
Park Conservation District

5242 Highway 89 South Livingston, MT 59047
Telephone (406) 946-3007

August 1, 2023
REGULAR BOARD MEETING
MINUTES

USDA Conference Room
5242 US HWY 89 S. Livingston, MT 59047
11:00 a.m.

BOARD MEMBERS PRESENT: Ned Zimmerman – Chair, Dave Haug, Jamie Lannen, Judy O’Hair, Martin Davis, DeWitt Dominick

NON-BOARD MEMBERS: Ashley Lowrey, SVWG/UYWG Watershed Coordinator; Nate Brown, NRCS; Ted Nelson, NRCS; Buddy Drake, FWP; Scott Opitz, FWP; Michael & Michelle Rosengren & family, Landowners, Ashton Bunce, MT Freshwater Partners, Mike Thom, USFS, Jim Allbright, landowner, Steven McNeil, contractor, Kelton Cole, Contractor; Jade Metzler, USACE; Kelly Arterburn, PCD Administrator; William Smith, Engineer, John Stacy – landowner, Larry Dears (zoom)

11:03 Call the Regular Park CD Board Meeting to Order – Ned Zimmerman,
Chairman

***Automatic **No** Votes for Board members not present*

Natural Streambed & Land Preservation Act Applications Inspections/Discussion:

A. PK-39-23 Yellowstone River, 1007 W. Scott St., Gardiner. John Stacy- owner and Larry Dears - (PE). Site inspection team: plan to use very large rocks to create “points” of energy dissipation, back eddies. Concerned with access on steep slope and concern rock will end up sliding in channel. Recommend additional independent engineer or hydrological review, less intrusion into the channel, and identify size and quantity of rock. Larry Dears – cost of excessive design and engineering too much for owner. Don’t have final answer on how far out the structures will go out in the river. Rock structures to be spread out every 50’. John Stacy – all agencies have looked at the site, Gardiner’s town sewer is at the top of the exposed bank, has permission to cross neighboring properties to do the work, would like to do the work this winter. Park Service bank across the river collapsed in the flood and pushed the river toward his bank. He lost 80’ of bank during the 2022 flood. He has researched a bioengineering technique using logs and rocks for stabilization. The bank used to be a wildlife migration route, prior to the flood. Jade (ACE) – need more information on how much material will go in, approximations are okay, for everything below the ordinary high water mark. Might be able to fit this under emergency RGP, will talk to supervisor about waiver, may be a mitigation fee. Ned requested more information for our Board, asked where they would source rock, and size of materials.

***Judy made a motion to table the application until next month and allow time for additional information. Jamie 2nd. Motion passed (6-1).**

B. PK-01-23 Soda Butte Creek, 279 Bannock Trail, Cooke City, Michael and Michelle Rosengren. Violation work included diversion of flood waters, reconstruction of the bank, floodplain, and front yard. Multiple agencies involved in violation work done on streambank and USFS land. Mike Thom – working with State and Federal partners, investigation continues. Buddy – asked Rosengren’s to stop work in April at site inspection. When the site inspection team went back in June – they noticed quite a bit of additional work had

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been done, using imported rock and material excavated from the stream, and laid material over the top. See it as two violations: 1) work done before the notice given in April; and 2) work done after cease and desist. The left side of the stream, in-channel work is concerning. Ned – the scope of the project is larger than we have dealt with before, will need to have it engineered to obtain a 310 permit to restore the bank. Michael – neighbor to the west continues to stack rock on streambank. He personally hauled in tons of material and rock to protect his home. Used his mini excavator to do the work, his ability to move rock is limited. Fearful and concerned about high water. Was trying to keep rocks on my property, not the Forest Service. Buddy – you still went further out in the channel. PCD remediation – acknowledge violation and require an engineered design plan.

***Ned made a motion to find the work done a second violation, Jamie 2nd. Motion passed 6-1.**

Further discussion: regarding emergency work done after the flood and required 15 days to report work done. Ned – not addressing emergency work violation, now addressing 2nd violation. Michael – stated he did not do a lot of the work, he has video documentation of other people doing work. Buddy – Michael told us in April that he pushed up the berm in the stream. If there is someone else involved, you need to file a complaint. Ned – how to fix the streambank? Michael – would like to protect the home. Dewitt – regardless of the Park CD decision, you need permission from the Forest Service. Mike Thom told you not to put rock on FS property. Ned – select an engineer and notify CD by September. Dave – would like to give them time to best take care of the stream and property.

***DeWitt made a motion to request an engineered design and 310 application by September 15, 2023, Dave 2nd. Motion passed (6-1)**

Further discussion: Jade (USACE) 350' reduced to 300', work with Forest Service to get the stream remediated as soon as possible. DeWitt – a floodplain permit is needed as well. You need to get all permits required.

- C. PK-36-23-C and PK-38-23 Suce Creek, 83-81 Suce Creek Rd, Livingston, James Allbright. Working to construct a bridge without a 310 permit. Site inspection team: abutments squeezed the creek too much, north abutment too close to the creek, will eventually be undermined and bridge will fail. Decking already purchased too short. Looked like some sediment has gone down into the creek. James – very apologetic, did not understand permits were needed. They have historically forded the creek at another location and didn't want to ford the creek to access new home construction. Suce creek did not raise during the flood. He halted construction after notice from Park CD that he needed a 310 permit. Steve (contractor) – took material from behind the abutments to raise the concrete abutment blocks up. Buddy – work occurred without a 310 permit, making it a violation, and Board can require abutments move back 5'.

