
CALL TO ORDER & ATTENDANCE

Chair Pete Woll called the January 8, 2024, 310-meeting to order at 1:00 P.M. in the conference room.

Board members present: Pete Woll, Chair; Donna Pridmore, Secretary/Treasurer; Mike Kopitzke, Supervisor; Scott Rumsey, Supervisor; Bill Yankee, Supervisor; Roger Marsonette, Supervisor; being a quorum of the Board.

Board members absent: None.

Also, in attendance were Samantha Tappenbeck, Jessie Walthers, Ginger Kauffman, FCD Staff; Kenny Breidinger & Leo Rosenthal, FWP; Carole Murphy; Camisha Sawtelle, DNRC legal counsel; Chris Gabrielsen; Mary T. McClelland; Jeff & Ardis Larsen; Connor Loughran; Ian Fleming; J.R. Casillas; Helen Lundgren; Selita Ammond, RDG; Carole & Rick Murphy; Marc Liechty; Ross Gilbert, Guardian Forestry; Elizabeth Blacker; Dan Brosten; Becky Williams; Todd Maltbie; Chris Gabrielson; Rod Leese; Lewis Heil; Paul Bishop; Don Murray.

Election of Officers:

Chair – Donna Pridmore motioned “to nominate Pete Woll as Chair.” Bill Yankee seconded. Motion carried unanimously.

Vice-Chair – Mike Kopitzke motioned to nominate Roger Marsonette as Vice-Chair.” Donna Pridmore seconded. Motion carried unanimously.

Secretary/Treasurer – Bill Yankee motioned “to nominate Donna Pridmore as Secretary /Treasurer.” Scott Rumsey seconded. Motion carried unanimously.

CONSENT AGENDA

Consent Agenda Item 1: Signature Authority

- Authorization for Samantha Tappenbeck to sign on behalf of Supervisors attending the meeting virtually.

Consent Agenda Item 2: Accept New 310 Applications

- Motion “to accept all new 310 permit applications as complete and for a project that will alter or modify a stream.”
- Supervisors to remove individual applications from the consent agenda if incomplete or if there is an issue to be specifically addressed

Consent Agenda Item 3: Minutes

- 11/27/2023 Business Meeting Minutes
- 12/11/2023 310-Stream Permit Meeting Minutes

Consent Agenda Item 4: Financial

Check Detail dated 12/20/2023

1. Lake County Conservation District \$250.00
2. Charter Communications \$222.95

Check Detail dated 1/3/2024

1. Fisher's Technology \$650.84
2. Montana Sky Networks \$10.00

Consent Agenda Item 5: Correspondence

None.

Donna Pridmore motioned "to accept the consent agenda as presented." Roger Marsonette seconded. Motion carried unanimously.

PUBLIC COMMENT

No one was present to comment on items not listed on the agenda.

310 Onsite Inspections

Brosten, FL-2024-002, Flathead River, strip/stockpile/excavation/fill: Scott Rumsey
An onsite inspection was scheduled for Thursday, January 11, 9:00 A.M. at the site.

Fullerton, FL-2024-003, Flathead River, bank stabilization: Pete Woll
An onsite inspection was scheduled for Thursday, January 11, 1:00 P.M. at the site.

Gress, FL-2024-004, Flathead River, bank stabilization: Pete Woll
An onsite inspection was scheduled for Thursday, January 11, 1:00 P.M. at the site.

Stuver, FL-2024-001, Swan River, irrigation/rails/re-vegetation: Pete Woll
An onsite inspection was scheduled for Tuesday, January 23, 1:00 P.M. at the site.

Wilson, FL-2024-005, Flathead River, bank stabilization: Pete Woll
An onsite inspection was scheduled for Thursday, January 11, 1:00 P.M. at the site.

310's

Birk, FL-2021-011, Flathead River, violation & remediation: Eric Urban, representative for Mr. Birk submitted a new application /January 3, 2024, (after the deadline for the January 310 meeting). Application #FL-2024-006 will be on the February 310 meeting agenda.

Camisade LLC, FL-2023-115, Flathead River, dock: Donna Pridmore explained an onsite inspection was completed December 22, 2023. Kenny Breidinger stated that the dock is longer than the standard dock measurements in order to reach the appropriate depth, which meets the Adopted Rules. Donna Pridmore motioned “to approve FL-2023-115 as presented.” Bill Yankee seconded. Motion carried unanimously.

Gress, FL-2023-091, Flathead River, withdrawal request: A request to withdraw application was submitted January 2, 2024. Pete Woll motioned “to accept the withdrawal request.” Donna Pridmore seconded. Motion carried unanimously.

