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**BEFORE THE STATE BOARD OF LAND COMMISSIONERS  
STATE OF IDAHO**

IN THE MATTER OF  
  
Encroachment Permit Application  
No. L-96-S-2863A,  
  
Lewis E. Patrick Trust dated April 8, 1999,  
  
Applicant.

Agency Case No. PH-2026-NAV-20-001  
  
OAH Case No. 26-320-03  
  
**IDAHO DEPARTMENT OF LANDS’  
POST-HEARING BRIEF**

On March 31, 2026, Hearing Officer Hayes held a status conference in this proceeding to address an issue she identified, post-hearing, with the Lewis E. Patrick Trust dated April 8, 1999 (“Applicant”) encroachment permit application. The Applicant, the Objector, and the Idaho Department of Lands (“IDL”) appeared at the status conference represented by counsel. At the status conference, Hearing Officer Hayes explained that she noticed a discrepancy in the record regarding the dimensions of the proposed boat garages. Hearing Officer Hayes requested the Applicant and IDL provide supplemental briefing clarifying the record by April 3, 2026. To accommodate the additional post-hearing briefing, Hearing Officer Hayes extended the deadline for IDL Director Miller’s Final Order from April 3, 2026 to April 10, 2026, with the Recommended Order issuing no later than April 6, 2026.

## I. BACKGROUND

The inconsistency in the proposed boat garage dimensions identified by Hearing Officer Hayes is that the total footprint allowed by LU300046 for Boat Garage A is 376.46 square feet, whereas on page 2 of the Application, the Applicant proposed the footprint for Boat Garage A to be 378.64 sqft. *Compare* IDL-008, page 3 to IDL-001, page 2. If Boat Garage A is built to a 378.64 sqft footprint, then Boat Garage A would be 2.14 sqft larger than the existing permit allows, which violates the rules implementing the Lake Protection Act. IDAPA 20.03.04.015.05 (“Applications for permits to construct new boat garages, expand the total square footage of the existing footprint, or raise the height will not be accepted unless the application is to support local emergency services.... Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height.”).

## II. ANALYSIS

As an initial matter, Hearing Officer Hayes asked that this post-hearing briefing be focused on the issue of the dimensions and footprint of Boat Garage A. However, out of an abundance of caution IDL also reviewed the proposed dimensions for Boat Garage B. Upon review of the record, IDL agrees with the Hearing Officer’s determination that the proposed dimensions for the boat garages and the related calculations of the total proposed footprints are inconsistent throughout the Application. IDL also agrees that permitting the boat garages as proposed, without limitation, could lead to the impermissible expansion of the existing boat garages’ footprints.

Below are tables outlining the several proposed dimensions for each boat garage that IDL identified in the record. The width and length measurements are in feet; the footprint measurements are in square feet. Note that the first line in each table contains the dimensions and footprint for the existing permit whose permitted footprint is the absolute maximum allowable footprint for a boat garage to be rebuilt under that permit’s authorization.

### Boat Garage A

	Width	Length	Stated Footprint <sup>1</sup>	Calculated Footprint <sup>2</sup>
LU300046 (IDL-001, page 32)	16.25	23.17	376.46	376.51
Application (IDL-001, page 2)	13.50	28.00	378.60	378.00
Drawing (IDL-001, page 5)	13.50	28.00	378.60	378.00
Text (IDL-001, page 8)	16.34	23.17	378.60	378.60
Arch. Plans (IDL-001, page 11; App.-14, page 1)	13.50	28.00	N/A	378.00

### Boat Garage B

	Width	Length	Stated Footprint	Calculated Footprint
LU300091 (IDL-001, page 35)	12.25	26.25	321.56	321.56
Application (IDL-001, page 2)	13.50	23.83	321.56	321.71
Drawing (IDL-001, page 5)	13.50	26.00	321.56	351.00
Text (IDL-001, page 8)	12.25	26.25	321.56	321.56
Arch. Plans (IDL-001, page 11; App.-14, page 1)	13.50	23.83	N/A	321.71

In short, depending on which dimensions one chooses to use, it appears that the Applicant's proposed footprint for Boat Garage A is anywhere between 1.54 sqft – 2.14 sqft larger than the existing permitted footprint. Put differently, if Boat Garage A is 13' 6" wide (13.50') the proposed 28' length would result in a footprint larger than LU300046 allows. A boat garage with a permitted 376.46 sqft footprint and a width of 13' 6" must be limited to a maximum length of 27' 10½" (27.87').

Likewise, it appears that the Applicant's proposed footprint for Boat Garage B is anywhere between 0.15 sqft – 29.44 sqft larger than the existing permitted footprint. Put differently, if Boat Garage B is 13' 6" wide (13.50') the proposed 23' 10" (23.83') length would result in a footprint larger than LU300091 allows. A boat garage with a permitted 321.56 sqft footprint and a width of 13' 6" must be limited to a maximum length of 23' 9½" (27.87').

Applicants are typically held to his or her application plans so that the built encroachment matches the permit. *See* IDAPA 20.03.04.020.07.a. It is IDL's policy that "[p]reviously

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<sup>1</sup> "Stated Footprint" refers to the number of square feet indicated on the page in the application.

<sup>2</sup> "Calculated Footprint" refers to means the actual product of the length and width dimensions provided.

permitted encroachments that no longer match the permit must either be permitted anew or brought back to their permitted design to match their existing permit.” *IDL Encroachments Procedures*, 11 (emphasis added).<sup>3</sup> As the hearing has already occurred in the matter and the discrepancy in the boat garages’ dimensions was not realized until after the close of the record, there is no current opportunity for the Applicant to submit updated plans for consideration. Even if the record was still open, it is not clear whether the Applicant has any updated plans to provide at this time.

