



Flathead Conservation District  
133 Interstate Lane, Kalispell, MT 59901  
www.flatheadcd.org 406-752-4220

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### **CALL TO ORDER & ATTENDANCE**

Chair Pete Woll called the July 8, 2019, 310-Stream Permit meeting to order at 7:00 P.M. in the conference room.

### **Board members present:**

Pete Woll, Chair; Lori Curtis, Vice Chair; Dean Sirucek, Secretary/Treasurer; Ronald Buentemeier, Supervisor; being a quorum of the Board.

Supervisors Lech Naumovich and Verdell Jackson came into the meeting at 7:05 P.M.

**Board members absent:** John Ellis, Supervisor. Absence is excused.

Also, in attendance were Valerie Kurth, Hailey Graf and Ginger Kauffman, FCD staff; Leo Rosenthal and Kenny Breidinger, MFWP; Jeff Evans; Roger Noble, Applied Water Consulting; Sharon Wilhem; Harold and Connie Hogan; Don Adams; Norm Hayek; Bogue and Becky Miller.

### **MINUTES**

Lori Curtis motioned "to approve the minutes of the June 24, 2019, business meeting as presented." Dean Sirucek seconded. Motion carried unanimously.

### **CORRESPONDENCE**

Email: Meetings, events

1. Whitefish Planning Board meeting, Thursday, July 18, 2019, 6:00 P.M. Whitefish City Council Chambers. <http://www.cityofwhitefish.org/>
2. Montana Watershed Coordination Council Missouri Headwaters Watershed Tour, September 11-13, 2019. For further information go to <http://mtwatersheds.org/app/>

Email: - Publications, Newsletters etc.

1. Soil & Water Conservation Districts of Montana (SWCDM) & Montana Association of Conservation Districts (MACD) *the Montana Conservationist*  
<https://swcdm.org/>
  2. National Association of Conservation District (NACD)  
*Conservation Clips*,  
<https://www.nacdnet.org/>
  3. Rosebud Conservation District newsletter  
<http://prairiepopulist.org/conservation-district-roundup-june/>
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4. Lewis & Clark Conservation District newsletter *The Explorer*  
[www.lccd.mt.nacdnet.org](http://www.lccd.mt.nacdnet.org) or [www.facebook.com/lewisandclarkcd](https://www.facebook.com/lewisandclarkcd)

Email: Other

1. SWCDM is seeking a Director. [www.swcdm.org](http://www.swcdm.org). The Director is responsible for providing leadership and overall management of the organization. This includes communication with partners, program management, and the administration and management of daily operations. Complete applications must be submitted to [hiring@macdnet.org](mailto: hiring@macdnet.org) by July 12 at 5 p.m. Contact Melissa Downing, Operations Manager, Soil and Water Conservation Districts of Montana, 406-443-5711.
2. DEQ's Water Quality is soliciting comment until 7/26/19 on draft Strategic plans for supporting water quality improvement across Montana. Please submit comments to Mark Ockey, at [mockey@mt.gov](mailto: mockey@mt.gov) (maximum size 7Mb per email; multiple emails ok) or PO Box 200901, Helena, MT 59620-0901. View one-page summaries and full drafts for each plan on the [Water Quality Division Strategic Plan](#) website. For specific questions on the content of individual plans, contact Monitoring and Assessment: Darrin Kron – [dkron@mt.gov](mailto: dkron@mt.gov); Watershed Management (TMDL): Kristy Fortman [Kristy.fortman@mt.gov](mailto: Kristy.fortman@mt.gov); Nonpoint Source: Robert Ray [rray@mt.gov](mailto: rray@mt.gov)
3. DNRC Grant application deadlines:  
July 17, 2019  
October 23, 2019  
January 15, 2020  
April 22, 2020  
Contact Linda Brander, DNRC 406-444-0520
4. The Montana Department of Agriculture has amended ARM 4.5.208 pertaining to the State Noxious Weed List (Priority 2A). The Noxious Weed Listing Workgroup recommended adding ventenata (*Ventenata dubia*) to the Priority 2A list at its meeting on March 21, 2019. The amendment was adopted on June 21<sup>st</sup>, 2019. You may view the rule change by visiting the MT Secretary of State website at <https://sosmt.gov/arm/register>. The adoption notice is published in MAR Issue No. 12. Contact: **Jasmine Reimer**, State Noxious Weed Coordinator, Noxious Weed Program Manager, Montana Department of Agriculture, 406-444-3140  
[jreimer@mt.gov](mailto: jreimer@mt.gov)

