

**BEFORE THE IDAHO DEPARTMENT OF LANDS**

**SAFE HARBOUR HOLDINGS CORP.**

Objector

**SOURDOUGH POINT OWNER'S ASSOCIATION**

Applicant

**REQUEST FOR REVIEW, AND SUPPORTING BRIEF**

Agency Case No. PH-2026-NAV-20-002

OAH Case No. 26-320-06

May 8, 2026

**INTRODUCTION AND REQUEST FOR REVIEW**

Safe Harbour Holdings Corp. (“Objector”) respectfully requests a review of the Recommended Order issued in the above-captioned matter concerning the proposed dock expansion application submitted by Sourdough Point Owners Association (“SPOA”).

The Objector respectfully submits that the Recommended Order may not fully address substantial evidence contained within the administrative record relating to established navigation patterns, recreation and safety, water quality, property impacts, aesthetics, and the existence of less impactful alternatives.

Due to the extremely limited timeframe (1 day) provided for submission of this Request for Review, the Objector submits this filing in order to preserve significant issues raised during the hearing and within the administrative record. The Objector is self-represented and requests careful consideration of the concerns identified in light of the compressed review period.

**GOVERNING LEGAL STANDARD**

Idaho Code §58-1301 provides that the State of Idaho holds navigable lakebeds in trust for the people of the State of Idaho and further recognizes the importance of protecting navigational, recreational, aesthetic, property, fish and wildlife, and water quality values associated with Idaho’s navigable waters.

The Objector respectfully submits that Idaho’s Lake Protection Act requires more than technical dimensional compliance. Rather, the statute requires meaningful balancing between the necessity or justification for a proposed encroachment and the impacts upon protected lake value factors and public trust interests.

## **NAVIGATION IMPACTS AND STATUTORY BALANCING**

The Objector respectfully submits that the Recommended Order may overly narrow or oversimplify the navigation evidence presented during the hearing and within the documented record.

The Objector's evidence was not limited to generalized concerns regarding preferred boating paths. Rather, substantial evidence and testimony were presented regarding the existence of an established shared navigation corridor extending between the northern causeway breach and the southern bridge passage, including evidence relating to:

- long-standing historic and current navigation patterns;
- line-of-sight navigation through the corridor;
- water depth alignment;
- turning movements associated with existing moorage;
- shared use by motorized vessels, paddle craft, and swimmers; and
- the cumulative navigational effects of extending the existing dock structure further westward into and narrowing the shared navigation corridor along private shoreline property owners

Evidence was also presented regarding the historic physical development of the area, including prior dock placement, the causeway breach, and bridge access, all of which contributed to the long-standing navigational use and flow patterns within this shared waterway.

The Objector further submits that the Recommended Order may insufficiently address evidence relating to established lines of navigability and long-standing navigation routes within the corridor, including diagrams, former permit applications and testimony illustrating how the proposed dock expansion would extend through these established navigational pathways.

The Recommended Order appears to place substantial reliance upon simplified width measurements between structures while giving limited consideration to broader navigational realities associated with further narrowing an already constrained shared navigation corridor, including shared two-way traffic, maneuvering movements, water recreation and swimmer activity, visibility limitations, and seasonal depth variations.

The Objector respectfully submits that Idaho Code §58-1301 requires more than technical dimensional compliance. The statute requires that navigation impacts and other protected lake value factors be weighed against the necessity or justification for the proposed encroachment.

The Objector further submits that the existence of less impactful alternatives remains directly relevant to the statutory balancing framework established under Idaho's Lake Protection Act.

## **RECREATION AND SAFETY IMPACTS**

The Objector respectfully submits that the Recommended Order may minimize or insufficiently address substantial evidence relating to recreation, swimmer and boat safety, shoreline recreational use, and other cumulative safety impacts associated with the proposed dock expansion.

The evidence presented during the hearing and within the documentary record was not limited to designated SPOA swimming areas located along the eastern shoreline of the island. Substantial testimony, photographs, video, witness statements, and diagrams were presented regarding long-standing recreational use occurring throughout the shared water corridor adjacent to the private shoreline properties west of the SPOA island, including swimming, paddle boarding, kayaking, canoeing, and general shoreline water recreation associated with the private waterfront lots.

The adjacent shoreline properties are privately owned where recreational water enjoyment has historically and continuously occurred directly from the shoreline and private docks for decades.

Evidence was also presented regarding the cumulative safety concerns associated with further narrowing the shared navigation corridor through additional dock expansion, including increased proximity between maneuvering vessels, swimmers, paddle craft, and other recreational users within an already constrained area of shared use.

The Objector further submits that the cumulative safety implications associated with narrowing a shared corridor used simultaneously by maneuvering vessels, swimmers, paddle craft, and shoreline recreation users warrant careful consideration within the public trust balancing framework established under Idaho's Lake Protection Act, especially where evidence was presented that additional moorage opportunities exist within less impactful locations inside the lagoon area, adjacent to other community docks.

The record also included testimony and evidence from adjacent shoreline owners and other witnesses regarding actual recreational use occurring within the affected corridor, including testimony relating to swimming and shoreline recreation directly associated with the impacted private docks and waterfront properties.

## **WATER QUALITY CONCERNS AND EVIDENCE WITHIN THE RECORD**

The Objector respectfully submits that the Recommended Order did not address evidence and testimony presented regarding water quality impacts and circulation concerns associated with the proposed dock expansion.

