

UTILITY OCCUPANCY
AND LOCATION AGREEMENT

Date Submitted: _____
Date Approved: _____

Applicant/Utility: _____
Telephone: _____

Route: _____
Agreement No.: _____
Highway Project No.: _____
Designation: _____
Control No.: _____
Address: _____
City: _____ State: _____ Zip: _____

- 1) Overhead facilities: _____ Size: _____ Type: _____

2) Underground facilities: _____ Size: _____ Type: _____

3) Other: _____

Location:

- 1) Longitudinal: _____meters(feet) from N - S - E – W R/W line from

Milepost (Station) _____ to Milepost (Station) _____
- 2) Centerline crossing(s) at Milepost (Station) _____
- 3) Downguys not in parallel with the roadway at Milepost(s) _____
- 4) Section _____, Township _____, Range _____, County _____

This installation is subject to compliance with the Administrative Rules of Montana 18.7.201 through 18.7.232, the Utility Occupancy Guidelines, the Manual on Uniform Traffic Control Devices and the following requirements:

Construction Prints:

Prints are attached and incorporated by this reference. (Highway prints preferred) Distances from R/W line, centerline and existing utilities, to the proposed installation **must be provided**.

The utility will notify _____ in _____, phone _____, at least 48 hours in advance of any work detailed in this Agreement, except for emergency situations. After completing the work, the applicant must submit a Form Utl 968 (attached) for approval.

- 1) The State shall not be liable to the general public for any injury to or death of any person whomsoever belonging when such injury, death, loss or damage arises out of or results from the construction, maintenance, or repair of existing or future utility facilities located within the highway right-of-way, or the installation or operation of such utility facilities within the highway right-of-way, regardless of whether or not the Department has expressed or implied approval of the construction, maintenance, repair, installation or operation of such facilities within the highway right-of-way.
- 2) This approval is granted with the understanding the installation will be made according to the plans as submitted. Field revisions may only be made with the approval of the District Administrator or designee. If the installation is not made as shown on the plans or approved amendment, the Department, at its discretion, may require the removal of the installation.
- 3) Any attachments to this agreement, including but not limited to Right-of-Way Form Utl 968 and Utl 969, are hereby incorporated by reference.
- 4) All workers within the right-of-way of a Federal-aid highway who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment shall wear high-visibility class 2 or 3 safety apparel. For nighttime activity, the flagger shall wear class 3 safety apparel. Permittee shall provide flaggers who are currently certified by the Montana flagger training program; the ATSSA flagger program; or the Idaho, Oregon, or Washington state flagger training programs.
- 5) Additional Requirements: _____

The average turn-around time for a completed Utl 967 permit application is 30 working days. A permit application will be considered complete when all impacts associated with the requested action have been reviewed and approved by all agencies affected by this action. The applicant is responsible for obtaining these necessary approvals.

Utility/Permittee: _____

By: _____
Print Name: _____
Title: _____

Approved: _____ Disapproved: _____
(Date) (Date)

State of Montana
Department of Transportation

By: _____ (Date)
Title: _____

Control Number	Project Identification Number	Name/ Location Description	Route/Corr.	Fed Funds Involved? Yes <input type="checkbox"/> No <input type="checkbox"/>
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(↑For MDT Use Only↑)

ENVIRONMENTAL CHECKLIST for:

- ☐ **Approach Permit**
☐ **Encroachment/Occupancy (incl. Utility)**
☐ **Maintenance Projects (with No Right-Of-Way Acquisition, Sale or Transfer)**

