

Bitterroot Trout Unlimited  
PO Box 262  
Hamilton, MT 598



**RE: Comments on the Bitterroot Conservation District's proposed Appendix to the Adopted Rules**

**Dear Conservation District Supervisors**

**First and foremost, thank you for your work to update and clarify Bitterroot Conservation District's (BCD's) administrative rules. The updated rules and proposed appendix address many of the concerns BRTU has had in the past with specific projects that have been approved, despite their potential for negative impacts to Bitterroot waterways. We are particularly grateful for your clarifications that protect streambank vegetation, require a 310 permit for removal of most large, in-stream woody debris and your clear statement that a 310 permit is needed for off-stream revetments.**

**We have two suggestions for the board to consider.**

**1. Private recreational structures in the stream channel or immediate banks: The current appendix does not address concerns about recreational structures like private boat ramps, steps or patios built in the stream channel (below the mean high water mark) or in the immediate banks. These structures have the potential to cause habitat degradation, erosion, or to be washed downstream in a high flood event and become a public safety hazard. While one single structure may not pose a major threat, the cumulative impacts of many structures should be considered. This was recently brought up in Montana Fish Wildlife and Park's letter "Disagreement with unconditional approval of SB310 application BT021-2026" regarding two grouted stone staircases approved to be built on the West Fork Bitterroot River.**

**"Rule 2. POLICY" of the Revised Rules clarifies BCD's authority to preserve rivers and streams in their natural state, minimize erosion and sedimentation and protect natural resources. It also highlights the laws allowing agricultural uses of rivers, streams and water for a beneficial use. Based on this, we believe recreational structures are within BCD's jurisdiction. However, we are not clear how often BCD encounters these types of projects and if they are worth a specific mention in the Appendix. We do not want to unnecessarily delay passing of the Appendix.**

**We request that the board of supervisors discuss how much of a threat these structures pose (How often are they being proposed or built illegally? Is there a growing concern as the valley sees more development?). If the BCD decides that the Appendix should clarify BCD's position on recreational structures, we suggest an amendment stating that permanent, private recreational structures require a 310 permit. These structures are discouraged, but if proposed for a project, should not be built below the mean high-water mark and should be designed to be natural and unobtrusive in appearance. This would not apply to non-recreational structures (e.g. agricultural structures).**

**2. Riparian vegetation: We are grateful that the Appendix clarifies that riparian vegetation is within the BCD's jurisdiction. However, the current wording of that section is still vague in terms of when BCD would or would not require a 310 application:**

**"A 310 permit may be required for projects involving cutting or removal or riparian vegetation on lands immediately adjacent to natural rivers and streams" (Appendix, section B.2.a)**

**We suggest, instead, that riparian vegetation removal be prohibited unless necessary for the completion of a permitted project. This is in line with the Adopted Rules presented for public review along with the draft Appendix. Rule 12.5 outlines standards for all projects and states:**

**"Streambank vegetation must be protected except where removal is necessary for completion of a project. When removal of vegetation is necessary, it must be kept to a minimum and revegetated as soon as possible. [ARM]"**

**Thank you for your consideration and the opportunity to comment.**

**Sincerely,**

**David Ward, President  
Bitterroot Trout Unlimited**

## Bitterroot Conservation District

### *Public Comment in Response to Model Rules and Appendix*

Mon., 08 June 2026

Dear Members of the Bitterroot Conservation District Board,

Thank you for the opportunity to provide public input on the proposed **Bitterroot Conservation District (BCD) Rules and Appendix to the Natural Streambed and Land Preservation Act (310 Law)**.

I respectfully submit my review, suggested edits, and comments within this letter. I am not certain if comment is accepted for both the **Model Rules\*** and the **Appendix**; as such, I am submitting input for both. Should public input only be considered for the **Appendix**, please refer to the appropriate section of this letter.

