

## Wolf Lodge Bay Rezoning 1

Isaac Harrison

Anyone who travels down highway 97 can see that this route passes by a Scenic lakeside bay & natural area known for its walking trails & bald eagle watching opportunities. This is what the bay, the highway, and the East end of the Coeur d' Alene lake is best known for. This beauty, especially the natural wildlife that flourish in this area, must be protected.

In order to create something as permanent as a pier or bulkhead, we must ensure that endangered species won't be harmed by these developments. Before dock construction, a pier, or bulkhead can be built, it must be shown that it is in compliance with the Endangered Species Act, the National Environmental Policy Act, the Clean Water Act, and the Rivers and Harbors Act. The criteria laid out in these laws must be met and it must be shown that no species would be significantly jeopardized. The endangered Bull Trout is one such species that could potentially be harmed.

The number of Bull Trout in the East end of the lake is relatively unknown, yet the The Coeur d'Alene Lake basin as a whole is one of 22 recovery units designated for bull trout in the Columbia River basin. The Bull Trout, because it is listed as threatened by the Endangered Species Act, by law must be surveyed before construction can take place.

It does not seem that any survey has been done to determine if there are Bull Trout in Wolf Lodge Bay or Wolf Lodge Creek. By law this survey has to be done through the Army Corp of Engineers for even a project as simple as installing riprap let alone a huge project like Condon proposes.

Not only could this pier have adverse effects on Bull Trout, it would also effect other types of fish such as Kokanee and native Westslope Cutthroat trout.

It has been stated by Chip Corsi of the Idaho Fish and Game that the peninsula and the submerged private lands are in the shallow portion of the bay, and are thus muddy, and are not used by Kokanee for breeding and spawning. However, while some of the easternmost end of the bay is shallow and muddy, the peninsula is neither. Pictures at low winter water show not only a plethora of dead spawning Kokanee along the rocky shore, but also rocky shoreline that female Kokanee can lay their eggs in and that all Kokanee spawn in. Subsequent spawning lures in other wildlife such as eagles, which hundreds of thousands of tourists come out to this bay to see. It is in this exact area that the proposed development would take place.

As stated by the Idaho Wildlife federation, development of Wolf Lodge Bay would also have a very negative impact to the water and fisheries at Wolf Lodge Bay. This body of water contains native Westslope Cutthroat trout. These Cutthroats reside along the rocky banks and up the Wolf lodge bay creek that dumps its deep cold water directly into the proposed development zone. It also must be noted that by creating this bulkhead, pike population is likely to go up, subsequently reducing the number of Native Westslope Cutthroat trout in this area.

Preserving species such as Kokanee, and Cutthroat trout should be a top priority.

This wildlife, along with others, would be threatened if this pier is built and heavy equipment is stored at this sensitive site. It's a fact- heavy equipment drips fluids that harm wildlife and this equipment also poses a huge risk if there is a spill or burst due to an accident. It is because of this potential disruption and contamination that all involved must be wary and all steps must be taken to ensure that there would be no impact to the lake if this development took place. People have realized the impact that such a zone change would have and thus have remained diligent in keeping the East end of the bay pristine.

Rezoning such as the one proposed have been attempted twice in the past and have failed both times because of the peoples overall desire to protect the natural aesthetics of the area. In 1986 and in 1989, when rezoning was attempted in the Wolf Lodge Bay area, rezoning failed because of the harm that would come about to this part of the lake. In the past, when rezoning has been attempted, The Bureau of Land Management, The Department of Health and Welfare, and The Idaho Fish and Game all stepped forward and said the Wolf Lodge Bay area was an important location for fish, wildlife, and recreation. Kootenai County Commissioners themselves upheld their decision to not allow rezoning stating, amongst other reasons, that such a zone change would have negative effects on fish, wildlife, wintering for bald eagles, steep hillsides, wetlands, lakeshore, tourist revenue, and the overall aesthetics of the east end of the lake. These experts have in the past all held to the belief that the rezoning of the Wolf Lodge Bay area would be inappropriate and would ultimately be harmful.

It was not until 1990 when the scope of the rezoning area was reduced that the county reconsidered and allowed a commercial rezone but even then it was stated in the Order numerous times that it was only for recreational use. There's a huge difference between zoning and use and an industrial use is not appropriate for this area nor does it meet the rezoning order intention or wording.

Since 1990, tourism in Idaho has grown to be an even larger part of Coeur d'Alene culture. Now more than ever we must ensure that this scenic drive around Coeur d'Alene lake remains beautiful and that the Bull Trout, Kokanee, and native Westslope Cutthroat are protected.

Extra

What follows are more in depth arguments discussing the ideas previously mentioned. Also included are websites, evidence, and pictures that support the statements previously made.

The US government created the Rivers and harbor Act to ensure that the natural beauty of America is not overly abused.

<https://core.ac.uk/download/pdf/62550481.pdf>

Sections 9 and 10 of the Rivers and Harbors Act of 1899' grant the United States Army Corps of Engineers (Corps) control over obstructions to navigable waters.

In 1970 Congress passed the National Environmental Policy Act,63 requiring, among other things, that the Army Corps of Engineers prepare assessments of the environmental effects of all authorized projects.

This review includes consideration of ecology, pollution, effects on fish and wildlife, aesthetics, and conservation.69 A public interest review is not pro forma: the Corps has noted that "[t]he decision as to whether a permit will be issued must rest on an evaluation of all relevant factors ....  
-70

Later on, the US Government wished to further protect wildlife, so they established the Endangered Species Act to ensure the protection of endangered species.

<https://www.energy.gov/nepa/downloads/usfws-endangered-species-act-and-section-7-regulations-and-resources#:~:text=Section%207%20of%20the%20ESA,the%20continued%20existence%20of%20listed>

The purpose of the Endangered Species Act (ESA) is to protect and recover imperiled species and the ecosystems upon which they depend

Section 7 of the Endangered Species Act requires Federal agencies to use their legal authorities to promote the conservation purposes of the Endangered Species Act and to consult with the USFWS (US Fish and Wildlife Service) and NMFS (National Marine Fisheries Service), as appropriate, to ensure that effects of actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species.

