LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH MEETING
LEWIS AND CLARK PUBLIC HEALTH
CONFERENCE ROOM at 1930 9th Ave or ZOOM
July 27, 2023
1:00-3:00pm

REGULAR BOARD MEETING AGENDA

1:00 **CALL TO ORDER**

1:00 **REVIEW OF AGENDA**
1. Review and revision of agenda ……..Pg. 1

1:05 **MINUTES**
2. June 22, 2023 ……..Pg. 2

1:10 **INTRODUCTIONS**
3. New Staff Introductions and Employee of the Quarter Recognition ……...Pg. 5

1:20 **ACTION ITEMS**
4. Onsite Wastewater Regulation Variance Hearing: Nick and Jean Frank, 3789 Churchill Lane, Helena, MT ...……Pg. 6

5. COVID-19 Emergency Regulations (Drenda) ……...Pg. 75

2:00 **BOARD DISCUSSION**
6. - FY23 Year End Financials (Heather)
- Inclusiveness Committee Update (Joel/Julie)
- Racial Equity Update (Drenda) ……...Pg. 92

2:30 **HEALTH OFFICER REPORT**
7. See written report ……Pg. 100

2:20 **PUBLIC COMMENT**
8. Public comments on matters not mentioned above ……Pg. 102

Adjourn

Our mission is to improve and protect the health of all Lewis and Clark County Residents

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Lewis & Clark Public Health

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	**Agenda Item No.**
July 27, 2023	**1**

___Minutes __X_Board Member Discussion ___Staff & Other Reports ___Action ___Hearing of Delegation

AGENDA ITEMS: Review of Agenda

PERSONNEL INVOLVED: Board Members

BACKGROUND: Time is allowed for board members to review the agenda and to add any new agenda items.

HEALTH DIRECTOR'S RECOMMENDATION: Approval

___ADDITIONAL INFORMATION ATTACHED

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis & Clark Public Health

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	**Agenda Item No.**
July 27, 2023	**2**

_X_ Minutes ___ Board Member Discussion ___ Staff & Other Reports _X_ Action ___ Hearing of Delegation

AGENDA ITEMS June 22, 2023 Minutes

PERSONNEL INVOLVED: Board Members

BACKGROUND: Upon approval, the minutes represent official actions of the Board of Health. Every effort is made to have these recommended minutes accurately portray the proceedings and procedures of the board.

HEALTH DIRECTOR'S RECOMMENDATION: Approval

_X_ ADDITIONAL INFORMATION ATTACHED

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis & Clark Public Health

LEWIS AND CLARK CITY-COUNTY
BOARD OF HEALTH – MINUTES
1930 9th AVE, HELENA, MONTANA 59601
In-Person/Zoom Meeting, 1:00 p.m.
June 22, 2023

Members Present
Justin Murgel, chair
Commissioner Tom Rolfe
Mayor Wilmot Collins
Katherine Weber
Brie MacLaurin
Lisa Kaufman

Members Absent
Dr. Mikael Bedell, vice chair
Mayor Kelly Harris
Rex Weltz

Staff Present
Drenda Niemann
Jolene Helgerson
Nina Heinzinger
Sarah Sandau
Melissa Baker
Carin McClain
Dorota Carpenedo

Guests Present

Justin Murgel, chair, called the meeting to order at 1:00 p.m. A quorum was established.

REVIEW OF AGENDA
Drenda Niemann, Health Officer, requested to add two additions updates to the health officer's report. No public comment was given.

MINUTES
Mr. Murgel asked if there were any corrections or additions to the May 25, 2023. There being no changes, the Board approved the minutes as written. No public comment was given.

ACTION ITEMS
Selection of Board of Health Officers: Mr. Murgel, enumerated the board positions that needed to be filled for FY2024. The Board made the following appointments:

- Brie McLaurin as chair
- Dr. Mikael Bedell as vice-chair
- Lisa Kaufman as hearing officer
- Commissioner Tom Rolfe as Interim Water Quality Protection District Representative until position is filled.

Commissioner Rolfe made a motion to approve Board of Health appointments for FY24. Mayor Wilmot Collins seconded the motion. The motion carried 6-0. No public comment was given.

BOARD MEMBER DISCUSSION
Chronic Disease Presentation: Sarah Sandau, Chronic Disease and Prevention Supervisor, along with Melissa Baker, Cancer Screening Health Educator and Carin McClain, Tobacco Use Health Educator, provided a program update (on pages 8-11of the board packet) in which they highlighted the purpose of each program, their activities, and goals.

Tobacco Prevention Campaign Winners: Ms. McClain presented the winners of the 2023 Escape the Vape Poster Contest (on page 12 of the board packet). Ms. McClain said there were seventy-seven entries this year. In answer to a question by Mr. Murgel, Ms. McClain said that she has plans to broaden her engagement of the tobacco prevention campaign to include East Helena and Broadwater High Schools.

Licensed Establishment Program Presentation: Nina Heinzinger, Licensed Establishment Supervisor, provided a 2022 Program Summary review (on pages 13-17 of the board packet) in which she highlighted number of facilities and other establishments licensed in Lewis and Clark County, the number of inspections completed, special events permit issued, recipes reviewed, along with communicable disease investigations and revenue resources.

Employee Satisfaction Survey Results: Ms. Niemann presented the Public Health Employee Satisfaction Survey results (see Attachment "A") in which she highlighted the purpose of the survey, methods, results, lessons learned, and recommendations. In answer to a question from Mr. Murgel, Ms. Niemann stated that the staff answered the questions ranging from strongly agree to strongly disagreeing too not applicable. In answer to a question from Lisa Kaufman, Ms. Niemann stated that the response to staff concern about safety in the workplace could have been in connected to public threats and disrespect towards staff during the COVID-19 Pandemic.

HEALTH OFFICERS REPORT

Strategic Communications Bootcamp-September 28: On September 28, Public Health staff along with Board of Health members will attend a Strategic Communications Bootcamp to discuss and strategize on such topics as rebuilding public relations, meeting strategic plan goals, and revenue generating strategies.

Local Governing Body: Commissioner Rolfe announced that the Local Governing Body By-Laws were approved on June 16, 2023.

COVID-19 Wastewater Surveillance Survey: Dorota Carpenedo, COVID-19 Epidemiologist, presented the COVID-19 Wastewater Surveillance Utilization Survey (see Attachment "B") in which she highlighted the survey purpose, results, and conclusions. She also announced that we received grant funding from DPHHS to sustain the wastewater surveillance program.
No public comment was given.

COVID-19 Operations: With the end of the Federal COVID-19 Public Health Emergency Declaration, the COVID-19 testing clinic and call center operations along with the need for temporary staff will end on June 30, 2023. All ongoing COVID-19 work will be incorporated by Public Health staff.

PUBLIC COMMENT

No public comment was given.

The meeting adjourned at 2:34 p.m.

Justin Murgel, Chair

Drenda Niemann, Secretary

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	**Agenda Item No.**
July 27, 2023	**3**

___Minutes __X_Board Member Discussion ___Staff & Other Reports ___Action ___Hearing of Delegation

AGENDA ITEMS: New Staff Introduction & Employee Recognition

PERSONNEL INVOLVED: Division Supervisor

BACKGROUND: Announcement of the new staff and employee of the quarter will be made.

HEALTH DIRECTOR'S RECOMMENDATION:

___ADDITIONAL INFORMATION ATTACHED

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis & Clark Public Health

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	Agenda Item No.
July 27, 2023	4

___Minutes _X_Board Member Discussion ___Staff & Other Reports _X_Action _X_Hearing of Delegation

AGENDA ITEMS Onsite Wastewater Regulation Variance Hearing, Nick and Jean Frank, 3789 Churchill Lane, Helena, MT

PERSONNEL INVOLVED: Beth Norberg, Sanitarian

BACKGROUND Ms. Norberg will present the Frank Variance hearing.

HEALTH DIRECTOR'S RECOMMENDATION: N/A

_X_ADDITIONAL INFORMATION

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis & Clark Public Health

Lewis & Clark Public Health
Environmental Services Division

316 North Park Ave., Room 230
Helena, MT 59623
406-447-8351
Fax: 406-447-8398
publichealth@lccountymt.gov
www.LewisAndClarkHealth.org

Frank Variance
Exhibits

A. Variance Application
B. Staff Report
C. Vicinity Map
D. Certificate of Survey
E. Lot Detail
F. Site Evaluation
G. Water Quality Testing Results
H. Non-degradation Analysis
I. EPA Technical Sheet for mound systems
J. 2006 Expired Septic Permit #108898
K. Findings of Fact and Conclusions of Law-DEQ
L. E-mail from Eric Regensburger-DEQ
M. Photos of Site

EXHIBIT A

RECEIVED
JUL 12 2023
ENVIRONMENTAL HEALTH

VARIANCE APPLICATION

Name on Site Evaluation Application Form: Nicholas and Jean Frank

Property Owner's Name: Nicholas and Jean Frank

Property Address: ~~3769~~ 3805 Churchill Lane, Helena, MT 59602

Legal Description of Property: BLACK SANDY ESTATES, S32, T12 N, R02 W, Lot 13A, ACRES 20.28, COS 3394481, PREV COS 330730

1. **What type of on-site wastewater system, if any, currently exists on the property?** N/A-Vacant Land

2. **When was the existing system installed?** N/A

3. **Is there a permit for this system, and if so, what is the permit number?** N/A

4. **Which section of the Lewis and Clark County On-Site Wastewater regulations are you requesting a variance to?** Section 4.3(5) Depth to limiting layer. In this situation it is bedrock at less than 4 feet to the natural ground surface.

5. **Explain why you cannot meet the Lewis and Clark On-Site Wastewater regulations. (For example: You cannot meet the setback to property line).** The entire lot has very little soil and the applicant was unable to find a site anywhere on the parcel with at least 4 feet of naturally occurring soil. Most of the site is also steeply sloped.

6. **Can you meet the minimum requirement with any type of system?** NO

7. **What other options have been looked at? (For example: An easement onto adjoining property).** No easements are available due to topography and similar site conditions, There were at least 20 test holes dug with no success. There are no connections to a public or municipal system within miles of the site.

8. **Explain how the granting of this variance will not adversely affect public health, safety, and welfare.** See Attached.

Information to be submitted with the variance application:

1. A filed certificate of survey from the Clerk and Recorders office, Room 113 in the City-County building.
2. A lot layout drawn to scale, that clearly shows the following:
    a. Placement of the home, driveway and other buildings

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b. Proposed and existing wells
c. All neighboring wells within 100 feet of the property
d. Proposed and existing septic systems
e. Other pertinent features

Additional information that may be required – please meet with the sanitarian to see if you need any of the following:

1. Performance information for the type of system you are proposing.
2. Any engineering reports which may pertain to the site or which the department staff requests.
3. Water quality sampling for:
   a. Nitrate
   b. Bacteria
   c. Other samples or monitoring
4. Other information:

_____

Applicants Name: Nicholas & Jean Frank

Applicants Email Address: nickfrnk@gmail.com

Applicants Mailing Address: 3797 Churchill Lane Helena MT 59602

Contact Person's Name: Nick Frank Phone Number: 406-202-3146

Applicant's Signature: Nick Frank Jean Frank

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First we would like to thank everyone for allowing us to clarify and provide additional information for you to reconsider our variance request.

On the reasons for denial:

1. **One of the criteria for granting a variance is to address "extraordinary conditions that the applicant could not reasonably have prevented". The applicant purchased the lot with a full understanding of the limitations of the topography and soil conditions. The applicant had property line adjustments made to fully accommodate his driveway which may have resulted in the loss of a suitable location for a standard septic system on this parcel of land.**

We purchased the lot knowing it had a septic system that failed to pass inspection due to being incorrectly installed that also compromised the replacement site so we understood it to be a failed system because looking at the Lewis and Clark On-Site Wastewater Treatment Regulations 2020 online we did not understanding that it had to be used and fail to be a failed system. So we figured we would be doing a replacement system which allows sand mound systems. We did not understand that you couldn't use the sand in a sand mound to meet the four foot to bedrock requirement and that it had to be all native soil so we didn't know we would need a variance until Beth Norberg was here and told us we would need to apply for one. Beth did all the non-degradation calculations and everything passed with flying colors and qualified for a Level 1 treatment system so we applied for a variance and never thought it would be a problem getting it approved since all the results were so good.
We adjusted the property lines to give the other lot approximately three times more level and buildable areas and to remove the easement from our driveway – we did not move or change our driveway.
We did not purchase the lot with the intent to keep it; only to remove the easement so our driveway did not run through the middle of another lot. We took out a home equity line of credit to purchase the lot so we put the lot up for sale and expected to pay off the loan with the sale proceeds but due the denial of the variance and the amount of time it was taking for the appeal and the impact of the interest rates more than doubling, we had no choice but to withdraw money from our retirement account to pay down the loan to make the payments manageable. We are not wealthy so we had planned to use our retirement funds for maintaining financial independence during retirement and as emergency funds for medical and other unexpected expenses.

2. **The variance request should include the demonstration that, if granted, the protection of public health can be achieved through some other approvable method. This variance request failed to explore any other means for protection.**

All the required non-degradation calculations that Beth Norberg performed came back very good and qualified the site for a Level 1 treatment system and at the hearings officers request Beth also requested information from Eric Regensburger, Hydrogeologist at DEQ about the performance of non-native soil for a mound vs native soil when considering non-degradation requirements and she received an email back that sand mound sand does just as well as natural soil for the removal of nitrogen. So we understand that to mean a sand mound system would provide protection of public health.

Thank you for your consideration.

Nick and Jean Frank

Lewis & Clark Public Health

316 North Park Ave.
Room 230
Helena MT 59623
Phone: 406-447-8351
Fax: 406-447-8398
publichealth@lccountymt.gov
www.LewisAndClarkHealth.org

Environmental Division Staff Report
Nicholas and Jean Frank Variance

Hearing Date: July 27, 2023

Sanitarian: Beth Norberg, R.S.
447-8385

PROPERTY OWNER: Nicholas and Jean Frank

PROPERTY ADDRESS: 3805 Churchill Lane
(Previously 3789 Churchill Lane)
Helena, MT 59602

LEGAL DESCRIPTION: BLACK SANDY ESTATES, S32, T12 N, R02 W, Lot 13A, COS #3394481

CURRENT PERMIT: NONE

SYSTEM FAILURE: N/A: Undeveloped Parcel

APPLICATION DATE: July 12, 2023

PREVIOUS VARIANCE: June 21, 2022

VARIANCE REQUEST:

Section 4.3(5): Wastewater treatment systems must be located to maximize the vertical separation distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil.

Montana Department of Environmental Quality (MDEQ) Circular DEQ-4, Section 2.2.4.2: A minimum of 4 feet of natural soil from the bottom of the infiltrative surface of the subsurface absorption system to a limiting layer must be maintained. Fill cannot be used to overcome minimum vertical or horizontal separation distances.

SITE CHARACTERISTICS AND HISTORY:

3805 Churchill Lane is a 20.28 acre, undeveloped parcel of land located in the Black Sandy Estates Subdivision northeast of Helena and adjacent to Hauser Lake on the Missouri River. Mr. and Mrs. Frank own this lot and the adjacent developed lot located at 3797 Churchill Lane. The lot is primarily steeply sloped with ponderosa pine, juniper and native grasses. Most of the slope on the property is greater than the maximum 35% allowance for a wastewater treatment system. You can see drone footage of the site to get a better understanding.

- Drone Footage 1
- Drone Footage 2

In August 2021, the property was for sale and the department conducted a new site evaluation to look for a suitable area that would be a better site than the previous approved site. There were multiple test holes dug and all of them could not meet the four-foot separation to bedrock. The site evaluation was denied.

In October 2021, the Franks purchased the property. In February 2022, a boundary line adjustment between the 2 lots was recorded with the Clark and Recorder. This boundary line adjustment moved the adjoining property line between lots 13A and 14A. The reasoning for the boundary line adjustment was to allow more available room for lot 13A to have a potential site for a septic system and allow the existing shared driveway to be completely contained on lot 14A, making it easier to maintain in the winter months.

A new site evaluation was done in April 2022 in order to look for a spot on the property that could meet all minimum setback requirements now that the new boundaries were in place. Once again, there were multiple test holes and there was not a location that could meet the four-foot separation to bedrock. The soil profile for the best test hole contained sandy loam to 32 inches before turning into fractured shales and bedrock. The site with the best test hole was also relatively flat and the only area that was not steeply sloped.

Because there is not a place on the parcel that has more than 4 feet of soil, the site cannot meet the requirements for a primary or replacement drainfield. Section 4.3(5) requires that all wastewater treatment systems must be located to maximize the vertical separation distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil. The applicant would like to bring 2 feet of fill onto the site and construct the mound on top of the fill. However, the Montana Department of Environmental Quality (MDEQ) Circular DEQ-4, Section 2.2.4.2 requires that a minimum of 4 feet of natural soil from the bottom of the infiltrative surface of the subsurface absorption system to a limiting layer must be maintained. Fill cannot be used to overcome minimum vertical or horizontal separation distances.

The applicant tested their existing well located on the adjacent property for Nitrate + Nitrite, Conductivity and Total Coliform plus E-Coli. Results indicated that the well is safe for the tested parameters and below the Maximum Contaminant Limits (MCL) for drinking water. Non-Degradation calculations were completed because it is a proposed new source of wastewater discharge. All of the calculations for nitrate sensitivity and phosphorus breakthrough passed for both impacts to groundwater and surface water, meeting the Montana Water Quality Act's requirements.

The Black Sandy Estates Subdivision was originally platted in 1981. Because all the lots were over 20 acres, they were not subject to an MDEQ subdivision review for sanitary facilities. Each lot has been approved by the Department as the lots were being developed.

The applicant is proposing the installation of an elevated sand mound that is constructed on two feet of clean, imported fill. Fill material as described in Circular DEQ-4 cannot be finer than a sandy loam with no more than 20% passing the No. 100 sieve. Elevated sand mounds do not require a separate replacement area because they can be removed and a new one constructed in its place. The placement and design can meet all other regulations and design standards. Performance data for elevated sand mounds from the Iowa Department of Natural Resources concluded that when properly designed and installed, performance of mounds was very good. Some of the samples of effluent taken from some mounds found the effluent quality was consistently very good with fecal coliform counts generally less than 200cfu/100ml, and reductions of 99% for BOD5. Other studies have shown that indicators such as fecal coliform counts were not detected at distances greater than 12 inches deep in the native soils. Nitrogen removal capabilities are limited, but still provide a higher treatment than a standard absorption system.

There are currently no other available options such as connection to an off-site wastewater treatment facility or easement to another property. In 2006, the department issued a septic system permit for a system to be sited on the southern portion on the old lot 13 lot along the shared driveway. It was steeply sloped but would fit a primary and replacement system. When Environmental Health Staff inspected the system, it was installed incorrectly, and the primary and replacement area were compromised. The tanks were also located in or very close to the road cut for the driveway and did not meet the required 10-foot setback and be subject to stormwater inundation. In a letter that staff wrote to the previous property owner dated March 1, 2006, he provided options to correct the installation but that a new replacement area would need to be identified. The work was never completed, the property was never developed and the system sat open and unused. It is important to note that although the site was approved for the installation of a septic system, there was not a suitable building site on the side of the property where the septic system was installed. Any easements to bring wastewater from a structure on lot 13A by easement onto Lot 14A would have to be pumped down a steep ravine and under a driveway up to the drainfield. This is not a practical option and would result in a system that would not perform as
designed.

PREVIOUS VARIANCE REQUEST:

In June, 2022, the Franks applied for a variance to the regulations to allow for the installation of a new wastewater treatment system with less than 4 feet of naturally occurring soil. The Lewis and Clark City-County Board of Health Hearing's Officer recommended denial of the variance and the Board of Health voted to ratify the decision. Denial was based on the requirements outlined in the Lewis and Clark County Onsite Wastewater Treatment Regulations, Section 3.4(12)(a) and (c). The Hearings Officer cited in their recommendation that:

1. "One of the criteria for granting a variance is to address "extraordinary conditions that the applicant could not reasonably have prevented". The applicant purchased the lot with a full understanding of the limitations of the topography and soil conditions. The applicant had property line adjustments made to fully accommodate his driveway which may have resulted in the loss of a suitable location for a standard septic system on this parcel of land.

2. The variance request should include the demonstration that, if granted, the protection of public health can be achieved through some other approvable method. This variance request failed to explore any other means for protection."

On July 22, 2022, the Frank's appealed the decision to The Montana Department of Environmental Quality as allowed under ARM 17.36.924. An informal hearing was held on December 5, 2022 before the Hearing Examiners who were appointed by Christopher Dorrington, Director of DEQ. The Board of Health's decision was upheld on April 14, 2023. The Hearing Examiners concluded in the Proposed Findings of Fact and Conclusion of Law that while the public health criteria in ARM 17.36.922(2) for granting a variance were satisfied, the Frank's did not demonstrate an undue hardship or circumstances that could have reasonable been prevented as required in ARM 17.36(2)(b) and (c). The Frank's were allowed a final chance for Oral Argument before Director Dorrington in July 2023. Due to the length of time that the appeal process took, the Frank's chose to not participate in Oral Argument, and instead requested a written decision be issued by the Director. That decision was issued as a Final Agency Action and Order on Jul 3, 2023 and further upheld the DEQ Findings and Board of Health decision.

CURRENT VARIANCE REQUEST:

The Frank's approached the Environmental Division in July, 2023 with new information regarding undue hardship and extraordinary conditions that they wanted to present. After reviewing the information, It was decided between staff and the applicant that a new variance request could be submitted. That information is included in the variance packet.

To satisfy ARM 17.36.922(a), staff reached out to Eric Regensburger, Hydrogeologist at DEQ, and the primary author of the current non-degradation guidance which is a companion document to the water quality rules and drives the requirement for Level II treatment in Montana. In an e-mail, Mr. Regensburger verified that the imported sand that is beneath the treatment lines in a sand mound can be used in calculating the depth to a limiting layer in phosphorus calculations and that correctly sized sand mound sand combined with naturally occurring soil will adequately nitrify nitrogen. This means that it is not expected to have contamination to groundwater or surface water from nitrogen and phosphorus. This verifies that staff conducted the non-degradation calculations correctly and that the public health requirements in ARM 17.36.922(a) can be met.

The Frank's want to demonstrate that they have additional information to support the extraordinary conditions that could not have been reasonably prevented. In their written statement included in the variance application, they claim that they were diligent in making sure there would be a place for a septic system by reading the regulations before purchasing the property, but admit that they misunderstood the regulations. The Frank's were under the impression that the abandoned drainfield was considered a failed system, and that for a failed system you could use the sand in a sand mound to meet the four-foot requirement. They did not realize that this is technically considered a new system and that all systems, new or replacement, must have the four-foot separation. The Frank's feel that they carried out due diligence to the best of their ability prior to purchasing the property.

CONCLUSION:

Nicholas and Jean Frank own the parcel located at 3805 Churchill Lane. They would like to obtain approval of a wastewater treatment system on the lot, but there is not a location that can meet the

four-foot vertical separation requirement to bedrock. There are no other offsite options available. Mr. and Mrs. Frank are requesting a variance from Section 4.3(5) of the Lewis and Clark County Onsite Wastewater Treatment Regulations and Section 2.2.4.2 of Montana DEQ Circular-4 to install an elevated sand mound constructed on two feet of clean, imported fill without four feet of naturally occurring soil.

RECOMMENDATION:

Staff recommends that if the variance is granted, it shall be granted with the following conditions:

1. That the system be designed by a Professional Engineer licensed in the State of Montana.
2. That the lot shall be limited to one single family dwelling and that there will be no additional structures or increase in wastewater flow.
3. That the lot shall not be further divided resulting in anything less than 20 acres in size.
4. That the variance expires two (2) years from date of property transfer from the Franks to the next property owner.

