



133 Interstate Lane, Kalispell, MT 59901  
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## **CALL TO ORDER & ATTENDANCE**

Chair Pete Woll, called the September 12, 2022, 310-meeting to order at 7:00 P.M. in the conference room.

**Board members present:** Pete Woll, Chair; Donna Pridmore, Secretary/Treasurer; Verdell Jackson, Supervisor; Angela Jacobs, Supervisor; Roger Marsonette, Supervisor; being a quorum of the Board.

**Board members absent:** John Ellis, Vice-Chair; Scott Rumsey, Supervisor. Absences are excused.

Also, in attendance were Kenny Breidinger, FWP; Gordon Ash, Associate Supervisor; Samantha Tappenbeck and Ginger Kauffman, FCD Staff; Anna McCabe; Katie Ridinger; Ray Halloran; Steve Shapero; Victor Fryling; Erik Garberg; Stephanie Trehwhitt; Nathan Lucke; Kevin Nolan.

## **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: Tabled 310's**

- Buck, FL-2021-041C, Stoner Creek, complaint
  - Tabled until remediation work completed under FL-2021-106
- Turner, FL-2021-081C, Swan River, complaint
  - Tabled until FL-2022-008 is completed

### **Consent Agenda Item 3: Minutes**

FCD 8/8/2022 310-Meeting Minutes

### **Consent Agenda Item 4: Financial**

Check Detail dated 8/31/2022

1. Charter Communications \$162.95
2. Montana Cad \$500.00
3. Montana Sky Networks \$10.00
4. Swan River Community Hall \$160.00

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

Pete Woll welcomed Angela Jacobs to the Board, who was appointed as a district Supervisor by the City of Whitefish.

### **PUBLIC COMMENT**

Ray Halloran stated he has a client that recently purchased property with a water right diversion on a stream. The historic water right diversion was usually maintained, but the previous owners hadn’t done any work. Past maintenance was done with a shovel; however, the client would like to use a machine to clean out sediment that has built up around the diversion structure. Pete Woll stated since they want to do work with a machine, they will have to apply for a 310-permit. Handwork does not require a permit application. Donna Pridmore noted that machinery would impact the bed and banks of the stream and agreed that a permit application must be submitted.

Kevin Nolen stated he has a condo on Whitefish River, and there is a hazard in the river by his dock. Metal poles are lodged in the bed of the river and have been there for some time. He is looking for guidance or help to remove the poles; they cannot be removed by hand. The poles are not on his property but are in the riverbed, so he would not do the work. He asked if debris gets lodged on those poles is there an agency that he could contact to remove the hazard before someone gets hurt. Donna Pridmore asked if the condominium property extends to the middle of the river. Kevin stated no, the property stops at the edge of the river. The poles are centered in river and have been there for a long time. When the water is low people mark the poles, so watercraft does not get stuck on them. Kids jump off the docks, and it is only a matter of time before someone gets hurt. Discussion held regarding agencies that he might contact. Kenny Breidinger stated this is similar to the dangerous log jam on Stillwater River, which has never been cleared up. Samantha Tappenbeck suggested Mr. Nolan contact the district office and staff could look at the map and brainstorm some ideas. Gordan Ash added that the DNRC State Lands office may also be able to help.

### **310 Onsite Inspections**

**Knapton**, FL-2022-046C, Spring Creek, complaint: An onsite inspection was scheduled for Tuesday, September 20, 2:30 P.M. at the site. NOTE: The onsite was re-scheduled for Tuesday, September 20, 5:45 P.M. at the site.

**Mazock**, FL-2022-054, Peterson Creek tributaries, culverts: Pete Woll motioned “this is a project.” Verdell Jackson seconded. Motion carried unanimously. An onsite inspection was tentatively scheduled for Wednesday, September 21, 9:30 A.M. at the site.

