1. 9:30 A.M. Special Commission Meeting
   
   Documents:
   
   3-10-2022 SM.PDF
   3-10-2022 AGENDA DOCS.PDF
Cascade County
Special Commission Meeting
March 10, 2022 @ 9:30 a.m.
Commission Chambers, Room 105
325 2nd Avenue North, Great Falls, MT

The Board of Cascade County Commissioners will be broadcasting the Commission Meeting via Zoom.
Webinar participants must register in advance for the Commission Meeting:
https://us02web.zoom.us/webinar/register/WN_hXlte3TpToGNj_kq1kA24Q
After registering, you will receive a confirmation email containing information about joining the webinar.
If you need dial in access: 888 788 0099 (Toll Free) or 877 853 5247 (Toll Free) Webinar ID: 8401 5188 4096 Password:576741

Please note the agenda order is tentative and subject to change by the Board without prior notice.
Therefore, members of the public are encouraged to be in attendance at the time the meeting is scheduled to begin.
Public comment during public participation is limited to a maximum seven (7) minutes.

Call to Order

Chairman Joe Briggs

Pledge of Allegiance

1. Public Hearing

   Appeal of the Floodplain Administrator’s decision requiring a Floodplain Permit for work completed in Zone AE of FEMA’s Regulated Flood Hazard Area of the Missouri River located at 2818 Old US Highway 91, Cascade, MT, with Parcel #3647800.
   Submitted by: Steve Gillespie

2. Public comment on any public matter that is not on the meeting agenda, and that is within the Commissioners’ jurisdiction. (MCA 2-3-103)

3. Adjournment.
March 10, 2022

AGENDA #1

Agenda Action Report
Prepared for the
Cascade County Commission

ITEM: Public Hearing
Appeal of the Floodplain Administrator’s decision requiring a Floodplain Permit for work completed in Zone AE of FEMA’s Regulated Flood Hazard Area of the Missouri River located at 2818 Old US Highway 91, Cascade, MT, with Parcel #3647800.
Submitted by: Steve Gillespie

PRESENTED BY: Charity Yonker, Planning Director

BACKGROUND
Subject property is described as having address 2818 Old US Highway 91, Cascade, MT, with Parcel #3647800 and portions of the property are located within FEMA’s Regulated Flood Hazard Area (RFHA) designated Zone AE based on Flood Insurance Rate Map (FIRM) Panel #30013C1115E1. The project was performed within Zone AE of the designated floodway.

PLANNING DEPARTMENT RECOMMENDATIONS
The Planning Department recommends the Commission uphold the Floodplain Administrator’s Administrative Review Decision dated January 25, 2022, by concluding that the Appellant must obtain a Floodplain Permit within thirty (30) days of the installation of the stone slabs placed in the Regulated Flood Hazard Area on the subject property in accordance with the requirements of CCFR § 6.1.

MOTIONS FOR CONSIDERATION
I move the Board of County Commissions reverse the Floodplain Administrator’s Administrative Review Decision and find that work completed on Parcel #3647800 in the Regulated Flood Hazard Area is exempt from the Cascade County Floodplain Regulations floodplain permitting requirements. (The specific findings supporting the reversal will need to be determined by the BOCC and put on the record).

OR
I move the Board of County Commissioners affirm the Floodplain Administrator’s Administrative Review Decision and adopt this Staff Report in its entirety with Findings of Fact and recommendations, after consideration of all of the public comment and testimony, the record before the Commissioners and any new information presented regarding the Appeal, and require a Floodplain Permit for the installation of the eleven (11) stone slabs placed on Parcel #3647800 in the Regulated Flood Hazard Area of the Missouri River.
The purpose of this Staff Report is to provide the issues presented on appeal, along with any additional information, findings, and recommendations from the Cascade County Planning Department (Department).

Subject property is described as having address 2818 Old US Highway 91, Cascade, MT, with Parcel #3647800 and portions of the property are located within FEMA’s Regulated Flood Hazard Area (RFHA) designated Zone AE based on Flood Insurance Rate Map (FIRM) Panel #30013C1115E1. The project was performed within Zone AE of the designated floodway. This is no being disputed by the Appellant.

PROCEDURAL BACKGROUND

On October 13, 2020, the Cascade Conservation District approved a 310 Permit to install stone steps leading down to the Missouri River. The project was described as extending up the bank approximately twenty (20) to thirty (30) feet, affecting fifteen (15) to twenty-five (25) linear feet of bank with tread dug into the face of the bank. A crane was proposed to unload the flat stone rocks estimated in size to be four (4) feet by six (6) feet in size. The 310 Permit made explicit:

“The 310 Permit does not preclude or supersede additional permits which may be required. These are the sole responsibility of the applicant.”

“The Board of Supervisors advises that the issuance of this permit [310 Permit] does not relieve the parties involved from securing other necessary permits which may include (but not be limited to) ...the Cascade County Floodplain Permits (406-454-6905) ....”

1 FIRM Panel effective March 19, 2013.
The 310 Permit was signed on October 28, 2020, and sometime thereafter a copy was forwarded to the Planning Department.

On March 8, 2021, a letter was issued based on the information contained in the 310 Permit and requested the Appellant to contact the office to determine whether a Floodplain Permit was needed for his project.

On March 24, 2021, the Department issued another letter saying a Floodplain Permit was required for the project as described in the 310 Permit and set forth the relevant provisions of the Cascade County Floodplain Regulations that would apply to the proposed project.

On April 1, 2021, the Department contacted the Appellant by email to follow up with a phone message requesting the next steps for the permit. A link to the Floodplain Permit Application was provided by the Department and a list of Surveyors and Engineers in Cascade County. The Appellant responded by email questioning whether the project was exempt under Section 4.1 of the CCFR. In the email, the Appellant stated that the lot was excavated to cut back the riverbank and create a path to the river prior to his ownership. The Appellant argued that his proposed project was exempt because it fell under “maintenance for an existing open-space or artificial obstruction” and also because it was for private recreational uses as a fishing area.

On April 26, 2021, the Floodplain Administrator responded that the stone slabs added to the floodplain constituted artificial obstructions and were not exempt from permitting under Section 4 for of the CCFR.

On May 18, 2021, the Department told Mr. Gillespie a Floodplain Permit was required for the work already performed and that enforcement would begin if no Floodplain Permit Application was obtained in thirty (30) days and that if no Floodplain Permit was received, the Department intended to issue a formal violation.

On May 21, 2021, the Department received an email from the Appellant that the project was halted on March 9, 2021, when the certified letter was received, and the Department again reiterated that a Floodplain Permit was required. At this time the Appellant invited the Department on site or elsewhere to discuss the matter. On June 4, 2021, the Department received an email from the Appellant saying that the Joint Application had been submitted. The Department responded that the fee was required for the Floodplain Permit before it would be deemed submitted.

On November 19, 2021, the Department sent an email after the Appellant had contacted a Planner by phone in the office regarding other matters. The Department resent the March 24, 2021, letter and stated an email had been sent the previous week asking for a status update, but there was no response. The Department scheduled a site visit for November 29, 2021, to verify no work had been performed in the RFHA. The Appellant responded by email stating a permit did not apply to the project. The Department responded that a site visit was scheduled to
determine whether there was a floodplain violation. On November 24, 2021, the site visit was declined by the Appellant because he believed the Department was “searching” for a violation.

On November 29, 2021, the Floodplain Administrator was informed by Commissioner Ryan that the Appellant had contacted the Commission Office by phone and the Appellant had stated that he did not understand why a Floodplain Permit was needed when the work had already been completed.

On December 13, 2021, a formal Notice to Respond and Order to Take Corrective Action for Violation of Cascade County Floodplain Regulations §6.1 was mailed to the Appellant and provided the Appellant with 30 days to take corrective action. The formal Notice also advised the Appellant that he could request Administrative Review with the Floodplain Administrator within five (5) days. On December 21, 2021, the Appellant requested an Administrative Review hearing.

On January 11, 2022, the Department conducted an Administrative Review hearing. During the hearing, three (3) issues were discussed. Namely, Appellant argued: (1) the prior excavation of the bank was done before county floodplain regulations; (2) the Planning Department should have told the Appellant a Floodplain Permit was needed before March 8, 2021; and (3) the project was exempt from permitting under CCFR §§ 4.2(6) and 4.2(7). During the hearing, the Appellant confirmed the work had been finished. A site visit was conducted on January 14, 2022 with the Appellant as part of the Administrative Review process. The site visit confirmed that eleven (11) stone slabs were installed along the bank leading down to the river. The Floodplain Administrator issued the formal Administrative Review Decision dated January 25, 2022, concluding that (1) the previous excavation of the bank occurred in 1974 and did not require a Floodplain Permit, and (2) the installation of the stone slabs in the designated Floodway requires a Floodplain Permit. On February 2, 2022, the Appellant submitted the Appeal.