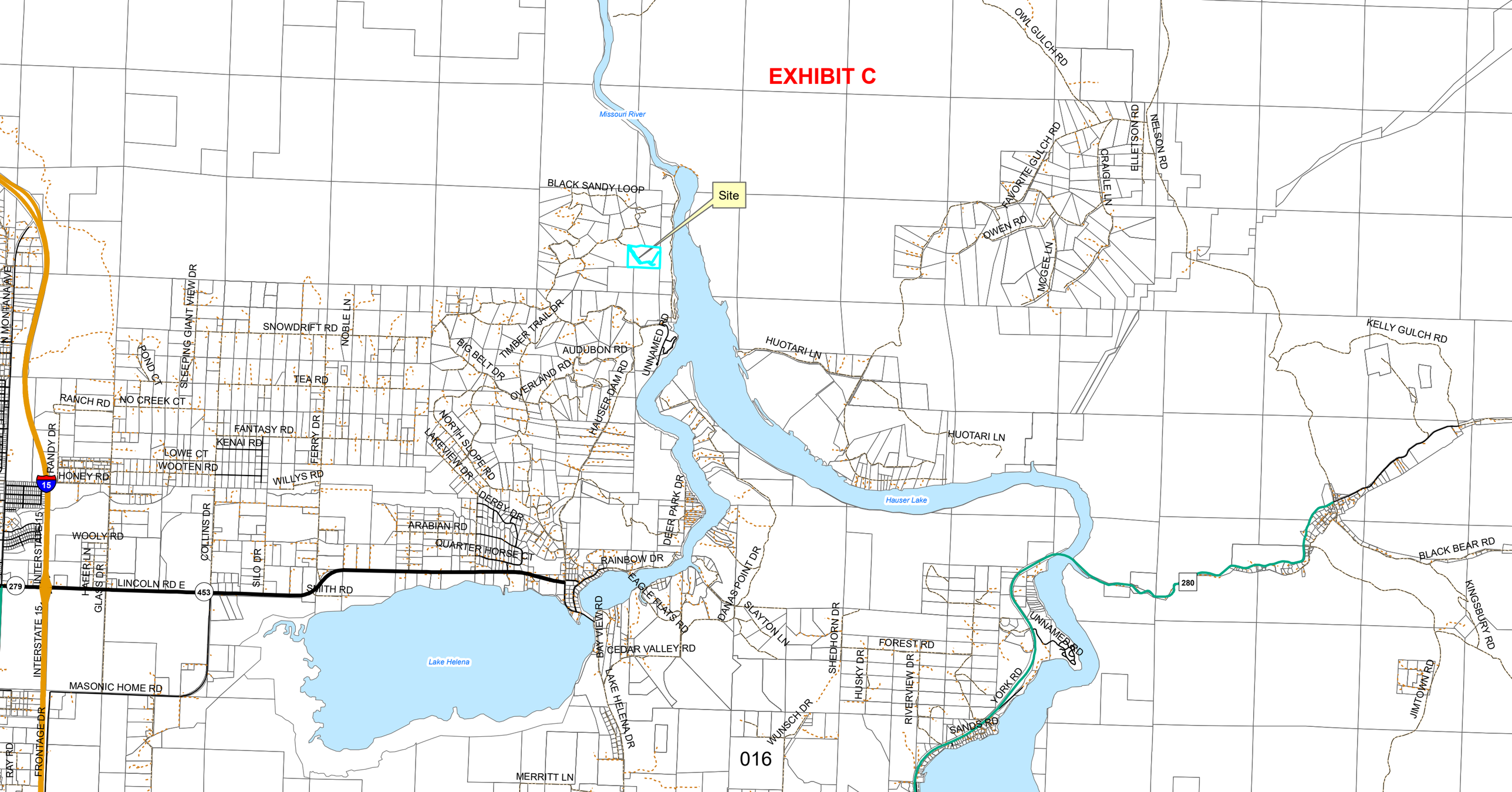


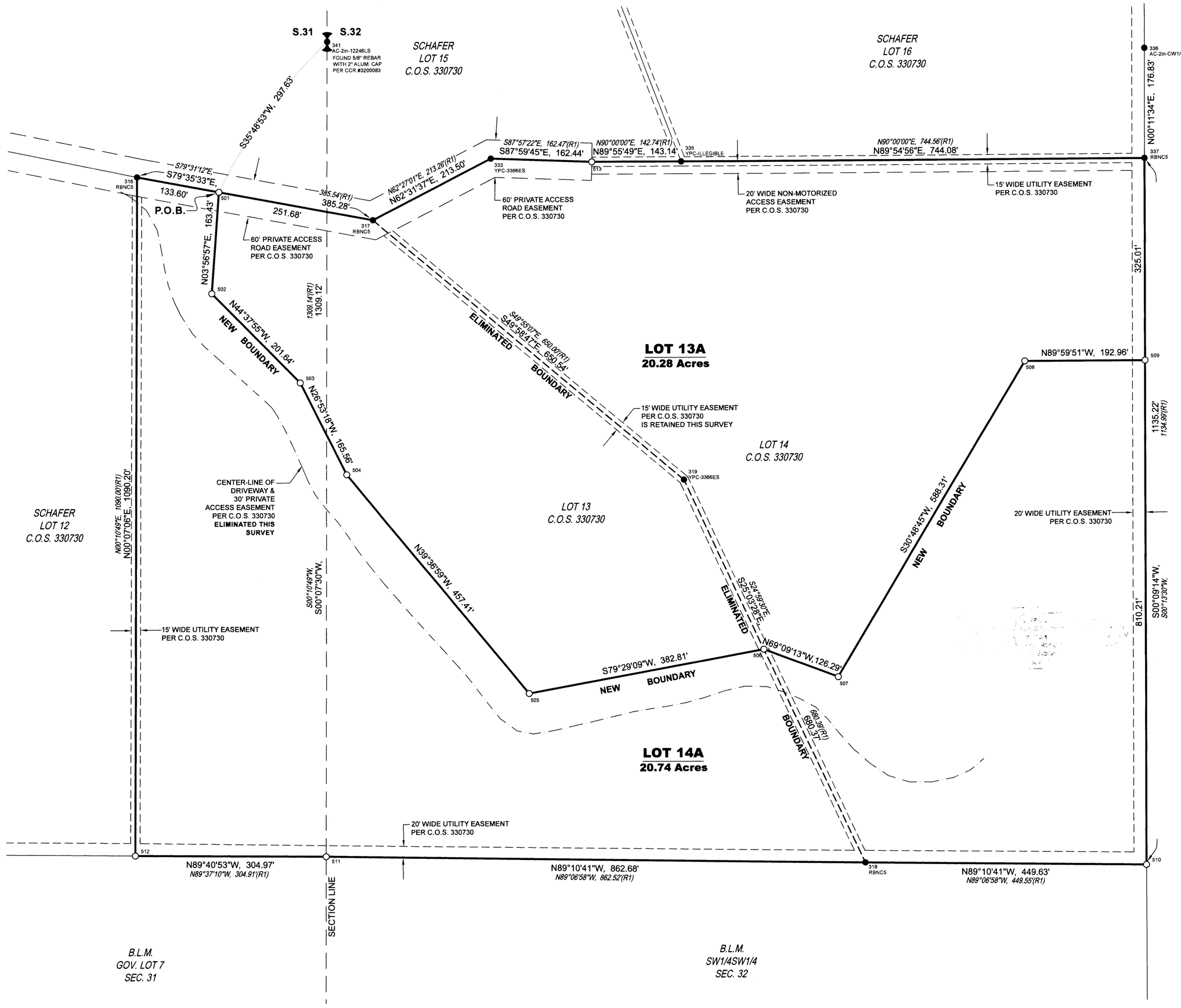
EXHIBIT C
Site
Missouri River
Hauser Lake
Lake Helena
BLACK SANDY LOOP
OWL GULCH RD
FAVORITE GULCH RD
CRAIGLE LN
ELLETSON RD
NELSON RD
OWEN RD
MCGEE LN
HUOTARI LN
KELLY GULCH RD
UNNAMED RD
AUDUBON RD
TIMBER TRAIL DR
BIG BELT DR
OVERLAND RD
HAUSER DAM RD
SNOWDRIFT RD
NOBLE LN
SLEEPING GIANT VIEW DR
POND CT
TEA RD
RANCH RD
NO CREEK CT
FANTASY RD
KENAI RD
LOWE CT
WOOTEN RD
FERRY DR
RANDY DR
HONEY RD
WILLYS RD
NORTH SLOPE RD
LAKEVIEW DR
DERBY DR
ARABIAN RD
QUARTER HORSE CT
DEER PARK DR
RAINBOW DR
EAGLE FLATS RD
DANAS POINT DR
SLAYTON LN
BAY VIEW RD
CEDAR VALLEY RD
LAKE HELENA DR
SHEDHORN DR
FOREST RD
HUSKY DR
RIVERVIEW DR
YORK RD
SANDS RD
WUNSCH DR
UNNAMED RD
BLACK BEAR RD
KINGSBURY RD
JIMTOWN RD
WOOLY RD
COLLINS DR
SILO DR
HAEER LN
GLASS DR
LINCOLN RD E
SMITH RD
INTERSTATE 15
MASONIC HOME RD
FRONTAGE DR
RAY RD
MERRITT LN
N MONTANA AVE
15
279
453
280
016

V:\BNDY\21-142 FRANK.DWG

CERTIFICATE OF SURVEY

PURPOSE: BOUNDARY RELOCATION & EASMENT ELIMINATION
COMMISSIONED BY: NICHOLAS FRANK

EXHIBIT D



BASIS OF BEARINGS

Bearings are Geodetic based upon GPS observations through the One-Quarter Corner common to Section 8 and Section 17, T11N, R2W, PM, Montana

0 100 200 300
SCALE IN FEET

LEGEND

- ● = Found survey monument, as described
- ○ = Set 5/8" x 24" rebar with 1.5" Orange Plastic Cap
- ⋈ = Quarter Section Corner
- **P.O.B.** = Point of Beginning
- *C.O.S.* = Certificate of Survey
- *(R1)* = Record per C.O.S. 330730
- — — — = Centerline of existing roadway

CERTIFICATE OF SUBDIVISION EXEMPTION

This survey is for divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties. Therefore this survey is exempt from review under the Montana Subdivision and Platting Act pursuant to Section 76-3-207(1)(a), M.C.A.

CERTIFICATE OF D.E.Q. EXEMPTION

We, the undersigned, hereby certify that the division of land shown on this Certificate of Survey is exempt from sanitary restrictions in accordance with Section 76-4-102(22) in that "Subdivision" means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision, any condominium, townhome, or townhouse, or any parcel, regardless of size, that provides two or more permanent spaces for recreational camping vehicles or mobile homes.

LEGAL DESCRIPTION LOT 13A

A tract of land located in the Southeast 1/4 of Section 31 and the Southwest 1/4 of Section 32, Township 12 North, Range 2 West, Principal Meridian, Montana, Lewis and Clark County, Montana, being more particularly described as follows:

Beginning at a survey monument which bears S35°48'53"W 297.63 feet from the One-Quarter Section Corner common to said Section 31 and Section 32; thence from said Point of Beginning traveling S79°35'33"E 251.68 feet to a survey monument; thence N62°31'37"E 213.50 feet to a survey monument; thence S87°59'45"E 162.44 feet to a survey monument; thence N89°55'49"E 143.14 feet to a survey monument; thence N89°54'56"E 744.08 feet to a survey monument; thence S00°09'14"W 325.01 feet to a survey monument; thence N89°59'51"W 192.96 feet to a survey monument; thence S30°48'45"W 588.31 feet to a survey monument; thence N69°09'13"W 126.29 feet to a survey monument; thence S79°29'09"W 382.81 feet to a survey monument; thence N39°36'59"W 457.41 feet to a survey monument; thence N26°53'18"W 165.56 feet to a survey monument; thence N44°37'55"W 201.64 feet to a survey monument; thence N03°56'57"W 163.43 feet to the survey monument located at the Point of Beginning, containing 20.28 acres, more or less, and subject to all easements of record or apparent on the ground.

LEGAL DESCRIPTION LOT 14A

A tract of land located in the Southeast 1/4 of Section 31 and the Southwest 1/4 of Section 32, Township 12 North, Range 2 West, Principal Meridian, Montana, Lewis and Clark County, Montana, being more particularly described as follows:

Beginning at a survey monument which bears S35°48'53"W 297.63 feet from the One-Quarter Section Corner common to said Section 31 and Section 32; thence from said Point of Beginning traveling S03°56'57"W 163.43 feet to a survey monument; thence S44°37'55"E 201.64 feet to a survey monument; thence S26°53'18"E 165.56 feet to a survey monument; thence S39°36'59"E 457.41 feet to a survey monument; thence N79°29'09"E 382.81 feet to a survey monument; thence S69°09'13"E 126.29 feet to a survey monument; thence N30°48'45"E 588.31 feet to a survey monument; thence S89°59'51"E 192.96 feet to a survey monument; thence S00°09'14"W 810.21 feet to a survey monument; thence N89°10'41"W 449.63 feet to a survey monument; thence N89°10'41"W 862.68 feet to a survey monument; thence N89°40'53"W 304.97 feet to a survey monument; thence N00°07'06"E 1090.20 feet to the survey monument located at the Point of Beginning, containing 20.74 acres, more or less, and subject to all easements of record or apparent on the ground.

CERTIFICATE OF EASEMENT ELIMINATION

We, the undersigned, hereby certify that we are the owners of Lot 13A and Lot 14A. We further certify that the "30' Private Access Easement" as shown and described on Certificate of Survey No. 330730 is no longer necessary for the arrangement of lots and is hereby closed, vacated, abandoned and eliminated. Lot 13A will be accessed by the "60' Private Access Road Easement" per said Certificate of Survey No. 330730 along the North boundary of Lot 13A.

Nicholas David Frank — 2/22/2022
Nicholas David Frank — Date

Jean Marie Frank — 2/22/2022
Jean Marie Frank — Date

State of Montana
County of LEWIS & CLARK
This instrument was signed or acknowledged before me on 2/22/2022 by NICHOLAS DAVID & JEAN MARIE FRANK
(Name of signer)
(Notary Signature)
[Affix seal/stamp to the left or below]

MICHAEL NEWHOUSE
NOTARY PUBLIC for the
State of Montana
Residing at Helena, Montana
My Commission Expires
December 18, 2025

COUNTY TREASURER

I certify pursuant to Section 76-3-207(3), M.C.A., that all real property taxes and special assessments assessed and levied on the land encompassed by this Certificate of Survey have been paid.

Geocode:05-2112-32-3-01-03-0000 Assessment Code:0000021726
Geocode:05-2112-32-3-01-05-0000 Assessment Code:0000021727

Amy Reeves/DR — 2/22/22
Lewis & Clark County Treasurer — Date

CERTIFICATE OF EXAMINING LAND SURVEYOR

Reviewed for errors and omissions in calculation and drafting this 9th day of February, 20 22 pursuant to Section 76-3-611 (2) (a), M.C.A.

Examining Land Surveyor
Reg. No. 12249LS

CERTIFICATE OF SURVEYOR

I, Jared A. Lay, a licensed Professional Land Surveyor in the State of Montana, do hereby certify that this is a true representation of a survey made under my direct supervision.

02/08/2022
Jared A. Lay, Montana Reg. No. 17305LS — Date

MONTANA
JARED A. LAY
17305 LS
LICENSED PROFESSIONAL LAND SURVEYOR

1/4	SEC.	T.	R.
☒	31	12N	2W
☒	32	12N	2W

J BAR T ENGINEERS, LLC
1093 HELENA AVE.
HELENA, MT 59601
(406) 449-1306
JBARTENGINEERS.COM

County: Lewis & Clark P.M., M. Date: 2/9/2022

3394481 COS
07/22/2022 02:29 PM Pages: 1 of 1 Fees: 126.00
Amy Reeves Clerk & Recorder Lewis & Clark MT

017


EXHIBIT E
CHURCHILL LN
Approximate
Buildable Area
Test Hole
N
Lot 13A
Frank's Residence
Old DF
Lot 14A
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community
0 85 170 340 510 680
Feet

Lewis & Clark Public Health

EXHIBIT F

316 North Park Ave., Room 230
Helena, MT 59623
406-447-8351
Fax: 406-447-8398
publichealth@lccountymt.gov
www.LewisAndClarkHealth.org

SITE EVALUATION INSPECTION RESULTS
This is NOT a permit

PARCEL/PROJECT INFORMATION

PROJECT STATUS: PENDING VARIANCE

OWNER:	STAMPER DOMINICA E
SITE ADDRESS:	
LEGAL DESC:	BLACK SANDY ESTATES, S32, T12 N, R02 W, Lot 13A, ACRES 20.28, COS 3394481, PREV COS 330730
GEOCODE:	05211232301030000
PROPOSED SUB:	**PROPOSED LOT NO.:**
INSPECTION DATE:	5/13/2022 **INSPECTOR:** BETH NORBERG
INSPECTION RESULT:	FAIL
CONTACT:	

PROJECT INFORMATION

PROJECT TYPE:	SITE EVALUATION	**PROPOSED STRUCTURE TYPE:**	
PROJECT SUBTYPE:	NEW	**PROPOSED SYSTEM TYPE:**	
PROJECT DESCRIPTION:			
NOTES:	Entire lot has less than 4 feet to bedrock or is too steeply sloped to accommodate a system. Only option is to apply for a variance to use fill and an Elevated Sand Mound with fill.		

INSPECTION RESULTS

1. ALL FEES SUBMITTED, COMPLETED APPLICATION	Pass	
2. TEST HOLE IS WITHIN 25 FEET OF PRIMARY AND REPLACEMENT DRAINFIELD LOCATION	Pass	
3. SETBACK TO WELLS AND SURFACE WATER MET	Pass	There are no downgradient wells in the direction of groundwater flow that would impact the drainfield mixing zone.
4. SETBACK TO ALL PROPERTY LINES MET	Pass	System will meet the 10 foot setback to property lines.
5. SETBACK TO ALL FOUNDATIONS MET	Pass	No foundations. All proposed structures will meet the required setbacks.
6. SETBACK TO 100 YEAR FLOODPLAIN AND/OR FLOODWAY MET	N/A	No mapped floodplain in the area
7. SLOPE REQUIREMENTS MET	Pass	Site is variable and steeply sloped. Best location is in an area with less than 6% slope to accommodate an ESM.
8. DEPTH TO BEDROCK >4'	Fail	There is not a location on the property that can meet the depth to bedrock.
9. DEPTH TO GROUNDWATER >4'	N/A	No groundwater or signs of groundwater in the test holes
10. MOTTLING OR SIGNS OF GROUNDWATER IN TEST HOLE	N/A	
11. TEST HOLE LOCATION AND OTHER DATA LOGGED IN GPS UNIT	Pass	
12. PREVIOUS GROUNDWATER MONITORING COMPLETED AT THE SITE	N/A	
13. GROUNDWATER MONITORING ON SURROUNDING PROPERTY	N/A	
14. NON-DEGRADATION REVIEW COMPLETED AND APPROVED	Pass	Site pending Non-degradation review Non-degradation reviewed and approved
15. SITE MEETS REQUIREMENTS OF MOST CURRENT WASTEWATER TREATMENT REGULATIONS	Fail	Depth to Bedrock

NO CONSTRUCTION shall take place until a numbered septic system permit has been issued by Lewis and Clark public health. If any construction occurs prior to a permit being issued, the permit fee will be doubled and an additional administrative penalty will be charged.

CONSTRUCTION is defined as the building or renovation of any structure intended for human occupancy, including excavation for foundations or footings, that would result in an increase in wastewater flow; the drilling of a well or the provision of water to a site intended for human occupancy; or work on or the installation of any part of an on-site wastewater treatment system.

Lewis & Clark Public Health

316 North Park Ave., Room 230
Helena, MT 59623
406-447-8351
Fax: 406-447-8398
publichealth@lccountymt.gov
www.LewisAndClarkHealth.org

EXHIBIT F

SITE EVALUATION SOILS FORM
This is NOT a permit

PARCEL/PROJECT INFORMATION **PROJECT STATUS: PENDING VARIANCE**

OWNER:	STAMPER DOMINICA E
SITE ADDRESS:	
LEGAL DESC:	BLACK SANDY ESTATES, S32, T12 N, R02 W, Lot 13A, ACRES 20.28, COS 3394481, PREV COS 330730
GEOCODE:	05211232301030000
PROPOSED SUB:	**PROPOSED LOT NO.:**
APPLICATION DATE: 4/22/2022	**APPLICANT:** NICHOLAS & JEAN FRANK
SITE EVALUATION TYPE: NEW	

TEST HOLE 1		**TEST HOLE 2**	
Layer 1	0-10", Loam, 50% small shales, 2.5Y, 4/4	Layer 1	
Layer 2	10-32", Sandy Loam with 75% small shales and some areas of fractured shales with soil fines. 10YR, 5	Layer 2	
Layer 3	32-96", Fractured bedrock	Layer 3	
Layer 4		Layer 4	
Layer 5		Layer 5	
Layer 6		Layer 6	
Layer 7		Layer 7	
Layer 8		Layer 8	
MOTTLING DEPTH		MOTTLING DEPTH	
GROUNDWATER DEPTH		GROUNDWATER DEPTH	
BEDROCK DEPTH	32"	BEDROCK DEPTH	
NOTES		NOTES	
TEST HOLE 3		**TEST HOLE 4**	
Layer 1		Layer 1	
Layer 2		Layer 2	
Layer 3		Layer 3	
Layer 4		Layer 4	
Layer 5		Layer 5	
Layer 6		Layer 6	
Layer 7		Layer 7	
Layer 8		Layer 8	
MOTTLING DEPTH		MOTTLING DEPTH	
GROUNDWATER DEPTH		GROUNDWATER DEPTH	
BEDROCK DEPTH		BEDROCK DEPTH	
NOTES		NOTES	
TEST HOLE 5		**TEST HOLE 6**	
Layer 1		Layer 1	
Layer 2		Layer 2	
Layer 3		Layer 3	
Layer 4		Layer 4	
Layer 5		Layer 5	
Layer 6		Layer 6	
Layer 7		Layer 7	
Layer 8		Layer 8	

LABORATORY ANALYTICAL REPORT

Prepared by Helena, MT Branch

EXHIBIT G

Client:	MSU Well Educated	**Report Date:**	05/27/22
Project:	Nick Frank	**Collection Date:**	05/16/22 10:30
Client Sample ID:	Nick Frank	**Received Date:**	05/16/22 11:20
Sampled By:	Not Provided	**Matrix:**	Drinking Water
Lab ID:	H22050479-001B		

Analyses	Result	Units	Safe/Unsafe	Qualifier	Method	Analysis Date / By
MICROBIOLOGICAL						
Coliform, Total	Absent	per 100ml	SAFE		A9223 B	05/16/22 15:45 / amh
Coliform, E-Coli	Absent	per 100ml			A9223 B	05/16/22 15:45 / amh

Comments: The notation "SAFE" indicates that the water was bacteriologically SAFE when sampled.

The notation "UNSAFE" indicates that the water was bacteriologically UNSAFE when sampled.

Qualifiers:

LABORATORY ANALYTICAL REPORT

Prepared by Helena, MT Branch

Client: MSU Well Educated
Project: Nick Frank
Lab ID: H22050479-001
Client Sample ID: Nick Frank

Report Date: 05/27/22
Collection Date: 05/16/22 10:30
DateReceived: 05/16/22
Matrix: Drinking Water

Analyses	Result	Units	Qualifiers	RL	MCL/ QCL	Method	Analysis Date / By
NUTRIENTS							
Nitrogen, Nitrate+Nitrite as N	0.01	mg/L		0.01	10	E353.2	05/18/22 09:16 / GEM

Report Definitions:
RL - Analyte Reporting Limit
QCL - Quality Control Limit
MCL - Maximum Contaminant Level
ND - Not detected at the Reporting Limit (RL)

HYDRAULIC TRANSMISSIVITY AND CONDUCTIVITY

EXHIBIT H

Site Name: Nick and Jean Frank
County: Lewis and Clark
EQ #:
Notes: 3789 Churchill Lane

(re: Applied Hydrogeology, 3rd Edition by C.W. Fetter {T=(33.6((Q)(192.5)/S)^0.67) & K=T/b & S=PWL-SWL}

Owner's Name				
GWIC#	**286541**	**276371**	**193632**	**288603**
Total Depth of Well	554	500	410	620
(Q) Gallons Per Minute	**19.00**	**25.00**	**10.00**	**30.00**
Static Water Level	**313.00**	**334.00**	**364.00**	**445.00**
Pumping Water Level	**380.00**	**355.00**	**370.00**	**500.00**
(b) Aquifer Thickness	**60**	**40**	**30**	**80**
Type of well test	Air	Air	Air	Air
(T) Transmissivity (ft²/d)	490.01	1281.27	1605.26	759.51
(K) Conductivity (ft/d)	8.17	32.03	53.51	9.49
Average Conductivity (ft/d)	25.80			

(re: Groundwater and Wells, by F.G. Driscoll) [conf. T=(Q(2000)/S)0.134] [unconf. T=(Q(1500)/S)0.134] [K=T/b] & S=PWL-SWL

Unconfined Transmissivity (gpd/ft)	425.3731343	1785.714	2500	818.1818
Confined Transmissivity (gpd/ft)	567.1641791	2380.952	3333.333	1090.909
Unconfined Transmissivity (ft²/d)	57	239.2857	335	109.6364
Confined Transmissivity (ft²/d)	76	319.0476	446.6667	146.1818
Unconfined Conductivity (ft/d)	0.95	5.982143	11.16667	1.370455
Confined Conductivity (ft/d)	1.266666667	7.97619	14.88889	1.827273
Average Conductivity (unconfined) (ft/d)	4.87			
Average Conductivity (confined) (ft/d)	6.49			

EXHIBIT H

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

NITRATE SENSITIVITY ANALYSIS

Model Updated 01/24/96

SITE NAME: Nick and Jean Frank
COUNTY: Lewis and Clark
LOT #: 3789 Churchill Lane
NOTES:

VARIABLES	DESCRIPTION	VALUE	UNITS
K	Hydraulic Conductivity	6.5	ft/day
I	Hydraulic Gradient	0.050	ft/ft
D	Depth of Aquifer (usually constant)	15.0	ft
L	Mixing Zone Length (see ARM 17.30.517(1)(d)(viii)	500	ft
Y	Width of Drainfield Perpendicular to Ground Water Flow	25	ft
Ng	Background Nitrate (as Nitrogen)	0.01	mg/L
Nr	Nitrate (as Nitrogen) in Precipitation (usually constant)	1.0	mg/L
Ne	Nitrates in Effluent (50 for conventional; 24 for level II)	50	mg/L
#I	Number of Single Family Homes on the Drainfield	1.0	
QI	Quantity of Effluent per Single Family Home (constant)	26.70	ft3/day
P	Precipitation	11.0	in/year
V	Percent of Precipitation Recharging Ground Water (usually constant)	0.20	
EQUATIONS			
W	Width of Mixing Zone Perpendicular to Ground Water Flow = (0.175)(L)+(Y)	112.50	ft
Am	Cross Sectional Area of Aquifer Mixing Zone = (D)(W)	1687.50	ft2
As	Surface Area of Mixing Zone = (L)(W)	56250.00	ft2
Qg	Ground Water Flow Rate = (K)(I)(Am)	547.59	ft3/day
Qr	Recharge Flow Rate = (As)(P/12/365)(V)	28.25	ft3/day
Qe	Effluent Flow Rate = (#I)(QI)	26.70	ft3/day
SOLUTION			
Nt	**Nitrate (as Nitrogen) Concentration at End of Mixing Zone =((Ng)(Qg)+(Nr)(Qr)+(Ne)(Qe)) / ((Qg)+(Qr)+(Qe))**	**2.27**	**mg/L**

BY: Beth Norberg, RS
DATE: June 15, 2022

G:\WPB\SUBDIV\WORKSPAC\NDEG\NSA.XLS *REV. 12/98*

EXHIBIT H

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

PHOSPHOROUS BREAKTHROUGH ANALYSIS

SITE NAME: Nick and Jean Frank
COUNTY: Lewis and Clark
LOT #: 3789 Churchill Lane
NOTES:

VARIABLES	DESCRIPTION	VALUE	UNITS
Lg	Length of Primary Drainfield as Measured Perpendicular to Ground Water Flow	25.0	ft
L	Length of Primary Drainfield's Long Axis	40.0	ft
W	Width of Primary Drainfield's Short Axis	20.0	ft
B	Depth to Limiting Layer from Bottom of Drainfield Laterals*	6.0	ft
D	Distance from Drainfield to Surface Water	2481.0	ft
T	Phosphorous Mixing Depth in Ground Water (0.5 ft for coarse soils, 1.0 ft for fine soils)**	0.5	ft
Ne			
Sw	Soil Weight (usually constant)	100.0	lb/ft3
Pa	Phosphorous Adsorption Capacity of Soil (usually constant)	200.0	ppm
#l	Number of Single Family Homes on the Drainfield	1.0	
CONSTANTS			
Pl	Phosphorous Load per Single Family Home (constant)	6.44	lbs/yr
X	Conversion Factor for ppm to percentage (constant)	1.0E+06	
EQUATIONS			
Pt	Total Phosphorous Load = (Pl)(#l)	6.44	lbs/yr
W1	Soil Weight under Drainfield = (L)(W)(B)(Sw)	480000.0	lbs
W2	Soil Weight from Drainfield to Surface Water = [(Lg)(D) + (0.0875)(D)(D)] (T)(Sw)	30030954.4	lbs
P	Total Phosphorous Adsorption by Soils = (W1 + W2)[(Pa)/(X)]	6102.2	lbs
SOLUTION			
BT	**Breakthrough Time to Surface Water = P / Pt**	947.5	years

BY: Beth Norberg, RS
DATE: June 16, 2022

NOTES: ** Depth to limiting layer is typically based on depth to water in a test pit or bottom of a dry test pit minus two feet to account for burial depth of standard drainfield laterals.*
*** Material type is usually based on test pit. A soil that contains more than 35% silt and clay sized particles is considered fine grained.*

EXHIBIT H

Appendix Q

TRIGGER VALUE CALCULATION FOR ADJACENT TO SURFACE WATER DILUTION ANALYSIS

"An analysis of the effect of the proposed drainfield system on the quality of any adjacent surface water is required by ARM 17.36.312 and 17.30.715(1c). The increase in the nutrient concentration in the surface water cannot exceed the trigger value (T.V. of 0.01 mg/L nitrate and 0.001 mg/L phosphorous as set forth in Circular DEQ 7."

