

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:)	
)	
Encroachment Permit Application)	FINAL ORDER
No. L-95-S-683.)	
)	
Wagon Wheel Bay Dock Association, Inc.-)	
Applicant.)	

I. NATURE OF PROCEEDINGS/ISSUES

Encroachments, including docks, placed on navigable waters require a permit issued by the Idaho Department of Lands (IDL) pursuant to the requirements of the Lake Protection Act, Title 58, Chapter 13, Idaho Code, and the corresponding administrative rules promulgated by the State Board of Land Commissioners, IDAPA 20.03.04, Rules for the Regulation of Beds, Waters and Airspace over Navigable Lakes in the State of Idaho.

On January 18, 2017, Wagon Wheel Back Dock Association, Inc. (Applicant), applied for an encroachment permit for an eight-slip community dock on Payette Lake. A public hearing was held on March 29, 2017 in McCall, Idaho. Andrew Smyth served as Hearing Coordinator. The Hearing Coordinator issued his Findings of Fact, Conclusions of Law, and Recommendation (Recommendation) on April 27, 2017.

My responsibility is to render a decision pursuant to Idaho Code § 58-1306(c) and IDAPA 20.03.04.030.07 on the behalf of the State Board of Land Commissioners based on the record reviewed in the context of my personal expertise gained through education, training, and experience. In making this determination I have relied on the record for this matter. Specifically,

- I have read the transcript of the public hearing conducted in McCall, Idaho on March 29, 2017.
- I have reviewed the record including all documents and exhibits.
- I have examined the Hearing Coordinator's Recommendation in light of the entire record.

II. FINDINGS OF FACT

I concur with the Findings of Fact presented by the Hearing Coordinator.

III. CONCLUSIONS OF LAW

I concur with the Conclusions of Law presented by the Hearing Coordinator.

IV. FINAL ORDER

I conclude the Hearing Coordinator's Recommendation is based on substantial evidence in the record, and I adopt the Recommendation as my decision in this matter. The Recommendation is incorporated by reference herein and attached to this Final Order. The Applicant is qualified to make application for an encroachment permit for a community dock in Payette Lake, and the proposed encroachment is in conformance with the applicable standards.

On the basis of the record, it is my order that Encroachment Permit No. L-95-S-683 is approved by IDL contingent upon WWBDA continuing to hold the required littoral rights. In addition, as long as the lease between PLCSOA and WWBDA remains in effect, no other individual or entity is qualified to make application for an encroachment permit for the Community Beach.

This is a final order of the agency. Pursuant to Idaho Code § 58-1306(c) and IDAPA 20.30.04.030.09, the Applicant or any aggrieved party who appeared at the hearing shall have the right to have the proceedings and Final Order reviewed by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of this Final Order. Because this Order is for approval of a permit, any party appealing this Final Order must file a bond with the district court in accordance with Idaho Code § 58-1306(c).

DATED this 28th day of April, 2017.



THOMAS M. SCHULTZ, JR.
Director, Department of Lands

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:)	
)	Case No. PH-2017-PUB-50-001
Encroachment Permit Application)	
No. L-65-S-683)	PRELIMINARY ORDER
)	
Wagon Wheel Bay Dock Association, Inc.)	
Applicants.)	
<hr/>		

I. BACKGROUND

On January 18, 2017, the Idaho Department of Lands (“IDL”) received an encroachment permit application (“Application”) from Wagon Wheel Bay Dock Association, Inc. (“WWBDA”). IDL assigned number L-65-S-683 to the Application. In the Application, WWBDA seeks authorization to construct a community dock that would extend 100 feet beyond the ordinary high water mark of Payette Lake, total 1,520 square feet of surface decking area and provide 8 private moorages to the members of WWBDA. Agency Record (“AR”), Doc. 3.

