

## Complaint and Demand For Permit Administration

October 20, 2023

**This is a request for immediate county action** to stop the removal of riparian vegetation, and potential [dredging and bulldozing of the Teton Creek corridor](#) (click to view), and surrounding floodplain. This un-permitted activity is occurring on the 18.87-acre property at 3053 Ski Hill Road, currently owned by Cameron and Holly Rouns (hereafter “Rouns”) since 2021.

On information and belief, Rouns retained an excavation company. On or around October 14-16, 2023 this company stripped away several acres of riparian vegetation including trees and understory vegetation along the banks of Teton Creek within the Ordinary High Water Mark (OHWM). Also on information and belief, Rouns does not possess the necessary permits or authorization from Teton County, Idaho, including (1) a grading and erosion control permit , (2) a floodplain permit, and (3) and remediation plan. Depending on Rouns’ development plans, Stream Alteration permits may also be required from the Idaho Department of Water Resources and Army Corps of Engineers.

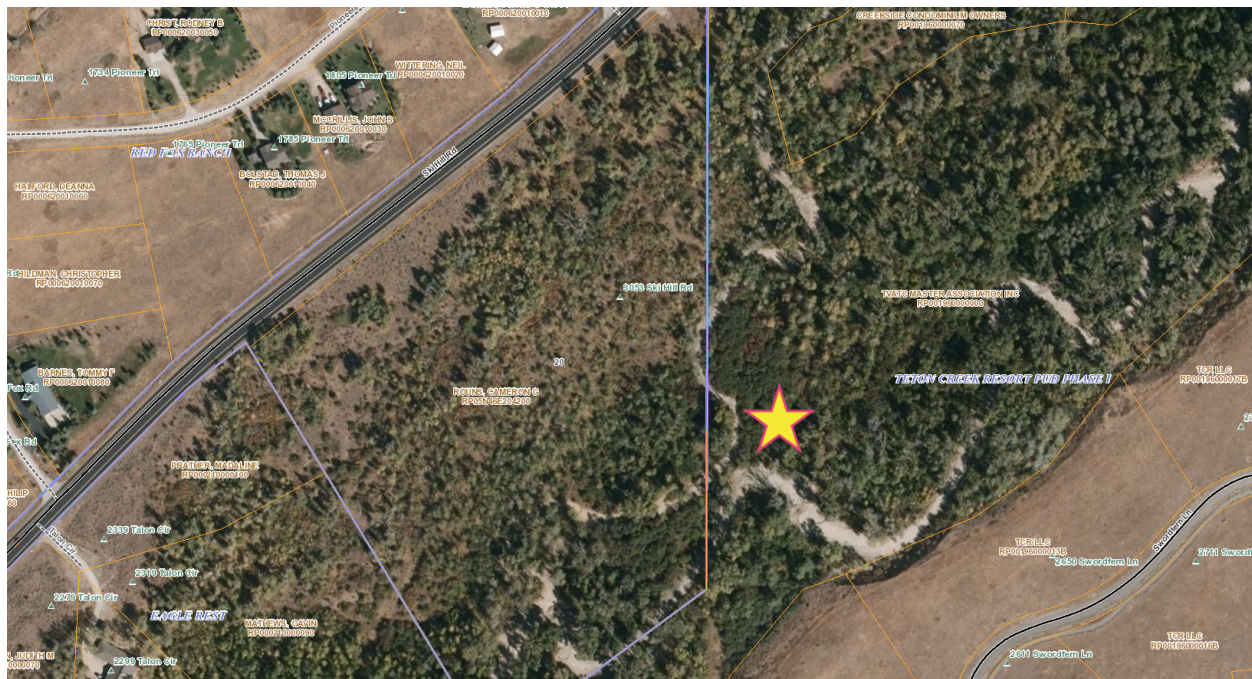
On October 17, 2023 Valley Advocates for Responsible Development retained a professional drone photographer to document the clearing and trees and understory on the Rouns property.





**Pictured above:** October 17, 2023 drone photo showing only a portion of the logging and clearing recently done on the Rouns property. [Click here to view more drone footage.](#)

On October 18, 2023, Valley Advocates For Responsible Development staff attorney Anna Trentadue walked the northern border of the property utilizing the Teton Creek Resort pathways system, and viewed the destruction from the location marked on the photo below.



Teton County, Idaho GIS screenshot of Rouns' property at center. Viewpoint is marked with a star.

On October 19, 2023 Michael Lien, Stream Restoration Director with Friends of the Teton River walked the length of the Teton creek bed, on behalf of the Teton County Flood Control District. [As documented by Lien's site visit, the bulldozing of the floodplain and vegetation abutting Teton Creek is extensive.](#) (Click to view)

According to Lien's professional assessment, it appears that several acres of critical floodplain vegetation has been removed and vegetation near stream banks has also been removed - all within the OHWM.

