

## Wetland Policy for Livestock Pits and Spring Developments

by

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NRCS has responsibilities in three separate wetland regulatory areas:

- Food Security Act: Determine/delineate wetlands and wetland exemption categories on agricultural land.
- Section 404, Clean Water Act: Inform landowners of the potential need for a “404” permit.
- Wetland Protection Policy (Executive Order 11990) – GM 190, Part 410: Avoid, minimize or mitigate wetland loss as a condition for providing assistance to private landowners.

Follow these steps to assure compliance with our wetland regulations when assisting with livestock spring developments:

1. If production of a commodity crop could be made possible as a result of the pit or spring development: complete a certified wetland determination at the livestock water development site. (The producer must indicate intent to modify a wetland on an AD-1026. The District Conservationist will provide an NRCS-CPA-026 along with a map of the wetland boundary and notice of appeal rights to the producer with a carbon copy to FSA and the customer file). It is not necessary to have a wetland specialist visit the site unless wetland status is questionable. Send completed forms along with photo documentation to the wetland specialist and request that he/she sign off on the determination/delineation. Determine if the Minimal Effects provision is appropriate or require mitigation (see #4, below) before providing assistance.
2. If production of a commodity crop is not made possible as a result of the pit or spring development, the Wetland Conservation Provisions of the 1985 Food Security Act do not apply. Often, this will be the case; for example, spring developments in rangeland coulees, where a combination of size of disturbance and rough topography do not make production possible. A certified wetland determination is not required if production of a commodity crop is not made possible. Make sure that NRCS complies with the Wetland Protection Policy (see #4, below).
3. If there is no surface water connectivity between the pit or spring development site and “waters of the United States,” the United States Army Corps of Engineers (COE) has no jurisdiction. (If this is not clear, make sure the COE is consulted). If there is connectivity, make sure the landowner has contacted the Corps and obtained any necessary permits before providing financial assistance.
4. Even if none of the above applies, Natural Resources Conservation Service (NRCS) assistance always is subject to our Wetland Protection Policy. The National Environmental Policy Act of 1969 (NEPA) sequencing steps – avoid, minimize, mitigate - are required. If it is not necessary to collect all of the water for a spring development, try to avoid drying up wetland seeps. Are there other options available such as pipelines and wells? If avoidance of the impacts is not feasible and minimizing these impacts won't maintain wetland integrity, mitigation is necessary. Usually this can be done by re-creating the seep below the tank. One option for doing this is to run a perforated plastic pipe, attached to the overflow, in a shallow trench along the contour below the tank (see Figure 1). Since a perforated pipe may be more susceptible to

freezing than a standard overflow pipe, a shut-off valve may be required to prevent excessive winter ice buildup around the tank. If use of a perforated pipe along the slope is not feasible, locate the outlet of a standard overflow pipe in such a way as to re-create the same area of seep as was drained above the tank. Low “spreader dikes” below the overflow outlet could be used to re-create the needed seep area. Extend the overflow pipe a minimum of 50 feet from the tank to limit trampling of the resulting wetland. Use of a shut-off valve (at the spring box if used) to prevent water loss from the wetland when livestock are not present is recommended. If needed, fence out the seep to prevent trampling the collection system and to protect valuable wildlife habitat. Use of properly designed escape ramps in livestock water tanks is required. The Rocky Mountain Bird Observatory (<http://www.rmbo.org>) has a good design. Also see the booklet “Water for Wildlife” by Bat Conservation International, found in the field office reference file. Locate the tank well outside of the wetland area; in the uplands above the drainage bottom.

For pits installed in wetlands, the following requirements will minimize impacts to wetland hydrology:

1. Surrounding land use is permanent grass and is used for pasture or hay
2. Purpose is for livestock water or wildlife
3. All applicable NRCS specifications (Montana Standards for Excavated Ponds (378), Wetland Enhancement (659), Wetland Creation (658), Wildlife Wetland Habitat Management (644) and Watering Facility (614) are followed
4. Pond is constructed in seasonal or wetter wetland
5. Wetland is five acres or larger or is constructed in a linear non-depressional wetland
6. There is no need to seal the pond to assure water-holding capacity
7. Includes cleanout of existing ponds providing spoil is placed on existing spoil piles or is removed from the wetland and is not used to fill other wetlands
8. Dugout is placed on the downstream edge of the wetland
9. All other local, state, and federal permits must be followed.



Figure 1. Re-create the seep by running the tank overflow to a similar slope position as occupied by the drained or partially drained seep above the tank – new seep created by perforated pipe shown in yellow. Fence off the seeps if necessary to prevent trampling

damage (as is the case with the current scenario shown above). This tank should be located in the uplands away from the wetland area.



Figure 2. Drained seep after spring development shown in Figure 1.