



## ***Eagle Bend West Community Association, Inc.***

*In the greater Harbor Village community- a great place to live!*

# Wetlands and Eagle Bend West

*On the pages that follow is reprinted an October 2020 Memo to Members newsletter article that summarized a wetlands stakeholder meeting held at the Eagle Bend West Community Association (EBWCA) Pavilion on August 26, 2020.*

*The EBWCA Covenants, Conditions, Easements and Restrictions (CC&Rs) and Design Guidelines have provisions related to wetlands, and a number of our lots have specific wetlands-related conditions in their deeds. But the meeting was requested by the Flathead Conservation District (FCD) because there are more considerations that our property owners and residents need to understand. At the session, the FCD and other experts discussed the benefits of wetlands in our area and good management practices for them. They also explained the protections, regulatory requirements and agencies associated with them.*

*The article and documents following it on the next pages provide a wealth of information with which Eagle Bend West property owners and residents may want to be familiar. They help us all understand ways in which wetlands contribute to the beauty and value of our neighborhood, as well as cautions that should be taken into account when using or considering property improvements near wetlands.*

Eagle Bend West Community Association, Inc.  
P.O. Box 468 Bigfork, MT 59911

## Wetlands

Nearly fifty neighbors and others interested in wetlands in and around Eagle Bend West (EBW) learned a lot about these riparian resources, their benefits and protections, at an August 26 meeting conducted by the Flathead Conservation District (FCD).

The Stakeholder Meeting at the Harbor Village Pavilion was requested by District supervisors and staff to share good wetlands management practices, and to explain the protections and regulatory requirements associated with them.

Wetlands adjacent to EBWCA property include some special protections, having been specifically considered as partial mitigation for the land-filling and excavating that would be allowed when the original development, and later the adjoining yacht harbor, were approved by county, state and federal agencies. For example, properties along the neighborhood canal were to have special conservation setbacks that are observed today by allowing grasses to grow without fertilizing or mowing in order to filter residential lawn runoff. In addition, the wetlands between Eagle Bend West residential lots and the Flathead River, owned by the Montana's Outdoor Legacy Foundation, were to be maintained in a "natural state".

At the August 26 meeting, led by FCD Resource Conservationist Hailey Graf, attendees heard about benefits of healthy wetlands in providing community beauty, wildlife habitat, flood protection, and water quality. Healthy wetlands provide habitat for a range of species including minnows, amphibians and reptiles, ducks and herons, and mammals such as fox, deer, and bats that feed on mosquitos. Hailey also explained that a thriving wetland, characterized by its deep-rooted vegetation, will act like a sponge - soaking up excess water during floods and slowly releasing it back into the stream during droughts. Polluted runoff from our driveways, sidewalks, and roads is also captured and filtered by the healthy wetlands, preventing oil, gas, heavy metals, and trash from entering our local waterways.

The Montana Natural Streambed and Land Preservation Act, known as the 310 Law, is administered locally by the Flathead Conservation District. This law, enacted in 1975, requires a 310 permit for any work done near a perennial-flowing stream that has the potential to impact that stream or streambank. During the meeting Hailey explained the permit application process, emphasizing that it can take 60 days to get a permit but that permits are free and guidance is available through the FCD office. Example projects that require 310 permits include docks, walkways along the river, vegetation removal, culverts, or bank stabilization projects.

In addition, attendees heard about U.S. Army Corps of Engineers requirements related to wetlands. In general, any impacts to wetlands may require a permit along with a wetland delineation to identify wetland boundaries. A common permit process administered by the Corps involves the Clean Water Act "404 Permit". Although enforcement jurisdiction over such activities is shared with the U.S. Environmental Protection Agency, the Corps advises homeowners to check with them before doing any project that would potentially affect wetlands.

Flood Hazard Areas, some of which exist in Eagle Bend West wetlands areas, also require certain permits. These and special EBW-specific 20-foot zoning setback rules that may apply along

property boundaries that may be covered by water are enforced by the Flathead County Planning Department on the basis of complaints and inspections.

Erosion control on the outer, or western, boundary of the Montana's Outdoor Legacy Foundation's wetlands property was discussed at the stakeholder meeting. MOLF Executive Director Mitch King explained the importance of not removing vegetation - live or dead - from the wetlands without Foundation approval. He pointed out that such removal can lead to increased erosion and can undermine the integrity of the buffer the Foundation's wetlands provide against Flathead River erosion of adjoining private lots. He also reminded attendees that motorized access to the wetlands is prohibited in order to prevent channeling or scouring away of vegetation, and resulting habitat degradation.

Apparent mosquito increases in some areas near parts of the Flathead River wetlands were mentioned by several residents. It was pointed out that the Flathead County Mosquito Control Department had been requested to study the mosquito situation over the summer.

The Department's tests are reported to have found no unusual mosquito levels at either north or south ends of the wetlands. Flathead County Mosquito Control personnel plan to do more testing next year and point out that keeping the wetlands healthy can provide good natural mosquito control if mosquito and larvae predators have places to live and hide.

For more information, including fact sheets and contact information from agencies participating in the Stakeholder meeting, please go to the [www.eaglebendwestmt.us](http://www.eaglebendwestmt.us) website *Meeting Documents* page.



John Cannon  
949.310.8254



Stuart Cole  
310.367.2646



David McIntyre  
214.455.5980



Dawn Underwood  
520-349.4738



Bill Whitsitt  
406.309.0890

David Roberts  
Property Manager  
406.253.2840

[droberts@westernmountains.com](mailto:droberts@westernmountains.com)

Eagle Bend West Community Association, Inc.  
P.O. Box 468 Bigfork, MT 59911





## Eagle Bend Subdivision – Stakeholder Meeting

The Eagle Bend Subdivision is a beautiful community that abuts Flathead River and its wetlands. Residents of the community know and appreciate the natural beauty of these water resources. However, management of these resources is often confusing.

Residents of the community may not be aware of how they can both negatively and positively effect these natural systems. Additionally, many residents may be confused by the regulations and permit requirements associated with living near Flathead River and its wetlands.

### The intent of this meeting is to:

- **Provide information on best management practices for living by water**
- **Provide information on water conservation laws, policies, and regulations relevant to Eagle Bend Landowners**
- **Familiarize landowners with permit requirements and application process**

A presentation on actions you can take to help protect Flathead River will kick off the meeting. Following that, agency representatives will describe the purpose of relevant laws and regulations. They will also describe when landowners are required to get permits and how to apply for a permit. Finally, we'll take a walk along the shoreline for an interactive question & answer session.

For more information about the meeting, please contact the Flathead Conservation District office.

*\*\*All participants will be encouraged to wear masks and maintain social distancing protocols throughout the meeting\*\**

## MEETING DETAILS

### Date:

Wednesday, August 26

### Time:

7 – 8:30 PM

### Location:

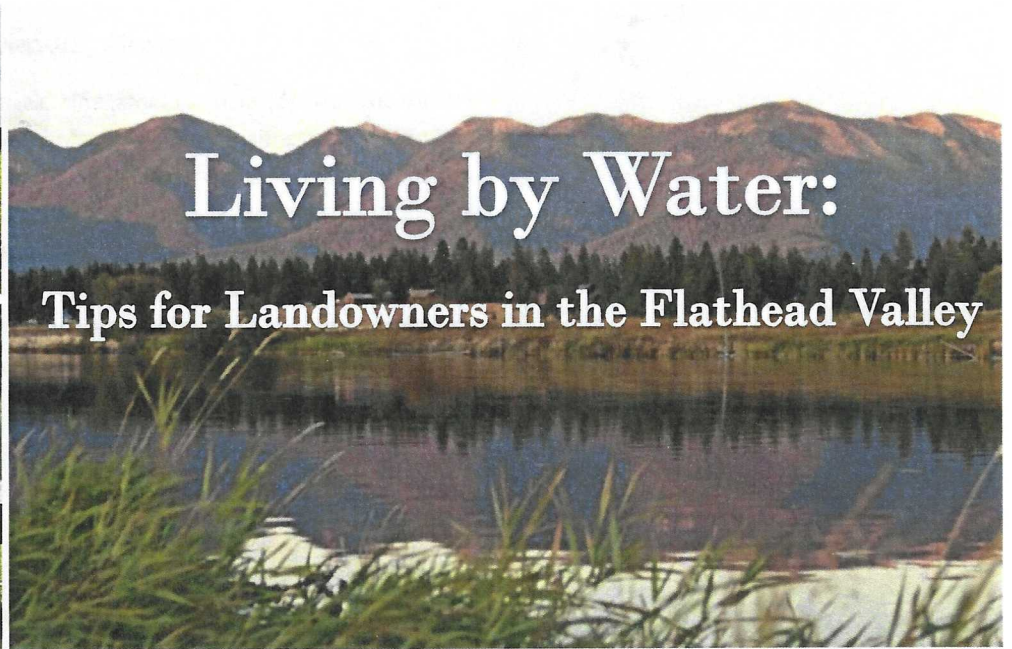
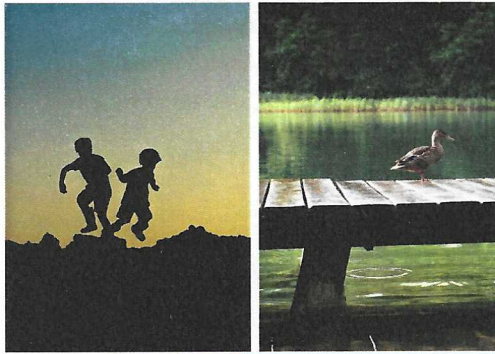
Harbor Village Pavilion

### Agenda:

- Presentation on Living by Water and landowner best management practices.
- Presentation by local agencies on relevant water policy and regulations.
- Discussion of permitting requirements and application procedures.
- Question & Answer, open discussion.
- Shoreline walk to address specific questions and provide examples







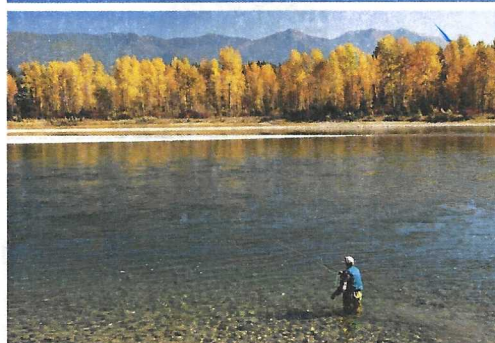
# Living by Water:

## Tips for Landowners in the Flathead Valley

In the Flathead Valley we are lucky enough to be surrounded by water. Between the snow-capped peaks, glacial blue lakes, and deep aquifers, water is an essential component of our culture, economy, and ecosystems.