On January 18, 2017, IDL provided notice of the Application to various government agencies as well as the adjacent littoral owners. AR, Doc. 6. IDL also caused a notice of application to be published in The Star-News (a newspaper local to the McCall area) on January 19 and 26, 2017, pursuant to Idaho Code § 58-1306(b). AR, Doc. 9.

On January 27, 2017, IDL received an objection to the Application and a request for hearing from Zephaniah and AnnMarie Johnson. AR, Docs. 5 and 6. IDL ultimately received approximately seventy-six objections to the Application (*see* Exhibit A hereto). Because it received an objection and request for hearing, on March 2, 2017, IDL ordered a hearing regarding this matter pursuant to Idaho Code § 58-1306(c). WWBDA’s counsel requested that the hearing date be changed, and several people filed objections to moving the hearing date. AR,

Docs.11-12,17, 19-20, 22 and 25. WWBDA's President, Kevin Hannigan, ultimately requested that the original hearing date be retained. AR, Doc. 27.

On March 29, 2017, IDL held a public hearing regarding this matter pursuant to Idaho Code § 58-1306(c). At the hearing, Mr. Hanigan presented testimony in support of the Application, including reading a letter of support from the President of the Payette Lakes Cottage Site Owners Association ("PLCSOA"). David Shuss testified in favor of the Application. Mark Billmire presented neutral testimony on behalf of the McCall Fire Protection District. Zepheniah (Zeke) Johnson, AnnMarie Johnson, Don Copple, Steven Ryberg, John Dahl, Eizelle Taino, Andrea Umbach, Don Johnson, Donna Jacobs, Diane Bagley, Crane Johnson, Marlee Wilcomb, Yvonne Sandmire, Stephanie Dahl, Matt Dahl, and Kathleen Worthly Dahl testified in opposition to the Application. Mr. Hannigan presented rebuttal testimony. Hearing Transcript ("Tr.").

II. FINDINGS OF FACT

1. In 1932, the State Board of Land Commissioners ("Land Board") recorded subdivision plats for endowment properties on the west side of Payette Lake. The plats included language by which the Land Board purported to "donate and dedicate the streets roads alleys commons and public grounds shown on [the] plats to the use of the public forever." AR Doc. 105.

2. On January 28, 2015, the State Board of Land Commissioners executed an Amended Quitclaim Deed, State Deed No. SD13867 ("2015 Deed") to the Payette Lakes Cottage Sites Owners Association, Inc. ("PLCSOA"). AR, Doc. 106. The 2015 Deed, which was issued without warranty or covenant of title, included the "Community Beach Common Area" located

in Lot 1, Block 2 of the SW Payette Cottage Sites Subdivision (“Community Beach”), which is the littoral property associated with this Application.

3. The 2015 Deed specifically provides that:

The Grantor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby convey, release and quitclaim unto Grantee, without warranty or covenant of title, and subject to the reservations and conditions specifically set forth herein, all of Grantor’s right, title and interest in and to the following described real property . . .

AR, Doc. 105. The Community Beach lot is listed as one of the lots conveyed via quitclaim deed from the State to PLCSOA.

4. PLCSOA consists of approximately 225 members who own property within the greater neighborhood. Tr., pp. 30, 63.

5. WWBDA consists of eight members who are also members of the PLCSOA. Tr. pp. 7-8.

6. WWBDA is incorporated as a non-profit corporation under the laws of the State of Idaho. AR, Doc. 3.

7. Historically, and through the present time, owners or lessees of property in the vicinity of the Community Beach, as well as their families, guests, and lessees, and members of the general public, have swam, fished, and boated in the location of the proposed dock. *See, e.g.*, AR, Docs 23, 32, and 44.

8. WWBDA submitted into the record a “Memorandum of Lease” between itself (and its individual members) and PLCSOA. AR, Doc 3. The Memorandum of Lease provides, in part, that:

On January 12, 2017, PLCSOA and WWBDA, along with the individual members of WWBDA, entered into a Non-Exclusive Lease Agreement, wherein PLCSOA granted WWBDA and its individual members a non-exclusive lease of

PLCSOA's littoral rights for certain property located on Payette Lake, McCall, Valley County, Idaho, for the purpose of constructing a community dock.

