



LETTER OF AGREEMENT

This Letter of Agreement (Agreement) is entered into by and between the State of Montana, Department of Environmental Quality (State), and Ruby Valley Conservation District (Contractor), collectively the Parties, for the purpose of providing the services indicated below under Tasks 1-4. This Agreement is entered into in accordance with Title 18, Montana Code Annotated (MCA), and the Administrative Rules of Montana (ARM), Title 2, chapter 5.

1. EFFECTIVE DATE & DURATION

1.1. This Agreement shall take effect upon signature of both Parties with the effective date being the latter of the two signatures and terminate on 12/31/2021.

2. SERVICES

2.1. Contractor agrees to provide the State with the following services (Tasks 1-4):

TASK 1 – PROJECT PLANNING

Contractor shall prepare draft and final project designs for a project to reduce sediment loading and improve riparian and instream habitat and floodplain connectivity on approximately 2.3 miles of the Ruby River, upstream from Ruby Reservoir. The designs must restore a natural, self-maintaining channel, native riparian vegetation, and instream aquatic habitat diversity.

Contractor shall submit to DEQ the following deliverables:

- A complete, draft copy of project designs for review and comment.
- A complete, final copy of project designs. In the final designs, Contractor shall address all concerns raised by DEQ in the review of previous drafts.

TASK 2 – LANDOWNER AGREEMENTS, OPERATION AND MAINTENANCE

Contractor shall ensure landowner agreements are in place to guarantee maintenance and monitoring of all on-the-ground projects. Contractor shall submit a draft of each landowner agreement to DEQ for review and comment prior to signature. After addressing DEQ comments, Contractor shall submit a copy of each signed, final landowner agreement to DEQ. Contractor shall ensure each landowner agreement addresses the following:

- **Revegetation of Disturbed Areas.** The landowner agreement must require disturbed areas to be revegetated using appropriate plant species, stocking density, weed and pest control, and protection from grazing/browsing by domestic and wild animals. In addition, the agreement must identify who is responsible for revegetation efforts.
- **Operation and Maintenance.** The landowner agreement must identify who is responsible for operating and maintaining all structures, vegetation, management measures, and water quality benefits associated with the project. The agreement must ensure appropriate operation and maintenance for the life of the project (typically 10 years).
- **Grazing Management Plan.** Include a sustainable management plan for livestock grazing, designed to protect and enhance riparian functions.
- **Site Access.** The landowner agreement must identify the procedure(s) for obtaining access to the project site for the purposes of project planning, implementation, operation and maintenance, and post-implementation monitoring. The agreement must provide the Contractor and DEQ access, at reasonable times, with prior notification, to evaluate project effectiveness over time.

Contractor shall submit to DEQ the following deliverables:

- Draft landowner agreements for review and comment, in Microsoft Word or pdf format. Contractor shall submit all draft landowner agreements prior to signature, and allow sufficient time for review, comment, and subsequent modification prior to implementation.
- PDF copies of signed landowner agreements. Contractor shall ensure signed landowner agreements address all comments and concerns raised by DEQ.

TASK 3 – PROJECT EFFECTIVENESS MONITORING

Contractor shall complete the following monitoring activities:

- Collect pre-construction Bank Erosion Hazard Index (BEHI) and Near Bank Stress (NBS) data to estimate pre-construction sediment loading from the project area.
- Conduct pre-construction photo point monitoring consistent with the “Oregon Watershed Enhancement Board Guide to Photo Monitoring” methodologies available at <https://digital.osl.state.or.us/islandora/object/osl:16450> or a similar published photo point monitoring method accepted by DEQ. The U.S. Forest Service provides additional photo point monitoring guidance in the “United States Forest Service Photo Point Monitoring Handbook” available at https://www.fs.fed.us/pnw/pubs/pnw_gtr526 that may be useful toward enhancing the quality of photo point monitoring or providing more information for certain photo point monitoring situations.

Contractor shall submit to DEQ a written summary of all monitoring activities. The written summary must include the following:

- Electronic copies of photo-point photographs, in JPEG format. A photo log identifying photo ID, site ID, photo date, photographer name, latitude, and longitude from which the photo was taken, approximate direction the photographer was facing, and a brief description of what the photo is intended to show.
- Electronic copies of all data and data analyses.

TASK 4 – PROJECT ADMINISTRATION

Contractor shall oversee and be accountable for the completion of all tasks. Contractor shall maintain regular contact as required by the DEQ Project Manager. In addition to the deliverables identified in Tasks 1-3, Contractor shall provide adequate documentation of expenses and non-federal match as required by the DEQ Project Manager.

Contractor shall submit a complete draft final report for DEQ review and comment at least 15 days prior to the letter of agreement expiration date.

Contractor shall submit to DEQ a final report on or before the LOA expiration date. Contractor shall ensure that the final report is a standalone document describing all contract activities and containing copies of all contract deliverables (even if the deliverables were previously submitted).

