

LINCOLN CONSERVATION DISTRICT
 for the
 STATE OF MONTANA
NATURAL STREAMBED AND LAND PRESERVATION ACT
NOTICE OF EMERGENCY
 (This is not a permit application)

When emergency action has been taken to safeguard life, property or crops, the conservation district must receive the following information within 15 days of the activity:

1. Name of Applicant: _____
 Address: _____
 Telephone: _____ E-Mail: _____

2. Location of Activity:
 Stream Name: _____ Nearest Town: _____
 Location/Address: _____; _____ 1/4 _____ 1/4 _____ 1/4
 Section: _____ Township: _____ Range: _____ Geocode: _____

3. Date emergency action was taken: _____

4. Explanation of emergency causing the need for the actions described above:
 (Attach additional sheets if necessary)

5. Description of emergency action taken:

6. Signature: _____ Date: _____

RETURN TO:
 Lincoln Conservation District
 P.O. Box 2170
 949 U.S. Highway 93 North
 Eureka, MT 59917

Phone: 406-297-2233
 Fax: 406-296-7188

TO BE COMPLETED BY CONSERVATION DISTRICT

1. **Date notice of emergency received:** _____

2. a. **Does the action taken meet the definition of a project?** _____

b. **If yes, date notice sent to Department:** _____

3. **Team inspection request. (Must request on site inspection within 20 days of notice.)**

Date: _____

4. **Date of inspection:** _____

5. **Action taken**

Approved (no further action required by applicant)

Modified (applicant must submit form 270 within 90 days to mitigate damages from emergency action)

Denied (applicant must submit form 270 within 90 days to remove project)

Project does not meet definition of an emergency.

6. **Special recommendations or considerations:**

7. **Supervisors' Signatures**

NATURAL STREAMBED AND LAND PRESERVATION ACT - RULES OF ARBITRATION

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 in these rules.

1. **Administering Agency.** The conservation district or the county attorney will act as the administering agency for the arbitration process. Each team member is a party to the arbitration. The person or persons requesting arbitration is the contesting party. By mutual agreement, the parties shall select a person to provide clerical services and to collect fees associated with the costs of the arbitration panel. If mutually agreed, the conservation district may provide these services.

The applicant may not submit a second application for the original project during the arbitration process unless the applicant withdraws his request for arbitration.

2. **Selection of the Arbitration Panel:** Within thirty (30) days of the request for arbitration, each team member must submit the names and qualifications of three consenting persons to the administering agency. The senior district judge for the judicial district of the conservation district involved will select three panel members, one from each team member's group of names. The panel members must be residents of that judicial district at the time of selection. If the contesting party fails to submit names to the administering agency within 30 days, the arbitration request will be withdrawn. If the other parties fail to submit names, the additional panelists will be selected by the senior district judge. The panel shall only sit for the period of time necessary to settle the dispute before it and will review the proposed project in line with the policy set forth by MCA 75-7-102. The panel shall 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.

3. **Costs of the Arbitration.** Cost of the arbitration panel, computed as for jurors' fees under 3-15-201, shall be borne by the contesting party or parties. Clerical costs of the panel shall be paid for by the non-prevailing party determined by the panel. For all other expenses, each party shall bear their own costs.

4. **Pre-hearing.** The panel may call a pre-hearing to set arbitration hearing schedule, and to request specific written information from the parties.

5. **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 chair of 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.

6. **Notice of hearing.** Not less than ten days before the hearing, the administering agency shall notify personally or by certified mail the parties to the arbitration. The notice shall include a description of the subjects and issues involved and the time and place of the hearing.

7. **Representation and Assistance:** All parties have the right to be represented or assisted by an attorney.

8. **Attendance at Hearings:** The arbitration panel may excuse a witness during the testimony of another witness. The arbitration panel may hold the hearing and make its determination, even if a party duly notified fails to appear.

9. **Scope of Review.** The arbitration panel will review the evidence and uphold, modify, or deny the supervisors' decision. The panel shall consider evidence used by the supervisors in reaching their decision. The panel may consider new evidence or information the parties wish to present relevant to the original project if no objection is raised to the presentation of the new evidence. The panel may not consider new evidence if an objection is made.

10. **Arbitration Hearing Process - Witnesses, Subpoenas, and Depositions.** The hearing will be informal. The Montana Rules of Evidence will not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded by the panel. The parties are entitled to be heard, present evidence material to the notice of project and the supervisor's decision, and question witnesses testifying at the hearing. All members of the panel may question the parties and witnesses, subject to the control of the Chair. At the conclusion of the hearing, the panel may take the matter under advisement. A majority of the panel will render a final decision. 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, by the arbitration panel, of a witness who cannot be subpoenaed or is unable to attend the hearing.

11. **Procedure at the Hearing:** The hearing must be tape-recorded. If 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. Each party may give opening statements, describing, generally, their position on the supervisors' decision. The contesting party will then present its witnesses and evidence. The other parties will follow, in turn, with their witnesses and evidence. Questions may be asked by the panel and team members after each party presents their case. Each party may conclude with closing remarks or statements summarizing their positions and evidence.

12. **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 sixty (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.

13. **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.