**ISSUES ON APPEAL**

**ISSUE 1: Make A New Category of Open Space**

The Appellant argues that while the feature may be referred to as an “Artificial Obstruction,” it should be considered its own category, namely “steps” that would be considered “open spaces” as defined under the CCFR.

Creating a new category under the CCFR is not the basis of this discussion on whether a Floodplain Permit is required under the current regulations. The current CCFR is clear that “[a] permit is required within the Regulated Flood Hazard Area for a person to establish or alter an artificial obstruction, nonconforming use or development.”

An “artificial obstruction” is defined as “...any obstruction which is not natural and includes any dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection\(^2\), revetment,

excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, *fill* or other analogous structure or matter in, along, across, or projecting into any 100-year Floodplain which may impede, retard or alter the pattern of flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of water would carry the same downstream to the damage or detriment of either life or property.” See CCFR § 2, (emphasis added); also see MCA § 76-5-103(1). Inversely, a “natural obstruction” is defined under state law to mean “any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the flood plain or floodway by a nonhuman cause.” MCA § 76-5-104(12). Also relevant is the definition of “development” which “means *any man-made change to improved* or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. See also Artificial Obstruction.” See CCFR 2, (emphasis added).

The Appellant transported the stone slabs from a different county and placed them on the subject property in the RFHA. Therefore, the stone slabs meet the definition of “artificial obstruction” and “development” as defined under the CCFR.

Section 4.1⁴ of the CCFR exempts certain open space uses from floodplain permitting requirements that do not include structures, fill, grading, excavation or storage of materials or equipment. If “steps” were considered open space, then concrete patios, decks, boat ramps, boat docks, etc. would arguably also fall into this “category” even though Section 8.11 specifically applies to these as “Structures Accessory or Appurtenant.” This “category” already exists under the regulations and there is no need to create a separate category for “steps” in order for the Appellant to circumvent permitting requirements. The CCFR also makes clear that if an “[a]rtificial obstruction, nonconforming uses and uses not specifically listed in Section 8 and 9 require a permit except as allowed without a permit in Section 4 or as prohibited as specified in Section 5.”

In situations where an artificial obstruction, nonconforming uses or uses are not specifically listed, and not exempted, a Floodplain Permit is still required and the “General Requirements” of Section 8.2 and/or 9.2 apply to the project. There is already a category for the project making the general requirements of Section 8.2 and the specific requirements of Section 8.11 applicable to the project. There is no need to create any new categories. Even if a new category was

---

³ CCFR 2 “Definitions”: *Fill* means material, from any source (including the subject property), placed that raises the ground above natural grade.

⁴ CCFR 4.1: In addition to existing nonconforming uses and artificial obstructions established before the effective date of the CCFR, the following open space uses shall be allowed without a permit in the Regulated Flood Hazard Area, provided that such uses are not prohibited by any other resolution or statute, do not require structures, and do not require alteration of the Floodplain such as fill, grading, excavation or storage of materials or equipment: ARM 36.15.601 and ARM 36.15.701(1).
created, it must be done through a regulatory revision process. The Appellant’s project is completed and is required to meet the requirements of the current CCFR.

**ISSUE 2: Section 4.1 Exemption**

The Appellant argues the project is exempted from requiring a Floodplain Permit by CCFR § 4.1 as it is an “artificial obstruction” established prior to March 12, 2013. It was confirmed at the site visit that the existing stones remain, and the site visit photographs show at least one of the existing stones under the newly placed stone slabs. Meanwhile, the eleven (11) additional stone slabs averaging about 4 feet by 6 feet by 1 foot, were added by placing them in the RFHA and embedding them in the bank down to the river. This was not a like-for-like replacement, but an addition to the RFHA.

Appellant further references CCFR § 6.1(5) to show that a Floodplain Permit is not required because the CCFR does not affect any existing artificial obstruction or nonconforming use in the RFHA in place prior to March 12, 2013. As stated above, the eleven (11) stone slabs were added to the RFHA well after the CCFR went into effect, sometime between October of 2020 and March of 2021. Thus, the eleven (11) stone slabs are not existing artificial obstructions, so the CCFR 6.1(5) exemption does not apply.

**ISSUE 3: Section 4.2(6) Exemption**

The Appellant argues the project is exempted by CCFR § 4.2 as allowed for “maintenance” of artificial obstructions. The Appellant states the term “maintenance” is not defined under the CCFR.

CCFR § 4.2(6) provides that “[m]aintenance of existing open space uses or artificial obstructions; (MCA 76-5-404(3)(b))” does not require a Floodplain Permit. This provision further provides that “(1) Preventative maintenance activities such as bridge deck rehabilitation and roadway pavement preservation activities are considered maintenance” are included a maintenance. While “maintenance” is not in the definition section of the CCFR, “alteration” is defined. An “[a]lteration means any change or addition to a structure that either increases its external dimensions or increases its potential flood hazard.” Additionally, CCFR § 6.1(6) states:

> An alteration that is any change or addition to an artificial obstruction or nonconforming use not exempt under Section 4 that increases the size or increases its potential flood hazard, requires a permit.

Further, CCFR § 6.1(7) states that “maintenance of an artificial obstruction or nonconforming use is not an alteration.” An alteration requires a Floodplain Permit as explicitly stated in CCFR § 6.1(6). Maintenance of existing stone steps could include applying or reapplying a non-slip coating to the surface, not adding more stone slabs to the RFHA.

5
State statute reiterates the same requirements and provides that "a person may not make nor may an owner allow alterations of an artificial obstruction or nonconforming use within a designated flood plain or a designated floodway whether the obstruction proposed for alteration was located in the flood plain or floodway before or after July 1, 1971, except upon express written approval of the department\(^5\) or the responsible political subdivision. Maintenance of an obstruction is not an alteration." MCA 76-5-404(3)(b).

The addition of the eleven (11) additional slabs to the RFHA is an alteration to the existing artificial obstruction, not maintenance. Allowing the additional stone slabs without a Floodplain Permit violates both the CCFR and state law.

**ISSUE 4: Steps Not a Structure or Fill or Riprap**

The Appellant argues the "steps" are not a "structure" or "fill" or "riprap" as defined under the CCFR.

CCFR § 2 (emphasis added) provides:

- **Structure** means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. A structure is also, bridge, culvert, dam, diversion, wall, revetment, dike, or other projection that may impede, retard, or alter the pattern of flow of water.

- **Fill** means material, from any source (including the subject property), placed that raises the ground above natural grade.

- **Riprap** means a structure consisting of stones or rocks (not concrete) that is placed along the banks or bed of a stream to alleviate erosion.

The stone slabs are projection that may impede, retard, or alter the pattern of flow of water in the RFHA meeting the definition of structure, and are considered fill since they are material placed in the RFHA that raises the ground above it natural grade. The stone slabs are not being used as riprap, despite the fact they meet the definition of a structure consisting of stones or rocks, since the purpose was not to alleviate erosion along the bank. Although, they may inadvertently serve such a purpose.

**PLANNING DEPARTMENT RECOMMENDATIONS**

The Planning Department recommends the Commission uphold the Floodplain Administrator’s Administrative Review Decision dated January 25, 2022, by concluding that the Appellant must obtain a Floodplain Permit within thirty (30) days of the installation of the stone slabs placed in

\(^5\) "Department" refers to the Montana Department of Natural Resources and Conservation. See MCA §76-5-103(3).
the Regulated Flood Hazard Area on the subject property in accordance with the requirements of CCFR § 6.1.

MOTIONS FOR CONSIDERATION

I move the Board of County Commissions reverse the Floodplain Administrator’s Administrative Review Decision and find that work completed on Parcel #3647800 in the Regulated Flood Hazard Area is exempt from the Cascade County Floodplain Regulations floodplain permitting requirements. (The specific findings supporting the reversal will need to be determined by the BOCC and put on the record).

OR

I move the Board of County Commissioners affirm the Floodplain Administrator’s Administrative Review Decision and adopt this Staff Report in its entirety with Findings of Fact and recommendations, after consideration of all of the public comment and testimony, the record before the Commissioners and any new information presented regarding the Appeal, and require a Floodplain Permit for the installation of the eleven (11) stone slabs placed on Parcel #3647800 in the Regulated Flood Hazard Area of the Missouri River.