## **FINANCIAL**

The following bills were reviewed:

1. Byte Savvy \$55.00
2. Montana Sky Networks Inc. \$10.00
3. Montana State Fund \$311.80
4. Mountain River Consulting LLC \$450.00
5. Mountain States Leasing – Kalispell \$1,599.73
6. Mountain Trader \$80.00
7. Water & Environmental Technologies Inc. \$5,900.00
8. Flathead Beacon \$528.00
9. County of Flathead School Dist. #5 \$1141,95



Dean Sirucek motioned “to approve the bills as presented.” Lori Curtis seconded. Motion carried unanimously.

**PUBLIC COMMENT PERIOD**

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

**310**

**Allison**, FL2019030, Whitefish River, dock: The District received an email that the applicant would like to withdraw the application.

Dean Sirucek motioned “to withdraw the application per the landowners request.” Lech Naumovich seconded. Motion carried unanimously.

**Clement**, FL209035, Swims Creek, utilities: Pete Woll stated he and Kenny Breidinger conducted an onsite inspection. He described that it is an application for a utility line crossing the stream along a roadway over an existing culvert. Kenny added that the landowner plans to excavate up the middle of the existing road, lay conduit and fill over the power line. Pete reviewed the considerations in the Team Member Report.

Pete Woll motioned “to approve the application as submitted.” Lori Curtis seconded. Motion carried unanimously.

**Harvey**, FL2019038, Stillwater River, steps/flatten slope/sod/plant area/retaining wall: An onsite inspection was scheduled for Monday, July 22, 10:00 A.M. at the site.

**Hayek**, FL2019015, Stillwater River, permit modification: Ronald Buentemeier stated this is a revisit of a permit that was approved for bank stabilization on Stillwater River in May. The landowner requested a modification to the permit to extend the riprap from 150 feet to 299 feet to better protect the bank. Ronald presented photos and described what was observed during the onsite visit. He described the steep bank, cement debris that has been present for years, native fill material, the bridge located downstream and the areas where additional riprap would be placed. Ronald stated concern that the landowner has stockpiled rocks that are smooth/round as the Adopted Rules require angular rock to be used to prevent slippage over time. Ronald suggested the round rocks be broken to create angular pieces. The board discussed how the existing concrete debris will not be removed as that would cause more damage than good. The landowner described his reasons for adding additional riprap and asked about shifting the starting location approximately 10 feet upstream. There was general agreement that this adjustment would be fine. Ronald reviewed riprap requirements from the Adopted Rules and modifications specified in the Team Member Report.

Ronald Buentemeier motioned “to approve the permit modifications.” Lori Curtis seconded. Motion carried unanimously.



**Hogan, FL2019004, Rose Creek, technical review:** Pete Woll stated that Roger Nobel was contracted to do a technical review. Roger described that the scope of work included a detailed survey, developing 3-4 cross sections, and looking at possible effects as related to the five criteria in the permitting process. Roger presented a PowerPoint presentation with his findings. He described that the water level during the survey on June 19<sup>th</sup> was at 2895.7 feet and full pool for Flathead Lake is 2992.8. The base flood elevation for the 100-year flood mark is 2892.4.

Roger showed a map of the area overlaid with five-foot contour lines, the wetland boundary, the proposed home site and his cross sections. He reviewed the definitions he used to determine the immediate banks, as defined by the District, and recommendations from peer-reviewed scientific literature. Roger showed three cross-sectional views indicating the determined immediate bank in relation to the proposed home site. The board discussed the recommendations that construction take place at least twenty feet from the immediate bank and Roger clarified that all points of the proposed home site are closer than the recommended distance.

