

MINUTES

Missoula Conservation District  
December 10, 2018

**Missoula Conservation District**  
December 10, 2018 at 7:00 pm  
3550 Mullan Rd, Ste 106, Missoula, MT 59808

Missoula Conservation District Attendees: Tim Hall, Chair; Libby Maclay, Vice Chair; Travis Greenwalt, Treasurer; Paul Parson, Supervisor; Art Pencek, Supervisor; Bob Schroeder, Supervisor; Sidney Wills, Supervisor; Bart Morris, Associate Supervisor; Jen McBride, Staff

Additional Attendees: Ladd Knotek, MT FWP; John Bowe, NRCS; John Hart, Deputy County Attorney; Matt Ulberg, Clark Fork Cattle Company (RE: MS-44-18); Curtis Thompson, Clark Fork Cattle Company (RE: MS-44-18)

Absent: Lindsay Dick, Staff

**Call Meeting to Order** – 7:01 pm by Tim Hall

**Minutes** –Libby Maclay moved to approve the November 5, 2018 minutes as drafted. Bob Schroeder seconded the motion, motion passed – unanimous.

**Treasurer's Report** – Travis Greenwalt reported \$46,023.76 in the District checking account.

**Public Comment** – No public comment.

**NRCS Report** – John Bowe presented a verbal report. He stated that both the Missoula and Hamilton field offices had a busy schedule processing applications in fall 2018. He stated that there are currently 31 active contracts in Missoula County, specifically focused on weed management, nutrient management, irrigation, wildfire recovery initiative, and weed and slash cleanup. Bowe explained that the Farm Bill is in play, and that the Joint Chiefs' Proposal is still in process with no results back. Bowe explained that the new State Conservationist Tom Watson is focusing on watersheds and administrative areas.

**New 310 Permit Applications**

**MS-44-18** – Vose Babcock – Clark Fork River – Cable Car Replacement

Geocode: 04-2324-03-1-01-07-0000

Contractors Matt Ulberg and Curtis Thompson were present at the meeting. Jen McBride summarized the project proposal and reviewed photos from the November 30, 2018 site inspection. McBride reviewed required modifications of Permit No. MS-10-17 that was issued last year and associated with the same project. Application No. MS-44-18 was submitted with new designs to meet needs of the site following high water in spring of 2018. Ladd Knotek and Art Pencek presented their Team Member Reports.

Art Pencek moved to accept Application No. MS-44-18 as a project for review and to approve it with modifications. Bob Schroeder seconded the motion, motion passed—unanimous.

The project regarding a cable car replacement on the Clark Fork River is approved with the following modifications:

- Complete revegetation work on south bank as outlined in Permit No.'s MS-34-09 & MS-09-12 (see enclosures)
- Maintain District standards for vegetation survival rate (75% of planted vegetation must survive one year from initial planting; 50% of planted vegetation must be evidently viable two years from project completion date)
- If plants are not viable, then notify the District office and reseed and replant vegetation as necessary, irrigating and limiting browse within riparian buffer to meet mandated survival rates
- No work may occur in actively flowing water (during flood conditions)
- Remove concrete from previous cable car foundation at base flow, between July 1 and October 15

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**MS-45-18** – Jeffrey Dalton – Pierce Creek – Road & Culvert Construction

Geocode: 04-2873-21-1-02-01-0000

McBride summarized the project and reviewed photos from the November 30, 2018 site inspection. McBride read the Team Member Report from Montana Fish, Wildlife & Parks Representative Leo Rosenthal, and Pencek presented his Team Member Report. McBride explained that following discussion at the site inspection, the applicant submitted revised plans for the stream crossing to the District office on December 3, 2018. McBride stated that these revised plans depict a 25' x 36" squash culvert.

Art Pencek moved to accept Application No. MS-45-18 as a project for review and to approve it with modifications. Tim Hall seconded the motion, motion passed—unanimous.

