

Environmental Permitting

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404 Permit Application Checklist

- **Design Manual - Reference and Forms:**
 - Appendix DI– Environmental Information (Chapter 2 Section 4 Appendix)
- **Checklist:**
 - Outlines what is needed in the plan set and the 404 permit application.
 - Also functions as final wetland information to ETS when there are no jurisdictional impacts and a 404 permit is not required

For more information on environmental permitting and permit checklists:
<https://www.dot.nd.gov/divisions/environmental/permits.htm>

404 Permit Application Package

- Main Components
 - Cover letter
 - FHWA NEPA approval (i.e. CatEx, FONSI, ROD)
 - Section 106 – SHPO Concurrence
 - Section 7 – ESA Table
 - Application Form
 - Accurate Final Wetland Impact Table
 - Plan Sheets
 - Mitigation Package - 12 Components (if JD mitigation is needed)

404 Permit Application Package

Cover letter

- Summarizes impacts and proposed mitigation
- Summarizes the attachments

FHWA NEPA approval

- Determines the permit type (i.e. nationwide 3, 14, 23, etc.)

Section 106 – SHPO Correspondence

- Satisfies the Section 106 compliance of the 404 Permit

404 Permit Application Package

Section 7 – ESA Documentation

- Satisfies the USFWS Coordination requirement of the 404 Permit

404 Permit Application Form

- USACE Form 4345
- There were other forms that were previously acceptable, but are no longer accepted by the USACE

404 Permit Application Package

Accurate Final Wetland Impact Table

- Based on the Limits of Construction and delineated wetlands referenced into one drawing

**IMPACT ACREAGES MUST
BE FINAL**

Wetland Impact Table

Wetland Number	Location	Cowardin Class.	Wetland Type	Wetland Size (acres)	Wetland Feature	USACE Jurisdictional Wetlands*	Wetland Impacts (acres)		USFWS Easement Impacts		Wetland Mitigation				
							Temp	Perm	Temp.	Perm.	Mitigation Required			Acreage; Wetland#; Ratio	Onsite Mitigation Acres
											EO 11990	USACE	USFWS		
1	Sec.19, T146N, R95W	PEMCx	Ditch	5.00	Artificial	Yes	1.00	0.60			N	Y	N	Onsite 0.5 at WL1 (1:1); 0.1 at WL3 (1:1)	0.50
2	Sec. 6, T146N, R95W	PEMA	Basin	2.00	Natural	Yes	0.50	0.02	0.03	0.3	Y	N	Y	USFWS Easement Bank name 0.30(1:1); 11990 NDDOT Mitigation Bank Name 0.02 (1:1)	
Totals				7.00			1.50	0.62	0.03	0.30					0.50

* A wetland Jurisdictional Determination was issued by the USACE on x/xx/xxxx; NWO-xxxx-xxxx-BIS.

**All impacts to natural wetlands (natural/jurisdictional and natural/non-jurisdictional), regardless of size, as well as impacts greater than 0.10 acre to artificial/jurisdictional wetlands require mitigation.

***All artificial/non-jurisdictional, deep water (impacts greater than 6.6 feet), Other Waters less than 300 linear feet (determined by the USACE on a case by case), Preamble Wetlands, and temporary impacts do not require mitigation.

Other Waters Impact Table

Other Waters											Other Water Mitigation				
Number	Location	Type	Size		Feature	USACE Jurisdictional*	Impacts to Other Waters				Mitigation Required			Location	Method
			Acres	Linear Feet			Acres		Linear Feet		EO 11990	USACE	USFWS		
							Temp	Perm	Temp	Perm					
OW10	Sec.19, T146N, R95W	Named Stream	1.50	150	Natural	Yes	0.07	0.22	60.00	420.00	Y	Y	N	on site	Box culvert lowered 1'
OW11	Sec.30, T146N, R95W	Tributary	0.20	42	Natural	Yes	0.00	0.00	0.00	0.00	N	N	N	NA	NA
Totals			1.70	192			0.07	0.22	60.00	420.00					

* A wetland Jurisdictional Determination was issued by the USACE on x/xx/xxxx; NWO-xxxx-xxxx-BIS.