#### **MODEL RULES\***

*\*commenting on red text only; please disregard if public comment is no longer accepted*

Link: <https://bitterrootcd.org/wp-content/uploads/sites/82/2026/05/Draft-Revision-04-29-2026-amendment-to-the-BCD-adopted-rules-Highlighted-Changes-.pdf>

Understanding the intent of this document, certain sections of the revised text require clarification and suggested edits to protect due process:

- **Rule 2. Policy (1)**
  - **Current phrasing:** “It is the policy of the Bitterroot Conservation District that the natural rivers and streams, and the lands and property immediately adjacent to them, within Ravalli County are to be protected and preserved to be available in their natural or existing, state, and to prohibit unauthorized projects, and in so doing to keep soil erosion and sedimentation to a minimum, except as may be necessary and appropriate after due consideration of all factors involved. [LAW]”
  - **Concern:** Potential contradiction with **Appendix A.2.e)** and **B.2.a)**, as is currently written (see comments re: **Appendix**, below).
  - **Justification:** Understood that the **Appendix** is intended to alleviate burden of processing numerous 310 permits, but concerns include potential for misuse and lack of clarity on protection of landowner rights. Please refer to additional comments and examples in the section dedicated to the **Appendix** (below).
- **Rule 4. Definitions (11)**
  - **Current phrasing:** “Immediate banks” means the area above the mean highwater mark and directly adjacent to the stream, which when physically altered or modified has the potential to affect the state of a stream. [ARM] “Immediate banks” means the area above the mean high-water mark and directly adjacent to a stream which when disturbed will physically alter or modify the state of a stream in contravention of 75-7-102, MCA. [ARM]”
  - **Concern:** As currently phrased, two definitions appear to be presented in the draft text. The inclusion of “...**when disturbed**...” introduces additional subjectivity beyond

“...physically altered or modified...”. Is the first definition the main definition, or is the second included with intent to replace the first definition?

- **Justification:** As currently presented in the draft **Appendix** [e.g., **B.2.a.)** and **F.1.c.)**], the phrasing seems to refer only to the second definition. Clarifying language is requested, and further concerns on this language are raised in the respective comments (below).
- **Rule 17.2.a.)**
  - **Current phrasing:** “A person who initiates a project without the written consent of the supervisors, performs activities outside the scope of written consent of the supervisors, places a junked motor vehicle in a streambed or bank, or violates the emergency procedures of Rule 16 or the Act is: guilty of a misdemeanor and upon conviction, the person shall be punished by a fine not to exceed \$500; or...”
  - **Suggested edit:** “A person who is **FOUND TO BE GUILTY OF INITIATING A PROJECT without** the written consent...or violates the emergency procedures of Rule 16 or the Act **WILL BE:** (a) guilty of a misdemeanor...”
  - **Concern and Justification:** As it is currently written, the language identifies an individual **alleged** to have violated a Rule as **guilty before conviction rather than presumption of innocence**. The current phrasing the document appears to **violate due process**, and is overly restrictive on individuals that would otherwise be acting in good faith to address an emergency action. The language should be adapted for greater flexibility on a case-by-case basis.

## BCD RULES APPENDIX

Link: <https://bitterrootcd.org/wp-content/uploads/sites/82/2026/05/BCD-Rules-Appendix-DRAFT-v3d-1-04-29-26.pdf>

The comments below are provided with the understanding that the **Appendix** is being presented to alleviate the existing system from the burden of processing an excessive number of 310 permits. However, concerns include burdensome or restrictive language tethering landowners to unenforceable and/or subjective regulations. Below are suggested edits and considerations for clarifying language, with the intent to ensure protection of habitat, landowner rights, and due process:

- **A.2.b.)**
  - **Current phrasing:** “A 310 permit is not required in cases where the material to be cut is part of a single tree and is less than 6 inches in diameter.”
  - **Concern and Justification:** As it is currently written in the draft **Appendix**, section **A.2.b.)** welcomes abuse of the law by individuals and potentially violates property owner rights to manage vegetation in a way that fits with their land management objectives. For example, residents along waterways in the Bitterroot Valley have already experienced multiple instances of bad faith actors that (without permission) cut down willow tree branches (of all sizes, including those greater than 6” in diameter), for the purposes of recreational casting or for ease of recreational floating, thereby (as it currently stands) in violation of 310 permitting laws, destroying landowner property, and removing habitat cover for fish (violation of **Rule 12.12**, as cited in **A.2.c.)** of the **Appendix**). As it currently stands, the language of **A.2.b.)** justifies the abuse of such regulations and leaves grey areas for contradictory application of the law. Should

placement of a young tree be approved via 310 permitting with projects related for bank stabilization, the phrasing of **A.2.b.)** leaves open for bad faith actors to cut down said trees (e.g., willows) without consequence.

