



---

## **CALL TO ORDER & ATTENDANCE**

Chair Pete Woll, called the February 12, 2024, 310-meeting to order at 1:00 P.M. in the conference room.

**Board members present:** Pete Woll, Chair; Roger Marsonette. Vice Chair; Donna Pridmore, Secretary/Treasurer; Bill Yankee, Supervisor; Scott Rumsey, Supervisor; Mike Kopitzke, 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 and Leo Rosenthal, FWP; Paul Bishop, Flathead Lakeshore Consulting; Brig Klyce; Katie Ridinger, 406 Docks; Mikel Siemens, CORE Water Consulting; Dennis Burton, Larsen Engineering; Hailey Graf, DNRC; Connor Loughran, 406 Engineering; Don Murray; Mark Liechty, APEC Engineering; Joseph Winslow; Dan Brosten; Judy Funk; John W. Koun; Bruce Funk; Eric Urban.

## **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**

- To accept all new 310 permit applications as complete and for a project that will alter or modify a stream.

### **Consent Agenda Item 3: Financial**

Check Detail dated 1/22/2024

1. VISA – Donna Pridmore \$52.00
2. VISA – Samantha Tappenbeck \$1,005.78

Check Detail dated 1/31/2024:

1. Land to Hand Montana \$627.62
2. Montana Sky Networks Inc. \$10.0
3. JBUR-Solutions LLC \$290.00

Donna Pridmore motioned “to approve the consent agenda.” Mike Kopitzke seconded. Motion carried unanimously.

## **PUBLIC COMMENT**

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

### **310 Onsite Inspections:**

**Birk**, FL-2024-006, Flathead River, remediation: To remediate the violation of permit FL-2021-011, Mr. Birk was ordered to hire a professional consultant to review the project, develop a revegetation and stabilization plan and include that plan in a new 310-permit application. Mr. Birk hired Eric Urban as his consultant, and the application was submitted 1/3/2024.

Scott Rumsey and Kenny Breidinger did not think another onsite inspection was necessary. When asked, Eric Urban replied that nothing had changed from what he had submitted in the application. Eric recommended that no additional efforts are needed based on his site visit in October, where he viewed wood shrub (stem) density and forbes revegetation. He thought after this summer the site would look very different. He added that no additional seeding is needed as seeding has already occurred on the site.

Kenny Breidinger stated that the application included monitoring of the site and adding browse protection if you are starting to see impacts to what is coming back. Kenny also agreed that there was a lot more vegetation coming up than expected at the time and asked if Eric had specific monitoring criteria of the site. Kenny stated we want to make sure that if there are issues with the plant survival that is there right now, it will be addressed. The biggest part of the site remediation is getting good riparian vegetation established. . It was agreed to view the site and assess the vegetation, after a growing season, in late summer or early fall before the leaves fall off and the permit expires.

Samantha Tappenbeck showed photos and noted that the application also included a narrative of what Eric described. Samantha noted this is essentially an after the fact permit application for the work on the irrigation intake. Kenny stated that he had no comments on the irrigation structure. Eric stated that he is anticipating the thrust block and hydrant to be installed early spring.

Scott Rumsey motioned "to approve FL-2024-006 as submitted." Donna Pridmore seconded. Motion carried unanimously.

Donna Pridmore asked if a motion should be made to close FL-2021-011. Discussion held regarding waiving the onsite inspection and completing the Team Member Report.

Scott Rumsey motioned "to fill out the Team Member Report and waive the onsite inspection." Donna Pridmore seconded. Motion carried unanimously.

**Burton**, FL-2024-009, Flathead River, excavate pond/build berm: An onsite inspection was scheduled for Monday, February 26, 9:00 A.M. at the site.

**Dufrain**, FL-2024-008, Stillwater River, dock/gangplank: An onsite inspection was scheduled for Tuesday, February 27, 9:00 A.M. at the site.

**Lee Family Trust**, FL-2024-011, Flathead River, bank stabilization: An onsite inspection was scheduled for Thursday, February 29, 10:00 A.M. at the site.

