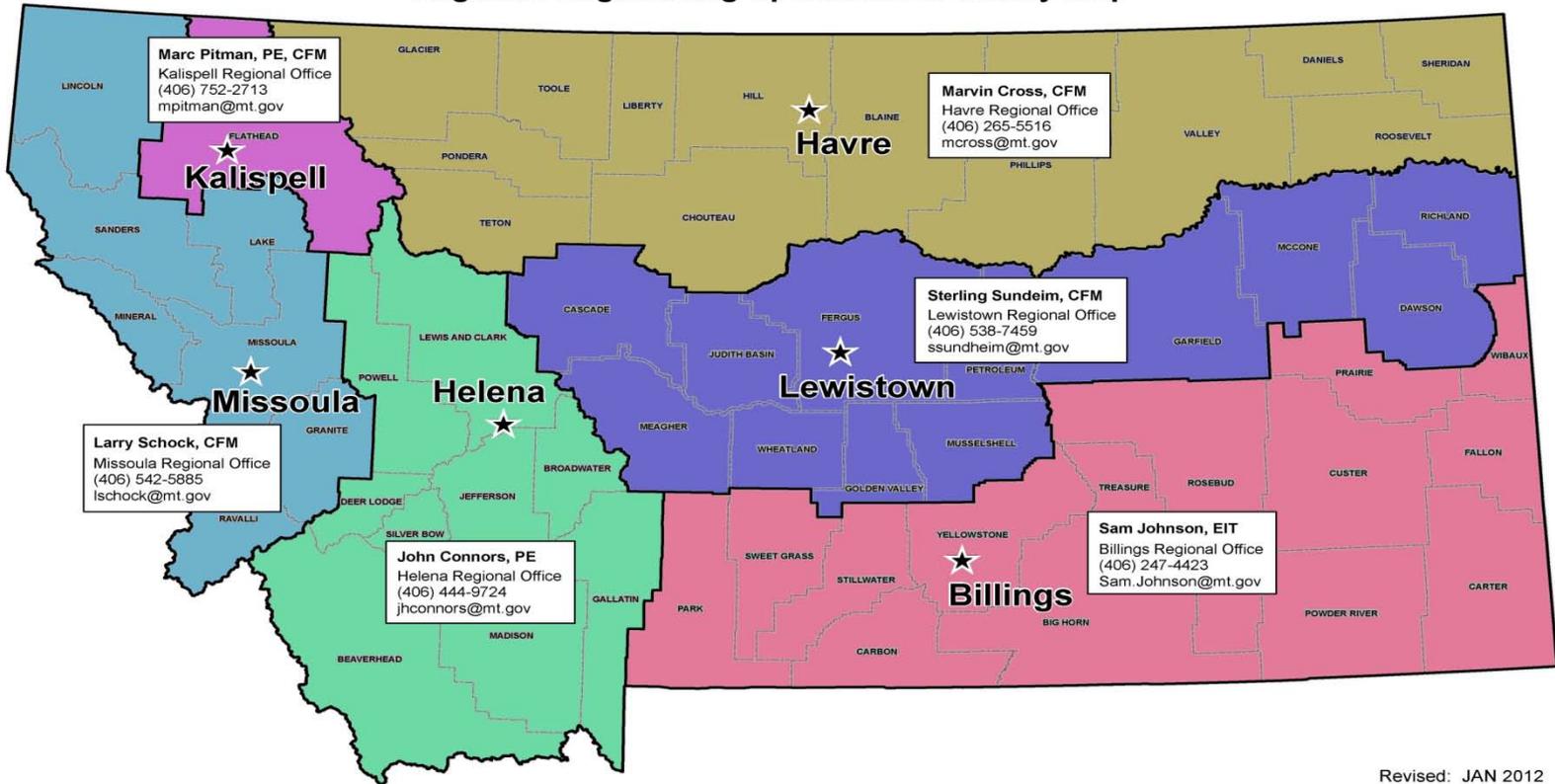
Local floodplain management ordinances specify notice requirements for floodplain permit applications.

Once a complete permit application has been received, the floodplain administrator should:

1. Prepare public notice and publish at least once in a local newspaper.
2. Serve adjacent property owners notice via first class mail.
3. Provide notice to the State NFIP Coordinator.
4. The notice should allow for a reasonable comment period (15 days or longer).
5. Provide notice to DNRC, FEMA, and adjacent communities for riverine situations prior to any alteration or relocation of a watercourse.