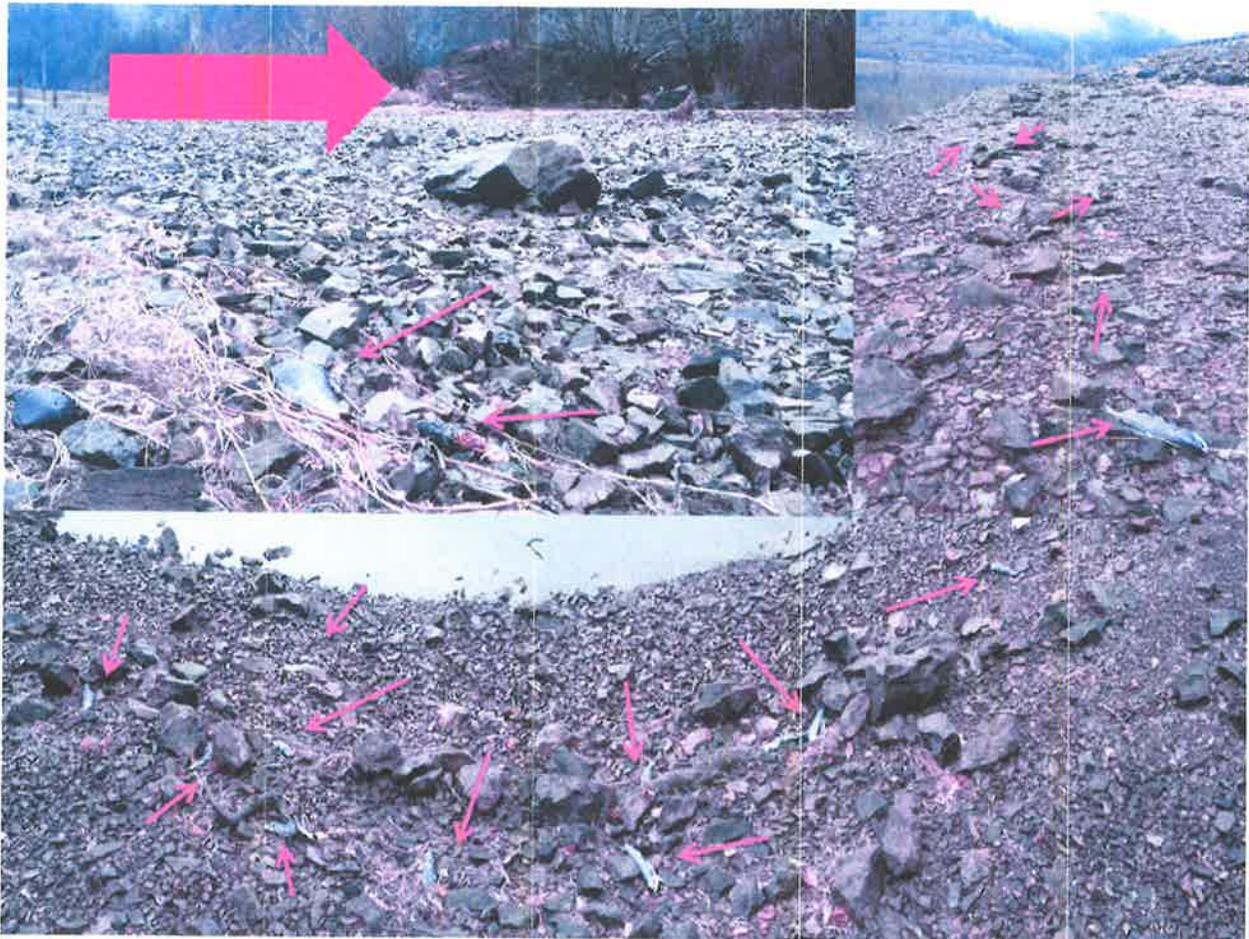
These laws protect wildlife such as the Bull trout which reside in Coeur d'Alene lake.

[https://www.fws.gov/pacific/bulltrout/RP/Chapter\\_15%20Coeur%20d%20Alene.pdf](https://www.fws.gov/pacific/bulltrout/RP/Chapter_15%20Coeur%20d%20Alene.pdf)

The Coeur d'Alene Lake basin is one of 22 recovery units designated for bull trout in the Columbia River basin

While it is unknown whether these bull trout reside in this exact area, during low tide of spawning season, a number of things can be observed.





(Note the big arrow in the picture represents where the proposed pier would go)

These pictures, taken during low water during spawning season, clearly show 1) the area around the proposed development is rocky, not muddy and 2) many types of fish spawn in and around this area. Some of these fish could include Bull Trout or other fish on the Endangered Species Act.

The preservation of bull trout is important because,

According to

[https://www.fws.gov/oregonfwo/species/Data/BullTrout/Documents/finalQA\\_01.13.10.pdf](https://www.fws.gov/oregonfwo/species/Data/BullTrout/Documents/finalQA_01.13.10.pdf)

Bull trout have declined due to habitat degradation and fragmentation, blockage of migratory corridors, poor water quality, past fisheries management, and the introduction of non-native species such as brown, lake and brook trout. While bull trout occur over a large area, their distribution and abundance has declined and several local extinctions U.S. Fish and Wildlife

Service have been documented. Many of the remaining populations are small and isolated from each other, making them more susceptible to local extinctions.

These bull trout must be preserved. Fortunately, laws are in place to ensure this protection is carried out.

<https://openei.org/wiki/RAPID/Roadmap/9-FD-k#:~:text=The%20National%20Environmental%20Policy%20Act,%C2%A7%201508.18>.

The National Environmental Policy Act (NEPA) requires federal agencies, including the U.S. Army Corps of Engineers (USACE), to consider the potential environmental impacts of their proposed actions and any reasonable alternatives before undertaking a major federal action, as defined by 40 C.F.R. § 1508.18.

<https://core.ac.uk/download/pdf/62550481.pdf>

In 1970 Congress passed the National Environmental Policy Act,63 requiring, among other things, that the Army Corps of Engineers prepare assessments of the environmental effects of all authorized projects.

This isn't the only law however. Another law states that

[https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification#:~:text=Under%20Section%20401%20of%20the%20Clean%20Water%20Act%20\(CWA\)%2C,401%20water%20quality%20certification%20verifying](https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification#:~:text=Under%20Section%20401%20of%20the%20Clean%20Water%20Act%20(CWA)%2C,401%20water%20quality%20certification%20verifying)

Under Section 401 of the Clean Water Act (CWA), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a state or authorized tribe where the discharge would originate issues a Section 401 water quality certification verifying compliance with existing water quality requirements or waives the certification requirement.

These requirements must be met. Before a pier can be built, organizations must affirm that the natural habitat of animals would not be harmed. Many organizations realize the importance of Wolf Lodge Bay as a fish habitat.

The Bureau of Land Management in 1989 went on record saying that

Wolf Lodge Bay is important spawning habitat for Kokanee Salmon. As a result, it is also important wintering habitat for the endangered Bald Eagle. On an average year, thirty or more eagles reside in the area from November through January. This not only is important habitat for the species but it also provides opportunity for the public to view the birds. In recognition of these values the BLM directed management of public lands in the Mineral Ridge area to protection of habitat for the eagles. Commercial development would destroy the management direction set by the BLM and result in loss of public values.

The Department of Health and Welfare also stated that

The Special Resource Water classification emphasizes the fact that Wolf Lodge Creek as a unique and sensitive resource, worthy of special attention.

The Idaho Fish and Game in 1989 also recognized that Wolf Lodge Bay was an inappropriate place to create dock storage.

Wolf Lodge Bay is a critical area for both fish and wildlife. The Wolf Lodge Creek watershed supports the single largest population of adfluvial westslope cutthroat in the northern end of Coeur d'Alene Lake. These fish are supporting a trout fishery in the lake without stocking. The northern shoreline and north arm of Coeur d'Alene Lake supports most of the angling effort for cutthroat. Wolf Lodge Bay is a critical migratory corridor for both adult and juvenile fish and the shallow water at the mouth of Wolf Lodge Creek provides feeding and rearing areas for juvenile cutthroat. The bay also provides productive and diverse habitat for warm water species such as bass, northern pike, crappies and perch.

Wolf Lodge Bay, particularly the shallow areas with emergent vegetation around the mouth of Wolf Lodge Creek, are heavily used by waterfowl for nesting and rearing young. This aquatic vegetation is also important to the local deer population, and they especially feed on it in the spring to help them regain body condition after the rigorous winter months.

Wolf Lodge Bay is widely known for the numerous bald eagles that concentrate there in the winter time to feed on the kokanee that are spawning in the area. The eagles perch in trees adjacent to the water and provide a lot of enjoyment to the public who come in large numbers to see and photograph them. The trees along the south side of the bay are very important for eagle perching and it is likely that existing eagle use of this area would be negatively impacted by increased development along the shoreline.

We are also concerned about the potential impact of commercial development on water quality conditions in the bay. We have commented several times on proposals to build a marina in this bay. The shallow nature of the bay would require extensive dredging to be functional. Nutrient loading from large boats stirring up bottom sediments is another significant problem associated with increased boat traffic in this shallow bay.

We feel the critical importance of Wolf Lodge Bay for fish, wildlife and water quality should be a major consideration in any proposal to change the existing low impact use of this area to some more intensive use.