DILUTION EQUATION: $\frac{(QD)(CD) + (QL)(CL)}{QD + QL} < T.V. = non\text{-}significant$

Note: Effluent flow rate (QD) must be multiplied by the number of drainfields in the subdivision.

NITRATE CALCULATION:

	1.00		Number of drainfields in subdivision
QD =	26.70	ft^3/d	Effluent flow rate from drainfield in cubic feet per day (commonly 200 gpd or 26.7 ft^3/d for a 2 - 5 bedroom home)
CD =	50.00	mg/L	Nitrate concentration in mg/L (50 mg/L nitrate-N for standard drainfield, 24 mg/L for Level 2 wastewater treatment system)
QL =	1440.00	ft^3/s	Flow rate in ft^3/s into (or out of) surface water determined by stream gauge (usually the 7-day, 10-year low flow or 7Q10)
CL =	0.00	mg/L	Nitrate concentration (in mg/L) in surface water; can typically assume zero since increase, not total, is important

0.0000107 mg/L = final result, must be < 0.01 mg/L to be considered nonsignificant nitrate increase

PHOSPHOROUS CALCULATION:

	1		Number of drainfields in subdivision
QD =	26.7	ft^3/d	Effluent flow rate from drainfield in cubic feet per day, (commonly 200 gpd or 26.7 ft^3/d for a 2 - 5 bedroom home)
CD =	10.6	mg/L	Phosphorous concentration in mg/L (commonly 10.6 mg/L) in effluent
QL =	2.87	ft^3/s	Flow rate in ft^3/s into (or out of) surface water determined by stream gauge (usually the 7-day, 10-year low flow or 7Q10)
CL =	0	mg/L	Phosphorous concentration (in mg/L) in surface water; can typically assume zero since increase, not total, is important

0.0011412 mg/L = final result, must be < 0.001 mg/L to be considered nonsignificant for phosphorous increase

EXHIBIT I

United States Environmental Protection Agency | Office of Water Washington, D.C. | EPA 832-F 99-074 September 1999

Decentralized Systems Technology Fact Sheet
Mound Systems

DESCRIPTION

The mound system was originally developed in North Dakota in the late 1940s and called the NODAK disposal system. Some soil types are unsuitable for conventional septic tank soil absorption systems. As a result, alternative systems such as the mound system can be used to overcome certain soil and site conditions.

The mound design in predominate use today was modified from the NODAK design by the University of Wisconsin-Madison in the early 1970s. Although there are now many different mound designs in use, this fact sheet will focus on the Wisconsin design. The Wisconsin mound has been widely accepted and incorporated into many state regulations.

The three principle components of a mound system are a pretreatment unit(s), dosing chamber and the elevated mound. Figure 1 illustrates a Wisconsin mound system.

APPLICABILITY

Mounds are pressure-dosed sand filters that discharge directly to natural soil. They lie above the soil surface and are designed to overcome site restrictions such as:

- Slow or fast permeability soils.
- Shallow soil cover over creviced or porous bedrock.
- A high water table.

The main purpose of a mound system is to provide sufficient treatment to the natural environment to produce an effluent equivalent to, or better than, a conventional onsite disposal system.

ADVANTAGES AND DISADVANTAGES

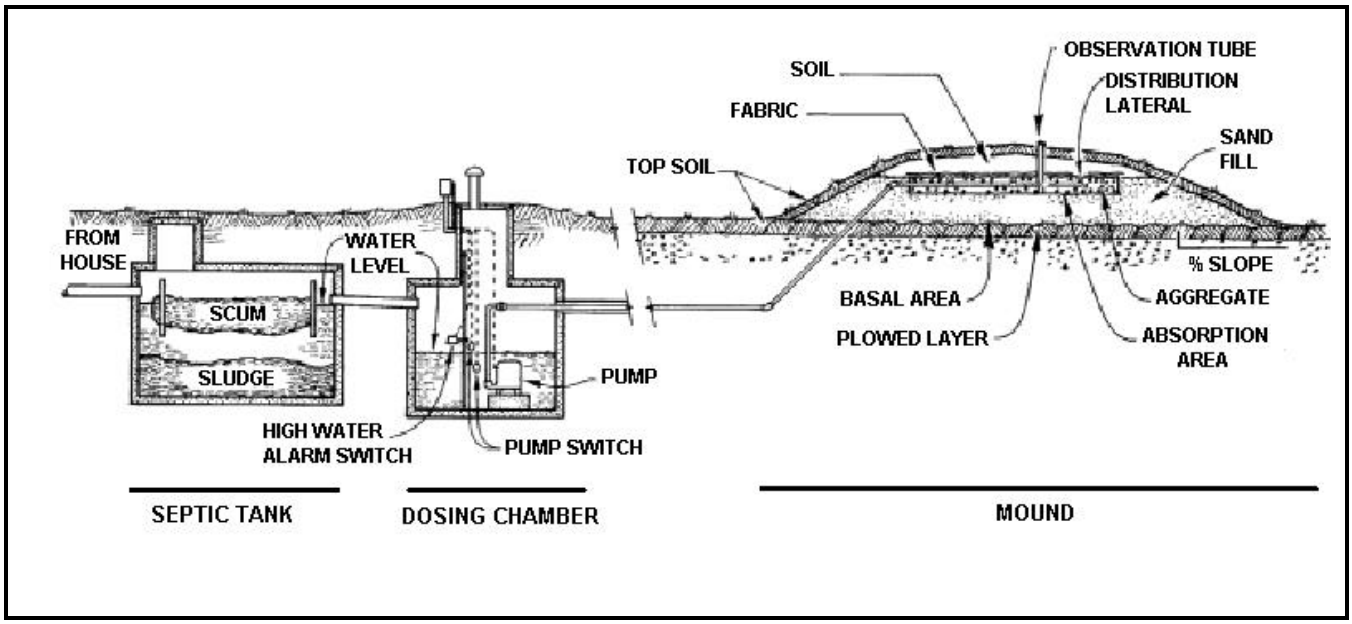
Listed below are some advantages and disadvantages of mound systems when compared to other alternative onsite systems.

Advantages

- The mound system enables use of some sites that would otherwise be unsuitable for in-ground or at-grade onsite systems.
- The natural soil utilized in a mound system is the upper most horizon, which is typically the most permeable.
- A mound system does not have a direct discharge to a ditch, stream, or other body of water.
- Construction damage is minimized since there is little excavation required in the mound area.
- Mounds can be utilized in most climates.

Disadvantages

- Construction costs are typically much higher than conventional systems.



Source: Converse and Tyler, Copyright © by the American Society of Agricultural Engineers, reprinted with permission, 1987.

FIGURE 1 SCHEMATIC OF A WISCONSIN MOUND SYSTEM

- Since there is usually limited permeable topsoil available at mound system sites. Extreme care must be taken not to damage this layer with construction equipment.
- The location of the mound may affect drainage patterns and limit land use options.
- The mound may have to be partially rebuilt if seepage or leakage occurs.
- All systems require pumps or siphons.
- Mounds may not be aesthetically pleasing in unless properly landscaped.

DESIGN CRITERIA

Two factors that determine the size and configuration of a mound are; how the effluent moves away and the rate at which it moves away from the system. The prediction of the movement and rate of movement is done from studies of the soil and site information obtained. To ensure proper performance of the mound system, the following concepts must be included in the design and construction process:

- 1) Leaving the topsoil in place but plowing it before placement of the fill.
- 2) Using a coarse sand fill meeting grain size distribution specifications.
- 3) Using pressure to uniformly distribute the effluent over the seepage area.

Soil Depth

A suitable depth of soil is required to treat the effluent before it reaches the limiting condition, such as bedrock, a high water table, or a slowly permeable soil layer. Although the separation distance varies, it is usually between 1 and 4 feet.

Site and Design

To date, siting and design experience at sites suitable for mound systems indicates that absorption systems should be long and narrow and should follow the contour (i.e., level). The more restrictive the site, the narrower and longer the system. Table 1 gives the soil criteria for a Wisconsin mound based on research and field experience.

TABLE 1 RECOMMENDED SOIL AND SITE CRITERIA FOR THE WISCONSIN MOUND SYSTEM BASED ON RESEARCH AND FIELD EXPERIENCE

Parameter	Value
Depth of high water table (permanent or seasonal)	10 in.
Depth to crevice bedrock	2 ft.
Depth to non-crevice bedrock	1 ft.
Permeability of top 10 in.	Moderately low
Site slope	25%
Filled site	Yes[a]
Over old system	Yes[b]
Flood plains	No

a Suitable according to soil criteria (texture, structure, consistence).
b The area and backfill must be treated as fill because it is a disturbed site.

Source: Converse and Tyler, 1990.

High Water

The high water table is determined by direct observation (soil boring), interpretation of soil mottling, or other criteria. The bedrock should be classified as crevice, non-crevice semi-permeable, or non-crevice impermeable. This will determine the depth of sand media required.

Percolation and Loading

Percolation tests are used in some jurisdictions to estimate the soil permeability because they are empirically related to the loading rate. Loading rates should be based on the soil texture, structure, and consistence, using the percolation test only to confirm morphological interpretations.

Mounds

Mounds can be constructed on sites with slopes up to 25%. The slope limitation is primarily for construction safety, because it is difficult to operate equipment on steep slopes, and they pose a construction hazard. From a hydraulic perspective, mounds can be positioned on steep slopes.

Sites

In the case of filled sites, fill material is placed on top of the natural soil and may consist of soil textures ranging from sand to clay. Sufficient time must be allowed for the soil structure to stabilize before constructing a system. Many more observations are required for filled areas.

When evaluating the soil loading rate for a mound over an old or failing in-ground system, the soil over the system must be considered to be disturbed, and thus, treated as a filled site. If a mound is to be placed over a large in-ground system, a detailed evaluation of the effluent movement should be done.

Mounds should not be installed in flood plains, drainage ways, or depressions unless flood protection is provided. Another siting consideration is maintaining the horizontal separation distances from water supply wells, surface waters, springs, escarpments, cuts, the boundary of the property, and the building foundation. Sites with trees and large boulders can make it difficult in preparing the site. Trees should be cut to the ground surface with tilling around stumps. The size of the mound should be increased to provide sufficient soil to accept the effluent when trees and boulders occupy a significant amount of the surface area.

The actual size of a mound system is determined by estimating the sand fill loading rate, soil (basal) loading rate, and the linear loading rate. Once these values are established, the mound can be sized for the site. The final step is to design the effluent distribution network and the pumping system.

PERFORMANCE

One factor that determines good performance is the type of sand fill material. A suitable sand is one that can adequately treat the wastewater. Suitable sand should contain 20% or less material greater than 2.0 mm and 5% or less finer than 0.053 mm. It should also have a size distribution that meets certain sieve analysis specifications, ASTMC-33 specifications, or meets limits for effective diameter and coefficient of uniformity.

For design of residential mounds, the daily wastewater volume is determined by the number of bedrooms in a house. Typical design flow requirements for individual homes are up to 150 gallons per day (gpd) per bedroom. Design specifications for mound systems are usually the same for both large and small flows for typical domestic septic tank effluent. Higher strength wastes must be pretreated to the levels of domestic septic tank effluent, or lower hydraulic loading rates may be applied.

IMPLEMENTATION

In Wisconsin, the success rate of the mound system is over 95%, which is due to their emphasis on siting, design, construction and maintenance.

Years of monitoring the performance of mound systems have shown that mounds can consistently and effectively treat and dispose of wastewater. Studies have shown evidence that some nitrogen removal does occur in mound systems when approximately 2 feet of natural unsaturated soil is below the fill material.

Mound Systems in Wisconsin (State-Wide)

Using relatively conservative soil criteria, many states have accepted the Wisconsin mound system as an alternative when conventional in-ground trenches and beds are not suitable. The Wisconsin mound system has evolved into a viable onsite system for the treatment of wastewater from individual, commercial, and community systems by overcoming some of the site limitations and meeting code requirements and guidelines.

In 1978, an experimental study was initiated to evaluate soil/site limitations for the Wisconsin mound (see Converse and Tyler, 1987a). The objectives of this research study were to determine whether the existing soil/site limitations on mounds were too restrictive and to determine the minimum soil/site limitations under which the mounds would perform without affecting public health and the environment. The experimental approach was to design, construct, and evaluate sites with mound systems that currently did not meet code requirements due to failing systems.

The sites selected for this study had to fit the objectives of the research and generate a reasonable amount of wastewater to be mound treated. The sites selected had to have:

1. Fill soil placed over natural soil.

2. A high water table where the seasonal high water table level was less than 60 cm below the ground surface.

3. Slowly permeable soils that were rated slower than moderately permeable soils.

4. Steep slopes greater than 12%.

5. Mounds over existing failing systems.

6. A combination of the above.

Over 40 experimental mounds were constructed between 1979 and 1983 on sites that did not meet the code requirements; 11 of these mounds are described in detail in this study. Site evaluations were done by certified soil scientists, plans prepared by designers were reviewed and approved by the state, and licensed contractors installed the systems with inspections by county sanitarians during construction.

The study concluded that the overall performance of the mounds was very good. The systems functioned satisfactory on filled sites, on sites with a high water table (seasonal water table 25 to 30 cm from the ground surface), on steep slope sites (up to 20 to 25%), on sites with slowly permeable soil, and on top of failing systems. Leakage occurred at the base of the mound on some sites during extremely wet conditions, but the effluent quality was good, with fecal counts generally less than 10 colonies per 100 ml in saturated toe effluent. It was found that Wisconsin mound systems can be constructed on difficult sites if the system is designed using linear loading rates, which are established based on the horizontal and vertical acceptance rates of the soil for each system.

Failure of Mound System in Wisconsin

Expansion of a Wisconsin firm's mound system in 1978, resulted in a clogging and seepage problem. The system was originally built to handle 65 employees at 750 gpd and was now serving a staff of 165. This expansion created a failure of the mound system due to hydraulic overload. To solve this problem, the mound system was expanded and a water conservation program was initiated. The expansion of the mound increased the hydraulic capacity to 2,600 gpd (Otis, 1981.)

In November 1979, the mound system failed again—this time due to a biological clogging mat. The clogging mat was removed by using 450 gallons of a 10% solution of hydrogen peroxide. The mound system was operating successfully within 2 days. However, further research indicates that for structured natural soils other than sand, hydrogen peroxide may reduce the soil infiltration rate, and thus, may not be an effective procedure to eliminate soil clogging.

A third failure occurred in January 1980, again due to hydraulic overload. The firm had expanded its employee base to 215 employees, with an average daily flow of 3,000 gpd. There was no room available to expand the mound system itself, so the firm redesigned the pumping chamber to avoid large peak flows, allowing the mound system to receive optimum dosing without failure.

OPERATION AND MAINTENANCE

The septic tank and dosing chamber should be checked for sludge and scum buildup and pumped as needed to avoid carryover of solids into the mound. Screens or filters can be used to prevent large solids from escaping the septic tank. The dosing chamber, pump, and floats should be checked annually and replaced or repaired as necessary. It is critical that the septic tank and dosing chamber be watertight. In addition, electrical parts and conduits must be checked for corrosion. Flushing of the laterals annually is recommended.

When a mound system is properly installed and maintained, it should last for a long period of time. In general, the maintenance required for mounds is minimal. However, as with any system, poor maintenance could lead to early system failure. Possible problems that can occur in an improperly designed or constructed mound system include:

- Ponding in the absorption area of the mound.
- Seepage out of the side or toe of the mound.
- Spongy areas developing on the side, top, or toe of the mound
- Clogging of the distribution system.

Practices that can be used to reduce the possibility of failure in a mound system include:

- Installing water-saving devices to reduce the hydraulic overload to the system.
- Calibrating pumps and utilizing event counters and running time meters.
- Timed dosing to dose equally sized doses on regular intervals throughout the day.
- Diverting surface water and roof drainage away from the mound.
- Preventing traffic on the mound area.
- Installing inspection tubes in the mound to check for ponding.
- Keeping deep-rooted plants (shrubs and trees) off the mound.
- Planting and maintaining grass or other vegetative cover on the mound surface to prevent erosion and to maximize water uptake.
- Stand-by power for the pump.

Follow all instructions recommended by the manufacturer. All equipment must be tested and calibrated as recommended by the equipment manufacturer. A routine operation and maintenance (O&M) schedule should be developed and followed

for any mound system in addition to checking local codes.

COSTS

The cost of a mound system is dependent on design costs, energy costs, the contractor used, the manufacturers, land, and the characteristics of the wastewater. Table 2 lists some typical capital and O&M costs for a mound system serving a three-bedroom single home at a flow rate of 450 gpd (150 gallons per bedroom). Septic tank costs were estimated at $1 per treated gallon. It should be noted however, that costs will vary from site to site. To keep construction costs to a minimum, use good quality and local materials, when available.

TABLE 2 TYPICAL COST ESTIMATE FOR A MOUND SYSTEM (SINGLE HOME)

Item	Cost ($)
Capital Costs	
Construction Costs	
Septic tank (1000 gallon concrete tank)	1,000
Dosing chamber (includes pump and controls)	2,000
Mound structure	6,000
Total Construction Costs	**9.000**
Non-Component Costs	
Site evaluation	500
Permits	250
Total Costs	**9,750**
Annual O&M Costs	
Labor @$20/hr.	20 per year
Power @8 cents/kWh	35 per year
Septic tank pumping	75 to 150 every 3 years

Source: Ayres Associates, Inc., 1997.

REFERENCES

1. Converse, J. C. and E. J. Tyler. 1987a. *On-Site Wastewater Treatment Using Wisconsin Mounds on Difficult Sites. Transactions of the ASAE.* 1987. American Society of Agricultural Engineers. vol. 30. no. 2. pp. 362–368.

2. Converse, J. C. and E. J. Tyler. 1987b. Inspecting and Trouble Shooting Wisconsin Mounds. *Small Scale Waste Management Project.* University of Wisconsin-Madison. Madison, Wisconsin.

3. Converse, J. C. and E. J. Tyler. January 1990. Wisconsin Mound Soil Absorption System Siting, Design, and Construction Manual. *Small Scale Waste Management Project.* University of Wisconsin-Madison. Madison, Wisconsin.

4. Otis, R. J. 1981. Rehabilitation of a Mound System. *On-Site Sewage Treatment: Proceedings of the Third National Symposium on Individual and Small Community Sewage Treatment.* American Society of Agricultural Engineers. St. Joseph, Michigan.

5. U.S. Environmental Protection Agency (EPA). 1980. *Design Manual: Onsite Wastewater Treatment and Disposal Systems.* EPA 625/1-80-012, EPA Office of Water. EPA Municipal Environmental Research Laboratory. Cincinnati, Ohio.

ADDITIONAL INFORMATION

Mr. Richard J. Otis, Ph.D., P.E., DEE
Ayres Associates
2445 Darwin Road
Madison, WI 53704-3186

National Small Flows Clearing House at
West Virginia University
P.O. Box 6064
Morgantown, WV 26506

The mention of trade names or commercial products does not constitute endorsement or recommendation for use by the U.S. Environmental Protection Agency.

For more information contact:

Municipal Technology Branch
U.S. EPA
Mail Code 4204
401 M St., S.W.
Washington, D.C., 20460

OWM MTB
Excellence in compliance through optimal technical solutions
MUNICIPAL TECHNOLOGY BRANCH

EXHIBIT J

ON-SITE WASTEWATER TREATMENT SYSTEM PERMIT

Lewis & Clark City-County Health Division
ENVIRONMENTAL DIVISION
316 North Park, PO 1723
Helena, MT 59624
(406) 447-8351

PERMIT ~~100898~~ Expired

c/1974

ISSUED
JAN 05
ENVIRONMENTAL HEALTH
PERMIT OFFICE

PROPERTY OWNER Dominica Stamper

PROPERTY ADDRESS ~~3839~~ 3789 ~~Mt~~ Churchill Lane Montesano

SUBDIVISION NAME Block Sandy Estates LOT # 13

LEGAL DESCRIPTION: ___ ¼ ___ ¼ ___ ¼ SEC 32 T 12 N R 2 W

PERMIT ISSUED BY: Frank Preskar, R.S. DATE 1-6-06

INSTALLER: (C) NC John Griffin PHONE #: _____

TYPE OF SYSTEM: Pressure dosed

MINIMUM CONSTRUCTION REQUIREMENTS:
SYSTEM SIZING BASED ON: SOIL TYPE III # OF BEDROOMS 4

ALL SEPTIC Tanks must be equipped with an effluent filter and risers to grade

Septic Tank: a) **Size** 1500		OK ___
b) **Material** ___		OK ___
c) **Inlet/Outlet Caulked** ___		OK ___
Dose Tank: a) **Yes** X b) **No** ___ **If Yes - Size** 500 gal		ACTUAL ___
Treatment Field: a) **Pressure Dosed** **Yes** X **No** ___		OK ___
b) 145 **Linear feet of chambers** 22" ___ 34" X		ACTUAL ___
c) 195 **Linear feet of perforated pipe** 3' wide		ACTUAL ___
d) **Trench Depth** ~~24"~~ MAX (24" ~~min~~ MAX ~~36" max~~)		OK ___
e) **Sand-Lined Trenches** **Yes** ___ **No** X **If Yes: You are required to line bottom of drainfield trenches with 12" of ASTM C-33 concrete sand**		OK ___
Distribution System: a) **D-Box** **Yes** ___ **No** X		OK ___
DISTANCE TO WATER SOURCE FROM: a) **septic tank (50' minimum)**		ACTUAL ___
b) **treatment field (100' minimum)**		ACTUAL ___

SPECIAL REQUIREMENTS: Install in area of test holes 1+3
1-9-06 Installation Denied. Trenches 36-48" Deep on For END

This system shall be installed in accordance with current Lewis & Clark City-County Health Department rules governing the on-site treatment of wastewater, and the minimum construction requirements and special requirements provided for in this permit. This permit is issued, based on the information provided on the permit application. If any of this information is found to be incorrect, or if the system is not installed as provided for, this permit shall be rendered null and void.

The system may not be backfilled without prior approval of the Department or as provided for Certified Installers. The pink copy of this permit shall be posted in a conspicuous spot at the construction site until permission is given to backfill the system.

This permit will expire two (2) years after the date of issuance. If your system has not been installed prior to the expiration of this permit, you will have to reapply and meet current standards at that time.

SEE ATTACHED DIAGRAM SHOWING LAYOUT AND LOCATION OF SYSTEM

INSPECTION CALLED FOR: TIME 10:00 DATE 1-6-06
READY TIME 1:00 DATE 1-9-06

HEALTH AUTHORITY APPROVAL _____ DATE _____

LEWIS & CLARK CITY-COUNTY
Health Department

316 N. Park. Rm. 404
Helena, MT 59623
Ph: 406.447.8351
Fax: 406.447.8398

MEMORANDUM

DATE: **February 6, 2008**

TO: **Dominica Stamper** 10627 Runaway Ln
Great Falls VA 220662419

FROM: Environmental Health Division

SUBJECT: Expiration of On-Site Wastewater Treatment Permit for

3789 Churchill Lane

This letter is being sent to advise you that your on-site wastewater treatment (septic) system installation permit number 108898 expired on January 5, 2008

This Department wishes to remind you that no construction of an on-site wastewater treatment system may take place without a current permit.

