

# 310 Law Mini Trainings

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What is a project?



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# What we'll cover today:

Definitions

Montana Code  
Annotated  
(MCA)

Administrative  
Rules of  
Montana (ARM)

CD Adopted  
Rules

Pulling it all  
together


Examples

Q&A

# MCA 75-7-103

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(5) (a) "Project" means a physical alteration or modification that results in a change in the state of a natural, perennial-flowing stream or river, its bed, or its immediate banks.



Adopted Rules: Physical alteration or modification

Physical alteration or modification means human-caused actions resulting in the placement, removal, or disturbance of materials of any nature or character.

## MCA 75-7-103

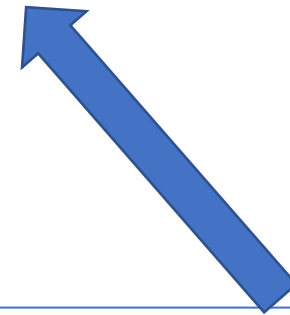
(5) (a) "Project" means a physical alteration or modification that results in a change in the state of a natural, perennial-flowing stream or river, its bed, or its immediate banks.

[ARM 36.2.402](#): perennial-flowing stream

means a stream, which in the absence of diversion, impoundment, appropriation, or extreme drought, flows continuously at all seasons of the year and during dry as well as wet years.

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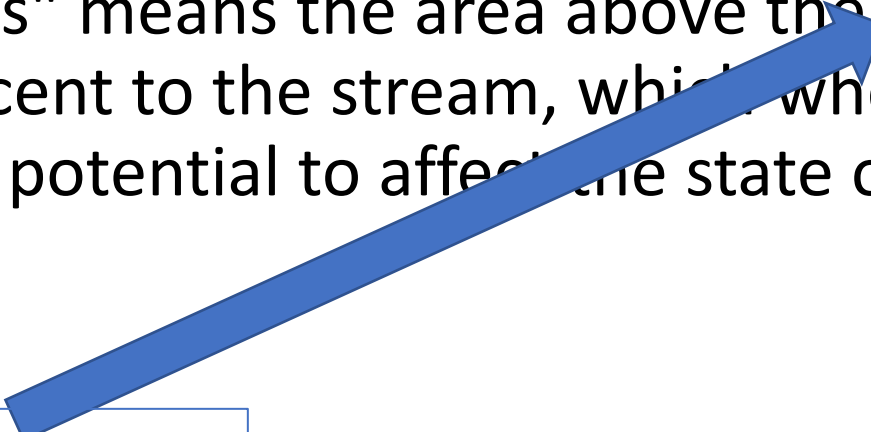


### ARM 36.2.402: Immediate banks

"Immediate banks" means the area above the mean high water mark and directly adjacent to the stream, which when physically altered or modified has the potential to affect the state of a stream.

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ARM: Mean high water mark

"Mean high water mark" means the line that water impresses on the land for sufficient periods to cause physical characteristics that distinguish the area below the line from above it.

Characteristics of the area below the line include, when appropriate, deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value.

## Immediate banks

"Immediate banks" means the area above the mean high water mark and directly adjacent to the stream, which when physically altered or modified has the potential to affect the state of a stream.





(b) Project does not include:

(i) an activity for which a plan of operation has been submitted to and approved by the district. Any modification to the plan must have prior approval of the district.

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(ii) customary and historic maintenance and repair of existing irrigation facilities that do not significantly alter or modify the stream in contravention of [75-7-102](#); or



