

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application for)	AGENCY Case No. PH-2026-NAV-20-001
Encroachment L96S2863A, for construction)	
of two boat garages at existing dock,)	OAH Case No. 26-320-03
)	
Lewis E. Patrick Trust dated April 8, 1999,)	AMENDED FINDINGS OF FACT,
)	CONCLUSIONS OF LAW, AND
Applicant.)	RECOMMENDED ORDER
)	
)	

This matter was assigned to Deputy Chief Administrative Hearing Officer Leslie Hayes on January 22, 2026. Hearing Officer Hayes conducted an evidentiary hearing at 233 E. Harrison Avenue, Coeur d’Alene, Idaho, that commenced at 5:00 p.m. Pacific Time. Appearances were made by Kayleen Richter, Counsel for Idaho Department of Lands (“IDL”), Peter Smith and Nathan Sargent, counsel for Applicant Lewis E. Patrick Trust dated April 8, 1999, and Authur Bistline, counsel for the Objector Williams. No members of the public attended the hearing. A Zoom link was provided to individuals who could not attend in-person.

Hearing Officer Hayes, having considered the evidence and arguments offered at the hearing, the documents in the administrative record, and the other papers and pleadings on file, makes the following Findings of Fact and Conclusions of Law pursuant to Idaho Code section 58-1306 and IDAPA 62.01.01.252.01.d.

FINDINGS OF FACT

1. On December 11, 2025, IDL received a complete Joint Application for Permits (Application L96S2863A) from Applicant Lewis E. Patrick Trust dated April 8, 1999 seeking an encroachment permit to relocate and rebuild two boat garages at an existing permitted boat dock to provide covered boat moorage on Lake Pend Oreille. IDL-001.

2. Objectors W.H. Williams, LLC, and Kevin Chadwick objected to the application

AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER
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based on the grounds that (1) the existing single-family dock is noncompliant with the permit; (2) there is a prohibition on new boat garages on Lake Pend Oreille; (3) IDL does not permit the relocation or combination of two boat garages; (4) there will be an impact on the shoreline development and objectors' view; and (5) public trust doctrine. OBJ-001, pp. 5-12.

3. In briefing, counsel for Objector Williams raised an additional objection that the Application is incomplete as this is an application for a nonnavigational encroachment that does not address the factors in IDAPA 20.03.04.030.

4. No public comment was received on the project by IDL or at the public hearing.

5. Applicant is a littoral owner with one parcel adjacent to Lake Pend Oreille identified as Bonner County Parcel No. RP57N01W084690A. IDL-001, p. 1. The parcel is physically located at 941 W. Oden Bay, Sandpoint, Idaho 83864. *Id.*

6. The parcel is a waterfront parcel.

7. The two boat garages will be located towards the shoreline side of the existing single-family dock at the property. IDL-001, p. 5. This will place the boat garages within the line of navigability. *Id.*

8. Boat Garage A is proposed to be located on the northern end of the dock and has a footprint of 28 feet by 13.5 feet. IDL-001, p. 5. There is 43-foot buffer between Boat Garage A and the neighboring littoral line. *Id.*

9. Boat Garage B is proposed to be located on the southern end of the dock and has a footprint of 26 feet by 13.5 feet. IDL-001, p. 5. There is 41-foot buffer between Boat Garage B and the neighboring littoral line. *Id.*

10. Both boat garages have different measurements (both stated and calculated by hand) throughout the application. *See* IDL-001, pp. 2, 11, 5, 8, 32, 35; App-14, p. 1.

11. The boat garages are the result of the sale of multiple boat garages from Heyburn State Park. IDL-001, pp. 30, 33. Prior to the demolition of the boat garages at Heyburn State Park, IDL staff “visited the structure on August 29, 2024, to confirm the structure’s existence, obtain measurements, and document the structure.” *Id.*

12. Boat Garage A proposes total square footage of 378.6 square feet. IDL-001, p. 2. The total square footage of the demolished boat garage it is replacing was 376.46. IDL-001, p. 32. The proposed boat Garage A has a larger square footage than the demolished boat garage.

13. Boat Garage B proposes total square footage of 321.56 square feet. IDL-001, p. 2. The total square footage of the demolished boat garage is 321.56, which is the same square footage. IDL-001, p. 35.