Summary Impact Table			
Total Permanent Impact Summary		Temporary Impacts and additional information	
Wetland Type	Total (Acres)	Wetland Type	Total (Acres/Lf)
Natural/JD	0.02	Temporary JD	1.50
Natural/Non-JD	0.00	Non-JD Temporary	1.10
Artificial/JD	0.60	Permanent JD > 0.10	0.60
Artificial /Non-JD	0.00	Permanent OW	0.45 ac/825 ft.
Total	0.62	Temporary OW	0.25/632

Example Impact Table

404 Permit Application Package

Mitigation

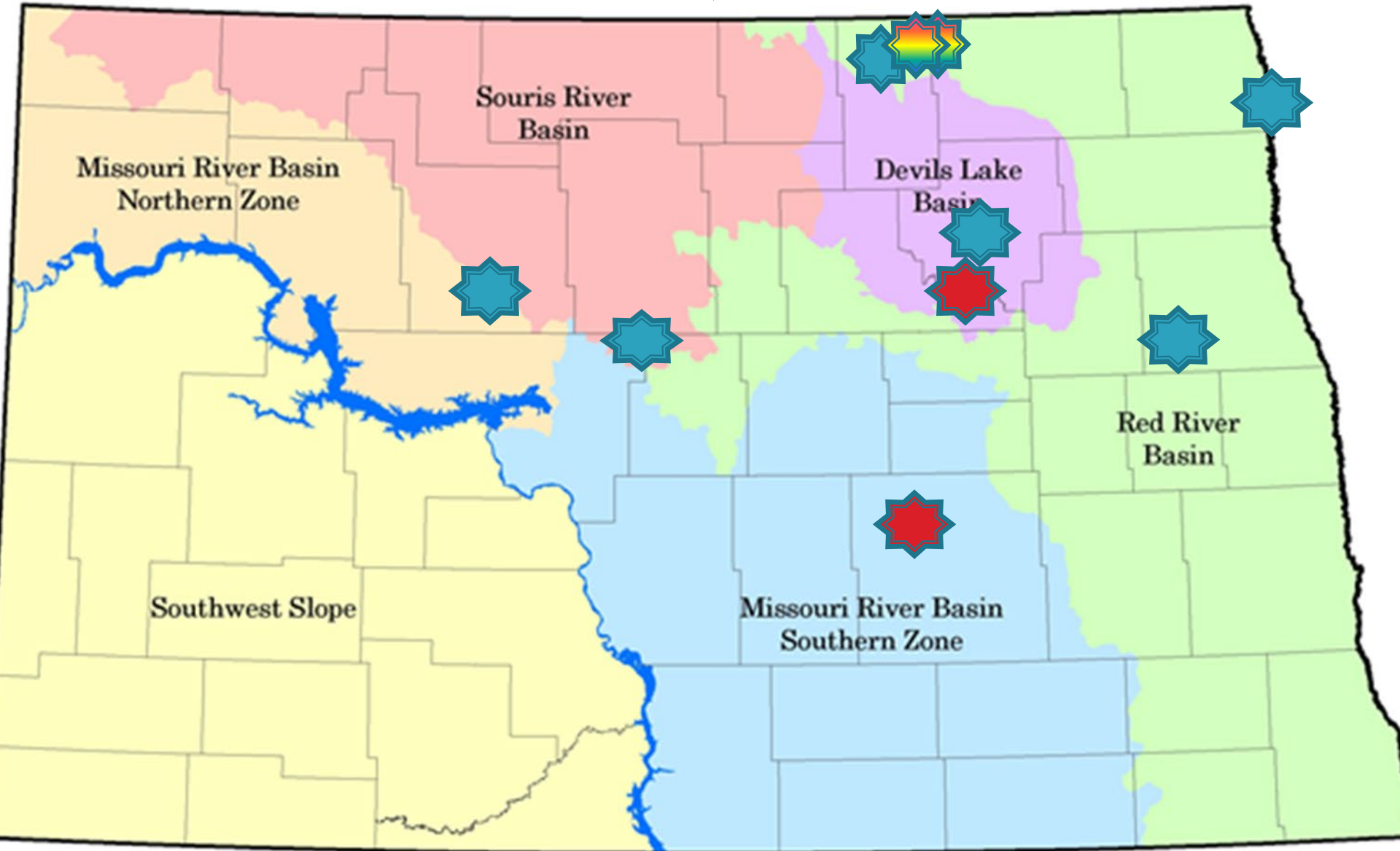
- Generally, mitigation required for natural permanent jurisdictional impacts > 0.10 acre
- Jurisdiction Artificial Ditch Impacts
 - Generally, mitigation is not required for permanent impacts
- Regional Service Areas (RSA)
 - Combination of drainage areas
 - 6 RSA's