As the population of Flathead County continues to expand, more stress will be placed on our water. Small threats from a diversity of sources can have huge impacts.

Landowners in the Flathead Valley have an important opportunity to help conserve our water resources. Follow these simple steps to protect the waters of Flathead Valley, because stewardship of our water resources begins at home.



### Water Conservation

Surface water and ground water are inextricably linked. In the Flathead Valley many of our streams are fed by both surface water runoff and ground water infiltration. Riparian areas, agricultural fields, wells, municipal water use, runoff from pavement or fields, and recreation all interact to determine the quality and quantity of our water. It's imperative to not only consider how to keep our water clean, but also how to conserve it.

#### Landowner Tips for Lawn Care:

- Water when it's cool to prevent loss from evaporation
- Repair and maintain spigots, hoses, and sprinklers to prevent loss from leaks
- Use a "step-test" to determine when your lawn needs watered
- Use drought-tolerant, native plants that naturally need less water
- Use mulch to maintain soil moisture and driplines to target watering to specific plants

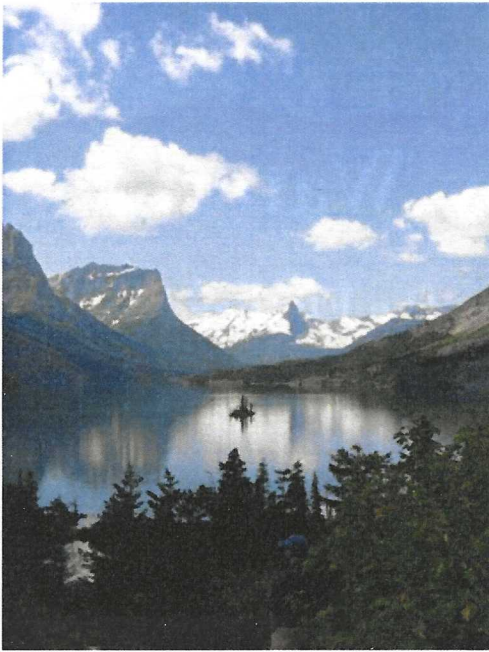
### Nonpoint Source Pollution

NPS pollution occurs when runoff from rain or snow melt flows overland to enter rivers and lakes. The water picks up anything and everything found on the land or in the soil, which can include pollutants of many forms (e.g., excess nutrients from fertilizers, oil from cars, or salt from roads). These pollutants are then carried into water bodies, and their concentrations rise as each stream flows into the next. Ultimately, the pollutants end up at the mouth of a stream or lake. NPS pollutants come from a variety of sources all over the watershed and it's impossible to "point" to where they originate.

#### Landowner Tips for Pollution Prevention:

- Avoid overuse of fertilizers, herbicides, and insecticides
- Maintain & regularly service septic systems
- Never dump anything other than water into storm drains or sewer grates
- Install rain gardens to collect roof or driveway runoff
- Maintain healthy riparian areas to filter pollutants





## Aquatic Invasive Species (AIS)

AIS are any species, such as plants, animals, and pathogens, that are not native to an area and pose a substantial threat to the economy, culture, or ecosystem. AIS are introduced either intentionally, such as when aquariums or fish tanks are dumped into natural waters, or accidentally, such as when boats carrying invasive mussels are launched in local waterways. AIS pose a significant threat because our local waterways lack the natural predators of these invasive species. They quickly outcompete our native species and can cause irreversible changes to the species composition of natural ecosystems. Other impacts from AIS can include damage to irrigation equipment, loss of recreational opportunities, costly maintenance of hydraulic power infrastructure, degraded wildlife habitat, and public health risks.

### Landowner Tips to Prevent AIS Spread:

- Stop at all boat check stations, every time
- Clean, Drain, & Dry any equipment that's been in the water (including farming, gardening, and irrigation equipment) and have out of state equipment inspected
- Do not fill tanks in one location and empty them in another
- Plant only native species near any water source such as ponds, irrigation ditches, or streams
- Never release or dispose of anything, alive or dead, from an aquarium or fish tank into the environment
- Learn to identify AIS and report any suspected AIS locations

## Riparian Areas

Riparian areas, also known as riparian zones and riparian buffers, are the interface between water and dry land. The deep-rooted vegetation characteristic of riparian areas provides highly beneficial functions for landowners and our waters. First, the deep roots act as a net, holding the soil in place along the water's edge and preventing erosion. Second, a riparian area acts as a sponge, soaking up excess water then slowly releasing it. In this way, they mitigate both floods and droughts. Third, they act as filters. Water runoff can carry harmful pollutants such as fertilizer and herbicide. As the runoff passes through a riparian area, pollutants are captured and filtered before the runoff enters a waterbody. Finally, riparian areas shade water and help keep water temperatures low, preventing excess algae growth and maintaining habitat for fish and aquatic life.

### Landowner Tips for a Healthy Riparian Area:

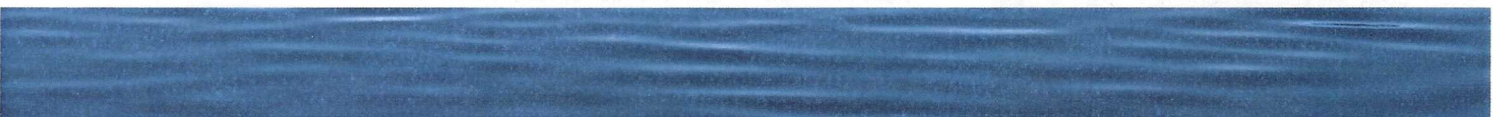
- Always maintain deep-rooted vegetation along water's edge
- Use a diversity of plant types, including trees, bushes, and grasses
- To maintain your view, plant tall, deep-rooting species along the sides of your view and shorter plants in the middle.
- Avoid mowing along water's edge to prevent loss of essential root mass
- Avoid building too close to the water's edge and on the outer edge of river bends where erosion is more likely
- Build on upland areas and use permeable paths (made from wood, stone, or gravel) for access to the water
- Install septic systems outside riparian areas and keep them maintained
- Prevent livestock from damaging riparian areas by using fencing for short-term grazing or installing water gaps, hardened crossings, or offsite water.



**FLATHEAD**  
CONSERVATION DISTRICT



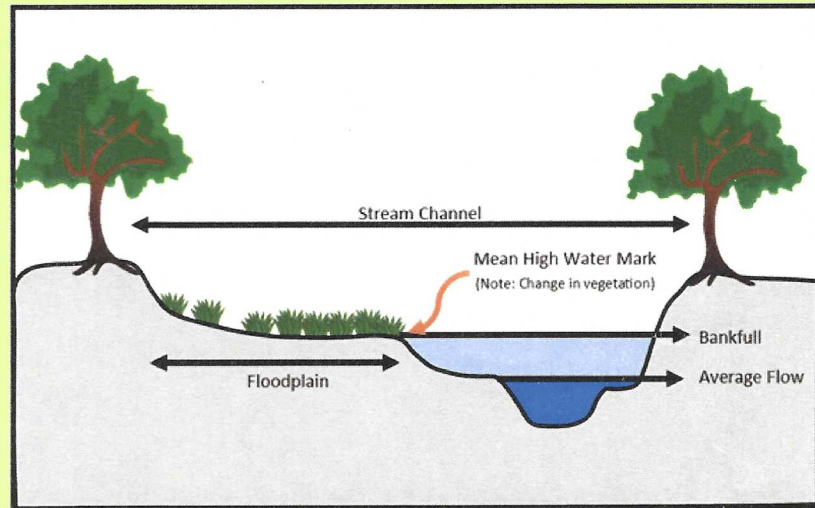
(406) 752-4220  
[www.FlatheadCD.org](http://www.FlatheadCD.org)





# Montana Natural Streambed and Land Preservation Act: The 310 Law

The Natural Streambed and Land Preservation Act is intended to protect and preserve streams and rivers and the lands adjacent to them. The law requires any individual or business proposing work in or near a perennial stream to apply for a 310 permit through their local conservation district.



Cross section of a stream depicting different hydraulic features used by the Flathead Conservation District to determine when a project will require a 310 permit. This graphic may not apply to all situations.