Lewis & Clark County Health Department regulations now require that a system must be installed within one (1) years of the date of issue of a valid permit. Failure to install within the time period would mean that a new permit must be applied for, with the appropriate application fee, and that standards current at that time would have to be met.

If the system for which permit number 108898 was issued was already installed and covered, please contact this department immediately.

Further questions should be directed to this department at the above address, or by calling 447-8351.

LEWIS & CLARK CITY-COUNTY
Health Department

Environmental Division
316 N. Park. Rm. 404
Helena, MT 59623
Ph: 406.447.8351
Fax: 406.447.8398

3-1-06

John Griffin
6920 Hauser Dam Road
Helena, MT 59602

Dear Mr. Griffin:

I apologize for the delay in getting back to you. I have spent the last several weeks trying to come up with a solution to the non-conforming treatment field, which was installed by your firm on lot 13 of the Black Sandy Estates Subdivision.

As we discussed on-site, the trenches are 1-2 feet to deep, and do not follow the natural contour of the site. It also appears that the proposed replacement area has been compromised.

I believe that there are two possible options.

The first would be to look elsewhere on the parcel for an approvable site. If you choose this option, a site evaluation fee will need to be submitted to this office.

The second option is to remove all chambers and piping from the existing trenches and fill them to the original ground level with ASTM-C33 sand. The trenches would then be re-dug, following the natural contour of the land at a depth of 24 inches or less. A new replacement area will need to be identified. The replacement area will need to have a minimum of 48 inches of soil over any bedrock. This can be either natural soil, or fill if an area with the minimum amount of natural soil cannot be found.

If you have any questions please call me at 447-8356.

Sincerely,

Frank Preskar, R.S.

Frank Preskar, R.S.
Environmental Health Specialist

C: Dominica Stamper

PERMIT 107034

ON-SITE WASTEWATER TREATMENT SYSTEM PERMIT

Lewis & Clark City-County Health Department
ENVIRONMENTAL DIVISION
316 North Park, P.O. Box 1723
Helena, MT 59624
(406) 447-8351

9976

Region _____
Date Rec'd _____
Fee Paid _____
Check # _____
Receipt # _____

PROPERTY OWNER: Dominica Stamper
PROPERTY ADDRESS: 3789 Churchill Ln ~~3839 MOONDOGHEIN LN~~, HELENA ~~59602~~

LEGAL DESCRIPTION: ____ ¼ ____ ¼ ____ ¼ SEC 32 T 12 NR 2 W

PERMIT ISSUED BY: Laura Mullen **DATE** 4 June 01

INSTALLER (CI) NC John Griffin **PHONE NO:** ~~458-9802~~ 431-9050

TYPE OF SYSTEM: Pressure Dosed

MINIMUM CONSTRUCTION REQUIREMENTS:

Septic Tank:
- a) Size ~~1000~~ 1500 gal
- b) Material concrete
- c) Inlet/Outlet Caulked must provide

Treatment Field:
- a) * ~~125~~ 150' Linear feet of perforated pipe
- b) trench depth ~~max 36~~ 24" (24" min to 36" max)
- c) pressure dosed yes
- d) cover materials must provide

Distribution System:
- a) D-Box Yes ____ No ____
- b) Baffle Yes X No ____
- c) Dose tank Yes X No ____
  Size 500 gal

Distance to water source from:
- a) septic tank (50' minimum)
- b) treatment field (100' minimum)

Inspection Results:	
ok	____
ok	____
ok	____
actual	____
actual	____
ok	____
ok	____
ok	____
ok	____
ok	____
actual	____
actual	____
actual	____

Inspections Required:

Inspection	Date

SPECIAL REQUIREMENTS:
* must use 34" chambers w/pressure dosed system for this reduction
* Install treatment field in area of testholes 1 & 3. Allow room for replacement.

This system shall be installed in accordance with curent Lewis & Clark City-County Health Department rules governing the on-site treatment of wastewater, and the minimum construction requirements and special requirements provided for in this permit. This permit is issued, based on the information provided on the permit application. If any of this information is found to be incurrect, or if the system is not installed as provided for, this permit shall be rendered null and void.

The system may not be backfilled without prior approval of the Department or as provided for Certified Installers. The pink copy of this permit shall be posted in a conspicious spot at the construction site until permission is given to backfill the system.

This permit will expire two (2) years after the date of issuance. If your system has not been installed prior to the expiration of this permit, you will have to reapply and meet current standards at that time.

DIAGRAM SHOWING LAYOUT AND LOCATION OF SYSTEM FOR INSTALLATION:

RE ISSUED 7-3-03

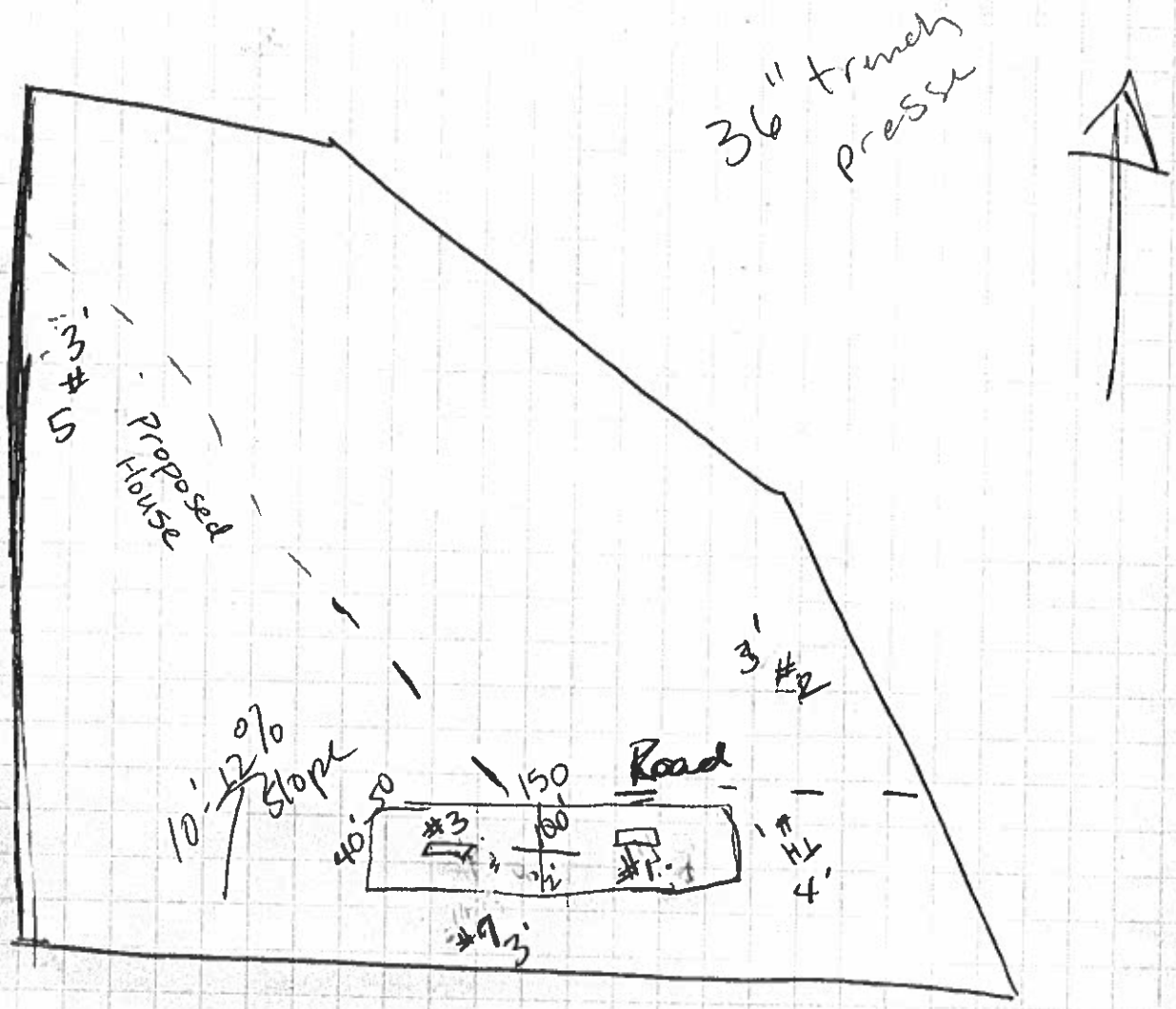
JUN 06 2001
ENVIRONMENTAL HEALTH
PERMIT OFFICE

ISSUED
JAN 05 2006
ENVIRONMENTAL HEALTH
PERMIT OFFICE

INSPECTION CALLED FOR: Time 11:40 Date 1-5-05

READY Time _____ Date _____

HEALTH AUTHORITY APPROVAL _____ **DATE** _____



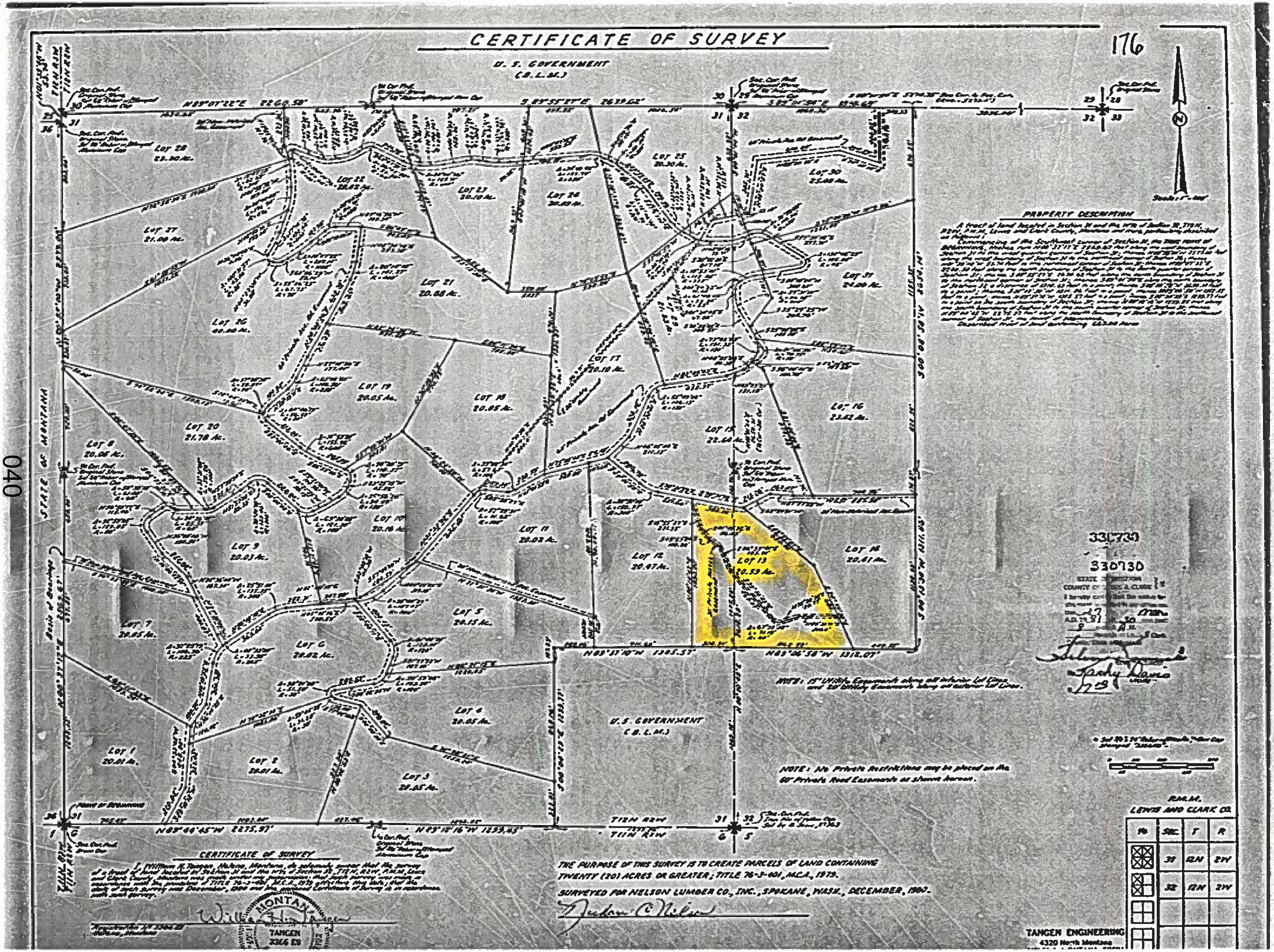
Loamy Sand
3 BR

Nitrate
Park

25
40
3000

MAY 24'


PROPOSED WELL
PROPOSED HOME
LOT 13
20.59 Ac
LOT 14
20.41 Ac
PROPOSED DRAINFIELD
N03°06'58"W 1312.07'
NOTE: 15' Utility Easement
and 20' Utility Easem


CERTIFICATE OF SURVEY
176
U. S. GOVERNMENT
(B.L.M.)
N 89°07'22"E 2260.58'
S 89°55'27"E 2639.62'
PROPERTY DESCRIPTION
Lot 28
23.30 Ac.
Lot 27
21.00 Ac.
Lot 26
40.00 Ac.
Lot 22
20.02 Ac.
Lot 23
20.10 Ac.
Lot 24
20.80 Ac.
Lot 25
20.30 Ac.
Lot 30
25.08 Ac.
Lot 31
24.00 Ac.
Lot 21
20.88 Ac.
Lot 20
21.78 Ac.
Lot 19
20.05 Ac.
Lot 18
20.85 Ac.
Lot 17
20.10 Ac.
Lot 16
23.42 Ac.
Lot 15
22.64 Ac.
Lot 8
20.06 Ac.
Lot 9
20.03 Ac.
Lot 10
20.16 Ac.
Lot 11
20.03 Ac.
Lot 12
20.47 Ac.
Lot 13
20.59 Ac.
Lot 14
20.41 Ac.
Lot 7
20.05 Ac.
Lot G
20.02 Ac.
Lot 5
20.15 Ac.
Lot 4
20.05 Ac.
Lot 1
20.01 Ac.
Lot 2
20.01 Ac.
Lot 3
20.05 Ac.
STATE OF MONTANA
U. S. GOVERNMENT
(B.L.M.)
N 89°37'18"W 1305.37'
N 89°06'58"W 1312.07'
N 89°44'45"W 2275.97'
N 89°18'16"W 1293.45'
T12N R2W
T11N R2W
NOTE: 15' Utility Easements along all interior Lot Lines and 20' Utility Easements along all exterior Lot Lines.
NOTE: No Private Restrictions may be placed on the 60' Private Road Easements as shown hereon.
330730
R.M.M.
LEWIS AND CLARK CO.
CERTIFICATE OF SURVEY
THE PURPOSE OF THIS SURVEY IS TO CREATE PARCELS OF LAND CONTAINING TWENTY (20) ACRES OR GREATER; TITLE 76-3-401, M.C.A., 1979.
SURVEYED FOR NELSON LUMBER CO., INC., SPOKANE, WASH., DECEMBER, 1980.
TANGEN ENGINEERING
4320 North Montana
TANGEN
3366 ES

Application for Site Evaluation For An On-Site Wastewater Treatment System

9976

City County Building
P.O. Box 1723
316 North Park
Helena, MT 59624
(406) 447-8351

City - County Health Department

No Construction of dwellings, domestic wells, or septic systems shall take place until this site evaluation is complete and a numbered permit has been issued.

Office Use
Region Tm
Date Rec'd 4-26-01
Date Due
Fee Paid 175.00
Receipt # 010004129

6-6-
140.00
010004

Fee for site evaluation only:

X	New Site	$175/per system
	Existing Field Replacement	$175/per system
	Experimental System	$175/per system
	Review of Existing System	$175/per system
	Tank Replacement	$35
	Concurrent Subdivision Review Sub 2 application	
	Permit Request Only	

Office Use
Date Time

7-3-03
160.00
400004

1-5-06
160.00
600[illegible]

Has the existing system failed or malfunctioned? N/A Is there surfacing sewage? N/A
If this is a replacement for a failed system, has a failure analysis form been completed? N/A

Property Owner NELSON LUMBER

Property Address BLACK SANDY ESTATES/LOT 13

Installer John Griffin CI NC Phone 458-9802

Treatment system to serve: Residential X Commerical _____ Other _____

Total Living Space 1800 square feet and ~~3~~ 4 number of bedrooms

Type of Water Supply well

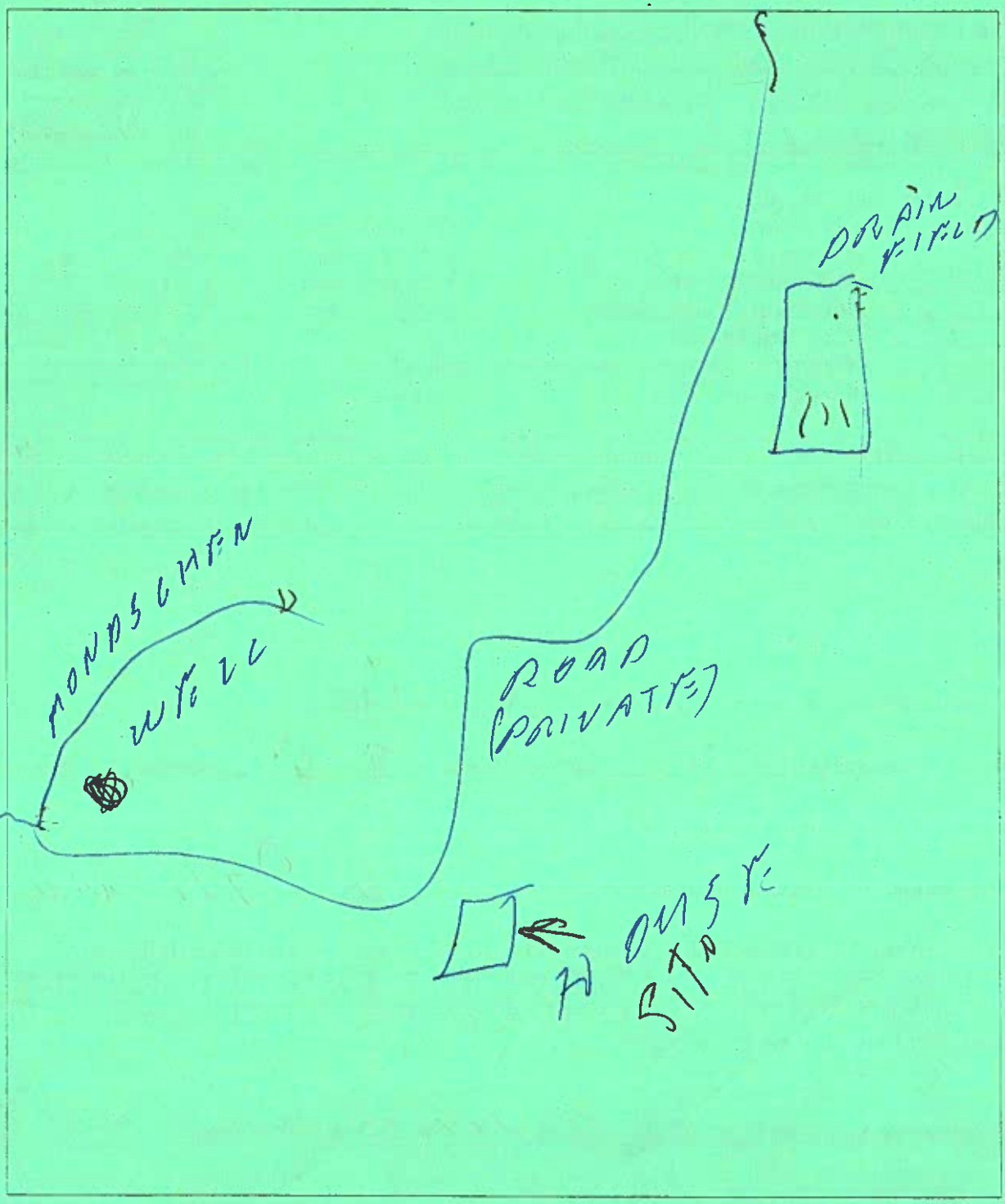
Who should we contact to arrange a site visit? Skip Stillman

THE ABOVE INFORMATION IS TRUE TO THE BEST OF MY KNOWLEDGE AND I UNDERSTAND THAT **IF ANY OF THE INFORMATION IS FOUND TO BE UNTRUE,** MY APPLICATION WILL NOT BE VALID AND ANY PERMITS ISSUED BASED ON THIS INFORMATION MAY BE VOIDED.

Signature of Applicant John Griffin / NELSON LUMBER Date 4-13-01

In the space below, provide a diagram showing all the following:

- √ locations of proposed buildings
- √ location of existing and proposed septic systems and 100% replacement areas
- √ existing or proposed wells, gullies, roads, easements, property boundaries, streams,canals
- √ distances between all water sources and proposed septic systems
- √ indicate the direction north
- √ provide directions to the site, if necessary



3,00 PMs

58 6059

4/5 8 T 8 07

LEWIS & CLARK COUNTY

Office of the Permit Coordinator
City/ County Administration Building
316 North Park, Room 404
Helena, MT 59624
406-447-8392

CPA NUMBER 3495

Form 1001.1 12/23/98

Comprehensive Permitting Application

Applicant: ~~[illegible]~~ — DOMINICA STANGER (Please Print)

Address: 10627 RUNAWAY LN City: ~~[illegible]~~ GREAT FALLS State: ~~[illegible]~~ VA Zip: 22066

Daytime Telephone: _____ Home Telephone: _____ Cell Phone: _____

Property Owner: Nelson Lumber Daytime Telephone: _____

Address: _____ City: _____ State: _____ Zip: _____

Contact Person: RICK STILLMAN Daytime Telephone: 442-5110

Address: 11 Willard Rd City: Helena State: MT Zip: 59602

Property Description:

_____ 1/4 _____ 1/4 _____ 1/4 _____ 1/4 Section 32, Township 12 N, Range 2 W Lot No. 13

Lot Size: 20.59 Acres Subdivision Name: Black Sandy Estates

Certificate of Survey No: _____ Deed No: _____

Address Of Property: LOT 13 MONDSCHEIN LN. City: Hel State: MT Zip: 59602

General Location of Property: Hauser Dam Rd to County Rd 6 mi right to Black Sandy Loop

Description of Proposed Project:

NEW HOME WITH INDIVIDUAL WELL AND SEPTIC

Please Proceed To The Other Side Of This Page

Activities or Project Considerations (Please Check All Activities That May Apply To Your Proposal):

- O Creating a Minor Subdivision (five lots or less)
- O Creating a Major Subdivision (six lots or more)
- ✓ Constructing a Single-Family Dwelling(s)
- O Constructing a Garage or Other Buildings on the Property
- ✓ Installing a Water Well
- ✓ Installing On-Site Wastewater Treatment System
- O Replacing a Septic Tank and/or Drain Field
- O Constructing a Commercial, Industrial or Multi-Family Building(s)
- O Construction Requiring an Area of Surface Disturbance
- O Filing a Weed or Revegetation Plan
- O Crossing or Excavating a Stream, Streambank or Lake Shore
- O Address
- O Building Within a Floodplain
- O Constructing an Approach or Driveway to a Road
- O Installing a Culvert or Drainage Improvement
- O Encroachment within Road Right of Way
- O Variance Request
- O Boundary Relocation
- O Family Transfer/Family Declaration
- O Road Naming/RoadAbandonment
- O Zoning Amendment or Activity
- O Other Activity: _____

Signature of Applicant: [signature] / FOR NELSON ZUMBACH Date: 4-13-01

Staff Use Only

Applications, Permit or Plans Required: Comments or Actions Taken/Date

Pre Application Conference	
Parcel Subdivision	
Sanitary Restrictions - Subdivision	
Site Eval/Septic Permit	#1752 4-26-01
Weed Management/Revegetation Plan	
Address Permit	
Floodplain Permit	
Erosion and Sediment Control Permit	
310 Permit	
Revegetation Plan	
Approach and/ or Culvert Permit	
Encroachment Permit	
Variance-Health/Planning	
Family Tranfer/Family Declaration	
Road Naming/Abandonment	
Zoning	
Exemption Affidavit/ COS Report Form	
OTHER:	

CPA NUMBER

3495

PROPERTY OWNER	Dominica Stamper
PROPERTY ADDRESS	Section 32,T12W, R2W

SCS Symbol		½	¼	¼	SECTION	TOWNSHIP	RANGE
SCS Name					32	12N	2W

LIMITATIONS			
TYPE	DEPTH	TEXTURE	PERM. IN/HOUR
		See Attached Soil Log	

Application complete?	Yes	On-site visit required	Yes
Depth to seasonally high groundwater:	>8'	Verified by:	Test Hole
Groundwater monitoring required?	No	Vegetative indicators	Grasses, trees
Depth to unsuitable treatment material:	8'	How verified:	Test Hole
Is property in floodplain?	No	Or within 100' of 100 yr. Floodway	No
Slope at treatment area:	2-6%	7 foot test hole required?	Yes
Is phosphorus breakthrough required?	Yes	Is nitrate sensitivity required?	Yes
Is there room for a replacement system?	Yes	Are all separation requirements met?	Yes

APPROVED? BASIS FOR DENIAL:
YES
RE-EVALUATION DATE APPROVED? BASIS:

SITE OBSERVATIONS:

Install system in test hole #1 and #3 area. Allow adequate room for replacement in area designated.

DOES THIS SITE MEET THE REQUIREMENTS OF THE 19 98 ON-SITE WASTEWATER TREATMENT REGULATIONS? Yes .

SOIL TYPE: III TEXTURAL CLASSIFICATION: Loamy Sand

REVIEWED BY: Tomas Maes, R.S. DATE: 4 June 2001

SOIL DESCRIPTION FORM

Name Dominica Stamper Slope 2-6% Land Use Vacant/Agri.