Contractor shall contribute \$3,000 in non-federal match towards completion of Tasks 1-4. Non-federal match may include cash and in-kind contributions of time and resources.

2.2. The State agrees to provide Contractor with the following:

To review data and documents submitted by the Contractor and recommend changes and corrections where necessary.

3. CONSIDERATION/PAYMENT

3.1. In consideration for the services provided, the State agrees to reimburse Contractor up to a maximum of \$5,000 according to the following allowable expenses:

- 3.1.1. Actual salaries, wages, and benefits of Contractor personnel in performance of the services required under this Agreement.
- 3.1.2. Communications and reproduction expenses, that are necessary in performance of this Agreement, including telephone, postage, facsimiles, and photocopying.
- 3.1.3. Subcontractor expenses (subcontractor expenses must be documented in the detail required by the Contractor to qualify for payment under this Agreement).

3.2. Contractor agrees to submit an invoice at time of completion of all services performed under Section 3.1.

3.3. The State will reimburse contractor within 30 days of receipt of the invoice and the report containing adequate documentation to justify payment request.

4. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the State, its elected and appointed officials, officers, agents, directors, and employees from and against all claims, damages, losses and expenses, including the cost of defense thereof, to the extent caused by or arising out of Contractor's negligent acts, errors, or omissions in work or services performed under this Contract, including but not limited to, the negligent acts, errors, or omissions of any Subcontractor or anyone directly or indirectly employed by any Subcontractor for whose acts Subcontractor may be liable.

5. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for State of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire Contract term and any renewal. Upon expiration, a renewal document must be sent to the Montana Department of Environmental Quality, PO Box 200901, Helena, MT 59620-0901.

6. LIAISON AND SERVICE OF NOTICES

The State's liaison to the Contractor for purposes of this Agreement is Mark Ockey, Project Manager, DEQ Watershed Protection Section, PO Box 200901, Helena, MT 59620-0901 [phone: 406-444-5351; email: mockey@mt.gov].


The Contractor's liaison for purposes of this agreement is Audra Bell, Administrative Assistant, Ruby Valley Conservation District, PO BOX 295, Sheridan, MT 59749 [phone: 406-842-5741; email: audra@rvcd.org].

RUBY VALLEY CONSERVATION DISTRICT

DATE BY: _____
GARY GIEM, Board Chairman, RVCD Board of Supervisors

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

03/31/21

DATE BY: 
KRISTY FORTMAN, Watershed Protection Section Supervisor

Revised: 6/5/15 (310 form 270). Form may be downloaded from: www.dnrc.mt.gov/licenses-and-permits/stream-permitting

AGENCY USE ONLY: Application # R/21-11 Date Received 5/17/2021
Date Accepted _____ / Initials _____ Date Forwarded to DFWP _____

This space is for all Department of Transportation and SPA 124 permits (government projects).

Project Name _____

Control Number _____

Contract letting date _____

MEPA/NEPA Compliance Yes

No

If yes, #14 of this application does not apply.

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

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

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

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

A. APPLICANT INFORMATION

NAME OF APPLICANT (person responsible for project): Ruby Valley Hydroelectric Authority (Attn: Alan Oborny)

Has the landowner consented to this project? Yes No

Mailing Address: PO Box 1200 Choteau Mt 59422

Physical Address: 465 Deep Creek Rd Choteau MT 59422

Day Phone: 406-466-3678 Evening Phone: 785-623-7958 E-Mail: aoborny@unitedstatescc.com

NAME OF LANDOWNER (if different from applicant): Click here to enter name or N/A

Mailing Address: Click here to enter mailing address or N/A

Physical Address: Click here to enter physical address or N/A

Day Phone: Click here to enter or N/A Evening Phone: Click here to enter or N/A E-Mail: Click here to enter or N/A

NAME OF CONTRACTOR/AGENT: Amy Sacry, Geum Environmental Consulting

Mailing Address: Click here to enter name or N/A

Physical Address: 307 State Street, Hamilton, MT 59840

Day Phone: (406) 381-0858 Evening Phone: Click here to enter name or N/A E-Mail: asacry@geumconsulting.com

B. PROJECT SITE INFORMATION

NAME OF STREAM or WATER BODY at project location Ruby River Nearest Town Alder, MT

Address/Location: 1070 Upper Ruby Rd. Alder MT 59710 Geocode (if available): Click here to enter text

Choose 1/4 Choose 1/4 Choose 1/4, Section 30, Township 7S, Range 4W County Madison

Longitude-112.14583, Latitude 45.19052

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

ATTACH A PROJECT SITE MAP OR A SKETCH that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) a circled "X" representing the exact project location. **IF NOT CLEARLY STATED ON THE MAP OR SKETCH, PROVIDE WRITTEN DIRECTIONS TO THE SITE.**

C. PROJECT INFORMATION

1. **TYPE OF PROJECT** (check all that apply)