**Pipkorn**, FL-2022-055, Trumbull Creek, bridge: Donna Pridmore motioned “this is a project under our jurisdiction.” Verdell Jackson seconded. Motion carried unanimously. An onsite inspection was scheduled for Tuesday, September 20, 9:00 A.M. at the site.

**Ramsey**, FL-2022-056, Stillwater River, stairs gangway dock: Donna Pridmore motioned “this is a project under our jurisdiction.” Verdell Jackson seconded. Motion carried unanimously.

An onsite inspection was scheduled for Tuesday, September 20, 10:30 A.M. at the site.

### **310's**

**Big Sky Investments LLC**, FL-2022-052, Garnier Creek, planned unit development: Roger Marsonette explained that during the onsite inspection five items were noted that are within the jurisdiction of the district. *Item 1:* According to the plat there are 4-5 lots on the north side of Garnier Creek. The representative was not sure how they were going to cross the stream; as they are proposing to bore under the culvert, or above the culvert, or down the middle of the road. Because they did not have any additional information, we asked the representative to submit that information. *Item 2:* They intend to build stormwater ponds down near the creek in some wetlands. We asked them to notify the district when they have the ponds roughed out and cleared so we can get an idea of how they are going to set down in the wetlands. *Item 3:* From these retention ponds, they are going to discharge into the creek. We asked if we could do a site visit at the same time to see how they are going to do the outlet from the ponds into the creek. *Item 4:* The disturbed areas will need to be re-vegetated with native grasses, brush, and trees, and they need to submit a plan for that. *Item 5:* There are two lots on the north end of the property, so the applicant was informed that any buildings had to be at least 20-feet back from the top of the bank. Roger added that until the applicant provides information, the application should be tabled.

Donna Pridmore asked if the applicant is submitting a 404-application to dredge out the wetlands. Erik Garberg stated he was unclear about other permits. Samantha Tappenbeck explained the process and added that it is his/the landowner's responsibility for getting all necessary permits. Kenny Breidinger also explained the 318-permitting process. Erik stated he will provide the additional information requested and asked for a copy of the list of items. Kenny added that John Ellis also wanted the perimeter of the ponds to be staked out for the site visit.

Roger Marsonette motioned "to table application FL-2022-052 until additional information is received." Donna Pridmore seconded. Motion carried unanimously.

**Burden**, FL-2022-050C, Krause Creek, complaint: Pete Woll explained an onsite inspection was completed 8/30/2022. It was determined that activity had been initiated on a perennial flowing stream without a valid permit. Blowdown went down across stream, and an excavator was used to remove trees and root wads. Scars were left on the bank where root wads came out, which would allow water to erode the area. The landowner must add some straw waddles at the rootward sites along the streambank to help turn the water away. Grass seeding and planting of shrubs will be done in areas disturbed along the streambank. An application for work already done, and work that is yet to be completed must be submitted.

Pete Woll motioned "activity has been initiated on a perennial flowing stream without a valid permit, and an after-the-fact permit application must be submitted." Verdell Jackson seconded. Motion carried unanimously.

**Dahn**, FL-2021-064, Swan River, remove logs: Pete Woll explained this is a request for a one-year permit extension. Pete Woll motioned "to grant a one-year permit extension." Donna Pridmore seconded. Motion carried unanimously.

**Fryling**, FL-2022-048, Logan Creek, dock: Verdell Jackson stated that an onsite inspection was completed 8/26/2022. Kenny Breidinger described the site as being upstream from where the Star Meadows Road bridge crosses the stream and is in a wide low gradient area that ponds up water. Verdell explained the project is for stairs and ramp, and an old dock will be replaced with a floating dock. Stairs will sit above ground going down the bank. There will be a 20-foot ramp from the stairs to the dock. The dock is 10-feet x 12-feet, on pontoons, and will be built off site then installed. The floating dock will be removed in the winter. Kenny added that the dock will be t-shaped with a gangway in the middle. It is small with a long gangplank going over a wetland area, stairs will be built above the bank, and the gangplank will set on piers. Kenny didn't see any problems with it and noted that it meets the Adopted Rules.

