

## 404/401/ALPO/ALCO PRECONSTRUCTION PROCESS

### 1. Purpose

This work instruction describes the MDT process for determining applicability of, and ensuring compliance with, the requirements listed below for MDT highway construction projects:

- **Section 404 of the *Clean Water Act (CWA)*.** Requires permit coverage from the US Army Corps of Engineers (COE) for discharge of dredged or fill material into “waters of the United States,” including jurisdictional wetlands and special aquatic sites. The term “waters of the United States” is defined in 33 CFR 328. The term “special aquatic sites” is defined in 40 CFR 230.3(q-1). A CWA 404 permit can be either a nationwide permit (NWP) or an individual permit (IP). An IP requires alternative analysis (outlined in the Section 404(b)(1) guidelines, 40 CFR 230) and permitting of the Least Environmentally Damaging Practicable Alternative (LEDPA). The COE is required to demonstrate *National Environmental Policy Act (NEPA)* compliance with issuance of their permits and generally relies upon the MDT/FHWA NEPA process for this compliance.
- **Section 401 of the CWA.** Requires certification of compliance with applicable effluent limitations and water quality standards for waters of the US. Depending on the location of the water of the US, 401 certification authority will lie with the Montana Department of Environmental Quality (DEQ), US Environmental Protection Agency (US EPA), Confederated Salish and Kootenai Tribes (CSKT), Fort Peck Tribes, or the Northern Cheyenne Tribes. CWA 401 certification conditions from each entity are outlined on the Montana COE webpage.
- **Blackfoot Tribe Aquatic Lands Protection Ordinance 90-A (ALPO).** Requires permit coverage from the Blackfoot Nation Environmental Office for all construction or fill projects that occur in waters, aquatic lands, riparian areas and streams on the Blackfoot Indian Reservation. For purposes of ALPO, “aquatic lands” means all Reservation waters below the mean annual high water mark or within a wetland. “Reservation waters” means, all naturally occurring bodies of water within the exterior boundaries of the Reservation regardless of alteration by man, including but not limited to lakes, rivers, streams (including intermittent streams), mudflats, wetlands, springs, sloughs, potholes and ponds, and any bodies of water classifiable as waters of the US under Federal law. Tributaries and wetlands are also Reservation waters.
- **CSKT Aquatic Lands Conservation Ordinance 87-A (ALCO).** Requires permit coverage from the Shoreline Protection Program Office of the CSKT for any proposed work in, over or near any stream, river, lake or wetland on the Flathead Reservation. For purposes of ALCO, “aquatic lands” means all land below the mean annual high water mark of a Reservation water body. “Reservation waters” means, all naturally occurring bodies of water within the exterior boundaries of