The property is commonly referred to as the "Community Beach Common Area" and is more particularly described as Lot 1, Block 2 of the State Subdivision-Southwest Payette Cottage Sites Subdivision as the same is filed of record with the Office of Recorder of Valley County, Idaho.

PLCSOA has also consented to WWBDA seeking an Encroachment Permit from the Idaho Department of Lands for construction of the community dock.

Id.

9. Between January 27 and March 29, 2017, IDL received approximately 76 objections to the Application. *See* AR, Docs. 5-6, 13-16, 18, 21, 23-24, 26, 28-52, 55-62, 64-85, 89-92 and 94-98. The concerns of the various objectors can be summarized as follows:

- a. There is no parking area for the dock, and dock users would end up parking along streets in the neighborhood.
- b. Parking and/or traffic would block fire hydrants in the neighborhood.
- c. Increased traffic would adversely affect pedestrian safety in the neighborhood.
- d. The depth of the lake at the location of the dock is too shallow to support boat traffic.
- e. The dock and use of the dock would interfere with littoral owners' enjoyment of their property.
- f. The dock and increased boat traffic would interfere with swimming, nonmotorized boating and similar activities in the area.
- g. Increased boat traffic could also interfere with aquatic habitat, and lead to beach erosion.
- h. There are no public restroom facilities, and there would be problems with human waste and litter.
- i. WWBDA members should use existing marinas.
- j. The community dock and its usage would adversely affect property values of lakefront owners in the vicinity.

10. WWBDA presented an exhibit which indicated that there are approximately 43-45 total lots in the PLCSOA neighborhood, and that of those owners, only eight objected to the Application. AR, Doc. 101.

11. As set forth in the Application, the proposed dock structure would include a 10' x 6' pier; a 6' x 22' ramp; a 6' x 66' walkway; four dividers, 4' x 20' each, and a 6' x 102' dock, totaling 1,520 square feet. AR, Doc. 3.

12. As further set forth in the Application, the proposed structure will include up to sixteen posts, and will extend approximately 100 feet beyond the high water line. *Id.*

13. The dock will be 25 feet from the littoral right line of the neighboring lot to the southwest (which is owned by Zephaniah Johnson), and 228 feet from the littoral right line of the neighboring lot to the northeast (which is owned by Cottage Site LLC). *Id.*

14. The Community Beach includes approximately 345 feet of shoreline frontage, although the mouth of a creek takes up a portion of the shoreline. AR, Doc. 101.

15. IDL submitted copies of the Application to the Idaho Department of Fish and Game, the Idaho Department of Health and Welfare, the Idaho Department of Environmental Quality ("DEQ"), the Army Corps of Engineers, Valley County Planning and Zoning, Idaho Department of Water Resources, Central District Health, the City of McCall, Payette Lake Recreational Water and Sewer District, as well as the adjacent landowners (Zephaniah Johnson and Cottage Site, LLC). AR, Doc. 6.

16. DEQ does not review projects on a project-specific basis, but did provide general comments. AR, Doc. 4. No other state agency provided comments.

17. Marlee Wilcomb, one of the Objectors in this matter, also provided a copy of the Application to the Army Corps of Engineers, which indicated that it would issue a permit for the discharge of roughly two cubic yards of concrete and one cubic yard of lake bed material below the summer pool of Payette Lake. AR, Doc. 8. The Army Corps further indicated that if

construction of the dock impacts a wetland, WWBDA would need to obtain a permit for those activities. *Id.*

18. Cutler Umbach, one of the Objectors in this matter, contacted McCall Fire & EMS about the proposed application. Mark Billmire, who is the Fire Chief for McCall Fire & EMS, sent correspondence to IDL, in which he stated, in pertinent part:

My interest/concern and involvement has nothing to do with building the dock, but rather maintaining access to the dry hydrant so that fire apparatus can use it to draft water from the lake in the event of a fire. The closest city hydrant is back up the road near Pilgrim Cove Camp, making this dry hydrant a critical water supply should a structure fire or wildland fire ever occur in the PLCSOA area.