These organizations have condemned rezoning of the area in the past. However, nowhere are the arguments so clearly laid out as in the letter created by the Kootenai County Commissioners

Kootenai County Commissioners  
David W. Ortmann  
Regional Supervisor

September 28, 1989

Stated

In the matter of a zoning change request for property at Wolf Lodge Bay we previously advised County Planning and Zoning, in our August 1 letter, of some outstanding fish and wildlife values that the area possesses. And, apparently, we addressed the same issue when it was before the county in 1986, and provided a letter of concerns dated June 4, 1986. Without repeating all of that material again, I'll just summarize that Wolf Lodge Bay is still important locally and regionally for fisheries and wildlife including kokanee, chinook salmon, cutthroat trout, several warm water fish species, deer, waterfowl and bald eagles. The area has gained special prominence as a wintering area for the bald eagles, which in this area is on the US Government's endangered species list, and is also classified "endangered" by the Idaho Fish and Game Commission. This proposal is difficult to address since development of the land is implied but not specified. The nature and extent of impacts to fish and wildlife would naturally reflect the nature and extent of development. In the absence of a specific development plan we can only anticipate an end product of extensive development, both upland and shoreline. Unfortunately, the property brings with it an extremely difficult environment for development since it involves steep hillsides, wetlands, lakeshore, a riparian zone and touches on all of the extremely valuable resources previously mentioned. Well conceived development has been a boon to the economic vitality of the local area, and we have worked hard and successfully with developers to soften or mitigate fish and wildlife impacts. However, we would not offer hope that mitigative practices used elsewhere would be effective on these lands. To put one issue into perspective, over the long term, bald eagles that would be displaced by development would simply cease to exist. The values of the fisheries of the north end of Coeur d'Alene Lake to the local economy are extensive and are derived largely from kokanee production in the Beauty Bay Wolf Lodge Bay vicinity. This fishery, for which we are charged with the responsibility to manage and perpetuate generates about \$1.4 million yearly expended locally for items such as travel, food and tackle--without consideration for major items such as boats and trailers. This is merely for the portion of the lake north of Arrow Point. Our department feels a keen obligation to maintain or improve values such as this into the future. We feel these monetary and intrinsic values could be at risk with development. We ask that the Commission use utmost caution in this matter, and we recommend that you take no action toward this rezoning.

The rezoning of this area would be harmful to the lake and to the people around it. Rather than provide a service, this rezoning would be a disservice to the beauty, the wildlife, the fish, and the residents who have to be affronted by this blight on our beautiful lake.



## Wolf Lodge Bay

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## SECTIONS 9 AND 10 OF THE RIVERS AND HARBORS ACT OF 1899: THE EROSION OF ADMINISTRATIVE CONTROL BY ENVIRONMENTAL SUITS

Sections 9 and 10 of the Rivers and Harbors Act of 1899<sup>1</sup> grant the United States Army Corps of Engineers (Corps) control over obstructions to navigable waters.<sup>2</sup> Section 9 outlines the requirements for ap-

1. 33 U.S.C. §§ 401, 403 (1976).

2. The Rivers and Harbors Act of 1899 contains several sections pertaining to Corps authority over navigation. Obstructions other than those listed in sections 9 and 10 are placed under Corps control in other parts of the Act.

Section 11 of the 1899 Act, *id.* § 404, empowers the Secretary of the Army to authorize harbor lines beyond which no structures may extend. Section 10 permits are now required for structures within the harborlines, although they were not necessary until 1970. 42 Fed. Reg. 37,161 (1977).

Section 12, 33 U.S.C. § 406 (1976), makes violations of sections 9, 10, and 11 criminal acts and imposes fines up to \$2500 or imprisonment for up to one year or both. This provision also allows for the removal or abatement of offending structures. Until recently violators were rarely prosecuted, and even now the Corps and the Justice Department are reluctant to prosecute. HOUSE COMM. ON GOVERNMENT OPERATIONS, INCREASING PROTECTION FOR OUR WATERS, WETLANDS, AND SHORFLINES: THE CORPS OF ENGINEERS, H.R. REP. NO. 1323, 92d Cong., 2d Sess. 16-26 (1972).

Section 13 (commonly known as "The Refuse Act"), 33 U.S.C. § 407 (1976), prohibits the discharge of "any refuse matter of any kind or description" into navigable waters. The Corps of Engineers, the Congress, and the Nixon administration all conceived the idea of prohibiting water pollution under this section at roughly the same time. The House Government Operations Committee first raised the issue in March of 1970. HOUSE COMM. ON GOVERNMENT OPERATIONS, OUR WATERS AND WETLANDS: HOW THE CORPS OF ENGINEERS CAN HELP PREVENT THEIR DESTRUCTION AND POLLUTION, H.R. REP. NO. 917, 91st Cong., 2d Sess. (1970). President Nixon established a formal section 13 permit program on December 23, 1970. Exec. Order No. 11,574, 3 C.F.R. 575 (1970). The Corps almost simultaneously promulgated the regulations for the program. 33 C.F.R. § 209.131 (1972). These actions were endorsed by many environmental groups. Rodgers, *Industrial Water Pollution and the Refuse Act: A Second Chance for Water Quality*, 319 U. PA. L. REV. 761, 767-69 (1971).

At least one commentator saw the danger of employing a 70-year-old provision to do the work of a comprehensive water pollution control program. See Comment, *Discharging New Wine into Old Wineskins: The Metamorphosis of the Rivers and Harbors Act of 1899*, 33 U. PA. L. REV. 483, 485 (1972). This use of section 13 proved to be a problem, and the program was suspended for one year following the case of *Katur v. Resor*, 335 F. Supp. 1 (D.D.C. 1971), in which the permit program was found to violate the terms of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4361 (1976). Congress subsequently passed the 1972 Amendments to the Federal Water Pollution Control Act, Pub. L. No. 92-500, § 402, 86 Stat. 816 (codified at 33 U.S.C. § 1342 (1976)), which prohibited the Corps from issuing further section 13 permits. The new Act gave the Environmental Protection Agency sole authority to issue water pollution discharge permits. Section 13 remains viable for criminal enforcement, but only when no permit is issued for the discharge. 42 Fed. Reg. 37,123 (1977); see HOUSE COMM. ON GOVERNMENT OPERATIONS,

ment of the Interior's Fish and Wildlife Service to determine the impact of governmental projects on fish and wildlife.<sup>62</sup> In 1970 Congress passed the National Environmental Policy Act,<sup>63</sup> requiring, among other things, that the Army Corps of Engineers prepare assessments of the environmental effects of all authorized projects.<sup>64</sup> Congress has pressured the Corps to follow these statutory dictates strictly. In 1970 the House Committee on Government Operations exhorted the Corps to intensify the environmental review in its permit process.<sup>65</sup> The Committee repeated its demand in 1972, stating that the Corps should "exercise its jurisdiction over navigable waters of the United States to the fullest extent available . . ."<sup>66</sup> Moreover, according to the Committee, the Corps should require that applicants for section 10 permits "affirmatively show that the proposed work is in the public interest."<sup>67</sup>

Even before this combination of statutory demands and congressional prodding, the Corps had instituted its own "public interest review."<sup>68</sup> This review includes consideration of ecology, pollution, effects on fish and wildlife, aesthetics, and conservation.<sup>69</sup> A public interest review is not pro forma: the Corps has noted that "[t]he decision as to whether a permit will be issued must rest on an evaluation of all relevant factors . . ."<sup>70</sup> In addition, the Corps has begun to prosecute

62. 16 U.S.C. § 662(a), (f) (1976). This Act applies to animals such as the wild burro.

63. Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified at 42 U.S.C. §§ 4321-4347 (1976)).

64. 42 U.S.C. § 4332 (1976). In addition, the Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92-500, 86 Stat. 816 (codified at 33 U.S.C. §§ 1251-1376 (1976)), created a comprehensive pollution-control program. The Corps of Engineers was authorized to issue permits for discharges of dredged material, 33 U.S.C. § 1344 (1976), also covered under section 10 of the 1899 Rivers and Harbors Act, *id.* § 403. The Federal Water Pollution Control Act Amendments are concerned only with pollutant discharges. *Id.* §§ 1251, 1342 (1976). The environmental review under sections 9 and 10, on the other hand, looks at the environmental impact of the *entire* waterway-related project. Projects may have significant onshore effects (e.g., the destruction of a valuable forest) or may affect fish and wildlife. Neither of these factors is considered in the environmental review conducted by the Corps, the Environmental Protection Agency, or state agencies under the procedures established by the 1972 Federal Water Pollution Control Act Amendments. Therefore, the environmental review of the Corps—concerning structures in navigable waters—is stronger and more far reaching under the Rivers and Harbors Act than under the Federal Water Pollution Control Act Amendments.