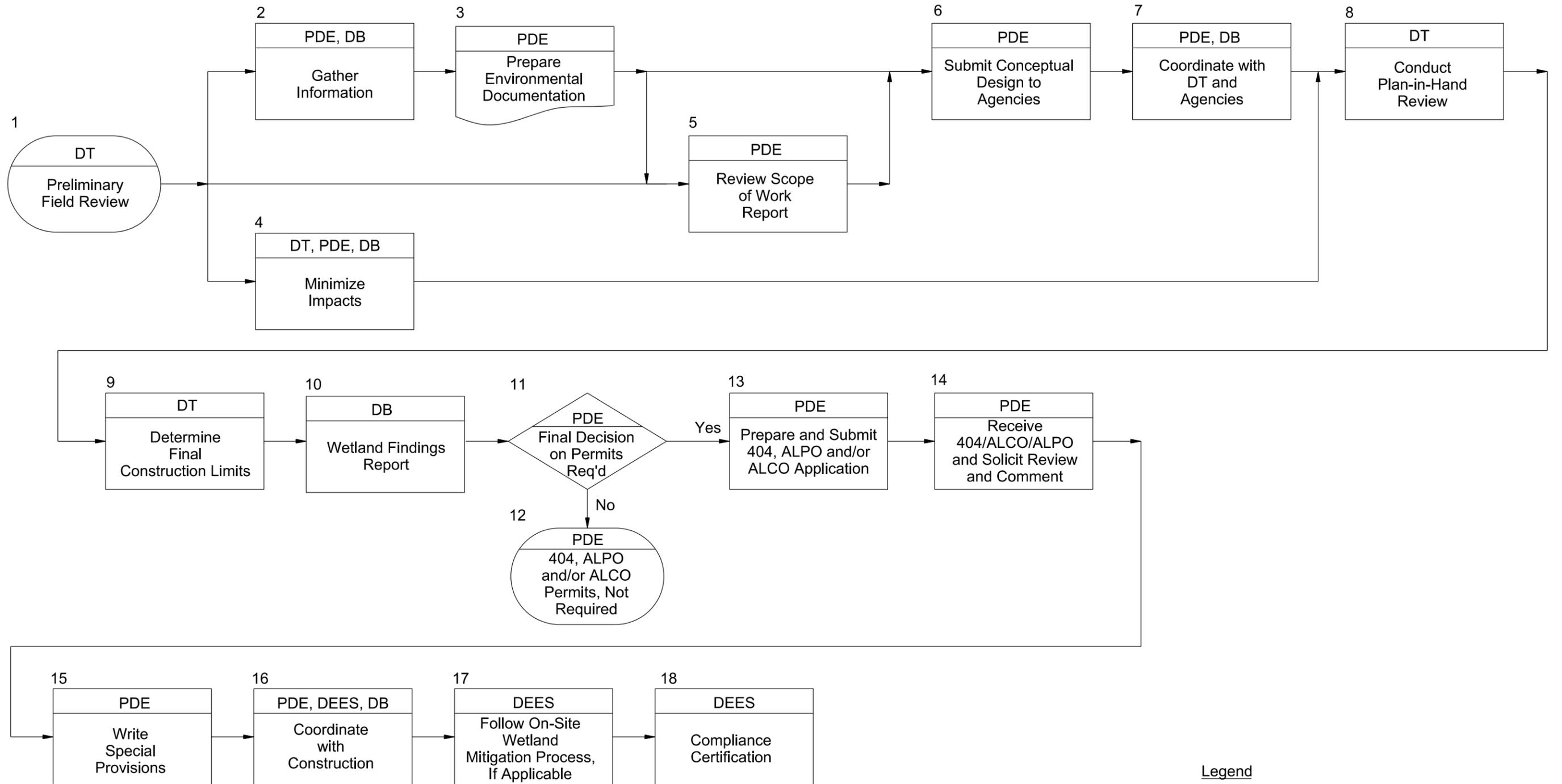
the Reservation regardless of alteration by man, including but not limited to lakes, rivers, streams (including intermittent streams), mudflats, wetlands, sloughs, potholes and ponds from which fish and wildlife are or could be taken, but does not include wholly manmade water bodies. Tributaries to waters identified above are Reservation waters. Adjacent wetlands are also Reservation waters.

## **2. Scope**

The MDT 404/401/ALPO/ALCO Preconstruction Permitting Process is administered by the Project Development Engineers (PDE) in the Engineering Section within the MDT Environmental Services Bureau (ESB) in cooperation with the Design Team (DT). The process begins with the Preliminary Field Review (PFR), and continues through the design and construction processes. The PDE ensures that the permit(s) applications are reviewed with the District Biologist (DB) and the permits themselves are reviewed by the DT for appropriateness and that the special and general conditions of the permit(s) are ultimately incorporated into the contract plans as special provisions. Those special and general conditions of the permit(s) are ultimately incorporated into the design and construction of the project. For 404 permits, the conclusion of the process is the signing of the 404 compliance certification after construction is complete and on-site mitigation (if part of the project) is established.

## **3. Process**

[Figure 1](#) presents a flowchart that illustrates the 404/401/ALPO/ALCO Preconstruction Process. Following the Figure is a description of each process task included within the flowchart.