Roger presented a map detailing the property and overlaid by FEMA flood elevations. The map showed the entire peninsula between Rose Creek and Fox Creek on which the home construction is proposed to be within the 100-year floodplain. Roger expressed concern that construction of the home and the septic tank are proposed within the floodplain. The landowner stated that their surveyor notified them of receiving a completed Letter of Map Amendment (LOMA). However, Roger stated when he spoke with their surveyor, the LOMA was not completed because FEMA was requesting additional information and that no Floodplain Application had been submitted yet. Emails to the District also confirm this. The landowners expressed their surprise and confusion and stated they did not intend to begin construction without an approved LOMA.

Roger described a discrepancy between his map and FEMA's map where he had measured a small area in the center of the peninsula, approximately 30-feet wide, that was above the floodplain. Dean Sirucek stated that when FEMA maps an area, they use a broader focus analogous to bigger pixels, to avoid tiny marks in the map due to microtopography. Roger reiterated that the area in question is above the floodplain in elevation, but it is still within the floodplain area and completely encompassed by floodplain. Dean asked if this area had always been at that height or if fill had been brought in. The landowner responded that to his knowledge no fill had been used, however, the soils may have been mounded up over the years as a result of disking and plowing the site. Ronald Buentemeier asked where the proposed home site would be in relation to this area above the floodplain. Roger stated that the homesite would mostly overlay the area but would require substantial fill to bring the main level of the house up because FEMA requires the house to be constructed two feet above floodplain level. In the application the landowners indicated that they intend to support the house with cement pilings or stilts. The board again reviewed the cross sections and map indicating the proposed home site in relation to the determined immediate bank. The board asked for clarification on how Roger came to his findings. Roger further described his procedure for determining immediate bank. He explained that he uses the District's definition of immediate bank and, based on the Peterson Study, he looks for inflection points to help locate the immediate bank. He explained that this is likely a very liberal



determination of immediate bank and Kenny Breidinger agreed that given the cross sections he might determine the immediate bank to be even higher. Roger reiterated that every point on the proposed construction site is within twenty feet of the immediate bank, closer than the District recommends. Mr. Hogan stated that the mapped home site does not indicate the actual layout of the house. Rather, it is the general area in which they would like to build, allowing for some discretion on house orientation, layout and size.

Roger then reviewed a discrepancy between his findings and the findings of the landowners' surveyor. Their surveyor determined the base elevation incorrectly at 2897 feet, meaning that the septic system would comply with Flathead County standards. However, based on Roger's finding the septic system would not comply with Flathead County standards.

Roger summarized his findings stating that the application is incomplete because it does not include a defined house plan making it difficult to determine possible impacts. Additionally, the proposed home site does not comply with the District's recommendations for setbacks, the septic system layout was based on invalid data, and the LOMA is not completed. Roger recommended that if the board were to approve the permit, it be contingent upon receiving a Floodplain Permit or Letter of Map Amendment.

The board discussed different options for moving forward and the need for additional information. Ronald Buentemeier described the challenges the landowners would likely face in getting this project permitted and urged them to consider alternatives. Lori Curtis agreed and expressed the possible environmental repercussions that could ensue from building this close to the river on such erodible soils. Dean also agreed and stated that they are proposing to build in a very high-risk location.

Ronald Buentemeier motioned "to delay action on this application and ask the applicant to submit very detailed, specific drawings showing the actual location of the home, the road, the foundation type, and septic in relation to the 20-foot setback in the Flathead CD Adopted Rules (Ch. 3 Project Standards, J. Dwelling Units, 2. Standards)." Lori Curtis seconded. Motion carried unanimously. *Pete Woll abstained from voting.*

**Jacobson, FL2019023C, Whale Creek, complaint:** Ronald Buentemeier stated the neighbor filed the complaint. The landowner originally had a valid permit for the work; however, the permit expired before the work was completed so upon Ronald's recommendation, he filed a Notice of Emergency. The landowner moved rocks in, sloped the bank back a little, and laid logs down over the top. Ronald stated the work was done well and Lori Curtis agreed.

Ronald Buentemeier motioned "the complaint has been satisfied by the work done under the Notice of Emergency." Lori Curtis seconded. Motion carried unanimously.

**Jacobson, FL2019032E, Whale Creek, notice of emergency:** Ronald Buentemeier motioned "to approve the notice of emergency as constructed." Dean Sirucek seconded. Motion carried unanimously.