Verdell Jackson motioned "to approve application FL-2022-048 as submitted." Donna Pridmore seconded. Motion carried unanimously.

**Guy**, FL-2022-051, Ivy Creek, pump & well: Roger Marsonette explained the onsite inspection was completed 8/17/2022. He noted that the water source, when they were out there previously, was now dried up. The landowner had done a little more excavation for their water source. We recommended they complete the project as soon as possible before spring runoff, and that the disturbed areas need to be seeded and established prior to runoff. Kenny Breidinger stated the project is in an ephemeral channel that is connected to a (historical) side channel but is disconnected from the creek. The ground water level dropped quite a bit, so they had dug down. Kenny agreed that the area should be revegetated before spring runoff. Roger added they are proposing to install a 12-foot shallow well with a submersible pump inside.

Roger Marsonette motioned "to approve application FL-2022-051 with modifications per the Team Member Report." Verdell Jackson seconded. Motion carried unanimously.

**Hodge**, FL-2022-015C, Stillwater River tributary, complaint: Staff explained the complaint has been tabled since June waiting for additional information from the complainant. No information has been received to date. Samantha Tappenbeck stated that letters were sent, followed up by phone calls requesting additional information with no response. The complaint was for stakes for a driveway. Kenny Breidinger explained they viewed the site from the highway and could only see a driveway built across the barrow ditch. The complaint was unclear, and they questioned if there were other perennial streams up the driveway. The site is near the Stillwater Bar and there are no perennial streams on the maps of that area. He noted that what they saw was not a violation. Samantha stated on the drawing (in the complaint) it looks like there is a culvert above the property under the railroad and another culvert adjacent to the driveway that goes under the highway. Kenny stated they didn't see anything below the highway, and the culvert that was put in was parallel to the highway. Pete Woll wondered if the complaint should be handed over to the county attorney. Samantha stated if it was determined there was a violation, and received no response from the alleged violator, then it would be turned over to the county attorney, but at this point there is no evidence of a violation. Pete added we are not getting any response from the alleged violator or the complainant.

Pete Woll motioned "to table complaint FL-2022-015C and have the staff contact the attorney for advice on how to further handle this complaint." Verdell Jackson seconded. Motion carried unanimously.

**Inspiration Drive Properties**, FL-2022-007, Whitefish River, dock: Staff explained that the application is tabled until additional information is received from Casey Malmquist who is working to decouple the project from the trail. No additional information has been received to date. Donna Pridmore motioned "to table application FL-2022-007 until we receive the information." Verdell Jackson seconded. Motion carried unanimously.

**Kusler**, FL-2022-044, Flathead River, dock: Donna Pridmore stated the onsite inspection was completed 8/31/2022. She explained that this is a proposal to put in another dock, however it was unclear from information submitted if there was/was not an actual property transfer. There was just a boundary line adjustment that put that easement going down the long driveway into the old dock. Kusler has proposed to put in another dock upstream. Donna stated that she called the Plat Room, and they said it is a boundary line adjustment but did not offer any further information. She added that if the easement is still owned by Mr. Kusler, then he will have two docks on one piece of property which is not allowed in the Adopted Rules. Donna Pridmore motioned "to table application FL-2022-044 until additional information regarding the easement/boundary line adjustment is received." Verdell Jackson seconded. Motion carried unanimously. It was noted that dimensions of the new dock were received 9/1/2022. The dock will be floating and attached with pylons. This will be further discussed at the 10/11/2022 310-Permit meeting.