**If you are planning a project in or around a stream, this law pertains to you.**

The Flathead Conservation District administers 310 permits on over 600 streams within Flathead County. Each stream is unique, requiring its own considerations for maintaining health and function. 310 permits are required to ensure wise use of our natural resources and prevent degradation of our streams. Permits are required in any area, which when physically altered or modified, has the potential to affect a stream or its channel. Because each stream and each project are different, permit requirements are assessed on the ground during a site visit by District Supervisors and Fish Wildlife and Parks staff.







# RECOGNIZING WETLANDS

November 2017

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG®

**What's a wetland?** There are many different types of wetlands across the United States. Swamps, marshes, bogs, fens, lagoons, vernal pools, pocosins, bottomland hardwood forests, quagmires, prairie potholes, are all names for wetlands. For the purpose of the Clean Water Act, wetlands are areas that must meet three important factors: hydric soils, wetland vegetation, and wetland hydrology.

**How can I tell if an area is a wetland?** Some types of wetlands are easy to identify, others are more challenging. In most cases, wetlands are dry for a portion of the year making it difficult for an untrained person to identify them. However, here are a few tips that may help you identify a wetland.

**Tip 1. Ask your local Corps office.** Before you do anything else, ask your local U.S. Army Corps of Engineers (Corps) District Regulatory office ([www.usace.army.mil/Contact/Office-Locator](http://www.usace.army.mil/Contact/Office-Locator)). The Corps has been delineating wetlands for over 40 years and has resources that could assist you. They may already have knowledge about and familiarity with the site. You may also wish to hire a wetland delineation professional. If you decide to hire a wetland delineation professional, asking the Corps should be part of their initial due-diligence review as well.

## **Are Puddles Wetlands?**

*No. Puddles are not wet long enough to create hydric soils or to change the plant community.*

in a line (like at the edge of a lake). If your area has distinct wet and dry seasons, the best time to look is often after the middle of the wet season or after several soaking rains. In areas with wet, cold winter weather, the best time to look is at the beginning of the growing season just as the buds are bursting on deciduous trees or the first spring plants are sprouting. If you hire a wetland delineation professional, they should also look at these areas. Finally, when uncertain about the best time to look for wetlands in your area, ask your local Corps District Regulatory office.

**Tip 3. Look for wetland plants.** Walk the site during the wet portion of the growing season and look for wetland plants. Wetland plants vary from region to region. You can get the list of plants for your region from the National Wetland Plant List ([wetland-plants.usace.army.mil](http://wetland-plants.usace.army.mil)). In addition, the U.S. Department of Agriculture (USDA) has a website full of pictures and other information about thousands of plants at [plants.usda.gov](http://plants.usda.gov). You may also contact your local Corps District Regulatory office for more information about commonly occurring wetland plants in your area. In general though, you should have a wetland delineation professional look at the area if you see cattails, bulrushes, cordgrass, smartweeds, sphagnum moss, cypress, willows, mangroves, sedges, rushes, arrowheads, etc. The Corps' Engineer Research and Development Center has created a YouTube Channel called *All Things Wetland Plants Video Series* that can assist the wetland delineation professional ([www.youtube.com/channel/UCI-wASW82yGEqMNHQqKnLYq](http://www.youtube.com/channel/UCI-wASW82yGEqMNHQqKnLYq)).

## **Wetlands Legal Definition**

*Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. (33 CFR §328.3(b)).*

**Tip 2. Look for areas where water collects.** When looking at an area for potential wetlands, look not only for standing water, but also for areas where the soil is waterlogged or saturated. You can also look for signs that water was there recently. For example, look for things like water rings (or staining) on trees, rocks, and fence posts. Look for debris piled up on fences, trees, rocks and other structures, or debris deposited



*Vernal pool wetlands at Jepson Prairie, California. Photographed by James Robb, 2017.*



### **Do I Have to Hire a Private Consultant?**

*No. The Corps will delineate wetlands on your property if requested. However, due to limited resources that can result in a delay in the process. Hiring a private delineation professional is entirely up to you, but such professional can, in many cases, provide data necessary to delineate wetlands which generally speeds up the process.*

**Tip 4. Look at a soil map.** The Natural Resources Conservation Service (NRCS) has created maps of the different soil types all over the U.S. and publishes that information on the Web Soil Survey at [websoilsurvey.nrcs.usda.gov](http://websoilsurvey.nrcs.usda.gov). If there are hydric soils on or near the area in question, or if mapped soils contain hydric inclusions, then the area may be a wetland. In this case, you may consider consulting with a wetland delineation professional for more help or contacting your local Corps District Regulatory office.

**Tip 5. Look at the National Wetland Inventory (NWI).** The U.S. Fish and Wildlife Service (FWS) mapped wetlands throughout the country ([www.fws.gov/wetlands](http://www.fws.gov/wetlands)). There are limitations to these data as much of the mapping is old. In addition, many wetlands are not mapped due to limits of technology, aerial imagery used, etc.

Since FWS has a different legal definition of wetlands, there could be some areas that are mapped that do not meet the Corps' definition and some areas that are not mapped that would meet the Corps' definition. The NWI mapping does not include all wetlands and does not identify wetlands which are federally regulated by the Corps. The bottom line though, is if you see a mapped wetland on or nearby your property, it's probably a good idea to consult a wetland delineation professional or your local Corps District Regulatory office.

**Tip 6. Look at aerial photos.** Wetlands often show up as darker areas in aerial photographs. This is because water absorbs light, so wet soils tend to look dark from the air. The reverse can also be true with wetlands appearing brighter than the surrounding uplands when water, early in the growing season, suppresses plant growth then dries up, leaving more bare ground than in the surrounding landscape. You can find aerial photography from a variety of sources and the number is constantly growing. In rural areas, your local Farm Service Agency (agency of the USDA) offices are a great place to start. Other options include Google Earth ([www.google.com/earth](http://www.google.com/earth)), U.S. Geological Survey's EarthExplorer ([earthexplorer.usgs.gov](http://earthexplorer.usgs.gov)), National Oceanic and Atmospheric Administration's CoastWatch ([coastwatch.noaa.gov](http://coastwatch.noaa.gov)), and USDA's Geospatial Data Gateway ([datagateway.nrcs.usda.gov](http://datagateway.nrcs.usda.gov)).



*Wetlands show up darker than the surrounding land in this 1998 USGS image via Google Earth.*

**Who are wetland delineation professionals and what do they do?** The Corps has wetland delineation professionals on staff. The NRCS also has wetland delineation professionals who can help farmers, ranchers, and other similar landowners regarding programs under the Food Security Act; however, the Corps may not be able to use wetland determinations made by the NRCS and there are often data sharing limitations between the agencies. There are also many private consultants who provide wetland delineation services and can submit a delineation to the Corps for verification. There is no license or certification for wetland delineation professionals that is recognized by the Corps. However, the Association of State Wetland Managers has developed some suggestions for selecting a consultant at [www.aswm.org/pdf/lib/consultant0607.pdf](http://www.aswm.org/pdf/lib/consultant0607.pdf). Your local Corps office may also keep a list of wetland delineation professionals that work in your area, but cannot make any recommendations. The wetland delineation professional will follow the Corps 1987 Wetland Delineation Manual and the applicable regional supplement to collect data from sample points and, using that data, identify and potentially map any wetlands within the site ([www.usace.army.mil/reg/reg\\_supp/](http://www.usace.army.mil/reg/reg_supp/)).

**What to do if your area has wetlands that you propose to alter?** Contact the Corps District Regulatory office that has responsibility for the permitting process in your area. This office will assist you in discussing your options, and will provide instructions for applying for a permit, if necessary.