Location Section 32, Township 12W, Range 2W Vegetation Grasses, Sage, Trees

Described by Tomas Maes, RS Date 4 June 2001

#	Depth in.	Dominant Color	Mottles Qu.Sz.Cont.Color	Texture	Structure Gr.Sz.Sh	Consis-tence	Roots	Boundary	Remarks:
#1 #8	0-16"	5yr 5/3	N/A	SL	1mgr	dso	2co	cw	
	16-8'	5yr 7/1	N/A	LS	massive	dvh	none		Very Channary

NOTES:

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

PERCOLATION TEST FORM

Owner Name Nelson Lbr Co

Project Name _____

Lot or Tract Number #13 Test Number _____

Diameter of Test Hole 6" Depth of Test Hole 30"

Date and Time Soak Period Began 4-14-01 5:00PM Ended 4-15-01 8:00AM

Date Test Began 4-15-01

Test Results

Start Time of Day	End Time of Day	Time Interval (minutes)	Initial Distance below reference point	Final Distance below reference point	Drop in water level (inches)	Percolation Rate (minutes/inch)
8.00AM	8.30	30	22	23 3/4	1 3/4	
8.30	9.00	30	22	23 5/8	1 5/8	
9.00	9.30	30	22	23 3/8	1 3/8	
9:30	10.00	30	22	23 1/2	1 1/2	
10.00	10.30	30	22	23 3/4	1 3/8	
10.30	11.00	30	22	23 1/4	1 1/4	
11.00	11.30	30	22	23 1/4	1 1/4	
11.30	12.00	30	22	23 1/8	1 1/8	

I certify that this percolation test was done in accordance with WQB-6, Appendix A.

J.R. GRIFFIN
Name (printed)

J.R. Griffin
Signature

4-15-01
Date

J.R. GRIFFIN EXCAVATING
Company

Alpine Analytical, Inc.
2814 N. Cooke Street, Helena, MT 59601 (406)449-6282

Client: Griffin Exc.
Project ID: None Given
Site ID: LOT 15
Date Sampled: 22-May-01
Date Received: 22-May-01
Chain of Custody #: 2457

	WATER GRIFFIN WELL
Nitrate as N, mg/L	1.4

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

NITRATE SENSITIVITY ANALYSIS

Model Updated 01/24/96

SITE NAME: Dominica Stamper
COUNTY: Lewis and Clark
LOT #: #13
NOTES:

VARIABLES	DESCRIPTION	VALUE	UNITS
K	Hydraulic Conductivity	14.7	ft/day
I	Hydraulic Gradient	0.050	ft/ft
D	Depth of Aquifer (usually constant)	16.4	ft
L	Mixing Zone Length (see ARM 17.30.517(1)(d)(viii)	500	ft
Y	Width of Drainfield Perpendicular to Ground Water Flow	70	ft
Ng	Background Nitrate (as Nitrogen)	1.40	mg/L
Nr	Nitrate (as Nitrogen) in Precipitation (usually constant)	1.0	mg/L
Ne	Nitrates in Effluent (50 for conventional; 24 for level II)	50	mg/L
#I	Number of Single Family Homes on the Drainfield	1.0	
QI	Quantity of Effluent per Single Family Home (constant)	26.70	ft3/day
P	Precipitation	11.0	in/year
V	Percent of Precipitation Recharging Ground Water (usually constant)	0.20	
EQUATIONS			
W	Width of Mixing Zone Perpendicular to Ground Water Flow = (0.175)(L)+(Y)	157.50	ft
Am	Cross Sectional Area of Aquifer Mixing Zone = (D)(W)	2583.00	ft2
As	Surface Area of Mixing Zone = (L)(W)	78750.00	ft2
Qg	Ground Water Flow Rate = (K)(I)(Am)	1898.51	ft3/day
Qr	Recharge Flow Rate = (As)(P/12/365)(V)	39.55	ft3/day
Qe	Effluent Flow Rate = (#I)(QI)	26.70	ft3/day
SOLUTION			
Nt	**Nitrate (as Nitrogen) Concentration at End of Mixing Zone =((Ng)(Qg)+(Nr)(Qr)+(Ne)(Qe)) / ((Qg)+(Qr)+(Qe))**	**2.05**	**mg/L**

BY: Tomas Maes
DATE: May 30, 2001

G:\WPB\SUBDIV\WORKSPAC\NDEGWSA.XLS *REV. 12/98*

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

PHOSPHOROUS BREAKTHROUGH ANALYSIS

SITE NAME: Stamper
COUNTY: Lewis & Clark
LOT #: 13
NOTES:

VARIABLES	DESCRIPTION	VALUE	UNITS
Lg	Length of Primary Drainfield as Measured Perpendicular to Ground Water Flow	70.0	ft
L	Length of Primary Drainfield's Long Axis	70.0	ft
W	Width of Primary Drainfield's Short Axis	10.0	ft
B	Depth to Limiting Layer from Bottom of Drainfield Laterals*	5.0	ft
D	Distance from Drainfield to Surface Water	350.0	ft
T	Phosphorous Mixing Depth in Ground Water (0.5 ft for coarse soils,	0.5	ft
Ne	1.0 ft for fine soils)**		
Sw	Soil Weight (usually constant)	100.0	lb/ft3
Pa	Phosphorous Adsorption Capacity of Soil (usually constant)	200.0	ppm
#I	Number of Single Family Homes on the Drainfield	1.0	
CONSTANTS			
PI	Phosphorous Load per Single Family Home (constant)	6.44	lbs/yr
X	Conversion Factor for ppm to percentage (constant)	1.0E+06	
EQUATIONS			
Pt	Total Phosphorous Load = (PI)(#I)	6.44	lbs/yr
W1	Soil Weight under Drainfield = (L)(W)(B)(Sw)	350000.0	lbs
W2	Soil Weight from Drainfield to Surface Water = [(Lg)(D) + (0.0875)(D)(D)] (T)(Sw)	1760937.5	lbs
P	Total Phosphorous Adsorption by Soils = (W1 + W2)[(Pa)/(X)]	422.2	lbs
SOLUTION			
BT	**Breakthrough Time to Surface Water = P / Pt**	65.6	years

BY: Tomas Maes RS
DATE: May 30, 2001

NOTES: ** Depth to limiting layer is typically based on depth to water in a test pit or bottom of a dry test pit minus two feet to account for burial depth of standard drainfield laterals.*
*** Material type is usually based on test pit. A soil that contains more than 35% silt and clay sized particles is considered fine grained.*

Hydraulic Conductivity Calculations

Well Log Winters

Location 168790

Q= 15 s= (drawdown - static) = 340 - 170 = 170

b= Thickness _____ or Screened Interval 80

Confined (2000) Unconfined (1500) i=_____ feet/_____feet/3= .05

T= [(Q/s)(1500)]/7.48

T= [(_____ / _____)(_____)/7.48= _____

K=T/b K=_____ / _____ = 2.8

Hydraulic Conductivity Calculations

Well Log Cech

Location 135825

Q= 12 s= (drawdown - static) = 340 − 145 = 195

b= Thickness 210 or Screened Interval _____

Confined (2000) Unconfined (1500) i=_____ feet/_____feet/3= .05

12 x 1440 = 17280 / 7.48 = 2310

T= [(Q/s)(_____)]/7.48

T= [(_____ / _____)(_____)/7.48= _____

K=T/b K=_____ / 210 = .8

Hydraulic Conductivity Calculations

Well Log Halm

Location 16435

Q= 7 s= (drawdown - static) = 460 - 280 = 180

b= Thickness _____ or Screened Interval 460 - 300 = 160

Confined (2000) Unconfined (1500) i=_____ feet/_____feet/3= .05

1440 x 7 = 10080 / 7.48 = 1347

T= [(Q/s)(_____)]/7.48

T = 33.6 (1347/180)^.67 = 129

T= [(_____ / _____)(_____)/7.48= _____

K=T/b K= 129 / 160 = .8

Hydraulic Conductivity Calculations

Well Log Ireland

Location _____

Q= 30 s= (drawdown - static) = 340 − 253 = 87

b= Thickness 20 or Screened Interval _____

Confined (2000) Unconfined (1500) i=_____ feet/_____feet/3= .05

1440 x 30 / 7.48 = 5775

T= [(Q/s)(_____)]/7.48

33.6 (5775/87)^.67 558

T= [(_____ / _____)(_____)/7.48= _____

K=T/b K= 558 / 20 = 27.9

Kav = 14.7

051

Montana Bureau of Mines and Geology -- Ground-water Information Center
Site Report for IRELAND MICHAEL J

Location Information

GWIC Id:	156476	Source of Data:	LOG
Location (TRS):	12N 02W 31 CCC	Latitude (dd):	46.7476
County (MT):	LEWIS AND CLARK	Longitude (dd):	-111.9117
DNRC Water Right:	Not Reported	Geomethod:	TRS-TWN
PWS Id:		Datum:	1927
Block:	Not Reported	Addition:	
Lot:	6	Subdivision:	BLACK SANDY ESTATES
Certificate of Survey:	Not Reported	Type Of Site:	WELL

Well Construction and Performance Data (measurements are reported below land surface)

Total Depth (ft):	360.00	How Drilled:	ROTARY
Static Water Level (ft):	253.00	Driller's Name:	H & L
Pumping Water Level (ft):	340.00	Driller License:	WWC447
Yield (gpm):	30.00	Completion Date:	Apr 10, 1996
Test Type:	AIR	Special Conditions:	None Reported
Test Duration:	1.00	Is Well Flowing?:	No
Drill Stem Setting (ft):		Shut-In Pressure:	
Recovery Water Level (ft):		Well/Water Use:	DOMESTIC
Recovery Time (hrs):		Geology/Aquifer:	Not Reported

Hole Diameter Information

From	To	Dia
0.0	18.0	10.0
18.0	360.0	6.0

Casing Information

From	To	Dia	Description
-2.0	18.0	6.0	STEEL
9.0	360.0	4.0	PVC

Annular Seal Information

From	To	Description
0.0	18.0	CEMENT & BENTONITE

Completion Information

From	To	Dia	Description
340.0	360.0	4.0	1X.020 FACT SLT

Lithology Information

From	To	Description
0.0	1.0	TOPSOIL
1.0	6.0	BROKEN SHALE & CLAY
6.0	360.0	SHALE

Montana Bureau of Mines and Geology -- Ground-water Information Center
Site Report for CECH JEFF & KAREN C

Location Information

GWIC Id:	135825	Source of Data:	LOG
Location (TRS):	12N 02W 31 ADC	Latitude (dd):	46.7552
County (MT):	LEWIS AND CLARK	Longitude (dd):	-111.8955
DNRC Water Right:	Not Reported	Geomethod:	TRS-TWN
PWS Id:		Datum:	1927
Block:	Not Reported	Addition:	
Lot:	Not Reported	Subdivision:	BLACK SANDY ESTATES
Certificate of Survey:	Not Reported	Type Of Site:	WELL

Well Construction and Performance Data (measurements are reported below land surface)

Total Depth (ft):	362.00	How Drilled:	UNKNOWN
Static Water Level (ft):	145.00	Driller's Name:	TREASURE STATE
Pumping Water Level (ft):	340.00	Driller License:	WWC225
Yield (gpm):	12.00	Completion Date:	Jul 13, 1993
Test Type:	PUMP	Special Conditions:	None Reported
Test Duration:	2.00	Is Well Flowing?:	No
Drill Stem Setting (ft):		Shut-In Pressure:	
Recovery Water Level (ft):		Well/Water Use:	DOMESTIC
Recovery Time (hrs):		Geology/Aquifer:	Not Reported

Hole Diameter Information

From	To	Dia
0.0	20.0	8.0

Casing Information

From	To	Dia	Description
-2.0	20.0	6.0	STEEL
10.0	362.0	4.0	PVC

Annular Seal Information

From	To	Description
0.0	20.0	BENTONITE

Completion Information

From	To	Dia	Description
150.0	360.0	4.0	1/4X6 SLOTS

Lithology Information

From	To	Description
0.0	1.0	TOPSOIL
1.0	9.5	GRAY SHALE
9.5	12.0	SOFT RED SANDSTONE
12.0	19.5	GRAY SANDSTONE
19.5	152.0	GRAY SHALE
152.0	230.0	BLACK SHALE
230.0	306.5	GRAY SHALE
306.5	362.0	HARD GRAY SANDSTONE

Montana Bureau of Mines and Geology -- Ground-water Information Center
Site Report for WINTEN BRENT AND SANDRA

Location Information

GWIC Id:	168790	Source of Data:	LOG
Location (TRS):	12N 02W 32 BBB	Latitude (dd):	46.7609
County (MT):	LEWIS AND CLARK	Longitude (dd):	-111.8908
DNRC Water Right:	C105650-00	Geomethod:	TRS-TWN
PWS Id:	Not Reported	Datum:	1927
Block:	Not Reported	Addition:	Not Reported
Lot:	29	Subdivision:	BLACK SANDY ESTATE
Certificate of Survey:	Not Reported	Type Of Site:	WELL

Well Construction and Performance Data (measurements are reported below land surface)

Total Depth (ft):	340.00	How Drilled:	ROTARY
Static Water Level (ft):	170.00	Driller's Name:	TREASURE STATE
Pumping Water Level (ft):	340.00	Driller License:	WWC351
Yield (gpm):	15.00	Completion Date:	May 31, 1998
Test Type:	AIR	Special Conditions:	None Reported
Test Duration:	1.00	Is Well Flowing?:	
Drill Stem Setting (ft):		Shut-In Pressure:	
Recovery Water Level (ft):		Well/Water Use:	DOMESTIC
Recovery Time (hrs):		Geology/Aquifer:	Not Reported

Hole Diameter Information

From	To	Dia
0.0	20.0	8.0
20.0	340.0	6.0

Casing Information

From	To	Dia	Description
-2.0	20.0	6.0	STEEL
15.0	340.0	4.0	PLASTIC

Annular Seal Information

From	To	Description
0.0	20.0	BENTONITE

Completion Information

From	To	Dia	Description
260.0	340.0	4.0	SLOTS

Lithology Information

From	To	Description
0.0	2.0	TOPSOIL
2.0	16.0	CLAY
16.0	75.0	CLAY AND SHALE
75.0	340.0	BROKEN SHALE SOME CLAY

Montana Bureau of Mines and Geology -- Ground-water Information Center
Site Report for HALM DOUGLAS A

Location Information

GWIC Id:	164435	Source of Data:	LOG
Location (TRS):	12N 02W 31 AD	Latitude (dd):	46.7562
County (MT):	LEWIS AND CLARK	Longitude (dd):	-111.8942
DNRC Water Right:	Not Reported	Geomethod:	TRS-TWN
PWS Id:		Datum:	1927
Block:	Not Reported	Addition:	
Lot:	9	Subdivision:	BLACK SANDY ESTATES
Certificate of Survey:	Not Reported	Type Of Site:	WELL

Well Construction and Performance Data (measurements are reported below land surface)

Total Depth (ft):	460.00	How Drilled:	ROTARY
Static Water Level (ft):	280.00	Driller's Name:	TREASURE STATE
Pumping Water Level (ft):	460.00	Driller License:	WWC351
Yield (gpm):	7.00	Completion Date:	Aug 20, 1997
Test Type:	AIR	Special Conditions:	None Reported
Test Duration:	2.00	Is Well Flowing?:	No
Drill Stem Setting (ft):		Shut-In Pressure:	
Recovery Water Level (ft):		Well/Water Use:	DOMESTIC
Recovery Time (hrs):		Geology/Aquifer:	Not Reported

Hole Diameter Information

From	To	Dia
0.0	20.0	8.0
20.0	460.0	6.0

Casing Information

From	To	Dia	Description
-2.0	20.0	6.0	STEEL
15.0	460.0	4.0	PLASTIC

Annular Seal Information

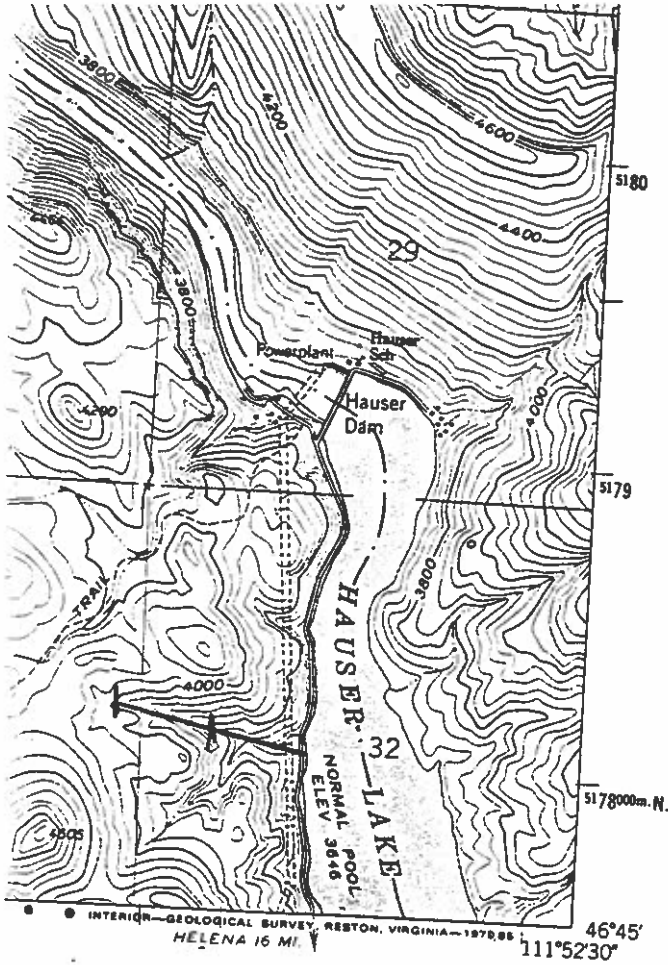
From	To	Description
0.0	20.0	BENTONITE

Completion Information

From	To	Dia	Description
300.0	460.0	4.0	1/4 X 6 SLOTS

Lithology Information

From	To	Description
0.0	1.0	TOPSOIL
1.0	5.0	CLAY
5.0	270.0	SOFT BROKEN SHALE
270.0	460.0	HARD SHALE



ROAD CLASSIFICATION

Heavy-duty ——— Light-duty ———

Unimproved dirt ========

Interstate Route U.S. Route

3677 III
(EAST HELENA)
1:62500

UPPER HOLTER LAKE, MONT.
N4645-W11152.5/7.5

1962
PHOTOREVISED 1979
AMS 3677 IV SW-SERIES V894

4000
3800
200

200'/1200' ÷ 3 = .05

950

EXHIBIT K

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

IN THE MATTER OF: The appeal by Nick and Jean Frank under § 75-5-305, MCA, re: Lewis and Clark County Board of Health Variance Decision	**Proposed Findings of Fact and Conclusions of Law**

Nicholas and Jean Frank appeal to the Department of Environmental Quality a decision by the Lewis and Clark County Board of Health (the "County")[1] that denied two septic variances regarding requirements that septic systems must be located at least four feet from bedrock and that fill systems cannot be used for new systems.

The Franks appear in this matter *pro se*. The County is represented by Nicho Hash. The parties agreed to informal proceedings pursuant to § 2-4-604, MCA. On December 6, 2022, the Hearing Examiners held an informal hearing. Present at the hearing were Mr. and Mrs. Frank, Mr. Hash, and Beth Norberg, R.S. The Franks and Ms. Norberg were sworn and provided testimony. Having considered the evidence presented at the hearing, as well as other exhibits contained in the record, the Hearing Examiners make these Proposed Findings of Fact and Conclusions of Law.

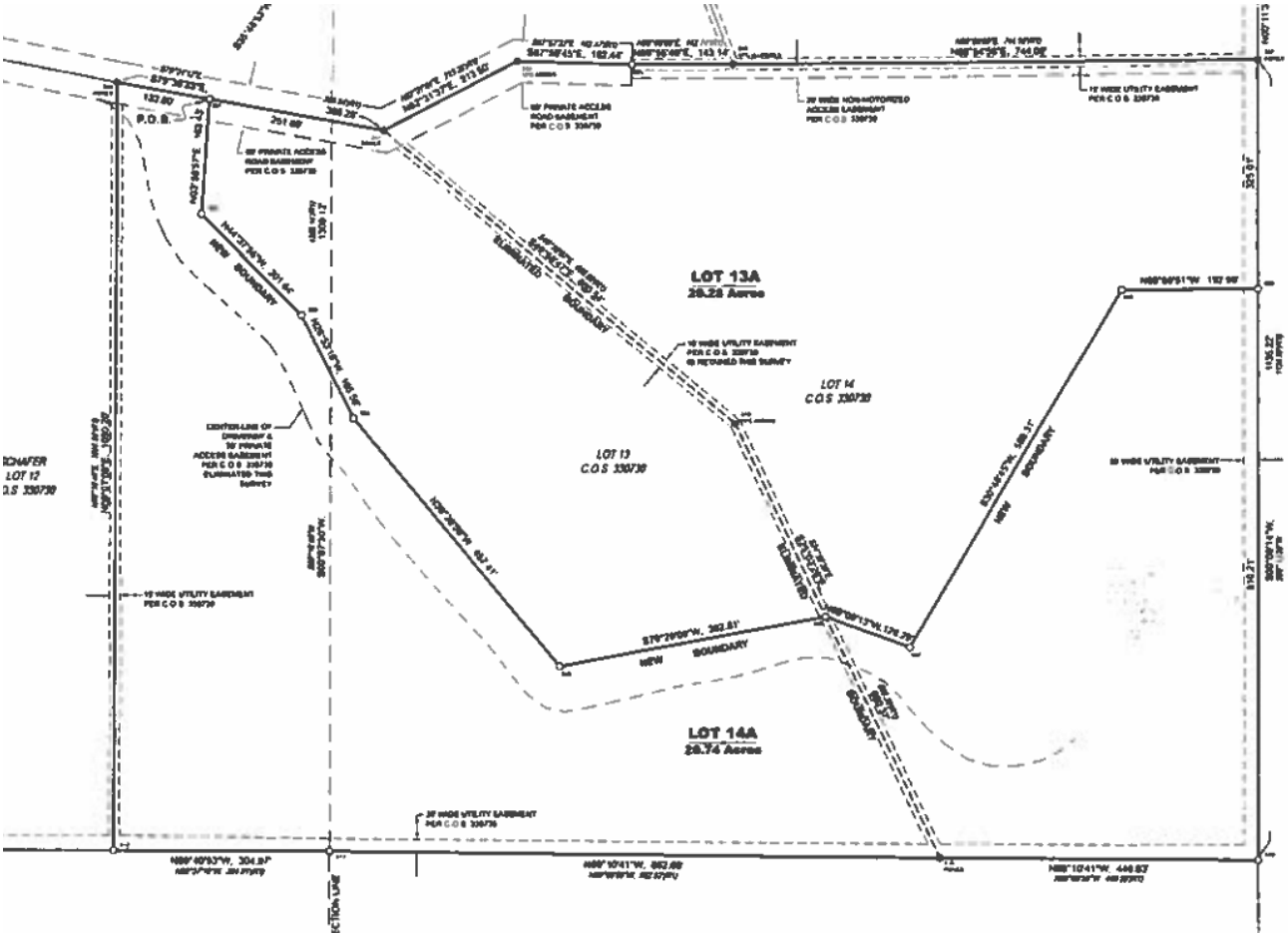
Findings of Fact

1. The Franks own Lots 13A and 14A of the Black Sandy Estates Subdivision, which was originally platted in 1981. (Frank Variance Ex. B). Because all of the lots in the subdivision

[1] For convenience, these Proposed Findings of Fact and Conclusions of Law collectively refer to the Board of Health and the Environmental Services Division as the "County"—that is, the local septic permitting authorities.

are over 20 acres, they are not subject to review by the Department of Environmental Quality under the Sanitation in Subdivisions Act, Title 76, chapter 4, MCA. (*Id.*).

2. The original plat designated Lot 13 and Lot 14. Lots 13A and 14A were created by a boundary-line adjustment by the Franks in 2022. (Frank Variance Ex. D). For purposes of these Findings of Fact and Conclusions of Law, "Lot 13" and "Lot 14" refer to the lots as originally platted, while "Lot 13A" and "Lot 14A" refer to the lots as configured after the 2022 boundary-line adjustment. These lots are shown in this excerpt from the certificate of survey in the Frank Variance Exhibit D:



3. In 2006, the County issued a septic permit for the construction of a subsurface sewage treatment system on Lot 13. (Frank Variance Ex. B; Frank Variance Ex. F; Hr'g Ex. B).

4. Upon inspection in 2006, the County determined that the system had been installed incorrectly by the Franks' predecessor in interest. (Frank Variance Ex. F). The incorrect installation of the system compromised the approved site, preventing another system from being installed there. (Hr'g Tr. 26:16–20). Both the primary and replacement areas were compromised. (Hr'g Tr. 9:22–23; Frank Variance Ex. B).

5. The incorrectly installed system has remained exposed and in the open since then. The lot has never been developed. (Hr'g Tr. 26:23–27:4).

6. Although Lot 13 was over 20 acres, there was very little usable space on the property, making it a very difficult site to develop. (Hr'g Tr. 30:12–18). The original approved location of the drainfield is at the bottom of a quarter-mile long steep driveway, with little room to build. (Hr'g Tr. 12:6–7, 17:20–21, 59:23–60:7). This driveway is steep enough as to be hazardous in the winter. (Hr'g Tr. 47:5–21, 59:23). Mr. Frank notes that "nobody wanted to buy the piece of property because it's basically a canyon and at the bottom was this previous site." (Hr'g Tr. 9:13–16).

7. In 2021, Lot 13 was listed for sale, and several potential buyers came and looked at the property. (Hr'g Tr. 9:9–10; *see also* Frank Variance Ex. B).

8. Before purchasing the property, these potential buyers sought County input into whether a suitable septic site could be found. (Hr'g Tr. 27:15–18, 30:6–22, 39:13–17).