**Legend**  
 DB = District Biologist  
 DEES = District Environmental Engineering Specialist  
 DT = Design Team  
 ERSS = Environmental Resource Section Supervisor  
 PDE = Project Development Engineer

**Figure 1 — 404/401/ALPO/ALCO PRECONSTRUCTION PROCESS**

## PROCESS TASK

Task Title: Preliminary Field Review

Task No.: 1

### Task Description

The Preliminary Field Review (PFR) is the initial step that begins the 404/401/ALPO/ALCO preconstruction process for a proposed project. The PFR includes preliminary evaluation of the scope of work and the potential for social, economic and environmental impacts. The DT ensures that appropriate MDT personnel are notified of the field review and invited to participate.

In response to the notification from the DT, the PDE makes a preliminary evaluation of available information on the proposed project scope, location and potentially affected social, economic, and environmental resources, including waters of the US and/or Tribal waters. Based on this preliminary evaluation, the PDE determines the need for participating in the field review. The PDE, as well as other environmental staff, participates in field reviews, as necessary, to ensure identification and consideration of the full range of social, economic, and environmental resources in the project corridor as well as potential avoidance and minimization opportunities to be considered in the development of the project design.

At the PFR stage of project design, the DB and PDE evaluate the project's potential effects on aquatic resources. The DB is responsible for assessing the presence of and potential impacts to streams, rivers, wetlands and other special aquatic sites. The PDE is responsible for assessing the presence of and potential impact to waters of the US and/or Tribal waters and making a preliminary determination of whether the proposed action requires a Section 404 permit or an ALPO or ALCO permit.

Following the field review, the DT prepares a PFR Report summarizing the issues discussed during the field review, including potential impacts to aquatic resources. The final PFR Report is distributed for review and comment. Within ESB, the PDE serves as the document champion to collect and coordinate comments from the other sections. The PDE compiles the comments into a PFR review memorandum for signature by the Environmental Services Bureau Chief. If a discussion of aquatic resources and potential need for permits is not included in the PFR Report or is misstated, the PDE ensures that the ESB PFR review memo provides clarification on this matter. Additionally, the PDE documents in the Level of Documentation Form the expected need for permits.

### Regulations and Guidance

*MDT Road Design Manual*, Chapter One, "Road Design Process"  
 33 CFR Part 328 "Definition of waters of the United States"  
 ALCO (Ordinance 87-A)  
 Final Regulations for ALCO, Section 1.4a. "Aquatic lands" definition.  
 ALPO (Ordinance 90-A)

## PROCESS TASK

Task Title: Gather Information

Task No.: 2

### Task Description

After the PFR and receipt of the PFR Report, the PDE coordinates with COE, DEQ, EPA and Tribal governments and reviews available environmental databases and GIS data layers to gather additional information in the project area. ESB staff ensures that all social, economic and environmental resources are delineated, classified, evaluated and documented in appropriate reports. The processes and procedures for producing these reports are detailed elsewhere in this *Manual*.

Of particular importance in the permitting process are the classification and delineation of wetlands in the Biological Resource Report (BRR) and Wetland Findings Report (WFR) and the documentation of the mitigation strategy in the Wetland Mitigation Plan. Documentation of compliance with the *Endangered Species Act* (ESA) and Section 106 of the *National Historic Preservation Act* is important in Federally funded projects to ensure that MDT, with FHWA, can be considered a Federal entity for purposes of CWA 404 permitting. The NEPA/MEPA documentation produced for MDT's project must be provided to the COE to consider the application complete.

At the appropriate time of year, the DB conducts a field survey of the project corridor to determine if aquatic resources subject to CWA Section 404 are present. If these types of resources are present, the DB delineates the waters according to established methodologies. Wetlands are delineated according to the 1987 *COE Manual* and appropriate regional supplement(s) and are recorded on the Wetland Determination Data Form for the appropriate region(s). The DB determines the Wetland Category using the MDT Montana Wetland Assessment Method. The wetland delineation is forwarded to the appropriate members of the DT for inclusion on the project plans. In the BRR, the DB makes a preliminary determination on whether a 404 permit will be necessary, an estimate on the area of impact to each wetland category and an estimate of linear feet and type of impacts to streams.

Based on the information gathered, the PDE revisits the preliminary determination of whether the proposed action requires a CWA Section 404, ALPO and/or ALCO permit.