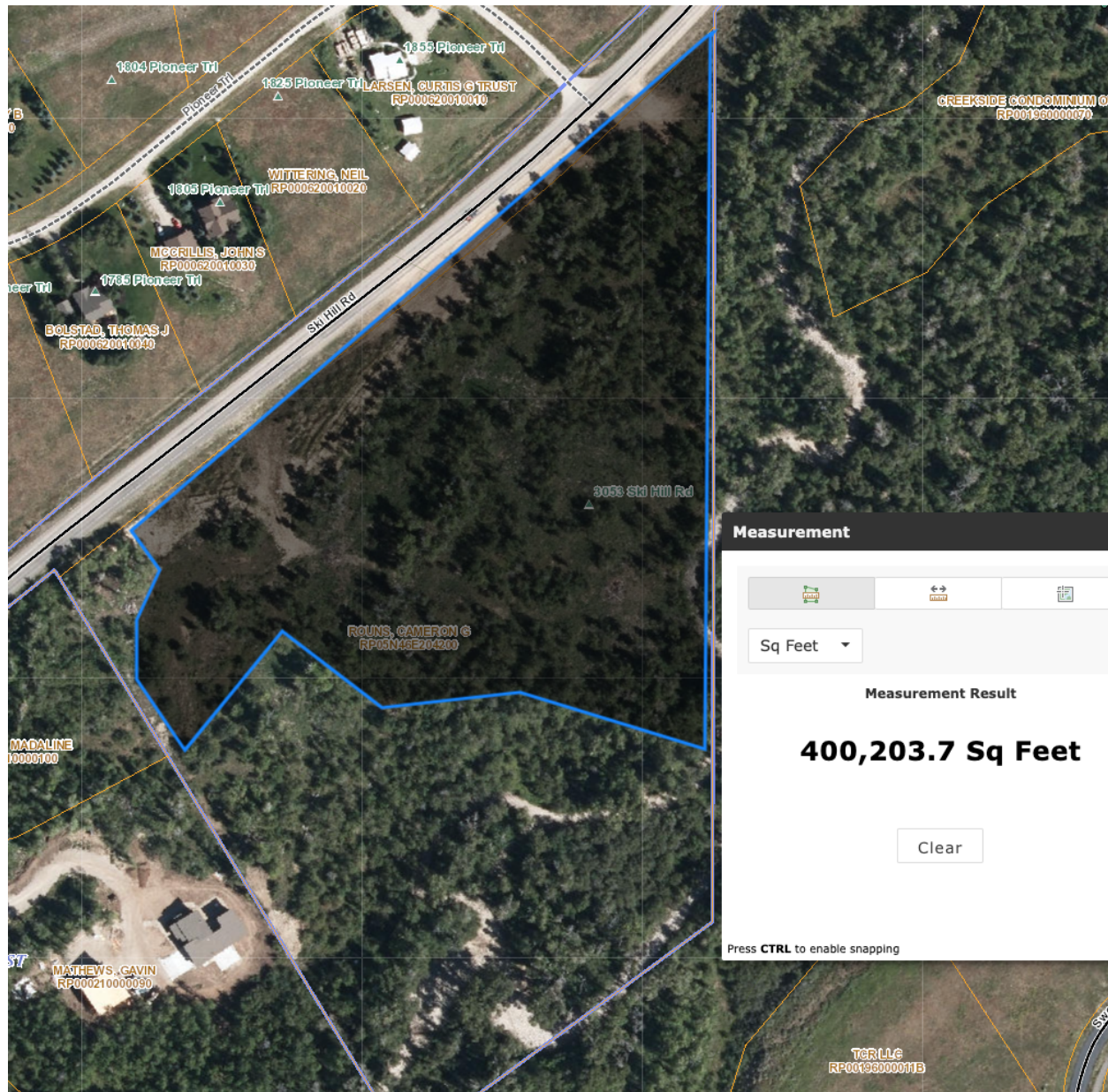


Photo taken by Mike Lien while standing in Teton Creek, which shows vegetation stripped up to the edge of the creek channel. October 19, 2023

It appears that extensive grading of the Effective Floodplain and also within the Floodway may also have occurred. **It also appears that Rouns has removed large swaths of critical vegetation within the ordinary high water mark which includes vegetation along the banks of Teton Creek and within the floodplain of Teton Creek.** This volume of removed material must be quantified.

A baseline estimate of the disturbed area, indicates approximately 400,000SF of land has been disturbed, or roughly 9.1 acres. See image on the following page, below.