- | | | |
|---|---|---|
| <input type="checkbox"/> Bridge/Culvert/Ford Construction | <input checked="" type="checkbox"/> Fish Habitat | <input type="checkbox"/> Mining |
| <input type="checkbox"/> Bridge/Culvert/Ford Removal | <input type="checkbox"/> Recreation (docks, marinas, etc.) | <input checked="" type="checkbox"/> Dredging |
| <input type="checkbox"/> Road Construction/Maintenance | <input type="checkbox"/> New Residential Structure | <input type="checkbox"/> Core Drill |
| <input checked="" type="checkbox"/> Bank Stabilization/Alteration | <input type="checkbox"/> Manufactured Home | <input checked="" type="checkbox"/> Placement of Fill |
| <input type="checkbox"/> Flood Protection | <input type="checkbox"/> Improvement to Existing Structure | <input type="checkbox"/> Diversion Dam |
| <input checked="" type="checkbox"/> Channel Alteration | <input type="checkbox"/> Commercial Structure | <input type="checkbox"/> Utilities |
| <input type="checkbox"/> Irrigation Structure | <input checked="" type="checkbox"/> Wetland Alteration | <input type="checkbox"/> Pond |
| <input type="checkbox"/> Water Well/Cistern | <input type="checkbox"/> Temporary Construction Access | <input type="checkbox"/> Debris Removal |
| <input type="checkbox"/> Excavation/Pit | <input checked="" type="checkbox"/> Other: <u>Floodplain and stream restoration</u> | |

2. **PLAN OR DRAWING** of the proposed project **MUST** be attached. **This plan or drawing must include:**

- a plan view (looking at the project from above)
- dimensions of the project (height, width, depth in feet)
- location of storage or stockpile materials
- drainage facilities
- an arrow indicating north
- a cross section or profile view
- an elevation view
- dimensions and location of fill or excavation sites
- location of existing or proposed structures, such as buildings, utilities, roads, or bridges

Project drawings are shown on the attached plan set *Ruby River RVHA Restoration Project Plan Set* (Geum, AGI and Gillilan 2021).

3. **IS THIS APPLICATION FOR** an annual maintenance permit? Yes No

(If yes, an annual plan of operation must be attached to this application – see “Information for Applicant”)

4. **PROPOSED CONSTRUCTION DATE.** Include a project timeline. Start date 9/1/2021
Finish date 12/31/2022 Is any portion of the work already completed? Yes No
(If yes, describe the completed work.)

The project will be constructed in two phases. The first phase would be approximately 3-4 weeks and occur in Fall 2021. The second phases would be approximately 6-8 weeks and occur in Fall 2022.

5. **WHAT IS THE PURPOSE** of the proposed project?

The purpose of the project is to restore ecological function and floodplain connectivity to a 2.2 mile long reach of the Ruby River. See attached plan set for additional details on project goals and objectives.

6. **PROVIDE A BRIEF DESCRIPTION** of the proposed project.

To achieve the project purpose, several aquatic, riparian and floodplain restoration treatments will be installed. Treatments include: 1) floodplain channel activations. 2) main channel relocations to increase habitat diversity and floodplain connectivity. 3) Streambank revegetation using woody debris and dormant willow cuttings to slow erosion, restore woody riparian vegetation, and increase aquatic habitat diversity. 5) Wetland enhancement to increase wetland diversity. See attached plan set for additional details on proposed treatments.

7. **WHAT IS THE CURRENT CONDITION** of the proposed project site? Describe the existing bank condition, bank slope, height, nearby structures, and wetlands.

The proposed project site includes approximately 2.2 miles of the Ruby River. Beaver trapping, livestock grazing, conversion of floodplains to agriculture, irrigation, and infrastructure have all significantly changed the natural dynamics and overall ecological function of the river and floodplain resulting in over-widened channel conditions, accelerated streambank erosion, and loss of floodplain connectivity. Many outer meander bend

streambanks are vertical and actively eroding and have no stabilizing woody vegetation. Vegetation on these streambanks consists of introduced pasture grasses such as smooth brome and meadow foxtail. Banks consist of fine-grained silt loam soils, are vertical, and range in height range from 2 to 5 feet. There is a private bridge at the upstream end of the project and a county bridge at the downstream end of the project. Wetlands are described in the accompanying wetland delineation report and permit support document. Additional details on current site conditions are provided in the attached plan set and permit support document.

8. **PROJECT DIMENSIONS.** How many linear feet of bank will be impacted? How far will the proposed project encroach into and extend away from the water body?

Project dimensions are provided in the attached plan set.

9. **VEGETATION.** Describe the vegetation present on site. How much vegetation will be disturbed or covered with fill material during project installation? (Agencies require that only vegetation necessary to do the work be removed.) Describe the revegetation plan for all disturbed areas of the project site in detail.

