

BLAINE COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING on December 18, 2018

<p>REGARDING AN APPLICATION OF: Sun Valley Long Term Holdings, LLC for a Stream Alteration Permit (SAP) on Warm Springs Creek. This is a follow up to emergency stream alterations during the flooding of 2017.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION</p>
--	---

REQUESTED ACTION: A public hearing on and consideration of an application by Sun Valley Long Term Holdings, LLC to revise emergency stream alterations on Warm Springs Creek that occurred during the spring flooding of 2017, and perform additional stream alterations that include the discharge of additional rock riprap and cottonwood trees with root wads into the bank. The project site is 212 Sandy Lane (Lot 4, Boards Upper Ranch Sub), zoned Rural Remote (RR-40) with areas of Floodplain (FP) and Riparian Setback (R) Overlay Districts.

PROPERTY OWNERS/APPLICANTS: Sun Valley Long Term Holdings, LLC (Steve Brown/John Campbell)

REPRESENTATIVE: Consultant: Bruce Smith, Alpine Enterprises Inc.
Engineer: Steve Butler, P.E., Butler & Associates

NAME/REACH OF STREAM: Warm Springs Creek

PROPERTY LOCATION: 212 Sandy Lane (Lot 4, Boards Upper Ranch Sub)

APPLICABLE REGULATIONS: Title 9 (Zoning Regulations): Chapters 6A & 17
Title 8 (Comprehensive Plan)

I. APPLICATION, NOTICE, EXHIBITS & GENERAL FACTS

1. Application: Blaine County Stream Alteration Permit Application received July 2, 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 28, 2018;
- B. Notice was mailed on November 26, 2018 to all Blaine County political subdivisions;
- C. Notice was mailed on November 28, 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 or by December 5, 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)?
ESAP Issued May 10, 2017. Commissioners McCleary and Greenberg present. Commissioner Schoen present by phone and had previously visited site. On May 16, 2017, Commissioner Schoen on site for ESAP modification and Commissioner Greenberg present by phone.

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

Exhibit A—Application Materials

All application materials were received on July 2, 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- Steve Butler, P.E., Butler & Assoc.
- A-7:** Joint Application

Exhibit B—Agency Comments

- B-1:** Department of the Army (USACE) – Pending
- B-2:** Idaho Dept. of Water Resources (IDWR) – Pending
- B-3:** County Engineer Comments - received November 26, 2018

Exhibit C—Blaine County Supplemental Documents

- C-1** ESAP Memo- May 10, 2017
- C-2** Site Visit Photos- Pre and Post ESAP work, 2017

Exhibit D—Public Comments

None.

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:** The Joint Application is dated July 2, 2018 and approvals are pending. Condition of approval #2 requires copies of applicable state and federal permits to be submitted to the county prior to the start of work.
 - **Army Corps of Engineers: Pending**
 - **Idaho Dept. of Water Resources: Pending**

No cities were within the requirements for notification.

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:** Due to the substantial erosion that was observed during the flooding of 2017 and the continued threat into the future due to the cabin's location on the outside of a meander in Warm Springs Creek, the Board found that additional details for project activities were necessary to ensure compliance with this standard. The incorporation of larger diameter logs to assist in minimizing adverse impacts at additional varying flows within Warm Springs Creek were required. The applicant also agreed to incorporate logs with intact root structures to assist in diverting the thalweg and highest velocities away from the bank to decrease erosion.

The County Engineer recommended reconfiguration of the log barbs to prevent scour next to the reconstructed bank and flatter slopes to resist erosion. Flatter stream banks provide more area for establishment of riparian vegetation, which contributes to stream bank stability and riverine and riparian habitat. To ensure compliance with this standard in entirety, condition of approval #7 requires additional details BMPs, log barb placement and diameter, and erosion and sediment control.

(Exhibit B-3) Mr. Butler submitted the following statement: *"This letter presents my professional opinion that there will be no adverse impacts [to downstream properties] in terms of increased flood velocities, erosion, sedimentation or rise in flood elevation from restoration of the stream bank that supports the Laird Erman Cabin...."* and supports the statement based on evaluation of the cross-sections data prepared by Mr. Smith.

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:** The proposed work is within the FEMA mapped floodway, and therefore requires a "no-rise" certification. The application's engineer-in-responsible-charge, Steve Butler, PE, submitted a "no rise certification" based on evaluation of three cross-sections surveyed in the project area after the 2017 flood event compared against 2015 LiDAR derived cross-sections in the same locations. Mr. Butler stated:

"All three cross-sections indicate that the post-flood reconstructed stream bank profile is recessed from the pre-flood stream bank resulting in a higher stream channel carrying capacity and no increased rise."

In a teleconference between the County Engineer and the surveyor-of-record, Bruce Smith, PLS, Mr. Smith stated the pre-flood cross-sections derived from the 2015 LiDAR represent the pre-flood stream channel geometry. So, while the documents submitted to support the “no-rise” certification do not follow FEMA’s “No Rise” Certification procedures, the surveyor and engineer in responsible charge of the project have submitted stamped documents supporting this certification.

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

- **FINDING:** This project proposes to protect private property which is specifically listed as a purpose of the Floodplain Overlay District. Additional follow up details, including best management practices for erosion and sediment control and water quality, and the additional incorporation of riparian vegetation ensure further compliance with the stated purposes of both programs. See condition of approval #4 and #5.

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:** The log barb structures will create localized scour pools and eddies, if installed appropriately, and would promote fish habitat. To achieve maximum benefits of utilizing woody debris within streambank stabilization, the root wads on the logs need to be preserved to the greatest extent possible. Intact root wads add to the complexity of the cover provided by the log structures and benefit the aquatic life. The vegetation of the bank appears minimal and additional plantings are required to ensure compliance with this standard. See condition of approval #4.

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:** Item (e) applies to this project. Also, the existing cabin was not previously platted but approved for construction by the County in approximately 1950.

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 Sun Valley Long Term Holdings, LLC 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. Copies of required state and federal permits shall be submitted to the County Floodplain Manager prior to the start of work.
3. The work shall be done as specified in application; no work outside that applied for and approved under this permit shall be done.
4. The applicant shall submit a detailed revegetation plan for administrative approval, that includes the incorporation of dormant willow cuttings, willow bundles, willow clumps, or other native woody vegetation shown to be planted within the armored streambank and barbs (cuttings spaced no greater than 2-foot intervals, bundles or clumps spaced no greater than 5-foot intervals).
5. Financial Security in the amount of 30% of the estimated cost of the approved revegetation plan approved by the Administrator or a minimum of \$1,500 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.
6. No woody debris shall be removed from the project area.
7. The applicant shall submit additional details regarding BMPs, log barb placement and diameter, and erosion and sediment control.
8. The work shall be certified in writing by a registered engineer after its completion that work was done according to county requirements and stipulations.
9. 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.
10. 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.
11. BMPs shall remain in place between project area and flowing water. Upland BMPs shall remain in place as necessary.

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 3 day of January, 2019

BLAINE COUNTY BOARD OF COMMISSIONERS




Angerie McCleary, Chair

CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 4th day of January, 2019, 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:

Sun Valley Long Term Holdings, LLC
PO Box 986
Hailey, ID 83333
Email: sbrown@sbketchum.com

Alpine Enterprises
c/o Bruce Smith
PO Box 2037
Ketchum, ID 83340
Email: bsmith@alpineenterprisesinc.com



Staff Member