### Regulations and Guidance

*US Army Corps of Engineers Wetlands Delineation Manual*, 1987 Edition, including appropriate regional supplements.

Berglund, J. and R. McEldowney. 2008. MDT Montana Wetland Assessment Method.

Prepared for: MT Department of Transportation. Post, Buckley, Schuh and Jernigan. Helena, MT.

33 CFR Part 328 "Definition of waters of the United States"

ALCO (Ordinance 87-A)

Final Regulations for ALCO, Section 1.4a. "Aquatic lands" definition.

ALPO (Ordinance 90-A)

## PROCESS TASK

Task Title: Prepare Environmental Documentation

Task No.: 3

### Task Description

In preparing the environmental documentation for the project, the PDE includes information describing the aquatic resources in the project area and showing the location in relation to the project/alternatives under detailed study. ESB staff assesses potential social, economic and environmental impacts and means that may be employed to avoid, minimize or mitigate those impacts. The PDE incorporates this information into the environmental documentation. The process and procedures for preparing environmental documentation are detailed elsewhere in this *Manual*.

Of particular importance in the permitting process is the preliminary determination of jurisdictional authority of the various agencies, including DEQ, EPA, COE and Tribes. If the COE has jurisdiction, the PDE makes a preliminary determination of whether a permitting exemption, NWP or IP, applies. As appropriate, the PDE documents those determinations and agency coordination efforts in the environmental documentation.

If an IP is anticipated, the PDE ensures the environmental documentation includes alternatives under study to address the analysis required by Section 404(b)(1). The guidelines for implementing that Section provide that the COE may only authorize the Least Environmentally Damaging Practicable Alternative (LEDPA). A 404(b)(1) analysis must be prepared when the level of environmental document is an Environmental Impact Statement (EIS) and an IP is required. MDT and FHWA have agreed that MDT will prepare a 404(b)(1) analysis any time an IP is required. See [Chapter 45 "404\(b\)\(1\) Analysis."](#)

### Regulations and Guidance

FHWA Technical Advisory T 6640.8A

23 CFR Part 777 "Mitigation of impacts to wetlands and natural habitat"

33 CFR Part 320 "General regulatory policies" COE

33 CFR Part 323 "Permits for discharges of dredged or fill material into waters of the United States"

40 CFR Part 230 "Section 404(b)(1) guidelines for specification of disposal sites for dredged or fill material, Subpart B – Compliance With the Guidelines."

ALCO (Ordinance 87-A)

401 Certification Requirements for Montana permitting entities. (COE Omaha District website link for Montana)

Montana Nationwide Permit Fact Sheets (COE Omaha District website)

Montana Regional Conditions for Nationwide Permits, available on the COE Omaha District website

Executive Order 11990 "Protection of Wetlands"

## PROCESS TASK

Task Title: Minimize Impacts

Task No.: 4

### Task Description

Throughout the design process, the PDE and DB coordinate with the DT to avoid and minimize impacts to aquatic resources to the maximum extent practicable. Avoidance and minimization efforts are weighed against a variety of issues including, but not limited to, the ability of the project to meet the purpose and need, safety considerations, fiscal constraints, ability to prove necessity for land acquisition and compliance with applicable laws. For an individual 404 permit, MDT needs to develop a design that the COE agrees is the LEDPA.

### Regulations and Guidance

33 CFR Part 320 "General regulatory policies" COE  
33 CFR Part 323 "Permits for discharges of dredged or fill material into waters of the United States"  
ALCO (Ordinance 87-A)  
Final Regulations for ALCO  
ALPO (Ordinance 90-A)

**PROCESS TASK**

Task Title: Review Scope of Work Report

Task No.: 5

Task Description

As soon as appropriate data is available, the DT prepares the Scope of Work (SOW) Report, which identifies the major design features of the project and provides an overview of the project improvements. In addition to information on various engineering aspects of the proposed project, the SOW Report includes discussion of environmental considerations, including aquatic resource impacts and associated impact avoidance and minimization measures. The SOW Report cannot be finalized until the environmental document is approved.