**Juno**, FL2018034C, Walker Creek, complaint: Ronald Buentemeier and Kenny Breidinger explained that a neighbor trespassed and illegally worked on Juno's property. Districts procedures require a complaint to be filed against the property owner where the work was done, however, Juno filed the complaint against the neighbor that did the work. Juno also filed an application to repair the damage and work was completed 6/3/2019.

Ronald Buentemeier motioned "the complaint has been satisfied as work has been completed under permit FL2018038." Verdell Jackson seconded. Motion carried unanimously.

**Kirby**, FL2019031, Flathead River, walkway/ramp: Pete Woll stated that the project site is located in Eagle Bend and borders an area of cattails under different ownership. He explained that work can only be done to the edge of the cattails. Previously, weed fabric was placed on a slope that had weeds was difficult to mow. Kenny Breidinger added that the landowners would like to build a deck/walkway over the slope that is covered by weed fabric. He stated that the structure would be level with the lawn above the slope and extend out over the slope, braced on piers. Originally the landowner specified the structure would only be 4-5 feet wide and 100 feet long; however, the information provided 7/3/2019 shows an 8-foot-wide deck. Pete and Kenny expressed concern that they were not notified of the change in width during the onsite inspection and that there may not be room for this width without extending over the cattails. The board discussed the difference between a dock and a deck as described in the Adopted Rules, and that there is no specified restriction on the length of a deck/walkway. Kenny expressed concern that the increased width of the deck would require ground leveling or additional work not specified in the permit application. Pete and Kenny agreed that a second onsite inspection is warranted based on the modifications described in the new schematic drawings.

Pete Woll motioned "to table until an additional onsite inspection can be made with the new drawing." Verdell Jackson seconded. Motion carried unanimously.

An onsite inspection was scheduled for Monday, July 22, 1:00 P.M. at the site.

**Osborne Landing**, FL2019034, Swan River, pruning/tree removal: Pete Woll stated that the application is for brush trimming and limbing several trees that are blocking the view of the water. The District has issued permits for similar work on Osborn Landing property before. However, Pete stated that after viewing the site and looking at property maps, he was concerned about where the trees are in relation to the property ownership line. Flathead County GIS maps indicate that the area in question has no known ownership, and the applicants were unable to confirm where their property line is relative to the trees. Lori Curtis stated that the applicants need to supply the District with additional information on property ownership. Ronal Buentemeier suggested they visit the county courthouse and plat room.

Pete Woll motioned "to table the application until proof of ownership is provided to Flathead CD." Dean Sirucek seconded. Motion carried unanimously.



**Petersen**, FL2019036E, Whitefish River, notice of emergency: Lori Curtis read notes from John Ellis regarding his recommendations that the District consider paying for the contractor's fee for the work completed under the Notice of Emergency. The contractor, Chris Leveer, removed branches from a tree in the Whitefish River that was posing a safety concern. He came to the last meeting to ask questions about the permitting process. The board discussed options for reimbursing the contractor, if it was an appropriate use of District funds and what had led to the contractor's confusion over permitting and payment.

Lori Curtis motioned "to approve the notice of emergency." Dean Sirucek seconded. Motion carried unanimously.

Lori Curtis motioned "Flathead CD reimburse Chris Leveer of Whitefish Tree Services in the amount of \$250." Verdell Jackson seconded. Motion failed.

**Tennison**, FL2019020, Flathead River, dock: Pete Woll stated this permit was approved at the last 310-meeting, however there were questions posed by neighbors about the dock being for commercial purposes. After looking into it and discussion with Mr. Tennison, Pete stated that the approved dock will not be used for commercial use and no action is needed at this time.