14. Boat Garage A proposes a height of 10 feet, which is one-half foot less than the demolished boat garage. IDL-001, pp. 2, 32.

15. Boat Garage B proposes a height of 10.5 feet, which is the same as the demolished boat garage. IDL-001, pp.2, 35.

16. Temporary use permits were issued for both proposed boat garages. IDL-001, pp. 30-35.

17. Applicant is the owner of the temporary use permits for both boat garages. IDL-001, pp. 24-29.

CONCLUSIONS OF LAW

1. Idaho legislature enacted the Lake Protection Act (“LPA”), Title 58, Chapter 13, Idaho Code, in 1974 stating:

The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds of waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic

beauty and water quality be given due consideration and weighted against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefor has been given as provided in this act.

I.C. § 58-1301

2. IDL, through the board of land commissioners, “shall regulate, control and may permit encroachments in aid of navigation or not in aid of navigation on, in or above the beds of waters of navigable lakes[.]” I.C. § 58-1303; I.C. § 58-119(1); see also *Newton v. MJK/BJK, LLC*, 167 Idaho 236, 242 (2020).

3. Through its statutory authority, IDL has promulgated Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho located at IDAPA 20.03.04.000 et. seq.

4. A boat garage is “[a] structure with one (1) or more slips that is completely enclosed with walls, roof, and doors, but not temporary or permanent residential area.” IDAPA 20.03.04.010.06.

5. The encroachment standards for a boat garage are found at IDAPA 20.03.04.015.05 and provide:

- a. Boat garages are considered nonnavigational encroachments.
- b. 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.
- c. Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height.
- d. Relocation of an existing boat garage will require a permit.

6. Boat Garage A is a nonnavigational encroachment that seeks to expand the total square footage of the existing footprint by 2.14 square feet.¹ It does not seek to exceed the existing height.

7. Boat Garage B is a nonnavigational encroachment that does not seek to expand the total square footage of the existing footprint or height.

8. As to the objections specific to this project, those will each be addressed.

a. The existing single-family dock is noncompliant with the permit: this was addressed briefly at the hearing, and while the single-family dock is not at issue in this Application, this objection will be addressed briefly. Applicant has an obligation to comply with all issued permits from IDL whether it be this Application or the previously granted application. IDL has enforcement authority if Applicant is noncompliant with any permitted encroachment.

b. Prohibition on new boat garages and relocation of boat garages: New boat garages are prohibited. IDAPA 20.03.04.015.05.b. Boat garages may be rebuilt or replaced with “the current square footage of their existing footprint and height.” IDAPA 20.30.04.015.05.c. “Relocation of an existing boat garage will require a permit.” IDAPA 20.03.04.015.05.d. These regulations read together and subject to the facts in these proceedings show that: (1) this is an existing boat garage; (2) that is being relocated from Heyburn State Park to Applicant’s property. Subject to the square footage issue identified above, this does not violate existing regulation. Objector also states that IDL does not permit the combining of two boat garages into one.

¹ While the Findings of Fact point out that there are varying dimensions throughout the materials as to both boat garages, the dimensions as represented on page 2 of the Application will be used for purposes of this Order.

There is no evidence that that is what Applicant seeks to do here. The boat garages will be divided by the single-family dock and remain separate structures. There is no regulation relating to the number of boat garages that an individual may have on their property.

- c. Impact on the shoreline and Objectors' view: These proceedings are governed by the Lake Protection Act (LPA). The LPA protects littoral rights, which does not include “the right to a particular view.” *Newton v. MJK/BJK, LLC*, 167 Idaho 236, 243 (2020). While it is unfortunate that this project will partially block Objectors’ view and the current aesthetics of the shoreline, IDL only has jurisdiction as granted to it by statute and its jurisdiction does not extend to the view from the shoreline.
- d. The Public Trust Doctrine: Under the Public Trust Doctrine “the state, acting on behalf of the people, has the right to regulate, control and utilize navigable waters for the protection of certain public uses, particularly navigation, commerce and fisheries.” *Newton*, 167 Idaho at 242 (internal quotations removed). The state has an affirmative duty to “preserve the public’s right to use in such land, and, as a result, restricts the state’s ability to alienate any of its public trust land.” *Id.* The Public Trust Doctrine and the Lake Protection Act are consistent with the recommendation to grant this Application.