Vegetation at the site is described in the attached plan set, permit support document and wetland delineation report. The plan set shows the extent of project disturbance. All desirable vegetation (willows, alders, native riparian shrubs, wetland sod) will be salvaged during construction and transplanted along streambanks or other floodplain and wetland surfaces. All disturbed areas will be seeded with a native grass and forb mix. Willow transplants and cuttings will be used in all streambank treatments. All areas of vegetation disturbance are expected to recover with more diverse, native vegetation than what is currently present at the site.

10. **MATERIALS.** Describe the materials proposed to be used. Note: This may be modified during the permitting process. It is recommended you do not purchase material until all permits are issued.

Cubic yards/Linear feet	Size and Type	Source
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Materials are summarized in the attached plan set. Exact material sources for imported rock have not been determined, but are expected to be acquired from a commercial source near Alder, Montana. Junipers will be acquired from upland areas on the property and work being completed by other project partners in the Upper Ruby River watershed. All other materials are expected to be acquired on site.

11. **EQUIPMENT.** List all equipment that will be used for construction of the project. How will the equipment be used on the bank and/or in the water? Note: Make sure equipment is clean and free of weeds, weed seeds, and excess grease before using it in the water waterway. To prevent the spread of aquatic invasive species, to the extent practical, remove mud and aquatic plants from heavy machinery and other equipment before moving between waters and work sites, especially in waters known to be infested with aquatic invasive species. Drain water from machinery and let dry before moving to another location.

Three (3) 200 Class Excavator with a ¾ to 1 cubic yard bucket capacity with hydraulic thumb
Three (3) Articulated Off Road Dump Trucks or Tracked Trucks with 10-20 cubic yard capacity

The excavator will be used on streambanks and in the water to complete restoration treatments.

12. **DESCRIBE PLANNED EFFORTS TO MINIMIZE PROJECT IMPACTS.** Consider the impacts of the proposed project, even if temporary. What efforts will be taken to:

- Minimize erosion, sedimentation, or turbidity?

All work will be done during low flows. New channels will be constructed in the dry and re-activated in stages to prevent downstream turbidity. Erosion control mitigation measures, such as silt screens will be installed wherever clean water and turbid water might merge. Specific erosion control and turbidity minimization measures will be described in the Stormwater Pollution Prevention Plan (SWPPP).

- Minimize stream channel alterations?

Stream channel alterations are proposed to restore channel and floodplain processes. Stream channel alterations will only occur in areas where restoration treatments are planned (see attached plan set).

- Minimize effects to stream flow or water quality caused by materials used or removal of ground cover? Only natural, biodegradable materials will be used to complete the work. Desirable vegetation within disturbance limits will be salvaged and re-planted at the site. The proposed treatments will increase woody vegetation cover along streambanks and reduce fine sediment inputs to the Ruby River.

- Minimize effects on fish and aquatic habitat?

The project will have an overall positive effect on fish and aquatic habitat. Streambank treatments and main channel relocations will all increase aquatic habitat diversity, reduce fine sediment delivery to the channel, and have an instream shading and cooling effect. Short term negative effects on fish and aquatic habitat will be minimal. In-water work will be minimized to the extent necessary to complete the restoration treatments. Flow will be routed into new channels incrementally to allow fish in abandoned channel segments to move downstream. Fish rescue in abandoned channel segments would be done as required by Fish Wildlife and parks biologists. Activation of new channels will result in short-term pulses of fine sediment downstream.

- Minimize risks of flooding or erosion problems upstream and downstream?

The project will reduce accelerated streambank erosion within the project area. A 1D HEC-RAS hydraulic model was completed for the proposed condition that shows increased floodplain connectivity at flows at the approximate 2-year return interval and lower but no change to floodplain inundation at high flows. Increased floodplain connectivity will reduce potential downstream flood impacts. Floodplain activation will function to slow overland flows and reduce the risk of flood damage. The project does not affect potential flooding or erosion problems upstream of the project area.

- Minimize vegetation disturbance, protect existing vegetation, and control weeds?

Only vegetation within construction limits and staging areas will be disturbed. Most vegetation consists of introduced pasture grasses. All desirable vegetation, such as riparian shrubs and trees, and wetland sod, will be salvaged and re-planted along streambanks or newly constructed floodplain areas. Weeds may increase as a result of disturbance related to project implementation. The project is expected to increase cover of native riparian and wetland vegetation.

The landowner currently treats noxious weeds at the site and will continue to do so after the project is complete. All equipment will be required to be power washed to ensure that no new weed species are introduced to the site.

13. WHAT ARE THE NATURAL RESOURCE BENEFITS of the proposed project?

The proposed project will reduce accelerated erosion and sediment delivery, and increase native, woody riparian vegetation cover along approximately 2.2 miles of the Ruby River. The project will also increase habitat diversity for aquatic species. The project will also increase floodplain connectivity, which will further increase woody riparian vegetation cover and habitat diversity. The project is expected to benefit terrestrial and aquatic species, improve water quality and quantity, and improve overall ecological function of the stream and associated riparian floodplain. See the attached plan set and permit support document for additional project benefits.

