

310 PERMITTING IN GALLATIN

FREQUENTLY ASKED QUESTIONS

What is a 310 Permit?

Montana's Natural Streambed and Land Preservation Act, also known as the 310 Law, is a state law that requires any person planning to work in or near a perennial (year-round) stream or river on private or public land to first obtain a 310 Permit from the local Conservation District.

What is the purpose of the 310 Law?

The purpose of the 310 Law is to ensure that projects on perennial streams will be carried out in ways that are not damaging to the stream or to adjoining landowners.

Who administers this law?

Conservation Districts throughout Montana administer the 310 Law. The Gallatin Conservation District administers the 310 Law within most of Gallatin County (see district map on next page).

How long does the permitting process take?

The permitting process takes 30 to 90 days, depending on when application was received. The permit is valid for one year. The Gallatin Conservation District Board meets on the third Thursday of each month. All decisions on 310 Permits are made at these meetings, which are open to the public.

What does a 310 Permit cost? What do I have to do to get one?

There is no fee for a 310 Permit. To get a 310 application for stream activities within the Gallatin Conservation District area: **call** (406) 282-4350; send **email** to: marcie.@gallatincd.org; send a **fax** to (406) 282-4350; **stop** by the office at 120 S. 5th Street, Manhattan (see office location map on next page); or visit the Gallatin Conservation District **web site** at www.gallatincd.org to download the application.

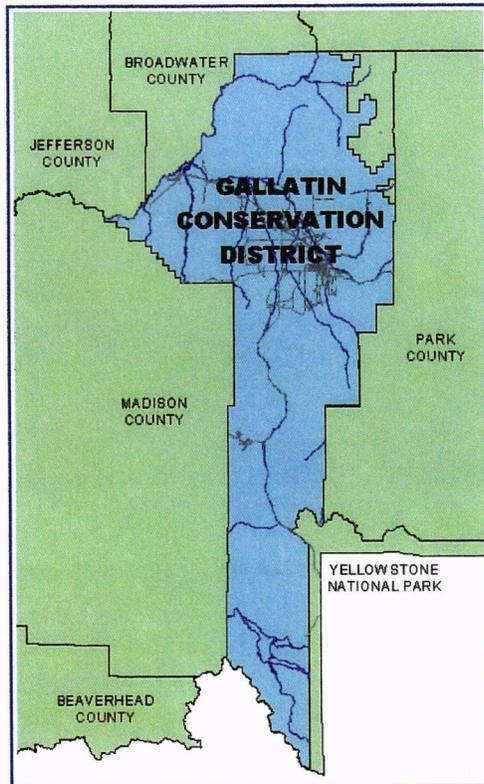
What if I have an emergency?

The 310 Law includes a provision allowing actions that are necessary to safeguard life, crops, or property during periods of emergency. If you take an emergency action, you must notify the Conservation District in writing within 15 days by submitting an emergency application. Emergency projects will be inspected and the Conservation District Board of Supervisors will review the action and decide whether it was appropriate, must be modified, or must be removed and/or replaced.

What happens if I don't get a permit?

It is a misdemeanor to initiate a project without a permit, to conduct activities outside the scope of the permit, to violate emergency procedures, or to use prohibited materials in a project. Upon conviction of a misdemeanor, you may be punished by a fine up to \$500, or by a civil penalty not to exceed \$500 per day for each day you continue to alter the stream. In addition, at the discretion of the court, you may be required to restore the damaged stream to as near its prior condition as possible as recommended by the District Supervisors.

DISTRICT BOUNDARY



310 JURISDICTION INFORMATION

A 310 permit is required for any natural perennial-flowing stream, or river, its bed, and immediate banks, and its channels and includes the entire stream from its mouth to its source even if portions go dry periodically. The term does not include a stream or river that has been designated by district rule as not having significant aquatic and riparian attributes in need of protection or preservation under 75-7-102, MCA.

The channel is the area of the stream from mean high water mark to mean high water mark. The immediate banks are the areas adjacent to the channel that when disturbed will physically alter or modify the state of the stream. To be considered a stream, the perennial water must flow in a channel that is lacking terrestrial vegetation and has no agricultural value.

QUESTIONS TO HELP DETERMINE 310 STREAM JURISDICTION:

1. Is the stream NATURAL?

Is there a natural source of water (e.g., springs, seeps, or runoff)? *(Must answer YES)*

Is the water collecting in a channel that generally follows natural drainage patterns (i.e., flows in troughs that generally go perpendicular to the contour lines of a topographical map or survey)? *(Likely characteristic, but not necessary)*

Does it show up as a "Natural Carrier" in the 1953 Water Resources Survey? *(Supporting material)*

Do historical aerial photos indicate the presence of a channel or saturated soil? *(Supporting material)*

2. Is the stream PERENNIAL?

Does the stream flow continuously at all seasons of the year, except in the case of appropriation, impoundment, or extreme drought? *(Must answer YES)*

If the stream carries diverted water, would it flow continuously without that diverted water (e.g., is there perennial flow above the diversion, or perennially flowing springs along the stream route)? *(Must answer YES)*

Is it considered perennial on ancillary mapping sources (USGS topos, Forest Service maps, etc.)? *(Supporting material)*

3. Does the stream have a defined CHANNEL (area from mean high water mark on one bank to mean high water mark on the opposite bank)?

Has the flow of water caused physical characteristics that distinguish the channel from the area above it? *(Must answer YES)*

Is the channel devoid of terrestrial (not hydrophilic) vegetation? *(Must answer YES)*

Is the channel devoid of agricultural value? *(Must answer YES)*

The District is the only entity that determines jurisdiction for 310 permitting.

