

# Montana Department of Transportation

Owner

## Encroachment Application And Permit Printed on: April 24, 2012

### APPLICANT INFORMATION:

Name: MARTIN DOWLING Address: 10018 SAW MILL ROAD  
 City: CHARLOTTE State: NC Zip: 28278-6528  
 Corporation Name: Phone:  
 Nature of Permit Desired:  
 DIRECTIONAL BORE FOR SEWERLINE

### ENCROACHMENT LOCATION INFORMATION:

<u>Sign Route:</u>	<u>Corridor:</u>	<u>Beginning Reference</u>	<u>Ending Reference</u>
MT 35	C000052	015+3.000	
<u>County:</u>	<u>Township:</u>	<u>Range:</u>	<u>Section:</u>
LAKE	T24N	R19W	16

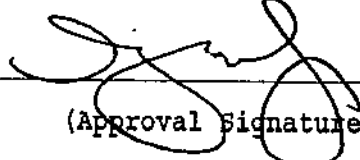
#### Comments:

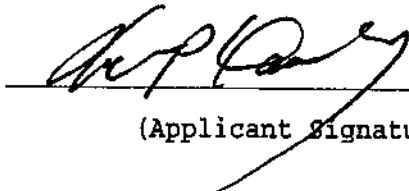
1. PERMITTEE SHALL SUBMIT AN APPROVED DETAILED TRAFFIC CONTROL PLAN THAT MEETS MDT AND MUTCD REQUIREMENTS.
2. PERMITTEE SHALL FOLLOW THE APPROVED TRAFFIC CONTROL PLAN.
- 3) THE PIPE SHALL BE PLACED WITHIN A CASING WITHIN MDT'S RIGHTS OF WAY. ALL UTILITY CROSSING MUST BE BORED UNDER MDT'S ROADWAY AND MUST BE A MINIMUM OF 6 FEET UNDER THE ROADWAY
- (4) PERMITTEE SHALL REPAIR ANY DAMAGE DONE TO MDT RIGHTS OF WAY AS SOON AS POSSIBLE
- 5) PERMITTEE IS RESPONSIBLE FOR ANY DAMAGE THAT MIGHT RESULT LATER FROM BORING THE SEWER LINE UNDER THE ROADWAY.
- 6) PERMITTEE SHALL NOT PLACE THE BORE PITS ANY CLOSER THAN 10 FEET FROM THE EDGE OF THE PAVED ROADWAY AND AREA MUST BE RESEEDED WITH WEED FREE SEED WHERE THE EXCAVATION FOR THE BORE PITS OCCUR.

### ENCROACHMENT PERMIT INFORMATION:

<u>Application Date</u>	<u>Issue Date</u>	<u>End Date</u>	<u>Class</u>	<u>type</u>	<u>Maintenance Division</u>
23-APR-12	23-APR-12	23-OCT-12		PERMANENT	KALISPELL

Approved by: GARY W. ENGMAN

  
 (Approval Signature)

  
 (Applicant Signature) 11 APR 2012

Permit number 4181

FRASER MANAGEMENT & CONSULTING, PLLC  
690 NORTH MERIDIAN, SUITE 103  
KALISPELL, MT. 59901

David Ranser, Maintenance Supervisor  
Montana Department of Transportation  
85 5<sup>th</sup> Avenue East  
Kalispell, MT. 59901

February 7, 2012

Re: Encroachment Permit Highway 35, MP 15.3

Dear Dave:

Enclosed is the application for a 4-inch pipe to be placed under Highway 35 at Mile Post 15.3.

Lot 5, Block 4 is divided by Highway 35. The installation of a 4-inch pipe will physically join the lot and provide conduit for a sewer line to a future drain field on the east side of the Highway.

Slopes on the portion of the lot west of Highway 35 are less than 30%. A possible building site has a slope of less than 25%. A physical examination of the lot did not discover any indications of either slope instabilities, shallow ground water or surface water. Soils appear to be glacial till with, at least on the west side, bedrock within 4 to 6 feet of the surface. Soil coverage on the east side appears greater than 6 feet, based on examination of the area around a residence directly south of this site.

Enclosed with the application are the following:

- Environmental Checklist signed by the preparer
- Attachment with narrative discussion of items 16, 17 and 18
- Topo map of the portion of the lot west of Highway 35 with a building pad noted. The pad location and grade meet Lake County requirements
- Retracement survey of Lot 5 Block 4
- Schematic section of the directional drilling
- Photos with notes

The last photo is of the Highway looking north at MP 16. I have included this photo to distinguish the different site conditions at MP 15.3. The ground slope at MP 15.3 is significantly less. Soil cover at MP 15.3 is significantly greater. Any slope or ground stability issues which occur at MP 16 should not occur at MP 15.3. Another consideration which applies to this request are the Terms and Conditions, which provide for the permittee to indemnify the State and protect the right of way.