- **Suggestion:** “A 310 permit is not required **BUT EXPRESS, WRITTEN, AND/OR PRIOR LANDOWNER PERMISSION IS REQUIRED** in cases where material to be cut is part of a single tree and is less than 6 inches in diameter.”
- **A.2.e.)**
  - **Current phrasing:** “Landowner permission should be obtained for cutting or placement of debris above ordinary high-water mark, even if a 310 permit is not required.”
  - **Required edit:** “Landowner permission **IS REQUIRED** for cutting or placement of debris above ordinary high-water mark, even if a 310 permit is not required.”
  - **Concern and Justification:** As it is currently written in the draft **Appendix, A.2.e.)** welcomes abuse of the law by individuals and violates property owner rights to manage vegetation in a way that fits with their land management objectives. For example, residents along waterways in the Bitterroot Valley have experienced multiple instances of bad faith actors that cut down willow tree branches (of all sizes, including greater than 6”), for the purposes of recreational casting or for ease of recreational floating, thereby (as it currently stands) in violation of 310 permitting laws, destroying landowner property, and removing habitat cover for fish (violation of **Rule 12.12**, as cited in **A.2.c.)** of the **Appendix**). As it currently stands, the language of **A.2.e.)** justifies the abuse of such regulations by bad faith actors (which has already occurred), and also permits those bad faith actors to dispose of the branches on private property, violating private property rights. It appears that such cases would also be in violation of **Model Rule 2. Policy (1)**.
  - **Suggested addition: A.2.f.)** Individuals accessing waterways for recreational use as protected under Montana’s Stream Access Law are prohibited from removing woody debris (WD) or vegetation (and are also prohibited from placing debris or vegetation above the ordinary high-water mark) without express, written, and/or prior landowner permission.
- **B.2.a.)**
  - **Current phrasing:** “A 310 permit may be required for projects involving cutting or removal of riparian vegetation on lands immediately adjacent to natural rivers and streams. (**Rule 2.1.)**”
  - **Concern 1:** The phrasing of “...may be required...” is subjective and currently unclear on if/when the 310 permit **would be** required. This also seems to be contradictory to **A.2.e.)**, especially with the current phrasing that landowner permission is suggested but not required (even if a 310 permit is not required). As raised in the above comment, concerns include abuse of this regulation by individuals to remove important fish habitat at-will while also violating landowner rights. This is also unclear on how to enforce instances where removal of vegetation violates 310 permitting (versus not). For a practical example, is lawn maintenance prohibited under this proposed regulation?
  - **Concern 2:** What is the enforceable definition of “...immediately adjacent to...”? Is this related to the definition provided in **F.1.c.)** and/or **Model Rule 4. Definitions (11)**? As stated in **Appendix F.1.c.)**, “Immediate banks” means the area above the mean high-

water mark and directly adjacent to a stream which when **disturbed** will physically alter or modify the state of a stream in contravention of 75-7-102, MCA. [ARM]’? However, based on my interpretation, **Model Rule 4. Definitions (11)** provides two definitions. Greater clarity and consistency is requested (see comments above, this document).

- **Justification:** The language as it currently appears, reads as prohibitive on landowners without clarity on enforceable regulation, while also binding landowners from protecting private property should other individuals choose to cut off branches and toss those branches onto private property [as indicated in **A.2.e.**]).
- **Suggestion:** Require landowner permission in **A.2.e.**), and provide clarifying language on **B.2.a.**); what constitutes “adjacent to” and/or physical alterations (versus disturbance)? Provide direct relation to definition as raised in **Appendix F.1.c.**) and ensure consistency with **Model Rule 4. Definitions (11)**?

