

**LINCOLN CONSERVATION DISTRICT
BOARD OF SUPERVISORS MEETING
Zoom Meeting
April 19, 2023, 4:00 p.m.**

Attendance:

Board of Supervisors: Kathleen Johnson, Chairperson; Mike Garner, Vice Chairperson; Laura Garner; Don Crawford; John DeLeo; Gary Pershall

Absent:

Associate Supervisor(s): Wayne Maahs

Advisor(s): Brian Stephens, MT FW&P, Brian Ressel, NRCS.

District Administrator: Rae Lynn Hays

Guest(s): Jessie Haag, Lincoln County; Ron Dawson, Bonnie Dawson, Jance Phillips, Misty Phillips, Bob Sill; Sandra Sill, Bab Vadasy, Gail Vadasy, LeeAnn Schermerhorn, Mayor, Town of Eureka; Kenny Westbrook

Called to order: 4:03 p.m. by Chairperson, Kathleen Johnson

Public Comment:

LeeAnn Schermerhorn administered the Oath of Office for Gary Pershall.

Bob Sill said he and his wife bought a house on the Kootenai River. He provided his background and experience working with groups and water resources. Mr. Sill said a complaint that was filed indicated that he built a ramp. Mr. Sill said it is not a ramp. He built a road down to a meadow that does not come down to the highwater mark. He was not told that he needed a permit as it is 20 ft from the highwater mark. He will use the meadow to launch a boat. When the inspection team came to his place, Mr. Sill said he pointed out several gross violations of boat ramps. He is not complaining about them but is upset that they were visible, and no investigation has taken place. He expressed concern that he is being targeted because he is the new guy.

Minutes:

- March 15, 2023, meeting minutes
 - **Motion** by Mike Garner to approve the minutes of the March 15, 2023, meeting. **Second** by Gary Pershall. **Motion passed unanimously.**

Financial Report:

- Laura G. presented the March report. She indicated there was a discrepancy on the P&L and suggested seeing if one of the dates was incorrect. March report. **Second** by Don Crawford. **Motion passed unanimously.**

NRCS Report – Brian Ressel

Brian Ressel said NRCS is experiencing staffing issues. He is currently the only employee. He anticipates onboarding a new employee in June. NRCS is funding 1.3 million worth of projects for the year. Upcoming projects include grazing, weed

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 2

abatement, and forest projects. Brian asked if the process used for the last Local Work Group was beneficial. Kathleen Johnson said the information was used to develop the LCD Strategic Plan and the Annual Plan of Work. Brian asked to have it put on the agenda to plan a date for another event.

MTFW&P Report – Brian Stephens

- No Report

District Administrator's Report – Rae Lynn Hays

- Volunteer hours were recorded.
- Rae Lynn H. provided information to Rocky Mountain Insurance and hopes to have a quote soon.
- The Guilley program may not be cost effective for the district. The cost to use the software platform will be based on the number of 310s processed. The company indicated it could be about \$500/year for the district to use the full version of the software program. A free version would allow users to input data, download the application, and then email it to the district.
- Rae Lynn is trying to coordinate with Heidi Fleury to find available dates to host a pollinator event.
- Several individuals have come into the office to submit soil samples or request information on the program.
- The trees will be delivered April 18 to Kalispell. Rae Lynn will pick them up. The Lincoln Oakes trees will be delivered within a few days of that.
- Rae Lynn will be attending AIS training in Libby on April 21-22 and will be taking leave on April 25-27.
- Rae Lynn and Kathleen met with the Fortine Cemetery board to discuss the Pull Your Share program. The board agreed to be a host site and coordinate a school event in May.
- LCD was awarded a project grant for the Glen Lake Dam Design project.

Planning Board Report – Laura Garner

- No report

310's

C-10-02-22, Neumann, Phillips Pleasant Valley Fisher River Civil Penalty

- Rae Lynn H. said she has forwarded information to Caitlyn Overland, the attorney for MACD. She has agreed to take the case since the county attorney may have a conflict of interest. Rae Lynn said the board has the option of

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 3

pursuing continued violations as Mr. Neumann has not turned in a 310 application and has continued to work in the stream. Mike G. suggested asking Caitlyn to proceed with the existing civil penalty rather than pursuing additional civil penalties. Laura G noted that Mr. Neumann continues to work in the stream and remains in violation of the 310-law. Jance Phillips noted that debris was hung up on the rebar, so he pulled it out of the stream.