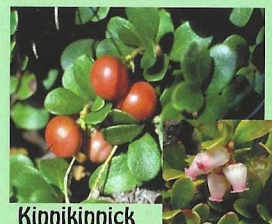
# Waterfront LANDSCAPES

*Keep the View  
~ Plus a Whole Lot More ~*





## Water's Edge



Kinnikinnick



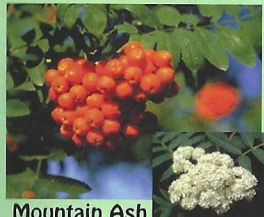
Beebalm



Shrubby Cinquefoil



Woods' Rose

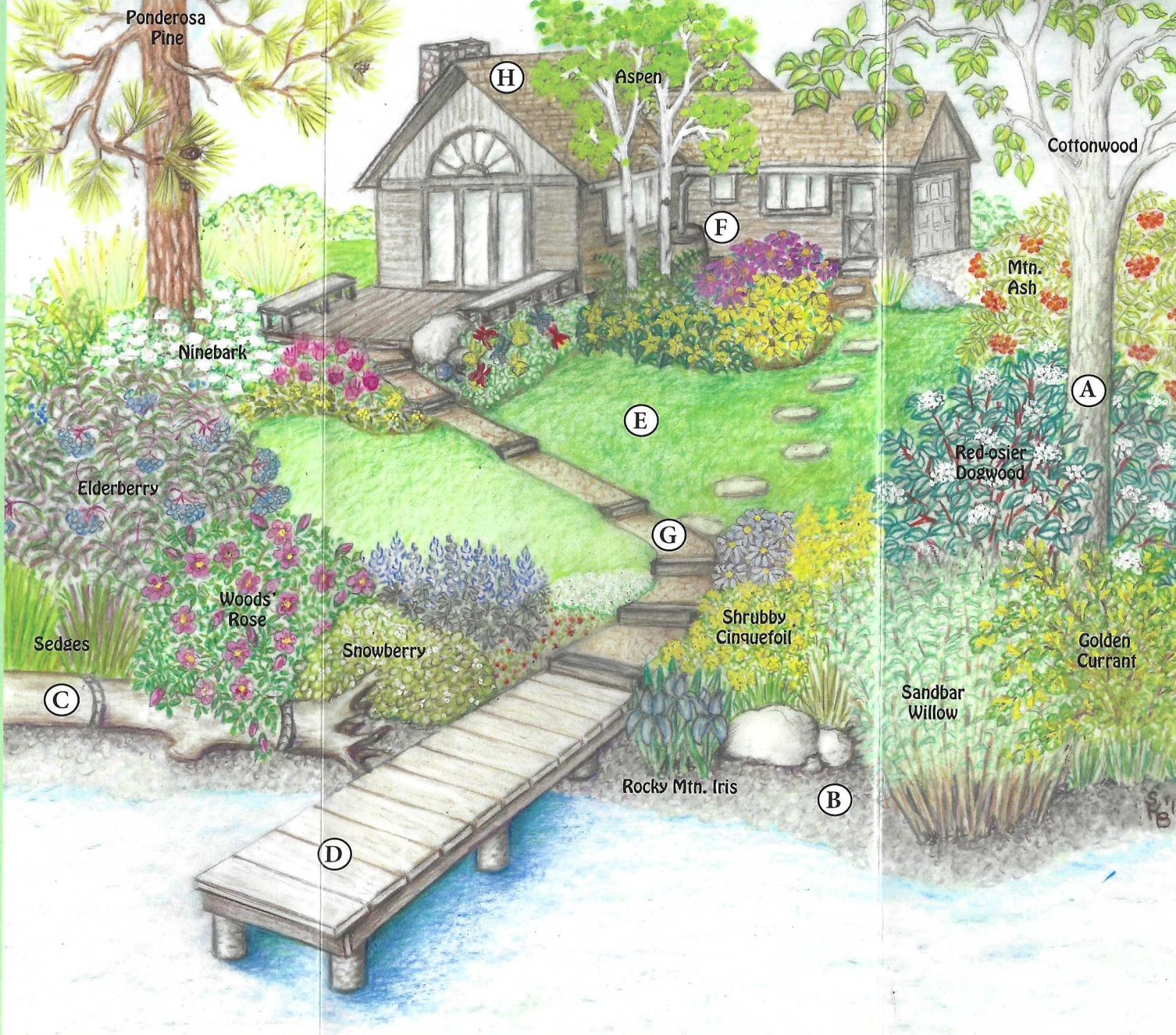


Mountain Ash



Chokecherry

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## Upland Sites



Columbine



Heartleaf Arnica



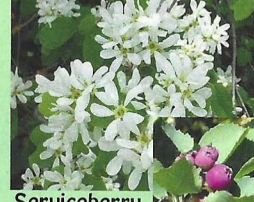
Echinacea



Lupine



Blackeyed Susan



Serviceberry

© Photo Credits (top-btm): 1) Dee Strickler, Holmes O. Miller\*, USDA Forest Service; 2,4) Mrs. W.V. D. Bransford\*; 3, 5) Sue Ball; 6) Rick Moore, Greg Rabourn NW Native Plant Guide

- A. Retain existing native vegetation
- B. Keep natural shoreline shape and beach
- C. Incorporate driftwood into landscape
- D. Use floating or flow-through dock

- E. Minimize lawn size and avoid fertilizers
- F. Add rain barrels or rain gardens
- G. Use permeable material for footpaths
- H. Build away from shore, out of floodplain

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### Permitting Tips

#### How to Use *A Guide to Stream Permitting in Montana*

- A. Montana Natural Streambed and Land Preservation Act (*310 Permit*)
- B. Montana Stream Protection Act (*SPA 124 Permit*)
- C. City or County Floodplain Development Permit
- D. Federal Clean Water Act (*404 Permit*)
- E. Federal Rivers And Harbors Act (*Section 10 Permit*)
- F. Short-Term Water Quality Standard For Turbidity (*318 Authorization*)
- G. Montana Land-Use License or Easement on Navigable Waters
- H. Montana Water Use Act (*Water Right Permit and Change Authorization*)
- I. Montana Water Use Act (*Water Reservations*)
- J. Stormwater Discharge General Permits
- K. Streamside Management Zone Law
- L. Other Laws That May Apply

Credits



## Permitting Tips

Wading through the permitting system can be difficult and confusing due to the number of agencies that have permitting authority. To make applying for a permit easier, agencies responsible for some of the permits listed in this brochure cooperatively developed a single application form that can be used when applying for permits A-G. The form can be obtained by contacting any of the agencies indicated as a participant or by downloading the form at <http://dnrc.mt.gov/licenses-and-permits>.

When designing your project, keep in mind the following tips:

- Plan ahead. Permit review can take from 30-120 days or more if an application is not complete. Contact all potential permitting agencies early in your planning process. All necessary permits must be obtained prior to beginning work.
- Secure landowner permission. The receipt of a permit does not mean you have landowner permission. The applicant is responsible for obtaining landowner permission before entering land not owned by the applicant.
- Submit a complete application. Consider potential impacts of your project such as temporary increases in turbidity, erosion, fisheries and aquatic life impacts due to timing of projects, etc., and include in your application how impacts will be minimized.
- Leave as much streamside vegetation as possible. Streamside vegetation is important to the health and stability of a stream. Vegetation should be removed only to the extent necessary to construct the project. Plan to revegetate the area as soon as possible to avoid erosion and prevent weed infestations.
- Get professional assistance, if necessary, for designing and constructing your project in conformity with the natural function of the stream or river. Engineering designs may be required, especially for large projects or projects that have the potential for impacts.
- Consider bioengineering methods, where appropriate, to minimize project impacts.
- Avoid projects that permanently prevent fish passage.
- Agencies may approve permit applications contingent upon modifications and may change the timing of the project to minimize impacts.

## Permitting Tips

### How to Use *A Guide to Stream Permitting in Montana*

**A. Montana Natural Streambed and Land Preservation Act (310 Permit)**

**B. Montana Stream Protection Act (SPA 124 Permit)**

**C. City or County Floodplain Development Permit**

**D. Federal Clean Water Act (404 Permit)**

**E. Federal Rivers And Harbors Act (Section 10 Permit)**

**F. Short-Term Water Quality Standard For Turbidity (318 Authorization)**

**G. Montana Land-Use License or Easement on Navigable Waters**

**H. Montana Water Use Act (Water Right Permit and Change Authorization)**

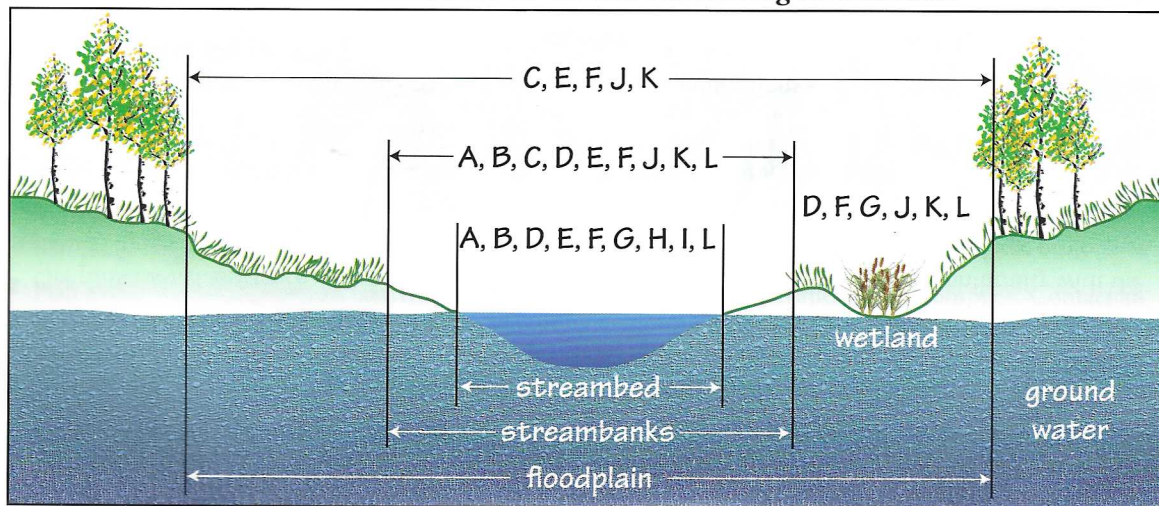
**I. Montana Water Use Act (Water Reservations)**

**J. Stormwater Discharge General Permits**

**K. Streamside Management Zone Law**

**L. Other Laws That May Apply**

**Credits**



Using the diagram above, determine where your project will take place: streambed, streambanks, wetlands, and/or floodplain. The letters in the diagram refer to the required permits listed below (A through L) and described on the following pages.