Accordingly, assuming the Hearing Officer and the Director find and conclude that all else is in order with the Application, IDL understands that the two possible paths forward are: (1) the Hearing Officer recommending the Director deny the encroachment permit application, the Director denying the Application, the Applicant obtaining updated plans that comply with IDAPA 20.03.04.015.05, ultimately leading to the Applicant reapplying for an encroachment permit causing this whole proceeding to essentially begin anew; or (2) the Hearing Officer recommending the Director approve the permit subject to a condition limiting the footprint of each boat garage to the footprint allowed by the existing permitted boat garage’s Temporary Land Use Permit, the Director approving the permit as conditioned, and the Applicant submitting updated plans to IDL that amend only the dimensions and footprint of the boat garages to be in compliance with IDAPA 20.03.04.015.05 and IDL policy.

In this situation, IDL does not object to the Hearing Officer recommending the Director issue the Applicant a permit for these encroachments with a condition that limits the boat garages’ authorized sizes to the footprints legally allowable per the respective existing permits. Proceeding in this way would likely save the Applicant, the Objector, IDL, the Director, and the Office of Administrative Hearings time, money, and resources. *See* IRAP 62.01.01.004 (“The rules in this chapter will be liberally construed to secure the just, speedy, and inexpensive determination of contested cases proceedings.”). However, should the Hearing Officer opt to

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<sup>3</sup> IDL’s Encroachments Procedures can be accessed on IDL’s website at: <https://www.idl.idaho.gov/wp-content/uploads/sites/2/2026/01/EncroachmentsProceduresAndReferenceDocuments-Jan2026.pdf>

issue such a conditional recommendation and order, IDL requests that the Applicant be required to submit updated plans depicting accurate dimensions as soon as practicable. Should this encroachment permit be issued and the Applicant not provide IDL with updated, accurate plans, the Applicant's boat garages may be at risk of being deemed noncompliant. In such a case, IDL reserves the right to require the Applicant to bring the boat garages into compliance or apply for a new permit, and the right to pursue any other applicable administrative and judicial actions for violations. *See IDL Encroachments Procedures, 77–83.* IDL's non-opposition to the permit issuing as conditioned should not be considered a waiver of IDL's rights or policies, nor as consent to encroachments being built to plans other than those submitted with an application.

### III. CONCLUSION

The Applicant submitted an encroachment permit application that contains conflicting dimensions for the proposed boat garages, which could lead to the boat garages being permitted and built to a larger footprint than legally allowable. The Application should either be denied or should be approved on the condition that the boat garages be built with a footprint no larger than the existing permits allow. If the application is approved with a size-limiting condition, IDL requests that the Applicant be required to provide updated, accurate plans as soon as practicable.

DATED this 3<sup>rd</sup> day of April 2026.

IDAHO DEPARTMENT OF LANDS



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Kayleen R. Richter  
Attorney for Idaho Department of Lands

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of April 2026, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Lewis E. Patrick Trust dated April 8, 1999 P.O. Box 14136, Scottsdale, AZ 95267 (602) 663-2600 <i>Applicant</i>	<input checked="" type="checkbox"/> Email: lew@patrickproperty.com
Bob Presta CE Kramer Crane and Contracting 46820 Highway 2, Hope, ID 83836 (208) 264-3021 <i>Agent for Applicant</i>	<input checked="" type="checkbox"/> Email: bob@cekramer.com
Peter J. Smith IV Fennemore Craig, P.C. 233 E. Harrison Avenue, Coeur d'Alene, ID 83814 (208) 956-0145 <i>Attorney for Applicant</i>	<input checked="" type="checkbox"/> Email: peter.smith@fennemorelaw.com
Arthur Bistline Bistline Law, PLLC 1205 N. Third Street, Coeur d'Alene, ID, 83814 (208) 665-7270 <i>Attorney for Objector Williams</i>	<input checked="" type="checkbox"/> Email: service@bistlinelaw.com
Kevin Chadwick 2365 E. Tennessee Avenue, Denver, CO 80209 (303) 619-6877 <i>Objector</i>	<input checked="" type="checkbox"/> Email: kevinspears.chadwick@gmail.com
W.H. Williams Family LLC Ruth Williams c/o Margaret Williams 29 Eagle Cove, Sandpoint, ID 83864 (208) 946-7105 <i>Objector</i>	<input checked="" type="checkbox"/> Email: mrwlaw1315@gmail.com

<p>Tyler Warner  Rachel King  Marde Mensinger  Idaho Department of Lands  300 N. 6<sup>th</sup> Street, Boise, ID 83720  (208) 334-0248  <i>IDL Navigable Waterways Program Contacts</i></p>	<p><input checked="" type="checkbox"/> Email: twarner@idl.idaho.gov  rking@idl.idaho.gov  mmensinger@idl.idaho.gov</p>
<p>Kourtney Romine  Kayla Dawson  <i>IDL Service Contacts</i></p>	<p><input checked="" type="checkbox"/> Email: kromine@idl.idaho.gov  kdawson@idl.idaho.gov</p>
<p>OAH  General Government Division  P.O. Box 83720, Boise, ID 83720-0104  816 W. Bannock Street  (208) 605-4300</p>	<p><input checked="" type="checkbox"/> Email: filings@oah.idaho.gov  leslie.hayes@oah.idaho.gov</p>

  
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