The project regarding the road and culvert construction on Pierce Creek is approved with the following modifications:

- Complete the project using the revised drawing for a culvert allowing for a 1:5':1' (H:V) slope angle, as submitted to the District office via email, December 3, 2018
- Install sediment control measures such as straw bales, waddles, or silt fence during construction
- Adhere to Best Management Practices for stream crossings

(enclosure provided – excerpts from *Montana Forestry Best Management Practices*, DNRC, 2015, pgs. 16-41)

**MS-46-18** – NorthWestern Energy – Clark Fork River – Utilities Removal

Geocode: 04-2200-19-2-01-01-0000, 04-2200-19-2-01-06-0000

McBride stated that Application No. MS-46-18 was received after site inspections were scheduled. She reviewed images of the site taken from City of Missoula property on December 10, 2018. McBride provided an overview of the project, which entails relocating a transmission line damaged by spring flooding where it crosses the river at the north end of Tower Street in Missoula. She noted that the application stated eight wooden structures, conductor and hardware will be removed, and six new steel structures will be installed. While the new structures are to be located outside of the Board's jurisdictional area, work on the removal is to occur on the banks, within the riparian buffer.

Bob Schroeder moved to accept Application No. MS-46-18 as a project for review and to approve it with modifications. Art Pencek seconded the motion, motion passed—unanimous.

The project regarding utilities removal on the Clark Fork River is approved with the following modifications:

- Reseed and revegetate disturbed areas after project work is complete
- Maintain District standards for vegetation survival rate (75% of planted vegetation must survive one year from initial planting; 50% of planted vegetation must be evidently viable two years from project completion date)

**APO-02-18** – Jim Stone obo OW Potter Jr. Exemption Trust – Clearwater River – Diversion Dam Maintenance

Geocode: 04-2331-04-2-01-03-0000

Application No. APO-02-18 was tabled at the November 5, 2018, District meeting, pending reception of revised plans including fish passage at the project site. Knotek stated that he plans to visit the project site again on Friday, December 14, 2018.

**APO-04-18** (RE: CM-05-18) – Frank Thomas obo Venture West, LLC – Clark Fork River – Road Maintenance

Geocode: 04-2200-17-3-02-05-0000

McBride provided an overview of the project proposal and presented photos from the November 30, 2018 site inspection. She explained that Application No. APO-04-18 was submitted at the suggestion of the Board to avoid future issues in having equipment on the bank at the project site.

Art Pencek moved to accept Application No. APO-04-18 as a project for review and to approve it with modifications. Paul Parson seconded the motion, motion passed—unanimous.

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The project regarding annual road maintenance on the Clark Fork River is approved with the following recommendation:

- Promote establishment of vegetation on the river side of the bank through reseeding, browse protection, or replanting native vegetation

The Board discussed the bank stabilization and water quality benefits of additional grasses and native trees or shrubs on the river side of the bank. The Board discussed the fine associated with Complaint No. CM-05-18 and decided rather than be punitive, to waive the fine and instead encourage a minimum of \$1,000 to be spent toward native vegetation and maintaining a vegetative buffer on the river side of the bank. The Board determined Complaint No. CM-05-18 satisfied by the submission of Application No. APO-04-18.

### 310 Complaints

#### **CM-05-18** – Venture West, LLC, Frank Thomas – Clark Fork River – Dike Construction

Geocode: 04-2200-17-3-02-05-0000

See discussion on APO-04-18, above

Art Pencek moved to declare Complaint No. CM-05-18 satisfied by Annual Plan of Operation, Permit No. APO-04-18. Bob Schroeder seconded the motion, motion passed—unanimous.

#### **CM-06-18** – Fred Stout – Clark Fork River – Riprap & Excavation Work

Geocode: 04-2199-05-1-02-10-0000

McBride stated that Complaint No. CM-06-18 is remaining on the agenda at the directive of the Board until the concrete is removed under Permit No. MS-30-18. McBride stated that she followed up on the progress of the project with the applicant and read email correspondence from the applicant dated December 3, 2018.