65. H.R. REP. NO. 917, *supra* note 2.

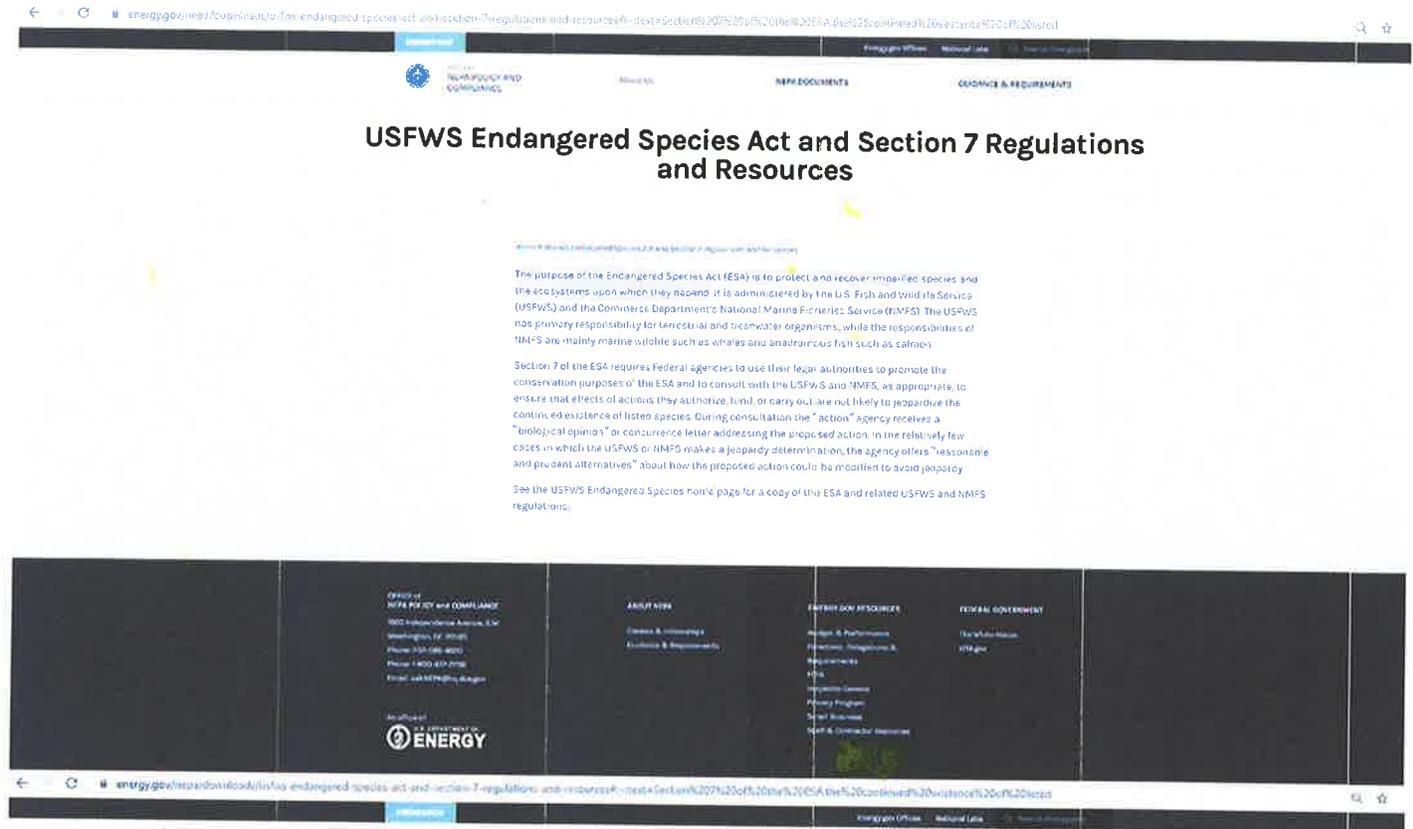
66. H.R. REP. NO. 1323, *supra* note 2, at 6.

67. H.R. REP. NO. 917, *supra* note 2, at 8.

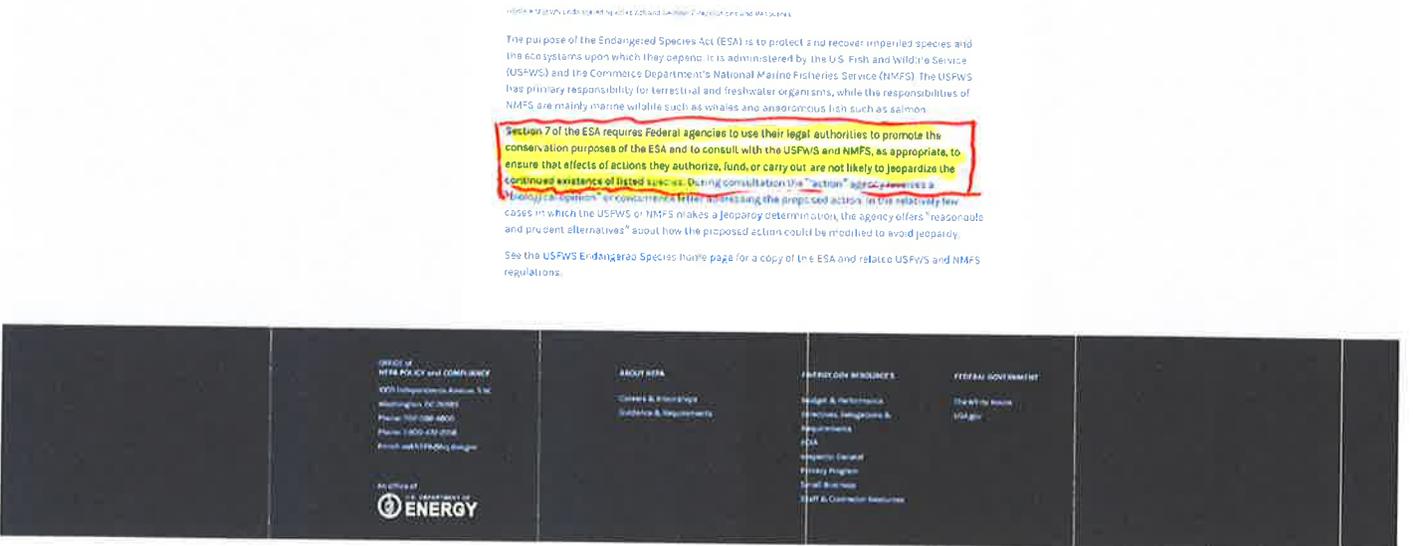
68. 33 C.F.R. §§ 209.110-120 (1969).

69. *Id.* § 209.120.

70. *Id.* Not surprisingly, several environmental commentators have welcomed the use of sections 9 and 10 as environmental tools. See Barker, *Sections 9 & 10 of the Rivers and Harbors Act of 1899: Potent Tools for Environmental Protection*, 6 *ECOLOGY L.Q.* 109 (1976); Castro, *The Use of Corps of Engineers Permit Authority as a Tool for Defending the Environment*, 11 *NAT. RESOURCES J.* 1 (1971); Kramon, *Section 10 of the Rivers and Harbors Act: The Emergence of a New Protection for Tidal Marshes*, 33 *MD. L. REV.* 229 (1973). Some have recognized the benefits of exploiting the weaknesses of sections 9 and 10: "[I]t is possible to creatively use the permit



## USFWS Endangered Species Act and Section 7 Regulations and Resources



## INTRODUCTION

### Recovery Unit Designation

The Coeur d'Alene Lake basin is one of 22 recovery units designated for bull trout in the Columbia River basin (Figure 1). Bull trout in the basin have probably been isolated for more than 10,000 years from fish in the rest of the Columbia River basin by Spokane Falls. Genetic analyses of tissue samples collected from bull trout in Medicine Creek in 1994 by the U.S. Fish and Wildlife Service indicated that these fish comprise a relatively unique stock, having evolved in isolation from other Columbia River basin bull trout for approximately 15,000 years since the Lake Missoula Bretz floods (Williams *et al.* 1994).