- **Motion** by Mike G. to ask Caitlyn to file the complaint in court with the existing civil penalty amount. **Second** by Don C.
- **Motion** passes. Laura G. opposed.

Li-04-01-23, Ekman, Tobacco River

- Don C. provided the team report. He, Gary P., and Mike G. met with the contractor. Brian S. was not able to attend. When a second site visit was organized, the contractor was unable to attend. Don C. asked Kenny Westbrook to identify where the riprap would be located. Since there is still some confusion regarding the proposed project, Brian S. suggested another site visit when the landowners, contractor and the inspection team are all available. Kenny W. said the landowners should be back in May. Don C. suggested that he, Gary, and Brian attend to maintain consistency.
- **Motion** by Laura G. to accept Li-04-01-23 as a project and postpone until the June Meeting. **Second** by Mike G.
- **Motion** passes unanimously.

Li-04-02-23, Kvapil, Libby Creek

- This is a renewal of a dredging project.
- **Motion** by Don C. to accept Li-04-02-23 as a project and approve the application as presented. **Second** by Gary P.
- **Motion** passes unanimously.

Li-04-03-23, Dugopolski, Pike Creek

- Brian S. has Mike G. to accept Li-04-03-23 as a project and postpone it until a site visit can be conducted. **Second** by Laura G.
- **Motion** passes unanimously.

Li-04-04-23, Bushfield, Ksanka Creek

- Application withdrawn by Mr. Bushfield

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 4

Li-04-05-23, Roose, Mud Creek

- Gary P. presented the team inspection report. Mr. Roose wants to put a pipe in the creek and pump water from a pond to his vineyard. The pipe will be set by hand.
- **Motion** by Gary P. to accept Li-04-05-23 as a project, approve the application as presented with one modification. The applicant should put a ¼" screen at the intake. The 15-day wait period is waived. **Second** by Don C.
- **Motion** passes unanimously.

Li-04-06-23, Rose, Glen Creek

- Gary P. presented the team report. The applicant plant to place an 18" x 14' culvert in a straight stretch of the stream. The stream is a very narrow channel. They also want to do some brush work and build a single-family residence. Kathleen expressed concern about the applicants cutting trees too close to the stream. Discussion ensued as to what the setback distance should be for the house and clearing brush. John Deleo said more information is needed to decide on the brush clearing and the house.
- **Motion** by Don C. to accept Li-04-06-23 as a project and approve the application with modifications. The culvert is permitted if it is in the location identified during the site visit. Rae Lynn should include a diagram for proper culvert installation. A 5–10-foot buffer from the streambank should be maintained when removing brush/trees. The exception to this is at the culvert site. If the applicant intends to build a house with potential impact to the stream, he should submit a new 310-application. The 15-day wait period is waived. **Second** by Gary P.
- **Motion** passes unanimously.

Li-04-07-23, Sanders, Yaak River

- This is a renewal of a dredging project.
- **Motion** by Don C. to accept Li-04-07-23 as a project and approve the application as presented. **Second** by Gary P.
- **Motion** passes unanimously.

Li-04-08-23, Shea, Yaak River

- This is a renewal of a dredging project.
- **Motion** by Don C. to accept Li-04-08-23 as a project and approve the application as presented. **Second** by Gary P.
- **Motion** passes unanimously.

C-04-09-23, Sill, May, Kootenai River

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 5

- Don C. presented the Team Inspection Report. Mr. Sill constructed a road without a 310 permit. Mr. Sill did not think he needed a 310 permit. Don C. said the road is well constructed down to a lower grassy area. This area is currently dry, but likely is covered with water during high flow. Therefore, this is considered a violation of the 310-Law. Wayne Maahs said that the board discussed this portion of the Kootenai River below the dam when reviewing its Model Rules. The jurisdiction is outlined in the Model Rules.
- Motion by Don C. to declare C-09-04-23, Sill, May, Kootenai River a violation. The letter to Mr. Sill should cite the Model Rule #12 on Page 5 in explaining why this is a violation. Mitigation should include reseeding with native grasses covered by straw mulch by May 22, 2023. No equipment will be permitted on the bar. Once mitigation is complete, Mr. Sill should send a photograph to the Conservation District. **Second** by Gary P.
- **Motion** passes unanimously.