North Dakota Resource Service Areas

 USFWS/11990

 11990

 USACE/11990



404 Permit Application Package

Mitigation Options

Banks

- USACE Bank if the impact is within the same Regional Service Area (RSA) as the bank
- Can be done outside RSA with prior USACE approval

Onsite

- Creating wetlands – Typically adjacent to existing field delineated wetland

404 Permit Application Package

Mitigation Package

- **12 Components**
 - Reference and forms (Appendix C2)
- **NRCS Soils Map**
- **Aerial Map**
 - Showing mitigation location, adjacent field delineated wetland, legal description, and latitude and longitude.
- **Preconstruction Photos**
- **Mitigation Shape Files**

404 Permit Application Package

Mitigation Ratios

- **1:1** Onsite at the same wetland impacted
- **2:1** Onsite not at the wetland impacted
- **1:1** Mitigation at a Bank

404 Permit Application Package

Section 75 Plan Sheets

- Directly tie the permit to the plans.
 - If the plans change, we know we need to verify the permit is still valid.
- Location of all wetland impacts and authorized wetland impact footprint.
- Location of onsite mitigation detail.

Floodplain Permit Application Package

- **Design Manual - Reference and Forms:**
 - Appendix D2 – Environmental Information (Chapter 2 Section 4 Appendix)
- **Checklist:**
 - Outlines what is needed in the plan set and the Floodplain permit application.
 - Main Components
 - Application Form
 - Plan Sheets

Floodway Authorization Request Package

- **Design Manual - Reference and Forms:**
 - Appendix D3 – Environmental Information (Chapter 2 Section 4 Appendix)
- **Checklist:**
 - Outlines what is needed in the plan set and the Floodway Authorization Request.
 - Main Components
 - No Rise Certification (SFN 61173)
 - Application for the State Engineers Review (SFN 61173)
 - Plan sheets
 - Hydraulic Analysis

Sovereign Lands Permit Application Package

- **Design Manual - Reference and Forms:**
 - Appendix D5 – Environmental Information (Chapter 2 Section 4 Appendix)
- **Checklist:**
 - Outlines what is needed in the plan set and the Sovereign Land permit application.
 - Main Components
 - Application Form (SFN 61408)
 - Plan Sheets

Milestone Activities and Projected Turnaround

- **Section 404 and Wetland Information Activity**
 - **Nationwide 404 Permits**
 - **Permit information needs to be submitted and final 3 months prior to Bid Ready Date**
 - **45 day turnaround time after USACE determines the application is complete**
 - **Individual 404 Permit**
 - **Permit information needs to be submitted and final 5 months prior to Bid Ready Date**
 - **Estimated 90 to 180 day turnaround time after USACE determines the application is complete**

Milestone Activities and Projected Turnaround

- **Floodplain Permit Application**
 - **Permit information needs to be submitted and final 3 months prior to Bid Ready Date**
 - **Floodplain Permit – Estimated 30 day turnaround time after application submitted**
- **Floodway Authorization Request**
 - **Permit information needs to be submitted and final 5 months prior to Bid Ready Date**
 - **Floodway Authorization – 30 day turnaround time after application submitted**

Milestone Activities and Projected Turnaround

- **Sovereign Lands Permit Application**
 - **Permit information needs to be submitted and final 5 months prior to Bid Ready Date**
 - **Sovereign Lands Permit – Estimated 90 day turnaround time after application submitted**

Common Comments/Issues on Application Submittals

1. Information is **not on time** – goal: permit in hand by the Bid Ready Date
2. Impact acreage not added correctly
3. Mitigation areas are not designed deep enough.
4. Comment domino effect. If a comment increases the impact, the mitigation needs may also increase.
5. Impact and mitigation guidance is not used.

Questions About Permits?

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