***Permits that may be necessary:***

- A. Montana Natural Streambed and Land Preservation Act (310 Permit)
- B. Montana Stream Protection Act (SPA 124 Permit)
- C. Montana Floodplain and Floodway Management Act (Floodplain Development Permit)
- D. Federal Clean Water Act (404 Permit)
- E. Federal Rivers and Harbors Act (Section 10 Permit)
- F. Short Term Water Quality Standard for Turbidity (318 Authorization)
- G. Montana Land Use License or Easement on Navigable Waters
- H. Montana Water Use Act (Water Right Permit and Change Authorization)
- I. Montana Water Use Act (Water Reservations)
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***How to Use A Guide to Stream Permitting in Montana***

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**G. Montana Land-Use License or Easement on Navigable Waters**

**H. Montana Water Use Act (Water Right Permit and Change Authorization)**

**I. Montana Water Use Act (Water Reservations)**

**J. Stormwater Discharge General Permits**

**K. Streamside Management Zone Law**

**L. Other Laws That May Apply**

**Credits**

**A. Montana Natural Streambed and Land Preservation Act (310 Permit)**

***Who Must Apply***

Any private, nongovernmental individual or entity that proposes to work in or near a stream on public or private land.

***Activities Requiring a Permit***

Any activity that physically alters or modifies the bed or banks of a perennially flowing stream.

***Purposes of the Law***

- To minimize soil erosion and sedimentation.
- To protect and preserve streams and rivers in their natural or existing state.

***Who Administers the Law***

The Board of Supervisors of the conservation district in which the project takes place.

***Application Procedure/Timeline***

A person planning a project must contact the conservation district office to obtain a permit application prior to any activity in or near a perennial-flowing stream. Once an application is accepted, a team that consists of a conservation district representative; a Montana Fish, Wildlife & Parks biologist; and the applicant may conduct an on site inspection. The team makes recommendations to the conservation district board, which has 60 days

from the time the application is accepted to approve, modify, or deny the permit. Local rules apply. A fee may apply for a 310 permit, inquire locally. Joint application participant—see Permitting Tips section.

***For more information, contact your local conservation district or:***

Contact your local Conservation District  
<http://dnrc.mt.gov/divisions/cardd/conservation-districts>

or

Conservation Districts Bureau  
Department of Natural Resources and Conservation  
1539 Eleventh Avenue  
P.O. Box 201601  
Helena, MT 59620-1601  
(406) 444-6667  
<http://dnrc.mt.gov/licenses-and-permits>

**A. Montana Natural Streambed and Land Preservation Act (310 Permit)**

**B. Montana Stream Protection Act (SPA 124 Permit)**

**C. City or County Floodplain Development Permit**

**D. Federal Clean Water Act (404 Permit)**

**E. Federal Rivers And Harbors Act (Section 10 Permit)**

**F. Short-Term Water Quality Standard For Turbidity (318 Authorization)**

**G. Montana Land-Use License or Easement on Navigable Waters**

**H. Montana Water Use Act (Water Right Permit and Change Authorization)**

**I. Montana Water Use Act (Water Reservations)**

**J. Stormwater Discharge General Permits**

**K. Streamside Management Zone Law**

**L. Other Laws That May Apply**

**Credits**



## **B. Montana Stream Protection Act (*SPA 124 Permit*)**

### ***Who Must Apply***

Any agency or subdivision of state, county, or city government proposing a project that may affect the bed or banks of any stream in Montana. Many federal agencies also comply either via a memorandum of understanding or general agreement.

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

Any project including the construction of new facilities or the modification, operation, and maintenance of an existing facility that may affect the natural existing shape and form of any stream or its banks or tributaries.

### ***Purposes of the Law***

- To protect and preserve fish and wildlife resources.
- To maintain streams and rivers in their natural or existing state.

### ***Who Administers the Law***

Montana Fish, Wildlife and Parks.

### ***Application Procedure/Timeline***

Any agency or unit of government planning a project must submit a Notice of Construction (application) to Montana Fish, Wildlife & Parks, which has up to 30 days to review the application, perform an on-site investigation, and approve, modify, or deny the application. An application must be submitted for review not less than

60 days before the intended start of construction. There is no application fee. Joint application participant--see Permitting Tips section.

### ***For more information, contact:***

Fisheries Habitat Section  
Fisheries Bureau  
Montana Fish, Wildlife & Parks  
1420 East Sixth Avenue  
P.O. Box 200701  
Helena, MT 59620 0701  
(406) 444-2449  
<http://fwp.mt.gov/>  
<http://dnrc.mt.gov/licenses-and-permits>

## **B. Montana Stream Protection Act (*SPA 124 Permit*)**

### **C. City or County Floodplain Development Permit**

### **D. Federal Clean Water Act (*404 Permit*)**

### **E. Federal Rivers And Harbors Act (*Section 10 Permit*)**

### **F. Short-Term Water Quality Standard For Turbidity (*318 Authorization*)**

### **G. Montana Land-Use License or Easement on Navigable Waters**

### **H. Montana Water Use Act (*Water Right Permit and Change Authorization*)**

### **I. Montana Water Use Act (*Water Reservations*)**

### **J. Stormwater Discharge General Permits**

### **K. Streamside Management Zone Law**

### **L. Other Laws That May Apply**

Credits



## **C. City or County Floodplain Development Permit**

### ***Who Must Apply***

Anyone planning new development within a designated Special Flood Hazard Areas (SFHA). Check with local floodplain administrator to determine whether a Special Flood Hazard Areas (SFHA) has been designated for the stream of interest. A list of local Floodplain Administrators may be found at:

[www.floodplain.mt.gov/contacts](http://www.floodplain.mt.gov/contacts)

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

Any development including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, and excavation; new construction/development, placement, or replacement of manufactured homes; and new construction, additions, or substantial improvements to residential and commercial buildings.

### ***Purpose of the Law***

To promote the public health, safety and general welfare of the residents and to minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. Review and permit appropriate uses, within the designated floodplain and floodway areas, that will not be seriously damaged or present a hazard to life, if flooded, thereby limiting the expenditure of public tax dollars for emergency operations and disaster relief.

### ***Who Administers the Law***

Floodplain Development Permits are available from the local floodplain administrator a local official designated by the City or County government.

### ***Application Procedure/Timeline***

Permit applications are available from the local floodplain administrator. Application fees and timelines are established by the local government and vary widely throughout the state. Joint application participant-see Permitting Tips section.

#### ***For more information, contact:***

Floodplain Management Section  
Department of Natural Resources and Conservation  
1424 Ninth Avenue  
P.O. Box 201601  
Helena, MT 59620-1601  
(406) 444-0862  
or  
[www.floodplain.mt.gov](http://www.floodplain.mt.gov)  
Local Floodplain Administrators

## **C. City or County Floodplain Development Permit**

### **D. Federal Clean Water Act (404 Permit)**

### **E. Federal Rivers And Harbors Act (Section 10 Permit)**

### **F. Short-Term Water Quality Standard For Turbidity (318 Authorization)**

### **G. Montana Land-Use License or Easement on Navigable Waters**

### **H. Montana Water Use Act (Water Right Permit and Change Authorization)**

### **I. Montana Water Use Act (Water Reservations)**

### **J. Stormwater Discharge General Permits**

### **K. Streamside Management Zone Law**

### **L. Other Laws That May Apply**

## **Credits**



## **D. Federal Clean Water Act (404 Permit)**

### ***Who Must Apply***

Any person, agency, or entity, either public or private, proposing activities that will result in the discharge or placement of dredged or fill material into waters of the United States. Waters of the United States include the area below the ordinary high water mark of river and stream channels, lakes or ponds connected to the tributary system, and wetlands adjacent to these waters. Isolated waters and wetlands, as well as man-made ditches and channels, may be waters of the United States in certain circumstances, which must be determined by the US Army Corps of Engineers on a case-by-case basis.

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

Any activity that will result in the temporary or permanent discharge or placement of dredged or fill material into waters of the United States, including wetlands. Fill material includes, but is not limited to: rock, sand, soil, clay, plastics, timber, mats, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the waters of the United States. The term fill material does not include trash, garbage, or waste material. Dredged material is material excavated or dredged from any water of the United States.

### ***Purpose of the Law***

To restore and maintain the chemical, physical, and biological integrity of the nation's waters.

### ***Who Administers the Law***

The U.S. Army Corps of Engineers (Corps). The U.S. Environmental Protection Agency also has regulatory review and enforcement functions under the law.

### ***Application Procedure/Timeline***

Any person, agency, or entity, either public or private, planning a project should submit an application to the Corps for review. Permit authorization varies depending on the size and scope of the intended project. Activities that meet the conditions for a Nationwide or Regional General Permit may be approved in 30 to 45 days. Individual Permits require a more extensive review and require a public notice period, this total review may take 120 days. Processing times for all permits may increase beyond the above guidelines if reviews are required for Listed Threatened or Endangered Species, Historical/Cultural Resources, and/or Tribal impacts. The permit fees for Individual Permits vary from \$10 for private individuals to \$100 for commercial applicants, and are assessed when the permit is ready to be issued. There is no fee for Nationwide or Regional General Permit authorizations. Do not send any payments with the application. Applicants will be notified if a fee applies.

### ***For more information, contact:***

U.S. Army Corps of Engineers  
Montana Regulatory Program  
10 West 15th Street, Suite 2200  
Helena, MT 59626-9705  
Phone (406) 441-1375  
Fax (406) 441-1380

<http://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/>

## **D. Federal Clean Water Act (404 Permit)**

### **E. Federal Rivers And Harbors Act (Section 10 Permit)**

### **F. Short-Term Water Quality Standard For Turbidity (318 Authorization)**

### **G. Montana Land-Use License or Easement on Navigable Waters**

### **H. Montana Water Use Act (Water Right Permit and Change Authorization)**

### **I. Montana Water Use Act (Water Reservations)**

### **J. Stormwater Discharge General Permits**

### **K. Streamside Management Zone Law**

### **L. Other Laws That May Apply**

Credits



## **E. Federal Rivers And Harbors Act (*Section 10 Permit*)**

### ***Who Must Apply***

Any person, agency, or entity, either public or private, proposing any alteration of, or any construction activity in, on, under, or over any federally listed navigable water of the United States.

