

BLAINE COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING DATE: December 5, 2018

<p>REGARDING AN APPLICATION OF: Jill Bradburn for a Stream Alteration Permit (SAP) on Warm Springs Creek.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION</p>
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REQUESTED ACTION: A public hearing on and consideration of an application by Jill Bradburn to rework existing rock riprap (installed in 1993, 2006 & 2007), augment with additional rock material and vegetate the treatment area along Warm Springs Creek. The project site is 111 Sawdust Lane (Lot 83, Blk 2, Boards Lower Ranch Sub), zoned Low-Density Residential (R-1) with areas of Floodplain (FP) and Riparian Setback (R) Overlay Districts.

PROPERTY OWNERS/APPLICANTS: Jill Bradburn

REPRESENTATIVE: Consultant: Trent Stumph, Sawtooth Environmental Consulting
Engineer: Jim Zarubica, P.E., Galena Engineering

NAME/REACH OF STREAM: Warm Springs Creek

PROPERTY LOCATION: 111 Sawdust Lane (Lot 83, Blk 2, Boards Lower Ranch Sub)

APPLICABLE REGULATIONS: Title 9 (Zoning Regulations): Chapters 10 & 17
Title 8 (Comprehensive Plan)

I. APPLICATION, NOTICE, EXHIBITS & GENERAL FACTS

1. Application: Blaine County Stream Alteration Permit Application received September 10, 2018 and certified as generally complete on September 10, 2018.

- 2. Notice:** Public notice for this application was as follows:
- A. Legal notice was published in the Idaho Mountain Express on November 14, 2018;
 - B. Notice was mailed on November 13, 2018 to all Blaine County political subdivisions;
 - C. Notice was mailed on November 13, 2018 to surrounding landowners within 300' of the exterior boundaries and 1,000' downstream of the project site;
 - D. An on-site notice was posted on by November 28, 2018, as supported by affidavit on file.

► **Finding:** Upon motion by Commissioner Greenberg, second by Commissioner Schoen, and by a vote of 3 to 0, the Board finds notice to be adequate.

3. Any disclosures (i.e. conflicts of interest, site visits or ex parte communications)?
No disclosures.

4. Exhibits: Attached to the staff report and referenced throughout are the following exhibits:

Exhibit A—Application Materials

All application materials were received on September 10, 2018, unless indicated otherwise.

- A-1: Blaine County SAP Application
- A-2: Vicinity Map and Adjacent Landowner Map
- A-3: Site Plan
- A-4: Streambank Stabilization Drawing (Typical, not site specific) with vegetation details
- A-5: Photo Exhibit
- A-6: No Adverse Impact Statement- Jim Zarubica, P.G. P.E., Galena Engineers
- A-7: No Rise Certification - Jim Zarubica, P.G. P.E., Galena Engineers
- A-8: Joint Application

Exhibit B—Agency Comments

- B-1: Department of the Army (USACE) – No Permit Required dated October 31, 2018
- B-2: Idaho Dept. of Water Resources (IDWR) – October 24, 2018
- B-3: County Engineer Comments - received November 28, 2018
- B-4: Idaho Dept. of Fish and Game (IDFG) – Oct. 3, 2007

Exhibit C—Blaine County Supplemental Documents

- C-1 1993 SAP Application and Design Sheet
- C-2 2007 SAP Revegetation Plan
- C-3 Site Visit Photos- August 8, 2016

Exhibit D—Public Comments

None received to date of this report.

II. STREAM ALTERATION PERMIT APPLICATION (SAP): STANDARDS OF EVALUATION
Blaine County Code §9-17-9D

1. The applicant has applied for permits from the Army Corps of Engineers and the Idaho Department of Water Resources. If the watercourse runs through a neighboring city, they shall be sent a copy of the application, at the direction of the Administrator, to notify them of possible stream alterations. Copy shall be sent if the project is within one thousand feet (1,000') downstream or one mile upstream.

➤ **FINDING:** Compliant. The Joint Application is dated August 14, 2018 and approvals are as follows.

- **Army Corps of Engineers: No Permit Required**
- **Idaho Dept. of Water Resources: received October 24, 2018**

The City of Ketchum was provided notice of this application on November 13, 2018.

2. *Other Property Not Adversely Affected: The proposed stream alteration shall have no adverse impact on the property of another person or entity, including the areas upstream, downstream and across the stream. "No adverse impact" means that the proposed use or activity will not have any deleterious impacts in terms of increased flood peaks, flood stage, flood velocity, erosion and sedimentation, or water quality or that such impacts have been identified and mitigated to the maximum extent feasible.*

- **FINDING: Compliant.** The Board found this application compliant with this criteria subject to the incorporation of willow shoots and bundles within the placed rock riprap to assist with decreasing velocity and erosion along the subject riverbank. See condition of approval #3. This application is essentially a maintenance project of previously approved bank stabilization work.

3. *The stream alteration desired will not involve placing an encroachment, structure, fill, deposit, obstruction, storage of materials or equipment in the floodway, all of which are prohibited by subsection 9-17-5B3 of this Chapter, unless certification by a registered engineer is provided and accepted by the County Engineer, demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the 100-year flood discharge and other standards of this Section are met.*

- **FINDING: Compliant.** The Board found this project compliant with this criterion based on the county engineer's review and recommendation as follows, "[t]he documents submitted to support this "no-rise" certification do not follow FEMA's recommended "No-Rise" Certification procedures, but do represent proposed work that is indicated to not cause a BFE rise when compared to existing, or "pre-construction," conditions." See Exhibit B-3 for complete comments.