As both a Montana resident and recreationist, I fully appreciate the role of BCD in balancing the needs of the growing Bitterroot Valley community with private rights, recreation, and the integrity of habitat for wildlife. I hope the above comments and suggested edits help to clarify language and provide alternative, reasonable suggestions to ensure fair and equitable application of the law while respecting due process and protecting habitat.

Thank you again for the opportunity to submit comment on the draft regulation changes. I look forward to constructive discussion and revision before the proposed drafts are formally adopted.

Sincerely,

Allison Devlin  
Stevensville, MT  
e: devlin.allison@gmail.com

June 8, 2026

Bitterroot Conservation District,

I would like to submit the following public comments for the recently proposed Bitterroot Conservation District (BCD) draft appendix to the Montana Streambed and Land Preservation Act of 1975 (310 Law). It is somewhat unclear to me if the edits to the Rules adopted by the BCD to Implement the 310 law is currently also open to comment, but I will submit comments about the current revisions in that document as well.

Regarding Appendix Topic A. In Stream Woody Debris:

While I agree that a 310 permit should not be required to remove woody material that is part of a single tree and less than 6 inches in diameter as stated in section 2 part C, this section must be amended to read that where a channel runs through or is bordered by private property, **ONLY** the landowner or another individual with specific, written landowner permission be allowed to remove ANY vegetation. Section 2 part E states that landowner permission *should* be obtained for cutting, and this language absolutely does not protect a landowner from having their private property damaged by others through cutting trees that are rooted outside the stream channel, and in certain cases may actually encourage members of the public to damage private property through unauthorized tree cutting. The statement "Landowner permission *should* be obtained..." means nothing to those who would act in bad faith. Sportsmen have already been known to illegally cut vegetation that interfere with casting, boat passage, etc. As written, this change would legitimize such destructive behavior in direct violation of private property rights. This language needs to be revised, and one option could be "Written landowner permission **MUST** be obtained for any and all cutting of any plant where a portion of said plant is above the high-water mark or for placement of any and all debris above the ordinary high-water mark". Further, Section 2 part D states that all cut material, regardless of if a 310 permit is necessary, must be placed above the ordinary high-water mark. I question that the BCD has any regulatory authority above the high-water mark, and the BCD certainly does not have the authority to allow members of the public to take actions above the high-water mark as written. Landowner permission must be required for any action above the high-water mark.

Regarding Appendix Topic B. Riparian Vegetation:

I appreciate the BCD concern over protecting riparian vegetation as it currently pertains to 310 permitted projects. This proposed appendix amendment, however, oversteps the scope of the 310 law and extends regulatory authority beyond the role of the BCD as written. In section 2. part A., the term "immediately adjacent to natural rivers and streams" is used to describe areas where a 310 permit may be required for any vegetation removal. This undefined distance assumingly includes upland areas somewhere near a stream? The action of grazing, haying,

mowing, or cutting vegetation on private property by a landowner outside of a stream channel should not require a 310 permit. As written, this opens up the door for filed complaints against every agricultural operation that farms and harvests grain, cuts and bales hay, or grazes livestock near a stream. As written this could also, by law, require landowners near waterways to get a 310 permit to mow lawns, manage their property for fire breaks, etc. Part 2 section B. and C. as written in reference to otherwise permitted actual stream related projects are acceptable. Section 2 Part A. as written is a clear overreach of regulatory authority and needs to be removed in its entirety.

#### Regarding Appendix Topic F. Off-Stream Revetments:

I find this entire section to be both outside the scope of the 310 law and outside the regulatory authority of the BCD. Regulations need to be applied where channels currently exist: no one can predict with any certainty where a channel may exist at any given point in the future. This section seeks to grant authority to permit or deny actions outside of streambeds and their banks based on unpredictable future possibility. I suspect this is in violation of a multitude of private property rights, and certainly is outside the scope of the 310 law. The 310 law was written to protect natural streams and channels in their current state, not to allow oversight in undefined locations anywhere a stream could possibly migrate to in the future. This entire section should be removed, or heavily edited to achieve whatever its intended purpose may have been.