#### **CM-14-18** – Vernon & Diane Feeback – Clark Fork River – Landscaping & Fill

Geocode: 04-2323-07-1-02-01-0000

McBride gave an overview of the site visit on November 30, 2018. Present were Pencek, Knotek, McBride, and the landowner's representative Lee Yelin, owner of Water Rights, Inc. Pencek summarized his observations on the site review and site characteristics. McBride reported that Yelin explained the landowners had rototilled their lawn and that Yelin had an unfinished 310 Application to plant half of the bank below the rototilled area, which has not yet been received by the District office. McBride read correspondence dated November 1, 2016 (informational correspondence on the 310 Law), September 14, 2018, and reported that she had left a voicemail with the landowner on October 25, 2018. McBride stated that all attempts to contact the landowner had been ignored until Yelin contacted the District on behalf of the landowner following a November 9, 2018 letter, sent via certified mail. The Board discussed the site characteristics and appropriate riparian buffer.

Following a November 30, 2018, on-site visit, District Representatives and the Montana Fish, Wildlife and Parks representative recommended that the riparian buffer be reduced to better suit the characteristics of the site.

On December 10, 2018, the Missoula Conservation District Board of Supervisors agreed to reduce the required riparian buffer on the landowners' property to the area between the river and the break in slope (see red dashed line on image in December 14, 2018 correspondence).

Art Pencek moved to dismiss Complaint No. CM-14-18. Bob Schroeder seconded the motion, motion passed—unanimous.

The Board discussed Missoula County Floodplain jurisdiction at this site and the November 05, 2018 directive for McBride to notify the county floodplain office through a formal complaint if necessary.

Paul Parson moved to rescind the above directive for staff to notify county floodplain, based on what was learned about the site during the November 30, 2018 site inspection. Tim Hall seconded the motion, motion passed—unanimous.

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### **CM-15-18** – Philip Brekke – Clark Fork River – Woody Debris Removal

Geocode: 04-2200-21-2-11-06-0000

McBride stated that correspondence was sent on November 9, 2018 via certified mail. USPS tracking services report that the letter was delivered to an individual at the address, however the District office never received a return receipt. McBride explained that Complaint No. CM-15-18 was initially reported by Brekke's neighbor, and that Brekke has made no known attempt to respond to District correspondence regarding the complaint.

Tim Hall moved to dismiss Complaint No. CM-15-18 as there were substantial efforts to reach and educate the alleged violator and no remedy is being required by the Board for the alleged violation. Art Pencek seconded the motion, motion passed—unanimous.

### **CM-16-18** (RE: MS-11-18) – Remi Berube – Butler Creek – Tree Fort & Bridge

Geocode: 04-2326-18-4-02-17-0000

McBride read correspondence sent to Berube dated May 18, 2018; October 16, 2018; and November 9, 2018. She also read an email dated December 3, 2018 sent to Berube and presented the Board with a related incomplete 310 Application received via e-mail.

The Board discussed the complaint and further discussed the 310 Application that Grace Ward submitted to the District office on behalf of the applicant on December 10, 2018. The Board noted that the application is incomplete and that the District does not formally review incomplete applications. Additionally, the application failed to address all components of work or issues that have been brought to Berube's attention in past correspondence.

Bob Schroeder moved to find the work on Butler Creek a violation of the 310 Law and to require removal of the tree fort, rock dam, and ford on Butler Creek no later than April 1, 2019. Art Pencek moved to amend the motion to impose a \$1,000.00 fine, elaborating that the fine should be waived if the applicant complies with removal, and that should the applicant not comply, the fine will stand. Tim Hall seconded, the motion, motion passed—unanimous.

### **310 Follow-Ups**

#### **MS-30-16** – Randy Koch – Clark Fork River – Regrade, Revegetation (RE: CM-06-16 - Rock and Equipment Next to River) – Revegetation Survival

Geocode: 04-2323-07-1-01-15-0000

McBride reviewed discussion from the November 5, 2018 minutes regarding Permit No. MS-30-16 and stated that she sought guidance on the proposed correspondence from Deputy County Attorney John Hart. Hart stated that Yelin's correspondence dated October 22, 2018 did not change the Board's October 9, 2018 directive to continue to monitor the project on Koch's property and advised that there was no reason to reiterate the October 9, 2018 directive in another letter to Koch and Yelin. Hall noted that the District can review a project for compliance and given the circumstances of this project, continued monitoring is advisable.

