

LANDOWNER/OPERATOR RESPONSIBILITIES FOR PARTICIPATION IN USDA CONSERVATION ASSISTANCE PROGRAMS

LANDOWNER/OPERATOR _____

General: Policies and regulations of USDA assistance programs place the responsibility on the landowner/operator for obtaining adequate real property rights and interests, applicable water rights, necessary easements, and other permits as required by local state and federal laws.

1. WATER RIGHTS

Wyoming Statutes 41-3-301(reservoir), 41-4-501(surface water), and 41-3-930(groundwater), generally provide that an application must be submitted and a permit secured from **the Wyoming State Engineer before construction work begins** on any development involving the storage or use of water within the state. Compliance with all requirements of Wyoming's water laws is necessary to avoid possible penalties and delay of your planned project.

Verification of the water right and its proper recording for each NRCS project should be obtained from a field office of the Wyoming State Engineer and State Board of Control prior to the commencement of any equipment purchase or construction activities.

The landowner/operator is responsible for obtaining and providing verification of all necessary water rights, and additionally, easements, rights-of-way, permits to construct, and other authorizations required by the State of Wyoming and local governmental jurisdictions.

The landowner/operator shall be required to comply with Wyoming water law.

The following are the names and addresses of officials who can give you full information concerning water laws and rights of record in your area:

(1) _____, Water Commissioner
(Name)

(2) Superintendent (check one)

___ Division 1, Randy Tullis, 510 West 27th, Torrington, WY, 82240 Ph. 307-532-2248

___ Division 2, Michael B. Whitaker, 1025 E. Brundage Ln., Sheridan, WY 82801 Ph. 307-672-9207

___ Division 3, Loren Smith, 715 East Roosevelt, Riverton, WY 82501 Ph. 307-856-0747

___ Division 4, Jade Henderson, Town Hall, Room 2, Cokeville, WY 83114 Ph. 307-279-3441

(3) State Engineer's Office (check one)

___ John Barnes, Surface Water Administrator, Cheyenne, WY, Ph. 307-777-6475

___ Lisa Lindemann, Ground Water Administrator, Cheyenne, WY, Ph. 307-777-6163

___ Allan Cunningham, Board of Control Administrator, Cheyenne, WY, Ph. 307-777-6178

(4) Tribal Water Engineer's Office, #10 Washakie Street, Ft. Washakie, WY 82514

2. LANDRIGHTS, EASEMENTS, PERMITS, AND LICENSES

The landowner/operator is responsible for acquiring all necessary land rights for the completion of the planned conservation improvements. He/she is responsible, financially and otherwise, for any costs incurred by the failure to obtain adequate and necessary real property rights and interests, easements, permits, and licenses required for the installation.

The landowner is responsible to see that contracted work meets the requirements of the Tribal Employment rights permitting regulations, as applicable.

3. NOTIFICATION TO UTILITY OWNERS

Landowners/operators are responsible for giving at least two work days advance notice to owners of any underground utility lines in the area where construction activities or other ground disturbing activities are planned. **BEFORE START OF CONSTRUCTION, THE EXCAVATOR IS RESPONSIBLE FOR GIVING THIS NOTICE BY CALLING ONE CALL OF WYOMING AT 800-849-2476 AT LEAST TWO FULL WORKING DAYS PRIOR TO ANY EXCAVATION** (per Wyoming Statute Title 37 Public, Chapter 12 Article 3, 37-12-301). The above statement must be used on all engineering construction plans and initialed on the plan by the cooperater.

NO CONSTRUCTION OR INSTALLATION SHALL BEGIN WHERE EITHER A KNOWN OR SUSPECT UTILITY EXISTS UNTIL A UTILITY NOTIFICATION HAS BEEN PERFORMED IN ACCORDANCE WITH STATE LAW. LANDOWNERS/OPERATORS ARE RESPONSIBLE FOR NOTIFYING THE CONTRACTOR OF THEIR RESPONSIBILITY TO GIVING NOTICE TO THE ONE CALL WYOMING. THE WYOMING ONE CALL STATEWIDE UTILITIES INFORMATION TELEPHONE NUMBER IS 800-849-2476. THE NRCS MAKES NO REPRESENTATION AS TO THE EXISTENCE OR NON-EXISTENCE OF ANY UTILITIES OR LIABILITY FOR UTILITIES ENCOUNTERED DURING CONSTRUCTION OR INSTALLATION OF THIS CONSERVATION PRACTICE.

4. OWNER/OPERATOR RESPONSIBILITIES IN CONSTRUCTING ENGINEERING PRACTICES AND/OR APPLICATION OF OTHER CONSERVATION PRACTICES

All engineering practices require on-site supervision and inspection during construction. The NRCS cannot provide all of the assistance or inspection that may be needed to see that the practice is installed correctly. **Therefore, you as owner/operator must take the active, leading part in supervision and inspection. A construction inspection plan will be developed and agreed to for each engineering or other practice requiring periodic inspection prior to any construction. It will be the responsibility of the land owner to insure that this plan is in place and followed during project installation.**

When USDA financial assistance is involved the landowner must complete all conservation practices within the cost share limitations of the program contract. Costs incurred that exceed designated average costs in the contract are the responsibility of the landowner.