AR, Doc. 7.

19. At the hearing, Mr. Billmire further testified that:

I am neutral on the dock itself. I don't have a dog in that fight at all. My only concern is maintaining access to the dry hydrant that is in the proposed parking area for the dock. That is a dry hydrant that was installed to provide a water supply that could be drafted from the lake itself. The nearest hydrant is down next to Quaker Hill I believe so 2.5 miles away which would add significant time if we were in the process of fire protection or suppression. That is our only concern.

With drafting from a supply like that we have to be within 10 feet because of the hydraulics that are involved when drafting from the water. And we have to be parallel to where the hydrant is located. So we can't nose into it, we have to be parallel so that means that access around that has to allow for a fire engine to maneuver around and then pull up sideways to that in order to be able to draft from it. And we have to be within 20 feet because of the limitations of drafting. So that is my concern. As long as they meet those as far as where they're parking or allowing people to park and they maintain access to the hydrant I don't have any other concerns with that. . . .

Tr. pp. 19-20.

20. There are fish in Payette Lake in the vicinity of the proposed dock. There was testimony that deer, moose, bears, raccoons, foxes, beavers, osprey, songbirds, muskrats, ducks, geese visit the Community Beach or surrounding area. *See, e.g.*, Tr. p. 41, 57, and 60; AR Doc.

99. There was no testimony or evidence that the wildlife, fish, or other aquatic life will in fact be adversely impacted by the proposed dock.

III. ANALYSIS AND CONCLUSIONS OF LAW

1. The State of Idaho Board of Land Commissioners (“Board” or “Land Board”) is authorized to regulate, control, and permit encroachments in, on or above the beds of navigable lakes in the state of Idaho. I.C. §§ 58-104(9) and -1303.

2. The Board exercises its authority through the instrumentality of IDL. *See* I.C. §§ 58-101 and -119. As a result, “the duty of administering the Lake Protection Act falls upon the IDL.” *Kaseburg v. State, Bd. of Land Comm'rs*, 154 Idaho 570, 578, 300 P.3d 1058, 1066 (2013).

3. IDL’s authority under the LPA includes the authority to adopt such rules and regulations as are necessary to effectuate the purposes of the Lake Protection Act, Title 58, Chapter 13, Idaho Code (“LPA”) I.C. § 58-1304. IDL has exercised that authority and promulgated the Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho, IDAPA 20.03.04.000 *et seq.* (“Rules”).

4. In enacting the LPA, the legislature expressed its intent that:

the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or 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 weighed 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.

5. Under the LPA and Rules, a navigable lake is defined as

any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency.

I.C. § 58-1302(a); IDAPA20.03.04.010.024. Payette Lake is a navigable lake under the LPA.

6. For purposes of the LPA, the “beds of navigable lakes” are defined as “the lands lying under or below the ‘natural or ordinary high water mark’ of a navigable lake and, for purposes of this act only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.” I.C. § 58-1302(b); IDAPA 20.03.04.010.04. The proposed community dock would lie in whole or in part of the bed of a navigable lake. IDL therefore has jurisdiction to regulate the proposed encroachment.

7. Several objectors questioned whether PLCSOA is the littoral owner of the Community Beach lot. Under the Rules, a riparian or littoral owner is defined as “[t]he fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease or other grant.” IDAPA 20.03.04.010.033. In the 2015 Deed, the Land Board (as Grantor) “convey[ed], release[d] and quitclaim[ed] unto Grantee [PLCSOA], . . . all of Grantor’s right, title and interest in and to . . .” the Community Beach Common Area, Block 2, Lot 1, SW Payette Cottage Sites. AR, Doc. 106 (bracketed material added). There is no dispute that the Community Beach is immediately adjacent to Payette Lake.