### **310 Inquiries/Issues**

McBride stated that at the site inspection for Application No. APO-04-18, Frank Thomas had mentioned the possibility of submitting a 310 Application to do project work on River Road in areas of scouring.

McBride stated that the District office received an inquiry from Sheffer Ranch concerning a culvert replacement on a spring-fed channel that flows into the Clark Fork River. McBride explained that she advised the landowners to apply for a 310 Permit, as well as follow up with Missoula County Floodplain and the USACE. She stated that there was a second inquiry on the property regarding a slough and hoof shear that occurred in the slough when the landowners were leasing the property; water in the slough appears stagnant, and McBride stated that she did not recommend the landowners apply for a 310 Permit to work on the slough.

McBride showed pictures of cars in a southern side channel of the Clark Fork River below city property off of Tower Street. The Board discussed the history of car bodies used as riprap in the Clark Fork River and directed McBride to visit the site as soon as time allows.

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### Reports

**County Attorney** – John Hart stated that the Board may have seen an article in *The Missoulian* (December 5, 2018), detailing that Missoula County had been fined and penalized by the IRS after an audit found errors in the way reimbursements were made to some individuals and, while he did not know all of the details the audit, he understood that some of the errors were made in the way reimbursements were issued to Missoula Conservation District Supervisors. Hart stated that Missoula County representatives will be in touch with the District if changes are required in reporting from Missoula Conservation District. Hart also discussed some of the details surrounding Venture West, LLC's mining permit.

**Montana FWP** – Nothing to report.

**Bitter Root RC&D** – Maclay passed around a copy of the draft minutes from the Bitter Root RC&D's September 7, 2018 meeting. She recapped the discussion at the meeting, including a review of the Financial Report and Budget Performance for FY 2018.

**District Committees** – Hall reported that several District Committees were active this year and the Personnel Committee needed to meet to discuss details of a proposed third staff member and would report back once some of those details had been addressed.

### Missoula CD Employees –

#### **Jen McBride – Resource Conservationist – November 6, 2018 – December 10, 2018**

310 Administration: Reviewed and edited 310 letters following the November District meeting. Reviewed 310 Applications and directed inquiries as they arose. Corresponded regarding relevant 310 projects, complaints, inquiries and follow ups including locations on Pierce Creek, Butler Creek, Lolo Creek, Rattlesnake Creek, the Clearwater River, and the Clark Fork River. Scheduled site visits as appropriate and met with people regarding 310 project inquiries. Communicated with Lindsay Dick regarding coordination of 310 site inspections. Attended 310 site inspections with Art Pencek and Leo Rosenthal or Ladd Knotek. Prepared 310 reports and photos for the December meeting. Corresponded with Missoula County Attorney, Fish Wildlife & Parks, Floodplain Administrators, and other representatives regarding 310 projects, inquiries, issues, and complaints as needed. Corresponded and coordinated with Missoula County Floodplain, Army Corps of Engineers, and Missoula County employees about inquiries and issues.

Conservation Planning: Corresponded with Grants Committee regarding grant inquiries. Completed a follow up on a cost-share grant project up Ninemile Creek. Reviewed AIS Grant Application when requested by Lindsay Dick. Discussed avenues for more collaboration with NRCS and Missoula County Weed District while considering role of an additional employee.

Office Administration: Attended MACD Convention in Billings November 13-16. Attended meet and greet with Legislators. Corresponded with Grants Committee, Personnel Committee, and Budget Committee as needed. Completed some electronic file clean up. Looked into healthcare options forwarded on by MACD. Corresponded with Personnel Committee and met with Dick regarding options. Drafted long-range plan and forwarded on for review by committee. Worked to write new job descriptions and update existing job description. Reviewed contracts and communicated with partners. Continued to coordinate with SWCDM and Kamman regarding CRM Software. Met with Dick and weekly to discuss priorities and work plan for the week. Coordinated with Dick regarding district meeting preparations and met as needed regarding accomplishments, priorities, and plans for the workday or workweek. Corresponded with the County and Department of Revenue regarding financial reports and staff rate increases. Submitted timesheets and time summary to the county. Entered payroll reports into QuickBooks.