**Lucke Revocable Trust**, FL-2022-043C, Flathead River, complaint: Pete Woll explained the onsite inspection was completed 8/31/2022. It was determined activity had been initiated on a perennial flowing stream without a valid permit. They replaced existing docks with new docks, re-sloped the bank, and put sod on the bank. The vegetation was looking good, and it was hard to tell something had been done other than the docks are new. The landowner was informed they must submit a 310-permit application for work that was done, provide dimensions for the docks, and add shrubs on the sodded banks to help the riverbank. Pete noted that this was an old site that was dug out years ago for a boat slip. Donna Pridmore added the landowner thought he was doing maintenance and did not realize he needed a permit for the work. Kenny Breidinger stated it is an existing lagoon which they re-shaped, and the docks are approximately in the same footprint that was there before. Donna noted they had two docks originally at the site. Pete Woll motioned "activity has been initiated on a perennial flowing stream without a valid permit. They must submit an after-the-fact permit application for work done, add shrubs to the sodded bank and include dimensions of the new dock." Verdell Jackson seconded. Motion carried unanimously.

**Shapero**, FL-2022-045, Flathead River/Eagle Bend, lift dock & fill: Pete Woll explained that an onsite inspection was completed 8/31/2022. The approach to the dock has sagged down and the landowner wants to lift the ramp up, fill with material and work it down so the ramp is stable. Work will be done by hand. Kenny Breidinger added the landowner will also level big flagstones leading to the gangway. Donna Pridmore noted that this will take care of the tripping hazard that exists now. Pete Woll motioned "to approve application FL-2022-045 as submitted." Verdell Jackson seconded. Motion carried unanimously.

**Trewhitt**, FL-2022-025, Logan Creek, crossing: Stephanie Trewhitt stated they were going to use a neighbor's ford crossing to harvest blowdown trees across the stream, however, the neighbors will no longer allow her to use the crossing. The trees impede movement of wildlife and are a fire hazard. She learned that there is a historic rocked ford crossing in front of her

property, and she is interested in using that instead. It is a stable area; however, some larger boulders may need to be moved. She added that her logger, Ken Swanstrom, asked about another onsite inspection to discuss another process for fording the stream and removing the logs. An onsite inspection was scheduled for Tuesday, September 20, 1:00 P.M. at the site. NOTE: The onsite inspection was re-scheduled for Tuesday, September 20, 4:30 P.M. at the site.

**Valentine, FL-2022-049, Stillwater River, riprap:** Roger Marsonette explained an onsite inspection was completed 8/17/2022. The landowner is extending the existing rock riprap that she had done a few years ago to the end of her property. The length is approximately 125-feet. The project is downstream from the Whitefish Stage bridge over Stillwater River. She is proposing to slope the bank back and use existing gravels as bedding for the rock riprap. She can only go about 1-foot above the mean highwater mark. Down at the end of the project we suggested she key the riprap back into the bank, so water doesn't have a chance to erode behind the rock. She will plant woody vegetation into areas within the riprap and re-seed the disturbed areas once she is done. The total length of the riprap is approximately 250-feet. Kenny Breidinger stated that the landowner had willows and dogwoods established in the existing riprap, although some did not survive, so they discussed revegetating and improving survival of the plants with her. Roger Marsonette motioned "to approve application FL-2022-049 with modifications per the Team Member Report." Verdell Jackson seconded. Motion carried unanimously.

### **OTHER 310's**

Kenny Breidinger stated that from the Valentine property they were able to look downstream to the stone business by the new Glacier Rail Park. There is a gigantic pile of rock scraps that goes right down into the river. The pile is approximately 60-feet high, and they are continuing to add to it. Donna Pridmore added that it can be seen from River Road. Roger Marsonette stated there was a dozer on top of the pile pushing rock down into the river. Donna added it looks like there are old wooden pilings on their side of the river, like an old bridge or structure used to be there. Now it has a big gravel bar in front of it. Kenny noted that he will try to find some photos, and thought it was a violation as he did not think they had a permit. Pete Woll stated we may need to send an educational letter.

### **NEW BUSINESS**

**June End of Month Report:** Copies of the June End of Month Report were provided in the meeting packet for Supervisors to review. Donna Pridmore motioned "to accept the June 2022 End of Month report." Verdell Jackson seconded. Motion carried unanimously.