Location: Highway or Route: _____ Milepost(s): _____

Physical Address: _____ City: _____

Legal Description: County: _____ Township: _____ Range: _____ Section(s): _____

Applicant Information: Name: _____ Phone: _____

Company/Utility _____ Business Phone: _____

Mailing Address: _____ City _____ State _____ Zip Code _____

Impact Questions Actions that qualify for Categorical Exclusion under MEPA and/or NEPA (See ARM 18.2.261 and 23 CFR 771.117)		Yes	No	Comment, Explanation, and/or Information Source (Attach supporting information, as necessary.)
1.	Will the proposed action impact any known historical or archaeological site(s)?	<input type="checkbox"/>	<input type="checkbox"/>	
2.	Will the proposed action impact any publicly owned parkland(s), recreation area(s), wildlife or waterfowl refuge(s)?	<input type="checkbox"/>	<input type="checkbox"/>	
3.	Will the proposed action impact prime farmlands? (If yes, attach a completed Farmland Conversion Impact Rating Ad-1006.)	<input type="checkbox"/>	<input type="checkbox"/>	
4.	a. Will the proposed action have an impact on the human environment that may result from relocations of persons or businesses, changes in traffic patterns, changes in grade, or other types of changes?	<input type="checkbox"/>	<input type="checkbox"/>	
	b. Has the proposed action received any preliminary or final approval from the local land use authority?	<input type="checkbox"/>	<input type="checkbox"/>	
5.	For the proposed action, is there documented controversy on environmental grounds? (For example, has the applicant received a letter of petition from an environmental organization?)	<input type="checkbox"/>	<input type="checkbox"/>	
6.	Will the proposed action require work in, across or adjacent to a listed or proposed Wild or Scenic River?	<input type="checkbox"/>	<input type="checkbox"/>	
7.	Will the proposed action require work in a Class I Air Shed or nonattainment area?	<input type="checkbox"/>	<input type="checkbox"/>	
8.	Will the proposed action impact air quality or increase noise, even temporarily?	<input type="checkbox"/>	<input type="checkbox"/>	
9.	Will the proposed action have potential to affect water quality, wetlands, streams or other water bodies? If the answer is YES, an environment-related permit or authorization may be required.	<input type="checkbox"/>	<input type="checkbox"/>	
10.	Are solid or hazardous wastes or petroleum products likely to be encountered? (For example, project occurs in or adjacent to Superfund sites, known spill areas, underground storage tanks, or abandoned mines.)	<input type="checkbox"/>	<input type="checkbox"/>	
11.	a. Are there any listed or candidate threatened or endangered species, or critical habitat in the vicinity of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
	b. Will the proposed action adversely affect listed or candidate threatened or endangered species, or adversely modify critical habitat?	<input type="checkbox"/>	<input type="checkbox"/>	
12.	Will the proposed action require an environmental-related permit or authorization? If the answer is "yes," please list the specific permits or authorizations.	<input type="checkbox"/>	<input type="checkbox"/>	
13.	a. Is the proposed action on or within approximately 1 mile of an Indian Reservation?	<input type="checkbox"/>	<input type="checkbox"/>	
	b. If "Yes", will a Tribal Water Permit be required	<input type="checkbox"/>	<input type="checkbox"/>	N/A <input type="checkbox"/>
14.	Will the proposed action result in increased traffic volumes, increased wait or delays on state highways, or have adverse impacts on other forms of transportation (rail, transit or air movements)?	<input type="checkbox"/>	<input type="checkbox"/>	
15.	Is the proposed action part of a project that may require other governmental permits, licenses or easements? If "Yes", describe the full extent of the project and any other permits, licenses or easements that may be necessary for the applicant to acquire.	<input type="checkbox"/>	<input type="checkbox"/>	

16. ☐ Attach a brief description of the work to be performed, including any subsurface work.
17. ☐ Attach representative photos of the site(s) where the proposed action would be implemented. Photos are to include any structures, streams, irrigation canals, and/or potential wetlands in the project area.
18. ☐ Attach map(s) showing the location(s) of the proposed action(s); Section, Township, Range; highway or route number and approximate route post(s).

Checklist preparer:

Applicant

Title

Date

Reviewed for completeness by:

MDT District Representative

Title

Date

Checklist Approved by:

Environmental Services Bureau
(When any of the items 1 through 15 are checked "Yes")

Title

Date

Transportation Planning
(When items 14 or 15 are checked "Yes")