8. In Idaho, “[a] quitclaim deed conveys whatever interest the grantors possess at the time of the conveyance. [Citation omitted]. This includes legal title.” *Luce v. Marble*, 142 Idaho 264, 270, 127 P.3d 167, 173 (2005) (additional citations omitted). In addition, “Idaho law presumes that the holder of title to property is the legal owner of that property.” *Id.* PLCSOA

holds record title to the Community Beach. Objectors did not provide any legal authority to rebut the presumption of ownership that the law accords to the quitclaim deed.

9. Idaho law presumes that because PLCSOA is the grantee in the 2015 Deed, it is the legal owner of and has legal title to the Community Beach. In the absence of evidence sufficient to rebut the presumption, PLCSOA is the littoral owner, as defined in IDAPA 20.03.04.010.033.

10. Idaho Code § 58-1306(a) provides, in part, that “[a]pplications for nonnavigational, community navigational, or commercial navigational encroachments must be submitted or approved by the riparian or littoral owner. PLCSOA executed a “Memorandum of Lease” with WWBDA (AR Doc. 3) and also presented oral and written testimony in support of the Application. Tr. pp. 29-30, AR, Doc. 86. Therefore, the Application was approved by PLCSOA, the riparian or littoral owner, as required by Idaho Code § 58-1306(a).

11. Littoral owners or lessees hold littoral rights, which are:

the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.

I.C. § 58-1302(f); *see also* IDAPA 20.03.04.010.032. As the littoral owner, PLCSOA holds the littoral rights for the Community Beach.

12. IDAPA 20.03.04.020.02 provides that :

[o]nly persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner shall also be eligible for an encroachment permit; the grantor of such littoral rights, however, shall no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit.

As the littoral owner, PLCSOA would be eligible to apply for an encroachment permit.

13. Under the Memorandum of Lease, PLCSOA granted WWBDA a non-exclusive lease of PLCSOA's littoral rights "for purposes of constructing a community dock." Because WWBDA has leased PLCSOA's littoral right, WWBDA is eligible to apply for an encroachment permit.

14. Having leased its littoral right, neither PLCSOA, its members or any future lessees are eligible to apply for an encroachment permit adjacent to the Community Beach, unless the lease between PLCSOA and WWBDA is terminated.

15. IDAPA 20.03.04.015.02.c provides that

[a] community dock shall not have less than fifty (50) feet combined shoreline frontage. Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock shall be limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal feet or a minimum of seven hundred (700) square feet. However, the Department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values.

IDAPA 20.03.04.015.02.c. There is some disagreement about the mouth of the creek that empties into Payette Lake at the Community Beach, with testimony that it could be 25 to 50 feet wide. Tr. p. 38, 63. The Application reflects that there is approximately 345 feet shoreline frontage at the Community Beach. Even if the mouth of the creek is 50 feet wide, there would still be approximately 290 feet of shoreline frontage, well over the required 50 feet.

16. The proposed dock is 1,520 square feet. To qualify for a community dock of this size, the shoreline must be at least 218 feet long (1,520 divided by 7). Even if the mouth of the creek was deducted from the total frontage and if the mouth was up to 127 feet wide, the Community Beach would still have enough shoreline frontage to justify the size of the proposed dock.

17. The proposed dock meets the requirements of IDAPA 20.03.04.015.02.

18. Most objectors raised concerns about increased traffic, parking issues, potential blockage of a fire hydrant, enforcement of the lease, and sanitation issues on shore. IDL is authorized to regulate and control the use or disposition of lands in, on or above the beds of navigable lakes in the State of Idaho, to the natural or ordinary high water mark, or to the artificial high water mark, if there is one. *See* I.C. §§ 58-104(9)(a) and -1303. IDL does not have authority to regulate or address potential issues lying above the artificial or ordinary high water mark.