Li-04-10-23, Bushfield, Ksanka Creek

- This application is for a maintenance permit. The applicant intends to use hand tools to remove debris. The applicant is working on obtaining landowner signatures.
- **Motion** by Gary P. to accept Li-04-10-23 as a project and approve the application pending landowner signatures. If equipment is required to enter the stream, the applicant should submit a 310 application. The 15-day wait period is waived. **Second** by Mike G.
- **Motion** passes unanimously.

Li-04-11-23, Bushfield, Ksanka Creek

- This application is to repair damage from muskrats.
- **Motion** by Mike G. to accept Li-04-11-23 as a project and approve the application with one modification. It is not a maintenance permit. The 15-day wait period is waived. **Second** by Mike G.
- **Motion** passes unanimously.

Li-04-12-23, Bushfield, Ksanka Creek

- This application is to replace a culvert with a larger one.
- **Motion** by Don C. to accept Li-04-12-23 as a project and approve the application with two modifications: it is not a maintenance permit, and the culvert length should extend at least 2 ft beyond the road fill on each side. A culvert design handout should be included with the approval letter. The 15-day wait period is waived. **Second** by Gary P.

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 6

- **Motion** passes unanimously.

Li-04-13-23, Bushfield, Ksanka Creek

- This application was withdrawn by Mr. Bushfield.

C-04-12-23, O'Connor, Falls Creek.

- This is an anonymous complaint. A site visit is required to investigate the complaint.
- **Motion** by Laura G. to postpone C-04-12-23 until the June meeting. **Second** by Don C.
- **Motion** passed unanimously.

Li-04-15-23, Helburg, Flower Creek

- Brian S. said the applicants intend to grab two cottonwood trees and place them on the bank for erosion protection. The second portion of the project includes building a relief channel to mitigate high flow. The application does not provide significant details regarding the plan for the channel. Brian S. would like to see them submit a new 310 application to address the relief channel after July 15 when stable low flow can be observed.
- **Motion** by Don C. to accept Li-04-15-23 as a project with modifications. The applicants are permitted to remove the trees and place them on the streambank. A new 310 application should be submitted after July 15 when water is maintaining low flow. The 15-day wait period is waived. **Second** by John D.
- **Motion** passed unanimously.

Li-04-15-23, Slesar, Yaak River

- This is a renewal of a dredging project.
- **Motion** by Don C. to accept Li-04-15-23 as a project and approve the application as presented. **Second** by Gary P.
- **Motion** passed unanimously.

Li-04-17-23, Gorman, Brimstone Creek

- Gary P. presented the team inspection report. The applicant proposes to replace a culver underneath the driveway with a 30x42 squash pipe. Brian S. recommended that the applicant armor the sides and that no work occur between May 1 and July 15.

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 7

- **Motion** by Gary P. to accept Li-04-17-23. Work should not be done between May 1 and July 15. The 15-day wait period is waived. **Second** by Don C.
- **Motion** passed unanimously.

Postponed 310's.

1. C-02-02-23, Cote, Smith, Pinkham Creek

- Kathleen J., Laura G. and Gary P. conducted the site visit. The landowner added a temporary fence panel to an existing fence to prevent dogs from crossing the fence when the stream is frozen. Kathleen J. said this could be considered a maintenance project if the landowner wanted to continue this in the future. Laura G. said she is not sure the landowner is working in the stream. Rae Lynn H. said she sought advice from Hailey Graf at DNRC. A fence across a stream is considered a project and is not excluded from the 310-Law.
- **Motion** by Gary P. to declare C-02-02-23 a violation. Mitigation includes remove the fence panel and posts within 30 days of the letter. The letter to Mr. Smith should indicate that if he wants to construct a temporary fence in the future, a 310 permit is required. He could also consider a maintenance permit to avoid applying on a yearly basis. **Second** by Laura G.
- **Motion** passes unanimously.