TO DETERMINE WHETHER A PROJECT IS REASONABLE, THE DISTRICT BOARD OF SUPERVISORS MUST CONSIDER THE FOLLOWING:

1. The effects on soil erosion and sedimentation, considering the methods available to complete the project and the nature and economics of the various alternatives.
2. The effects of stream channel alteration.
3. The effects on streamflow, turbidity, and water quality caused by materials used or by removal of ground cover.
4. The effects on fish and aquatic habitat.
5. Whether there are modifications or alternative solutions that are reasonably practical that would reduce the disturbance to the stream and its environment and better accomplish the purpose of the project.
6. Whether the proposed project will create harmful flooding or erosion problems upstream or downstream.

310 PERMITTING PROCESS

Application Process

The applicant must complete all requested information on the 310 application and must include both a plan and/or drawings of the proposed project and a site map. Incomplete applications may be rejected. The District Administrator reviews applications and determines whether or not the proposed activity requires a 310 permit. After a project is accepted, an inspection will take place with the applicant, the CD's 310 Consultant and a member of Montana Fish Wildlife and Parks.

Site Inspection Process

A team consisting of the District's 310 Consultant, a Montana Fish Wildlife and Parks representative and the landowner or landowner's representative will meet on-site to discuss the project. The applicant or their representative is entitled to be a team member for the purposes of making recommendations to the District Board of Supervisors. Team members may waive participation in the on-site inspection. After the site inspection, team members make recommendations to the Board at a regular meeting. The applicant can waive participation, submit a team member report jointly with other team members (if in agreement with their recommendations), or submit a separate report.

Decision Process

The District Board of Supervisors will decide whether to approve, modify, or deny the project within 60 days of acceptance of the application. However, this time period can be extended if the Board requests further information. After receiving the Supervisors' decision, the applicant has 15 days to return the acknowledgement form, signed to indicate agreement with the decision. Unless otherwise stated on the permit, the applicant must wait 15 days before proceeding with the project. If the 15-day waiver is granted, the applicant must sign & return the acknowledgement form immediately before starting work.

Engineering Assistance & Review

Assistance is available to the District Board of Supervisors for engineering review of complex 310 projects, project design criteria and specifications, and other services. If the Board decides assistance is necessary, they submit a request for review to the Department of Natural Resources and Conservation (DNRC) Conservation Districts Bureau in Helena.

Arbitration

The applicant can request arbitration if he or she does not agree with the Board's decision on their application. Within 30 days of the request for arbitration the senior District Judge for the county selects a panel from names submitted by the team members. The panel reviews the evidence and upholds, modifies, or denies the Board's decision. If the panel's decision is contested, the court will review the decision in accordance with the Uniform Arbitration Act.

OFFICE LOCATION AND CONTACT INFORMATION



www.gallatincd.org

The Gallatin Conservation District is located in Manhattan, MT at 120 South 5th Street. The office is located in Building B, 1st level, Suite 104, use east entrance.

For questions about 310 permitting procedure, scheduling, administration issues, stream locations and jurisdiction, please contact:

Marcie Murnion
District Administrator
406-282-4350
marcie@gallatincd.org

EXAMPLES OF PROJECTS REQUIRING A 310 PERMIT:

(Examples only – other projects require permits. A permit may also be required if an existing project needs repairs and/or alterations.)



NRCS Photo

BIOENGINEERING

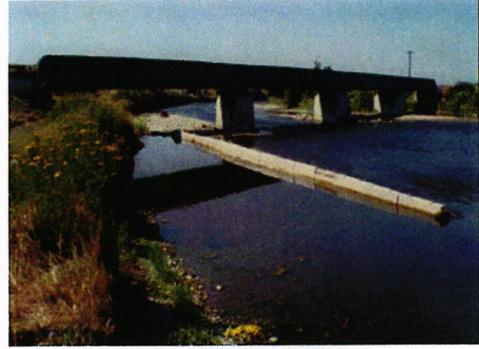


Photo courtesy of T. Hughes

DIVERSIONS

(CONCRETE BLOCK DIVERSIONS SHOWN)



GCD Photo

BANK STABILIZATION



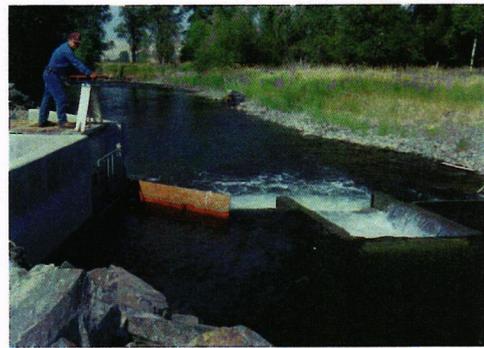
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CULVERTS



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FOOT BRIDGES



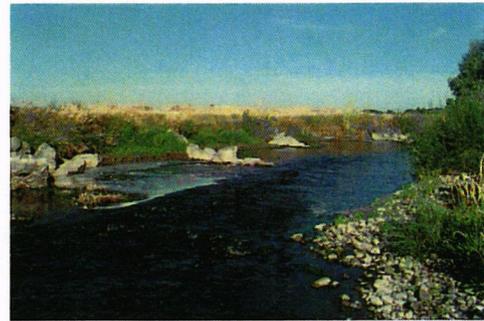
NRCS Photo

HEADGATES



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LIVESTOCK CROSSINGS



NRCS Photo

BARBS OR WEIRS

OTHER STREAM PERMITS MAY BE NEEDED IN ADDITION TO THE 310 PERMIT.