



Encroachments Procedures

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

I. Encroachments Procedures

Section 5 – Legal Authorities.....	3
Section 10 – Program Administration and Definitions	6
Section 15 – Application Acceptance and Review	10
Section 20 – Notifications and Hearings	15
Section 25 – Standards and Requirements	22
Section 30 – Permit Issuance.....	43
Section 35 – Assignments, Amendments and Extensions	46
Section 40 – Repair and Replacements.....	49
Section 44 – Inspection Procedures.....	52
Section 45 – Compliance Procedures.....	62
Section 55 – Stream Channel Alteration Permits	67
Section 60 – Prize Logs.....	70

II. Attachments

1. Dock Nomenclature.....	74
2. Joint Application 404.....	76
2a. Instruction Guide.....	80
2b. Information and Sample Drawings.....	91
3. Single or Two-Family Application.....	101
4. Commercial or Community Nonnavigational Application.....	104
5. Encroachment Fees.....	106

6. Sample Letter – Incomplete Application.....	107
7. Idaho Department of Water Resources Basin Map.....	108
8. Adjacent Littoral Owner Notification.....	110
9. Certificate of Transcription.....	112
10. Notification list.....	113
11. Agency Littoral Neighbor Notification.....	115
12. Legal Ad – Application.....	116
13. Legal Ad – Hearing.....	118
14. Encroachment Permit Terms.....	120
15. Request for Assignment Form.....	124
16. Inspection Report – Section 44.....	125
17. Anatomy of a Notice of Noncompliance.....	126
18. Sample – Notice of Noncompliance.....	127
19. Sample – Request for Additional Information.....	128
20. Sample – Notice of Resolution.....	129
21. Sample – Compliance Action Memo.....	130
22. Sample – Notice of Proposed Permit Revocation.....	131
23. Sample – Cease and Desist Order.....	132
24. Memorandum of Understanding between IDL and IDWR, November 7, 2007.....	133
25. Memorandum of Understanding between IDL and IDWR, September 10, 1979.....	140



Section 5 – Legal Authorities

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Authorities and Statutes	3
II. Case Law.....	4
III. Interagency Agreements.....	5

I. Authorities and Statutes

- Idaho Admissions Act of July 3, 1890
- Idaho Constitution, Article 9, Sections 7 and 8
- Title 58, Chapter 13, Idaho Code, Lake Protection Act
- Title 47, Chapter 7, Idaho Code, Mineral Rights in State Lands
- Title 67, Chapter 43, Idaho Code, Sections 67-4301 through 67-4806, Preservation of Certain Lakes
- Title 42, Chapter 38, Idaho Code, Stream Channel Protection Act
- Title 58, Chapter 12, Idaho Code, Public Trust Doctrine
- Title 73, Chapter 1, Idaho Code, Section 73-116, Common Law in Force
- Title 58, Chapter 1, Idaho Code, Section 58-104, Idaho Land Board - Powers and Duties
- Title 58, Chapter 1, Idaho Code, Section 58-132, Extension and Declaration of Powers and Duties of State Board of Land Commissioners
- Title 58, Chapter 6, Idaho Code, Section 58-601, Rights of Way for Ditches and Reservoirs
- Title 36, Chapter 16, Idaho Code, Section 36-1601, Public Waters – Highways for Recreation
- Title 55, Chapter 27, Idaho Code, Floating Homes Residency Act
- IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho
- IDAPA 20.03.17, Rules Governing Leases on State Owned Submerged Lands and Formerly Submerged Lands
- IDAPA 20.03.09, Rules for Easements on State Owned Submerged Lands and Formerly Submerged Lands

II. Case Law

Shively v. Bowlby, 152 U.S. 1, (1894) (State obtained title to lands below ordinary high water mark of navigable bodies of water at statehood).

Illinois Central Railway Co. v. Illinois, 146 U.S. 387 (1892) (State as administrator of trust of beds of navigable bodies of water does not have power to abdicate its role as trustee in favor of private parties).

Scott v. Lattig, 227 U.S. 229, 33 S.Ct. 242 (1913) (Snake River is navigable and state owns the bed).

Callahan v. Price, 26 Idaho 745, 146 P.2d 732 (1915) (Salmon River is navigable, and establishes the idea of the public trust doctrine in Idaho).

Northern Pacific RR Co. v. Hirzel, 29 Idaho 438, 161 P.2d 854 (1916) (Snake and Clearwater Rivers are navigable for title purposes, and “public lands” in article 9, section 8 of the Idaho Constitution does not include the beds of navigable waterways).

Burrus v. Rutledge, 34 Idaho 606, 202 P.2d 1067 (1921) (Public has rights on water despite ownership of lands beneath the water).

Driesbach v. Lynch, 71 Idaho 501, 234 P.2d 446 (1951) (Explains how to determine littoral right lines; Application of Chord Method has same result).