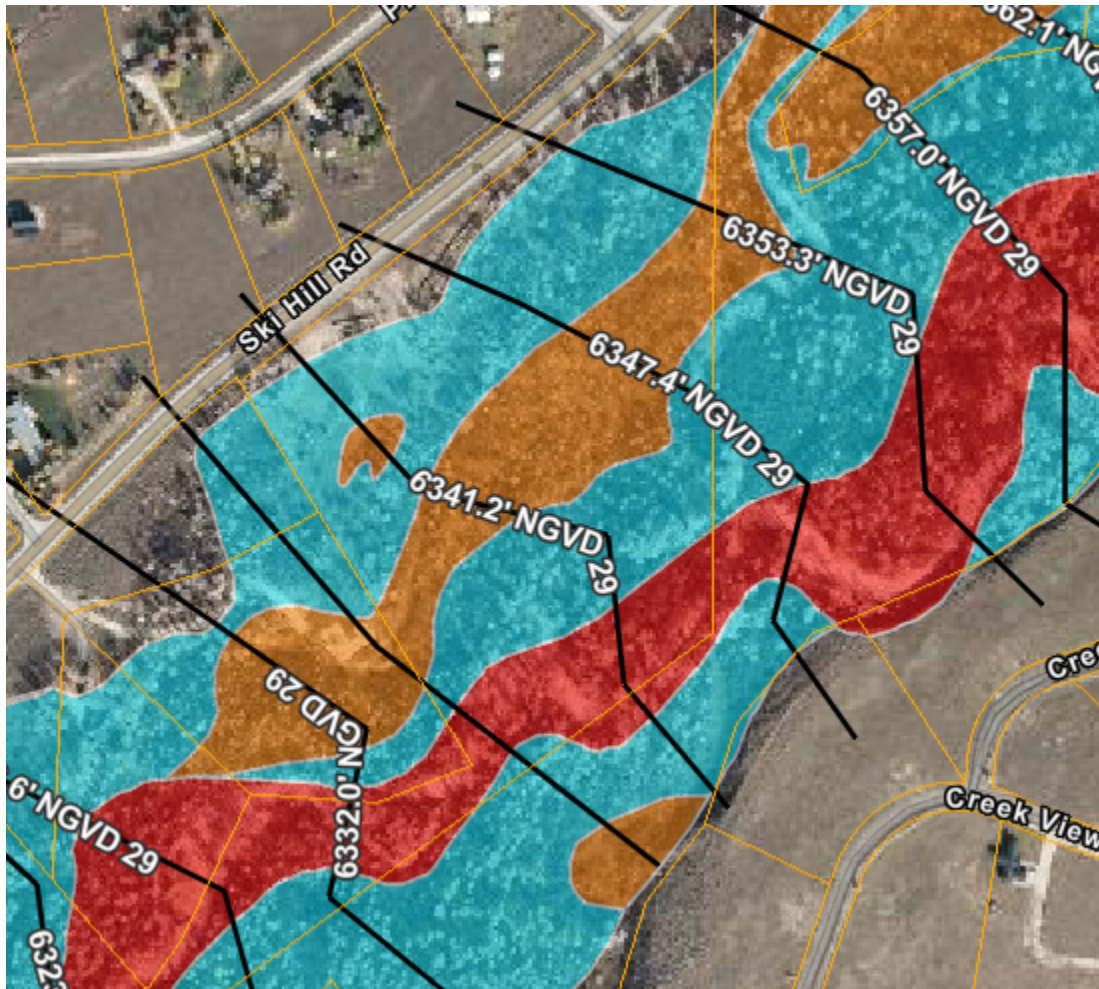




Preliminary estimate of the disturbed areas on Rouns property.

**Indeed the disturbed area could easily be larger than this initial estimate.** In order to properly evaluate the potential hazards and risks posed by Roun’s clearing of the property, it is critical to have a professional assessment of the changed conditions including: quantification of the disturbed area, quantification of vegetation lost, and predictions for sediment discharges into Teton Creek with the snowmelt and spring runoff next year.

The map on the following page shows the approximate area of observed destruction superimposed over the Teton County floodplain map.



FEMA Effective Floodplain (Blue=Zone AE, Red=Zone AE (Floodway), Orange=Zone X)

Without a permit application showing the project plans there is no way of knowing what the potential damage to Teton Creek is at this time. Project permit applications allow experts including the Teton Creek Flood Control District and the public an opportunity to evaluate the potential impacts a proposed project may have on a stream corridor **which is exceptionally critical with streams like Teton Creek which is located on an active, highly disturbed floodplain.**

**Vegetation root mass is the only thing that holds Teton Creek together** since there is no bedrock or other geological features to contain Teton Creek. Dredging Teton Creek leads to streambank destabilization as water washes away vegetation by scouring under roots causing damage to adjacent and downstream banks *and* causes damage upstream from the dredging activities through a process called “head-cutting.” Removal of vegetation and/or dredging of the stream channel can quickly cause catastrophic damage to Teton Creek and adjacent properties. **Past events have shown**