The Coeur d'Alene Lake Basin Recovery Unit (often called the Coeur d'Alene Recovery Unit in this chapter) is found within the area designated as the Columbia River distinct population segment and includes the Spokane River from Post Falls Dam to Coeur d'Alene Lake, the lake, and the entire lake drainage area. Two subbasins occur within the Coeur d'Alene Recovery Unit: the Coeur d'Alene and St. Joe Rivers. The largest tributaries that occur within these subbasins include the North Fork Coeur d'Alene River and South Fork Coeur d'Alene River in the Coeur d'Alene River subbasin and the St. Maries River in the St. Joe River subbasin. The Coeur d'Alene Recovery Unit represents a distinct and unique portion of the range of the species. Bull trout in the Coeur d'Alene Lake basin were addressed in a single problem assessment (PBTAT 1998) developed for the *State of Idaho Bull Trout Conservation Plan* (Batt 1996).

### Geographic Description

The Coeur d'Alene Recovery Unit (Figure 2) is located in four northern Idaho counties: Shoshone, Kootenai, Benewah, and Latah. Coeur d'Alene Lake is the principle water body in the basin and serves as the base elevation for the principle streams and rivers in the area. The lake is the second largest in Idaho. The cities of Coeur d'Alene (Kootenai County) and St. Maries (Benewah County)

U.S. Fish and Wildlife Service

## **Additional Information on Bull Trout And the Proposed Critical Habitat Revision January 2010**

### **Description of the species:**

Bull trout (*Salvelinus confluentus*) were listed in 1999 as threatened throughout their range in the coterminous United States, which includes Washington, Oregon, Idaho, Montana and Nevada. Bull trout are a cold-water fish of relatively pristine streams and lakes in northwestern North America. They are grouped with the char, within the salmonid family of fishes.

They have more specific habitat requirements than most salmonids, including the "Four C's": Cold, Clean, Complex, and Connected habitat. Bull trout require the coldest water temperatures; they require among the cleanest stream substrates for spawning and rearing; they require complex habitats, including streams with riffles and deep pools, undercut banks and lots of large logs; and they need connection from river, lake and ocean habitats to headwater streams for annual spawning and feeding migrations.

Bull trout can be found throughout the Columbia and Snake river basins, extending east to headwater streams in Montana and Idaho, into Canada and in the Klamath River Basin of south-central Oregon. However, the distribution of populations is scattered and patchy, primarily due to habitat degradation and fragmentation.

They are excellent indicators of water quality and protecting and enhancing their habitat can improve the water quality of rivers and lakes throughout their range.

### **Life history:**

Most bull trout populations are migratory, spending portions of their life cycle in larger rivers or lakes before returning to smaller streams to spawn, while some populations complete their entire life cycle in the same stream. Some bull trout in the Coastal-Puget Sound population migrate between fresh water and the marine environment.

Bull trout can grow to more than 20 pounds in lake environments and live up to 12 years. Under exceptional circumstances, they can live more than 20 years.

### **Range:**

In the Columbia River Basin, bull trout historically were found in about 60 percent of the basin. They now occur in less than half of their historic range. Populations remain in portions of Oregon, Washington, Idaho, Montana and Nevada. In the Klamath River Basin, bull trout occur in 21 percent of their historic range.

### **Threats to bull trout:**

Bull trout have declined due to habitat degradation and fragmentation, blockage of migratory corridors, poor water quality, past fisheries management, and the introduction of non-native species such as brown, lake and brook trout. While bull trout occur over a large area, their distribution and abundance has declined and several local extinctions

U.S. Fish and Wildlife Service

have been documented. Many of the remaining populations are small and isolated from each other, making them more susceptible to local extinctions.

Expected climate change threatens bull trout throughout their range in the coterminous United States. With a warming climate, cool-enough spawning and rearing areas are expected to shrink during warm seasons, in some cases very dramatically, causing them to become even more isolated from one another. Climate change will likely interact with other stressors, such as habitat loss and fragmentation, invasions of non-native fish, disease and other threats, to render some current spawning, rearing and migratory habitats marginal or wholly unsuitable.

**What action is the Fish and Wildlife Service taking?**

The Service is proposing to revise the 2005 critical habitat designation for the bull trout, a threatened species protected under the federal Endangered Species Act throughout its range in the lower 48 states.

**Why is the Service proposing to revise the critical habitat designation?**

In 2005, the Service designated approximately 3,828 miles of streams and 143,218 acres of lakes in Idaho, Montana, Oregon and Washington as critical habitat for the bull trout. Approximately 985 miles of shoreline paralleling marine habitat in Washington also was designated. No critical habitat was designated in the Jarbidge River basin. This was significantly less than the amount of critical habitat the Service had proposed in 2002 and 2004.

On January 5, 2006, a lawsuit was filed by the Alliance for the Wild Rockies and Friends of the Wild Swan, alleging, among other things, that the Service failed to designate adequate critical habitat and unlawfully excluded areas from the final designation.

On March 23, 2009, the Service notified the U.S. District Court of Oregon that the agency would seek a remand of the 2005 final critical habitat rule based on the findings of an Investigative Report by the Department of the Interior Inspector General. The report found that a former Department of the Interior political appointee had extensively interfered with the final 2005 designation by directing large areas to be excluded from what had been proposed and by not allowing the inclusion of any areas unless there was absolute certainty that bull trout were present.

On July 1, 2009, the court granted the Service's request for a voluntary remand of the 2005 rule and directed the agency to complete a proposed revision by December 31, 2009, with a final designation due by September 30, 2010.

**How is this proposed critical habitat revision similar or different from earlier proposals and the 2005 final designation?**

This proposal is similar to previous proposals to designate critical habitat in the types of habitat proposed but different from the 2005 final designation in the fact that we are not proposing to exclude any areas that have determined to be essential to the conservation of the species. In the 2005 final designation, nearly all federal lands were excluded if they

## U.S. Army Corps of Engineers - NEPA Review (9-FD-k)

Information current as of 2/22/20

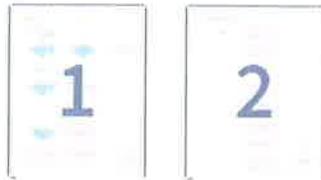
**The National Environmental Policy Act (NEPA) requires federal agencies, including the U.S. Army Corps of Engineers (USACE), to consider the potential environmental impacts of their proposed actions and any reasonable alternatives before undertaking a major federal action, as defined by 40 C.F.R. § 1508.18.** This flowchart illustrates the procedures used by USACE to ensure compliance with NEPA. The District Commander is the USACE official responsible for compliance with NEPA. ER 200-2-2, p. 2.

The **Council on Environmental Quality (CEQ)** has established general regulations governing all NEPA actions, which can be found at **40 C.F.R. § 1500 - 1518**. In addition, **40 C.F.R. § 1507.3** requires federal agencies to establish procedures that implement the CEQ regulations.

The appropriate level of NEPA documentation may fall within one of three categories (discussed in more detail below):

1. a Categorical Exclusion (CX)
2. an Environmental Assessment (EA)
3. an Environmental Impact Statement (EIS)

## U.S. Army Corps of Engineers - NEPA Review Process



- + 9.1 to 9.3 - Is the Project or Action Categorically Excluded?
- + 9.4 - Conduct On-Site Evaluation
- + 9.5 - Is the Action One that Normally Requires an EIS?
- + 9.6 - Environmental Assessment (EA)
- + 9.7 - Provide Public Notice of EA

NEPA Process



### Agencies

- U.S. Army Corps of Engineers
- Council on Environmental Quality
- Environmental Protection Agency

### Contact Information

U.S. Army Corps of Engineers  
Section 404 Regulatory  
Contacts

[Visit Website](#)

U.S. Army Corps of Engineers  
Section 408 Regulatory  
Contacts

[Visit Website](#)

Suggest edits using the Feedback button above.

