

From: [Walter Wunsch](#)
To: [Hickey, Dylan J CIV USARMY CENWO \(US\)](#)
Cc: [jessica.mayo@mt.nacdnet.net](#); [Dennis Riley](#)
Subject: [Non-DoD Source] NWO-217-01818-MTH
Date: Monday, January 21, 2019 3:57:57 PM
Attachments: [GLA - Violation Response Letter.pdf](#)
[GLA to Park Conservation Letter.docx](#)

Hi Dylan,

A happy New Year! Due to the Holidays etc..., I was not able to get to this earlier.

Attached please note our formal response regarding your "Notice of Violation". I do understand, why you had to do what you did.

I hope that you can take Jessica's sign off, to also close out your inquiry.

As far as we are concerned, we believe that our work is done and that no further corrective actions are called for.

However, it goes without saying that we will go the extra mile to bring this to rest.

Do not hesitate to give Dennis or me a call.

On behalf of the GLA:

Sincerely,

Walter Wunsch

CEO/ Sales

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January 21, 2019

Dept. of the Army
Corps of Engineers
Helena Regulatory Office
10W 15th Str. Suite 2200
Helena, MT 59626

ATTN: Dylan J. Hickey
c/c: Todd N. Tillinger, P.E. Project Mgr.
Jessica Mayo, District Administrator, Park Conservation District

Dear Mr. Hickey,

This is in response to Mr. Tillinger's "Notice of Violation" letter dated 12-4-18. Please note:

In 2017 two landowners of the GLA, Glastonbury Landowners Association, Tim Brockett and Myron Moorman living in High South Glastonbury who have to travel the last section of Hercules Road, alerted the GLA road committee, on which also Tim Brockett served at that time, that the road was being eroded by Golmeyer Creek in two location reducing the road width to 16ft in a curve, making driving unsafe to oncoming traffic. The board of the GLA agreed to pursue corrective action, which as an engineer and experienced project manager, I volunteered to help facilitate. In the process I contacted the Park Conservation District Office in Livingston and was advised by Jessica Mayo to file a 310 permit. I did this on 10-10-17, and it was greatly appreciated by all landowners at that time.

NOTE: To this day Jessica does not understand how this application ended up with the US Army Corp of Engineers. We on our part assumed that after receiving your permit, that this was the way it had to be. However, the GLA had no plans to starting work until the next scheduled road maintenance, due to the winter weather.

In April 2018 we experienced a never before seen massive snow-melt, which created an emergency condition in which more than 50% of Golmeyer Creek overflowed running down Hercules Rd. towards Dry Creek, making a 90degr turn away from the regular creek bed, creating a large swamp and lake between the Golmeyer Waterfall and Hercules Road. This turned two lanes of Hercules Rd for a 300 yard into a soupy sinkhole and also turned it into a one lane road for 50yards 1 mile downhill, as the alternate waterflow followed the path of least resistance. This almost made the Hercules Rd impassable, in spite of immediate expensive emergency repairs to the Hercules Road sections not bordering Golmeyer Creek. This would have been unacceptable, as no alternate access for residents living beyond that point existed. Thus, immediate corrective action was needed to address Golmeyer Creek, which I volunteered for and helped facilitate on behalf of the GLA.

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The waterfall landowner, mostly affected by this, contacted the Park Conservation District Office and received a verbal permission to go ahead with emergency corrective actions, with the understanding that she would file a 310-permit application within a specified time frame. She also did not want to be part of the GLA permitting process and felt that getting your office involved was not called for.

There was also very severe flooding and erosion downstream from the Golmeyer Creek crossing Hercules Rd. Since the GLA had a permit downstream from there, I contacted your office about adding additional points to the "a & b" of the original NWO-217-01818-MTH permit. I received a verbal emergency OK from you, which resulted in my filing an amendment for work items "c, d & e", with the understanding that our application would be amended with your assistance, in order for you to issue an after-the-fact authorization.

Based on our earlier conversations and later pictures with preliminary information send by me 6-8-18, I filed a draft amendment 8-13-18 to get the paperwork updated. But I did not receive a response from you or your Agency.

On 8-21-18 you came for a surprise visit/ inspection, which I understood was prompted by a GLA landowners' complaint to your office. Both of us spend more than 2hrs on site going over all what had been done to that date. At that time, you did not express any concerns which could not be readily remedied, i.e: the 40ft "gravel road" under "e" has been removed and the land has been restored since. We had also some discussion on what constituted "wetland". However, since most of the affected creek bed had relatively steep embankment's, which was eroding the road, there was no wetland in the easement. All we did move the creek over 3-6ft away from Hercules Rd in the designated places, to ensure safety of the road. The areas which really constitute wetland were not touched.

In October I was still waiting for you to give us further recommendation of how to submit the paperwork. I called at least twice to follow-up, especially after Jessica Mayo of the Park Conservation District contacted the GLA on 10-9-18 for a Potential Golmeyer Creek Violation, based on the same landowner's complaint and scheduled an inspection. This inspection was conducted a week later by two officers, one from the District and another one from Fish Wildlife and Parks. Dennis Riley, President of the GLA and I met and reviewed with them on site the work which had been done. They also met with the waterfall property landowner as a complaint was also filed against her by the same landowner. No violations were observed and we were actually complimented about the work accomplished. They also acknowledged Chad Standish, the contractor who has an excellent remediation record with them. After later visiting Jessica Mayo's office and subsequent phone calls, she assured me that we were not in violation and that she also wanted to get in touch with Helena. She also advised that a letter should be forthcoming from her, as she finds time.

After the Park Conservation Districts Inspection, I was surprised to receive Mr Tillinger's 12-4-18 Notice of Violation and also that no acknowledgement of the verbal OK we had received was made. We would not have conducted any remedial work beyond the points "a & b" of the original permit, which did not require wetland delineation, without your verbal approval. There was no mention of wetlands, as our focus was moving the typically only very small and seasonal Golmeyer Creek away from a critical road in order to preserve it for safe travel and to protect the road from periodic flood events.

As a matter of fact, what was done under "e", which necessitated temporary ground stabilization, what you called "gravel road", actually facilitated redirecting the creek into a true wetland habitat, thus

preserving it, instead of letting the creek run in its original channel from approximately 20years ago, next to the road and causing further erosion there and compromising the roadbed.

Again, fundamentally we corrected an emergency situation under Park Conservation Districts Motto: "Local Common-Sense Conservation" and by using a contractor with great experience in this matter. Based on Park Conservations District Inspection and sign-off, it is our position that this matter should be closed and brought to conclusion.

If you disagree, I do invite you and Mr. Tillinger to visit and review matters on site with us.

Sincerely,

Walter G. Wunsch, MS, BSME

Applicant and Project Facilitator for the GLA Road Committee

(Volunteer to facilitate the 310-permit for Hercules Road Remedial Action)

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Denis Riley

President of the GLA

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