**Voss**, FL2019022C, Viking Creek tributary, complaint: Roger Noble provided photos of the project location taken by the contractor last fall before work began. He described that the channel in question starts near some aspen trees and progresses downwards towards an open area with snowberry and other terrestrial vegetation. He believed the area is comprised of glacial outwash. The water doesn't go past this area and the channel has no defined stream bed or banks. The channel eventually progresses towards the end of the property line in the timber. Roger also showed drone footage of the construction and pointed out that no water is flowing or present at all. He described the location of a twenty-nine-inch squash pipe culvert under a road that is used for drainage on an ephemeral channel, as marked by the USGS topographical map. Roger also described the historical uses of the property and how previous logging and vegetation removal may have contributed to the existing drainage dynamics. Ronald Buentemeier noted that the property was originally logged by F.H. Stoltze Land & Lumber and even at that time he didn't recall any perennial flowing water. Dean Sirucek added that there may have been some historic beaver ponds that contributed to the soil permeability. Roger stated his opinion that the water present in the spring was due only to snowmelt.

Lori Curtis motioned "this is not a violation as defined by district rules." Dean Sirucek seconded. Motion carried unanimously. *Lech Naumovich abstained from voting.*

**Weber**, FL2019013, Flathead River, bank stabilization, dock, stairs, patio: Dean Sirucek stated that the District is still waiting for additional information from the applicant.

Dean Sirucek motioned "to table until a final design is received from the contractor." Lori Curtis seconded. Motion carried unanimously.



**WestWood Park, FL2019033C, Bowser Spring Creek, complaint:** Verdell Jackson explained that the complaint was filed for work done on a trail. An after-the-fact 310-permit was previously approved however the City of Kalispell has instructed the landowner regarding trail construction specifications that may not be congruent with what was approved by the District. Verdell noted the path has been widened and moved closer to the water. Kenny Breidinger questioned if this complaint is for the same area as a previous complaint and Verdell confirmed that it is. A complaint response was received 7/3/19.

An onsite inspection date was scheduled for Monday, July 22, 11:30 A.M. at the site.

### **NEW BUSINESS**

**Personnel/Resignation:** Lori Curtis motioned “to accept Valerie Kurth’s resignation.” Dean Sirucek seconded. Motion carried unanimously.

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

**Personnel Policy Updates:** Valerie Kurth explained that a personnel committee had previously worked on updating the District’s Personnel Policy. The updates were then vetted by Don McIntyre and Tara Fugina. Valerie recommended the board approve the updates to the personnel policy before hiring a new employee. The board agreed to review the suggested changes and decide at the July Business Meeting.

**310 Motions:** An instructional sheet for making motions was provided to the board members.

**Supervisor Contacts and Terms:** A list of supervisor term dates and contact information was provided to the board members.

**Stalow:** Valerie Kurth provided an update on the Stalow case and explained that they had reached agreement for settlement.

**Hiring:** Valerie Kurth put together an outline of recommendations for hiring and a draft vacancy announcement. She recommended that the District follow similar procedures as when they hired Hailey Graf. She explained that some changes will still need to be made and suggested the board discuss it at the July business meeting. Lori Curtis suggested the board consider actions needed for interim office management. Valerie stated that hiring is a time-consuming process and recommended a board member take the lead to reduce staff time commitments. Ronald Buentemeier suggested the board develop procedures for how the District will operate in the interim and Lori agreed to help work on a plan for moving forward. Pete Woll and Lori agreed to meet with District staff for a more in-depth discussion, then send recommendations to the board before the next meeting. Ronald preferred all board members be present during interviews and Valerie expressed concern that organizing that many people can be logistically challenging. Lech Naumovich suggested a subcommittee and Lori reiterated that time is short.





**310 Violation:** Lech Naumovich described the ongoing construction of a dock and stairs on Swan River that has not been permitted. He asked for the board’s recommendations on how to proceed and if it is appropriate for a supervisor to file a complaint. Leo Rosenthal described a situation where he filed a complaint, normal procedures were followed, and the process worked well. Board members generally agreed that it is not appropriate for them to submit a complaint, however MFWP or someone else could.

The next budget-meeting is scheduled for Monday, July 15, 2019, 7:00 P.M. in the conference room of the USDA building at 133 Interstate Lane, Kalispell.

Adjournment: Dean Sirucek motioned “to adjourn.” Lori Curtis seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 10:00 P.M.

Submitted By:

Ginger Kauffman  
Administrator

Hailey Graf  
Assistant Conservationist

Minutes approved by FCD Board motion made on:

<u>7/22/2019</u>	<u>Peter Woll</u>	<u>Chair</u>
(Date)	(Signature)	(Title - Chair etc.)