Hayden Lake Protective Association, Inc. v. Dalton Gardens Irrigation District et al, Kootenai County, Judge Spear (1962) (ordinary high water mark of Hayden Lake is 2239 feet above sea level).

West v. Smith, 95 Idaho 550, 511 P.2d 1326 (1973) (Riparian landowners have unobstructed access to the navigable waters along all points of riparian land).

Southern Idaho Fish and Game v. Picabo Livestock, 96 Idaho 360, 528 P.2d 1295 (1974) (Test for navigability for public right of way; Court decision essentially codified in § 36-1601).

Ritter v. Standal, 98 Idaho 446, 566 P.2d 769 (1977) (Authority of State Board of Land Commissioners over navigable waters).

Heckman Ranches, Inc. v. State, 99 Idaho 793, 589 P.2d 540 (1979) (Determining ordinary high water mark, agricultural purposes does not mean grazing).

Kootenai Environmental Alliance, Inc., Appellant v. Panhandle Yacht Club, Inc., 105 Idaho 622, 671 P.2d 1085 (1983) (Public Trust Doctrine).

Idaho Forest Industries, Inc. v. State, 112 Idaho 512, 733 P.2d 733 (1987) (Public trust arises only in land below natural high water mark of navigable waters).

Erickson v. State, 132 Idaho 208, 970 P.2d 1 (1998) (State is the presumed owner of property below the ordinary high water mark, so burden of proof for an adverse claim of ownership is upon the adjacent upland owner).

DuPont v. Land Board, 134 Idaho 618, 7 P.3d 1095 (2000) (Gives meaning to “most unusual circumstances” in Idaho Code 58-1305(a)).

Almgren v. Department, 136 Idaho 180, 30 P.3d 958 (2001) (Returning applications constitutes an action by the Department).

Idaho v. United States, 533 U.S. 262, 121 S.Ct. 2135 U.S. (2001) (Coeur d’Alene tribe owns the lower one-third of Lake Coeur d’Alene and the St. Joe River inside the reservation boundaries).

Lovitt v. Robideaux, 139 Idaho 322, 78 P.3d 389 (2003) (Department, based on experience and expertise, is in best position to determine proper placement of docks and whether dock infringes on littoral rights; Department cannot stay decisions).

City of Coeur d’Alene v. Lake Coeur d’Alene Property Owners Association et al, 143 Idaho 443, 147 P.3d 75 (2006) (Elevation of Lake Coeur d’Alene is no higher than 2128 at all points on the lake).

III. Interagency Agreements

Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands (Attachments 24 & 25).



Section 10 – Program Administration and Definitions

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Area Responsibilities	6
II. Bureau Responsibilities	7
III. Definitions	7

I. Area Responsibilities

A. Processing

Areas will process:

1. all Lake Protection Act requests, and
2. all applications within the Area boundaries.

Bureau or Department personnel will assist, as requested.

B. Signatures

Area Supervisors, or their designee, shall sign all permits.

C. Inspections

Areas will perform:

1. site visits
2. compliance inspections.

Bureau or Department personnel will assist, as requested.

D. File Retention

The Areas will retain a complete encroachment permit file; however, the office of record for encroachment permits is the Boise staff office.

E. Document Distribution

Originals or first generation copies of all encroachment permits, associated applications, and receipts shall be forwarded to the Navigable Waters Program Manager.

F. Policy Changes

Area personnel will submit comments concerning recommendations for policy and procedure changes to the applicable Operations Chief.

II. Bureau Responsibilities

A. Support to Areas

The Bureau will provide information and guidance to the Areas to ensure consistency and completeness. This may include assistance in drafting decision documents, letters, and other materials.

B. Office of Record

The Bureau will receive and maintain the encroachment permit information sent to the Bureau from the Areas at the Boise office, with complete permit files being retained at the Area offices.

C. Procedures

The Bureau will review procedures on an on-going basis and make adjustments when necessary. In most cases, the Bureau will solicit input from Area staff, Executive staff, and Legal staff on all policy and procedure changes. At the discretion of the Bureau input will also be solicited from other agencies (local, state and federal), industry representatives, and the public.

III. Definitions

In addition to using the terms defined in IDAPA 20.03.04.010 and I.C. § 58-1302, IDL commonly uses the following terms in relation to the Idaho Code Title 58, Chapter 13 and IDAPA 20.03.04:

Approach - A component of a dock or pier system that provides access from the upland area or ramp to the moorage area of the structure. An approach can be floating or a pier with a recommended maximum width of six (6) feet (Attachment 1).