Hicklin, FL-2023-114, Echo Creek, bridge/rip rap: Pete Woll explained an onsite inspection was completed January 4, 2024. The applicant has a pipe that was not properly installed, so they want to replace the pipe with a bridge, and rip rap approaches per the Adopted Rules. Leo Rosenthal noted that the pipe was never bedded correctly, and this would be an improvement. Pete Woll motioned to approve the application as proposed.” Donna Pridmore seconded. Motion carried unanimously.

Krezowski, FL-2023-077, Haskill Creek, excavate/fill/bank stabilization: The application remains tabled until additional information is received from applicant, John Phelps.

Maltbie, FL-2023-094C, Mount Creek, complaint: Scott Rumsey explained an onsite inspection was completed January 3, 2024. A pond was placed adjacent to the stream. No instream work was done, however, fill on the downstream end encroaches on the streambank for about 90 feet. A silt fence needs to be installed below the dirt work until it is revegetated. Kenny Breidinger stated fill was pushed up close to the stream and is currently raw soil. It is a violation and should be stabilized. There is a pipe in place, but the outlet structure from the pond is not yet constructed. Maltbie is currently being reviewed by Fish Wildlife & Parks for application to stock a private pond. Mr. Maltbie explained the work he did on site and thought that the complaint should be nullified but that he would mitigate any issues. He asked for specifics of where the silt fence should be installed. Further discussion was held.

Scott Rumsey motioned “that activity was initiated on a perennial flowing stream without a valid permit. As remediation a silt fence should be installed no later than March 1st, below the disturbed area on the edge of the canary grass above the stream channel, that would extend for approximately 90-feet from the culvert upstream. In addition to the silt fence a coir wattle is to be installed above and adjacent to the silt fence by February 1st. The fence is to be removed after vegetation is established.” Donna Pridmore seconded. Motion carried unanimously.

Sneed (Carson), FL-2023-113, Flathead River, bank stabilization/dock: Scott Rumsey explained an onsite inspection was completed 1/3/2024. Additional information was received 1/8/2024. The bank is well vegetated, but it is undercut and is beginning to fracture at the toe and erode. During the onsite inspection the Team discussed alternatives to removing the vegetation and sloping back the bank. Since then, Connor Loughran submitted an amendment to the application to instead leave the vegetation in place and tuck rock into the undercut bank and to slope material at a 2:1 slope. Kenny noted there is also a floating dock in the application, which meets the Adopted Rules.

Connor Loughran provided photos and explained that some of the woody deadfall would be removed to have a working area to install 1" to 3" rounded rock and then placing 6" to 12" rounded rock on top of that to armor toe of bank, going up about 5 feet. Donna Pridmore asked if they could use angular rock instead of rounded rock. Connor stated he could make that change.

Scott Rumsey explained this is a good alternative to removing vegetation, and because this is on a slough and not on the main river channel the rock would not have to be as large. Further discussion on why the same reasoning (i.e., project location on the slough) applied regarding the proposed slope of 2:1 rather than 1.5:1 as specified in the Adopted Rules. Kenny also noted that this is a good alternative to address erosion at the site, and they will do work at low water when the ground is frozen.

Scott Rumsey motioned "to approve the application as amended 1/8/2024 and with modifications; the modifications being that angular rock is to be used instead of rounded rock." Mike Kopitzke seconded. Motion carried unanimously.

Sneed (Chuck), FL-2022-057C, Meadow Creek, remediation: This complaint is tabled until the remediation work is completed under permit FL-2023-106.

Stalowy, FL-2023-083C, Bear Creek, violation & remediation: Pete Woll explained that an email was received December 11, 2023, stating that Mr. Stalowy hired River Design Group to provide a remediation plan and application by January 15, 2024. The complaint remains tabled until an application is received.

Stalowy, FL-2023-101C, Bear Creek, complaint: Donna Pridmore, Scott Rumsey, and Roger Marsonette attended the most recent complaint inspection. Donna Pridmore noted that it was snow covered but they were able to see the area and document with photos and the representatives onsite were able to answer questions. They noted that sod had only been installed around the house, but that the areas directly adjacent to lower Beaver Pond had been seeded and a temporary irrigation system installed.

Samantha Tappenbeck noted that the area referred to as lower Beaver Pond has previously been determined to be a part of Bear Creek. Donna Pridmore explained that they documented evidence that the bed and banks of Bear Creek had been modified with an excavator. Material was left in place that probably could not have been moved with the excavator, but there was a lot of rock that had been moved around. Photos were reviewed.