Record:

1. Published Notice
2. Appeal
3. Administrative Review Decision
4. Site Visit Pictures
5. Request for Administrative Review
6. Notice to Respond & Order to Take Corrective Action
7. Email Correspondence
8. March 24, 2021 Letter
9. March 8, 2021 Letter
10. Copy of the Joint Application submitted for the 310 Permit
11. Copy of the 310 Permit
12. FIRMette
13. Vicinity Map
I, being first duly sworn deposes and says that GREAT FALLS TRIBUNE COMPANY is a corporation duly incorporated under the laws of the State of Delaware, that the said GREAT FALLS TRIBUNE COMPANY is the printer and publisher of the GREAT FALLS TRIBUNE, a daily newspaper of general circulation of the County of Cascade, State of Montana, and that the deponent is the principal clerk of said GREAT FALLS TRIBUNE COMPANY, printer of the GREAT FALLS TRIBUNE, and that the advertisement here to annexed...

NOTICE OF PUBLIC HEARING  NOTICE IS HEREBY GIVEN that the Board of Cascade County Commissioners will hold a public hearing

Has been correctly published 2 times in the regular and entire issue of said paper on the following issues dated:

02/13/2022, 02/20/2022

LEGAL CLERK

DATE

known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

In witness whereof, I have hereunto set my hand and affixed my Notarial Seal of the day and year first above written.

Kathleen Allen

State of Wisconsin/County of Brown Notary Public

Notary Expires

# of Affidavits: 1

This is not an invoice

Kathleen Allen
Notary Public
State of Wisconsin

AFFIDAVIT OF PUBLICATION
THE GREAT FALLS TRIBUNE
205 RIVER DR S
GREAT FALLS, MT 59405
Phone: (406) 791-1444
Toll Free (800) 438-6600

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Cascade County Commissioners will hold a public hearing on Thursday, March 10, 2022, at 9:30 AM in Room 105 of the Courthouse Annex located at 335 2nd Avenue North, Great Falls, MT 59401, and via Zoom (an online platform). The Board will meet to hear an appeal from Steve Gillespie of the Cascade County Floodplain Administrator's Floodplain Administrative Decision dated January 25, 2022, regarding unpermitted floodplain work conducted on the subject property addressed as 2818 Old US Highway 91, Cascade, Montana having Parcel #06478000, in Section 10, Township 16 North, Range 02 West, P.M.M., Cascade County, MT located in Zone AE of the Regulated Flood Hazard Area shown on Flood Insurance Rate Map Panel 3001C115150 (effective March 19, 2013).

Adjacent landowners and other interested parties have fifteen (15) days from the receipt, or the first publishing of this notice, to submit comments concerning this proposal to the office of the Cascade County Floodplain Administrator located at 121 4th St N, Suite 2 H1, Great Falls, Montana, or by email at planningcomments@cascadecounty.mt.gov. Additional information can be obtained at the Cascade County Planning Department or by calling (406) 454-6905. Information for connecting via Zoom can be found on the calendar at www.cascadecounty.mt.gov. Individuals needing special accommodation to participate should contact the Planning Department at (406) 454-6905 prior to the meeting to allow adequate time for special arrangements.

BOARD OF COUNTY COMMISSIONERS
CASCADE COUNTY, MONTANA

/s/ Joe Briggs, Chair
/s/ Jim Larson, Commissioner
/s/ Don Ryan, Commissioner

ATTEND:
/s/ Clerk & Recorder

(5126830) 02/13, 02/20/2022
MNA XLP
TO: Charity Yonker  
Cascade County Planner & Floodplain Administrator.

February 3, 2022

Ms. Yonker,

I am in receipt of your administrative response dated January 25, 2022. Thank you for your site visit on January 14, 2022, I think it was helpful.

I have reviewed the Cascade County Floodplain Regulations (CCFR).

This feature may possibly be referred to as an “Artificial Obstruction” but it can also be argued that it falls into its own category, “steps”, which I guess would be “open space” as per CCFR.

The “Steps” do not meet the definition of “Structure” or “Fill” or even “Riprap”.

Nonetheless, you establish in your letter that the original excavation, pathway, “steps”, or whatever one may desire to call the original property feature was performed possibly as early as 1974.

CCFR 4.1 ALLOWS USES OF ARTIFICIAL OBSTRUCTION ESTABLISHED PRIOR TO MARCH 12, 2013.

CCFR 4.2 Further allows for “maintenance” of artificial obstructions.

CCFR does not define “Maintenance”.


In short, this issue revolves around “maintenance” of existing open space private fishing access, or possibly an artificial obstruction established prior to March, 2013, which (either way) is allowed per the CCFR. These “steps” are not a “Structure” or “Fill” as you attempt to define in your letter.

So therefore, I am hereby appealing your findings from the administrative review. I guess we shall proceed to a formal hearing (possibly on site) with the Cascade Board of County Commissioners, (BCC). Please let me know when a date is set.

I will provide additional materials and a more lengthy argument at the hearing.

Thank you sincerely,
Steve Gillespie.

[Signature]

[Date: 8/3/22]
January 25, 2022

Steve Gillespie
9 12th St. N.
Great Falls, MT 59401

RE: Installation of steps on Missouri River—SW ¼, SW ¼, S10, T16N, R02W, P.M.M., Cascade County, MT – 2818 Old US Highway 91, Cascade, MT

Dear Mr. Gillespie:

Thank you for allowing us to conduct the site visit on January 14, 2022, to the subject property. During the site visit it was confirmed that installation of the stone slab stairs down to the river was completed. This project is located in the designated floodway area of FEMA Zone AE based on FIRM Panel #30013C1115E (effective March 19, 2013).

This site visit was part of the Administrative Review process that started on January 11, 2022, and this letter serves as the formal Administrative Review Decision, which is appealable to the Board of County Commissioners within 10 working days of receiving in accordance with Cascade County Floodplain Regulations (CCFR) Section 12.

ISSUE 1:

Firstly, during the Administrative Review meeting on January 11, 2022, it was determined that the previous excavation work done on the property was conducted on or around 1974, prior to county floodplain permitting regulations. Therefore, the previous excavation to the bank is not subject to the requirements of the Cascade County Floodplain Regulations.

ISSUE 2:

Secondly, during the Administrative Review meeting on January 11, 2022, you contended it was the Planning Department’s responsibility to tell you a Cascade County Floodplain Permit was needed before you received the March 8, 2021, letter telling you to contact the Department about your project. You were informed that the Cascade County Floodplain Permit could not be issued until all other permits or permit waivers were obtained from the other permitting agencies as instructed in the Joint Application Instructions. The Joint Application is intended to make it easier for applicants to apply to various permitting agencies utilizing the same form. However, the instructions for the application make it clear that there are several permitting authorities, provides their respective contact information, and fee ranges and states that after completing the form, the applicant must send the required copies, with original signature when required, to each applicable agency. The instructions further state that: “Each agency issues separate permits. You must obtain individual authorization or permits from each agency to which

1 Joint Application for Proposed Work in Montana’s Streams, Wetlands, Floodplains, and Other Water Bodies.
you apply before conducting your work.” At no time, did you contact the Planning Department to
determine if you needed a floodplain permit for your project or submit the Joint Application to the
Planning Department along with a processing fee. You stated that the Cascade Conservation District took
care of everything once you provided them with a Joint Permit Application. However, 310 Permit CA-
18-20 expressly states: “The 310 Permit does not preclude or supersede additional permits which may be
required. These are the sole responsibility of the applicant.” It remains the applicant’s responsibility to
apply for and submit the necessary information to the Planning Department, and other permitting agencies
to ensure all permits and/or permit waivers have been obtained before any work commences. The time
between the Planning Department’s letter to you in March, 2021, and from the issuance of a 310 Permit
at the end of October, 2020, in no way is a waiver of the Cascade County Floodplain Regulation permitting
requirements for the project. Since the Cascade County Floodplain Permit is the last permit to issue for
any project, we had no indication that the applicant decided to move forward with the proposed project.

ISSUE 3:

Thirdly, it is determined that a local floodplain permit was not obtained to install the stone stairs. It was
confirmed through your own admissions that the project was already completed.

SECTION 6.1

Section 6.1, “General,” reads:

1. A permit is required within the Regulated Flood Hazard Area for a person to establish or alter an
   artificial obstruction, nonconforming use or development. (ARM 36.15.101(3) & MCA 76-5-
   103(1), 44 CFR 60.1 & MCA 76-5-404(2), ARM 36.15.204, ARM 36.15.101(2))

2. Artificial obstructions, nonconforming uses and uses not specifically listed in Sections 8 and 9
   requires a permit except as allowed without a permit in Section 4 or as prohibited as specified in
   Section 5.

3. A permit is required to reconstruct or repair an existing structure that has experienced substantial
damage or substantial improvement.