The DT distributes the SOW Report for review and comment by affected MDT bureaus. Within ESB, the PDE serves as the document champion to collect and coordinate comments from the other sections. ESB reviews the Report to ensure that agreed-upon measures for avoiding and minimizing impacts to aquatic resources are incorporated in the project design to the maximum extent practicable and the proper permits are identified in the SOW Report. The PDE compiles the comments into a SOW review memorandum for signature by the Environmental Services Bureau Chief.

## PROCESS TASK

Task Title: Submit Conceptual Design to Agencies

Task No.: 6

### Task Description

When preliminary project plans are complete, the DT provides preliminary plan documents to ESB. The preliminary plans reflect the conceptual design for the project and the locations of waters and other aquatic lands, including the delineated boundaries of wetlands.

The PDE transmits this information, as necessary, to the COE, DEQ, EPA and Tribal governments. With some agencies, especially the Tribes, the transmittal provides an opportunity to continue the dialogue with the agencies that occurred in the initial request for information letters. As appropriate, the transmittal requests the agencies and Tribes to review the conceptual design and provide any comments or concerns to the PDE within a specified timeframe. Specific information is sought on a variety of topics including jurisdictional determinations, adherence to 401 certification requirements, applicability of NWPs or codified permitting exceptions, agreement on LEDPA, etc.

### Regulations and Guidance

33 CFR Part 320 "General regulatory policies" COE  
33 CFR Part 323 "Permits for discharges of dredged or fill material into waters of the United States"  
ALCO (Ordinance 87-A)  
Final Regulations for ALCO  
ALPO (Ordinance 90-A)

**PROCESS TASK**

Task Title: Coordinate with DT and Agencies

Task No.: 7

Task Description

After the review and comment period for the conceptual design, the PDE coordinates with the DT to discuss agency comments. As necessary, the PDE coordinates with COE, EPA, DEQ and Tribal governments to address comments received regarding the conceptual design. This process may be iterative and may include exchanges of correspondence, meetings and field visits to achieve resolution of comments submitted.

The DT incorporates the appropriate design changes resulting from coordination with regulatory and resource agencies and affected Tribal governments.

**PROCESS TASK**

Task Title: Conduct Plan-in-Hand Review

Task No.: 8

Task Description

After all design changes are incorporated to the extent practicable, the DT prepares the preliminary detailed design plans for the project. The DT distributes the preliminary detailed design plan package and invites participation in a Plan-in-Hand (PIH) Review of the project. ESB staff reviews the plan package prior to the PIH meeting and participates in the PIH review and/or submits comments prior to the meeting.

The DT documents all comments received during the PIH Review in the PIH Report and distributes the Report to participants for review and comment. Within ESB, the PDE serves as the document champion to collect and coordinate comments from the other sections. The PDE compiles the comments into a PIH review memorandum for signature by the Environmental Services Bureau Chief. The DT uses the recommendations contained in the Report to revise the plans, special provisions and cost estimate.

Regulations and Guidance

*MDT Road Design Manual*, Chapter One, "Road Design Process"

## PROCESS TASK

Task Title: Determine Final Construction Limits

Task No.: 9

### Task Description

After the DT incorporates all necessary changes in the project plans resulting from the PIH Review and comments on the PIH Report, the DT determines the final limits of construction for the project and documents them in the project plans. The DT distributes project plans that include the final construction limits to the applicable bureaus, including the ESB. The PDE uses these plans to finalize preparation of permit applications. The DB uses these plans to quantify wetland impacts in the WFR, see [Task 10](#).

### Regulations and Guidance

*MDT Road Design Manual*, Chapter One, "Road Design Process"

**PROCESS TASK**

Task Title: Prepare Wetland Findings Report

Task No.: 10

Task Description

Based on the project plans with final construction limits, the DB prepares a WFR for the project. The Report includes the following:

- description of the project and project area;
- discussion of methodology used for wetland delineation, classification and functional assessment;
- descriptions of wetlands and wetland hydrology in the project area;
- discussion of the project's wetland impacts, including wetland acreage impacted, by Category;
- discussion of alternatives or measures for avoiding and minimizing the project's wetland impacts;
- description of compensatory mitigation for unavoidable adverse wetland impacts; and
- appendices containing Wetland Determination Data Forms for the appropriate region(s), MDT Montana Wetland Assessment Data Forms, representative wetland photographs and project plans indicating wetland impacts.