#### Regarding Rule 2. Policy:

Section 1 states "It is the policy of the Bitterroot Conservation District that the natural rivers and streams, and the lands and property immediately adjacent to them..." in describing areas presumably under the BCD regulation authority? As written, this is overreach on private property rights. The "lands and property immediately adjacent" is a broad description of lands near or close to a stream or river and is not well defined. The jurisdiction of the BCD is the streams and rivers, not the entire "lands and property" of individuals who own land near a river or stream. This section needs to be edited to reflect that.

#### Regarding Rule 4. Definitions:

In definition 11, two different definitions are given for the same term; "immediate banks". Which one is it supposed to be?

Definition 21 also offers multiple definitions for a "stream". Which one is it supposed to be?

#### Regarding Rule 5. Applicability:

Section 2 includes two different versions of applicability. Which one is the recommended edit?

Section 3 also includes two different versions of persons affected. Which is the recommended edit?

Regarding Rule 6. Aquatic and Riparian Attributes - Exclusions:

Section 2 has two different versions of rule exclusions. Again, which is the intended version?

Section 2(A) has two different versions of how to make a determination. Which is intended to be the one we are reviewing?

Regarding Rule 9. Application Process:

Section 1 and subsections (B-H) contain numerous redundancies with sections that are already written, i.e. description of the project, plans, drawings, etc. This seems unnecessary and is confusing to the reader.

Regarding Rule 10. Decision:

Section 2 (B) states that the team shall determine whether the project is a reasonable means of accomplishing the purpose of the proposed project. "Reasonable" is a very abstract and individual determination, not unlike the phrase "common sense". It has no meaning outside of an individual's personal opinion. Using this term grants the BCD team member absolute power to declare if they approve or disapprove of a project based on their personal feelings about if it is "reasonable" in their perspective. Section 2 (b)(ii) goes even further to suggest that team members can decide if, in their minds, there are "alternative solutions that are reasonably practical" and force an applicant to follow those alternatives instead. "Reasonable" is purely subjective, and not based on tangible measured outcomes such as effect on stream flow, turbidity, erosion, materials used, intended results, etc. These are the kinds of factors that must go into accepting or denying a permit, not the individual preferences of the inspection team members. Because "reasonable means" cannot be defined, section (4) should be omitted as well.

Regarding Rule 12. Project Construction:

Section 1 (b) states projects must be designed and constructed using methods that minimize "future disturbance to the stream". This needs to be clarified as the future is unpredictable. Section 8 (d) states that prohibited projects include "excavation of streambed gravels". This needs to be revised if the expectation is that prohibited projects would be to remove gravels solely for the purpose of removing them. Otherwise this is very unclear given that many projects, for example culvert placement, may require the act of excavating streambed gravels in order to complete the project properly.

Regarding Rule 17. Penalty -Restoration:

Section 2 (A) declares a person who initiates a project without consent or violates the very cumbersome emergency procedures of Rule 16 is “guilty of a misdemeanor and upon conviction, the person shall...”. This violates “innocent until proven guilty” in the most egregious language possible. A suggested edit could read “IF convicted and found guilty of a misdemeanor, the person....”. This definitely needs to be re-drafted.

Regarding Rule 18. Complaint Procedure:

There are no edits in this section. I highly recommend taking this opportunity to add some. Recently, it has been brought to the attention of the BCD that individuals with ulterior motives are using the 310 law as a method of harassing landowners. There are currently no repercussions for filing complaints that are not warranted. Reacting to unfounded complaints is burdensome to both landowners who have done no wrong and the BCD itself. Some form of repercussion for those who file false complaints for violations need to be included the complaint procedures.

Thank you for taking the time to review my comments and suggestions. At this time, I would expect that both of these documents are not yet ready to be adopted into law and require significant revision. I appreciate all the BCD does to help protect Montana’s conservation ethic.