Leo Rosenthal asked about the boardwalk and whether there were allegations of a violation included in FL-2023-101C. Samantha reviewed the nature of the complaint as submitted and stated that the allegation is that the board walk was used to move heavy equipment to do work in the vicinity of Bear Creek. Photos were included in the complaint documenting work on the boardwalk, but those photos were from years ago and documented work that was done under a previously issued 310 Permit (FL-2018-069).

Louis Heil is the representative for Mr. Stalowy and noted that he does not see the evidence that Supervisor Pridmore was referencing. He noted there was no soil change. An excavator was used to remove cattails, removing pockets in specific locations but not whole embankments.

Mr. Heil referenced photos he showed during the complaint inspection that documented the condition of the banks prior to the complaint being made that were in the exact same condition now. He indicated that they brought in top soil and added to the perimeter in order to seed grass and establish vegetation and stop erosion. He agreed that they used an excavator to remove only cattails, not changing the bathymetry of the pond. Donna Pridmore stated that when cattails are removed, the root system is disturbed and there are changes to the stream bottom, and that the stream bottom had therefore been excavated without a permit. Donna further noted that they were able to see tracks from machinery to the edge of the water, where they reached in and pulled out the cattails. Pete Woll added that any vegetation removal requires a 310 Permit.

Donna Pridmore motioned “activity has been initiated on a perennial flowing stream without a valid permit. This is a violation. As remediation the landowner must submit a remediation plan by March 2, 2024.” Roger Marsonette seconded. Motion carried unanimously.

Further discussion on the nature of the complaint and narrative description included relevant to alleged work on the boardwalk and its intended use. Donna Pridmore noted that the boardwalk had been “beefed up” to carry heavy equipment across the boardwalk. Samantha Tappenbeck clarified that the complaint alleges that the boardwalk is being used to move heavy equipment in order to do work in the vicinity of Bear Creek. Donna Pridmore and Leo Rosenthal agree that this is not an issue within 310 jurisdiction. Louis Heil confirmed that permit #FL-2018-069 was to build the walkway, and the intent included in the application description was to be able to get equipment across the waterway to another portion of his property to do forest fuels thinning and reduction.

Ward, FL-2023-108, Echo Creek, remove fallen trees: This application remains tabled until additional information is received.

Wilkinson, FL-2023-110, Swan River, brush trimming & thinning: Pete Woll explained an onsite inspection was completed January 4, 2024. They want to trim vegetation to improve the view of the river. Pete noted that we recently issued a permit for the same kind of project very close to this one. If approved, we should include the same wording from the previously issued permits from nearby properties (Gibson and Osborne Landing). Leo Rosenthal concurred we have issued permits in the past for the same kind of project to trim vegetation in order to improve the view of the river, which ends up stimulating growth. The wording included in the permit should include trimming of vegetation to improve the view but retaining rootmass and clumps of vegetation, retaining larch trees, and trimming any dead branches.

Pete Woll motioned “to approve the application as proposed per the Team Member Report.” Bill Yankee seconded. Motion carried unanimously.

Wilson, FL-2023-092, Flathead River, withdrawal request: A request to withdraw application was received January 4, 2024. Pete Woll made a motion “to accept the withdrawal request.” Bill Yankee seconded. Motion carried unanimously.

Winthrop, FL-2023-045, Stillwater River, clean diversion intake: This application remains tabled until additional information is received from Mikel Siemens.

Wright/Tzou, FL-2023-112, Swan River, riprap/dock/stairs: Pete Woll explained an onsite inspection was completed January 4, 2024. The landowner wants to place rip rap, not remove vegetation on the bank, and place portable steps to the existing dock so it does not disturb the bank. Leo Rosenthal noted that they have some erosion along the streambank and the house is close to streambank. They plan to tuck rock under the bank using a mini excavator. It is a long bank but not high, and they will retain trees and shrubs. The area where stairs are proposed is vegetated. In discussion onsite, they noted the preferred method for stairs is to have a grated structure over the top of the vegetation and not excavate the bank. This allows vegetation to grow and water to come up. This type of structure is consistent with other projects that have been permitted along the Swan River. Jeff Larsen explained that he will have 406 Docks provide a plan, and he will submit the stair design for a later meeting. Pete Woll motioned “to table the application until additional information for the stairs is received from the applicant.” Donna Pridmore seconded. Motion carried unanimously.