4. Artificial obstruction and nonconforming uses in a Regulated Flood Hazard Area not exempt
   under Section 4 are to be considered a public nuisance unless a permit has been obtained. (76-5-
   404(1) MCA)

5. The CCFR do not affect any existing artificial obstruction or nonconforming use in the Regulated
   Flood Hazard Area in place prior to the adopt of the CCFR, (76-5-404(3) MCA)

6. An alteration that is any change or addition to an artificial obstruction or nonconforming use not
   exempt under Section 4 that increases the size or increases its potential flood hazard, requires a
   permit. (76-5-404(3)(b)) (36.15.101(2))

7. Maintenance of an artificial obstruction or nonconforming use is not an alteration. (76-5-
   404(3)(b) MCA)
SECTION 4.1

You contended during the Administrative Review that the project is exempt under Section 4.2(6) and (7). Section 4.1 provides in general:

In addition to existing nonconforming uses and artificial obstructions established before the effective date of the CCFR, the following open space uses shall be allowed without a permit in the Regulated Flood Hazard Area, provided that such uses are not prohibited by any other resolution or statute, do not require structures, and do not require alteration of the Floodplain such as fill, grading, excavation or storage of materials or equipment: (ARM 36.15.601) and (ARM 36.15.701(1)).

The eleven (11) stone slabs are considered “structure” and also “fill.” A “structure” means “a walled and roofed building, including a gas or liquid storage tank that is principally above grounds, as well as a manufactured home. A structure is also, bridge, culvert, dam, diversion, wall, revetment, dike, or other projection that may impede, retard, or alter the pattern of flow of water.” “Fill” is defined under the CCFR as: “…material, from any source (including the subject property), placed that raises the ground above natural grade.” Since the stone slabs meet the definition of “structure” and also “fill,” the exemptions in CCFR Section 4.2 do not apply.

More specifically, the exemptions you argued applied included the following:

4.2 “Allowed Uses”

6. Maintenance of existing open space uses or artificial obstructions: (MCA 76-5-404(3)(b))

1. Preventative maintenance activities such as bridge deck rehabilitation and roadway pavement preservation activities are considered maintenance.

7. Public or private recreational uses not requiring structures such as picnic grounds, swimming areas, parks, golf courses, driving ranges, archery ranges, wildlife management and natural areas, alternative livestock ranches (game farms), fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails; (ARM 36.15.601(a)(c))

For Section 4.2(6), it was discussed and confirmed that while there were some existing stone steps down to the river, the existing stone steps were left embedded into the bank and the new stone slabs added to the subject property. The project was not maintenance of existing stone slabs, but an alteration as defined under CCFR Section 6.1(6). For Section 4.2(7), this exemption only pertains to uses not requiring structures. As stated above, the stone slabs meet the definition of structure under the CCFR since they are projections that may impeded, retard, or alter the pattern of flow water in the designated floodway. Therefore, the project is not exempt from obtaining a Floodplain Permit and since a Floodplain Permit has not been obtained, it remains a public nuisance under CCFR Section 6.1(4).
CONCLUSION & ORDER

After completing the Administrative Review, the Floodplain Administrator finds (1) the previous bank excavation completed in 1974, does not require a Floodplain Permit, and (2) the installation of the stone slab in the designated Floodway requires a Cascade County Floodplain Permit. Thirty (30) days from the date of receipt of this letter is provided to submit a complete and updated Floodplain Permit Application to the Planning Department that will remedy the floodplain violation on the subject property. Failure to comply with this order to take corrective action may result in seeking administrative or legal remedies.

The stone slab stairs will be subject at a minimum to the requirements of CCFR Sections 8.2 and 8.11. When submitting your Floodplain Permit Application, you can provide a narrative response to each of the requirements contained in these sections. If they do not apply, you can explain why. Given the Missouri River’s current runs parallel to your property on the opposite side and at the edge of your property the riverbed remains shallow of the river at the bank of your property, this project will not be considered substantial and therefore will not need an encroachment analysis completed by an engineer.

Charity N. Yonker, CEM
Planning Director
Floodplain Administrator
December 21, 2021

To: Cascade County Planning Department
    Gary M. Poore Cascade County Compliance Officer
    gmpoore@cascadecountymt.gov

    Dear Mr. Poore,

    I am in receipt of your correspondence dated December 13, 2021.

    I hereby request the option: “Administrative review”.

    I would like to know: What part do I play in this administrative review? What is the process and who attends the administrative review? If I do not agree with the outcome is there an appeal process?

    Lastly, as much as it may be mutually beneficial to resolve this matter, I do not appreciate the threats of excessive monetary fines and incarceration contained in your letter.

    Sincerely,

    Steve Gillespie

    cc. Charity N. Yonker Planning Director/Floodplain Administrator
cnyonker@cascadecountymt.gov
13 December 2021

William M. Gillespie
Steve J. Gillespie, et al.
PO Box 653
Great Falls, MT 59403

Sent via: Certified Mail

RE: NOTICE TO RESPOND AND ORDER TO TAKE CORRECTIVE ACTION FOR VIOLATION OF CASCADE COUNTY FLOODPLAIN REGULATIONS (CCFR) § 6.1.

Dear Mr. William M. Gillespie, and Mr. Steve Gillespie, et al:

The above individuals of record own property addressed as 2818 Old US Highway 91, Cascade, Montana having Parcel #3647800 legally described as: A tract of land in Government Lot 10, Section 10, Township 16 North, Range 2 West, P.M.MT., Cascade County, Montana (herein referred to as “Subject Property”).

The Planning Department was made aware through the Conservation District that a 310 Permit Application with hand-drawn Design Plans, had been approved on or about 13 October 2020, No. CA-18-20, to install stone steps extending up the bank of the Missouri River 20 to 30 feet along approximately 15 to 25 linear feet of the bank in Zone AE of FEMA’s designated Floodway and Fringe of the Regulated Flood Hazard Area (RFHA) of the Missouri River based on FIRM Panel #30013C1115E effective March 19, 2013.

The Cascade County Floodplain Regulations (“CCFR”) considered such work on the subject property development, including the placing of artificial obstructions, which requires an approved Floodplain Permit Application pursuant CCFR Section 6.1, and not exempted otherwise exempted by CCFR Section 4, that reads:

A permit is required within the Regulated Flood Hazard Area for a person to establish or alter an artificial obstruction, nonconforming use or development.

The Planning Department has sent correspondence to Mr. Steve Gillespie discussing the requirement for an approved Floodplain Permit. The Planning Department also set up a site visit in November 2021, which Mr. Steve Gillespie refused. Shortly after this, Mr. Steve Gillespie contacted Commissioner Ryan and confirmed
the work on the property had been completed and expressed that he did not understand why he had to get a Floodplain Permit when the work was finished. Additionally, email correspondence with Mr. Steve Gillespie on April 1, 2021, indicated previous excavation of the bank along the Missouri River was conducted prior to his ownership, for which there is no corresponding Floodplain Permit for the property on file.

No Floodplain Permit for any work in the RFHA on the subject property has been approved by the Planning Department to-date.

**YOU ARE HEREBY ORDERED TO TAKE CORRECTIVE ACTION WITHIN THIRTY (30) DAYS BY SUBMITTING A COMPLETE AND UPDATED FLOODPLAIN PERMIT APPLICATION FOR ALL UNPERMITTED WORK ON THE SUBJECT PROPERTY LOCATED IN THE REGULATED FLOOD HAZARD AREA, OR REQUEST AN ADMINISTRATIVE REVIEW WITHIN FIVE (5) WORKING DAYS.**

This violation will not be deemed resolved until an approved Floodplain Permit has been issued by the Planning Department for all unpermitted work on the subject property.

This order is final, unless within five (5) working days or any granted extension, after the order is received, the owner submits a written request for an administrative review before the Floodplain Administrator. A request for an administrative review does not stay the order.

If you believe this letter has come to you in error, please provide any additional photographs or documents that will support your position for the Planning Department to review and consider. Please submit the attached Floodplain Permit Application for all unpermitted work done in the RFHA on the subject property. There is a $250, nonrefundable application fee. The Application will be reviewed at a minimum for compliance with the "General Requirements" of CCFR § 8.2.

Failure to take this action may result in this the Planning Department pursuing remedies including administrative and legal action, or penalties through the court. In the event this violation is not properly remedied, there is a possible penalty outlined in CCFR § 13 that provides: Any person who violates the CCFR or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100 or imprisonment for not more than ten (10) days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense. (MCA 76-5-110)
We appreciate your diligence in resolving this matter.

