

STATE OF MONTANA NATURAL STREAMBED AND LAND PRESERVATION ACT  
**OFFICIAL COMPLAINT**

- [illegible]

E. If you have not viewed the site, please state the basis that forms your belief that a violation is occurring.

6. **Complainant's Signature** \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address \_\_\_\_\_

Phone No: \_\_\_\_\_

**FLATHEAD CONSERVATION DISTRICT**

133 Interstate Lane, Kalispell, MT 59901 Phone: 752-4220 Fax: 752-4077

**ANY COMPLAINTS FILED WITH THIS OFFICE MAY BE REQUIRED BY LAW  
TO BE OPEN TO THE PUBLIC**

(FCD 2020)



**From ADOPTED RULES**  
For the  
**FLATHEAD CONSERVATION DISTRICT**  
to

Implement the Natural Streambed and Land Preservation Act of 1975  
Chapter No. 463, Montana Session Laws 1975;  
MCA Title 75, Chapter 7,  
**Senate Bill 310, 1975 Legislature**

*Adopted by Flathead Conservation District 1/27/2020*

**RULE 18. COMPLAINT PROCEDURE**

When a conservation district receives a complaint alleging a violation, the conservation district shall follow the steps below:

1. Request that the complainant submit a written complaint on Form 274. The complaint must specify the nature of the alleged violation, who is involved, where it is taking place, and when it occurred.
2. After receiving a completed Form 274, the district shall contact the alleged violator by certified letter and advise the person of the complaint and give the alleged violator 15 days to respond. Once a response has been received, an onsite must be scheduled to conduct a field investigation, collect evidence, and document the time, date, location, nature of activity, and the person(s) involved in activity. The district shall acquire information to confirm or deny that the complaint was valid and whether there is a violation of the Act. If the field investigation does not verify a violation, the district shall notify the complainant and the alleged violator, in writing, of the district's findings.
3. After a field investigation affirms a violation, the district shall send a letter certified with return-receipt requested, setting forth the results of investigation, the course of action required to rectify the violation, and a deadline date for taking the corrective action. If the violator acknowledges the district's request and is willing to work with the supervisors to correct the violation, the supervisors may postpone issuing an order assessing a civil penalty or forwarding the complaint to the county attorney. If the violator is not responsive to the letter and is not cooperative in correcting the violation, the supervisors shall proceed with the violation in accordance with 75-7-123, MCA, and may issue a cease and desist order.



# Montana Code Annotated 2019

TITLE 75. ENVIRONMENTAL PROTECTION  
CHAPTER 7. AQUATIC ECOSYSTEM PROTECTIONS  
Part 1. Streambeds

## Penalties -- Restoration

**75-7-123. Penalties -- restoration.** (1) A person who initiates a project without written consent of the supervisors, performs activities outside the scope of written consent of the supervisors, violates emergency procedures provided for in **75-7-113**, or violates **75-7-106** is:

(a) guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500; or

(b) subject to a civil penalty not to exceed \$500 for each day that person continues to be in violation.

(2) Each day of a continuing violation constitutes a separate violation. The maximum civil penalty is the jurisdictional amount for purposes of **3-10-301**. A conservation district may work with a person who is subject to a civil penalty to resolve the amount of the penalty prior to initiating an enforcement action in justice's court to collect a civil penalty.

(3) In addition to a fine or a civil penalty under subsection (1), the person:

(a) shall restore, at the discretion of the court, the damaged stream, as recommended by the supervisors, to as near its prior condition as possible; or

(b) is civilly liable for the amount necessary to restore the stream. The amount of the liability may be collected in an action instituted pursuant to **3-10-301** if the amount of liability does not exceed \$12,000. If the amount of liability for restoration exceeds \$12,000, then the action must be brought in district court.

(4) Money recovered by a conservation district or a county attorney, whether as a fine or a civil penalty, must be deposited in the depository of district funds provided for in **76-15-523**, unless upon order of a justice's court the money is directed to be deposited pursuant to **3-10-601**.

**History:** En. 26-1523 by Sec. 14, Ch. 463, L. 1975; R.C.M. 1947, 26-1523(1); amd. Sec. 1, Ch. 255, L. 1993; amd. Sec. 10, Ch. 426, L. 1995; amd. Sec. 3, Ch. 470, L. 2003; amd. Sec. 8, Ch. 284, L. 2011.