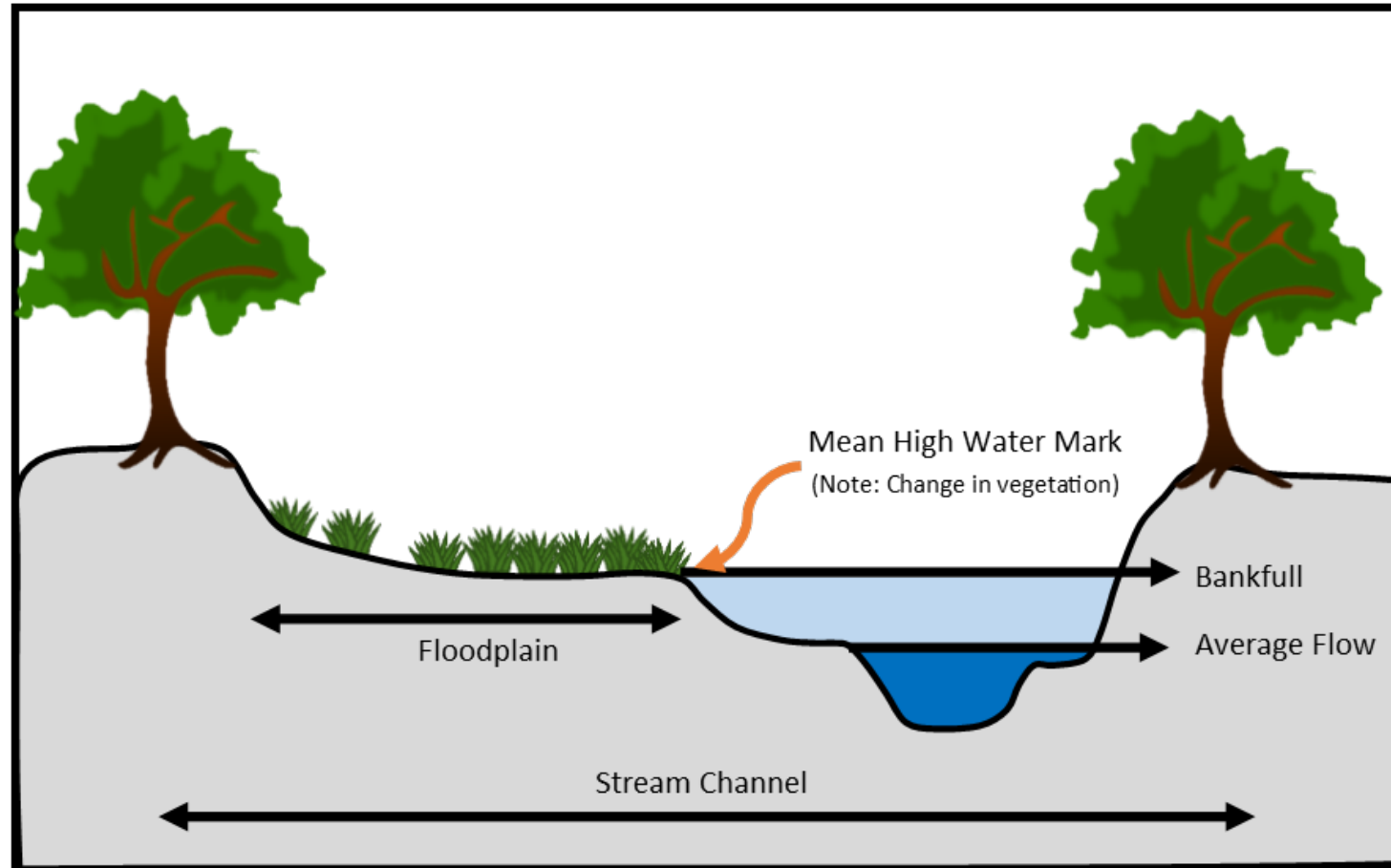
**(b) Project does not include:**

(i) an activity for which a plan of operation has been submitted to and approved by the district. Any modification to the plan must have prior approval of the district.

(ii) customary and historic maintenance and repair of existing irrigation facilities that do not significantly alter or modify the stream in contravention of 75-7-102; or

(iii) livestock grazing activities.

"Project" means a physical alteration or modification that results in a change in the state of a natural, perennial-flowing stream or river, its bed, or its immediate banks.





# Is it a project???

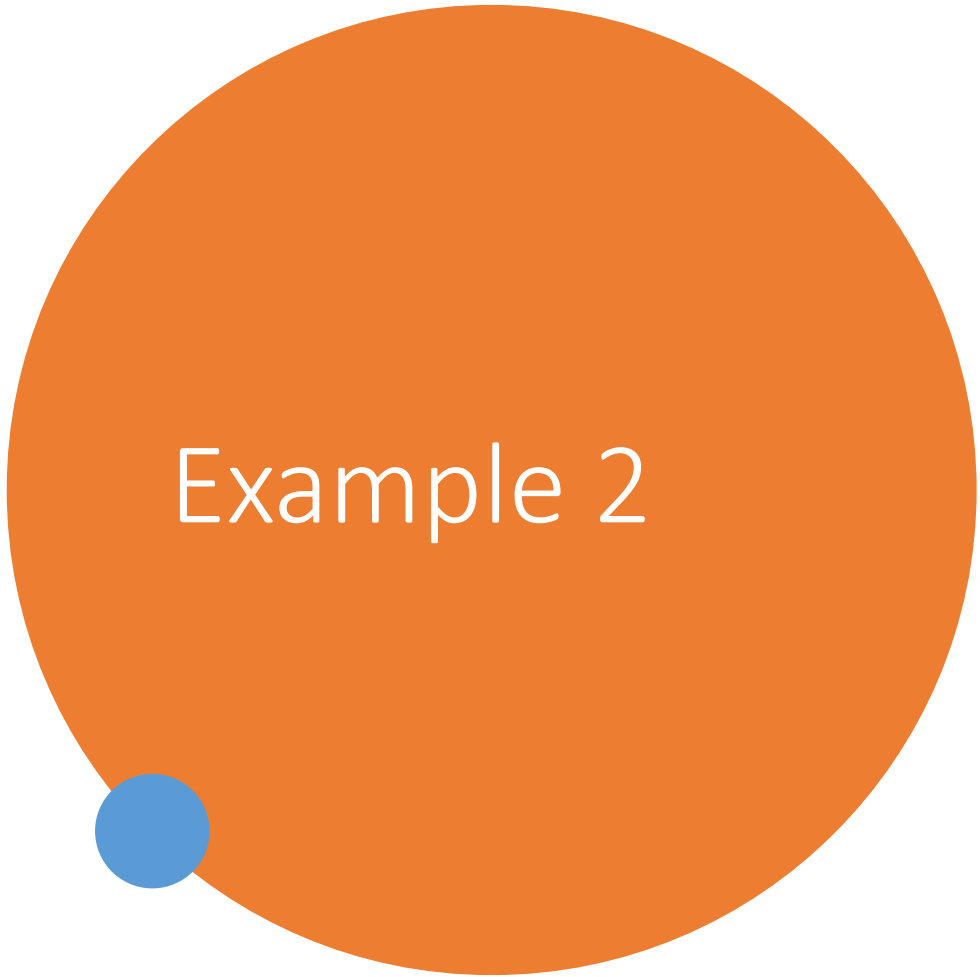
- Is it human caused?
- Does it result in the placement, removal, or disturbance of any material?
- Does it have the potential to impact the stream?
- Is it a perennial-flowing stream?