Sincerely,

[Signature]
Gary M. Poore, Code Compliance Officer
Cascade County Planning Department
406-454-6905
gmpoore@cascadecountymt.gov

Enclosures: Joint Application For Proposed Work in Montana’s Streams, Wetlands, Floodplains, and Other Water Bodies Information For Applicant (Floodplain Permit Application)

Cc: Conservation District and Deputy County Attorney, Carey Ann Haight
Hi Steve,

We have a copy of the 310 Permit. We do not have the Joint Floodplain Permit Application from you or the $250.00 processing fee. Please provide your application and fee to the Department (address below) and we will begin processing your application. INFORMATION FOR APPLICANT (cascadecountymt.gov) Please read the instruction carefully to ensure the information we need is provided with your application, otherwise processing may be delayed.

We do not have a database for reference. If you believe there are properties under our jurisdiction which are not getting the required permits, you may submit the Citizen Complaint that will trigger an investigation into the matter. The form can be found on our website: Form Center • Cascade County, MT • CivicEngage (cascadecountymt.gov)

Thank you,

Charity N. Yonker
Planning Director
Cascade County Planning Department
121 4th Street North, Suite 2H/1
Great Falls, MT 59401
Phone: (406) 454-6905, Ext. #6336
Fax: (406) 454-6919

Disclosure: This email is public information subject to public records disclosure laws which has been created or received on an electronic mail system in the course of county business and includes any electronic record attachment(s), unless otherwise protected from disclosure under the laws of the State.

Ms. Yonkers,

The link you provided takes me back to the same "Joint Application" I have already filled out and submitted to you "for the permit". I have no idea what more you want from me. If you want to issue the permit, fine. If not, I guess you can let me know you refuse to issue the permit.
Also, I see much work being done in other areas of the floodplain in and along the Missouri River. I would like to know if there is a way to review these other projects to get a feel of their particular requirements, allowances, conditions, and the associated "permitting"; is this information posted on a county database for reference, or otherwise available to review?

Thank you,
Steve Gillespie
761-0001

On Fri, May 21, 2021 at 1:27 PM Yonker, Charity N. <cnyonker@cascadecountymt.gov> wrote:

Mr. Gillespie,

Please submit your Floodplain Permit Application as we have requested multiples times. The other agency responses should be included with your Floodplain Permit Application as we are the last permitting entity of the bunch and cannot approve a Floodplain Permit until all other permits/approvals are obtained. It is your responsibility to submit the necessary permits to the numerous entities as outlined in the information section of the Joint Application stating what is required of the Applicant. The timeline provided in my previous email will continue to stand and I will await your Floodplain Permit Application and fee to the Cascade County Planning Department. Your Floodplain Application will need to have an updated Site/Design Plan to accurately reflect the scope of work of the project.

Charity N. Yonker
Planning Director
Cascade County Planning Department
121 4th Street North, Suite 2H/I
Great Falls, MT 59401
Phone: (406) 454-6905, Ext. #6336
Fax: (406) 454-6919
From: Steve Gillespie <stevejgillespie@gmail.com>
Sent: Friday, May 21, 2021 1:14 PM
To: Yonker, Charity N. <cnyonker@casadecountymt.gov>
Cc: Nurre, Kevin E. <kenurre@casadecountymt.gov>; Ehnes, Anna L. <aweber@casadecountymt.gov>
Subject: Re: Floodplain Permit Application Needed

Charity, (etal.).

The “Joint application” for this project was submitted in early October 2020. The other agencies including Cascade Conservation District, FWP, Army Corps of Engineers all responded in a timely fashion, (before 2021): Your agency did not.

I feel it is your delayed response to my application which is where the problem rests. This type of project involves many logistics not limited to investments of money and time. Work of this nature needs to be completed at the lowest water levels to ensure the safest working conditions, and time is always of the essence.

In other words, the baby is in the room - and now you want to see a pregnancy test. Why don’t we just address the issue currently at hand.

Cascade County Floodplain Regulations has a section which intends for some projects to be done without a permit. My project amounts to providing a small (“private”) and safe fishing access point for people. This use, along with maintenance of existing this open space, is referenced in the section as not requiring a permit. So, in good faith - when I send an application and there is no response, then what am I to assume?
This section also references that a wire fence would be allowed to be placed without permit. However, a wire fence will catch debris which can divert water, slow water adding to flood levels, or break! A broken barbed wire fence trailing out in high waters is a long-reach weapon which can entangle and injure animals or humans. A wire fence is the most dangerous apparatus to have in a flood or even high water. It acts as a "strainer" where a person or animal can become pinned, and drown against the fence.

While my “treds”, (heavy slab rocks), will not dislodge or move downstream into the floodway. They will allow the natural passage of water with no adverse effect on downstream assets. They will not entangle, injure, or drown a person or animal. To the contrary, these steps will act as a safety feature. They can provide a stable platform and an access point to be used for rescue during a high water or flood event. The treds will not divert, slow, or alter the natural flow of water. They will not reduce the carrying capacity of the floodway and will not add to flood levels in any measurable or discernable way.

As of the date of receipt of your certified letter (March 9, 2021), the project has been halted, and I am happy to meet with you either on site or elsewhere to discuss the issue further. I see no need for additional threats of legal action, fines, penalties, or the like.

For your convenience I have included (1) attachment showing the responses to my application from the other Agencies indicating the dates of their replies and approvals.

Thank you and I look forward to working this out with you.

Steve Gillespie.

On Tue, May 18, 2021 at 8:30 AM Yonker, Charity N. <cnyonker@cascadecountymt.gov> wrote:

Hi Steve,

The communication has been clear: you need to obtain a floodplain permit for work you have already performed in the Regulated Flood Hazard Area. Failure to obtain a Floodplain Permit will trigger formal enforcement against you as it is a violation of the Cascade County Floodplain Regulations. Once we receive your permit application, a Planner will be assigned and they will perform a site visit. You can also send photographs of the area and the work to us.

If no Floodplain Permit Application is received in the next 30 days, the Department intends on issuing a formal violation letter for the property. Here is the link to the form:

You can pay the fee in person or through the mail by check or cash.

This issue needs to be addressed by you and you have been given enough time to get a Floodplain Permit Application into our office.

Kind regards,

Charity N. Yonker

Planning Director

Cascade County Planning Department

121 4th Street North, Suite 2H/I

Great Falls, MT 59401

Phone: (406) 454-6905, Ext. #6336

Fax: (406) 454-6919

Disclosure: This email is public information subject to public records disclosure laws which has been created or received on an electronic mail system in the course of county business and includes any electronic record attachment(s), unless otherwise protected from disclosure under the laws of the State.

From: Steve Gillespie <stevegillespie@gmail.com>
Sent: Tuesday, May 4, 2021 10:32 AM
To: Yonker, Charity N. <cnyonker@cascadecountymt.gov>
Subject: Re: Floodplain Permit Application Needed

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
Hello Ms. Yonkers,

Thank you for your email, although I am not entirely clear on it. Nonetheless, I do have a question I hope you will answer, which is: As of today, have you or any of your staff conducted an in-person site visitation to observe the physical conditions to help determine a solution? And if so, when? If not, perhaps such a meeting on site to discuss the project will be helpful. I can be available anytime and look forward to hosting a visit.

Thank you very much.

Steve Gillespie

(406)761-0001

On Mon, Apr 26, 2021 at 5:17 PM Yonker, Charity N. <cnyonker@casadecountymt.gov> wrote:

Hi Mr. Gillespie,

The stone slabs brought in and added to the regulated floodplain constitute new artificial obstructions in the regulated flood hazard area. Therefore, CCFR 4.2(6) will not apply as this is not maintenance of an existing artificial obstruction. CCFR 4.2(7) does not apply because the development that has been conducted involves establishing artificial obstructions/structures. Further from your below email it sounds as if bank stabilization may have been conducted on the property. Bank stabilization and bank protection measures require a floodplain permit. In the future, please conduct the Planning Department before any work is started in the regulated flood hazard area to determine if a Floodplain Permit will be needed to prevent any violation of the floodplain regulations.

We look forward to receiving and reviewing your Floodplain Permit Application.

Thank you,
Thanks Anna,

I wanted to discuss with you the high likelihood that this work falls under Section 4.1 - "Allowed uses - without permit".

The lot was excavated years ago, prior to my ownership; including the river bank being cut back to create a path to the river - which has degraded over time to unsafe conditions. So I feel this work falls into the 4.2-6 maintenance category for existing open-space or Artificial obstructions; and also under the 4.2-7 private recreational uses for fishing areas.

An actual site visit may be the best way to determine that these are in fact the circumstances in this case.

Please let me know your availability.

Thank you,

Steve Gillespie

On Thu, Apr 1, 2021 at 11:30 AM Ehnes, Anna L. <aweber@cascadecountymt.gov> wrote:

Good Morning,

I received your voicemail from yesterday afternoon, this week is packed with meetings. If you have any questions about the letter feel free to email me as that will be the easiest point of contact for today and tomorrow.

