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BEFORE THE IDAHO STATE BOARD OF LAND COMMISSIONERS

In the Matter of:)
) Case No. PH-2020-PUB-22-001
Encroachment Permit Application)
No. L-95-S-4916E) **PRELIMINARY ORDER TO**
) **DISMISS**
Maplewood Property Management, LLC – Howard)
Rude,)
Applicant.)
_____)

This matter is *dismissed* per IDAPA 20.01.01.204. The public hearing scheduled for April 3, 2020 is cancelled.

On February 6, 2020, the Department of Lands received a *Joint Application for Permits* from Applicant for a permit to dredge a channel on the Spokane River to provide a deep water access for watercraft on his property at 6426 E. Maplewood Ave. in Post Falls.

On February 24, 2020, the Department of Lands sent *Courtesy Notification of Application for Encroachment* letters to Applicant’s adjacent owners.

On February 26, 2020, the Idaho Department of Lands appointed Rebecca Ophus of the Idaho Attorney General's Fair Hearings Unit as Hearing Coordinator to conduct a public hearing. The public hearing was scheduled for April 3, 2020.

On March 31, 2020, the Applicant withdrew his application for the permit in writing via email.

The hearing officer accepts Applicant's withdrawal under IDAPA's 20.01.01.204 and 305. This matter is *dismissed*.

DATE: March 31, 2020.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By /s/ Rebecca Ophus
REBECCA OPHUS
Hearing Officer

PRELIMINARY ORDER:

This preliminary order to dismiss will become final without further action of the agency unless any party petitions for reconsideration 14 days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration 21 days of its receipt, or the petition will be considered denied by operation of law. Idaho Code § 67-5243(3).

Within 21 days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within 21 days to grant or deny a petition for reconsideration, any party may appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have 21 days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion.

If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs and may schedule

oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within 56 days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

If this preliminary order becomes final, any party aggrieved by the final order may appeal with 28 days to district court by filing a petition in the district court of the county: where a hearing was held; where the final agency action took place; where the party seeking review of the order resides; or where the real property or personal property that was the subject of the agency action is attached. Filing an appeal in district court does not itself stop the order's effectiveness or enforcement. Idaho Code §§ 67-5270 and 67-5272.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of March, 2020, I caused to be served a true and correct copy of the foregoing by the following method to:

Howard Rude
Maplewood Property Management, LLC
6426 E. Maplewood Ave.
Post Falls, ID 83854
Email: hrude@etcoservices.com

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

Dordon Dobler
Frame & Smetana
603 N. 4th St.
Coeur d'Alene, ID 83814
Email: gordon@doblerengineering.com

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

Christopher Cheeley
6314 E. Maplewood Ave.
Post Falls, ID 83854

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

Kirk Hill
6340 E. Maplewood Ave.
Post Falls, ID 83854

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

Angela Schaer Kaufmann
OAG-Natural Resources
P.O. Box 83720
Boise, ID 83720
Main: 208-334.4120
Email: angela.kaufmann@ag.idaho.gov

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

Kourtney Romine
Administrative Assistant II
Idaho Department of Lands
300 N. 6th Street, Suite 103
P.O. Box 83720
Boise, ID 83720-0050
Email: kromine@idl.idaho.gov

- U.S. Mail
- Hand Delivery
- Facsimile:
- Email

/s/ Sam Seevers

SAM SEEVERS, PARALEGAL
FAIR HEARINGS UNIT