# Example 1

- Pruning trees in riparian area

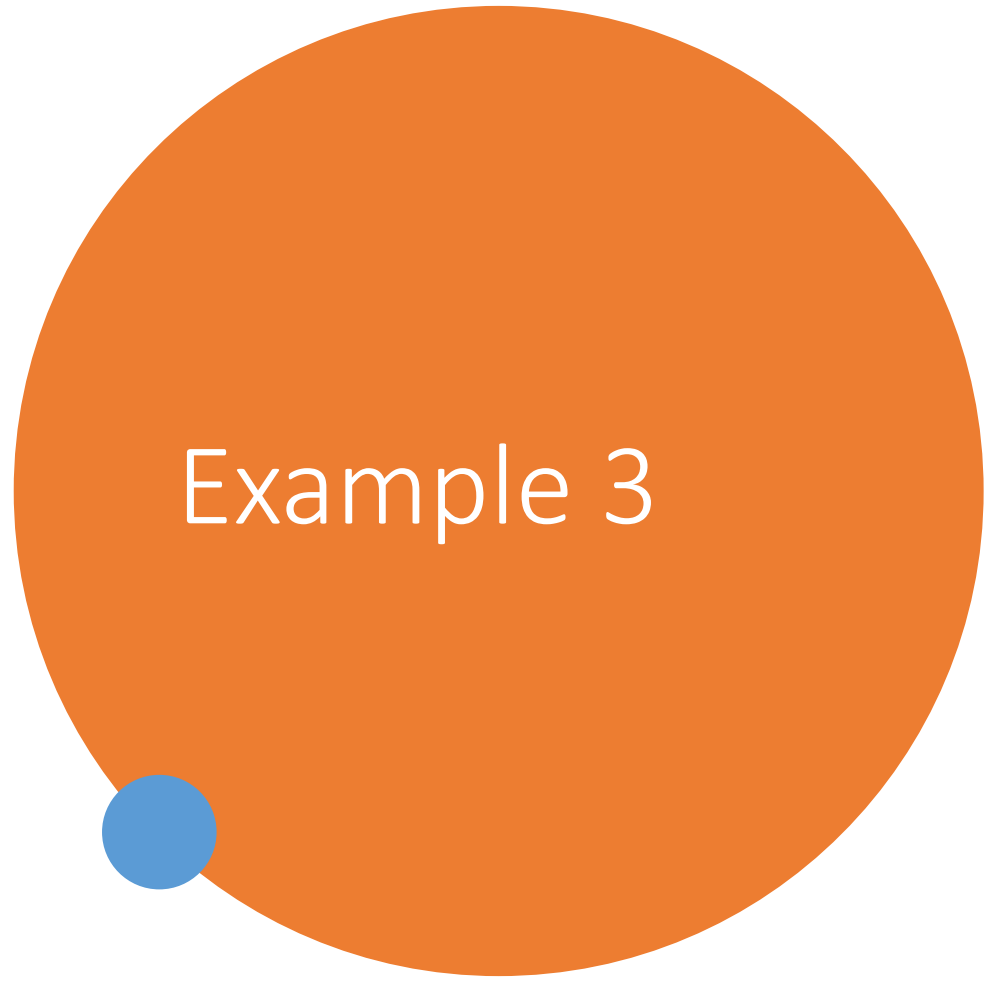




# Example 2

- Utility boring





# Example 3

- Floodgate maintenance







# Example 4

- Installing a dock in a reservoir
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# Example 5

- Stream restoration



# Technical Review

- If you are having a difficult time determining if it will impact the stream
- If you are having a difficult time determining if it is a perennially-flowing stream

Q&A