14. LIST ALTERNATIVES to the proposed project. Why was the proposed alternative selected?

Alternatives include: No Action; and Full Channel Reconstruction. The No Action alternative does not address impairment issues in the project reach. The Full Channel Reconstruction alternative is cost prohibitive. The selected alternative will provide numerous natural resource benefits for a reasonable level of effort, and is supported by the landowner and other project partners.

D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS ONLY.

If applying for a Section 404 or Section 10 permit, fill out questions 1-3. If applying for a floodplain permit, fill out questions 3-6. (Additional information is required for floodplain permits – See “Information for Applicant.”)

1. Will the project involve placement of dredged (excavated) and/or fill material below the ordinary high water mark, in a wetland, or other waters of the US? If yes, what is the surface area to be filled? How many cubic yards of fill material will be used? Note: Wetland delineations are required if wetlands are affected.

A wetland delineation was completed for the project and is provided as an attachment to this permit application: *Ruby River RVHA Restoration Project Wetland Delineation Report* (Geum 2018). Impacts to wetlands are described in the attached permit support document under ‘Section D. Additional Information for Section 404, Section 10, and Floodplain Permits Only’.

2. Description of avoidance, mitigation, and compensation (see Information for Applicant). Attach additional sheets if necessary.

Project work is projected to increase overall wetland acreage at the site. Projected wetland areas are described in the attached permit support document under ‘Section D. Additional Information for Section 404, Section 10, and Floodplain Permits Only’.

3. List the names and address of landowners adjacent to the project site. This includes properties adjacent to and across from the project site. (Some floodplain communities require certified adjoining landowner lists).

Landowner Name	Location Relative to Project	Address
Maloney Ranches	Upstream	2 Indian Creek Road, Sheridan, MT 59749
Garden Creek Stock Association	Downstream	P.O. Box 295, Twin Bridges, MT 59754

4. List all applicable local, state, and federal permits and indicate whether they were issued, waived, denied, or pending. Note: All required local, state, and federal permits, or proof of waiver must be issued prior to the issuance of a floodplain permit.

We anticipate the need for a 310 permit, 404 permit and 318 Authorization to complete the proposed project. No permits have been acquired yet for the project. A Stormwater Pollution Prevention Plan (SWPPP) will be prepared and Montana DEQ General Stormwater Permit acquired prior to start of work.

5. Floodplain Map Number N/A

6. Does this project comply with local planning or zoning regulations? Yes No

E. SIGNATURES/AUTHORIZATIONS -- Each agency must have original signatures signed in blue ink.

After completing the form, make the required number of copies and **then sign each copy**. Send the copies with original signatures and additional information required directly to each applicable agency.

The statements contained in this application are true and correct. The applicant possess' the authority to undertake the work described herein or is acting as the duly authorized agent of the landowner. The applicant understands that the granting of a permit does not include landowner permission to access land or construct a project. Inspections of the project site after notice by inspection authorities are hereby authorized.

APPLICANT (Person responsible for project):

Print Name: RVHA – Alan Oborny

LANDOWNER:

Print Name: Alan Oborny (landowner representative)

Alan Oborny 5-12-21
Signature of Applicant Date

Alan Oborny (Representative) 5-12-21
Signature of Landowner Date

CONTRACTOR/AGENT:

Print Name: Amy Sacry, Geum Environmental Consulting

Amy Sacry
Signature of Contractor/Agent 5/6/2021
Date

**310 PERMIT
CONSERVATION DISTRICT'S DECISION**

Notice: THIS AUTHORIZATION DOES NOT GIVE PERMISSION TO CARRY OUT A PROJECT ON LAND THAT IS NOT OWNED BY THE HOLDER OF THIS PERMIT. Landowner permission, easements or other federal, state, or local permits, licenses, special use permits, or authorizations may be required before construction of the project. It is the duty of the holder of this permit to determine which are necessary and obtain them prior to construction of the project.

Name of Applicant RUBY VALLEY HYDROELECTRIC AUTHORITY (ALAN OBORNY)

Address P O Box 1200 City CHOTEAU State MT Zip 59422

Perennial Stream RUBY RIVER

Supervisors' Decision (circle): Approved Approved w/ Modification Denied Not a Project

Explanation:

See attached (if more room is necessary)

Permit Expiration Date JUNE 2, 2022 Work may begin on or after: _____

Date Transmitted to Applicant and DFWP: _____

Supervisors' Signatures:
Neil Bayrosky
John C. Mohr
Jim Smith

George T. Hunt
Gary Ben

TO BE COMPLETED BY THE APPLICANT

Check the appropriate box, sign and return a copy to the district office **within 30 days** of receipt of this permit.

I agree to proceed with the project in accordance with the approved application and specifications outlined in this permit and will allow a follow-up inspection.