19. Pursuant to Idaho Code § 58-1301,

all encroachments upon, in or above the beds or 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 weighed 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.

20. As to the economic necessity or justification for or benefit derived from the proposed encroachment, the location of the proposed dock is within approximately six-tenths of a mile from the lots owned by the eight members of the WWBDA, and would allow members to walk to access their boats. In contrast, the cited alternative location, Mile High Marina, is further away, and has a two to three year waiting list. Tr. p. 9-10. That facility also charges \$1,800 per boat per summer boating season to use its slips. *Id.* In addition, there was un rebutted testimony at the hearing that Community Beach is the only remaining common area within the area owned by PLCSOA that has sufficient lake frontage for a community dock. Tr. p. 10.

21. I find that the Applicant has established the justification for or benefit derived from the proposed encroachment.

22. The economic necessity or justification or benefit derived must be weighed against the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality, i.e., the “Lake Values”.

a. Protection of property: the proposed dock would be located 25 feet from the littoral line of one neighbor, and 228 feet from the littoral line of the other. Some objectors raised concerns about work that would need to be done on the Community Beach in order to allow access to the dock, but those concerns are not within the jurisdiction of IDL.

b. Navigation: There was testimony at the hearing that motorized and nonmotorized boats use the area of the proposed dock location to navigate. *See Tr. pp. 36, 44, 55-56.* However, there is no evidence that the proposed dock would impede navigation on the lake. It may impact the ability of boats to access certain parts of the water in front of Community Beach, but that is true of any dock. The public has a right, and will continue to have a right, to navigate anywhere above the beds of Payette Lake, below the ordinary high water mark.

c. Fish and wildlife habitat and aquatic life: As noted above in Section II, Paragraph 21, the record contains evidence and there was testimony about the variety of wildlife that access the Community Beach lot, the water in front of the lot, and surrounding areas. However, there was no evidence that the proposed dock would in fact negatively impact fish, wildlife and aquatic life.

d. Recreation: The record also includes a significant amount of testimony (both written and oral) about the kayaking, swimming, and other activities that have historically taken place in front of the Community Beach lot. Those activities may be impacted by the presence of the proposed dock. However, given that the public has a right to navigate over the beds of navigable lakes below the ordinary high water mark, boaters could potentially disrupt the above-

listed activities, with or without the proposed dock. Moreover, the fact that PLCSOA leased its littoral right to WWBDA does not change the fact that those with the right to use the Community Beach lot and its access points to the water, will still have the right to do so.

e. Aesthetic beauty: There was testimony about the aesthetic beauty of the Community Beach and views from the Beach. *See* Tr. pp. 21, 40-41. However, over time the Community Beach has been developed with sod, a trail and riprap. While those opposed to the Application may negatively view the aesthetic changes to the Community Beach and the view, proponents of the Application may view the changes in a more positive light. I find that this criteria is neutral.

f. There is no evidence in the record that the proposed dock will adversely affect water quality. While some objectors raised concerns about the water being impacted by human waste and trash, the public already has a right to recreate in and navigate through the waters in front of Community Beach. Therefore, there are potential issues regarding human waste and trash in the water regardless of the presence of the proposed dock.

23. I find that the justification for or benefit of the proposed dock is not outweighed by the Lake Values.

PRELIMINARY ORDER

For the foregoing reasons and based on the evidence in the record, I recommend that the Director of IDL approve Encroachment Permit Application No. L-65-S-683 and grant an encroachment permit, contingent upon WWBDA continuing to hold the required littoral rights. In addition, as long as the lease between PLCSOA and WWBDA remains in effect, no other

individual or entity is qualified to make application for an encroachment permit for the
Community Beach.