9. The usable area on Lot 13 was limited, and the test pits showed very shallow fractured bedrock. (Hr'g Tr. 30:14–19). The County was not able to identify a potentially acceptable site for a septic system. (Hr'g Tr. 30:19–20).

10. The Franks describe the area evaluated by the County and prospective buyers as the area "on top"—that is, the portion of Lot 13 located at a higher-elevation that borders the steep terrain that slopes down to the original approved septic location for Lot 13 and the Franks' house on Lot 14. (Hr'g Tr. 9:12–15, 27:15–18 (noting that the County and prospective buyers "dug all around the top")).

In this excerpt from Hearing Exhibit B, the yellow line in the center marks the original boundary between Lots 13 and 14. The green line marks the new boundary between Lots 13A and 14A after the boundary-line adjustment. The original approved but now-compromised septic site on Lot 13 is shown by the pink rectangle. The area marked as a test hole is the higher-elevation area "on top" where an approvable site on Lot 13 could not be located before the Franks purchased the lot. The Franks' house is shown at the bottom of the long driveway.

11. The lots in the subdivision are also constrained by covenants that prohibit development within 75 feet of a road. (Hr'g Tr. 42:5–21).

12. One prospective buyer of Lot 13 asked the president of the subdivision's homeowners' association whether a variance from the 75-foot setback from roads could be obtained. However, when they were unable to find a suitable septic site location, they abandoned the deal. (Hr'g Tr. 62:21–23).

13. The Franks purchased Lot 13 in October 2021. (Hr'g Tr. 9:25; Frank Variance Ex. B).

14. The Franks did not reach out to the County regarding whether a septic permit could be obtained before purchasing Lot 13. (Hr'g Tr. 64:20).

15. In April 2022, the Franks completed a boundary-line adjustment, creating Lots 13A and 14A. (Frank Variance Ex. D; Hr'g Ex. B).

16. The boundary-line adjustment served the purpose of keeping the existing driveway entirely on the new Lot 14A and transferred more of the higher-elevation "top land" from Lot 14 to the new Lot 13A. (Hr'g Tr. 11:17–21, 24:13–14, 27:21–28:1).

17. The Franks testified that the portion of Lot 14 transferred to the new Lot 13A was "right next to" the area of Lot 13 unsuccessfully searched for a suitable septic location. (Hr'g Tr. 55:14).

18. This boundary-line adjustment resulted in no changes to the location of the Franks' home, sewer and water systems, or driveway. (Hr'g Tr. 11:15).

19. Even after the boundary-line adjustment, Lot 13A has few potential areas to be developed. The lot is primarily steeply sloped with ponderosa pine, juniper, and native grasses.

Most of the slope is greater than the maximum 35% allowance for a wastewater treatment system. (Frank Variance Ex. B).

20. Following the Franks' purchase of Lot 13 and their subsequent boundary-line adjustment, the County performed a new site evaluation to find an appropriate septic location on the now-expanded boundaries of Lot 13A. (Frank Variance Ex. B).

21. Somewhere between six and ten test holes were dug, but they all showed shallow distances to fractured bedrock. (Hr'g Tr. 39:21–25). The best test hole showed a profile of sandy loam to a depth of 32 inches before transitioning to fractured shales and bedrock. (Frank Variance Ex. B).

22. The location of the best test hole (32 inches to limiting layer) is relatively flat and the only area that is not steeply sloped. (Frank Variance Ex. B).

23. The building site and the proposed system are both on the Franks' old property—that is, Lot 14—that makes up part of Lot 13A after the boundary-line adjustment. (Hr'g Tr. 27:21–28:1, 65:14–15).

24. The Franks propose to install an elevated sand mound to be constructed on two feet of clean, stable fill. (Frank Variance Ex. B).

25. The proposed location of the sand mound is one of the only locations—if not the only location—on which a sand mound could be located because of the steeply sloped, very difficult terrain of the area. (Hr'g Tr. 40:1–7).

26. The Franks sought two variances from the County that were necessary before a sand mound could be used. (*See* Frank Variance Exs. A–B).

First, the Franks sought a variance from Section 4.3(5) of the Lewis and Clark County On-Site Wastewater Regulations, which provides:

> Wastewater treatment systems must be located to maximize the vertical separation in distance from the bottom of the absorption trench to the seasonally high groundwater level, bedrock, or other limiting layer, but under no circumstances may this vertical separation be less than four feet of natural soil.

Second, the Franks sought a variance from Section 2.2.4 of Circular DEQ-4, which provides, in part:

> Fill systems may be used only for replacement of existing failed systems and may not be used for new subsurface wastewater treatment systems.

27. Non-degradation calculations were completed for the septic system at the proposed location. All of the calculations for nitrate sensitivity and phosphorus breakthrough passed for both impacts to groundwater and surface water. (Frank Variance Ex. B).

28. The parties stipulated that the environmental factors for granting a variance in ARM 17.36.922(a) have been satisfied in this matter. (Hr'g Tr. 6:15–19).

29. Aside from the necessary variances, the placement and design can meet all other regulations and design standards. (Frank Variance Ex. B).

30. The Franks contend that Lot 13A is unsaleable without approval for a septic location. (*E.g.*, Hr'g Tr. 13:21–22). There is no evidence in the record to support this connection as a finding of fact.

31. As a consequence of buying Lot 13, the Franks must pay for a second mortgage, property taxes, and assessments for a Rural Improvement District (RID) for two lots. (Hr'g Tr. 11:23–24, 13:23–24).

32. Locating a system elsewhere would be more difficult than the proposed system for which the Franks seek a variance. (Hr'g Tr. 57:24–25).

33. Sharing the existing system located on Lot 14A also would be impractical because of the size of the lots and the topography, which is "a huge canyon." (Hr'g Tr. 43:4–11).

34. The apparently only other alternative type of system would be an incinerating system that might not be feasible and would itself require a variance from the Board of Health. (Hr'g Tr. 42:19–43:3).

Conclusions of Law

A. Standard of Review

1. The Department's role in this contested case proceeding is to receive evidence from the parties, enter findings of act based on the preponderance of the evidence presented and then enter conclusions of law based on those findings. *Mont. Evnt'l Info. Ctr. v. Mont. Dep't of Envt'l Qual.*, 2005 MT 96 ¶22.

2. The Department may grant, conditionally grant, or deny the variance request. § 75-5-305(4), MCA.

3. The Department may use the agency's experience, technical competence, and specialized knowledge in the evaluation of evidence. § 2-4-612(7), MCA.

3. Except for questions regarding the local board's interpretation of other local board rules in effect at the time of the local board's decision, the Department's evaluation of this case is *de novo*, and the parties may provide evidence and testimony to the Department in addition to that presented to the local board. ARM 17.36.924(6)–(7).

4. As a *pro se* party, the Franks are entitled to latitude and liberal construction of their arguments. *E.g., Xin Xu v. McLaughlin Research Inst. for Biomedical Sci., Inc.*, 2005 MT 209, ¶ 23. However, the agency need not "conduct legal research on a party's behalf, to guess at the party's precise position, or to develop legal analysis that may lend support to that position." *State v. Redlich*, 2014 MT 55, ¶ 22.

5. The record in this case includes all the materials provided in ARM 17.36.924(2) and § 2-4-604(2), MCA.

6. Because the parties have consented to informal proceedings, any irrelevant, immaterial, or duly repetitious evidence must be excluded but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs is admissible, whether or not the evidence is admissible in a trial in the courts of Montana. § 2-4-604(4), MCA.

7. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not sufficient in itself to support a finding unless it is admissible over objection in civil actions. *Id.* The exhibits provided in the Franks' County-level variance request consist of records of regularly conducted activities and public records and reports and are therefore admissible to consider for the truth of the matter asserted. Rule 803(6), (8), M.R.E.

B. Variance Criteria

5. Under ARM 17.36.924(6), the criteria to be used in this appeal are those set forth under ARM 17.36.922(2).

6. Under ARM 17.36.922(2), a variance may only be granted if the following are met:

> (a) granting the variance will not:
>
> (i) contaminate any actual or potential drinking water supply;
>
> (ii) cause a public health hazard as a result of access to insects, rodents, or other possible carriers of disease to humans;
>
> (iii) cause a public health hazard by being accessible to persons or animals;
>
> (iv) violate any law or regulation governing water pollution or wastewater treatment and disposal, including the rules contained in this subchapter except for the rule that the variance is requested from;
>
> (v) pollute or contaminate state waters, in violation of 75-5-605, MCA;
>
> (vi) degrade state waters unless authorized pursuant to 75-5-303, MCA; or
>
> (vii) cause a nuisance due to odor, unsightly appearance, or other aesthetic consideration;

(b) compliance with the requirement from which the variance is requested would result in undue hardship to the applicant;

(c) the variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented;

(d) no alternatives that comply with the requirement are reasonably feasible; and

(e) the variance requested is not more than the minimum needed to address the extraordinary conditions.

7. For purposes of this appeal, the criteria in ARM 17.36.922(2)(a) have been satisfied pursuant to the stipulation of the parties.

8. The evidence shows that it is doubtful whether an incinerating system feasibly could be used. In any event, an incinerating system would itself require a variance from the Board of Health. Ms. Norberg also testified that other locations would be more difficult than the proposed site. Accordingly, the Franks have satisfied their burden under ARM 17.36.922(2)(d) that no alternatives that comply with the requirement are reasonably feasible.

9. Thus, the controlling criteria in this appeal are those in ARM 17.36.922(2)(b) and (c)—that is, whether compliance with the requirement from which the variance is requested would result in undue hardship to the applicant and whether the variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented.

10. Under ARM 17.36.922(2)(b), the Franks bear the burden of showing that compliance with the requirement from which the variance is requested would result in undue hardship. The Franks argue that they will suffer an undue hardship because they must pay the costs of a second mortgage, taxes, and RID assessments. They further argue that Lot 13A would be unsaleable without the variance. The County argues, on the other hand, that the undue hardship standard must be related to the conditions of the property itself, not just the financial difficulties for any particular person.

The undue hardship criterion is not defined in statute or rule. Because the language of the rule is subject to more than one reasonable interpretation, the rulemaking history of the rule may be considered to aid interpretation. *Cf. City of Missoula v. Pope*, 2021 MT 4, ¶ 10. When the Board of Environmental Review adopted the variance criteria, it provided this reason for its adoption:

> Proposed ARM 17.36.922(2)(b) requires a showing that compliance with the requirement from which the variance is requested would result in undue hardship for the applicant. This provision is necessary to limit variances to situations in which compliance with a requirement creates a significantly greater burden for the applicant than for others to whom the requirement applies.

MAR Notice No. 17-319, 2011 MAR 528, 529 (April 14, 2011).

The Department concludes that the Franks have not demonstrated an undue hardship. Strict application of the four-foot separation requirement did not foreclose development on Lots 13 and 14. Rather, two approvable septic sites have so far been located—one that currently serves the Franks' house and one in the now-compromised location that originally was meant to serve Lot 13. While that original location on Lot 13 was compromised by the incorrect installation by the Franks' predecessor in interest, the separation requirement itself was met on both of the lots.

Although the Franks knew that the previous location on Lot 13 had been compromised and that the other prospective buyers of Lot 13 had failed to locate another approvable site, they nevertheless purchased the property with the hope that they could find an approvable location through a boundary-line adjustment that would transfer a portion of the area that they already owned on Lot 14 to the new Lot 13A. In this sense, the burden caused by compliance with the separation requirement on Lot 13A is no different than if the Franks had sought a variance for a second drainfield location on Lot 14, regardless of their purchase of Lot 13.

The Franks acknowledge that topography and geology may limit the number of approvable sites on a lot (Hr'g Tr. 23:18–24 ("And, I mean, we know soil kind of runs and it's always kind of like hit and miss on soil, but that's everywhere.")). Not every lot can support multiple developable sites. The fact that multiple sites cannot be located does not constitute an undue hardship.

The Franks' argument that they will suffer undue hardship due to the costs of their second mortgage, taxes, and RID assessments is unavailing. As described by the Board of Environmental Review in adopting the variance criteria, the undue hardship requirement concerns not the wisdom of a particular investment but whether compliance with the requirement poses a significantly greater burden on the applicant than to others to which it applies.

The Franks argue that compliance with the requirement is significantly more burdensome for them than others in their subdivision, who all have found approvable locations. But approvable sites were located for both Lots 13 and 14, so compliance with the rule has not been unduly burdensome for these properties. The Franks have suffered hardship only because they purchased the property after knowing that their predecessor had compromised the approved site and after knowing that the County's inspections of the area up top had failed to discover an approvable site.

Under these circumstances, the Department concludes that the Franks have failed to demonstrate an undue hardship.

11. Under ARM 17.36.922(2)(c), the Franks bear the burden of showing that the variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented. As with undue hardship, this criterion is not defined in statute or rule. Again, the rulemaking history may be considered to aid interpretation. *Pope*, ¶ 10. When the Board of

Environmental Review adopted the variance criteria, it provided this explanation for the extraordinary conditions requirement:

> Proposed ARM 17.36.922(2)(c) requires a showing that the variance is necessary to address extraordinary conditions that the applicant could not reasonably have prevented. This provision is necessary to limit variances to situations that are not typical, and to require applicants to use reasonable care to avoid placing themselves in those situations.

MAR Notice No. 17-319, 2011 MAR 528, 529 (April 14, 2011).

Here, the evidence does not show that this is an extraordinary situation or that the Franks exercised reasonable care to avoid placing themselves in this situation.

The evidence shows that much of Lots 13A and 14A are steep, dropping off into a canyon. Even without the constraints imposed by the lot configurations and HOA-required setbacks, there are few desirable building sites across the two lots. That topography and geology have limited the number of approvable sites on these lots such that a third approvable site cannot easily be found is not an extraordinary condition.

The evidence also fails to show that the Franks exercised reasonable care before purchasing Lot 13. When the Franks purchased Lot 13, it was apparent that the lot would be very difficult—if not impossible—to develop after the previously approved septic location had been compromised. Other prospective buyers of Lot 13 contacted the County as part of their due diligence to determine whether there were any other approvable locations; when a suitable site could not be found, those prospective buyers did not purchase the property.

The Franks, however, purchased the property with the hope that a suitable site could be located on the portion of Lot 14 that they already owned. The Franks testified that "the people who were looking at buying it had Beth out there and they dug all around the top." (Hr'g Tr.

27:15–18). By doing the boundary line adjustment, the Franks "figured that there would be a site within some of that area, because it more than doubled what was the initial top land to build on." (Hr'g Tr. 27:21–28:1).

While the Franks may have increased the initial top land from Lot 13, this area still had very few building sites. Mr. Frank testified that the proposed location is "basically the best spot there to work for any building site that's really on this lot," (Hr'g Tr. 66:1–2), and Ms. Norberg testified that "this was actually one of the only sites that you could even put a mound on because the mound has a limit on putting it on a certain slope and this was actually the one flat area where you could put an elevated sand mound to do that," (Hr'g Tr. 40:3–7). Thus, even though the boundary-line adjustment provided additional area of the top land, the possible sites in that top land are severely limited by topography.

The Franks also argue that they had no way of knowing what the subsurface conditions were ahead of time. They note that the terrain on which they seek to place the new system looks the same as the terrain on which the system for their house is located. (Hr'g Tr. 23:11–22). They further argue that the purpose of a variance is to provide relief when the inability to meet a requirement comes as a shock because the subsurface conditions were different than anyone expected. (Hr'g Tr. 24:1–2).

However, the additional top land provided by the boundary-line adjustment was not different in location or type than the land on which the County and the prospective buyers had already unsuccessfully searched for a septic location. The results of that previous search showed very shallow fractured bedrock, (Hr'g Tr. 30:14–19), and the Franks testified that the expansion of area from Lot 14 to the new Lot 13A was "right next to" the area of Lot 13 unsuccessfully searched for a suitable septic location. (Hr'g Tr. 55:14).

The Franks argue that it was reasonable to assume that an approvable site could be found because their neighbors have found sites on their lots. (Hr'g Tr. 58:13–59:8). But approvable sites on Lots 13 and 14 already had been found, even if the site on Lot 13 had been compromised by the failed installation. Nothing in the record supports a conclusion that it would have been reasonable to conclude that an approvable third drainfield site could be located on Lot 13A when the remaining area of the lot consisted of steep terrain with limited building sites and the County's investigation had already failed to discover an approvable site. Given these circumstances, reasonable care dictates that the Franks should have investigated the limited building site locations on the property that they already owned before purchasing Lot 13 and completing the boundary-line adjustment.

For these reasons, the Franks have failed to demonstrate that a variance is necessary to address extraordinary circumstances that the they could not have reasonably prevented.

RECOMMENDED DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the Franks have failed to demonstrate the required criteria of ARM 17.36.922(2)(b) and ARM 17.36.922(2)(c).

IT IS ORDERED:

The Franks' variance requests are denied.

DATED this fourteenth day of April 2023.

/s/ Dee Dee Fischer
Dee Dee Fischer
Co-Hearing Examiner

/s/ Aaron Pettis
Aaron Pettis
Co-Hearing Examiner

CERTIFICATE OF SERVICE

I hereby certify that this fourteenth day of April, 2023, I caused to be served a true and correct copy of the foregoing document and any attachments to all parties or their counsel of record as set forth below:

Nick and Jean Frank nickfrnk@gmail.com	[ ] U.S. Mail, postage prepaid [x] Electronic Mail [ ] Facsimile Transmission [ ] Personal Delivery
Nicho Hash nhash@lccountymt.gov	[ ] U.S. Mail, postage prepaid [x] Electronic Mail [ ] Facsimile Transmission [ ] Personal Delivery

BY: */s/ Aaron Pettis*_____
Aaron Pettis, Co-Hearing Examiner
Department of Environmental Quality

EXHIBIT L

Beth Norberg

From: Regensburger, Eric <ERegensburger@mt.gov>
Sent: Wednesday, June 22, 2022 12:34 PM
To: Beth Norberg
Subject: RE: Fill Material and Non-deg

Beth, The nondeg guideline does address the imported soil for sand mounds – its mentioned in how to calculate the size of the drainfield for mixing zones (section 2.11.3). Its also mentioned in the phosphorus calculations (section 3.4) stating that "The imported sand that is beneath the laterals in a sand mound system (up to a maximum depth of 2 feet) can be used in calculating the depth to limiting layer"

As far as nitrogen treatment goes, the only purpose for the soil directly beneath the drainfield is to nitrify the nitrogen (convert it from ammonia to nitrate), correctly sized sand mound sand does that as well as natural soil. So, I think you are good to go with a sand mound if it passes.

-Eric

Eric Regensburger | *Hydrogeologist*
Water Quality Planning Bureau
Montana Department of Environmental Quality
Office: 406-444-6714 | Mobile: 406-459-7740 | eregensburger@mt.gov

DEQ Montana Department of Environmental Quality

How did we do? »

From: Beth Norberg <BNORBERG@lccountymt.gov>
Sent: Wednesday, June 22, 2022 12:17 PM
To: Regensburger, Eric <ERegensburger@mt.gov>
Subject: [EXTERNAL] Fill Material and Non-deg

Hi Eric,

What are your thoughts or data regarding the use of a sand mound constructed on 2 feet of fill when there is only 2.5 feet of natural occurring soil?

We had a variance hearing for a new site yesterday to use just the fill and mound and the non-deg calculations passed with flying colors. However, our Hearings Officer is struggling with allowing that without Level II treatment based on she is not sure if the non-deg calculations take into effect the use of fill vs. native soil.

Thoughts?

Beth Norberg, RS
Environmental Programs Supervisor

Phone: 406-447-8385
Email: bnorberg@lccountymt.gov

316 N Park Avenue, Room 230
Helena, MT 59623

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LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	Agenda Item No.
July 27, 2023	5

___Minutes _X_Board Member Discussion ___Staff & Other Reports _X_Action __Hearing of Delegation

AGENDA ITEMS Review of the COVID 19 Emergency Rules and Regulations

PERSONNEL INVOLVED: Drenda Niemann, Heath Officer

BACKGROUND The Board will review the COVID 19 Emergency Rules and Regulations and make a recommendation to the Governing Body for consideration.

HEALTH DIRECTOR'S RECOMMENDATION: N/A

_X_ADDITIONAL INFORMATION

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis & Clark Public Health

..Lewis and Clark City-County Board of Health
Emergency Rules and Regulations
In Response to the COVID-19 Pandemic

Contents

Purpose

SARS-COV-2, the virus that causes COVID-19, is an easily transmissible, potentially fatal respiratory illness that spreads from person to person in the air through droplets from infected persons[i]. It is transmissible even by asymptomatic individuals who do not know they are infected. As a result, COVID-19 presents Lewis and Clark County with a once-in-a-century pandemic. More than 12.6 million Americans have been infected, and more than 260,000 have died. At the time of the drafting of this Regulation, active cases in Montana have risen to more than 58,000, with 1,087 active cases in Lewis and Clark County[ii]. The spread of COVID-19 endangers our vulnerable neighbors, businesses, long-term care and skilled nursing facilities, and hospitals who need the capacity to treat both COVID-19 patients and all others needing medical care.

To curtail the spread of the COVID-19 pandemic in Lewis and Clark County, and to protect the health and economic well-being of all residents, it is necessary to implement protective measures to reduce spread of the disease. The Centers for Disease Control and Prevention provides guidance for community mitigation intended to help slow the spread of COVID-19 and helps communities tailor strategies for target populations.[iii] These regulations are drafted after consultation with public health experts, health care providers, and emergency management professionals. Lewis and Clark City-County Board of Health has determined that to protect public health and human safety, it is essential to establish these restrictions in support of Lewis and Clark Public Health's mission to improve and protect the health of all residents in Lewis and Clark County.

Slowing the spread of COVID-19 locally relies on Lewis and Clark Public Health's ability to contain disease through case isolation, contact tracing, and quarantine of close contacts to cases. Further, community-wide mitigation strategies are a vital complement to testing and surveillance when developing a comprehensive approach to prevention and response to a virus that causes significant morbidity and mortality.

Triggering Criteria

There are six (6) triggering criteria. Each triggering criteria is color coded and given a corresponding value from 0 to 2 (green = 0, yellow = 1, red = 2) according to community conditions. This color value is then multiplied by a weighting factor to give a weighted score for each triggering criteria. Healthcare System Capacity, Case Investigation, and Community Compliance are weighted more heavily with a factor of 5. Health Department Capacity and Testing Capacity are weighted with a factor of 3. Disease Surveillance is weighted with a factor of 2. The triggering criteria scoring is summed, and the Rules and Regulations are implemented according to the summed total. There is a possible summed total between 0 and 46.

Triggering Criteria	weighted factor	color value	total
Health Care Capacity	5	C	= 5 x C
Case Investigation	5	C	= 5 x C
Community Compliance	5	C	= 5 x C
Health Department Capacity	3	C	= 3 x C
Testing Capacity	3	C	= 3 x C
Disease Surveillance	2	C	= 2 x C
Total			**(sum)**

If the summed total of the triggering criteria is less than 18, the Face Covering Requirement Rule and Regulation remains in effect and NO other Rules and Regulations are in effect.

If the summed total of the triggering criteria is greater than 33, ALL Rules and Regulations are in effect.

If the summed total of the triggering criteria is equal to or between 18 and 33, the Health Officer shall use professional discretion in implementing the Rules and Regulation.

The Health Officer shall issue a Health Officer Order every 2 weeks announcing which Rules and Regulations are in effect.

I. Healthcare System Capacity

- **Ability of hospital to treat all patients safely, those with COVID-19 and those with other ailments, without additional staffing**. This criteria is informed through direct consultation with the St. Peter's Health (SPH) and the Veteran's Administration (VA) COVID-19 Incident Command Team. Under this criteria, SPH specifically evaluates ICU capacity, sufficient staffing resources, and the availability of personal protective equipment or PPE. Dashboard color coding (green, yellow or red) is currently dictated through consultation and professional judgement. **Appropriate benchmarks and associated color coding are currently under development in consultation with the St. Peter's Health COVID-19 Incident Command Team**.