***DeWitt made a motion the work done was a violation, Jamie 2nd. Motion passed (6-1)**

Further discussion: Scott recommended they move the blocks back 5' or submit an application to ford the creek at that location. Two other new bridges on Suce Creek have 26' spans. James – offered to place rock / rip rap on streambank. Buddy explained the stream capacity would be reduced by boulders. Steve – downstream property has a 3 – 4' diameter old boiler as a culvert to cross the creek.

***DeWitt made a motion to require the North abutment be moved 3' back from its current location as a modification to the permit application. Judy 2nd. Motion passed (6-1)**

James modified the permit application to reflect the approved motion and resubmitted it for review.

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***Ned made a motion to approve the permit with the revision of moving North abutment back 3' and to waive the 15 day waiting period. Dave 2nd. Motion passed (6-1)**

D. PK-23-23 Yellowstone River, #9 Ninth St Island Dr, Livingston, Carter Boehm. Buddy recommended that the rock be keyed in 2' to the bank. DeWitt – is it 140 LF of bank to be reinforced? Army Corp will evaluate the project with more scrutiny if it is over 300 LF. *Ned made a motion to approve with the modification that the rip-rap be toed in 2' into the streambank, work to be done at low water, Dave 2nd. Motion passed (6-1)

E. PK-40-23 Mission Creek, 63 Ranch, 184 Bruffey Rd, Livingston, Heather & Andrew Levy. Historic pond, precedes 310 law. Former owners did a good job maintaining the pond. Scott – hasn't seen it this full in his career. Large rocks now buried by sediment, steep bed rock, shouldn't wander. Buddy recommended we don't issue a maintenance permit due to downstream neighbors. Plan to use spoils as base for new road they are building. FWP did not issue a 318 authorization due to length of construction time. *Dave made a motion to allow excavation to 5' deep, spoils must be removed out of the floodplain, recommend sloping the bank 4:1. Jamie 2nd. Motion passed (6-1)

F. PK-35-23-E Adair Creek, 56 Shields River Rd East, Livingston. Jamie Hillman – Contractor, Lawrence & Roberta Marin – owners. Emergency work reviewed by site inspection team. Agreed with Jamie that 20' span bridge would work. ***Martin moved to accept the Emergency work done and request a 310 permit application for proposed bridge installation or culvert replacement within 90 days, July 2nd. Motion passed (6-1)**

Treasurer's Report and Financial Items

- A. Approval of Checks and Financial Reports.
- B. Close-out Gayleen claim form. DeWitt received final paycheck, including accrued leave.
- C. Balance sheets, profit and loss – we receive 2nd half of Mill levy in July.

***Dave made a motion to approve the financials. Jamie 2nd. Motion passed (5-2)**

Minutes Approval – June 2023 Minute review

***Jamie made a motion to approve June 2023 minutes, Dave 2nd, motion passed (5-2)**

New Business

- A. Supervisor reimbursement forms
- B. Remind to Supervisor to get photo and Bio submitted for the website.
- C. Amendment to rules – violation fine. Scott – don't lose anything by waiting to fine. You can go back and fine them from date of violation. Can fine for each violation. Question for Hailey Graf – can we hold up 310 permit if they don't pay the violation fine?
- D. Supervisors at site inspections. DeWitt will step back into a volunteer role for site inspections. Can we pursue grant funding options for a consultant for outlying areas: Cooke City, Silver Gate, top of the main Boulder River. Will need to contact the NPS for gate entrance if we aren't riding with Scott Opitz. Bryan Giordano has FWP jurisdiction for these outlying areas. Gallatin has contracted site inspection consultants.
- E. 310 Grant Signatures - \$7,300 for 2022 310's. CDA Grant – denied. May be

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available as they do another round of funding in November for CD's with mills over \$40k. First round of funding was just for lower mill levy districts.

- F. Policy for CD staff to sign checks: policy states we need 2 signatures from Board Supervisors on checks. Judy O'Hair will go down to Bank of the Rockies to become a signer for the Park Conservation District.

***Ned made a motion that for checks under \$100, allow 1 Board signature or get 2 Supervisors' verbal approvals to sign the check. Judy O'Hair will become a signer on the PCD account. Jamie 2nd. Motion passed (4-3)**

- G. Water Field Day August 3, 2023

- H. Oath of Office for Judy O'Hair. Ned swore Judy in as Supervisor for Park Conservation District Board, with a 4 year term. Judy will be taking over Gayleen Malone's term that expires in 2026. Review Board term process.

- I. NACD dues tabled, MACD dues put off until DNRC CDA funding comes through and look at again in September, Bridger Plant Materials – make a \$35 donation in September.

- J. Staff office safety – reported back on building review, look into recording calls, tell caller you will have a Supervisor call them back.

- K. Boat ramp – recent inquiry. Request an engineered design.

- I. Next PCD Board meeting – September 5, 2023 works for everyone.

NRCS Update – Ted Nelson & Nate Brown

- Working through grassland CRP offers from FSA, forestry project sites, RCCP, Community Ag, national water quality incentive applications.
- Water – not in drought status

Watershed Business

Upper Yellowstone Watershed Group

Upcoming: mid-September BBQ social tbd, State parcel at 6-mile

Shields Valley Watershed Group

Next meeting: September 25, 2023 in Wilsall

Public Comment None

Adjourn 3:10pm

NEXT PROPOSED PARK CD MEETING:

September 5, 2023

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