Your voicemail mentioned the next step for your permit, and that would be finding an engineer and submitting the Floodplain Permit Application to our office. The link to the Floodplain Permit is below.

Link to Floodplain Permit Application:

Link to the Cascade County list of Surveyors/Engineers that we know about in the area, your project will need an engineer:


Thank you,

Anna Ehnes
Cascade County Planner, CFM
121 4th St N, Suite 2 H/l
Great Falls, MT 59401
Phone: 406-454-6905

Disclosure: This email is public information subject to public records disclosure laws which has been created or received on an electronic mail system in the course of county business and includes any electronic record attachment(s), unless otherwise protected from disclosure under the laws of the State.
March 24, 2021

Steve Gillespie
9 12th St. N.
Great Falls, MT 59401

RE: Installation of steps on Missouri River—SW ¼, SW ¼, S10, T16N, R02W, P.M.M., Cascade County, MT – 2818 Old US Highway 91, Cascade, MT

Dear Mr. Gillespie:

After reviewing your 310 permit it is clear that your proposed project lies within the AE zone of the Special Flood Hazard Area ("SFHA") of the Missouri River (Floodway). The proposed project consists of:

1. The installation of stone steps to the Missouri River
   o Native stone treads will be placed by hand to make steps to the river.
   o Steps will extend up the bank 20-30 feet and will be angled going with the flow of the river. 15-25 linear feet of bank will be affected.
   o A crane may be used to unload flat stone rock approximately 4’x 6’ in size but all bank work will be done by hand.
   o Treads will be dug into the face of the bank to create steps.
   o No fill will be placed.

The applicable Cascade County Floodplain Regulations ("CCFR") are available on the website cascadecountymt.gov or at the URL: https://www.cascadecountymt.gov/DocumentCenter/View/539/Floodplain-Regulations-PDF?bidId=

Per the information known about the proposed project, the pertinent CCFR Sections for this proposed project include:

• Section 5.1 (2)
• Section 8.2 GENERAL REQUIREMENTS
• Section 8.11 STRUCTURES ACCESSORY OR APPURTENANT

These Sections will set forth the requirement for your Application and provide the information and documentation that you will need to submit to the Planning Department in order meet sufficiency. Notably, this is not an inclusive list of requirements, and meeting these select requirements does not guarantee your Application will be deemed sufficient due to a Floodplain Permit not being submitted yet. Rather, this list is provided to aid you as you begin this process to work toward sufficiency.

We strongly encourage you to review the Cascade County Floodplain Regulations. If you have any questions or need clarification, please do not hesitate to contact us.
Sincerely,

Anna Ehnes
Planner, CFM
Cascade County Planner, CFM
121 4th St N, Suite 2 H/1
Great Falls, MT 59401
Phone: 406-454-6905
Email: aehnes@cascadecountymt.gov
March 8, 2021

Steve Gillespie
9 12th St. N.
Great Falls, MT 59401

RE: Installation of steps on Missouri River—SW ¼, SW ¾, S10, T16N, R02W, P.M.M., Cascade
County, MT – 2818 Old US Highway 91, Cascade, MT

Dear Mr. Gillespie:

We are aware that the Cascade County Conservation District has issued a 310 Permit (CA-18-20) for the
installation of stone stairs, an artificial obstruction in Zone AE of the Regulated Flood Hazard Area. The
310 Permit makes clear that it is the Applicant’s responsibility to ensure all other necessary permits are
obtained. The Cascade County Floodplain Regulations provided that a permit is required within the
Regulated Flood Hazard Area for a person to establish or alter an artificial obstruction, nonconforming uses
or development. Artificial obstructions in a Regulated Flood Hazard Area, not exempted by the
Regulations, are considered a public nuisance unless a permit has been obtained.

An “artificial obstruction” means any obstruction which is not natural and includes any dam, diversion,
wall, riprap, embankment, levee, dike, pike, abutment, projection, revetment, excavation, channel
rectification, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or
matter in, along, across, or projecting into any 100-year floodplain which may impede, retard or alter the
pattern of flow of water, either in itself or by catching or collecting debris carried by the water, or that is
placed where the natural flow of water would carry the same downstream to the damage or detriment of
either life or property.

Please contact the Planning Department to discuss the proposed project to determine if a Cascade County
Floodplain Permit is needed. Below is the link to the Cascade County Floodplain Regulations:

https://www.cascadecountymt.gov/DocumentCenter/View/539/Floodplain-Regulations-PDF?bidId=

Kind regards,

Charity N. Yonker
Planning Director/Floodplain Administrator
cnyonker@cascadecountymt.gov
JOINT APPLICATION FOR PROPOSED WORK IN MONTANA'S STREAMS, WETLANDS, FLOODPLAINS, AND OTHER WATER BODIES

Use this form to apply for one or all local, state, or federal permits listed below. The applicant is the responsible party for the project and the point of contact unless otherwise designated. “Information for Applicant” includes agency contacts and instructions for completing this application. To avoid delays, submit all required information, including a project site map and drawings. Incomplete applications will result in the delay of the application process. Other laws may apply.

The applicant is responsible for obtaining all necessary permits and landowner permission before beginning work.

<table>
<thead>
<tr>
<th>PERMIT</th>
<th>AGENCY</th>
<th>FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>310 Permit</td>
<td>Local Conservation District</td>
<td>No fee</td>
</tr>
<tr>
<td>SPA 124 Permit</td>
<td>Department of Fish, Wildlife and Parks</td>
<td>No fee</td>
</tr>
<tr>
<td>Floodplain Permit</td>
<td>Local Floodplain Administrator</td>
<td>Varies by city/county ($25 - $500+)</td>
</tr>
<tr>
<td>Section 404 Permit, Section 10 Permit</td>
<td>U. S. Army Corps of Engineers</td>
<td>Varies ($0 - $100)</td>
</tr>
<tr>
<td>318 Authorization</td>
<td>Department of Environmental Quality</td>
<td>$250 (318); $400 - $20,000 (401)</td>
</tr>
<tr>
<td>401 Certification</td>
<td>Department of Natural Resources and Conservation, Trust Lands Management Division</td>
<td>License $25; Easement $50, plus annual fee</td>
</tr>
<tr>
<td>Navigable Rivers Land Use License or Easement</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A. APPLICANT INFORMATION

NAME OF APPLICANT (person responsible for project): Steve Gillespie
Has the landowner consented to this project? Yes ☑ No ☐
Mailing Address: 9 12th Street North, Great Falls, MT 59401
Physical Address: 9 12th Street North, Great Falls, MT 59401
Day Phone: 406-761-0001 Evening Phone: Same E-Mail: stevejgillespie@gmail.com

NAME OF LANDOWNER (if different from applicant): Steve Gillespie & WM Gillespie
Mailing Address: 9 12th Street North, Great Falls, MT 59401
Physical Address: Same
Day Phone: 406-761-0001 Evening Phone: Same E-Mail: stevejgillespie@gmail.com

NAME OF CONTRACTOR/AGENT (if one is used): Crane Operator / TBD
Mailing Address: 
Physical Address: 
Day Phone: 
Evening Phone: 
E-Mail: 

B. PROJECT SITE INFORMATION

NAME OF STREAM or WATER BODY at project location: Missouri River
Nearest Town: Cascade
Address/Location: 2819 Old U.S. Highway 91
Geocode (if available): 02-2555-10-3-01-05-0000
1/4 SW 1/4 SW 1/4, Section 10, Township 16N, Range 2W, County Cascade
Longitude, Latitude

The state owns the beds of certain state navigable waterways. Is this a state navigable waterway? Yes or No.
If yes, send copy of this application to appropriate DNRC land office – see Information for Applicant.
ATTACH A PROJECT SITE MAP OR A SKETCH that includes: 1) the water body where the project will take place, roads, tributaries, landmarks; 2) a circled “X” representing the exact project location. IF NOT CLEARLY STATED ON THE MAP OR SKETCH, PROVIDE WRITTEN DIRECTIONS TO THE SITE.