If you employ a contractor to do your construction work **it is your responsibility to inform the contractor, prior to start of construction that work and materials must be in accordance with the plans and specifications.**

While it is sometimes necessary and desirable to make changes in approved plans during construction you are cautioned that changes in such things as size, grade, or elevation must be approved by the NRCS if certification for cost sharing is to be assured. Unauthorized major changes may prevent approval of the practice and result in a loss of cost-sharing assistance.

The completed practice will be checked by NRCS. NRCS may ask for written certification, from you and/or the contractor, for those items, which you agreed to inspect and those items not inspected, by NRCS during installation.

Certification for cost sharing will be made by the NRCS when it has been determined that the NRCS standards have been met. Otherwise, NRCS will either advise you of what needs to be done for certification, or that the practice cannot be certified for approval.

Cost-shared practices designed by contractors or other than NRCS personnel shall be in accordance with practice standards of the NRCS and shall be approved by the NRCS prior to construction or installation.

It is the responsibility of the landowner to collect cost share funds from other agencies and organizations that are assisting in funding of the project. Other agencies and organizations have their own agreements that must be followed.

5. CULTURAL/HISTORICAL RESOURCES, WYOMING GAME & FISH, U.S. FISH & WILDLIFE SERVICE, U.S. FOREST SERVICE AND BUREAU OF LAND MANAGEMENT PRE-CONSTRUCTION/ INSTALLATION CLEARANCES

A. Wyoming State Historic Preservation Office Cultural/Historical Resources Clearance.

A cultural/historical evaluation and clearance will be made by NRCS for the contracted and/or technically assisted practices prior to construction or installation. For contracted practices, the Wyoming State Historic Preservation Office will be provided a copy of the inventory report including location and type of ground disturbing activity. The SHPO treats this information as confidential and limits access. In addition, ground disturbing activities could expose cultural or historical resources not visible from the surface. If cultural or historical materials, including human remains, or evidence of such are discovered during construction or installation, it is the landowner's responsibility to immediately stop work and notify the NRCS. Any further work without additional clearance could jeopardize financial or technical assistance, and may place the landowner in violation of state and federal statutes.

B. Wyoming Game & Fish Notification

When applicable and at NRCS's request, the construction and/or installation site may be reviewed by the Wyoming Game and Fish Department for potential impacts to sensitive and crucial wildlife species habitats. WGFD recommendations will be provided to the landowner and the local NRCS. These recommendations will be considered in development of the final plan. This review is required under the intent of the National Environmental Policy Act. An on-site evaluation by the WGFD will only be done with the landowners consent and permission.

C. U.S. Fish & Wildlife Service Notification

When applicable and at NRCS's request, the construction and/or installation site may be reviewed by the U.S. Fish and Wildlife Service for potential impacts to threatened and endangered and candidate species. The NRCS will be notified by the USFWS of any potential impacts and any corrective measures needed prior to construction/installation. An on-site evaluation by the USFWS will only be done with the landowners consent and permission.

D. U.S. Forest Service (USFS)

When a planned practice will be located wholly or in part on USFS managed land, NRCS will notify USFS of the practice's planned extent and location. To the extent that resources allow, NRCS will assist USFS to accomplish the necessary cultural and environmental clearances. The landowner and NRCS will be notified by the USFS of any potential concerns and modifications needed prior to construction/installation.

E. U.S. Bureau of Land Management (BLM)

When a planned practice will be located wholly or in part on BLM managed land, NRCS will notify BLM of the practice's planned extent and location. To the extent that resources allow, NRCS will assist BLM to accomplish the necessary cultural and environmental clearances. The landowner and NRCS will be notified by the BLM of any potential concerns and modifications needed prior to construction/installation.

F. State of Wyoming Lands

When a planned practice will be located wholly or in part on State of Wyoming owned land, the lessee will contact and if necessary make application to the Office of State Lands & Investments for authorization to construct improvements (<http://slf-web.state.wy.us/estate/manage.aspx>). Prior to construction the landowner will provide NRCS with a copy of the construction approval notice.

6. OPERATION AND MAINTENANCE (O&M)

The landowner/operator is responsible for the safe operation and maintenance of the improvements for the entire life of the practice. O&M requirement or special O&M plans will be provided at the time of design review and acceptance by the land owner/operator to construct the practice as designed or planned.

7. LANDOWNER/OPERATOR RESPONSIBILITIES AND CERTIFICATION

The following statement will be placed on each engineering practice design or other practice plan: I have reviewed the plans and specifications provided to me by NRCS and understand my responsibility to follow the plans and specifications for proper installation of the conservation practice. I have read and agree with the requirements as set forth in this document.

LANDOWNER/OPERATOR (Printed Name) **SIGNATURE OF LANDOWNER/OPERATOR** **DATE**

I have reviewed the requirements as set forth in this document with the landowner/operator.

NRCS TECHNICIAN (Printed Name) **SIGNATURE OF NRCS TECHNICIAN** **DATE**