### Regulations

- 42 U.S.C. §§ 4321-4370m, National Environmental Policy Act,
- 33 C.F.R. §§ 325 et seq., Appendix B Processing of Department of the Army Permits
- 40 C.F.R. §§ 1501 et seq., NEPA and Agency Planning
- 40 C.F.R. §§ 1502 et seq., Environmental Impact Statement
- 40 C.F.R. §§ 1503 et seq., Commenting
- 40 C.F.R. §§ 1505 et seq., NEPA and Agency Decisionmaking
- 40 C.F.R. §§ 1506 et seq., Other Requirements of NEPA
- 40 C.F.R. §§ 1507 et seq., Agency Compliance
- 40 C.F.R. §§ 1508 et seq., Terminology and Index

## SECTIONS 9 AND 10 OF THE RIVERS AND HARBORS ACT OF 1899: THE EROSION OF ADMINISTRATIVE CONTROL BY ENVIRONMENTAL SUITS

Sections 9 and 10 of the Rivers and Harbors Act of 1899<sup>1</sup> grant the United States Army Corps of Engineers (Corps) control over obstructions to navigable waters.<sup>2</sup> Section 9 outlines the requirements for ap-

1. 33 U.S.C. §§ 401, 403 (1976).

2. The Rivers and Harbors Act of 1899 contains several sections pertaining to Corps authority over navigation. Obstructions other than those listed in sections 9 and 10 are placed under Corps control in other parts of the Act.

Section 11 of the 1899 Act, *id.* § 404, empowers the Secretary of the Army to authorize harbor lines beyond which no structures may extend. Section 10 permits are now required for structures within the harborlines, although they were not necessary until 1970. 42 Fed. Reg. 37,161 (1977).

Section 12, 33 U.S.C. § 406 (1976), makes violations of sections 9, 10, and 11 criminal acts and imposes fines up to \$2500 or imprisonment for up to one year or both. This provision also allows for the removal or abatement of offending structures. Until recently violators were rarely prosecuted, and even now the Corps and the Justice Department are reluctant to prosecute. HOUSE COMM. ON GOVERNMENT OPERATIONS, INCREASING PROTECTION FOR OUR WATERS, WETLANDS, AND SHORELINES: THE CORPS OF ENGINEERS, H.R. REP. NO. 1323, 92d Cong., 2d Sess. 16-26 (1972).

Section 13 (commonly known as "The Refuse Act"), 33 U.S.C. § 407 (1976), prohibits the discharge of "any refuse matter of any kind or description" into navigable waters. The Corps of Engineers, the Congress, and the Nixon administration all conceived the idea of prohibiting water pollution under this section at roughly the same time. The House Government Operations Committee first raised the issue in March of 1970. HOUSE COMM. ON GOVERNMENT OPERATIONS, OUR WATERS AND WETLANDS: HOW THE CORPS OF ENGINEERS CAN HELP PREVENT THEIR DESTRUCTION AND POLLUTION, H.R. REP. NO. 917, 91st Cong., 2d Sess. (1970). President Nixon established a formal section 13 permit program on December 23, 1970. Exec. Order No. 11,574, 3 C.F.R. 575 (1970). The Corps almost simultaneously promulgated the regulations for the program. 33 C.F.R. § 209.131 (1972). These actions were endorsed by many environmental groups. Rodgers, *Industrial Water Pollution and the Refuse Act: A Second Chance for Water Quality*, 119 U. PA. L. REV. 761, 767-69 (1971).

At least one commentator saw the danger of employing a 70-year-old provision to do the work of a comprehensive water pollution control program. See Comment, *Discharging New Wine into Old Wineskins: The Metamorphosis of the Rivers and Harbors Act of 1899*, 33 U. PITT. L. REV. 483, 485 (1972). This use of section 13 proved to be a problem, and the program was suspended for one year following the case of *Kalor v. Resor*, 335 F. Supp. 1 (D.D.C. 1971), in which the permit program was found to violate the terms of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4361 (1976). Congress subsequently passed the 1972 Amendments to the Federal Water Pollution Control Act, Pub. L. No. 92-500, § 402, 86 Stat. 816 (codified at 33 U.S.C. § 1342 (1976)), which prohibited the Corps from issuing further section 13 permits. The new Act gave the Environmental Protection Agency sole authority to issue water pollution discharge permits. Section 13 remains viable for criminal enforcement, but only when no permit is issued for the discharge. 42 Fed. Reg. 37,123 (1977); see HOUSE COMM. ON GOVERNMENT OPERATIONS,

ment of the Interior's Fish and Wildlife Service to determine the impact of governmental projects on fish and wildlife.<sup>62</sup> In 1970 Congress passed the National Environmental Policy Act,<sup>63</sup> requiring, among other things, that the Army Corps of Engineers prepare assessments of the environmental effects of all authorized projects.<sup>64</sup> Congress has pressured the Corps to follow these statutory dictates strictly. In 1970 the House Committee on Government Operations exhorted the Corps to intensify the environmental review in its permit process.<sup>65</sup> The Committee repeated its demand in 1972, stating that the Corps should "exercise its jurisdiction over navigable waters of the United States to the fullest extent available . . ."<sup>66</sup> Moreover, according to the Committee, the Corps should require that applicants for section 10 permits "affirmatively show that the proposed work is in the public interest."<sup>67</sup>

Even before this combination of statutory demands and congressional prodding, the Corps had instituted its own "public interest review."<sup>68</sup> This review includes consideration of ecology, pollution, effects on fish and wildlife, aesthetics, and conservation.<sup>69</sup> A public interest review is not pro forma: the Corps has noted that "[t]he decision as to whether a permit will be issued must rest on an evaluation of all relevant factors . . ."<sup>70</sup> In addition, the Corps has begun to prosecute

62. 16 U.S.C. § 662(a), (f) (1976). This Act applies to animals such as the wild burro.

63. Pub. L. No. 91-190, 83 Stat. 852 (1970) (codified at 42 U.S.C. §§ 4321-4347 (1976)).

64. 42 U.S.C. § 4332 (1976). In addition, the Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92-500, 86 Stat. 816 (codified at 33 U.S.C. §§ 1251-1376 (1976)), created a comprehensive pollution-control program. The Corps of Engineers was authorized to issue permits for discharges of dredged material, 33 U.S.C. § 1344 (1976), also covered under section 10 of the 1899 Rivers and Harbors Act, *id.* § 403. The Federal Water Pollution Control Act Amendments are concerned only with pollutant discharges. *Id.* §§ 1251, 1342 (1976). The environmental review under sections 9 and 10, on the other hand, looks at the environmental impact of the *entire* waterway-related project. Projects may have significant onshore effects (*e.g.*, the destruction of a valuable forest) or may affect fish and wildlife. Neither of these factors is considered in the environmental review conducted by the Corps, the Environmental Protection Agency, or state agencies under the procedures established by the 1972 Federal Water Pollution Control Act Amendments. Therefore, the environmental review of the Corps—concerning structures in navigable waters—is stronger and more far reaching under the Rivers and Harbors Act than under the Federal Water Pollution Control Act Amendments.

65. H.R. REP. NO. 917, *supra* note 2.

66. H.R. REP. NO. 1323, *supra* note 2, at 6.

67. H.R. REP. NO. 917, *supra* note 2, at 8.

68. 33 C.F.R. §§ 209.110-120 (1969).

69. *Id.* § 209.120.