**PROCESS TASK**

Task Title: Final Decision on Permits Required

Task No.: 11

Task Description

Based on the project scope, final construction limits, impacts to aquatic resources and preliminary jurisdictional determinations, the PDE determines whether a 404 permit will be required. If a 404 permit will be necessary, the PDE determines if it will be a NWP or an IP and, if a NWP, which is most appropriate. The PDE also ensures agreed upon measures to meet 401 certification requirements are included in the plans. Additionally, the PDE revisits and finalizes the decision about whether an ALPO or ALCO permit is required. If a permit is required proceed to [Task 13](#).

If the project will not involve work in, over or near an aquatic resource that would trigger the requirements for a 404, ALPO or ALCO permit, proceed to [Task 12](#).

Regulations and Guidance

33 CFR Part 320 "General regulatory policies" COE

33 CFR Part 323 "Permits for discharges of dredged or fill material into waters of the United States"

33 CFR Part 328 "Definition of waters of the United States"

ALCO (Ordinance 87-A)

Final Regulations for ALCO

ALPO (Ordinance 90-A)

**PROCESS TASK**

Task Title: 404, ALPO and/or ALCO Permits Not Required

Task No.: 12

Task Description

If the project will not require a 404, ALPO and/or ALCO permit, the 404/401/ALPO/ALCO preconstruction process is not applicable. The PDE prepares a memorandum to the file documenting the basis for this determination. The PDE reviews future plan documents and plans to confirm that they do not change to the extent that permits could be required.

## PROCESS TASK

Task Title: Prepare and Submit 404, ALPO and/or ALCO Permit Application(s)

Task No.: 13

### Task Description

Based on the determination of permit requirements conducted in [Task 11](#), the PDE prepares and submits permit applications according to the following procedures. The permitting process varies depending on the location within the State.

In order to finalize preparation of permit application packages, the following reports and information produced by other MDT staff, must be completed and ready to submit, as appropriate:

- PFR Report or Alignment and Grade Review (AGR) Report, if permit-related content is different from that in the PFR Report;
- SOW Report;
- BRR;
- Biological Opinion (as necessary);
- Location Hydraulics Study Report;
- Environmental document or signed categorical exclusion;
- Applicable portions of project plans and cross-sections (that are finalized in the areas of the affected aquatic resources);
- WFR;
- Wetland Mitigation Plan;
- Documentation of ESA, Section 4(f) and Section 106 compliance, and
- Avoidance and minimization documentation (the complexity of which is proportional to the level of project impacts).

To document that MDT, with FHWA, can be considered a Federal entity for purposes of CWA 404 permitting, the NEPA/MEPA document produced for MDT's project must be provided to the COE for them to consider the application complete.

The COE, Montana Department of Fish, Wildlife and Parks (FWP), DEQ, EPA and the various Tribes, have differing permit authorities and different waters over which they have jurisdiction. However, applications for CWA 404, Tribal permits and SPA 124 Notifications, secured by the PDE and DBs for preconstruction work, contain some similar information. As a result, coordination and collaboration between the PDE and the DB prior to submittal of applications

## PROCESS TASK

Task Title: Prepare and Submit 404, ALPO and/or ALCO Permit Application(s)

Task No.: 13 (*Continued*)

Task Description: (*continued*)

is necessary. This coordination and collaboration will take the form of discussion throughout project development as the PDE prepares the environmental documentation, the 404 application and the Tribal permit applications and the DB prepares the BRR, WFR, Wetland Mitigation Plan, and SPA 124 Notification. The PDE and DB conduct a mutual review of the permit and the notification applications prior to submittal to the various agencies.