If you have questions, please feel free to contact me: 406-253-4326 or [mfraser@montanasky.net](mailto:mfraser@montanasky.net)

Sincerely,



Michael W. Fraser, PE

W/encl

cc: Mike Felt

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- 1 TERM. This permit shall be in full force and effect from the date hereof until revoked as herein provided.
- 2 FEE. The fee for issuance of this permit is \_\_\_\_\_.
- 3 REVOCATION. This permit may be revoked by State upon giving 45 days notice to Permittee by ordinary mail, sent to the address shown herein. However, the State may revoke this permit without notice if Permittee violates any of its conditions or terms.
- 4 COMMENCEMENT OF WORK. No work shall be commenced until Permittee notifies the Maintenance Chief shown in application the date the Permittee proposes to commence work.
- 5 CHANGES IN HIGHWAY. If State highway changes necessitate changes in structures or installations installed under this permit, Permittee will make necessary changes without expense to State.
- 6 STATE SAVED HARMLESS FROM CLAIMS. As a consideration of being issued this permit, the Permittee, its successors or assigns, agrees to protect the State and save it harmless from all claims, actions or damage of every kind and description which may accrue to, or be suffered by, any person or persons, corporations or property by reason of the performance of any such work, character of materials used, or manner of installations, maintenance and operation, or by the improper occupancy of said highway right-of-way, and in case any suit or action is brought against the State and arising out of, or by reason of any of the above causes, the Permittee, its successors or assigns, will, upon notice to them of the commencement of such action, defend the same at its sole cost and expense and satisfy any judgment which may be rendered against the State in any such suit or action.
- 7 PROTECTION OF TRAFFIC. The Permittee shall protect the work area with traffic control devices that comply with the Manual of Uniform Traffic Control Devices. The Permittee may be required to submit a traffic control plan to the Maintenance Chief for approval prior to starting work. During work, the Maintenance Chief or designee may require the Permittee to use additional traffic control devices to protect traffic or the work area. No road closure shall occur without prior approval from the District Engineer.
- 8 HIGHWAY AND DRAINAGE. If the work done under this permit interferes in any way with the drainage of the State highway affected, Permittee shall, at the Permittees expense, make such provisions as the State may direct to remedy the interference.
- 9 RUBBISH AND DEBRIS. Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the State.
- 10 INSPECTION. The installation authorized by this permit shall be in compliance with the attached plan and the conditions of this permit. The Permittee may be required to remove or revise the installation, at sole expense of Permittee. If the installation does not conform with the requirements of this permit or the attached plan.
- 11 STATES RIGHT NOT TO BE INTERFERED WITH. All changes, reconstruction or relocation shall be done by Permittee so as to cause the least interference with any of the States work, and the State shall not be liable for any damage to the Permittee by reason of any such work by the State, its agents, contractor or representatives, or by the exercise of any rights by the State upon the highways by the installations or structures placed under this permit.
- 12 REMOVAL OF INSTALLATIONS OR STRUCTURES. Unless waived by the State, upon termination of this permit, the Permittee shall remove the installations or structures installed under this permit at no cost to the State and restore the premises to the prior existing condition, reasonable and ordinary wear and tear and damage by the elements, or by circumstances over which the Permittee has no control, excepted.
- 13 MAINTENANCE AT EXPENSE OF PERMITTEE. Permittee shall maintain, at its sole expense, the installations and structures for which this permit is granted, in a condition satisfactory to the State.
- 14 STATE NOT LIABLE FOR DAMAGE TO INSTALLATIONS. In accepting this permit the Permittee agrees that any damage or injury done to said installations or structures by a contractor working for the State, or by any State employee engaged in construction, alteration, repair, maintenance or improvement of the State highway, shall be at the sole expense of the Permittee.
- 15 STATE TO BE REIMBURSED FOR REPAIRING ROADWAY. Upon being billed, therefore, Permittee agrees to promptly reimburse State for any expense incurred in repairing surface of roadway due to settlement at installation, or for any other damage to roadway as a result of the work performed under this permit.
- 16 The Permittee shall not discharge or cause discharge of any hazardous or solid waste by the installation or operation of the facility of a State Right-of-Way.
- 17 The Permittee will control noxious weeds within the disturbed installation area for two (2) years.
- 18 In accordance with Mont. Code Ann. 76-3-403(2), Permittee shall, at Permittees expense, employ the services of a Montana Licensed Professional Land Surveyor to re-establish all existing survey monuments disturbed by work contemplated under this permit.
- 19 The use of explosives is prohibited for the installation.

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20 Any condition of this permit shall not be waived without written approval of the appropriate District Engineer.

21 OTHER CONDITIONS AND/OR REMARKS: \_\_\_\_\_



Reviewed for completeness by:

MDT District Representative	Title	Date
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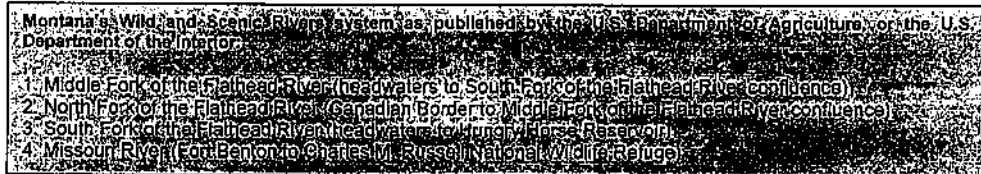
Checklist Approved by:

Environmental Services Bureau (When any of the items 1 through 15 are checked "Yes")	Title	Date
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Transportation Planning (When items 14 or 15 are checked "Yes")	Title	Date
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**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.
- 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.



**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>.