I disagree with the terms of this permit and I will seek judicial review in district court within 30 days of receipt of this permit. (This box may only be checked if you did not sign an arbitration agreement when you submitted your application.)

I disagree with the terms of this permit and hereby request arbitration. I agree to abide by the arbitration agreement attached to or on the reverse of this form – OR, if an arbitration agreement was signed when the permit application was submitted, I will abide that agreement.

Applicant Ruby Valley Hydroelectric Authority

Date 6-26-21 Alan Oborny Signature:

STATE OF MONTANA
NATURAL STREAMBED AND LAND
PRESERVATION ACT (310 LAW)

Application No. RV21-11
Date Submitted to District _____

TEAM MEMBER REPORT

1. Applicant RUBY VALLEY HYDROELECTRIC AUTHORITY (ALAN OBOERNY)
Name of perennial stream Ruby River County _____
Location of proposed activity Section 30 Township 7S Range 4W

2. Onsite inspection at SITE (location) on 6/1/2021 (date) at 10:00A (time)

3. Review considerations:	Insignificant	Moderate	Significant	N/A
(a) effects of soil erosion and sedimentation:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) risk of flooding or erosion problems upstream or down:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) effects of stream channel alterations:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) effects on streamflow, turbidity, or water quality caused by materials used or by removal of ground cover:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) effects on fish and aquatic habitat:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(f) are there reasonable alternatives to reduce disturbance to stream or better accomplish the purpose of the project?	<input type="checkbox"/> yes (see below)		<input checked="" type="checkbox"/> no	

4. Recommendation:
 Approval as proposed Approval with modifications Denial Request for time extension

5. Modifications/Comments:
 See attached (if more room is necessary)

① BRUSH MATRIX ELEVATIONS WILL BE VARIABLE AMONG & WITHIN STRUCTURES & BETWEEN BANKFULL & 1' BELOW BANKFULL.

② PRIOR TO CONSTRUCTION A MONITORING PLAN WILL BE SUBMITTED TO ~~AND~~ DESCRIBE RESPONSE IN VEGETATION AND RATE & TYPE OF MATERIAL FILLING ALL IN-CHANNEL BED-RAISING STRUCTURES

6. Signature of Team Member(s) [Signature] FWP Date 6/1/21
Name/Representing Waive 15-day waiting period after board's decision

[Signature] RUCD Date 6/1/21
Name/Representing Waive 15-day waiting period after board's decision

[Signature] Ruby Valley Hydroelectric Date 6-1-21
Name/Representing Waive 15-day waiting period after board's decision

SCALED TO THE ANTICIPATED DURATION FOR PROJECT TO ATTAIN END-STATE.

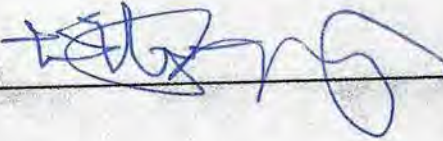
③ ALL SPLIT FLOW CHANNELS WILL BE ABANDONED WHEN FLOWS DROP BELOW FWP INSTREAM RESERVATION. OVER 9

318 AUTHORIZATION REVIEW

I have reviewed the above project on behalf of the Montana Department of Environmental Quality (DEQ) pursuant to the Montana Water Quality Short-term Water Quality Standards for Turbidity 75-5-318 MCA:

- This project **will not** increase turbidity if completed according to the conditions listed in the 310 or 124 permit. Therefore, application to DEQ for a 318 authorization **is not** required.
- Impacts to the physical and biological environment from turbidity generated as a result of this project are uncertain. Therefore, the applicant must contact the Montana Department of Environmental Quality, 1520 East Sixth Avenue, Box 200901, Helena, MT 59620-0901, (406 444-3080) to determine project specific narrative conditions required to meet short-term water quality standards and protect aquatic biota.
- Turbidity generated from this project is expected to be short-term and have only temporary and minor impacts on the physical and biological environment. Therefore, compliance with the conditions stated in *DEQ's Short Term Water Quality Standard for Turbidity Related to Construction Activity*, as well as other conditions listed in the 310 or 124 permit, are appropriate for this project.

DFWP Representative's Signature



Date

4/1/27

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**SHORT-TERM WATER QUALITY STANDARD
FOR TURBIDITY RELATED TO
CONSTRUCTION ACTIVITY
(318 Authorization)**

Dear Applicant:

This 318 authorization is the result of your recent application for a 310 permit from your local Conservation District or a 124 permit from Montana Fish, Wildlife and Parks. This authorization is valid for the time frame noted on your permit.


This is not your 310 or 124 permit and no construction activity should occur until you have received a valid 310 or 124 permit as well as any other permits that apply to this proposed construction activity.

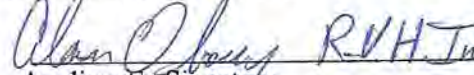
This authorization is the result of an Operating Agreement between the Montana Department of Environmental Quality (DEQ), and Montana Fish, Wildlife and Parks (FWP).