70. *Id.* Not surprisingly, several environmental commentators have welcomed the use of sections 9 and 10 as environmental tools. See Barker, *Sections 9 & 10 of the Rivers and Harbors Act of 1899: Potent Tools for Environmental Protection*, 6 *ECOLOGICAL L.Q.* 109 (1976); Castro, *The Use of Corps of Engineers Permit Authority as a Tool for Defending the Environment*, 11 *NAT. RESOURCES J.* 1 (1971); Kramon, *Section 10 of the Rivers and Harbors Act: The Emergence of a New Protection for Tidal Marshes*, 33 *M.D. L. REV.* 229 (1973). Some have recognized the benefits of exploiting the weaknesses of sections 9 and 10: "[I]t is possible to creatively use the permit



## CWA Section 401 Certification

Section 401 Certification Home

**Basic Information on Section 401 Certification**

Statutory and Regulatory Requirements

Final Rule

Outreach and Engagement

Proposed Rule

Guidance on Section 401 Certification

## Basic Information on CWA Section 401 Certification

**Under Section 401 of the Clean Water Act (CWA), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a state or authorized tribe where the discharge would originate issues a Section 401 water quality certification verifying compliance with existing water quality requirements or waives the certification requirement. Some of the major federal licenses and permits subject to Section 401 include:**

- Section 402 and 404 permits (in non-delegated states),
- Federal Energy Regulatory Commission (FERC) hydropower licenses, and
- Rivers and Harbors Act Section 9 and 10 permits.

The CWA provides that states and authorized tribes **must act on their Section 401 authority within "any reasonable time not to exceed one year", with the reasonable period being decided by the federal permitting or licensing agency.** A state or authorized tribe may waive the certification voluntarily, or by failing or refusing to act within the established reasonable time period. States and authorized tribes make their decisions to grant, grant with conditions, or deny certification requests primarily by ensuring the federally-licensed or permitted activity will comply with applicable water quality standards, effluent limitations, new source performance standards, toxic pollutants restrictions and other appropriate water quality requirements of state or tribal law.

A federal agency may not issue a license or permit without a certification or waiver from the state or authorized tribe where the discharge originates.

### More Information:

- [Read Section 401](#)
- [Learn how Section 401 applies to wetlands](#)
- [Read EPA's guidance on Section 401](#)



Region I  
2320 Government Way  
Coeur d'Alene, Idaho 83814-3681  
Telephone: (208) 765-3311

RECEIVED OCT 02 1989

September 28, 1989

BOARD OF COUNTY COMMISSIONERS  
**RECEIVED**  
OCT 02 1989

Kootenai County Commissioners  
Kootenai County Courthouse  
501 Government Way  
Coeur d'Alene, ID 83814

CHAIRMAN

Dear Commissioners:

In the matter of a zoning change request for property at Wolf Lodge Bay we previously advised County Planning and Zoning, in our August 1 letter, of some outstanding fish and wildlife values that the area possesses. And, apparently, we addressed the same issue when it was before the county in 1986, and provided a letter of concerns dated June 4, 1986. Without repeating all of that material again, I'll just summarize that Wolf Lodge Bay is still important locally and regionally for fisheries and wildlife including kokanee, chinook salmon, cutthroat trout, several warmwater fish species, deer, waterfowl and bald eagles. The area has gained special prominence as a wintering area for the bald eagles, which in this area is on the US Government's endangered species list, and is also classified "endangered" by the Idaho Fish and Game Commission.

This proposal is difficult to address since development of the land is implied but not specified. The nature and extent of impacts to fish and wildlife would naturally reflect the nature and extent of development. In the absence of a specific development plan we can only anticipate an end product of extensive development, both upland and shoreline. Unfortunately, the property brings with it an extremely difficult environment for development since it involves steep hillsides, wetlands, lakeshore, a riparian zone and touches on all of the extremely valuable resources previously mentioned.

Well conceived development has been a boon to the economic vitality of the local area, and we have worked hard and successfully with developers to soften or mitigate fish and wildlife impacts. However, we would not offer hope that mitigative practices used elsewhere would be effective on these lands. To put one issue into perspective, over the long term, bald eagles that would be displaced by development would simply cease to exist.

The values of the fisheries of the north end of Coeur d'Alene Lake to the local economy are extensive and are derived largely from kokanee production in the Beauty Bay/Wolf Lodge Bay vicinity. This fishery, for which we are charged with the responsibility to manage and perpetuate generates about \$1.4

EQUAL OPPORTUNITY EMPLOYER

TOO LATE TO CONSIDER

Kootenai County Commissioners

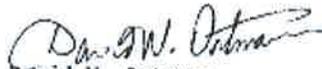
Page 2

September 28, 1989

million yearly expended locally for items such as travel, food and tackle--without consideration for major items such as boats and trailers. This is merely for the portion of the lake north of Arrow Point. Our department feels a keen obligation to maintain or improve values such as this into the future. We feel these monetary and intrinsic values could be at risk with development.

We ask that the Commission use utmost caution in this matter, and we recommend that you take no action toward this rezoning.

Sincerely,

  
David W. Ortmann  
Regional Supervisor

DWO:njk



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
COEUR D'ALENE DISTRICT OFFICE  
1808 NORTH THIRD STREET  
COEUR D'ALENE, IDAHO 83814



IN REPLY REFER TO

6840(370)

Sandy Cobb  
Lead Planner  
Kootenai County Planning Dept.  
501 Govt. Way C-9000  
Coeur d'Alene, Idaho 83814

AUG 4 1989

Dear Ms Cobb:

The Bureau of Land Management wishes to go on record opposed to Z-581-89, a request to change property zoning on Wolf Lodge Bay. The property is next to BLM controlled land.

Wolf Lodge Bay is important spawning habitat for Kokanee Salmon. As a result, it is also important wintering habitat for the endangered Bald Eagle. On an average year, thirty or more eagles reside in the area from November through January. This not only is important habitat for the species but it also provides opportunity for the public to view the birds. In recognition of these values the BLM directed management of public lands in the Mineral Ridge area to protection of habitat for the eagles. Commercial development would destroy the management direction set by the BLM and result in loss of public values.

In order for commercial development to take place filling of the wetlands and excavation of the hillside would occur. Both are detrimental to the wildlife and scenic values of the lake. In addition, special provisions would have to be made for sewage and water.

Thank you for the opportunity to comment on this proposal.

Sincerely,

Mert Lombard  
Area Manager,  
Emerald Empire Resource Area

RECEIVED AUG 7 1989



State of Idaho  
DEPARTMENT OF HEALTH AND WELFARE  
Division of Environmental Quality

CECIL D. ANDRUS  
Governor  
RICHARD P. DONOVAN  
Director

2110 Ironwood Parkway  
Coeur d'Alene, ID 83814  
(208) 687-3524

RECEIVED AUG 8 1989

August 7, 1989

Sandy Cobb, Planner  
Kootenai County Technical Services Division  
501 Government Way  
Coeur d'Alene, Idaho 83814

RE: Wolf Lodge Creek

Idaho Water Quality Standards (Appendix) specify that Wolf Lodge Creek shall be protected for its beneficial use as a domestic water supply (drinking water), as an agricultural water supply, for its cold water biota, for salmonid spawning purposes, and for primary contact recreation. Wolf Lodge Creek is also classified as a Special Resource Water, identified by at least one of the following characteristics:

1. The water is of outstandingly high quality, exceeding both the criteria for primary contact recreation and cold water biota; or
2. The water is of unique ecological significance; or
3. The water possesses outstanding recreational or aesthetic qualities; or
4. Intensive protection of the quality of the water is of paramount interest of the people of Idaho; or
5. Intensive protection of the quality of the water is necessary to maintain an existing, but jeopardized beneficial use.

Significant land use changes or development proposals for the Wolf Lodge Creek drainage should be considered, based on their ability to meet the



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PA4

Sandy Cobb  
RE: Wolf Lodge Creek

August 7, 1989  
Page 2

Idaho Water Quality Standards and the criteria necessary to protect these designated beneficial uses from nonpoint sources of pollution (e.g. sediment or excess nutrients). The Special Resource Water classification emphasizes the fact that Wolf Lodge Creek as a unique and sensitive resource, worthy of special attention.

