

BLAINE COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING DATE: November 6, 2018

<p>REGARDING THE APPLICATION OF: Rebecca Patton, Raymond Goodrich and Dan Brown for a Stream Alteration (SAP) Permit on Hailey Creek, Sheep Creek, and Baugh Creek, tributaries of the Little Wood River.</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION</p>
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REQUESTED ACTION: Public hearing and consideration of an application by Raymond Goodrich and Rebecca Patton, Trustees, and Dan Brown, to construct up to 159 Beaver Dam Analogues (mimicry structures) and up to 100 high density large woody debris structures (HDLWD) within Baugh Creek, Hailey Creek, and Sheep Creek. The structures will be constructed with native woody debris, mud, cobble and burned downed timber. This project starts roughly 2 miles north of the intersection of Baugh Creek Road and Muldoon Canyon Road; within Sections 3, 4, of T2N, R20E, and 33 and 32 of T3N, R20E, B.M., Blaine County; zoned Rural Remote (RR-40) with areas of Floodplain (FP), Floodway (FW), and Wetland (WE) Overlay Districts.

APPLICANT/PROPERTY OWNERS: Rebecca Patton & Raymond Thomas Goodrich Jr. Trustees
Dan Brown, Brown Ranch Inc.

REPRESENTATIVE: Project collaboration includes a partnership of the US Fish & Wildlife Service (Joshua White), Anabran Solutions (Scott Shahverdian), Idaho Soil & Water Conservation Commission (Derek Myneer), and Idaho Department of Fish & Game.

NAME/REACH OF STREAM: Baugh Creek, Sheep Creek, and Hailey Creek, all tributaries of the Little Wood River

PROPERTY LOCATION: Within Sections 3, 4, of T2N, R20E, and 33 and 32 of T3N, R20E, B.M., Blaine County

APPLICABLE REGULATIONS: Title 9 (Zoning Regulations): Chapters 6A, 17, & 19
Title 8 (Comprehensive Plan)

I. APPLICATIONS, NOTICE, EXHIBITS & GENERAL FACTS

1. Applications: Blaine County Stream Alteration Permit application received on August 13, 2018, revised on October 2, 2018 and certified as complete on October 2, 2018

2. Notice: Public notice for this application was as follows:

- A. Legal notice was published in the Idaho Mountain Express on October 17, 2018;
- B. Notice was mailed on October 22, 2018 to all Blaine County political subdivisions;
- C. Notice was mailed on October 16, 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 October 30, 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)?

None.

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

Exhibit A—Application Materials

Revised application materials were received on October 2, 2018, unless indicated otherwise.

- A-1:** Blaine County SAP Applications
- A-2:** Vicinity Map
- A-3:** Site Map
- A-4:** Photo Exhibit—Post Assisted Structure Example
- A-5:** Photo Exhibit –Post-free Structure Example
- A-6:** Photo Exhibit – Post Line Wicker Weave Structures
- A-7:** No Adverse Impact Letter - Intermountain Aquatics received August 13, 2018
- A-8:** Joint Applications for Permits (Patton/Goodrich and Brown separately)
- A-9:** PowerPoint presentation in PDF; received November 6, 2018

Exhibit B—Agency Comments

- B-1:** Department of the Army (USACE)- NWP 27- received October 5, 2018
- B-2:** Idaho Department of Water Resources- received October 10, 2018
- B-3:** County Engineer comments- received October 23, 2018
- B-4:** Idaho Fish & Game (IDFG)- received October 30, 2018

Exhibit C—Blaine County Supplemental Documents

- C-1:** Staff Site Visit Photo (4)- dated September 11, 2018
- C-2:** Beavers: Once almost exterminated, now beneficial to many (article); Oct. 30, 2018

Exhibit D—Public Comments

None received.