DATED this 27th day of April, 2017.



Andrew Smyth
Hearing Coordinator

Table of Contents

Agency Record

In the Matter of Encroachment Permit Application L-65-S-683

Wagon Wheel Bay Dock Assoc.
Docket No. PH-2017-PUB-50-001

Date	Document Name	Doc #
01/16/2017	The Star-News confirmation of request for legal notice publication from	1
01/17/2017	Application Cover Letter from Tricia Soper, WWBDA's Attorney	2
01/18/2017	Application from WWBDA	3
01/27/2017	DEQ Comments	4
01/27/2017	Zephaniah and AnnMarie Johnson Request for Hearing and Objection to Application	5
01/27/2017	Zephaniah and AnnMarie Johnson Request for Hearing and Objection to Application	6
01/31/2017	McCall Fire and EMS Comments	7
02/01/2017	Army Corps of Engineers Comments	8
02/02/2017	The Star-News affidavit of Publication-Notice of Application	9
03/03/2017	Notice of Appointment of Hearing Coordinator and Hearing	10
03/07/2017	Applicant Request to Reschedule Hearing	11
03/07/2017	Applicant Request to Reschedule Hearing 2	12
03/07/2017	Richard and Susan Bagley-Objection to Application	13
03/07/2017	Barbara Rose- Objection to Application	14
03/07/2017	Carrie Value- Objection to Application	15
03/07/2017	Kathy Kwiatkoski- Objection to Application	16
03/08/2017	Andrea Umbach- Objection to Change of Public Hearing Date	17
03/08/2017	Barry Human- Objection to Application	18
03/08/2017	Bagley Family- Objection to Change of Public Hearing Date	19
03/08/2017	Zephaniah and AnnMarie Johnson- Objection to Change of Public Hearing Date	20
03/09/2017	Andrea Umbach- Objection to Application	21
03/09/2017	Cutler and Nancy Umbach- Objection to Change of Public Hearing Date	22
03/09/2017	Finley Tevlin- Objection to Application	23
03/09/2017	Liam Tevlin- Objection to Application	24
03/09/2017	Marlee Wilcomb- Objection to Change of Public Hearing Date	25
03/09/2017	Cutler and Nancy Umbach- Objection to Application	26
03/09/2017	WWBDA Withdraw of Request to Reschedule Hearing	27
03/10/2017	Angela Carpenter-Objection to Application	28
03/10/2017	Andrea Coddens-Objection to Application	29
03/10/2017	Sarajane Gillete-Objection to Application	30
03/10/2017	Christine Suquet-Objection to Application	31
03/10/2017	Don Johnson-Objection to Application	32
03/10/2017	Joe Sheldon-Objection to Application	33
03/10/2017	Pat Wilcomb-Objection to Application	34
03/10/2017	Rosemary Kanusky-Objection to Application	35
03/10/2017	Theresa Wessels-Objection to Application	36
03/11/2017	Betsy Goodman-Objection to Application	37
03/12/2017	Christian Zimmerman-Objection to Application	38
03/12/2017	John Dahl-Objection to Application	39