**2022/2023 Final Budget:** The 2022/2023 budget was discussed and adjusted by the Board. Donna Pridmore motioned "to approve the final FY 2022/2023 budget." Roger Marsonette seconded. Motion carried unanimously.

**Travel Authorization:** Samantha Tappenbeck submitted a request to travel to Helena September 20-21 for the final Water Policy Interim Committee (WPIC) meeting. She explained that Tetra Tech will present preliminary findings of the Flathead River Erosion Study. Donna Pridmore motioned "to approve up to \$500 for travel expenses for Samantha Tappenbeck to attend the WPIC meeting in Helena." Verdell Jackson seconded. Motion carried unanimously.



**Staff Resignation:** Samantha Tappenbeck explained Virginia Rigdon resigned her position effective 9/9/2022. Donna Pridmore motioned “to accept Virginia Rigdon’s resignation letter.” Roger Marsonette seconded. Motion carried unanimously.

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

**310 Education Letter:** Samantha Tappenbeck explained this is an issue that comes up frequently where staff receives a call from someone in the public with an alleged violation, but the complainant is unwilling to submit a formal complaint. Without a formal complaint the district cannot send a standard complaint letter. We do provide callers with the option of sending the education letter, however, there are two different formats of an education letter. Copies of the 310-education letter and a 310-outreach letter were provided, and Samantha stated for some reason we are now by default, sending the outreach letter which when compared to the education letter is a much softer approach, focusing on general information and education about 310, but it is not situation specific at all and has very little information about repercussions. The 310-outreach letter is confusing and looks a lot like an advertisement. The 310-education letter is more specific and direct and indicates there is a potential violation. For some reason, the district moved away from this one, and she was unclear on which letter staff should be sending in the situation where someone is anonymously reporting a violation. She asked if the Board had a preference one way or another so staff can adjust. It was agreed that the 310-outreach letter looks like a poster or an advertisement, which would increase the recipient’s frustration. Supervisors discussed and agreed that having a concise understood letter describing an outcome or what the consequences are is necessary. Donna Pridmore volunteered to edit the letter and bring it to the business meeting for the Board’s review.

**Trumbull Creek Project Funding:** Samantha Tappenbeck explained we have secured funding for restoration on Trumbull Creek, however, there is a budget shortfall of approximately \$150K-\$160K as designed. She noted that options are being researched. One option is to submit an application to DEQ for 319-funding which is due October 7. When she met with DEQ program managers, they explained DEQ does not expect the application to rank very high as the creek is not a state listed impaired body of water, there is not a direct connection to non-point source pollution, and it is not in a DEQ-designated priority watershed. She added that we do have completed designs making it shovel-ready, which is beneficial. Another option is to request funding from the county commissioners. She noted that Trumbull Creek fits well into the water and sewer grants portion of the ARPA funding. Also, the County Road Dept has committed to providing funding for the project, in an amount that is much lower that is needed but could not do it at actual cost. They committed \$32,500 to do the construction to upgrade the crossing on Birch Grove Road. River Design Group is doing the final design and cost estimate for that crossing. It turns out that it was way underestimated, and a crossing adequate to convey 100-yr flood flows is needed and will cost \$80,000-100,000. So, projects over \$80,000 would require the county to go out to bid and they probably cannot do the work and provide that as in-kind match. Supervisor asked what she has time for. Samantha stated it would be wiser to approach the commissioners because of their commitment to the project and of how much funding we have already secured for the project. Also, there is a strong argument from a public safety point of view due to the impoundment of water on the airport property. Pete Woll agreed it would be best to contact the commissioners.

**Cow Creek:** Samantha Tappenbeck explained the district did a restoration project on Cow Creek a few years ago. We worked with the landowners to fence cattle out of the creek, did riparian plantings within the fenced area, and installed a hardened livestock crossing and water access point. The livestock crossing failed this year as the cattle, in using the crossing, trampled it significantly where the approach meets the hardened section; it is their only watering point. She noted that it just was not hardened enough and where the approaches meet the hardened section of the crossing they collapsed. The cows wouldn't cross, there was sediment build up, reed canary grass, the water was stagnant, and the grazing leaser could not get her horses to cross to check on the cows.