Sincerely,

Roy Fenster

Stevensville, Montana

6/8/26, 8:42 AM

Montana Association of Conservation Districts Mail - Yes on cutting river obstructions



Julie Ralston <bitterrootcd@macdnet.org>

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## Yes on cutting river obstructions

1 message

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James Melzer <jamelzer@gmail.com>  
To: bitterrootcd@macdnet.org

Mon, Jun 8, 2026 at 8:35 AM

Simply - Yes to allow the cutting of six inch logs on the river.

Jay Melzer  
Hamilton MT



**Julie Ralston** <[bitterrootcd@macdnet.org](mailto:bitterrootcd@macdnet.org)>

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## Support for Proposed Appendix to the BCD Rules

1 message

**Howard Robinson** <[robinsonu2@gmail.com](mailto:robinsonu2@gmail.com)>

To: "[bitterrootcd@macdnet.org](mailto:bitterrootcd@macdnet.org)" <[bitterrootcd@macdnet.org](mailto:bitterrootcd@macdnet.org)>

Thu, Jun 4, 2026 at 9:37 AM

Julie Ralston,

I'm writing to express support for the proposed appendix to the BCD rules which would allow cutting of a single tree six inches or less. As a fly fishing guide who works almost exclusively on the Bitterroot River this change is much needed. While I understand and fully support the need for fish habitat on the river which downed trees provide, I also am very concerned about safety and freedom of access on the river for both guides and recreational fishermen. This is a reasonable compromise that would both still protect fish and help improve the safety and access to floating down and fishing the river. Thanks for what you do and taking the time to read and consider my thoughts on the matter.

Respectfully submitted,

Howard Robinson  
MT Fly Fishing Guide (License # 69112)  
[RobinsonU2@gmail.com](mailto:RobinsonU2@gmail.com)  
(530) 263-6723

6/2/26, 8:19 AM

Montana Association of Conservation Districts Mail - Proposal for minor tree cutting in rivers



**Julie Ralston** <[bitterrootcd@macdnet.org](mailto:bitterrootcd@macdnet.org)>

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## Proposal for minor tree cutting in rivers

1 message

**db** <[triplebucks@yahoo.com](mailto:triplebucks@yahoo.com)>  
Reply-To: db <[triplebucks@yahoo.com](mailto:triplebucks@yahoo.com)>  
To: [bitterrootcd@macdnet.org](mailto:bitterrootcd@macdnet.org)

Mon, Jun 1, 2026 at 9:32 PM

Hi Julie

I would like to express my support for the rule modification that would allow cutting of small limbs and woody debris in the rivers. This would certainly help with boater safety and also free up the board from having to review permit requests for these minor situations.

Thanks  
Dave Buck

[Yahoo Mail: Search, Organize, Conquer](#)



Tim Puczkowskyj <tim@macdnet.org>

## Proposed Appendix

2 messages

**Steve Davis** <sapphire@bitterrootcasters.com>

To: Julie Ralston <bitterrootcd@macdnet.org>, Tim Puczkowskyj <tim@macdnet.org>

Cc: Kent Myers <kent.myers@bresnan.net>

Mon, Jun 1, 2026 at 8:02 PM

BCD:

Strongly support the proposed appendix to the BCD administrative rules allowing cutting of a single tree six inches or less. This will facilitate river safety.

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**Steve Davis**

**Julie Ralston** <bitterrootcd@macdnet.org>

To: Chad Sutherland <threecatfleco@yahoo.com>, Paul Rosenberg <bitterrootpaul@yahoo.com>, Mike Hansen <westforkmike@gmail.com>, Brent Pristas <brentpristas@gmail.com>, Joel Johnson <helenagriz@gmail.com>, Jeff Mark <jmark@capetox-fs.com>, Tommy Dobberstein <mymontanashop@gmail.com>, Kent Myers <kent.myers@bresnan.net>, Dan Kerslake <dkerslakerealtor@gmail.com>, Howard Eldredge <howardeldredge5@gmail.com>, Bob Nelson <bob.spade279@gmail.com>, Todd Reagan <TReagan1313@gmail.com>, Tim Puczkowskyj <tim@macdnet.org>

Tue, Jun 2, 2026 at 8:38 AM

[Quoted text hidden]