The applicant agrees to comply with the conditions stated below, as well as other conditions listed in the 310 or 124 permit issued for this project. Signatures of the applicant and FWP are required to validate this authorization.

1. Construction activity in or near the watercourse are to be limited to the minimum area necessary, and conducted so as to minimize increases in suspended solids and turbidity that could degrade water quality and adversely affect aquatic life outside the immediate area of operation.
2. The use of machinery in the watercourse shall be avoided unless absolutely necessary.
3. All disturbed stream banks and adjacent areas created by the construction activity shall be protected with erosion control measures during construction. These areas shall be reclaimed with appropriate erosion control measures and revegetated to provide long-term erosion control.
4. Any excess material generated from this project must be disposed of above the ordinary high water mark, in an area not classified as a wetland, and in a position not to cause pollution of State waters.
5. Clearing of vegetation will be limited to that which is absolutely necessary for construction of the project.
6. This authorization does not authorize a point source surface water discharge. MPDES permit is required for said discharge.
7. Open cut creek crossings will not be allowed in flowing water. Stream water must be diverted around the open cut area (pump, flume etc.)
8. The applicant must conduct all activities in full and complete compliance with all terms and conditions of all permits required for this activity issued pursuant to the Montana Natural Streambed and Land Preservation Act (310 permit), the Stream Protection Act (124 permit) the Federal Clean Water Act (404 Permit), any MPDES permits for dewatering or storm water control in the construction area and any valid Memorandum of Agreement and Authorization (MAA) negotiated for this activity.

The FWP representative has determined that this project is within the scope of the programmatic Environmental Assessment prepared by DEQ and FWP for the issuance of narrative turbidity standards.


FWP Representative's Signature Date: 6/1/21


Applicant's Signature Date: 6-1-21

Name and location of project: RV21-11

NATURAL STREAMBED AND LAND PRESERVATION ACT - ARBITRATION AGREEMENT

The Natural Streambed and Land Preservation Act arbitration process is governed by the Uniform Arbitration Act, MCA §27-5-111 through §27-5-324, except as expressly provided as provided herein. According to MCA §75-7-112, any team member may request arbitration. The team includes the applicant, a representative of the Department of Fish, Wildlife and Parks, and a representative of the conservation district.

1. Parties. The applicant and the conservation district are always a party to the arbitration process. If the applicant requests arbitration, parties will include the applicant and the conservation district. If the Department of Fish, Wildlife and Parks requests arbitration, parties will include the Department of Fish, Wildlife and Parks, the applicant, and the conservation district. If the conservation district representative requests arbitration, the parties will include the conservation district, the conservation district's representative, and the applicant. The team member requesting arbitration is the contesting party.

2. Administering Agency. The conservation district or the county attorney will act as the administering agency for the arbitration process. The conservation district shall provide clerical services to collect fees associated with the costs of the arbitration panel.

3. Selection of the Arbitration Panel. Within 30 days of the request for arbitration, the contesting party and the conservation district will submit to the administering agency the names and qualifications of three consenting persons who reside in the judicial district in which the dispute is taking place. The consenting persons must reside in the judicial district in which the dispute takes place. The parties may agree on a list of no less than four consenting persons to act as the arbitrators to be submitted to the senior judge. That list shall contain all of the names and qualifications of the consenting persons without designating the party submitting the names to the conservation district. The senior judge will select three persons from the list who, from a review of the qualifications, appear to be the most impartial to serve as arbitrators. If the contesting party fails to submit names within 30 days, the request for arbitration is deemed withdrawn. If the other parties fail to submit names and qualifications, the arbitrators must be selected from the list provided by the administering agency by the senior district judge. The arbitration panel shall only sit for the period of time necessary to settle the dispute before it and will review the proposed project pursuant to this arbitration agreement and in accordance with the statutory criteria set forth in MCA §75-7-112, implementing rules, and the policy set forth by MCA §75-7-102. The panel may appoint a chair. The powers of the arbitration panel shall be exercised by majority agreement of the panel. If during the course of the hearing an arbitrator ceases to act, the remaining panel members may continue with the hearing and make a determination on the dispute.

4. Costs of the Arbitration. Costs of the arbitration panel, computed as for jurors' fees under MCA §3-15-201, shall be borne by the contesting party. Clerical costs of the panel shall be paid by the nonprevailing party as determined by the panel. For all other expenses, including counsel fees, each party shall bear its own costs.

5. Prehearing. The panel may call a prehearing conference to set the arbitration schedule, and to request specific written information from the parties.

6. Date, Time, and Place of Hearing. The panel will select the time and place for the hearing. The hearing must be held in the judicial district in which the dispute takes place. The panel may consider requests for specific locations for the hearing. The panel may conduct on-site inspections. The panel may require the parties to submit copies of exhibits and a summary of its case, including a list of witnesses, to the panel and all other parties, prior to the hearing.