C. PROJECT INFORMATION

1. TYPE OF PROJECT (check all that apply)
   - Bridge/Culvert/Ford Construction
   - Bridge/Culvert/Ford Removal
   - Road Construction/Maintenance
   - Bank Stabilization/Alteration
   - Flood Protection
   - Channel Alteration
   - Irrigation Structure
   - Water Well/Cistern
   - Excavation/Pit
   - Fish Habitat
   - Recreation (docks, marinas, etc.)
   - New Residential Structure
   - Manufactured Home
   - Improvement to Existing Structure
   - Commercial Structure
   - Wetland Alteration
   - Temporary Construction Access
   - Other

2. PLAN OR DRAWING of the proposed project MUST be attached. This plan or drawing must include:
   - a plan view (looking at the project from above)
   - a cross section or profile view
   - dimensions of the project (height, width, depth in feet)
   - an elevation view
   - location of storage or stockpile materials
   - dimensions and location of fill or excavation sites
   - drainage facilities
   - location of existing or proposed structures, such as
   - an arrow indicating north
   - buildings, utilities, roads, or bridges

3. IS THIS APPLICATION FOR an annual maintenance permit?  □ Yes  □ No
(If yes, an annual plan of operation must be attached to this application – see “Information for Applicant”)

4. PROPOSED CONSTRUCTION DATE
   - Include a project timeline. Start date |
   - Finish date |
   - Is any portion of the work already completed?  □ Yes  □ No
(If yes, describe the completed work.)

5. WHAT IS THE PURPOSE of the proposed project?
provide safe (and natural) access to the river

6. PROVIDE A BRIEF DESCRIPTION of the proposed project.

installing 8 to 12 natural stone "Treads" to make stepps to river.

7. WHAT IS THE CURRENT CONDITION of the proposed project site? Describe the existing bank condition, bank slope, height, nearby structures, and wetlands.

   steep slope grass & dirt path - sluffing.

8. PROJECT DIMENSIONS. How many linear feet of bank will be impacted? How far will the proposed project encroach into and extend away from the water body?

   Approximately: 20'-30' extend from water body
   15'-25' linear ft. of bank affected (Angled)
9. **VEGETATION.** Describe the vegetation present on site. How much vegetation will be disturbed or covered with fill material during project installation? (Agencies require that only vegetation necessary to do the work be removed.) Describe the revegetation plan for all disturbed areas of the project site in detail.

   - Grass, small plants, bush, fencing
   - Seed to grow on edge of treads where disturbed

10. **MATERIALS.** Describe the materials to be used and how much.

<table>
<thead>
<tr>
<th>Cubic yards/Linear feet</th>
<th>Size and Type</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>NATURAL STONE TREADS 1K - 2K LB/Y.</td>
<td>Rock Quarry - Perma &amp; Plains, MT</td>
</tr>
</tbody>
</table>

11. **EQUIPMENT.** What equipment is proposed to be used for the work? Where and how will the equipment be used on the stream bank and/or the waterbody?

   - crane, shovel, rake,
   - no machinery anticipated below the high bank

12. **DESCRIBE PLANNED EFFORTS TO MINIMIZE PROJECT IMPACTS.** Consider the impacts of the proposed project, even if temporary. What efforts will be taken to:

   - Minimize erosion, sedimentation, or turbidity?
     - Mostly hand work.
     - Hope to set with crane.

   - Minimize stream channel alterations?
     - none anticipated

   - Minimize effects to stream flow or water quality caused by materials used or removal of ground cover?
     - none anticipated

   - Minimize effects on fish and aquatic habitat?
     - none anticipated

   - Minimize risks of flooding or erosion problems upstream and downstream?
     - none anticipated

   - Minimize vegetation disturbance, protect existing vegetation, and control weeds?

13. **WHAT ARE THE NATURAL RESOURCE BENEFITS** of the proposed project?

   - easier access for bears to climb the river bank to raid the apple trees in the yard

14. **LIST ALTERNATIVES** to the proposed project. Why was the proposed alternative selected?
D. ADDITIONAL INFORMATION FOR SECTION 404, SECTION 10, AND FLOODPLAIN PERMITS ONLY.
If applying for a Section 404 or Section 10 permit, fill out questions 1-3. If applying for a floodplain permit, fill out questions 3-6. (Additional information is required for floodplain permits – See "Information for Applicant.")

1. Will the project involve placement of fill material below the ordinary high water mark, a wetland, or other waters of the US? If yes, what is the surface area to be filled? How many cubic yards of fill material will be used? Note: A delineation of the wetland may be required.
   No ✓ Yes □
   Description of avoidance, mitigation, and compensation (see Information for Applicant). Attach additional sheets if necessary.

3. List the names and address of landowners adjacent to the project site. This includes properties adjacent to and across from the project site. (Some floodplain communities require certified adjoining landowner lists).
   (Upstream)- George & Catherine Amundson 2824 Old U.S. Highway 91 – 02-2555-10-3-01-04-0000
   (Downstream)- Patricia Hammick 2816 Old Highway 91 – 02-2555-10-3-01-06-0000
   Across River: John O'Sullivan - 02-2555-10-1-01-02-0000

4. List all applicable local, state, and federal permits and indicate whether they were issued, waived, denied, or pending. Note: All required local, state, and federal permits, or proof of waiver must be issued prior to the issuance of a floodplain permit.

5. Floodplain Map Number

6. Does this project comply with local planning or zoning regulations? ☑ Yes □ No

E. SIGNATURES/AUTHORIZATIONS -- Each agency must have original signatures signed in blue ink.

After completing the form, make the required number of copies and then sign each copy. Send the copies with original signatures and additional information required directly to each applicable agency.

The statements contained in this application are true and correct. The applicant possess' the authority to undertake the work described herein or is acting as the duly authorized agent of the landowner. The applicant understands that the granting of a permit does not include landowner permission to access land or construct a project. Inspections of the project site after notice by inspection authorities are hereby authorized.

APPLICANT (Person responsible for project):
Print Name: Steve Gillespie
Signature of Applicant Date: 9-30-20

LANDOWNER:
Print Name: Steve Gillespie
Signature of Landowner Date: 9-30-20

*CONTRACTOR/AGENT:
Print Name: tbd
Signature of Contractor/Agent Date

*Contact agency to determine if contractor signature is required.
Gillespie & 3d Permit Application
2818 80 46 Huf 71
Oct. 2020

A - (approx)
6 Treads

B - (approx)
8 Treads

Old Bank

River
OFFICIAL 310 PERMIT LETTER

A 310 permit is not authorization that a project can be commenced in the absence of all other state and federal permits and requirements. It is the responsibility of the applicant to obtain all necessary permits.

October 28, 2020

RE: NATURAL STREAMBED PERMIT CA-18-20/Missouri River

Steve Gillespie
9 12th St N
Great Falls, MT 59401

Dear Mr. Gillespie,

The Cascade Conservation District (CCD) Board of Supervisors reviewed your application for a SB310 permit on October 13, 2020 during the CCD monthly board meeting. Based upon recommendations to the full board, the project was approved as submitted. The permit has been issued with the following specifications:

- The permit issued or copy thereof shall be available for inspection on-site during the work activity.
- Please notify the district when work actually begins on the project. A completion form is included in this packet to be returned once the project has been completed as stipulated on the permit. Once that form is received by CCD, a follow-up inspection may be scheduled. The Cascade Conservation District retains the right to inspect the project during and after construction and will contact you and your representatives prior to inspection.
- This permit is valid only until October 13, 2021. If for any reason the project has not been finalized in time and a time extension has not been granted, a new permit will be required. It is up to you to request an extension if necessary. Thank you for your cooperation.
- Check the appropriate box on both copies of the two enclosed “310 Permit, Conservation District’s Decision” permits.
- Sign and return the green copy of the two enclosed “310 Permit, Conservation District’s Decision”. By Montana State Law (MCA 75-7-112 (7) you are required to return this to our office within 15 days. Failure to do so automatically voids this permit, without further warning. Retain the pink copy for your permanent records.
- Work on this project may begin October 28, 2020. All necessary permits must be obtained before work begins.

Proposed work

1. Project site location is 2818 Old US Highway 91; SW ¼, SW ¼ S10, T16N, R02W; Cascade County, MT on the Missouri River.
2. Permit is to install stone steps to the river for easier access to the stream.
Impacts to the physical and biological environment from turbidity generated as a result of this project are uncertain. Therefore, the permittee must contact the Montana Department of Environmental Quality, 1520 East Sixth Avenue, Box 200901, Helena, MT 59620-0901, (406-444-3080) to determine project specific narrative conditions required to meet short-term water quality standards and protect aquatic biota.

Turbidity generated from this project is expected to be short-term and have only temporary and minor impacts on the physical and biological environment. Therefore, compliance with the conditions stated in DEQ's Short Term Water Quality Standard for Turbidity Related to Construction Activity, as well as other conditions listed in the 310 or 124 permit, are appropriate for this project. Contact MFWP at (406) 454-5855.

The permittee is hereby notified that any financial outlay or work invested in a project, pursuant to this authorization, is at the permittee's risk. The issuance of this authorization does not reduce the permittee’s liability for damage caused by development of the authorized project. Nor does the Cascade Conservation District in issuing this authorization in any way acknowledge liability for damage caused by the permittee’s development of the authorized project.