The Recommended Order states that there was "no evidence or testimony in the record" indicating the proposed expansion would negatively affect water quality. However, the administrative record included testimony, diagrams, witness statements, and engineering-related evidence specifically addressing historical and current circulation patterns, water movement through the corridor, and the potential impacts associated with further extending the dock structure westward into the shared waterway.

The record included sworn testimony from John Cron, former SPOA president, mechanical engineer, and longtime waterfront resident along the affected corridor, regarding historic flow-through circulation occurring between the northern causeway breach and the southern bridge passage, including testimony and supporting diagrams addressing how additional dock expansion may further obstruct or alter existing circulation patterns within the lagoon and surrounding corridor.

The record also included engineering-related evidence and analysis from Nicole Costello P.E. of Clearwater Engineering regarding navigation, shoreline measurement considerations, and water quality concerns associated with further extending the dock structure into the shared corridor.

The Objector further presented evidence relating to increased congestion of motorized vessels within shallower portions of the corridor, including concerns relating to propeller turbulence, lakebed disturbance, and the cumulative effects associated with concentrating vessel movement within a further narrowed waterway.

Whether ultimately accepted or rejected, the Objector respectfully submits that this evidence constituted relevant testimony and documentary evidence directly relating to statutory lake value factors involving water quality, aquatic conditions, and public trust considerations under Idaho Code §58-1301.

## **PROPERTY IMPACTS AND AESTHETIC CONSIDERATIONS**

The Objector respectfully submits that the Recommended Order may not fully address evidence presented regarding adjacent property impacts, waterfront desirability, and aesthetic considerations associated with further expansion of the dock structure into the shared water corridor.

Idaho Code §58-1301 specifically identifies both “property” and “aesthetic beauty” among the protected lake value factors to be considered within the statutory balancing analysis applicable to encroachment applications.

The administrative record included testimony, photographs, diagrams, and other evidence regarding the existing open-water character of the corridor, the relationship between the shared waterway and the adjacent waterfront properties, and the potential impacts associated with further extending the dock structure westward into and further narrowing the corridor.

The record also included opinion evidence from Ty Hall, a real estate professional with PureWest Idaho and Christie’s International Real Estate, familiar with the local waterfront market, regarding potential impacts to waterfront desirability and property value considerations associated with the proposed encroachment.

The Objector respectfully submits that the Recommended Order contains limited substantive discussion regarding these property-related considerations despite their express inclusion within Idaho’s statutory lake value framework.

The Objector further submits that the evidence presented regarding aesthetics extended beyond generalized “view” concerns and included broader considerations involving open-water character, shoreline compatibility, waterfront enjoyment, and the cumulative visual impacts associated with increasing structural encroachment within an already constrained corridor.

## **ALTERNATIVES AND THE STATUTORY BALANCING FRAMEWORK**

The Objector respectfully submits that the Recommended Order may improperly narrow the relevance of alternatives within the balancing analysis required under Idaho Code §58-1301.

The Recommended Order acknowledges that alternative expansion opportunities existed within SPOA’s littoral rights but concludes that alternative locations or configurations are not relevant once an applicant determines its preferred encroachment proposal.

The Objector respectfully submits that the existence of less impactful alternatives remains directly relevant to the statutory balancing framework established under Idaho’s Lake Protection Act. The statutory requirement that protected lake value factors be weighed against the necessity or justification for a proposed encroachment inherently involves consideration of whether the stated objectives of the applicant may reasonably be accomplished in a less impactful manner.

The administrative record included evidence and testimony that additional moorage opportunities do exist within previously utilized or designated dock areas, including shoreline-oriented configurations along the eastern side of the lagoon area, without further narrowing the shared navigation corridor or extending structures further into established navigation and recreation areas.

Alternative moorage locations were also specifically identified during the onsite visit following the hearing.

The Objector further submits that evidence regarding the allocation and use of existing moorage capacity is relevant to evaluating the asserted necessity and justification for further encroachment into the shared navigation corridor. Evidence was presented that certain existing slips have not been limited exclusively to SPOA lot owners or community residents, but were also sold to persons outside the community, in part to help fund prior dock construction after some community members elected not to purchase slips.

The Objector further submits that the Recommended Order may insufficiently address evidence relating to shoreline frontage calculations and dock square footage limitations associated with the application. The record included evidence and engineering-related analysis from Nicole Costello of Clearwater Engineering questioning whether shoreline measurements used to support the proposed dock expansion properly reflected shoreline actually dedicated to community dock use within the lagoon area, as opposed to broader shoreline measurements of areas not historically or practically associated with dock development.

## **CONCLUSION AND REQUEST FOR REVIEW**

The Objector respectfully submits that the Recommended Order may not fully address substantial evidence contained within the administrative record relating to established navigation patterns, recreation and safety, water quality, property impacts, aesthetics, and the existence of less impactful alternatives.

The Objector further submits that portions of the Recommended Order may overly narrow the balancing framework required under Idaho Code §58-1301 by focusing primarily upon limited dimensional compliance while giving insufficient consideration to the broader cumulative impacts associated with further narrowing an already constrained shared navigation and recreation corridor.

The administrative record presented substantial independent and local testimony, diagrams, photographs, video, witness statements, engineering-related evidence, and other documentary evidence relating to these protected lake value factors and public trust considerations.

The Objector respectfully requests that the Agency Head independently review the full administrative record, the statutory balancing requirements imposed under Idaho's Lake Protection Act, and the concerns identified within this Request for Review before adopting the Recommended Order as the Final Order in this matter.

Respectfully submitted,

Kevin Palmer  
**SAFE HARBOUR HOLDINGS CORP.**