**Sneed**, FL-2024-007, Flathead River/Church Slough, bank stabilization/dock: Kenny Breidinger stated he would like to review the application further until the next meeting, but he did not think an onsite visit was necessary. Scott Rumsey motioned “to table FL-2024-007 until the March 310-meeting.” Roger Marsonette seconded. Motion carried unanimously.

**Whitehead/Svetich**, FL-2024-010, Flathead River, bank stabilization/restoration: An onsite inspection was scheduled for Friday, March 1, 10:30 A.M. at the site.

### **310's**

**Birk**, FL-2021-011, Flathead River, remediation: The applicant was to hire a professional consultant to develop a revegetation and stabilization plan and submit a new application to remediate the violation. FL-2024-006 was submitted on 1/3/2024. Donna Pridmore motioned “to close the file as the new application has been submitted.” Roger Marsonette seconded. Motion carried unanimously.

**Brosten**, FL-2024-002, Flathead River, stockpile soil/excavate/fill: Scott Rumsey stated an onsite inspection was completed 1/11/2024. Kenny Breidinger added that the project is to raise the land/field elevation which is surrounding Brosten’s slough. The old dike is between the slough and the river, and they are not proposing work on the river side of dike. Because of that we determined it was outside our jurisdiction. Scott Rumsey motioned “that FL-2024-002 is not a project based on the review.” Bill Yankee seconded. Motion carried unanimously.

**FIIP**, FL-2023-111C, Little Bitterroot River, complaint: Bill Yankee explained that an onsite inspection was completed 12/19/2023. They looked at where excavation was done on the dam, approximately 2 yards of material was removed and was not extensive. Then they went downstream to Mr. McCollum’s property, approximately 20-acres had been flooded with the release of water, however, there was no stream damage. He was going to have to get more hay. The FIIP has a program that could reimburse him to purchase hay, and he was filling out an application. There was a lack of communication. The headgate was closed the next day and shut the water down. There was a personnel transition going on at that time. Eric Brigier is new to the FIIP. The HOA is aware of work around the dam, and he will be in communication with them. Roger Marsonette asked if the excavation was on the upstream side of the dam and not within our jurisdiction. Kenny stated it is under the BIA, if they did work on the downstream side a 310 would be necessary. Work up stream is out of our jurisdiction in the lake. The damage was more based on dam operations.

Bill Yankee motioned “on FL-2023-111C this activity is not a violation as defined by district rules.” Roger Marsonette seconded. Motion carried unanimously.

**Fullerton**, FL-2024-003, Flathead River, bank stabilization: Pete Woll explained an onsite inspection was completed 1/29/2024. Mike Kopitzke stated the river is undercutting the bank. It is well vegetated up the bank and there is a dike on top of the bank. The applicant wants to remove all the vegetation, re-slope the bank, rip rap it all the way down the length of the project area and remove the dike. A lot of disturbance would take place with that type of a project, and

in discussing the project with the consultant, Paul Bishop, we think there is a reasonable alternative. Paul will review other projects that have been done in a similar area, fashion, and get some ideas. Paul stated he plans to meet with Laurel Fullerton and will submit additional information. Mike Kopitzke motioned "to table FL-2024-003 awaiting additional information." Donna Pridmore seconded. Motion carried unanimously.

**Gress**, FL-2024-004, Flathead River, bank stabilization: Pete Woll explained an onsite inspection was completed 1/29/2024. Mike Kopitzke stated the river is undercutting the bank. It is well vegetated up the bank and there is a dike on top of the bank. The applicant wants to remove all the vegetation, re-slope the bank, rip rap it all the way down the length of the project area and remove the dike. A lot of disturbance would take place with that type of a project, and in discussing the project with the consultant, Paul Bishop, we think there is a reasonable alternative. Paul will review other projects that have been done in a similar area, fashion, and get some ideas. Paul stated he plans to meet with Laurel Fullerton and will submit additional information. Mike Kopitzke motioned "to table FL-2024-004 awaiting additional information." Roger Marsonette seconded. Motion carried unanimously.