Non-Tribal Land

404 Permit: When a NWP is applicable, the PDE reviews the NWP notification requirements to determine if an application submittal is needed. If notification is required (whether for a NWP or an IP) the PDE prepares a "Joint Application for Proposed Work in Montana's Streams, Wetlands and Other Water Bodies," along with appropriate supporting information and attachments, to the appropriate COE office. The PDE prepares the application packet in accordance with the current example templates. The Environmental Engineering Section Supervisor (EESS) signs the application, tracks the submittal in the appropriate tracking spreadsheet and submits it to the COE. The EESS will guide the COE as to the priority of this application in relation to other MDT permit applications currently being processed by the COE.

For projects with on-site mitigation, the DB prepares a detailed Mitigation Plan according to requirements described in 33 CFR 332 and 40 CFR 230.91, et seq., "Compensatory Mitigation for Losses of Aquatic Resources." The PDE includes this Mitigation Plan in the 404 permit application package.

NWP processing time by the COE is approximately 45 days (when notification is required). IP processing time by the COE is approximately 120 days.

401 Certification: The 401 certification is issued by DEQ. Generally, this process is coordinated between DEQ and the COE. The PDE is responsible for reviewing and ensuring compliance with DEQ 401 certification requirements, which vary depending on type of NWP.

Tribal Land

If discharge(s) of dredged or fill material involve water within Tribal lands other than the Blackfeet, Flathead, Fort Peck or Northern Cheyenne Reservations, the PDE submits the 404 permit application information only to the COE. No additional submittals for Tribal permits or Tribal water quality certification are required. If the discharges involve waters within the Blackfeet, Flathead, Fort Peck or Northern Cheyenne Reservations additional requirements apply, as described below.

**PROCESS TASK**

Task Title: Prepare and Submit 404, ALPO and/or ALCO Permit Application(s)

Task No.: 13 (*Continued*)

Task Description: (*continued*)

Tribal Lands Other Than the Blackfeet, Flathead, Fort Peck or Northern Cheyenne Reservations

404 Permit: Apply to COE.

401 Certification for NWP: Check US EPA Tribal Lands Certification for 401 certification requirements. US EPA issues the 401 certification, when required. This process generally is coordinated between the COE and US EPA.

401 Certification for IP: US EPA issues the 401 certification. This process generally is coordinated between the COE and US EPA.

Blackfeet Nation – ALPO Permit

404 Permit: Apply to COE. (See above)

401 Certification: The 401 certification is issued by US EPA. Generally, this process is coordinated between US EPA and the COE. The PDE is responsible for reviewing and ensuring compliance with US EPA 401 certification requirements, which vary depending on type of NWP.

ALPO: Generally, the preconstruction ALPO 90-A permit will cover the permanent facilities and the construction of the project, in accordance with Section 5.b of the ALPO No. 90-A Regulations, to the extent possible. The PDE coordinates with the Blackfeet Tribe directly to thoroughly explain the proposed activities and determine permit applicability. The PDE prepares the application submittal in accordance with the ALPO 90-A regulations and specific needs or concerns brought identified by the Tribe during consultation. The PDE submits the application directly to the Blackfeet Environmental Office and conduct follow-up efforts necessary to secure the permit.

Flathead Indian Reservation - ALCO Permit

404 Permit: Apply to COE. (See above.)

401 Certification for NWP: Check CSKT Certification for 401 certification requirements.

401 Certification for IP: Apply to CSKT for 401 certification.

## PROCESS TASK

Task Title: Prepare and Submit 404, ALPO and/or ALCO Permit Applications

Task No.: 13 (*Continued*)

Task Description: (*continued*)

ALCO: Apply to CSKT Shoreline Protection Office and the CSKT Tribal Water Quality Program. The PDE compares the proposed project with and completes the application package in accordance with the ALCO requirements, available on the CSKT website.

Fort Peck Indian Reservation

404 Permit: Apply to COE. (See above.)

401 Certification for NWP: Check Fort Peck Tribes Certification for 401 certification requirements. As applicable, the PDE submits a copy of the 404 permit application information to the Fort Peck Office of Environmental Protection with a request for 401 water quality certification.

401 Certification for IP: Apply to Fort Peck Tribes for 401 certification. The PDE submits a copy of the 404 permit application information to the Fort Peck Office of Environmental Protection with a request for 401 water quality certification.