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

The temporary or permanent construction of any structure in or over any federally listed navigable waters of the United States, the excavation from or depositing of material in such waters, or the accomplishment of any other work affecting the course, location, condition, or capacity of such waters. Work needing authorization includes boring or tunneling under navigable waters, suspending structures, utility lines, or other facilities over navigable waters, as well as all work within the Ordinary High Water Mark of navigable waters.

Navigable waters in Montana are: the entire Missouri River from Three Forks downstream; the Yellowstone River from Emigrant downstream to its confluence with the Missouri River; and the Kootenai River from the International Border between the United States and Canada downstream to Jennings Rapids near Jennings, Montana (just upstream of Libby, MT).

### ***Purpose of the Law***

To protect the quality and quantity of navigable waters of the United States.

### ***Who Administers the Law***

The U.S. Army Corps of Engineers (Corps).

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### ***Application Procedure/Timeline***

Any person, agency, or entity, either public or private, planning a project should submit an application to the Corps for review. Permit authorization varies depending on the size and scope of the intended project. Activities that meet the conditions for a Nationwide or Regional General Permit may be approved in 30 to 45 days. Individual Permits require a more extensive review and require a public notice period, this total review may take 120 days. Processing times for all permits may increase beyond the above guidelines if reviews are required for Listed Threatened or Endangered Species, Historical/Cultural Resources, and/or Tribal impacts. The permit fees for Individual Permits vary from \$10 for private individuals to \$100 for commercial applicants, and are assessed when the permit is ready to be issued. There is no fee for Nationwide or Regional General Permit authorizations. Do not send any payments with the application. Applicants will be notified if a fee applies.

### ***For more information, contact:***

U.S. Army Corps of Engineers  
Montana Regulatory Program  
10 West 15th Street, Suite 2200  
Helena, MT 59626-9705  
Phone (406) 441-1375  
Fax (406) 441-1380

<http://www.nwo.usace.army.mil/Missions/Regulatory-Program/Montana/>

## **E. Federal Rivers And Harbors Act (*Section 10 Permit*)**

### **F. Short-Term Water Quality Standard For Turbidity (*318 Authorization*)**

### **G. Montana Land-Use License or Easement on Navigable Waters**

### **H. Montana Water Use Act (*Water Right Permit and Change Authorization*)**

### **I. Montana Water Use Act (*Water Reservations*)**

### **J. Stormwater Discharge General Permits**

### **K. Streamside Management Zone Law**

### **L. Other Laws That May Apply**

Credits



## **F. Short-Term Water Quality Standard For Turbidity (318 Authorization)**

### ***Who Must Apply***

Any person, agency, or entity, both public and private, initiating construction activity that will cause short term or temporary violations of state surface water quality standards for turbidity.

### ***Activities Requiring an Authorization***

Any activity in any state water that will cause unavoidable short term violations of water quality standards. "State water" includes any body of water, irrigation system, or drainage system, either surface or underground, including wetlands, except for irrigation water where the water is used up within the irrigation system and the water is not returned to other state water.

### ***Purposes of the Law***

- To provide a short term water quality turbidity standard for construction activities. Activities must be carried out in accordance with conditions prescribed by the Department of Environmental Quality.
- To protect water quality.
- To minimize sedimentation.

### ***Who Administers the Law***

Department of Environmental Quality.

### ***Application Procedure/Timeline***

A 318 Authorization must be obtained prior to initiating a project. The authorization may be obtained from the Department of Environmental Quality, or may be waived by Montana Fish, Wildlife & Parks during its review process under the Natural Streambed and Land Preservation Act (310 Permit) or the Stream Protection Act (SPA 124 Permit).

Under certain circumstances, Montana Fish, Wildlife & Parks can issue 318 permits on behalf of the Montana Department of Environmental Quality.

Individual applications submitted to the Department of Environmental Quality are normally processed within 30 to 60 days. Authorizations waived under the 310 or SPA 124 permit processes correspond to the time frame under each permit system, usually 30 to 60 days. There is an application fee of \$250.00 (make check or money order payable to Water Protection Bureau, Department of Environmental Quality). Joint application participant-see Permitting Tips section.



### ***For more information contact:***

Water Protection Bureau  
Department of Environmental Quality  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901  
(406) 444-3080  
<http://deq.mt.gov>

## **F. Short-Term Water Quality Standard For Turbidity (318 Authorization)**

### **G. Montana Land-Use License or Easement on Navigable Waters**

### **H. Montana Water Use Act (Water Right Permit and Change Authorization)**

### **I. Montana Water Use Act (Water Reservations)**

### **J. Stormwater Discharge General Permits**

### **K. Streamside Management Zone Law**

### **L. Other Laws That May Apply**



## **G. Montana Land-Use License or Easement on Navigable Waters**

### ***Who Must Apply***

Any entity proposing a project on lands below the low water mark of navigable waters.

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

The construction, placement, maintenance, or modification of a structure or improvements in, over, below, or above a navigable river. If in doubt, contact the Department of Natural Resources and Conservation Land Office nearest to the project area for a determination of the navigability of the river.

This permit program does not apply to mining, mineral, or oil and gas activities in navigable rivers.

### ***Purposes of the Law***

- To protect riparian areas and the navigable status of the water body.
- To provide for the beneficial use of state lands for public and private purposes in a manner that will provide revenues without harming the long term capability of the land or restricting the original commercial navigability.

### ***Who Administers the Law***

Department of Natural Resources and Conservation (DNRC).

### ***Application Procedure/Timeline***

A DNRC Land Use License or Easement Application, along with the nonrefundable application fee, must be submitted to the appropriate Land Office nearest to the project area. DNRC staff will review the application, conduct a field investigation if necessary, and file an environmental action checklist as appropriate. A written report and recommendation is then submitted to the Real Estate Management Bureau in Helena, which makes the final determination and recommends stipulations as necessary. A Land Use License can normally be reviewed, approved, and issued within 60 days upon the payment of the \$50 application fee and a minimum annual rental fee. The license may be held for up to 10 years, with the ability to request renewal for an additional 10 years. An easement requires approval from the Board of Land Commissioners, which normally takes a minimum of 90 days. The current easement application fee is \$50, with an additional fee for the easement itself.

### ***For more information contact:***

DNRC Land Office  
or  
Real Estate Management Bureau  
Department of Natural Resources and Conservation  
1539 Eleventh Avenue  
P.O. Box 201601  
Helena, MT 59620-1601  
(406) 444-2074  
<http://dnrc.mt.gov/licenses-and-permits>

**G. Montana Land-Use License or Easement on Navigable Waters**  
**H. Montana Water Use Act (*Water Right Permit and Change Authorization*)**

**I. Montana Water Use Act (*Water Reservations*)**

**J. Stormwater Discharge General Permits**

**K. Streamside Management Zone Law**

**L. Other Laws That May Apply**



## H. Montana Water Use Act (*Water Right Permit and Change Authorization*)

### *Who Must Apply*

Any person, agency, or governmental entity intending to acquire new or additional water rights or change an existing water right in the state must apply for a water right permit or change authorization or qualify under an exemption.

### *Activities Requiring a Permit*

**General Rule** – A person must obtain a beneficial water use permit before commencing to construct new or additional diversion, withdrawal, impoundment, or distribution works for appropriation of groundwater over 35 gallons per minute (GPM) or 10 acre feet (AF) per year **and** for any surface water.

### **Most Commonly Used Exceptions** –

- Groundwater appropriations of 35 (GPM) or less and 10 (AF) or less must first be appropriated and put to use before a water right is issued.
- Stockwater impoundments of less than 15 AF on a non perennial stream with an annual appropriation of less than 30 AF/year may be constructed first and then a form filed upon completion.

### *Types of Water Rights and Changes*

**Provisional Permit** – Grants the use of water for a specific amount and purpose.

**Certificate of Water Right** – Issued on:

- Groundwater appropriations of 35 GPM or less and 10 AF or less.
- Groundwater appropriations for emergency fire developments by a local governmental fire agency where the appropriation is used only for emergency fire protection, which may include enclosed storage.
- Groundwater appropriations for completed developments where the water has been put to use for nonconsumptive geothermal heating or cooling with a maximum use of 350 GPM.

**Replacement Well** – Issued when an existing well fails and a new well is constructed to replace it. The priority date of the old well is retained.

**Authorization to Change** – Allows an appropriator with a recognized water right or a water right that was exempt from filing to change the place of use, point of diversion, purpose of use, or place of storage and maintain the priority date of the initial water right.

**Temporary Change** – Allows an appropriator to change the water right temporarily for a period of up to 10 years, with possible renewals of not more than 10 years per renewal. No authorization is required for the water right to revert to the original purpose, point of diversion, place of use, or place of storage after the term expires.

**Instream Flow** – Allows water that is diverted for consumptive uses to be transferred temporarily (up to 30 years) to an instream use. All or part of the water right can be leased to the Montana Department of Fish, Wildlife and Parks, leased to another party interested in holding the right for a fishery, or converted to an instream use without a lease.