Title

Date

Checklist Conditions and Required Approvals

- A. The Applicant is **not** authorized to proceed with the proposed work until the checklist has been reviewed and approved, as necessary, and any requested conditions of approval have been incorporated.
- B. Complete the checklist items 1 through 15, indicating "Yes" or "No" for each item. Include comments, explanations, information sources, and a description of the magnitude/importance of potential impacts in the right hand column. Attach additional and supporting information as needed. Ensure that information required for items 16, 17, and 18, is attached. The checklist preparer, by signing, certifies the accuracy of the information provided.
- C. If "Yes" is indicated on any of the items, the Applicant must explain the impacts as applicable. Appropriate mitigation measures that will be taken to avoid, minimize, and/or mitigate adverse impacts must also be described. **Any proposed mitigation measures will become a condition of approval.** Use attachments if necessary. If the applicant checks "No" and the District concludes there may in fact be potential impacts, the Environmental Checklist must be forwarded to Environmental Services Bureau for review and approval.
- D. If "Yes" is indicated in item 11 a. (threatened or endangered species), the Applicant should provide information naming the particular species and the expected location, distribution and habitat use in the proposed action area, i.e. within the immediate area of the proposed action; or, in the general area on occasion (seasonally passes through) but does not nest, den or occupy the area for more than a few days.
- E. If the applicant checks "Yes" for any item, the approach permit, occupancy agreement or permit, along with the checklist and supporting information, including the Applicant's mitigation proposal, documentation, evaluation and/or permits must be submitted to MDT Environmental Services Bureau. Electronic format is preferred.
- F. When the applicant checks "Yes" to any item, the Applicant cannot be authorized to proceed with the proposed work until the MDT Environmental Services Bureau and/or Transportation Planning, as appropriate, reviews the information and signs the checklist.
- G. Applicant must obtain all necessary permits or authorizations from other entities with jurisdiction prior to beginning the proposed action or activity. The Applicant is solely responsible for any environmental impacts incurred as a result of the project; obtaining any necessary environmental permits, notifications, and/or clearances; and ensuring compliance with environmental laws and regulations.

Checklist Conditions & Required Approvals

- A.

Applicant is NOT authorized to proceed with the proposed work until ALL of the Checklist Conditions have been met and the required approvals have been obtained.
- B.

Completes the checklist indicating a "Yes" or "No" for each item,.
- C.

When a "Yes" is indicated on any of the items except 12 or 13, the Applicant must explain the impacts, and for items 1 through 10 describe any appropriate mitigation measures that will be taken. Use attachments if necessary. If the applicant checks “No” and the District feels there may be potential impacts, the Environmental Checklist must be forwarded to Environmental Services.
- D.

If a “Yes” is checked in item 10 a. (threatened or endangered species), please provide information naming the particular species and the expected location, distribution and habitat use in the proposed action area, i.e. within the immediate area of the proposed action and possible direct affects to the species; or, in the general area on occasion (seasonally passes through) but does not nest, den or occupy the area for more than a few days – adverse affects are very unlikely.
- E.

If the applicant checks "Yes" for any item, the approach permit, occupancy agreement or permit along with the checklist and Applicant's mitigation proposal, documentation, evaluation and/or permits must be submitted to MDT Environmental Services for review and approval.
- F.

When the applicant checks “Yes” to any item, the Applicant cannot be authorized to proceed with the proposed work until the MDT Environmental Services and/or Transportation Planning, as appropriate, reviews the information and signs the checklist.
- G.

Applicant must obtain all necessary permits or authorizations from other entities with jurisdiction prior to beginning the proposed action or activity.

Montana’s Wild and Scenic Rivers system as published by the U.S. Department of Agriculture, or the U.S. Department of the Interior:

1.

Middle Fork of the Flathead River (headwaters to South Fork of the Flathead River confluence)
2.

North Fork of the Flathead River (Canadian Border to Middle Fork of the Flathead River confluence)
3.

South Fork of the Flathead River (headwaters to Hungry Horse Reservoir)
4.

Missouri River (Fort Benton to Charles M. Russell National Wildlife Refuge)

Stream Permitting Guidelines

To be used for informational purposes when filling out the Environmental Checklist for MDT approach permits, encroachment/occupancy permits or Maintenance projects.

The most commonly required permits or authorizations are listed below. **Other permits or authorizations may be required**, and other laws may apply depending on the type and the location of the proposed activity. For more information please refer to “A Guide to Stream Permitting in Montana” available on the Internet at <http://www.dnrc.mt.gov/permits/> or from your local conservation district office.