**that without anything to hold the stream banks together, Teton Creek can quickly start to move laterally back and forth like a loose firehose, even during a small flood event.**

The Rouns' section of Teton Creek sits on an alluvial fan. As such, **the Rouns' section is especially prone to avulsion events**, which occur when a disturbance (such as a newly formed log jam) causes the creek to suddenly cut out new channels or to start flowing in old remnant channels which are located across the alluvial fan. Avulsion events often occur after dredging and/or vegetation disturbances. If even a few trees fall in, the channel can be blocked, sending flows in a completely new and unpredictable direction. These new channels can quickly wash away homes and infrastructure, especially if floodplain vegetation has been removed along with bank vegetation.

**Past dredging and vegetation removal on Teton Creek has already led to significant damage to the creek both upstream and downstream of this property.<sup>1</sup>** Fixing this earlier damage took almost 20 years to complete and cost millions of taxpayer dollars. Here are two recent examples of the high cost to repair the widespread damage to Teton Creek:

- **Example #1:** Past disturbances caused by dredging on Teton Creek caused avulsion events to occur just upstream of the Creekside Subdivision which led the City of Driggs to apply for \$3.8 million in FEMA funding to stabilize and restore Teton Creek between Cemetery Road and Highway 33 in order to prevent catastrophic flooding of the south side of Driggs.
- **Example #2:** In 2012, Teton County and the Teton Creek Stakeholders applied for and received \$2.8 million to stabilize and restore a section of Teton Creek upstream from Cemetery Road ("The Aspens Project") which had been damaged by dredging and vegetation removal.

The section of Teton Creek owned by Rouns has already been adversely affected by the head-cutting from illegal dredging and vegetation removal that previously occurred in the Aspens Project Section downstream. **The current stability of the Rouns' section is unknown, but it is possible that any disturbance in their section could quickly lead to significant stream damage both upstream and downstream of their property.**

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<sup>1</sup>See, United States v. Moses, US. 9th Cir App. No. 06-30370 (2007). Despite numerous warnings over the years, Charles Lynn Moses continued to do work in the channel of Teton Creek in Idaho for the purpose of rerouting, reshaping and otherwise controlling the flow of the waters of the Creek. The government finally prosecuted him for violating the Clean Water Act (CWA). See 33 U.S.C. §§ 1251-1387. He was convicted on all three counts and sentenced to 18 months imprisonment on each count and a \$9,000 fine. On appeal, Moses claimed that there was no discharge of pollutants into the waters of the United States. The 9th Circuit Court of Appeals affirmed the district court decision.



**Time is of the essence; Teton Creek is a major waterway that, if disturbed, has the potential to cause significant flood damage to homes and infrastructure along Teton Creek and in the City of Driggs.**

**We ask the following of Teton County:**

1. Rouns must apply for necessary permits from Teton County, Idaho Department of Water Resources and the Army Corps of Engineers before proceeding with any more work on Teton Creek to determine if their proposed activities are allowed, and to insure that they do not inadvertently cause potentially catastrophic damage to Teton Creek and adjacent properties.
2. Rouns must submit a complete floodplain permit application that details the following
  - a. What vegetation has been removed. This volume must be quantified.
  - b. What vegetation they intended to still remove.
  - c. What grading and filling has been done already.
  - d. Any grading or filling plans they intend to still do.
3. The floodplain permit application shall be reviewed by the Teon Creek Flood Control District to take into consideration their comments and requirements.
4. Depending on the quantity of vegetation removed, a Stream Alteration Permit may be required by the Army Corps of Engineers and the Idaho Department of Water Resources.
5. Rouns must submit a complete application for a Grading and Erosion Control Permit, including a remediation plan with an engineer's certification, showing no stream or offsite damage during runoff and flood events.

If the changes made to the Teton Creek stream channel and floodplain are not addressed as soon as possible, the potential property damage and flooding could be devastatingly expensive for private landowners both upstream and downstream, the City of Driggs, and also the taxpayers. Please take swift action to limit the potential harm to all affected entities.

Sincerely,



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Anna Trentadue

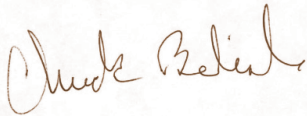
Staff Attorney, Valley Advocates for Responsible Development



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Amy Verbeten

Executive Director, Friends of the Teton River



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Chuck Belisle

Teton Creek Flood Control District

CC: Aaron Golart, Idaho Department of Water Resources  
Scott Stosich, Idaho Department of Water Resources  
James Joyner, US Army Corps  
Brendan Jones, US Army Corps  
Alex Bell, Idaho Department of Environmental Quality