II. Case Investigation

- **No Significant Increase in Confirmed COVID-19 Cases**. This criteria is informed by tracking local case Incidence and the local test positivity rate[iv]. This data is then compared to the established benchmarks and the corresponding color coding is applied, as follows:

Weekly New Case Incidence		
Color Code	**Benchmark ***	**Metric ****
Green	<7	Number of new cases per 100,000 population in last 7 days
Yellow	7 < 70	Number of new cases per 100,000 population in last 7 days
Red	≥ 70	Number of new cases per 100,000 population in last 7 days
* Benchmark must be met for 2 weeks in a row ** Case incidence metric based on a weekly (Sunday-Saturday) summary of local case data provided by the Governor's COVID-19 Task Force Dashboard Service		

Daily New Case Incidence		
Color Code	**Benchmark ***	**Metric ****
Green	<1	7-day average of daily new cases per 100,000 population
Yellow	1 < 10	7-day average of daily new cases per 100,000 population
Red	≥ 10	7-day average of daily new cases per 100,000 population
* Benchmark must be met for 2 weeks in a row. ** Case incidence metric based on a weekly (Sunday-Saturday) summary of local case data provided by the Governor's COVID-19 Task Force Dashboard Service		

Test Positivity Rate		
Color Code	**Benchmark ***	**Metric ****
Green	<1%	Percentage of positive tests
Yellow	1% < 5%	Percentage of positive tests
Red	≥ 5%	Percentage of positive tests
* Benchmark must be met for 2 weeks in a row. ** Test Positivity Rate metric based on a summary of local testing data provided by the Centers for Medicare and Medicaid Services (CMS)		

- **Type of Disease Exposure**. This criteria is informed by LCPH Public Health Nurses, and associated contact tracing team members, tracking the type of disease exposure for each local confirmed case[v]. The relevant exposure data is then compared to the established benchmarks and the corresponding color coding is applied, as follows:

Type of Disease Exposure		
Color Code	**Benchmark ***	**Metric ****
Green	>33%	Majority of weekly cases are *contact to a known case* exposure
Yellow	>33%	Majority of weekly cases are *travel-related* exposure
Red	>33%	Majority of weekly cases are *Unknown* exposure
* Benchmark must be met for 2 weeks in a row ** Type of disease exposure metric based on a summary local case investigation data provided by Lewis and Clark Public Health Case Management Team		

- **Average Number of Direct Contacts per Case**. This criteria is informed by LCPH Public Health Nurses, and associated contact tracing team members, tracking the number of close contacts identified for each local confirmed case[vi]. This data is then compared to the established benchmarks and the corresponding color coding is applied, as follows:

Average Number of Direct Contacts per Case		
Color Code	**Benchmark ***	**Metric ****
Green	0<5	Average number of contacts per case/week
Yellow	5 < 10	Average number of contacts per case/week
Red	≥ 10	Average number of contacts per case/week
* Benchmark must be met for 2 weeks in a row ** Contacts per case metric based on a summary local case investigation data provided by Lewis and Clark Public Health Case Management Team		

III. Health Department Capacity

- **Ability to manage work related to COVID-19 pandemic without additional staffing**. This criteria is informed by tracking the number of LCPH staff dedicated to the ongoing COVID-19 response. This data is then compared to the established benchmarks[vii] and the corresponding color coding is applied, as follows:

Case Management (Case Isolation, Quarantine, and Contact Tracing Teams)		
Color Code	**Benchmark ***	**Metric ****
Green	No Additional Staffing	Staffing for COVID-19 Response
Yellow	5 < 10	Staffing for COVID-19 Response
Red	≥ 10	Staffing for COVID-19 Response
* Benchmark must be met for 2 weeks in a row. Baseline = 4 Public Health Nurses in Communicable Disease and Immunization Program ** COVID-19 staffing metric based on a summary of weekly staffing data provided by Lewis and Clark Public Health COVID-19 Incident Command Team		

Technical Assistance, Compliance and Enforcement		
Color Code	**Benchmark ***	**Metric ****
Green	No Additional Staff	Staffing for COVID-19 Response
Yellow	5 < 10	Staffing for COVID-19 Response
Red	≥ 10	Staffing for COVID-19 Response
* Benchmark must be met for 2 weeks in a row. Baseline = 4 Registered Sanitarians from Licensed Establishment Program ** COVID-19 staffing metric based on a summary of weekly staffing data provided by Lewis and Clark Public Health COVID-19 Incident Command Team		

Support Staffing		
Color Code	**Benchmark ***	**Metric ****
Green	No Additional Staff	Staffing for COVID-19 Response
Yellow	1<3	Staffing for COVID-19 Response
Red	≥3	Staffing for COVID-19 Response
* Benchmark must be met for 2 weeks in a row. Baseline = 0 Support Staff ** COVID-19 staffing metric based on a summary of weekly staffing data provided by Lewis and Clark Public Health COVID-19 Incident Command Team		

Total COVID-19 Response Staffing		
Color Code	**Benchmark ***	**Metric ****
Green	≤8	Total COVID-19 Response Staffing
Yellow	9 < 20	Total COVID-19 Response Staffing
Red	≥ 20	Total COVID-19 Response Staffing
* Benchmark must be met for 2 weeks in a row. Baseline = 8 (4 Public Health Nurses + 4 Registered Sanitarians) ** COVID-19 staffing metric based on a summary of weekly staffing data provided by Lewis and Clark Public Health COVID-19 Incident Command Team		

IV. Testing Capacity

- **Sufficient staff and supplies to screen and test all local residents with COVID-19 symptoms**. This criteria is informed through direct consultation between LCPH Public Health Nurses, the state Department of Public Health and Human Services, and local entities conducting the testing. These entities include, but are not limited to, St. Peter's Health and PureView Health Center, and Walgreens. Under this criteria, LCPH and affected partners evaluate the availability of adequate testing kits, associated sampling supplies, and staffing necessary to perform adequate local testing. Dashboard color coding (green, yellow or red) is dictated through consultation and professional judgement.

- **Ability to get local test results in timely manner (within 2 days or less)**. This criteria is informed by LCPH Public Health Nurses. Under this criteria, LCPH Public Health Nurses identify whether or not test results are provided to LCPH within 48 hours of testing. Dashboard color coding will be green when test results are provided within 48 hours. Both yellow and red color coding is dictated by the professional judgement of LCPH Public Health Nurses.

V. Disease Surveillance

- **Evidence of coronavirus in wastewater.** This criteria is informed by wastewater surveillance/testing for SARS-CoV-2, the virus that causes COVID-19, within the Helena and East Helena municipal wastewater systems. Wastewater testing is conducted by Carroll College researchers and evaluation of the test results is coordinated between LCPH and local partners within the affected City governments. Wastewater testing results are compared to local confirmed and active case data providing public health officials with additional tools for 1) early detection of rising local infections, 2) monitoring overall community infection trends, and 3) confirmation of low infection rates as correlated with local diagnostic testing results. This information is included in the Dashboard in graphic form. Development of quantitative benchmarks and associated color coding is under consideration as more data becomes available.

- **Sentinel screening of populations with no symptoms.** This criteria is informed by direct consultation between LCPH Public Health Nurses, the state Department of Public Health and Human Services, and local entities conducting the testing. Under this criteria, LCPH and affected partners evaluate whether or not adequate sentinel screening is occurring at local long-term care and assisted living facilities and other group homes, among local health care professionals (hospital and clinic staff), the general population (asymptomatic individuals only), and within local tourist communities. Dashboard color coding (green, yellow or red) is dictated through consultation with affected partners. Development of quantitative benchmarks and associated color coding is under consideration as more data becomes available.

VI. Community Compliance

- This criteria is informed by the tracking the number of weekly complaints regarding compliance with applicable COVID-19 regulatory Rules and Regulations. The number of weekly complaints is then compared to the established benchmarks and the corresponding color coding is applied, as follows:

Number of Weekly Complaints for Non-Compliance with Rules and Regulations		
Color Code	**Benchmark ***	**Metric ****
Green	0 < 10	Complaints/Week
Yellow	10 < 20	Complaints/Week
Red	≥ 20	Complaints/Week
* Benchmark must be met for 2 weeks in a row ** Weekly complaint metric based on a summary local complaint data provided by Lewis and Clark Public Health Technical Assistance, Compliance, and Enforcement Team		

Rules and Regulations

I. Definitions

As used in these Rules and Regulations the following terms have the following meanings:

- "Business" means any for-profit or non-profit entity which has employees or volunteers. The term "business" includes, but is not limited to, retail stores, grocery stores, food and beverage establishments, public lodging, personal care providers, medical providers, pharmacies, gyms, pools, fitness services, museums and theaters, indoor recreational or entertainment facilities, gas stations, repair and service providers, non-profit organizations, realty services, legal services, transportation services, and ride sharing services.
- "Capacity" means the number of people allowed in a building as determined by the fire marshal.
- "Event" and "Gathering" mean planned or spontaneous grouping of people, indoors or outdoors, with people participating or in attendance. This includes, but is not limited to, a community event or gathering, government event or gathering, concert, festival, conference, parade, wedding, or sporting event.
- "Government office" means any office or assembly of any branch, department, agency, or political subdivision of the State of Montana.
- "Face covering" means a fabric, paper, or disposable face covering with multiple layers that covers the nose and mouth and which does not have an exhalation valve. The term "face covering" includes face shields.
- "Indoor space open to the public" means any indoor space, whether publicly or privately owned, where the public has access by right or invitation, express or implied, whether by payment of money or not. In addition, "indoor spaces open to the public" include, but are not limited to, lobbies, common areas, elevators, bathrooms, meeting rooms, or other spaces where people gather. The term includes all modes of public or commercial transportation. The term does not include private residences not open to the public.
- "Organized outdoor activity" means any gathering of 25 or more people for an activity or event organized or sponsored by a business or person, or that takes place on the property of a business or person. This includes, but is not limited to, outdoor theatrical or music performances, fairs, markets, festivals, parades, carnivals, rodeos, sporting or athletic events, beer gardens, weddings and receptions, or parties.
- "Reasonable measures" means actions that are reasonable under the circumstances to promote the objective of the mask requirement.
- "Schools" means any public or private k-12 school, and higher education institutions such as Carroll College and Helena College.
- "Sponsor" means any business or person who organizes or sponsors an organized outdoor activity, or who allows the activity to take place on their property.

II. Face Covering Requirement

1. Face Covering Requirement in Indoor Spaces Open to the Public.
    - Except as provided in section 3 of the Mask Requirement, all businesses, government offices, schools, or other persons responsible for indoor spaces open to the public shall require and take reasonable measures to ensure that all employees, contractors, volunteers, customers, staff, students, or other members of the public wear a face covering that covers their mouth and nose at all times while entering or remaining in any indoor spaces open to the public.
        i. Face coverings shall be provided for all employees and volunteers.
        ii. All points of entry open to the public shall have a clearly visible sign posted stating: "Mask or face covering use required for ages five and older."
2. Face Covering Requirements for Certain Organized Outdoor Activities
    - Except as provided in section 3 of the Mask Requirement, for any organized outdoor activity where social distancing is not possible or is not observed, sponsors shall require and take reasonable measures to ensure that all persons attending an organized outdoor activity wear a face covering that covers their mouth and nose at all times.
    - This section applies only where the nature of the organized outdoor activity makes it impractical for all attendees to maintain at least six feet of physical distance from each other, or any organized outdoor activity where attendees are not observing at least six feet of physical distance from others.
3. Exceptions
    - Businesses, government offices, other persons responsible for indoor spaces open to the public, and sponsors of organized outdoor activities are not required to ensure the following individuals wear face coverings:
        i. children under the age of five. All children between the ages of two and four, however, are strongly encouraged to wear a face covering in accordance with the provisions of these Rules and Regulations. Children under the age of two should not wear a face covering;
        ii. persons consuming food or drinks in an establishment that offers food or drinks for sale;
        iii. persons engaged in an activity that makes wearing a face covering impractical or unsafe, such as strenuous physical exercise or swimming. However, spectators observing an outdoor activity, where a separation from the activity of at least 6 feet is maintained, are considered a separate outdoor activity subject to these Rules and Regulations;
        iv. persons seeking to communicate with someone who is hearing impaired;
        v. persons giving a speech or engaging in an artistic, cultural, musical, or theatrical performance for an audience, provided the audience is separated from performers by at least six feet of distance;
        vi. persons temporarily removing their face covering for identification purposes; or
        vii. persons required to remove face coverings for the purpose of receiving medical evaluation, diagnosis, or treatment.

- Businesses, government offices, persons responsible for indoor spaces open to the public, and sponsors of organized outdoor activities should afford accommodations from the provisions of these Rules and Regulations to those who are entitled an accommodation under federal and state disability protection laws, including the Americans with Disabilities Act (ADA) and the Montana Human Rights Act, labor laws, or any other applicable law requiring accommodations in public accommodations.
- Only those employees, volunteers, and contractors in public-facing workspaces are required to wear face coverings as specified in these Rules and Regulations.

III. Event restrictions

- Events and gatherings in Lewis and Clark County are limited to no more than 250 people.
- Events and gatherings of less than 250 people must adhere to the following as determined by the triggering criteria:

Summed Total of Triggering Criteria	Events and Gathering sizes subject to restrictions
18 < (sum) < 33	50 - 250
34 < (sum) < 46	25 - 250

  - Submit on the form provided by Lewis and Clark Public Health to Lewis and Clark Public Health a detailed plan outlining protective measures and environmental controls to reduce the risk of disease transmission at least thirty (30) days prior to event or gathering.
  - Maintain strict physical distancing of 6 feet between individuals or between groups of family members.
  - Follow guidance provided by Lewis and Clark Public Health regarding event planning and ensure plan is adhered to at the time of the event or gathering.
  - Youth activities, defined as both community-based and school sanctioned, are not subject to this order's physical distancing requirement or participant limitations, however a plan must be submitted and approved. Youth activities includes all youth participants, coaches, trainers, and officials necessary for the youth activity.
  - Spectators of youth activities shall be considered a separate and distinct event from the youth activity itself, subject to this order.
- Schools and school activities including graduation ceremonies are exempt from the 250 person limit with an approved plan by Lewis and Clark Public Health.

IV. Location Specific Restrictions[viii]

- All businesses, government offices, and locations with indoor space open to the public shall:

- Conduct a health assessment of employees and personnel at the beginning of each shift.
  - Anyone with symptoms of COVID-19 must be sent home. These include cough, difficulty breathing, fever, repeated shaking with chills, the chills, body aches, headache, sore throat and new loss of taste or smell.
- Require physical distancing of at least 6 feet between individuals and non-family groups in gatherings of any size.
- When mask restrictions are in effect, all points of entry open to the public shall have a clearly visible sign posted stating: "Mask or face covering use required for ages five and older." Signs are available at: https://montana.maps.arcgis.com/apps/MapSeries/index.html?appid=7c34f3412536439491adcc2103421d4b

o Capacity

- Gyms, restaurants, Bars, Breweries, Distilleries, and Casinos shall operate at a capacity and hours as determined by the triggering criteria reflective of community conditions.

Summed Total of Triggering Criteria	Capacity	Hours
18 < (sum) < 33	75%	4:00 a.m. - 2:00 a.m.
34 < (sum) < 46	50%	4:00 a.m. - 2:00 a.m.

  - Capacity in all gyms, restaurants, bars, breweries, distilleries, and casinos must be limited to designated percent of normal operating capacity and hours of operation.
  - Tables must be limited to eight people per table.
  - Dining establishments must provide for 6 feet of physical distancing between groups:
    - Increasing table spacing, removing tables, or marking tables as closed.
    - Providing for a physical barrier between tables.
    - Note: back-to-back booth seating provides adequate separation.
  - Self-service buffets are prohibited.
  - Clean all surfaces accessible to customers between customers, including tables, chairs, booths, highchairs, and gaming machines.
  - Breweries and distilleries shall follow existing laws on closing time.

o Additional guidance and recommendations for specific locations are accessible at https://www.lccountymt.gov/health/covid-19/phase-two-guidance.html.

Enforcement

I. Compliance with Mask and Location Specific Restrictions Rules and Regulations

The following complaint risk assessment matrix has been developed to identify response to complaints and achieve compliance. Non-compliance increases the risk that a facility will be a source of COVID-19 infection.

Complaint Risk Assessment Matrix		
MINOR	**MODERATE**	**MAJOR**
Low Risk of Disease Transmission	**Moderate Risk of Disease Transmission**	**High Risk of Disease Transmission**
Plan is in place	Incomplete plan for compliance	No plan for compliance
Working with us to improve plan	Working with us to improve plan	No interest in compliance
Complaints between 2-5	Complaints between 5-10	Complaints exceed 10
Employee Health policy in place	Incomplete health policy	No employee health policy

The following response will be used for follow-up on complaints received by Lewis & Clark Public Health.

NOTES:

1. Health Department staff should request Law enforcement support when visiting a facility where staff is uncomfortable visiting alone.
2. The County Attorney's Office will provide training on documentation.

Complaint process will include 4 key steps that will cycle back or on to next step depending on the location in the Complaint Risk Assessment Matrix.

STEP 1 – Receive a Complaint

1. Complaint is received by phone, email, hotline, social media.
2. Complaint is logged and assigned to a Code Enforcement Officer
    a. Documentation includes
        i. Complainant name unless anonymous
        ii. Business name and address
        iii. Time
        iv. Specifics of complaint (who, what, when, where)
3. Educational call is placed to business owner or manager
    a. Evaluate current process for compliance
    b. Provide resources, technical assistance with compliance
    c. Document the interaction– who, what, when
4. Investigate the validity of the complaint
    a. Multiple complaints can be used as evidence of non-compliance
    b. Can be by site visit to observe compliance

        i. Provide compliance assistance
5. Review 'Complaint Risk Assessment Matrix'
    a. If status is MODERATE or MAJOR move to STEP 2

STEP 2 – Work with Business

1. Request written plan be submitted for review and approval
    a. Business should assist in drafting and sign final plan
2. Review plan for compliance with these Rules and Regulations
3. Work with operator to adjust the plan for continued compliance
4. Follow up investigations to ensure business is in compliance with plan
    a. Unannounced and announced inspections
5. Document progress/compliance
6. Review 'Complaint Risk Assessment Matrix
    a. If status is MAJOR move to STEP 3

STEP 3 - Order for corrective action

1. Ensure administrative record is complete from steps 1 and 2
2. Write Health Order for Corrective Action
    a. Print administrative record
    b. Send administrative record and draft Order for Corrective Action to supervisor for review
    c. Deliver Health Order for Corrective Action
        i. Email
        ii. In person with assistance from law enforcement is necessary
    d. An order for corrective action may include additional and more restrictive requirements consistent with these regulations until compliance is achieved.
3. Follow up with owner to determine compliance status and good faith efforts to comply
    a. Phone, email, in person
4. Review Complaint Risk Assessment Matrix.
    a. If status remains MAJOR after working with business move to STEP 4

STEP 4 – County Attorney's Office

1. Print an updated administrative record.
2. Send copy of administrative record, Order for Corrective Action, and request for follow up to County Attorney's Office.
    a. Work with County Attorney's Office to review sufficiency of documentation
3. County Attorney will file appropriate action with the court
    a. Either to force business to comply with plan from above or to close the business until agree to comply.

II. Compliance with Event Restrictions

Order to Restrict Events and Gatherings

1. Public Health is notified of an event that is scheduled.
    a. Identify if a plan has been submitted.
    b. Contact organizer and provide guidance on the need to submit an event plan for review and approval.
2. If event plan is not received and event is still scheduled, then **refer to county attorney for an injunction**.
3. If event is scheduled but it becomes apparent the organizers cannot/will not actively manage the event, as required by their approved plan, then **refer to county attorney for an injunction**.
    a. Must have documented evidence of intent to not comply with plan/Health Order
4. If event is happening and did not follow plan, then gather evidence, **request law enforcement investigation and submit to county attorney**.

Effect on previous Health Officer orders.

Adoption of these Board of Health Rules and Regulations repeal and replace the following Health Officer Orders:

- Order of the Health Officer 10-2020 Amended November 19, 2020
- Order of the Health Officer 13-2020 November 17, 2020
- Order of the Health Officer 12-2020 August 12, 2020
- Order of the Health Officer 11-2020 July 15, 2020
- Order of the Health Officer 9-2020 May 19, 2020

Consistency with State Regulations and Emergency Declarations.

In the interest of uniformity of laws and to prevent the spread of disease, State laws and regulations and Governor's emergency declarations shall supersede these Rules and Regulations to the extent they are more stringent or are in direct conflict.

Duration

These Rules and Regulations shall be in effect upon adoption by the Lewis and Clark City-County Board of Health and remain in effect for the duration of the local, state, or national declaration of emergency, whichever is longer, or until removed by the Board of Health. The Board of Health shall review these Rules and Regulations at each regularly scheduled meeting of the Board of Health.

Authority

The adoption and enforcement of these Rules and Regulations are authorized by §§ 50-2-101 through 50-2-130, Administrative Rules of Montana Chapter 114 'Communicable Disease Control' of Department of Public Health and Human Services, and all other applicable provisions of state and federal law.

Signature

LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH

Justin Murgel Chair, Lewis and Clark City-County Board of Health	Date
Drenda Niemann Health Officer, Lewis and Clark Public Health	Date

Endnotes

[i] https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html
[ii] https://helenamtmaps.maps.arcgis.com/apps/opsdashboard/index.html#/2e42bcb3efca43f286fa3229300c6780
[iii] https://www.cdc.gov/coronavirus/2019-ncov/downloads/php/CDC-Activities-Initiatives-for-COVID-19-Response.pdf
[iv] Benchmark values for case incidence are consistent with the July 1, 2020 Harvard Global Health Institute study titled "Key Metrics for COVID Suppression, A Framework for Policy Makers and the Public."

Benchmark values for test positive rate are consistent with Johns-Hopkins Bloomberg School of Public Health "COVID-19 Testing: Understanding the Percent Positive," August 10, 2020 and the World Health Organization (WHO) "Public health criteria to adjust public health and social measures in the context of COVID-19: Annex to Considerations in adjusting public health and social measures in the context of COVID-19," May 12, 2020. This document recommends a positivity rate below 5% for 2 weeks before governments consider reopening. WHO further recommends lowering the benchmark in areas where SARS-CoV-2 transmission is deemed under control. Based on current and historic available local data specific to test positivity, the Green benchmark has been set at <1% and Red benchmark is applicable to rates >5%. This document also defines comprehensive surveillance or testing necessary to adequately inform the local test positivity rate as 1/1000 population/week (Lewis and Clark County = 70 tests/week.
[v] Benchmark values set based on risk associated with the types of exposure as determined by professional judgement of public health.
[vi] Benchmark values set based on public health ability to manage contact tracing work associated with the number of contacts per case. Further consideration attributed to professional understanding that the greater number of contacts is evidence of people not adhering to public health guidelines such as 6 feet distance. The greater the number of contacts also contributes to expositional community spread of the virus.
[vii] Benchmarks regarding health department capacity were set based on best professional judgement and ability to adequately respond and perform case investigation and contact tracing, technical and compliance assistance, enforcement and support operations.
[viii] https://www.cdc.gov/coronavirus/2019-ncov/community/community-mitigation.html CDC Community Mitigation Strategies for communities with COVID-19 transmission

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	Agenda Item No.
July 27, 2023	6

___Minutes _X_Board Member Discussion ___Staff & Other Reports __Action ___Hearing of Delegation

AGENDA ITEMS: Board Member Discussion

PERSONNEL INVOLVED: Board Members/Staff

BACKGROUND FY23 Year End Financials; Inclusiveness Committee Update; Racial Equity Update

HEALTH DIRECTOR'S RECOMMENDATION: N/A

X ADDITIONAL INFORMATION ATTACHED

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis & Clark Public Health

HEALTH DEPARTMENT MILL DOLLARS Thru June 2023

100% of the year elapsed
100% % of payroll

REVENUE	FY 2023 BUDGET	REVENUE RECEIVED YTD Administration	Community Health Promo	Environmental Health	Disease Ctrl & Prevention	TOTAL RECEIVED YTD	Budget Remaining	% of Budget Collected	Prior Year to Date
Taxes	$ 1,472,777	$ 1,488,865	$ -	$ -	$ -	$ 1,488,865	$ (16,088)	101.09%	$ 1,397,381.78
Cost Allocation Recovery	$ 139,407	$ 132,993	$ -	$ -	$ -	$ 132,993	$ 6,414	95.40%	$ 106,469
Health Insurance Credits	$ 205,848	$ 189,332	$ -	$ -	$ -	$ 189,332	$ 16,516	91.98%	$ 170,432
Environmental Health Charges	$ 235,889	$ -	$ -	$ 156,050	$ -	$ 156,050	$ 79,839	66.15%	$ 254,345.00
Community Health Charges	$ 264,742	$ -	$ -	$ -	$ 283,976	$ 283,976	$ (19,234)	107.27%	$ 149,203.01
Contracts/Grants	$ 287,237	$ 81,437	$ 244,607	$ -	$ 59,995	$ 386,039	$ (98,802)	134.40%	$ 254,307.97
Miscellaneous	$ 270,550	$ 253,818	$ 3,890	$ 53,449	$ 10,347	$ 321,503	$ (50,953)	118.83%	$ 378,449.56
TOTAL REVENUE	$ 2,876,450	$ 2,146,444	$ 248,496	$ 209,499	$ 354,318	$ 2,958,757	($82,307)	102.86%	$ 2,710,588
	FTE	4.870	2.750	3.250	6.985	17.855			
		27.28%	15.40%	18.20%	39.12%				

YEAR TO DATE ACTUAL EXPENDITURES	FY 2023 BUDGET	Administration	Community Health Promo	Environmental Health	Disease Ctrl & Prevention	TOTAL YTD SPENT	Budget Remaining	% of Budget Spent	Prior Year to Date
PERSONNEL									
Regular Salary	$ 1,130,781	$ 307,986	$ 224,969	$ 195,724	$ 442,688	$ 1,171,367	$ (40,586)	103.59%	$ 1,145,408
Temporary /Seasonal Salary	$ 1,200	$ -	$ -	$ -	$ 1,373	$ 1,373	$ (173)	114.44%	$ 1,811
Overtime	$ -	$ 200	$ 130	$ 44	$ 1,260	$ 1,635	$ (1,635)	--	$ 1,154
Term Pay/ Uncomp Absences		$ 1,453	$ -	$ 3,014	$ 7,784	$ 12,251	$ (12,251)	--	$ 18,248
Benefits	$ 393,792	$ 99,329	$ 72,749	$ 67,022	$ 142,037	$ 381,137	$ 12,655	96.79%	$ 363,836
Extra Pay period Savings	$ 15,901	$ -	$ -	$ -	$ -	$ -	$ 15,901	0.00%	
TOTAL PERSONNEL	$ 1,541,674	$ 408,968	$ 297,848	$ 265,805	$ 595,142	$ 1,567,763	$ (26,089)	102.75%	$ 1,530,458