**Krezowski**, FL-2023-077, Haskill Creek, excavate/fill/bank stabilization: The application was submitted 8/7/2023 and was tabled until additional information is received from applicant, John Phelps. No new information has been submitted. This application remains tabled.

**Sneed**, FL-2023-057C, Meadow Creek, remediation: The complaint was tabled 11/13/2023 until the remediation work is completed under permit FL-2023-106. A follow-up inspection will be done when work is completed under FL-2023-106. Samantha Tappenbeck recommended closing the complaint. Pete Woll motioned "that FL-2023-057 is satisfied by receiving application #FL-2023-106." Bill Yankee seconded. Motion carried unanimously. This complaint is closed.

**Stalowy**, FL-2023-083C, violation, deadline extension request: Samantha Tappenbeck explained the Board inspected the complaint, determined it was a violation, set the requirement that Stalowy contract with a professional consultant to develop a remediation plan and submit that in the form of a 310-application by 1/15/2024. On 1/10/2024 the district received an email request from Mr. Stalowy and Selita Ammond, RDG, to extend the deadline; they both could not meet the deadline due to personal circumstances.

Samantha stated that staff circulated memos that were submitted recently by the complainant and their attorney, Mr. Murray. Those were relevant to both FL-2023-083C and FL-2023-101C. Pete Woll asked Don Murray if he could please clarify that for the Board. Don Murray stated he represents Brig Klyce, whose complaint (FL-2023-083C) pertains to Grassy Marsh, which he shares with Mr. Stalowy. The other complaint (FL-2023-101C) from Jay Winslow, is on Beaver Lake. It's downstream but still part of the same stream. Mr. Murray stated that the work that Mr. Stalowy did in Grassy Marsh and in Beaver Pond are connected. This is a complex stream that is part of a slope wetland complex, so there's a lot of inter-connectedness, and what happens in Grassy Marsh probably influences what happens downstream in Beaver Lake, and vice versa. Unless there are ecological or hydrological issues that we don't know about because of lack of expertise, it's not going to be harmful to wait and grant the extension request. Aligning the time for the two complaints makes sense and it may even be that more time than the March 2<sup>nd</sup> date is needed. I think we feel more strongly about making sure there is a restoration plan that's

comprehensive, addressed the whole stream so that we don't have two different plans that might impact each other that aren't connected. We think it would make sense to have one expert with good knowledge, especially in River Design Group that have interdisciplinary experts. So, it seems to make sense to have a plan that addresses both complaints, overseen by one expert who has the resources to really develop a comprehensive and effective restoration plan.

Leo Rosenthal agreed that we want to get a remediation plan that is done well and done right. He did not think there was any issue with granting the extension and it makes sense to do it consistent with complaint FL-2023-101C, and make it March 2<sup>nd</sup>, so the two dates are the same.

Donna Pridmore asked can we request that both FL-2023-083C and FL-2023-101C, their remediation plans be coordinated and combined? Hailey Graf stated we cannot dictate specifically who they are required or not allow to use, but we can put sideboards on it by specifying the minimum qualifications.

Pete Woll motioned "on FL-2023-083C to grant an extension to March 2, 2024." Bill Yankee seconded.

Pete Woll called for discussion. Roger Marsonette asked what happens if he doesn't submit it by March 2<sup>nd</sup>? Donna Pridmore noted that is a Saturday. Roger stated the 4<sup>th</sup> is the Monday before our meeting, that is usually the deadline that we set for any other information we are requiring, but his concern is that if Stalowy doesn't have this submitted by the 4<sup>th</sup>, are we going to extend it again or do we then move to some other avenue? Samantha stated the determination of violations have been made, so you have the authority to enforce the law and impose a civil or criminal penalty.

Pete Woll withdrew the motion, Bill Yankee concurred. Motion withdrawn.

Pete Woll motioned "to grant the extension request to March 4, 2024. If this is not met, we will pursue the judicial enforcement of the penalty and remediation.

Pete Woll withdrew the motion for lack of a second.

FCD Adopted Rule #19 was reviewed and discussed.