(The information provided below was adapted from “A Guide to Stream Permitting in Montana”)

Montana Natural Streambed and Land Preservation Act (310 Permit)

Any private, nongovernmental individual or entity that proposes any activity that physically alters or modifies the bed or banks of a **perennially flowing stream** must obtain a 310 permit before beginning work.

Contact the conservation district office to obtain a permit application, fill the application out and submit it to the local conservation district 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 Department of Fish, Wildlife and 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. There is no charge for a 310 permit.

For more information, contact your local conservation district or the Conservation Districts Bureau – MT Department of Natural Resources and Conservation at (406) 444-6667, or the Montana Association of Conservation Districts (406) 443-5711

Montana Stream Protection Act (SPA 124 Permit)

Any agency or subdivision of federal, state, county, or city government proposing a project that may affect the natural existing shape and form of **any stream** or its banks or tributaries must obtain a SPA 124 permit before beginning work.

Any agency or unit of government planning a project must submit a Notice of Construction (application) to the Department of Fish, Wildlife and Parks, which has up to 60 days to review the application, perform an on-site investigation, and approve, modify, or deny the application. There is no application fee.

For more information contact the Habitat Protection Bureau – MT Fish, Wildlife and Parks (406) 444-2449.

Montana Floodplain and Floodway Management Act (Floodplain Development Permit)

Anyone planning new construction **within a designated 100 year floodplain** must obtain a floodplain development permit before beginning work. New construction includes, but is not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials, and

excavation; new construction, placement, or replacement of manufactured homes; and new construction, additions, or substantial improvements to residential and commercial buildings. Check with local planning

officials or the Floodplain Management Section of the Department of Natural Resources and Conservation to determine whether a 100-year floodplain has been designated for the stream of interest.

Floodplain Development Permits are available from the local floodplain administrator, who may be the city/county planner, sanitarian, building inspector, town clerk, or county commissioner.

Permit applications are available from the local floodplain administrator or from the Department of Natural Resources and Conservation. Application fees are established by the local government and vary widely throughout the state. The application process may take up to 60 days. Joint application participant-see Permitting Tips section.

For more information contact the Floodplain Management Section – MT Department of Natural Resources and Conservation (406) 444-0860.

Federal Clean Water Act (404 Authorization or Permit)

Anyone proposing a project that will result in the **discharge or placement of dredged or fill material into waters of the United States** must obtain a 404 authorization or permit before beginning work. "Waters of the United States" include lakes, rivers, streams (including perennial, intermittent, and ephemeral channels with an ordinary high water mark), wetlands, and other aquatic sites.

Anyone planning a project must submit an application to the U.S. Army Corps of Engineers (Corps). The U.S. Environmental Protection Agency also has regulatory review and enforcement functions under the law. 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 10 to 45 days. Individual Permits require more extensive review and require a public notice period. Permit approval may take 90 to 120 days. Application fees for Individual Permits may vary from \$10 for private individuals to \$100 for commercial applicants. Do not send money with the application. Applicants will be notified if a fee applies.

For more information contact the U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, MT 59626, Phone (406) 441-1375.

Short-term Water Quality Standard for Turbidity (318 Authorization)

Anyone initiating construction activity that will cause **short term or temporary violations of state surface water quality standards for turbidity in any "State water"** must obtain a 318 Authorization before beginning work. "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.

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 the Department of Fish, Wildlife and Parks during its review process under the Natural Streambed and Land Preservation Act (310 Permit) or the Stream Protection Act (SPA 124 Permit).

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 \$150.00 (make check or money order payable to Water Protection Bureau, Department of Environmental Quality).

For more information contact the Water Protection Bureau – MT Department of Environmental Quality (406) 444-3080.

Storm Water Discharge General Permits

Anyone proposing a construction **activity that will disturb one or more acres**, a defined industrial activity; a 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); or other defined activity that **has a discharge of storm water into surface waters**. Permit authorization is typically obtained under a Montana Pollutant Discharge Elimination System (MPDES) "General Permit".

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 the Water Protection Bureau – MT Department of Environmental Quality, (406) 444-3080, <http://www.deq.mt.gov>.