2. Li-02-03-23, Anderson, Betts Lake

- Brian S. conducted another site visit. The project includes two pipes at the outlet on Betts Lake. One pipe is at the outlet where it transitions to wetland. If it is set at zero gradient, water doesn't flow. Brian said the application is ok as submitted. He recommended that the culvert at the upper site be at least 48" and placed after July 15. The culvert at the lower site must be at least 36".
- **Motion** by Mike G. approve Li-02-03-23 with modifications to include: the culvert at the upper site be at least 48" and placed after July 15. The culvert at the lower site must be at least 36". The 15-day wait period is waved on this culvert. **Second** by Don C.
- **Motion** passes unanimously.

3. Li-03-01-23, Kissner, Yaak River

- John D. Brian S. and Don C. conducted the site visit. Mr. Kissner needs at least one access to the Yaak River. He has decided to raise Yaak.

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 8

- **Motion** by John D to approve Li-03-01-23, Kissner, Yaak River. **Second** by Don C.
- **Motion** passes unanimously.

4. Li-03-02-23, Phillips, Pleasant Valley Fisher River

- Application was withdrawn by Mr. Phillips

New Business:

- **Yaak Valley Forest Council Letter of Support**
 - Rae Lynn H. said the YVFC is looking for a letter of support to address an impaired section of stream along the South Fork of the Yaak River. The project would include conducting Bank Erosion Hazard Index survey on private land, weed abatement, low intensity riverbank restoration and planting native grasses and shrubs.
 - **Motion** by Don C. to approve a letter of support for the project. **Second** by Mike G.
 - **Motion** passes unanimously.
- **Post Office Box Renewal**
 - The cost of renting a Post Office Box has nearly doubled. The renewal is April 30, 2023.
 - **Motion** by Laura G. to close the Post Office Box and forward mail to the office physical address. **Second** by Gary P.
 - **Motion** passes unanimously.
- **2023-2023 LCD Preliminary Budget**
 - Rae Lynn H. said with the impending increase in insurance rates, it may not be feasible to provide any rental equipment as was discussed in last year's budget. That funding allocation could be transferred to cost share programs such as treatment for noxious weed management areas with a revegetation component, native plant seed and pollinator gardens. John D. said he would like to see non-chemical approaches used for weed mitigation. The preliminary budget will be discussed over the next couple of months. Rae Lynn will try to put together project proposals for consideration. It is unlikely they will be ready for the May meeting.
- **Authorized signatures at Glacier Bank**
 - Since the composition of the LCD board has changed, Rae Lynn asked to have the signatures on the accounts at Glacier National Bank Changed.

LINCOLN CONSERVATION DISTRICT

Zoom Meeting

April 19, 2023

Page 9

- **Motion** by Mike G. to remove Darris Flanagan and Wayne Maahs from the checking and savings account at Glacier National Bank. Gary Pershall should be added as a signor on both accounts.
- **Motion** passes unanimously.

- **Montana Biological Weed Control Project Invoice \$125**
 - Support of this project has occurred on an annual basis and is included in the current budget.
 - **Motion** by Mike G. Second by John D.
 - **Motion** passes unanimously.

- **Montana Forest Landowner Conference Sponsorship**
 - We have sponsored this event for years at the \$150 level. This is included in the 2023 budget.
 - **Motion** by Mike G. **Second** by John D.
 - **Motion** passes unanimously.
- **MWCC Membership**
 - Support of this organization has been ongoing. The cost of dues is \$50 and is included in the 2023 budget.
 - **Motion** by Mike G. **Second** by John D.
 - **Motion** passes unanimously.

Unfinished Business

- **Filling Supervisor Vacancy**
 - Postponed

Final Inspection Reports

Li-08-05-22, Chappelow No Name Creek – Still too much snow

Open Mic and Other Business –

Meeting adjourned at 7:32 p.m.

Respectfully Submitted,

Kathleen Johnson, Chairperson

Rae Lynn Hays, District Administrator

Date: _____