The landowner contacted the office, as they could not get a contractor to even view the site and asked if the district could provide any assistance. Donna Pridmore, Roger Marsonette and Samantha met with the landowner and discussed options, and it seemed that it would be wise for the landowner to proceed with a Notice of Emergency to get the work done. Samantha contacted Craig Workman with the City of Whitefish Public Works, as they had done the construction of the crossing, provided that as in-kind match for the project and were also able to get some nutrient reduction credits for the wastewater treatment plant. Craig said they could repair the crossing this week with no charge to the landowner and make it right. So, we were moving forward, and the landowner intended to file the Notice of Emergency when the work was done. In the meantime, the grazing leaser was trying to schedule a truck to remove the cattle, as they are only grazed seasonally. We got Craig lined up to have someone do the crossing repair this week in anticipation of getting the cows out next week. Then the truck became available, and the leaser got the cattle out today by dropping a portion of the fence. Samantha noted that she wanted to make the Board aware of situation because now that the cows are gone, the emergency is not the same. Because the landowner could not get a contractor to look at the site, there is still a massive failure, the city will be doing the work starting Tuesday or Wednesday, and water levels are low, it would be a real shame to have to pull back on the repair to get a 310-permit in place. Pete Woll added Samantha had talked to him about it and noted that because of all this, the work needs to be done without putting a 30- to 60-day delay on it.

Donna Pridmore motioned to "continue with the Notice of Emergency and get the work done." Roger Marsonette seconded. Motion carried unanimously.

Kenny Breidinger stated that it is still an emergency, and we will have to do an onsite inspection to see if mitigation is needed after the work is done. Samantha noted that the original work was done under a 124-permit because the district was the applicant for the grant.

Roger stated that when the cows were in the upper part, they nuked it. Samantha explained during the site visit they had a lengthy discussion with the landowner about the crossing failure, the infestation of reed canary grass and how that was causing stagnation of flow and choking the lower reach above and below the crossing. We are trying to get the native woody vegetation established, which is the strategy for dealing with reed canary grass, but it is taking over the plantings and creek. So, she talked with the landowner about trying very short duration grazing and to monitor it very closely. There was a misunderstanding, and gates were opened to allow cattle free access for over 3 weeks. The cows annihilated a significant portion of the plantings that were upstream of the crossing, they beat cages up, and ripped weed mat up off the ground. The cows also had a very heavy impact on the bank and did a lot to over widen the channel which was made worse by the stagnation at the crossing. Samantha added that she did what



repairs she could to the plantings. Donna noted the other side has now also collapsed. Samantha stated when Roger, Donna and she were onsite it looked like just the west side of the crossing had failed. When she went out to check on the plantings last week it was evident that the opposite of the crossing was failing in the same way. Samantha provided photos and stated cluster plantings were placed where larger areas were exposed and there were many plants, also individual plants were caged; that is where most of the damage was done by the cows. The photos showed the damage and Samantha noted that the cows ate reed canary grass along with the plantings and did a lot of wallowing. The cows were not inclined to water at the water access point because of the failure on the crossing, stagnation, sediment, and reed canary grass at the crossing, so when the gate was opened the cows just spent all their time there. Donna added that the mud was also very deep and a hazard for the cows.

The next meeting is scheduled for Monday, September 26, 2022, 7:00 P.M. in person and via ZOOM.

Adjournment: Donna Pridmore motioned “to adjourn.” Verdell Jackson seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 9:51 P.M.

Submitted By:

Ginger Kauffman  
Administrator

Reviewed By:

Samantha Tappenbeck  
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>10/24/202</u>	<u>Pete Woll</u>	<u>Chair</u>
Date)	(Signature)	(Title – Chair etc.)