#### **Lindsay Dick – Administrative Coordinator – November 6, 2018 – December 10, 2018**

Communications and Outreach: Mailed informational packets and invitations to legislator meet & greet. Followed up via phone and emails for RSVPs, created attendance sheet for supervisor reference. Set up and broke down meet & greet at Great Burn Brewing, November 27, 2018. Updated mailing contact list. Drafted, revised, and mailed 310 correspondence and other correspondence as needed.

Financial Management: Reconciled bank statements in QuickBooks Online (QBO). Filed receipts for petty checking. Reviewed and updated QBO transactions for petty checking, checking, and savings. Prepared claims and checks to be signed at meeting. Submitted claims to Missoula County. Entered checks, expenses, and claims in QBO. Copied and scanned checks

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for records, mailed checks, and wrote correspondence when applicable. Worked with Jen McBride to resolve overcharges at Billings Convention Center Hotel for 2018 MACD Convention.

Administrative Duties: Administered intake process for new 310 Applications. Corresponded with grant applicants, partner agencies, and contractors regarding grant applications, contracts, and MOUs. Worked with McBride to review and revise updated job description for Administrative Coordinator position. Began sorting paper records in office for reorganization and preparation for Salesforce transition. Corresponded with caterers for legislator meet & greet on November 27, 2018, and supervisor and staff dinner on December 10, 2018. Drafted and revised November 5, 2018 meeting minutes. Drafted, revised and posted December 10, 2018 agenda. Posted approved October 9, 2018 minutes and emailed to NRCS representatives. Scheduled site inspections, prepared site inspection packets. Mailed and e-mailed meeting materials to Board and agency representatives. Updated supervisor timesheets. Created PowerPoint for December 10, 2018 District meeting. Compiled meeting packets, prepared Form 273s, files, and conference room for meeting. First contact point calls/walk-ins for 310 inquiries, application requests, complaints, no-till drill reservations, PI inquiries, other agency referrals, etc. Forwarded emails of interest to Board. Staff meetings with McBride. Off-site errands: post office, Staples, Target, Party America, Market on Front.

Professional Development: Attended Fred Pryor workshop, "Dealing with Difficult People," Best Western Grant Creek Inn, November 28, 2018.

**Other** – Nothing to report.

### **New Business**

**Correspondence** – McBride presented correspondence to the Board, including thank you correspondence from Watershed Education Network (WEN) for the District's annual sponsorship; a postcard for an "After the Flames Workshop & Conference" in Denver in April 2019, which elicited no interest; a brochure from the Big Blackfoot Chapter of Trout Unlimited; email correspondence dated December 6, 2018 from Hannah Riedl of MT DEQ regarding the Nonpoint Source Program in the Bitterroot watershed and Cramer Creek; November 26, 2018 correspondence from the City of Missoula requesting Board input on environmental review of the YWCA facility expansion, to which the Board had no response; and correspondence from the Montana Department of Agriculture regarding sponsorship and nomination requests for the Annual Young Ag Couples Conference, January 16-19, 2019, in Helena. The Board chose not to sponsor and did not submit a nominee suggestion. The Board also revisited November 2, 2018 correspondence from DNRC regarding the Forests in Focus Initiative.

**Other** – Pencek commented about hiring a third employee for the District. Paul Parson commented on the Middle Clark Fork Watershed Restoration Plan stakeholder meeting on November 30, 2018 and stated that Missoula Conservation District should remain informed of activities.

### **Old Business**

#### **Grant Programs**

**District Programs** – McBride reported that she had forwarded the grants committee two separate grant inquiries. Morrison Maierle sent correspondence dated November 28, 2018, regarding grant eligibility determination for the Legacy Grant Program. The proposal is to assist the City of Missoula and Hellgate Valley Irrigation Company in the "West Broadway Island" project, namely to carry out riparian and pedestrian improvements along the Clark Fork River and the Flynn-Lowney Ditch north of Ogren Park at Allegiance Field, east of the California Street Bridge, south of West Broadway Street, and west of the Montana Rail Link bridge. The Board stated that a more complete proposal was needed to determine grant eligibility.