RECOMMENDED ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends that this Application be **GRANTED**² subject to Boat Garage A’s square footage

² While exceeding the footprint would be a basis to recommend denial of this Application, the Hearing Officer agrees with IDL’s position that IDAPA 62.01.01.004 requires that all matters should “secure the just, speedy, and inexpensive determination of contested cases” and that denying this permit for typos and math errors will not further those objectives.

being reduced to comply with IDAPA 20.03.04.015.05.c and not to exceed 376.46 square feet. IDL-001, p. 32. Applicant is required to submit updated and consistent plans to IDL that must be approved prior to construction of both boat garages.

All of Applicant's encroachments shall be built to comply with the permit as issued by IDL.

RULE 625—RECOMMENDED ORDER NOTICE

This is a recommended order of the hearing officer. It will not become final without action of the agency head. By law, the agency head must issue a final order within thirty (30) days of the hearing in this case, which occurred on March 5, 2026. *See* I.C. § 58-1306(c). The agency head's final order in this case must be issued no later than April 10, 2026. The statutory deadline was extended due to the discrepancy in the agency record that needed to be addressed by the parties.

If either **party** disagrees with this recommended order, pursuant to Idaho Code section 67-5244, the **party** may request review of this recommended order with the agency head. Public witnesses under Idaho's Administrative Procedure Act are not considered parties and, therefore, requests for review from the public cannot be accepted. *See* IDAPA 62.01.01.207. Motions for reconsideration filed with the presiding officer will not be considered.

You may file a request for review of this recommended order, with a supporting brief, directly with the agency head **within one (1) business day from the service date of this recommended order**, unless the agency head sets a different deadline. Opposing parties shall thereafter have **one (1) business day** to submit a response brief. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. Oral argument will not be allowed unless requested by the agency head.

IT IS SO ORDERED.

DATED: April 6, 2026.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Leslie M. Hayes

Leslie M. Hayes
Deputy Chief Administrative Law Judge

DEPUTY CLERK’S CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April, 2026, I caused to be served a true and correct copy of the foregoing by the following method to:

Patrick Lewis E. Trust
P.O. Box 14136
Scottsdale, AZ 95267
(602) 663-2600
Applicant

U.S. Mail
 Email:
lew@patrickproperty.com

Peter J. Smith IV
FENNEMORE CRAIG, P.C.
233 E. Harrison Avenue
Coeur d’Alene, ID 83814
(208) 956-0145
Counsel for Applicant

U.S. Mail
 Email:
peter.smith@fennemorelaw.com

Bob Presta
CE Kramer Crane and Contracting
46820 Hwy 2
Hope, ID 83836
(208) 264-3021
Agent for Applicant

U.S. Mail
 Email:
bob@cekramer.com

Kevin Chadwick
2365 E Tennessee Ave
Denver, CO 80209
(303) 619-6877
Objector

U.S. Mail
 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
Objector

U.S. Mail
 Email:
mrwlaw1315@gmail.com

Arthur M. Bistline
Bistline Law, PLLC
1205 N. 3rd Street
Coeur d’Alene, ID 83814
(208) 665-7270

U.S. Mail
 Email:
service@bistlinelaw.com

Idaho Department of Lands
Kayleen Richter
300 N. 6th Street, Ste. 103
Boise, ID 83702
(208) 334-0200
Counsel for IDL

U.S. Mail
 Email:
krichter@idl.idaho.gov

Idaho Department of Lands
Mike Ahmer
Resource Supervisor, Lands and Waterways
Marde Mensinger
Program Manager for Navigable Waters
Rachel King
Program Specialist-Navigable Waterways

U.S. Mail
 Email:
mahmer@idl.idaho.gov
mmensinger@idl.idaho.gov
rking@idl.idaho.gov

Kourtney Romine
Kayla Dawson
Idaho Department of Lands
300 N. 6th Street, Suite 103
Boise, ID 83702
Service Contacts for IDL

U.S. Mail
 Email:
kromine@idl.idaho.gov
kdawson@idl.idaho.gov

OAH
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300

U.S. Mail
 Email:
filings@oah.idaho.gov
leslie.hayes@oah.idaho.gov

/s/ Elaine Maneck
Elaine Maneck, Deputy Clerk
Office of Administrative Hearing