NEW BUSINESS

Ambler Request to Stay Deadlines: Samantha Tappenbeck explained that the Board had set a deadline to submit a 310-permit application to remediate by January 1, 2024, and another deadline to remove the structure and remediate by April 1, 2024. The district has since been served a complaint filed in court and summoned. A request from the Ambler’s attorney was received, requesting Flathead Conservation District (FCD) to stay the deadlines. DNRC counsel, Camisha Sawtelle, has recommended FCD stay those deadlines, and wait until the court proceeding is finished. Samantha read the following email, dated December 27, 2023, from Trent Baker, attorney for the Amblers, to DNRC attorney Camisha Sawtelle:

The FCD has imposed the following deadlines:

- *As remediation, a 310-Permit application must be submitted to FCD by January 1, 2024;*
- *Pending approval, the structure must be removed during low water, prior to April 1, 2024.*

The Amblers are seeking judicial review and will not meet these deadlines. I am requesting that the FCD agree to a stay of these deadlines pending judicial review rather than force the Amblers to seek a preliminary injunction.

Camisha explained that a stay is a hold on FCD proceedings until litigation is completed.

Donna Pridmore asked what the advantage of putting off the deadlines is to the Board and to the resource. Samantha stated that the advantage is a less complicated administrative process. Camisha added that if the Board decides to deny the request, then the Ambler’s attorney has indicated that they intend to file for a preliminary injunction which would be an order from the Court to put FCD proceedings on hold pending the outcome of the litigation.

Camisha noted that she met with Pete Woll, Roger Marsonette, and Samantha this morning to review the response to the claim. Chair Pete Woll signed the answer to the litigation, and it was filed today. A copy of the answer was sent to the district.

Mike Kopitzke motioned “that we stay the deadlines and FCD proceedings until litigation is completed.” Donna Pridmore seconded. Motion carried unanimously.

Donna Pridmore asked what happens next. Camisha explained that the scheduling order was issued outlining the next steps in the litigation including response today.

Authorized Signers & District Credit Card updates: Ginger Kauffman explained that Gordon Ash and John Ellis need to be removed as signers on all accounts, and that John Ellis's district credit card needs to be cancelled. The Board also needs to authorize additional signers on all district accounts.

Donna Pridmore motioned "to remove Gordon Ash and John Ellis as signers on all district accounts, and to cancel John Ellis's district credit card." Roger Marsonette seconded. Motion carried unanimously.

Donna Pridmore motioned "to authorize Roger Marsonette as a district credit card holder and to reallocate the \$500 to his card." Bill Yankee seconded. Motion carried unanimously.

Donna Pridmore motioned "to authorize Bill Yankee and Mike Kopitzke as signers on all district accounts." Roger Marsonette seconded. Motion carried unanimously.

Records Disposal Authorization: Ginger Kauffman explained that Records Destruction document RM88 was submitted to the Local Government Services Bureau, for disposal of 2015 business files. It was approved and Board approval is also needed. Mike Kopitzke motioned "to approve disposal of the 2015 business files." Bill Yankee seconded. Motion carried unanimously.

Meeting Registration and Travel: Samantha Tappenbeck explained there are several upcoming conferences and training opportunities for staff and supervisors.

- Western Montana Grazing & Agriculture Conference, January 25th – 26th
Donna Pridmore motioned "to approve registrations and travel expenses for the Western Montana Grazing & Agriculture Conference." Mike Kopitzke seconded. Motion carried unanimously.
- Montana State University Extension Forestry Mini College, March 9th
Donna Pridmore motioned "to approve travel and expenses for the MSU extension forestry mini college." Bill Yankee seconded. Motion carried unanimously.

MATTERS OF THE BOARD/STAFF

Board Training: Samantha Tappenbeck explained Flathead County will be holding an annual Board Leadership Training presented by MSU Local Government Center. The training is available to all Flathead County board members, and will be held February 8, 2024, at the Earl Bennett building. Two sessions and times are available.

Samantha Tappenbeck explained that staff are planning to host a Flathead CD Board 310-Basics training and topics to be covered. The training was scheduled for Tuesday, March 5, 10:00 A.M. to 3:00 P.M with lunch provided.

Upcoming Outreach Events: Jessie Walthers noted upcoming outreach events, and asked supervisors if they were interested in helping at the following:

- Home & Garden Showcase, March 2-3, 10:00 A.M. – 4:00 P.M.
- Free the Seeds Event, March 2, 9:00 A.M. - 3 :00 P.M.
- Land Stewardship Series

The next business meeting is scheduled for Monday, January 22, 2024, 1:00 P.M. in person and via ZOOM.

Adjournment: Donna Pridmore motioned “to adjourn.” Roger Marsonette seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 3:46 P.M.

Submitted By:

Ginger Kauffman
Administrator

Reviewed By:

Samantha Tappenbeck
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>1/22/2024</u>	<u>Pete Woll</u>	<u>Chair</u>
(Date)	(Signature)	(Title – Chair etc.)