### *Purposes of the Law*

- To provide a permit and certificate system for water rights administration that operates within the bounds of the prior appropriation doctrine (“first in time is first in right”). A person’s right to use a specific quantity of water depends on when the use of water began. The first person to use water from a source established the first right; the second person could establish a right to what water was left, and so on.
- To maintain a general adjudication of all existing water rights in the state.
- To implement a centralized record system.

### *Who Administers the Law*

Water Rights Bureau, Department of Natural Resources and Conservation.

### *Application Procedure/Timeline*

Water right application forms are available at the eight Water Resources Regional Offices located in Billings, Bozeman, Glasgow, Havre, Helena, Kalispell, Lewistown, and Missoula. Forms, fee schedules, and related information are available on the web at <http://dnrc.mt.gov/divisions/water/water-rights>. The Department has 180 days to review the application and issue a deficiency letter and 120 days from a correct and complete application determination to issue a preliminary decision at which time the application is publicly noticed for any potential objections.

### *For more information, contact:*

Water Rights Bureau, Department of Natural Resources and Conservation  
1424 Ninth Avenue, P.O. Box 201601, Helena, MT 59620-1601  
(406) 444-6601

## H. Montana Water Use Act (*Water Right Permit and Change Authorization*)

### I. Montana Water Use Act (*Water Reservations*)

### J. Stormwater Discharge General Permits

### K. Streamside Management Zone Law



## **I. Montana Water Use Act (*Water Reservations*)**

### ***Who May Apply***

Any governmental entity may apply to reserve water for existing or future beneficial uses or to maintain a minimum flow, level, or quality of water. Any person or entity that needs water for a new or existing development within the boundaries of a conservation district that holds a water reservation may apply to use a portion of the conservation district's water reservation.

### ***Activities Qualifying for Use of Reserved Water***

All beneficial uses, including such activities related to agriculture as irrigation and stockwater. A water reservation is granted for specific uses. Contact your local conservation district to determine whether it has been granted a water reservation and whether your proposed use is authorized under that water reservation.

### ***Purposes of the Law***

- To provide water for existing and future beneficial uses of water.
- To maintain a minimum flow, level, or quality of water.

### ***Who Administers the Law***

The Water Rights Bureau, Department of Natural Resources and Conservation, administers the water reservations that were granted by the Board of Natural Resources and Conservation. The local conservation district authorizes the use of its water reservation and administers the individual reserved water use authorizations. The Conservation and Resource Development Division, Department of Natural Resources and Conservation, provides technical and administrative assistance to the conservation districts in preparing applications and developing their reservations.

### ***Application Procedure Timeline***

The application for reserved water use form is available at the local conservation district office or at the Conservation and Resource Development Division's offices in Miles City, Glasgow, and Helena. An application fee is required. Contact the local conservation district to determine the appropriate fee.

### ***For more information, contact:***

Your local conservation district  
or

Conservation and Resource Development Division  
Department of Natural Resources and Conservation  
1539 Eleventh Avenue P.O. Box 201601  
Helena, MT 59620-1601  
(406) 444-6667

<http://dnrc.mt.gov/divisions/cardd/conservation-districts/water-reservations>

Conservation and Resource Development Division  
Department of Natural Resources and Conservation  
321 Main Street  
PO Box 276  
Miles City, MT 59301  
(406) 232-6359

Conservation and Resource Development Division  
Department of Natural Resources and Conservation  
228 6th St South  
P.O. Box 231  
Glasgow, MT 59230  
(406) 228-4129

## **I. Montana Water Use Act (*Water Reservations*)**

### **J. Stormwater Discharge General Permits**



## J. Stormwater Discharge General Permits

### *Who Must Apply*

Any person, agency, or entity, either public or private, proposing a construction, industrial, mining, or other defined activity that has a discharge of storm water into surface waters. Under the authority of the Montana Water Quality Act, permit authorization is typically obtained under a Montana Pollutant Discharge Elimination System (MPDES) "General Permit".

### *Activities Requiring Permit Authorization*

- Construction activity that will disturb one or more total acres including clearing, grading, and excavating activities.
- A defined industrial activity that may potentially discharge storm water into surface waters.
- A defined mining or oil and gas activity in which storm water will come into contact with overburden, raw material, intermediate products, finished products, or waste products located on the site of such operations (including active and inactive mine sites) and may potentially discharge to surface waters.
- A defined Small Municipal Separate Storm Sewer System (MS4).

### *Purposes of the Law*

- To prevent degradation of surface waters from pollutants such as sediment, waste materials, industrial chemicals or materials, heavy metals, and petroleum products.
- To protect existing water quality.
- To implement and monitor the effectiveness of Best Management Practices (erosion and sediment controls, etc.) used to reduce pollutant loads.

### *Who Administers the Law*

Department of Environmental Quality.

### *Application Procedure/Timeline*

For storm water discharges associated with construction activity, permit authorization is effective upon Department receipt of a complete Notice of Intent (NOI), Storm Water Pollution Prevention Plan (SWPPP), and fee. This must be received no later than the construction activity start date. For other regulated storm water discharges, a complete Application Form, SWPPP (except for Small MS4s), and fee must be received for review at least 30 days prior to the discharge of storm water from the facility or activity. Fees vary depending on the type

of permit. Contact the Department or visit the website listed below for various storm water discharge "General Permits," Application/NOI Forms, fee schedule, and other permitting forms/information.

### *For more information contact:*

Water Protection Bureau  
Department of Environmental Quality  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, MT 59620-0901  
(406) 444-3080  
<http://www.deq.mt.gov>



## K. Streamside Management Zone Law

### *Who Must Apply*

Any landowner or operator conducting a series of commercial forest practices that will access, harvest, or regenerate trees on a defined land area for commercial purposes on private, state, or federal lands.

### *Activities Requiring a Permit*

This law prohibits the following timber harvest activities within at least 50 feet of any stream, lake, or other body of water. The Department of Natural Resources and Conservation (DNRC) must approve any exceptions to these prohibited practices.

- Broadcast burning.
- Operating wheeled or tracked vehicles except on established roads.
- Clear cutting.
- Constructing roads in the Streamside Management Zone except when necessary to cross a stream or wetland.
- Handling, storing, applying, or disposing of hazardous or toxic material in a manner that pollutes streams, lakes, or wetlands or that may cause damage or injury to humans, land, animals, or plants.
- Casting road material into a stream, wetland, or watercourse.
- Depositing slash in streams or other water bodies.

### *Purposes of the Law*

- To protect the quality and quantity of forest waters.
- To conserve the integrity of Montana's streamside zones.

### *Who Administers the Law*

Department of Natural Resources and Conservation.

### *Application Procedure/Timeline*

DNRC must be notified prior to beginning any forest practice. A request to conduct an alternative practice must be submitted to the appropriate DNRC field office. Alternative practices will require an environmental review. The request will be reviewed and an initial response issued within 10 days.

### *For more information, contact:*

Forestry Division  
DNRC  
2705 Spurgin Road  
Missoula, MT 59801  
(406) 542-4300

or

Local DNRC Land Office

<http://dnrc.mt.gov/divisions/forestry>





## LAWS

## CONTACT

<p><u>Public Water Supply Watersheds</u> Requires the submission, review, and approval of detailed plans and specifications before beginning the construction or operation of any new railroad, logging road, logging camp, or electric or manufacturing plant in a public water supply watershed.</p>	<p>Department of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-2544 <a href="http://www.deq.mt.gov">www.deq.mt.gov</a></p>
<p><u>Shoreline Protection and Aquatic Land Conservation Ordinance</u> Applies to all private individuals and government entities proposing to work in, over, or near any stream, river, lake, or wetland on the Flathead Reservation.</p>	<p>Shoreline Protection Flathead Reservation Tribal Complex P.O. Box 278 Pablo, MT 59855 (406) 675-2700 ext. 7222 <a href="http://nrd.csktribes.org/ep/shoreline-protection">http://nrd.csktribes.org/ep/shoreline-protection</a></p>
<p><u>County Septic System Regulations</u> Apply to anyone proposing to construct, alter, extend, or operate a sewage treatment and disposal system. Conventional systems must be 100 feet from the 100 year floodplain and 6 feet from groundwater. Alternative designs that are 4 to 6 feet from groundwater must be approved.</p>	<p>County Sanitarian</p>
<p><u>General Mining Laws/Small Miner's Placer and Dredge Operations</u> Apply to anyone operating a placer, dredge, hardrock, coal, sand, or gravel mine on private or public land.</p>	<p>Department of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-2544      <a href="http://www.deq.mt.gov">www.deq.mt.gov</a></p>
<p><u>Lakeshore Protection Act</u> Applies to all private individuals and government entities proposing to do work in or near a body of water within a county's jurisdictional area.</p>	<p>County Government Offices <a href="http://www.mtcounties.org/counties/county-information/county-websites">http://www.mtcounties.org/counties/county-information/county-websites</a></p>