	YEAR TO DATE ACTUAL EXPENDITURES	FY 2023 BUDGET	Administration	Community Health Promo	Environmental Health	Disease Ctrl & Prevention	TOTAL YTD SPENT	Budget Remaining	% of Budget Spent	Prior Year to Date
	OPERATIONS									
21.10	Office Supplies	$ 5,150	$ 2,131	$ 1,820	$ 1,088	$ 2,824	$ 7,863	$ (2,713)	152.68%	$ 8,748
21.20	Minor Equipment	$ 1,650	$ 457	$ 3,558	$ 808	$ 556	$ 5,379	$ (3,729)	326.00%	$ 2,540
21.50	Computer Equipment	$ -	$ -	$ -	$ -	$ -	$ -	$ -	--	$ -
22.10	Operating Supplies	$ 8,800	$ 4,924	$ 21,262	$ 593	$ 15,518	$ 42,297	$ (33,497)	480.64%	$ 47,047
22.21	Hep B Vaccine	$ -	$ -	$ -	$ -	$ -	$ -	$ -	--	$ -
22.23	Non Travel Vaccinations	$ 83,720	$ -	$ -	$ -	$ 151,001	$ 151,001	$ (67,281)	180.36%	$ 90,721
22.24	Flu Vaccine	$ 58,576	$ -	$ -	$ -	$ 52,205	$ 52,205	$ 6,371	89.12%	$ 81,507
22.26	Travel Vaccines	$ 33,152	$ -	$ -	$ -	$ 22,087	$ 22,087	$ 11,065	66.62%	$ 16,794
22.27	Lab Expenses	$ 4,100	$ -	$ -	$ -	$ 1,082	$ 1,082	$ 3,018	26.38%	$ 2,312
22.61	Titers/tests	$ 2,390	$ -	$ -	$ -	$ 984	$ 984	$ 1,406	41.16%	$ 3,541
23.10	Repair & Maintenance	$ -	$ -	$ -	$ 13	$ -	$ 13	$ (13)	--	$ 43
23.20	Gas & Oil	$ 2,650	$ -	$ 701	$ 2,429	$ -	$ 3,130	$ (480)	118.10%	$ 3,718
31.20	Postage	$ 5,985	$ 204	$ 892	$ 1,247	$ 2,211	$ 4,554	$ 1,431	76.09%	$ 8,409
31.40	Vehicle Parking	$ 1,632	$ -	$ -	$ 1,680	$ -	$ 1,680	$ (48)	102.94%	$ 2,856
31.45	Vehicle Registration	$ -	$ -	$ -	$ -	$ 22	$ 22	$ (22)	--	$ -
31.60	Credit Card Fees	$ 3,888	$ -	$ -	$ 2,485	$ 4,198	$ 6,683	$ (2,795)	171.89%	$ 4,815
31.65	Credit Card Fees	$ 2,000	$ -	$ -	$ 2,362	$ -	$ 2,362	$ (362)	118.08%	$ 1,935
32.10	Printing	$ 2,228	$ 1,225	$ 5,685	$ 34	$ 1,942	$ 8,887	$ (6,659)	398.88%	$ 16,845
33.10	Subscriptions	$ 400	$ 395	$ -	$ 555	$ -	$ 950	$ (550)	237.47%	$ 324
33.20	Advertising	$ 5,200	$ 2,351	$ 29,942	$ 798	$ -	$ 33,092	$ (27,892)	636.38%	$ 40,378
33.50	Membership	$ 11,750	$ 8,380	$ 100	$ 300	$ -	$ 8,780	$ 2,970	74.72%	$ 6,180
33.60	Licenses	$ 2,325	$ -	$ -	$ 1,350	$ 133	$ 1,483	$ 843	63.76%	$ 950
33.70	Education Awareness	$ -	$ -	$ 7,416	$ -	$ -	$ 7,416	$ (7,416)	--	$ -
33.80	Health Club Dues	$ 100	$ 180	$ -	$ -	$ -	$ 180	$ (80)	180.00%	$ 50
34.10	Utilities (Augusta)	$ 1,200	$ -	$ -	$ -	$ -	$ -	$ 1,200	0.00%	$ -
34.50	Telephone	$ 18,406	$ 6,786	$ 2,756	$ 4,180	$ 7,253	$ 20,974	$ (2,568)	113.95%	$ 16,720
35.10	Professional Services	$ 5,925	$ 6,567	$ 1,120	$ -	$ 3,201	$ 10,888	$ (4,963)	183.77%	$ 7,329
35.65	Patient Services (BCH)	$ -	$ -	$ 2,130	$ -	$ -	$ 2,130	$ (2,130)	--	$ 4,639
35.70	Community Projects	$ -	$ -	$ 7,100	$ -	$ -	$ 7,100	$ (7,100)	--	$ -
36.10	Repair & Maintenance	$ 300	$ -	$ 682	$ -	$ 803	$ 1,484	$ (1,184)	494.82%	$ 320
36.20	Office Repair/Maint	$ 8,400	$ 6,633	$ 1,294	$ 186	$ -	$ 8,112	$ 288	96.57%	$ 7,556
36.30	Vehicle Repair	$ 500	$ -	$ -	$ 13	$ 552	$ 565	$ (65)	112.93%	$ 437
37.10	Travel	$ 9,450	$ 385	$ 17,560	$ 869	$ 1,251	$ 20,065	$ (10,615)	212.33%	$ 2,130
37.50	Board Expenses	$ 200	$ 527	$ -	$ -	$ -	$ 527	$ (327)	263.42%	$ 717
38.10	Training	$ 23,290	$ 557	$ 18,820	$ 2,281	$ 307	$ 21,965	$ 1,325	94.31%	$ 12,943
39.10	Contracted Services	$ 52,856	$ 13,850	$ 43,906	$ 39,135	$ 14,028	$ 110,919	$ (58,063)	209.85%	$ 75,528
39.20	Recruitment Services	$ -	$ -	$ -	$ -	$ 1,038	$ 1,038	$ (1,038)	--	$ 286
39.61	Software Maint	$ 12,500	$ -	$ -	$ -	$ -	$ -	$ 12,500	0.00%	$ 11,564
50.10	Admin	$ 65,883	$ 65,883	$ -	$ -	$ -	$ 65,883	$ -	100.00%	$ 62,516
50.11	HD Admin (applied to grants)	$ 750	$ -	$ 13,685	$ -	$ -	$ 13,685	$ (12,935)	1824.61%	$ 9,338
50.20	Insurance	$ 38,221	$ 34,620	$ -	$ -	$ 1,848	$ 36,468	$ 1,753	95.41%	$ 31,200
50.25	Deductibles	$ -	$ -	$ -	$ -	$ -	$ -	$ -	--	$ -
50.30	Rent	$ 206,933	$ 145,304	$ 12,341	$ 30,976	$ 18,314	$ 206,935	$ (2)	100.00%	$ 183,673
50.40	Technology	$ 140,074	$ 136,616	$ -	$ -	$ -	$ 136,616	$ 3,458	97.53%	$ 126,796
50.41	Tech Agreements	$ 21,668	$ -	$ 1,071	$ 12,142	$ 1,071	$ 14,284	$ 7,384	65.92%	$ -
80.10	Transfers Out match	$ 421,017	$ -	$ 51,101	$ 36,691	$ 264,248	$ 352,040	$ 68,977	83.62%	$ 207,286
80.10	Transfers Out septic	$ -	$ -	$ -	$ -	$ -	$ -	$ -	--	$ 2,227
80.10	Transfer out to Consent Refer	$ 5,000	$ -	$ -	$ -	$ -	$ -	$ 5,000	0.00%	$ -
80.20	Transfer to Outside Source	$ -	$ -	$ -	$ -	$ 1,200	$ 1,200	$ (1,200)	--	$ -
	TOTAL OPERATIONS	$ 1,268,269	$ 437,975	$ 244,941	$ 142,214	$ 569,874	$ 1,395,003	$ (126,734)	109.99%	$ 1,102,917
	$ -									
	CIP TRANSFERS	$ -	0				$ -	$ -		$ 40,362
	GRAND TOTAL EXPENDITURES	$ 2,809,943	846,942.85	542,788.55	408,018.72	1,165,015.71	$ 2,962,766	$ (152,823)	105.44%	$ 2,673,737
	Revenue Over (Under) Expenditu	$66,507	$1,299,501	($294,292)	$ (198,520)	$ (810,698)	$ (4,009)			$ 36,851

CASH FLOW	FY 2023 BUDGET	
BEGINNING CASH	$ 709,000	$ (109,632)
REVENUES	$ 2,876,450	
EXPENDITURES	$ 3,031,631	
Restricted Cash (BCH D	$ -	
ENDING CASH	$ 553,819	$ 444,187
90 Day Reserve=	$ 692,863	
Current Cash Reserve (In Days)	72	

CASH FLOW	Year to Date Actual
BEGINNING CASH (non	$ 599,368
REVENUES	$ 2,958,757
EXPENDITURES	$ 2,962,766
restricted to unrestricted transfer	$ -
ENDING CASH (non res	$ 596,988
Restricted Cash (BCH D	$ 13,185

Fund Bal last FY thru March: $ 599,368

Lewis & Clark Public Health

1930 Ninth Avenue, Helena MT 59601
Phone: 406-457-8900
Fax: 406-457-8990
publichealth@lccountymt.gov
www.LewisAndClarkHealth.org

Vision:
LCPH strives to be a leader in Diversity, Equity, and Inclusion (DEI) in Lewis and Clark County.

Value Statement:
LCPH values the diversity of our community and appreciates the contributions that all individuals bring.

Mission:
The mission of the Inclusiveness Committee is to create a more diverse, equitable, and inclusive Lewis and Clark County. LCPH is committed to collaborating with community organizations and people with direct lived experience, knowledge, resources, and solutions to ensure full access to and participation in community public health resources.

Updated October 2022

Lewis & Clark Public Health

1930 Ninth Avenue, Helena MT 59601
Phone: 406-457-8900
Fax: 406-457-8997
http://www.lccountymt.gov/health.html

Diversity, Equity, and Inclusion Committee 2023-2026 Workplan

Strategic Plan Goal:	1.1 Improve knowledge of health equity and social determinants of health (SDOH) and build capacity to integrate into existing public health programs					
Objective	Activities	Resources	Assessment	Timeline	Responsibility	Linkages
1.1.1 Assess training needs and develop a training plan for staff on health equity and social determinants, their public health implications, and how to address them in public health work	Include health equity and cultural competency in the Workforce Development Assessment plan, annual training plan, and evaluation to support professional development of staff	APHA Advancing Health Equity Key Principles	Cultural Humility/Competency organizational assessment Annual Training Plan Tracking	Annually throughout the 3-year period	Senior Leadership, Inclusiveness Committee, Racial Equity Workgroup	Health Equity Policy, Procedure #7 Workforce Development Plan

Task	Responsible Staff	Time	Measurement
Edumacate Email Series on cultural awareness	Amber, and other staff can contribute	Monthly	Monthly emails sent
Health Equity training – Resource – APHA materials from Drenda – ensure DEI committee has an understanding of health equity and SDOH. Need for a department-wide training. 1. DEI Committee will review APHA materials and discuss at a future meeting 2. Have Health Equity/SDOH training at one all staff per year – something interactive, small group discussion for instance	Joel will research	Year 1	

Objectives	Activities	Resources	Assessment	Timeline	Responsibility	Linkages
1.1.1 Assess training needs and develop a training plan for staff on health equity and social determinants, their public health implications, and how to address them in public health work	Secure funding to implement annual training plan and provide stipends for training provided by community subject matter experts	Grant application Staff time to apply for funding	Number of grant applications submitted Amount of funding received	Annually or as grant funding becomes available	Senior Leadership, Inclusiveness Committee	Workforce Development Plan, Annual Training Plan

Task	**Responsible Staff**	**Time**	**Measurement**
Group members will review the AHEC grant opportunity (Julie will email info out)	Julie, Jennifer maybe, others TBD	Potentially apply in the July-August 1 cycle	1 grant applied for (or decided against if not a fit)

Objectives	Activities	Resources	Assessment	Timeline	Responsibility	Linkages
1.1.3 Provide systematic ways for community members and organizations to participate in decision-making for programs, policies, services, interventions, and materials	Work with community partners and other local jurisdictions to advocate for one public policy outside LCPH's purview for the purpose of eliminating health inequities, i.e., health in all policies	CDC's Health in All Policies	One policy created	One by the end of the 3-year project period	Inclusiveness Committee, Supervisors	Health Equity Policy, Procedure #2, #6

Task	**Responsible Staff**	**Time**	**Measurement**
Learn about HiAP – Julie will send out the CDC website, look for a couple volunteers to teach group about it in Year 1	Julie	Year 1	

Lewis & Clark Public Health

1930 Ninth Avenue, Helena MT 59601
Phone: 406-457-8900
Fax: 406-447-8443
publichealth@lccountymt.gov
www.LewisAndClarkHealth.org

MEMO

To: Lewis and Clark Public Health Staff
From: Drenda Niemann, Health Officer
Date: June 17, 2022
Re: Widerstand Audit Reflections

What we are most excited about:

- Dedicated, passionate staff committed to anti-racism work.
- Community partners willing to walk with us through this journey to dismantle racist systems.
- Build upon existing relationships and seek new partnerships with individuals from Black, Indigenous, and Other People of Color (BIPOC) communities.
- Because of accreditation, we have the structures in place to easily make and institutionalize changes (i.e. Inclusiveness Committee, workforce development plan, strategic plan, performance management, TrakStar employee evaluation tool, and department policies).
- We have data systems and a community health report to springboard from to improve programming based on demographics.
- Audit provides clear and tangible steps for systems improvement.

What challenges we anticipate while implementing these recommendations:

- Time and priority balancing of anti-racism efforts with public health workload. Re-accreditation will also be occurring this year. We will have to find ways to integrate all the necessary improvement efforts without overburdening/overwhelming staff.
- There are constraints and state laws that will prohibit us from implementing some of the recommendations (i.e. BIPOC vendor selection and employee recruitment preference).
- Having the necessary funds to properly invest in comprehensively dismantling racism.
- Finding common language and analysis of how racism operates within/among/throughout institutions (making the shift from individual to systemic framing of the issue).
- Overcoming the human condition to protect the status quo in a non-shaming way because change can be painful.
- Managing the overwhelm of all the recommendations and take it one step at a time toward improvement.

What we see as our next steps:

- Outreach to BIPOC communities, start and/or continue building relationships, develop advisory group to hold us accountable. (NOW)

- Recruitments: Diversity, Equity, Inclusion (DEI) language in job descriptions and job postings, diversify post locations to reach BIPOC communities, add standard DEI interview question. (NOW)
- Seek additional funds to help us implement plan - staff/operations. (NOW)
- Begin revising outreach and educational materials. (NOW)
- Collaborate with other existing coalitions with a similar goal to dismantle racists systems and improve health equity. (2022)
- Confirm commitment of Inclusiveness Committee to play assurance role. If not, build new team. (2022)
- Include DEI into workforce development plan, annual training plan, and conduct thoughtful evaluation of training offered. (2022)
- Add DEI goals to Strategic Plan / program plans / performance management / individual staff evaluations. (2023)
- Public facing and transparent DEI goals and report progress using a dashboard. (2023)

Audit items we disagree with in the report:

- The timeline suggested seems unrealistic based on the vast amount of current workload and efforts to recover from pandemic fatigue.
- Long-term recommendations (p. 30) – statement was made to be a leader in the community. Statewide influence may be too ambitious, but could be possible 10 years out.

Attachments:
Full Widerstand Anti-Racism Audit Report
Developed for Lewis and Clark Public Health
May 2020
By Widerstand Auditors: Erica Littlewolf, Murray Pierce, and Tobin Shearer

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Racial Equity Workgroup
Action Plan

based on Widerstand audit report dated May 2022 and refection document dated June 2022

As of July 7, 2023

Action Item	**By When**	**By Whom**	**Status**
Outreach to BIPOC communities, start and/or continue building relationships, develop advisory group to hold us accountable.	Jan 2023	LCPH staff	Advisory group: Julie, Maria, Tabreez, Drenda, Todd Wilson (HIA), Dr. Daniel Foster, Christopher Facundo, Maie Lee First meeting 1/4/23, monthly meeting schedule set for 2nd Wed of the month at 9:30am via in-person & zoom Achieved 50% LCPH staff / 50% community partners / majority BIPOC
Recruitments: DEI language in job descriptions and job postings, diversify post locations to reach BIPOC communities, add standard DEI interview question.	June 2022	Drenda & County HR	Language added to all job descriptions during recruitment phase: - *Performs duties and responsibilities in a culturally sensitive and appropriate manner.* Standard interview question added: - *In the course of the day-to-day work of this position at LCPH, describe how you would interact, engage, connect with and/or serve diverse residents in the county.*

			Recruitment postings: - Send to HIA to post on community bulletin board. - Need to research other job posting options
Seek additional funds to help us implement plan (staffing & operations)	Jan 2023 and ongoing	Workgroup members	Research Headwaters Foundation Healthy equity training application to UofM – submitted application for speaker stipends.
Begin revising outreach and educational materials	June 2022 and ongoing	LCPH program staff and Communications specialist	Media Campaign checklist includes prompts to ensure images, messages, and media channels are considerate of BIPOC residents.
Collaborate with other existing coalitions with a similar goal to dismantle racists systems and improve health equity.	Jan 2023	Workgroup	No identified local coalitions at this time. Many organizations actively embarking on this work (i.e. SPH, MNA). A few statewide efforts. Todd will connect us with MNA who is working on internal policy adoption and support for non-profits. Possible partnership or sharing of resources.
Confirm commitment of Inclusiveness Committee to play assurance role.	Nov 2022	Inclusiveness committee	Inclusiveness committee restructured to be an umbrella over several workgroups including racial equity. Updates on anti-racism work will be shared with the Inclusiveness committee on a monthly basis.
Include DEI into workforce development plan, employee satisfaction survey, annual training plan, and conduct thoughtful evaluation of training offered.	Oct 2022	LCPH Admin Team	DEI questions included in Workforce assessment. Results were included in workforce development plan and drove the annual training plan. Assessment results were shared with workgroup at Feb23 meeting. Evaluation of trainings offered is planned as a follow-up to all dept training. Will get feedback from workgroup on evaluation before used. Annual Training Plan includes: April – American Indian P.1 May – American Indian P.2 Sept – Afghan refuge (Gul Sima Rahmati) Oct – Disability

			Nov – LGBTQ+ DEI questions added to Employee Satisfaction/ Engagement survey. Results shared with workgroup and used by Labor Management Committee to create an improvement plan. Will keep workgroup informed on improvement plan progress.
Add DEI goals to LCPH strategic plan / program plans / performance management / and individual staff appraisals.	Jan 2023	LCPH Admin Team and County HR	Current LCPH core values include: Leadership, collaboration, inclusiveness, effectiveness, and integrity 2023-2026 LCPH Strategic Plan adopted by the Board of Health in April includes: Initiative #1: Consider health equity and social determinants of health in all aspects of public health work. Goal 1.1: Improve knowledge of health equity and social determinants of health and build capacity to integrate into existing public health programs. Goal 1.2: Enhance access to public health services by addressing barriers to health equity and reduce disparities. All supervisors/managers are evaluated on ability to manage diversity on annual appraisals. Requested full list of possible core competencies from Co HR for senior leadership to consider adding for all department staff. Will have workgroup make recommendation on possible core competencies.
Public facing and transparent DEI goals and report progress using a dashboard.	TBD	Workgroup, Communications Specialist	Not yet started

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	**Agenda Item No.**
July 27, 2023	**7**

___Minutes __Board Member Discussion _X__Staff & Other Reports __Action ___Hearing of Delegation

AGENDA ITEMS: Health Officer's Report

PERSONNEL INVOLVED: Public Health Staff

BACKGROUND General Updates

HEALTH DIRECTOR'S RECOMMENDATION: N/A

__ADDITIONAL INFORMATION ATTACHED

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Lewis and Clark Public Health Report to the Board of Health
Drenda Niemann, Health Officer

Reaccreditation:
- Submitted documentation for reaccreditation in June. Awaiting review and site visit timeline.

Staff News and Workforce Development:
- Racial equity and cultural diversity lunch and learn sessions scheduled through Spring.

Emerging Public Health Issues – Behavioral Health:
- Communities that Care:
  - Renewed youth substance use prevention coalition.
  - Purpose is to implement strategies to reduce risk factors and increase protective factors for improved health outcomes in youth.
- Behavioral Health Systems Improvement Leadership Team:
  - Expanded membership to include Helena Police Department, L&C Criminal Justice Services Department, and Many Rivers Whole Health
  - Updated charter to prioritize the three pillars of the crisis continuum.
    - 988 Crisis call center
    - Mobile Crisis Response Team
    - Crisis Stabilization Facility

Grants Report:
- LCPH adds substance use prevention program:
  - Received a Health Resources and Services Administration (HRSA) grant providing $300,000 per year for four (4) years.
  - Hiring a coordinator to facilitate action plan.
  - Includes integrating substance use efforts into existing behavioral health work and partnering with PureView Health Center to deploy the mobile unit to serve hard to reach populations at risk.
- Opioid Prevention:
  - Hiring a .5 FTE coordinator.
  - Began local and regional outreach to partner on opioid education and Naloxone distribution.
  - Blending grant and settlement dollars to fund work.

Progress on Community Health Improvement Plan:
- Annual CHIP report to the community scheduled for August 17th from 3-5pm at St. Peter's Health Education Center.

Progress on Strategic Plan:
- Strategic Communications Bootcamp scheduled September 28th from 9am – 4pm for LCPH staff and Board of Health members to gain communication skills to positively shift public perception about public health (Initiative 5, Goal 3).

LEWIS & CLARK CITY/COUNTY BOARD OF HEALTH
Helena, Montana

BOARD AGENDA ITEM

Meeting Date	**Agenda Item No.**
July 27, 2023	**8**

___Minutes __X_Board Member Discussion ___Staff & Other Reports ___Action ___Hearing of Delegation

AGENDA ITEMS: Public Comment

PERSONNEL INVOLVED: Public and Board Members

BACKGROUND: Time is allowed for public comment on matters not mentioned in the agenda within the Board of Health's jurisdiction.

HEALTH DIRECTOR'S RECOMMENDATION: n/a

___ADDITIONAL INFORMATION ATTACHED

BOARD ACTION: **NOTES:**

	MOTION	SECOND	AYE	NAY	ABSTAIN	OTHER
Bedell						
Collins						
Harris						
Kaufman						
MacLaurin						
Murgel						
Rolfe						
Weber						
Weltz						

Attendance Record for the
Lewis & Clark City-County Board of Health

FY 2023

	Jul	Aug	Sept	Oct	Nov/ Dec	Jan	Feb	Mar	Apr	May	Jun
Bedell	X	O	X	X	X	X	X	X	X	X	O
Collins	O	O	X	X	O	O	X	X	X	O	X
Harris	X	X	X	X	X	O	X	O	X	X	O
Kaufman	X	X	X	X	O	O	X	X	X	X	X
MacLaurin	X	O	X	X	X	X	X	X	X	X	X
McCormick	X	X	X	X	X	---	---	---	---	---	---
Murgel	X	X	X	O	X	X	X	O	X	O	X
Rolfe	---	---	---	---	---	X	X	X	X	X	X
Weber	X	X	X	O	X	O	X	X	X	O	X
Weltz	O	O	X	O	X	O	X	O	X	O	O

Legend:

X = Present

X_p = Present by phone

--- = Not a member of the board at that time.

O = Absent

* = No meeting held

P = Strategic Planning Session

T = Training

Lewis & Clark Public Health

1930 Ninth Avenue
Helena, MT 59601
PH: 457-8900
Fax: 406.457.8990

Tom Rolfe
County Commissioner
316 N. Park
Helena, Montana 59623
447-8304 (W) 447-8370 (Fax)
E-mail: trolfe@lccountymt.gov

(1)
Pleasure of L & C County Commission

Mayor Wilmot Collins
City Commissioner
316 N. Park
Helena, Montana 59623
447-8410 (W)
E-mail: wcollins@helenamt.gov

(2)
Pleasure of City of Helena Commission

Rex Weltz
Superintendent, Helena School Dist. No. 1
55 S. Rodney
Helena, Montana 59601
324-2001 (W)
E-mail: rweltz@helenaschools.org

(3,a)
Superintendent of Schools

Dr. Mikael Bedell -vice chair
710 Madison Ave
Helena, MT 59601
208-630-3848 (C)
E-mail mbedell@sphealth.org

(3,b)
Term expires - June 30, 2025

Lisa Kaufman
4322 Paso Fino Lane
Helena, MT 59602
438-1194(H) 444-5313 (W)
E-mail: lkaufman@mt.gov

(3,c)
Term expires - June 30, 2024

Mayor Kelly Harris
P.O. Box 1170
East Helena, MT 59635
438-1031(C)
E-mail: kharris@easthelenamt.us

(3,d)
Pleasure of East Helena City Council

Brie MacLaurin-chair
710 N. Davis St.
Helena, MT 59601
461-0784 (C)
E-mail: briemaclaurin@gmail.com

(3,e)
Term expires - June 30, 2025

Katherine Weber
3135 Bannack Drive
Helena, MT 59602
215-499-0050 (C)
E-mail: Katherine.weber@hotmail.com

(3,f)
Term expires - June 30, 2024

Justin Murgel
2502 Gold Rush Ave.
Helena, MT 59601
422-9928 (H)
E-mail: justin.murgel@pureviewhealthcenter.org

(3,g)
Term expires - June 30, 2024

Updated May 2023

LEWIS AND CLARK CITY-COUNTY BOARD OF HEALTH

1930 Ninth Avenue
Helena, MT 59601
PH 406.457.8900
Fax: 406.457.8990

MEMBERS

Katherine Weber	Term expires - June 30, 2024	First Term
Justin Murgel	Term expires - June 30, 2024	Second Term
Mikael Bedell	Term expires - June 30, 2025	Second Term
Brie MacLaurin	Term expires - June 30, 2025	Second Term
Lisa Kaufman	Term expires - June 30, 2024	First Term
Rex Weltz	Superintendent of Schools	
Tom Rolfe	Pleasure of Lewis & Clark County Commission	
Mayor Wilmot Collins	Pleasure of Helena City Commission	
Mayor Kelly Harris	Pleasure of East Helena City Council	

MEETING DATES FOR FISCAL YEAR 2024

Scheduled for 1:00 p.m. in the Public Health Conference Room of the Murray Building or by Zoom.

July 27, 2023

August 24, 2023

September 28, 2023

October 26, 2023

December 7, 2023

January 25, 2024

February 22, 2024

March 28, 2024

April 25, 2024

May 23, 2024

June 27, 2024

July 2023