If you have any questions or if I can be of assistance, please call me at the District Office, 406-770-4308. Thank you.

Sincerely,

CASCADE CONSERVATION DISTRICT

Tenlee Atchison, Administrator

Enc: 3

Cc: Fisheries Dept., MFWP, 4600 Giant Springs Road, Great Falls, MT
    Cascade County Planning, 121 4th Street North, Great Falls, MT
    Army Corps of Engineers, 10 West 15th St, Ste 2200, Helena, MT
310 PERMIT
CONSERVATION DISTRICT'S DECISION

Notice: THIS AUTHORIZATION DOES NOT GIVE PERMISSION TO CARRY OUT A PROJECT ON LAND THAT IS NOT OWNED BY THE HOLDER OF THIS PERMIT. Landowner permission, easements or other federal, state, or local permits, licenses, special use permits, or authorizations may be required before construction of the project. It is the duty of the holder of this permit to determine which are necessary and obtain them prior to construction of the project.

Name of Applicant
STEVE GILLESPIE

Address 9 12 ST N City GREAT FALLS State MT Zip 59401
Perennial Stream MISSOURI RIVER Legal S10, T16N, R02W County CASCADE

Supervisors' Decision (circle): Approved Approved w/ Modification Denied Not a Project
Explanation: □ See attached (if more room is necessary)

SEE REVERSE SIDE OF THIS FORM FOR FURTHER EXPLANATION, DRAWINGS OR OTHER PERTINENT INFORMATION.

Cascade Conservation District – 12 Third Street NW – Suite 300 - Great Falls, MT 59404 – (406) 770-4308

Permit Expiration Date 10/13/2023 Work may begin on or after: 10/28/2023
Date Transmitted to Applicant and DFWP 10/28/2023

Supervisors' Signatures: 

TO BE COMPLETED BY THE APPLICANT
Check the appropriate box, sign and return a copy to the district office within 15 days of receipt of this permit.

□ I agree to proceed with the project in accordance with the approved application and specifications outlined in this permit and will allow a follow-up inspection.

□ I disagree with the terms of this permit and I will seek judicial review in district court within 15 days of receipt of this permit. (This box may only be checked if you did not sign an arbitration agreement when you submitted your application.)

□ I disagree with the terms of this permit and hereby request arbitration. I agree to abide by the arbitration agreement attached to or on the reverse of this form – OR, if an arbitration agreement was signed when the permit application was submitted, I will abide that agreement.

Signature of Applicant: __________________________ Date: __________________________
Great Falls, MT 59404

12) APPLICANT IS RESPONSIBLE FOR ALL NECESSARY PERMITS.

Please call the District Office at (406) 770-4308, one or two days in advance of beginning the work.

This permit is good for one year from the issuance date, unless stated otherwise. If for any reason the project has not been finalized in time, a new permit will be required. Thank you for your cooperation.

Failure to comply with the above conditions will place you in violation of the Senate Bill 310 Law and you will be required to do whatever is necessary to correct the situation and bring the site into compliance. Fines may be levied.

THE 310 PERMIT DOES NOT PRECLUDE OR SUPERSEDE ADDITIONAL PERMITS WHICH MAY BE REQUIRED. THESE ARE THE SOLE RESPONSIBILITY OF THE APPLICANT.

Date of Inspection: waived

Steve Gillespie
CA-18-20
NATURAL STREAMBED AND LAND PRESERVATION ACT - ARBITRATION AGREEMENT

The Natural Streambed and Land Preservation Act arbitration process is governed by the Uniform Arbitration Act, MCA §27-5-111 through §27-5-324, except as expressly provided as provided herein. According to MCA §75-15-112, any team member may request arbitration. The team includes the applicant, a representative of the Department of Fish, Wildlife and Parks, and a representative of the conservation district.

1. Parties. The applicant and the conservation district are always a party to the arbitration process. If the applicant requests arbitration, parties will include the applicant and the conservation district. If the Department of Fish, Wildlife and Parks requests arbitration, parties will include the Department of Fish, Wildlife and Parks, the applicant, and the conservation district. If the conservation district representative requests arbitration, the parties will include the conservation district, the conservation district's representative, and the applicant. The team member requesting arbitration is the contesting party.

2. Administering Agency. The conservation district or the county attorney will act as the administering agency for the arbitration process. The conservation district shall provide clerical services to collect fees associated with the costs of the arbitration panel.

3. Selection of the Arbitration Panel. Within 30 days of the request for arbitration, the contesting party and the conservation district will submit to the administering agency the names and qualifications of three consenting persons who reside in the judicial district in which the dispute is taking place. The consenting persons must reside in the judicial district in which the dispute takes place. The parties may agree on a list of no less than four consenting persons to act as the arbitrators to be submitted to the senior judge. That list shall contain all of the names and qualifications of the consenting persons without designating the party submitting the names to the conservation district. The senior judge will select three persons from the list who, from a review of the qualifications, appear to be the most impartial to serve as arbitrators. If the contesting party fails to submit names within 30 days, the request for arbitration is deemed withdrawn. If the other parties fail to submit names and qualifications, the arbitrators must be selected from the list provided by the administering agency by the senior district judge. The arbitration panel shall only sit for the period of time necessary to settle the dispute before it and will review the proposed project pursuant to this arbitration agreement and in accordance with the statutory criteria set forth in MCA §75-7-112, implementing rules, and the policy set forth by MCA §75-7-102. The panel may appoint a chair. The powers of the arbitration panel shall be exercised by majority agreement of the panel. If during the course of the hearing an arbitrator ceases to act, the remaining panel members may continue with the hearing and make a determination on the dispute.

4. Costs of the Arbitration. Costs of the arbitration panel, computed as for jurors' fees under MCA §3-15-201, shall be borne by the contesting party. Clerical costs of the panel shall be paid by the nonprevailing party as determined by the panel. For all other expenses, including counsel fees, each party shall bear its own costs.

5. Prehearing. The panel may call a prehearing conference to set the arbitration schedule, and to request specific written information from the parties.

6. Date, Time, and Place of Hearing. The panel will select the time and place for the hearing. The hearing must be held in the judicial district in which the dispute takes place. The panel may consider requests for specific locations for the hearing. The panel may conduct on-site inspections. The panel may require the parties to submit copies of exhibits and a summary of its case, including a list of witnesses, to the panel and all other parties, prior to the hearing.

7. Notice of Hearing. Not less than ten days before the hearing, the administering agency shall give notice to each party. The notice must be by personal delivery or by certified mail. The notice shall include a description of the subjects and issues involved and the time and place of the hearing.

8. Representation. All parties have the right to be represented by an attorney. The arbitration panel may request the district court issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and may administer oaths. The provisions of law providing for service of subpoenas are applicable. The arbitration panel may permit a deposition to be taken of a witness who cannot be subpoenaed or is unable to attend the hearing. At the conclusion of the hearing, the panel may take the matter under advisement. A majority of the panel will render a final decision.

12. Procedure at the Hearing. Each party may give opening statements, describing, generally, their position on the supervisors' decision. The contesting party will then present its witnesses and evidence. If there is more than one contesting party, then the chair shall determine the order of presentation by the contesting parties. The other parties will follow, in turn as directed by the chair, with their witnesses and evidence. A witness is subject to cross-examination by the parties to the proceeding. A panel member may ask questions of any witness or party to the dispute. Each party may conclude with closing remarks or statements summarizing their positions and evidence. The hearing must be tape-recorded. If the judicial review is necessary, the tapes or relevant portions of the tapes may be transcribed. The parties may arrange for a transcription of the hearing at their own cost.

13. Award. The award is the final decision of the arbitration panel. The award must be in writing and signed by the arbitrators. The arbitration panel's award must be issued within 60 days after the hearing. The arbitration panel shall deliver a copy of the decision to each of the parties and the district judge either personally or by certified mail. The district court shall confirm the panel's award, unless a party applies and shows grounds for vacating, modifying, or correcting the award.

14. Judicial Review. If the panel's decision is contested, the court will review the panel's decision in accordance with MCA §27-5-312 and 313, Uniform Arbitration Act.

15. Other. Please specify.

Requesting Party

Conservation District

Date:

Date:
Gillespie 510 Permit Application
2818 Old US Hwy 91
Oct. 2020

Diagram:

- Old Bank: A
- (Approx.) 6 Treads
- Old Bank: B
- (Approx.) 8 Treads
- River
This map complies with FEMA’s standards for the use of digital flood maps if it is not void as described below. The basemap complies with FEMA’s basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHIL web services provided by FEMA. This map was exported on 3/2/2022 at 5:54 PM and does not reflect changes or amendments subsequent to this date and time. The NFHIL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmappedAs and unmappedAs cannot be used for regulatory purposes.