Further, the no-rise finding is supported by the removal of approximately 13 cubic yards of gravel removal from an existing point bar on the opposite bank.

4. *The stream alteration desired shall not have any adverse impacts or go against the stated purposes of the Floodplain Management District (Section 9-17-2) and the Stream Alteration Permit program (subsection 9-17-9A of this Chapter).*

- **FINDING: Compliant.** The Board found this project to be compliant with this criterion based on the fact that the home is a non-conforming structure and this work serves to protect it. Also, the work is limited in scope to prevent any potential adverse impacts such as damage to intact streambanks near the project site that may result from heavy machinery access and project activities.

5. *Local Public Interests: The proposed application (use) does not conflict with the local public interest, i.e., the affairs of the people in the area directly affected by the proposed use. This includes, but is not limited to, property values, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality or an impact upon a locally important factor. The burden of proof always rests with the applicant.*

- **FINDING:** Compliant. Refer to Exhibit B-4, IDFG comments, regarding the importance and necessity of streambank vegetation for stabilization, water quality and fish and wildlife habitat. The Board required a bond in the amount of \$4,000 to ensure success and establishment of the riparian vegetation to be incorporated within the newly constructed bank. See condition of approval #3.

It was also stated by the applicant's representative that the previously planted (and subsequently removed) vegetation from the 2007 SAP would be replanted. The Board also instructed Land Use staff to enforce conditions of approval associated with previous SAPs separately outside of this SAP.

6. *The following extraordinary circumstances may favor the granting of a stream alteration permit:*
- a. *If the river tries to change to a channel outside of the floodway.*
 - b. *If the viability of an irrigation structure or water delivery system is threatened.*
 - c. *If a road or bridge which provides access to homes or businesses is threatened.*
 - d. *If an existing home or building envelope in a platted subdivision is threatened.*
 - e. *If severe erosion or severe sedimentation of land is threatened.*
 - f. *If a public facility (sewer plant, school, etc.) and/or any other use which would affect the chemical quality of the river is threatened.*

- **FINDING:** None of the above extraordinary circumstances apply to this application.

7. *If the applicant or landowner with respect to an application for a stream alteration permit under this chapter is the State of Idaho, or any agency, board, department, institution, or district thereof . . .*

- **FINDING:** Not applicable to this applicant.

III. DECISION AND CONDITIONS

- **Decision:** Upon motion by Commissioner Schoen, second by Commissioner Greenberg, and a vote of 3-0, the Blaine County Board of Commissioners hereby approves the application by Jill Bradburn for a Stream Alteration Permit (SAP) on Warm Springs Creek, finding the proposal complies with the applicable criteria set forth under Title 9, Chapter 17, Floodplain Overlay District and Riparian Setback District, subject to the following conditions:

Conditions of approval:

1. The project shall comply with Idaho Department of Water Resources (IDWR), US Army Corps of Engineers (USACE), Department of Environmental Quality (DEQ), Blaine County and applicant's specifications, conditions and standards. The work shall be done by appropriate construction equipment according to conditions placed on the State and Federal permits.
2. The work shall be done as specified in application; no work outside that applied for and approved under this permit shall be done.
3. Financial Security in the amount of 150% of the estimated cost of the approved revegetation plan approved by the Administrator or a minimum of \$4,000 shall be collected and held for up to four (4) growing seasons to ensure at least 80% establishment of the plants as determined by the administrator. The applicant shall monitor the success of plantings for up to four (4) years to ensure compliance with the approved revegetation plan. Weed mitigation shall be part of this plan.
4. No woody debris shall be removed from the project area.
5. The applicant shall submit additional details regarding BMPs and project implementation.
6. The work shall be certified in writing by a registered engineer after its completion that work was done according to county requirements and stipulations.
7. Minor modification to the proposal as a result of field conditions during construction may be presented to the County for Administrative approval without further public hearing provided other agencies with jurisdiction have granted approval and that the modifications made are described in writing and made part of the file.
8. The applicant shall provide County Land Use staff with a proposed construction activities schedule. In addition, County Land Use staff shall be notified of the actual start of construction and of any changes to the proposed schedule, so that staff can observe construction activities as necessary to ensure compliance with this SAP.
9. BMPs shall remain in place between project area and flowing water. Upland BMPs shall remain in place as necessary.
10. The applicant shall provide additional details regarding the nature and location of the excavated material to be removed from the channel to satisfy the no-rise requirement.
11. Written consent for work extending onto other properties shall be submitted to the Land Use Department prior to the start of work.

Notice pursuant to I.C. 67-6535(c): The owner of the property subject to this application and decision may request regulatory taking analysis pursuant to I.C. 67-8003.

IT IS SO ORDERED.

DATED this 13 day of December, 2018

BLAINE COUNTY BOARD OF COMMISSIONERS



Angenie McCleary, Chair

CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 13th day of Dec, 2018, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

Jill Bradburn
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Sawtooth Environmental Consulting
Trent Stumph
Email: trentstumph@cox-internet.com


Staff Member