5. Project Summary: The initial application for this project was received on August 13, 2018 and proposed a more holistic restoration effort for Baugh Creek, Hailey Creek, and Sheep Creek. The Sharps fire burned the majority of this project area in early August and the project was revised to respond to the direct threats from increased erosion and infiltration of fire debris, silts and increased sediment. The new limiting factors of the topography were taken in consideration of the revised application. The revised application indicates portions of Baugh Creek include an incised channel and diminished floodplain connectivity, while Hailey Creek and Sheep Creek are stated as highly vulnerable to erosion due to the 2018 Sharps Fire. The project intends to mimic beaver activity in a stream by installing approximately 159 simulated beaver dams, or post line wicker weave structures (PLWWs) also called “beaver dam analogs” (BDAs), to restore wet meadow and riparian habitat in 16 different “complexes.” These small structures are intended to be permeable and biodegradable. The work will entail using a hand-held hydraulic post pounder to drive 2.5" diameter wooden posts 2-3 feet into the streambed along both sides of the creek at each PLWW location. Native woody vegetation, such as willow branches found on-site, will be woven between each post. Mud and small cobble will be placed on the upstream side of the structures for reinforcement.

Additional work includes salvaging burned and downed timbers, which resulted from the 2018 Sharps Fire that occurred within the watershed, in order to construct "high density large woody debris" (HDLWD) structures within the stream channel. These structures are a variety of mid-channel, bank-attached, direct fall, and post-assisted debris jams. Refer to Exhibit C-1, site visit photos of current channel and upland conditions.

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 October 2, 2018.
- Army Corps of Engineers (USACE); NWP 27 - Aquatic Habitat Restoration, Establishment, and Enhancement Activities; received October 5, 2018
 - Idaho Dept. of Water Resources (IDWR); received October 10, 2018

No Cities within the limits 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:** According to Exhibit A-8, Joint Application for Permits, the project is intended to improve the waters of the US and wetlands. It is further stated that mitigation is not necessary due to the minimal amount of disturbance caused by the structures and installation activities of each. It is stated that measures to reduce the amount of structures necessary to achieve project goals. There will be no heavy machinery or vehicles in, or near the project area.

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:** Not applicable. There is no FEMA mapped floodplain or floodway.

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:** Beneficial impacts include improving riparian habitat and floodplain connectivity. The intent of this project is to use new beaver-mimicry and stream restoration techniques as part of an effort to restore wet meadow and riparian habitat along degraded sections of the streams. The application states that post-line wicker weaves can accelerate recovery of incised streams and riparian habitats by reducing water velocities, increasing sediment deposition and aggradation, enhancing floodplain connectivity, raising groundwater tables, and increasing habitat complexity. See Exhibit A-7, No Adverse Impact Letter, for a statement of adverse impacts from the project engineer.

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:** No public comment was received to date of the staff report. According to Exhibit A-8, Joint Application for Permits, the beaver-mimicry structures are hand-built bioengineering structures designed to mimic the function of natural beaver dams. Each structure will consist of several untreated 3-4 inch diameter wooden posts up to eight feet (8') long, driven 2-3 feet into the stream bed and spaced 1-2 feet apart. Refer to the photo exhibits, A-4 thru A-6, for more information and examples of each. According to project goals, fish and wildlife habitat and water quality will improve with project implementation.

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:** Due to the Sharps Fire of 2018, E applies to this project.

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, the Commission or the Board, in addition to all other applicable standards and criteria hereunder, shall take into account the plans and needs of the State, or any agency, board, department, institution or district thereof, as required by Idaho Code §67-6528.*

- **FINDING:** Not applicable. Applicants are private land owners.

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 Rebecca Patton and Raymond Goodrich and Dan Brown for a Stream Alteration Permit (SAP) on Baugh Creek, Hailey Creek, and Sheep 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. 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.
4. The applicant shall provide notify the County's Floodplain Manager prior to start of work.
5. Work shall occur in the dry or low water to minimize turbidity and adverse impacts.
6. The County shall receive copies of the annual reports required as a special condition in the IDWR permit. These reports are to include the completed measures, number of property functioning BDAs, and shall address each of the project goals.
7. Permittee is responsible for all work done by any workshop participant and shall ensure any participant who performs the work is informed of and follows all the terms and conditions of this approval.
8. Instream work shall be limited to July 15 – March 15 to prevent impacts to spring spawning trout.

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 November, 2018

BLAINE COUNTY BOARD OF COMMISSIONERS


Angenie McCleary, Chair


CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 13th day of Nov, 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:

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Staff Member