Pete Woll motioned "on FL-2023-083C to grant the extension deadline to 3/4/2024. If this is not met, we will pursue judicial enforcement of the civil penalty and remediation per Adopted Rule 19 of the Adopted Rules of the Flathead Conservation District." Bill Yankee seconded. Motion carried unanimously.

**Stalowy**, FL-2023-101C, Bear Creek, complaint: An email was received 1/29/2024 from Mr. Stalowy stating that he will submit the applications before the March 2<sup>nd</sup> deadline.

Donna Pridmore motioned "to modify the application due date to 3/4/2024 from 3/2/2024 so that both complaints will be coordinated." Scott Rumsey seconded. Motion carried unanimously.

Donna Pridmore motioned “that the remediation plan that is due on 3/4/2024 be completed by a professional ecology restoration consultant and coordinated with the remediation plan completed for FL-2023-083C.” Roger Marsonette seconded. Further discussion was held. Motion carried unanimously.

**Stuver**, FL-2024-001, Swan River, sprinkler/irrigation line: An onsite inspection was scheduled for Thursday, February 29, 1:30 P.M. at the site.

**Ward**, FL-2023-108, Echo Creek, remove fallen trees: The application was received 10/10/2023, and tabled waiting for additional information. No new information has been received. This application remains tabled.

**Wilson**, FL-2024-005, Flathead River, bank stabilization: Pete Woll explained an onsite inspection was completed 1/29/2024. Mike Kopitzke stated the river is undercutting the bank. It is well vegetated up the bank and there is a dike on top of the bank. The applicant wants to remove all the vegetation, re-slope the bank, rip rap it all the way down the length of the project area and remove the dike. A lot of disturbance would take place with that type of a project, and in discussing the project with the consultant, Paul Bishop, we think there is a reasonable alternative. Paul will review other projects that have been done in a similar area, fashion, and get some ideas. Paul stated he plans to meet with Laurel Fullerton and will submit additional information. Mike Kopitzke motioned “to table FL-2024-005 awaiting additional information.” Donna Pridmore seconded. Motion carried unanimously.

**Winthrop**, FL-2023-045, Stillwater River, clean diversion intake: The application was tabled until additional information is received from Mikel Siemens. An email was received from Siemens on 9/5/2023 stating the contractor decided that it would be a more effective approach to replace the existing system with a new system, so Sure Water Solutions is working on a modified design. This application remains tabled.

**Wright**, FL-2023-112, Swan River, bank stabilization/stairs: Pete Woll explained that an onsite inspection was completed 1/4/2024. A revised plan for stairs was received 2/6/2024. Leo Rosenthal agreed that it is consistent with other projects done in the area. Pete Woll motioned “to approve FL-2023-112 as proposed with the drawing for stairs submitted 2/6/2024.” Bill Yankee seconded. Motion carried unanimously.

## **NEW BUSINESS**

**Special Meeting** – Operations Audit and Annual Work Plan: Samantha Tappenbeck explained that DNRC requires an Operations Audit to be completed each year. She asked that the audit be combined with the Annual Work Plan. The special meeting was scheduled for Thursday, March 21, 9:00 A.M.

**Supervisor Training** – Supervisor’s Training is scheduled for Tuesday, March 5, 2024.

## **MATTERS OF THE BOARD/STAFF**

**Leadership Training at Flathead County:** Roger Marsonette reported that at the Flathead County Leadership Training they discussed how long to leave something on an agenda, however the

district would need a document that spells that out. Hailey Graf stated that the district can create a policies and procedures document separate from the Adopted Rules which is not specific to 310.

**Home & Garden Show & Free the Seeds:** Jessie Walthers explained that events sign-up sheets are available for those Supervisors/Staff interested in helping.

The next business meeting is scheduled for Monday, February 26, 2024, 1:00 P.M. in person and via ZOOM.

Adjournment: Roger Marsonette motioned, "to adjourn." Mike Kopitzke seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 3:53 P.M.

Submitted By:

Ginger Kauffman  
Administrator

Reviewed By:

Samantha Tappenbeck  
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>4/8/2024</u>	<u>Pete Woll</u>	<u>Chair</u>
(Date)	(Signature)	(Title – Chair etc.)