Northern Cheyenne Reservation

404 Permit: Apply to COE. (See above.)

401 Certification for NWP: Check Northern Cheyenne Tribes Certification for 401 certification requirements. As applicable, the PDE submits a copy of the 404 permit application information to the Northern Cheyenne Tribes with a request for 401 water quality certification.

401 Certification for IP: Apply to Northern Cheyenne Tribes for 401 certification. For a discharge of dredged or fill material into waters within the Northern Cheyenne Reservation, the PDE submits a copy of the 404 permit application information to the Northern Cheyenne Tribes with a request for 401 water quality certification.

Regulations and Guidance

33 CFR Part 320 "General regulatory policies" COE

33 CFR Part 323 "Permits for discharges of dredged or fill material into waters of the United States"

33 CFR Part 328 "Definition of waters of the United States"

ALPO (Ordinance 90-A)

ALCO (Ordinance 87A)

Final Regulations for ALCO

## PROCESS TASK

Task Title: Receive 404/ALCO/ALPO Permit and Solicit Review and Comment

Task No.: 14

### Task Description

Upon receipt of any required 404, ALPO and/or ALCO permits and associated 401 water quality certification for the proposed project, the PDE electronically scans the permit(s) and uploads the permits to the Document Management System (DMS). The EESS tracks receipt of the permit and the permit expiration date in the appropriate tracking spreadsheet. The PDE distributes copies of the permits to the DT using the standard 404 review request distribution memorandum and e-mail with a link to the DMS.

The review request distribution memorandum will:

- solicit review of and comment on special conditions,
- explain that special and general conditions will be included in the contract plans,
- note the date of the plans on which the permit is based, and
- note areas the PDE identifies in their initial review as needing to be renegotiated.

DT review of and comment on the permit may necessitate renegotiation of permit conditions. If so, the PDE coordinates with the agencies and secures the necessary permit modifications. As necessary, the DT will redistribute the renegotiated permit for further comment.

The original permit and water quality certification conditions are maintained in ESB files.

**PROCESS TASK**

Task Title: Write Special Provisions

Task No.: 15

Task Description

Upon acceptance by the DT, special and general conditions from permit(s) and water quality certification are included in special provisions for the contract plans. The PDE drafts those special provisions using the agreed upon templates and forwards them to the Contract Plans Bureau, with copies to the DT, DB and EESS.

The PDE coordinates with the DT and MDT Contract Plans Bureau to ensure the special provisions associated with the permit and water quality certification conditions are accurately reflected in the final engineering plan documents.

When no SPA Notification is required, the PDE ensures inclusion of the 318 Turbidity Authorization special provision, as appropriate.

**PROCESS TASK**

Task Title: Coordinate with Construction

Task No.: 16

Task Description

The PDE, DB and the District Environmental Engineering Specialist (DEES) coordinate with Construction personnel, as necessary, to ensure special provisions are adhered to and appropriate design features from project plans are implemented during project construction.

If the project involves on-site wetland mitigation, proceed to [Task 17](#).

If the project does not involve on-site wetland mitigation, proceed to [Task 18](#).

**PROCESS TASK**

Task Title: Follow On-Site Wetland Mitigation Process, If Applicable

Task No.: 17

Task Description

If the project involves on-site mitigation, the DEES follows the On-site Mitigation Process.

The Environmental Resources Section Supervisor (ERSS) ensures ongoing monitoring of the wetland site. Once monitoring is complete, the ERSS signs the Compliance Certification Form and returns it to the COE, which completes the process.

**PROCESS TASK**

Task Title: Compliance Certification

Task No.: 18

Task Description

If the project does not involve on-site wetland mitigation, the DEES and Engineering Project Manager determine if all permit and water quality certification conditions are satisfied through implementation of the associated special provisions in the contract plan documents for the project and the Compliance Certification Form can be signed. If so, appropriate District personnel sign the form and forward it to the EESS. The EESS tracks the Compliance Certification in the appropriate tracking spreadsheet and forwards the signed form to the COE, effectively closing out the 404 permit.