7. Notice of Hearing. Not less than ten days before the hearing, the administering agency shall give notice to each party. The notice must be by personal delivery or by certified mail. The notice shall include a description of the subjects and issues involved and the time and place of the hearing.

8. Representation. All parties have the right to be represented by an attorney. The arbitration panel may request the district court issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and may administer oaths. The provisions of law providing for service of subpoenas are applicable. The arbitration panel may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing. At the conclusion of the hearing, the panel may take the matter under advisement. A majority of the panel will render a final decision.

9. Procedure at the Hearing. Each party may give opening statements, describing, generally, their position on the supervisors' decision. The contesting party will then present its witnesses and evidence. If there is more than one contesting party, then the chair shall determine the order of presentation by the contesting parties. The other parties will follow, in turn as directed by the chair, with their witnesses and evidence. A witness is subject to cross-examination by the parties to the proceeding. A panel member may ask questions of any witness or party to the dispute. Each party may conclude with closing remarks or statements summarizing their positions and evidence. The hearing must be tape-recorded. If the judicial review is necessary, the tapes or relevant portions of the tapes may be transcribed. The parties may arrange for a transcription of the hearing at their own cost.

10. Award. The award is the final decision of the arbitration panel. The award must be in writing and signed by the arbitrators. The arbitration panel's award must be issued within 60 days after the hearing. The arbitration panel shall deliver a copy of the decision to each of the parties and the district judge either personally or by certified mail. The district court shall confirm the panel's award, unless a party applies and shows grounds for vacating, modifying, or correcting the award.

11. Judicial Review. If the panel's decision is contested, the court will review the panel's decision in accordance with MCA §27-5-312 and 313, Uniform Arbitration Act.

12. Other. Please specify.

Requesting Party _____ Date: _____

Conservation District _____ Date: _____

STREAMBED AND LAND PRESERVATION ACT
RUBY VALLEY CONSERVATION DISTRICT

PROJECT COMPLETION REPORT

This form must be completed and returned to the Ruby Valley Conservation District Office no less than 30 days following the completion of the approved project. Delay in completing this report may result in the applicant violation of the District Model Rules and the Natural Streambed and Land Preservation Act of 1975.

1. Name of Applicant:

RUBY VALLEY HYDROELECTRIC AUTHORITY (ALAN OBORNY)

Address: PO Box 1200 City: CHOTEAU State: MT Zip: 59422

Perennial Stream:

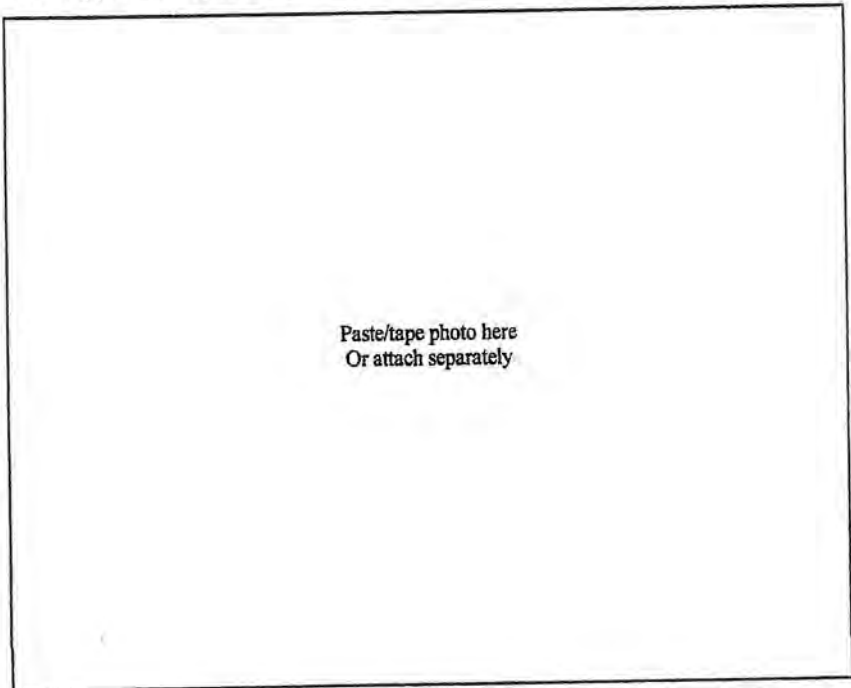
RUBY RIVER

2. Date Project Completed: _____

3. Describe any unforeseen problems, changes in design, and the remedies made to the project after the 310 permit was issued. _____

4. The applicant must attach at least one color photograph of the finished project.

5. Applicant Signature _____ Date _____



Official Use
Application No. <u>RV81-11</u>
Decision Date: <u>06-02-2021</u>
Expiration Date: <u>06-02-2022</u>