Thank you for the opportunity to comment on the status of Wolf Lodge Creek.

Sincerely,

*James M. Bellatty*  
James M. Bellatty  
Senior Water Quality Specialist

cc: Ed Tulloch, IDEQ-CFO  
Ned Horner, IDFG



IDAHO FISH & GAME  
REGION 1  
2320 Government Way  
Coeur d'Alene, ID 83614  
(208) 765-3111

RECEIVED AUG 3 1989

KOOTENAI COUNTY ENGINEERING  
700 S. 2ND ST. COEUR D'ALENE, ID

August 1, 1989

Ms. Sandi Cobb  
Kootenai County Planning and Zoning Department  
501 Government Way, C-9000  
Coeur d'Alene, ID 83814

Dear Ms. Cobb:

REFERENCE: Z-581-89 JAMES AND JACK SIMPSON (S & S LTD)

We have the following comments to this zone change request.

Wolf Lodge Bay is a critical area for both fish and wildlife. The Wolf Lodge Creek watershed supports the single largest population of adfluvial westslope cutthroat in the northern end of Coeur d'Alene Lake. These fish are supporting a trout fishery in the lake without stocking. The northern shoreline and north arm of Coeur d'Alene Lake supports most of the angling effort for cutthroat. Wolf Lodge Bay is a critical migratory corridor for both adult and juvenile fish and the shallow water at the mouth of Wolf Lodge Creek provides feeding and rearing areas for juvenile cutthroat. The bay also provides productive and diverse habitat for warm water species such as bass, northern pike, crappies and perch.

Wolf Lodge Bay, particularly the shallow areas with emergent vegetation around the mouth of Wolf Lodge Creek, are heavily used by waterfowl for nesting and rearing young. This aquatic vegetation is also important to the local deer population, and they especially feed on it in the spring to help them regain body condition after the rigorous winter months.

Wolf Lodge Bay is widely known for the numerous bald eagles that concentrate there in the winter time to feed on the kokanee that are spawning in the area. The eagles perch in trees adjacent to the water and provide a lot of enjoyment to the public who come in large numbers to see and photograph them. The trees along the south side of the bay are very important for eagle perching and it is likely that existing eagle use of this area would be negatively impacted by increased development along the shoreline.

We are also concerned about the potential impact of commercial development on water quality conditions in the bay. We have commented several times on proposals to build a marina in this bay. The shallow nature of the bay would

Cecil D. Andrus / Governor  
Jerry M. Conley / Director



PA-1

Ms. Sandi Cobb  
Page 2  
August 1, 1989

require extensive dredging to be functional. Nutrient loading from large boats stirring up bottom sediments is another significant problem associated with increased boat traffic in this shallow bay.

We feel the critical importance of Wolf Lodge Bay for fish, wildlife and water quality should be a major consideration in any proposal to change the existing low impact use of this area to some more intensive use.

Thank you for the opportunity to comment.

Sincerely,



David W. Ortmann  
Regional Supervisor

DWO:TAL:NJH:njk

C: Bureau of Wildlife  
Bureau of Fisheries  
Bureau of Program Coordination

43

Sandy Cobb  
RE: Wolf Lodge Creek

August 7, 1989  
Page 2

Idaho Water Quality Standards and the criteria necessary to protect these designated beneficial uses from nonpoint sources of pollution (e.g. sediment or excess nutrients). The Special Resource Water classification emphasizes the fact that Wolf Lodge Creek as a unique and sensitive resource, worthy of special attention.

Thank you for the opportunity to comment on the status of Wolf Lodge Creek.

Sincerely,

*James M. Bellatty*  
James M. Bellatty  
Senior Water Quality Specialist

cc: Ed Tulloch, IDEQ-CFO  
Ned Horner, IDFG



# Idaho Wildlife Federation

DISTRICT NUMBER ONE

REPRESENTING THE ORGANIZED SPORTSMEN OF  
BONNER, BOUNDARY, SHOSHONE, BENEWAH & KOOTENAI COUNTIES



SANDY COBB  
KOOTENAI COUNTY PLANNING  
C-9000 501 GOVT. WAY  
COEUR D'ALENE, ID. 83811

AUG. 11, 1989

RECEIVED AUG 16 1989

COEUR D'ALENE PLANNING  
COMMISSION

RE: S & S L.T.D. ZONE REQUEST

DEAR SANDY,

HAVING JUST LEARNED ABOUT THE ZONE CHANGE REQUEST BY S & S L. T. D. TO RE ZONE 120 ACRES OF THE WOODED SHORELINE ON WOLF LODGE BAY FROM RESTRICTED TO COMMERCIAL, I WOULD LIKE TO HAVE THE FOLLOWING COMMENTS PUT INTO THE RECORD.

1. THE AREA IN QUESTION IS USED IN THE WINTER BY THE BALD EAGLES WHICH CONGREGATE TO THE WOLF LODGE BAY AREA ANNUALLY. (THE BALD EAGLES BEING A THREATENED & ENDANGERED SPECIES ARE PROTECTED BY THE FEDERAL GOVT.) NOT ONLY DO THE BALD EAGLES FEED ON THE KOKANEE IN THAT PORTION OF THE LAKE, BUT AN ATTRACTION TO MANY (LOCALS, TRAVELERS, AS WELL AS THE NATIONAL GEOGRAPHIC SOCIETY WHICH STUDIED THE EAGLES SEVERAL YEARS AGO). DISTRUPTION OF THEIR HABITAT WOULD HAVE A VERY NEGATIVE IMPACT ON THE SPECIES. TO ALLOW THE ZONE CHANGE REQUEST WOULD BE A CLEAR CASE OF PROFIT V/S WILDLIFE AND THIS WOULD BE VIEWED AS AN UNEXCEPTABLE ACT.
2. DEVELOPMENT OF THE AREA WOULD ALSO HAVE A VERY NEGATIVE IMPACT TO THE WATER QUALITY AND FISHERIES AT WOLF LODGE BAY AS THIS BODY OF WATER CONTAINS WEST SLOPE CUTTHROAT TROUT, CRAPPIE, NORTHERN PIKE, BASS AND PERCH. THE WOLF LODGE BAY AREA IS USED BY MANY FISHERMEN BOTH RESIDENT AND NON RESIDENT MAINLY BECAUSE OF THE FISH HABITAT THE AREA PROVIDES. ALREADY THE NORTH END OF COEUR D'ALENE LAKE HAS HAD SOME HARSH RESTRICTIONS FOR THE CUTTHROAT TROUT DO TO THE GAS SPILL ON WOLF LODGE CREEK, SO WE CERTAINLY DO NOT NEED TO ACCELORATE THE SITUATION BY ALLOWING MORE DAMAGE FROM SOME SORT OF DEVELOPMENT. AND REGARDLESS WHAT THE APPLICANT SAYS I CANNOT BELIEVE THAT ANYONE IS GOING TO ASK FOR A ZONE CHANGE ON PROPERTY UNLESS THEY HAVE ALREADY ENVISIONED SOME SORT OF DEVELOPMENT OR FUTURE LAND SALE IN MIND FOR THE FUTURE.

IN CLOSING, LET THE RECORD STATE THAT I AM VERY MUCH OPPOSED TO THE ZONE CHANGE REQUESTED, AND I WOULD REQUEST THAT THE PLANNING COMMISSION TAKE A SERIOUS LOOK AT THE CONSEQUENCES SHOULD THE COMMISSION GO FORWARD WITH THIS REQUEST. THANK YOU FOR THE CHANGE TO COMMENT ON THIS ISSUE.

SINCERELY  
*Robert D. Ligeza*

ROBERT D. LIGEZA, CHAIRMAN  
DIST I, IDAHO WILDLIFE FEDERATION

1814 Mullan  
Coeur d'Alene 83814

CC: IDAHO FISH & GAME  
NATIONAL WILDLIFE FED.  
IDAHO WILDLIFE FED.  
U.S. FISH & WILDLIFE SERVICE

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