Requesting Assistance – DNRC Regional Engineers

DNRC FLOODPLAIN PROGRAM Regional Engineering Specialist Boundary Map



Revised: JAN 2012

DNRC Engineering Technical Assistance

- **Program Description**

Complimentary engineering technical support offered to communities (counties and municipalities) that participate in the NFIP throughout Montana.

- **Purpose**

Provide technical assistance to communities with limited resources and expertise to help them evaluate sufficiency of floodplain submittals and make sound floodplain management decisions.

DNRC Engineering Technical Assistance

General Services Provided

Review of technical floodplain related submittals that involve scientific and engineering analysis, including:

- Floodplain Development Permit Applications,
- Subdivision Floodplain delineations and flood hazard evaluations,
- Letter of Map Changes (LOMCS) – CLOMR, LOMR, LOMA, etc.,
- Floodplain Studies,
- Proposed projects near or within a regulated floodplain,
- Site Visits

DNRC Engineering Technical Assistance

Services NOT included per current DNRC policy

- Subdivisions – No Statements for Waivers – i.e. DNRC approval to waive floodplain delineations and/or flood hazard evaluations in accordance with local subdivision regulations.
- New floodplain studies with data provided by County.
- Variances: Per ARM 36.15.204 (d)... require DNRC review and Approval, however under our current policy, we will only provide recommendations.

The Technical Review Process

Introduction - How it Works...an overview:

- **Step 1:** Community (typically the Floodplain Administrator) submits written technical assistance request directly to DNRC Regional Engineering Specialist (RES).
- **Step 2:** RES complete the reviews and return written itemized comments and recommendations back to the community representative.
- **Step 3:** Community makes final determination regarding the sufficiency and adequacy of the technical submittal to satisfy the local permit requirements.

The Technical Review Process

Step 1 Details:

- FPA – Due diligence - review application for completeness.
- Contact your Regional Engineer Specialist (RES):
The State is divided into 5 regions, served by 6 RES.
- Note – Not all RES are Licensed Engineers; however all are seasoned and experienced professionals.

DNRC Regional Engineer Specialists

Job Duties and Workload

- Regional Engineer Specialists serve multiple DNRC departments including:
 - Floodplain Program technical assistance
 - Dam Safety Program
 - Water Rights
 - State Water Projects
 - Miscellaneous Assigned Roles & Responsibilities

The Technical Review Process

Step 1 Details (continued):

- Submit written assistance request (email or other) along with all pertinent documentation necessary to complete the review – i.e. complete copy of permit application/materials.
- Discuss Schedule – when do you need review completed by? (DNRC turnaround is approximately 3 weeks, PLAN accordingly)
- Site Visit may be necessary.
- Additional Data/Information may need to be requested from the Applicant in order to complete the review.
- With community's approval, DNRC may perform courtesy reviews prior to the formal permit submittal. For complex projects, this can help streamline the technical review process.

The Technical Review Process

Step 2 Details: Review completed by RES

- Your Regional Engineering Specialist will complete the technical review, coordinating directly with the community representative through the process.
- RES are supported by the State Floodplain Engineer for additional guidance and expertise as needed.
- RES provide itemized comments and recommendations from their professional evaluation of the technical submittal and its conformance with the local regulations.

The Technical Review Process

Step 3 Details: Community determines adequacy

- Community makes final determination regarding the sufficiency and adequacy of the technical submittal to satisfy the local permit requirements.
- Community may choose what to do with DNRC recommendations.
- Community is the decision maker and is accountable for their decisions.

Program Protocol

- Defined lines of Communication: DNRC staff – Community representative (typically FPA)
- DNRC Communication with Applicant/Engineer: Only with approval of community, and prefer community participation. **(DNRC does not speak for or represent the community)**
- Applicant questions relating to permits should be addressed to the Community, not DNRC.
- Multiple review exchanges – all previous issues resolved...
- DNRC Limited Resources – Communities encouraged to maximize use of their own technical resources.

Program Roles & Responsibilities

- DNRC review comments serve as professional recommendations, not mandates or approvals from the State.
- It is the community's responsibility to make the final determination regarding the sufficiency and adequacy of technical submittals to meet the local permit requirements.
- DNRC's role is to provide technical assistance when requested, not to oversee or become involved in the day to day management of the community's floodplain program.

Program Roles & Responsibilities

- **Applicants and their representatives (consultant, engineer, surveyor, etc.):**
 - Responsible to prepare/submit complete applications in accordance with local regulations/requirements.
 - It is not the State's role to walk applicants through the process.
 - When PE certification is required – Licensees shall perform services only in the areas of their competence (ARM 24.183.2203).