03/12/2017	Kent Doss-Objection to Application	40
03/13/2017	Allison Korte-Objection to Application	41
03/13/2017	Aimee Schwanz-Objection to Application	42
03/13/2017	Adam Simon-Objection to Application	43
03/13/2017	Crane Johnson-Objection to Application	44
03/13/2017	Carla Jones-Objection to Application	45
03/13/2017	Douglas Bagley-Objection to Application	46
03/13/2017	Don Johnson-Objection to Application	47
03/13/2017	Dale Stubbs-Objection to Application	48
03/13/2017	Janis Johnson-Objection to Application	49
03/13/2017	Jeremiah Shinn-Objection to Application	50
03/13/2017	Karen Stubbs-Objection to Application	51
03/13/2017	Leviticus Johnson-Objection to Application	52
03/13/2017	Nancy Jordan-Objection to Application	53
03/13/2017	Notice on Request for a Change of Public Hearing Date	54
03/13/2017	Robert Coddens-Objection to Application	55
03/13/2017	Syeria Budd-Objection to Application	56
03/13/2017	Sarah Shinn-Objection to Application	57
03/13/2017	Anne, Duane and Colin Wessel-Objection to Application	58
03/14/2017	August Johnson-Objection to Application	59
03/14/2017	Chris Wuthrich-Objection to Application	60
03/14/2017	Mackenzie Johnson-Objection to Application	61
03/14/2017	Michael Rishel-Objection to Application	62
03/14/2017	Confirmation of request for legal notice publication from The Star-News	63
03/14/2017	Seiler Family-Objection to Application	64
03/15/2017	Michael and Rebecca Alexander-Objection to Application	65
03/15/2017	Christina Van Tol-Objection to Application	66
03/15/2017	Donna Jacobs-Objection to Application	67
03/15/2017	Brad and Tricia Holt-Objection to Application	68
03/15/2017	Julie Edgar-Objection to Application	69
03/15/2017	Kara Williams-Objection to Application	70
03/15/2017	Michael Johnson-Objection to Application	71
03/15/2017	Mishi Stirling-Objection to Application	72
03/15/2017	Natalie Keffer-Objection to Application	73
03/15/2017	Rob Parsons-Objection to Application	74
03/15/2017	Stephen Ryberg-Objection to Application	75
03/15/2017	Taino Family-Objection to Application	76
03/16/2017	Timothy Family-Objection to Application	77
03/16/2017	Gladys Johnson-Objection to Application	78
03/16/2017	Janis LJohnson-Objection to Application	79
03/16/2017	Yvonne Sandmire-Objection to Application	80
03/17/2017	Lori Ann Rishel-Klotovich-Objection to Application	81
03/17/2017	Zach Klotovich-Objection to Application	82
03/17/2017	ML-Objection to Application	83
03/22/2017	Zephaniah and AnnMarie Johnson - Objection to Application	84
03/23/2017	Charlotte Hanson Objection to Application	85
03/23/2017	PLCSOA-In Support of Application	86
03/24/2017	Applicants Written Comments	87
03/27/2017	The Star-News Affidavit of Publication- Notice of Hearing	88

03/27/2017	Jerry Randolph- Objection to Application	89
03/27/2017	Marlee Wilcomb- Objection to Application	90
03/28/2017	Christopher Umbach- Objection to Application	91
03/28/2017	Carol Wright- Objection to Application	92
03/28/2017	Jerry Randolph-Follow up contact information	93
03/28/2017	Greg "Fritz" Umbach- Objection to Application	94
03/28/2017	Gwen Umbach- Objection to Application	95
03/29/2017	Ann Edwards- Objection to Application	96
03/29/2017	Carolyn Crabtree- Objection to Application	97
03/29/2017	Diane Bagley- Objection to Application	98
03/29/2017	Don Johnson- Addition of Photos to Objection to Application	99
03/29/2017	David Shuff- In Support of Application	100
03/29/2017	WWBDA Exhibits	101
03/29/2017	Hearing Sign in-sheet	102
03/29/2017	IDL Employee hearing Sign-in sheet	103
03/29/2017	Hearing Transcript	104
03/29/2017	Ed Cople-Certified Copies-Certificate of Ownership and Deed	105
03/29/2017	Ed Cople-Amended Quit Claim Deed	106
03/29/2017	Diane Bagley-Encumbrance of Lake Bed-Square Footage of Dock	107
03/29/2017	Diane Bagley- Analysis of Feasibility of Docks	108
03/29/2017	Marlee Wilcomb-FIG-letter re fire hydrant	109
03/29/2017	Diane Bagley- 2014 State Subdivision Plat	110
03/31/2017	Diane Bagley- testimony correction	111