McBride also stated that she had forwarded to the grants committee a mini-education grant request from the University of Montana Bird Ecology Lab for the 2019 Winter Wings Over Missoula project. The 2019 Winter Wings Over Missoula proposal was not chosen for further review and the Board declined funding. While the District supports affordable ecology education opportunities for area youth, the Board is prioritizing funding for conservation and restoration of Missoula County's natural resources.

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**Sponsorship Requests**

1. **2019 Western Montana Grazing & Agriculture Conference** – Tim Hall moved to sponsor the conference in the amount of \$250.00 and to send McBride on the complimentary registration. Art Pencek seconded the motion, motion passed—unanimous.
2. **Other** – None.

**DNRC Sponsored** – McBride presented November 19, 2018 correspondence from DNRC regarding the ranking of the 2018 Renewable Resources Grant and Loan program applications, including the Grass Valley French Ditch Clark Fork Diversion Rehabilitation Project.

**Local Government Board Appointment Requests** – McBride presented November 29, 2018 email correspondence from the Missoula County Board of Health regarding open seats on the Water Quality Advisory Council, including the allotted District seat on the council. The Board discussed the District’s seat; Paul Parson stated that he most recently occupied the seat, but no longer has the time to commit. The Board requested that John Hart look into options to relieve the District Supervisors of the responsibility to serve on the council.

The Board also discussed December 5, 2018 correspondence from the Missoula County Department of Community and Planning Services regarding potential appointment of a District Supervisor to the Planning Board. The District has also been allotted a seat on this Board. The Board did not express interest in appointing a District Supervisor to serve on the Planning Board.

**Equipment Program** – Nothing to report.

**310 Application Revisions** – Maclay stated that she’d reviewed comments drafted by McBride; McBride summarized her feedback and the Board agreed that it should be submitted to DNRC as they continue to revise the 310 Application.

**Other** – Pencek asked about progress on a project on Singletree Lane adjacent to Miller Creek.

**Payment of Bills** – Tim Hall moved to pay the bills; Paul Parson seconded the motion, motion passed—unanimous.

**Warrants:**

Ck # 2519	Verizon – District cell phone	\$ 69.39
Ck # 2520	First Interstate Bank – Fleet card vehicle 4-022428	\$ 241.68
Ck # 2521	Charter Communications – Internet	\$ 84.99
Ck # 2522	Lindsay Dick – Staff Mileage, Personal Vehicle	\$ 17.18
Ck # 2523	AlphaGraphics - #10 Regular Envelopes (250 count)	\$ 89.67
Ck # 2524	AlphaGraphics – Letterhead (1000 count)	\$ 143.25
Ck # 2525	9 x 12 Catalog Envelopes (250 count)	\$ 157.49
	<b>Total:</b>	<b>\$ 803.65</b>

**Checks:**

Ck # 1464	Watershed Education Network – 2019 Annual Sponsorship	\$ 5,000.00
Ck # 1465	Market on Front – Catering, Legislator Meet & Greet	\$ 654.00
Ck # 1466	Missoula Conservation District – Funds transfer to petty checking	\$ 1,500.00
	<b>Total:</b>	<b>\$ 7,154.00</b>

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Voting Record – CD Supervisor	IN FAVOR	OPPOSED	ABSTAIN
Tim Hall	13		
Libby Maclay	13		
Travis Greenwalt	13		
Paul Parson	13		
Art Pencek	13		
Bob Schroeder	13		
Sidney Wills	13		

**Adjournment** – Tim Hall moved to adjourn the meeting. Paul Parson seconded the motion, motion passed—unanimous. Meeting adjourned at 9:50 p.m.

The next Missoula Conservation District meeting is scheduled for **January 14, 2019** at 7:00 p.m. in the District conference room at 3550 Mullan Road, Suite 106, Missoula, MT 59808.

APPROVED