## LAW

## CONTACT

<p><u>Montana Dam Safety Act</u> Applies to the construction, repair, or removal of any dam that impounds 50 acre feet or more at the normal operating pool. Construction and operation permits may be required on dams larger than 50 acre-feet.</p>	<p>Department of Natural Resources and Conservation 1424 Ninth Avenue P.O. Box 201601 Helena, MT 59620-1601 (406) 444-6613 <a href="http://dnrc.mt.gov/divisions/water/operations">http://dnrc.mt.gov/divisions/water/operations</a></p>
<p><u>Montana Pollutant Discharge Elimination System (MPDES Permit)</u> Applies to all discharges to surface water or groundwater, including those related to industrial, municipal, and other commercial discharges. In addition, several general discharge permits have been developed to streamline permitting of construction dewatering, sand and gravel operations, sewage lagoons, fish farms, animal feeding operations, disinfected water, suction dredging, and placer mining projects.</p>	<p>Water Protection Bureau Department of Environmental Quality 1520 East Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-3080 <a href="http://www.deq.mt.gov">www.deq.mt.gov</a></p>
<p><u>Montana Water Quality Act</u> Prohibits the pollution of state waters and the placement of wastes in a location where they are likely to cause pollution of any state water.</p>	<p>Department of Environmental Quality 1520 Sixth Avenue P.O. Box 200901 Helena, MT 59620-0901 (406) 444-2544 <a href="http://www.deq.mt.gov">www.deq.mt.gov</a></p>
<p><u>Fish Stocking Permit for Private Fish Ponds</u> A permit is required to stock fish in a private pond. The permit entitles the holder to stock the pond with fish from a lawful source. Applicants must verify that stocking fish does not pose an unacceptable risk to game fish or species of special concern in adjacent waters.</p>	<p>Fisheries Division Department of Fish, Wildlife and Parks 1420 East Sixth Avenue, Box 200701 Helena, MT 59620-0701 (406) 444-2449 <a href="http://fwp.mt.gov/fishing/regulations/ponds.html">http://fwp.mt.gov/fishing/regulations/ponds.html</a></p>

### L. Other Laws That May Apply

#### Credits

## L. Other Laws That May Apply *(continued)*

LAWS	CONTACT
<p><u>Confederated Salish and Kootenai Tribes Water Quality Program</u>                      Ordinance 89 B prohibits pollution of Flathead Reservation waters. All projects affecting reservation waters must be permitted in accordance with tribal water quality standards. All federally permitted point source discharges require certification under Section 401 of the Clean Water Act to ensure that permit conditions will maintain tribal water quality. The tribes were delegated 401 certification authority by EPA in 1995.</p>	<p>Tribal Water Quality Program                      Environmental Protection Division                      P.O. Box 278                      Pablo, MT 59855                      (406) 675-2700 ext. 7211  <a href="http://nrd.csktribes.org/ep/water-quality">http://nrd.csktribes.org/ep/water-quality</a></p>
<p><u>National Pollutant Discharge Elimination System (NPDES) Permit</u>                      The Environmental Protection Agency is the NPDES permitting agency for point source discharge permits on the Flathead Reservation. NPDES forms are available upon request from the tribal NPDES office.</p>	<p>EPA Compliance Officer                      NPDES Program                      EPA Region VIII, Montana Office                      301 South Park, Drawer 10096                      Helena, MT 59626 0096                      (406) 441-1140  <a href="https://www.epa.gov/mt">https://www.epa.gov/mt</a></p>
<p>Permitting of stormwater discharges is also part of the NPDES program. Therefore, for all projects that may result in discharges of stormwater into reservation surface waters, submit a Notice of Intent and Notice of Completion.</p>	<p>Stormwater Program                      EPA Region VIII                      999 18<sup>th</sup> Street                      Denver, CO 80202-2466</p>
<p>Construction activity greater or equal to 1 acre that could potentially contribute stormwater to surface water on the Flathead Reservation requires the development of a stormwater pollution plan. The plan must be submitted to the water quality program 30 days before construction begins.</p>	<p>Tribal Water Quality Program                      Environmental Protection Division                      P.O. Box 278                      Pablo, MT 59855                      (406) 675-2700 ext. 7211  <a href="http://nrd.csktribes.org/ep/water-quality">http://nrd.csktribes.org/ep/water-quality</a></p>



**L. Other Laws That May Apply (continued)**

LAWS	CONTACT
<p><u>Water Quality Certification (401 Certification)</u>                      Applies to all activities, public and private, that do not qualify for a US Army Corps of Engineers (COE) nationwide permit or general permit that results in discharge or placement of dredged or fill material into waters of the United States or work done in federally navigable rivers under the under Section 10 of the Rivers and Harbors Act (see Section E.) The COE will notify the applicant whether 401 Certification is required. Fees apply.</p>	<p><b>Projects not on an Indian Reservation:</b>                      Department of Environmental Quality                      Water Protection Bureau                      1520 East Sixth Avenue                      Box 200901                      Helena, MT 59620-0901                      (406) 444-3080</p> <p><b>Projects on an Indian Reservation:</b>                      Appropriate Tribal Government or EPA Region VIII                      (address above)</p>
<p><u>Stream Access in Montana</u>                      Montana State Law allows Stream Access below the high-water mark. The law states that rivers and streams capable of recreational use may be so used by the public regardless of streambed owner-ship. It also states that certain activities require landowner permission.</p>	<p>Communication &amp; Education Division                      Department of Fish, Wildlife and Parks                      1420 East Sixth Avenue, Box 200701                      Helena, MT 59620-0701                      (406) 444-2535  <i>Full details can be found at:</i>  <a href="http://fwp.mt.gov/fish/guide/access/streamAccess.html">http://fwp.mt.gov/fish/guide/access/streamAccess.html</a></p>

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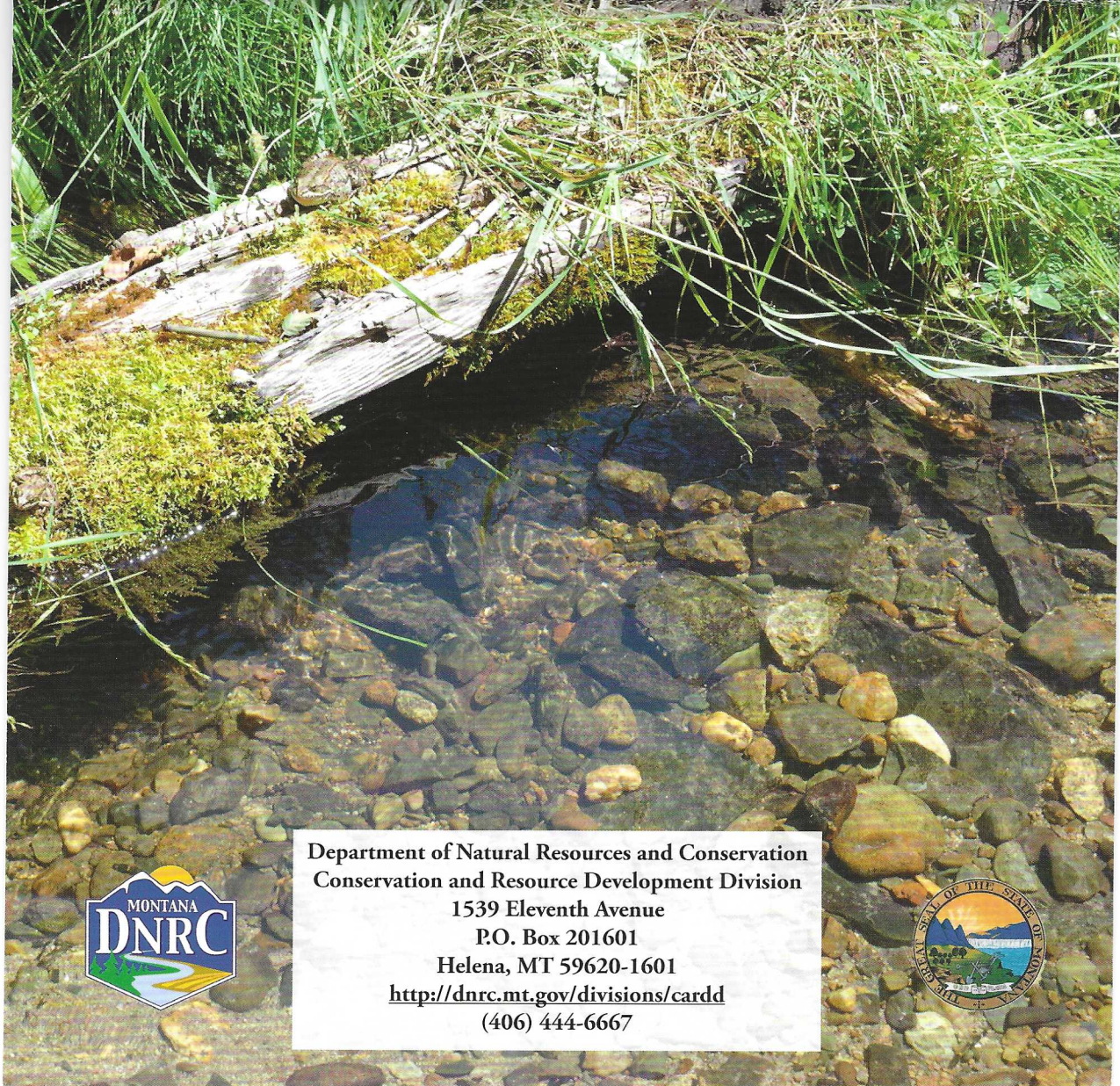
This guide is also available on the internet at <http://dnrc.mt.gov/licenses-and-permits/stream-permitting>

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Department of Natural Resources and Conservation  
Conservation and Resource Development Division  
1539 Eleventh Avenue  
P.O. Box 201601  
Helena, MT 59620-1601  
<http://dnrc.mt.gov/divisions/cardd>  
(406) 444-6667