Bank Barb - Rock or wood structures keyed into bank and angled towards the upstream current or long shore drift to re-direct flow direction to reduce water forces on a particular stressed bank. The bank barb tapers both horizontally and vertically as it projects into the water with the tip or nose also keyed into bed of stream or lake. Re-directed flow will be 90° off of the downstream face of the bank barb. Deposition will normally occur on the downstream side against the shoreline. Bank barbs are nonnavigational encroachments and are processed under Idaho Code 58-1306.

Boat basin - An excavated area of lakebed, riverbed, or uplands used to provide mooring facilities. Boat basins are navigational encroachments and are processed under Idaho Code 58-1306.

Boat channel - An excavated area in a waterway or within uplands, which creates or extends a passageway or extends the waterway. Boat channels are navigational encroachments and are processed under Idaho Code 58-1306.

Breakwater - A technically designed offshore structure used to protect property from the forces of waves. A log boom is not a breakwater. Breakwaters may be navigational or nonnavigational, depending on what they protect.

Deck - The surface area of the dock.

Dock - A floating structure which allows access to floating vessels, provides moorage for these vessels, and is limited in size. A dock is a navigational encroachment.

Double Slip - Moorage for two boats (side by side) with pier or dock structures on one (1) side and one (1) end of each moorage. No structures are between the two moorages.

Fairway - The watercourse within a marina where boats or other watercraft travel to access marina slips or moorage.

Float - A device which provides flotation such as logs, hollow concrete, barrels, and encased foam.

Groin - One or more structures placed perpendicular to shore, used to restrict long shore sediment transport. Groins are nonnavigational encroachments.

Jetty - An earthen and rock structure extending into the waterway to influence the current, or to protect property or moorage areas. Also, an erosion resistant berm usually placed adjacent to inlets to control inlet migration and to minimize sediment deposition within the inlet.

Navigability for a public right-of-way means that a water body is open for public use, as a public highway, for travel up and down stream for business or pleasure. The public use may include boating, swimming, fishing, hunting, and all recreational purposes. The test for public right-of-way navigability is whether a stream is capable of floating cut timber with a diameter in excess of six inches, or any other commercial or floatable commodity, or whether a stream is capable of being navigated by watercraft. See Idaho Code § 36-1601. The test is less rigorous than the test of navigability for state title purposes and need not take into account historic uses of a waterway. Merely floating six-inch logs experimentally will establish that the waterway is navigable as a right-of-way. The state does not hold title to the beds and banks of these waterways. Most bodies of water that are navigable for title purposes will probably be navigable as a right-of-way. Only the State Land Board and the courts have the authority to determine whether a body of water is navigable for a public right-of-way.

Navigability for Title means a finding of navigability for State ownership purposes is based upon the federal “navigability in fact” test. This test states that a lake or stream must have been susceptible to being used in its ordinary and natural condition as a highway for commerce on the date a state is admitted into the Union. If a lake or stream was navigable in fact at the time of statehood, the state holds the title to the beds and banks below the ordinary high water mark. A historical factual inquiry is usually necessary to determine whether, or not a stream was navigable in fact at the time of statehood. Only the State Land Board and the courts have the authority to determine whether a body of water is navigable for Title.

Pier - A navigational encroachment that most often has two (2) or more components, is a stationary structure extending into water, is used as a mooring area, and is limited in size (Attachment 1).

Private Moorage - Moorage with one or more of the following (IDAPA 20.03.04.015.03.a):

- a. A rent or lease agreement that exceeds one (1) year.
- b. Conditions that result in a transfer of ownership of moorage or real property.

c. A requirement for membership in a club or organization.

Ramp - A passage from the uplands or a pier to the moorage area of a dock. The recommended maximum width is three (3) feet. Ramps are navigational encroachments (Attachment 1).



Section 15 – Application Acceptance and Review

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Process Determination	10
II. Application Components	11
III. Application Completeness	11
IV. Processing Fees.....	12
V. Application Log In	13
VI. Application Time clocks	13

I. Process Determination

A. Prior to January 1, 1975

Encroachments constructed prior to January 1, 1975 and not subsequently modified may be permitted with a minimum amount of processing. Proof of construction prior to January 1, 1975 must be provided. Proof of construction shall include dated aerial photographs, tax records, or other historical information deemed reliable by the Board. Persons providing such documentation shall receive an encroachment permit and shall not be required to pay the application and publication fees (Idaho Code 58-1312).

B. 58-1305 or 58-1306

Examine the application to determine if the proposed encroachment is:

- navigational or non-navigational; and
- commercial or non-commercial.

Single-family and two-family encroachments (navigational non-commercial) will be processed under Idaho Code 58-1305. All other encroachments will be processed under Idaho Code 58-1306.

Applications that require processing under both Idaho Code 58-1305 and Idaho Code 58-1306 may be processed simultaneously if the 60 day approval deadline is met. Otherwise, they shall

be processed separately to meet the corresponding requirements and separate permits may be issued. The second permit may have the same base permit number with a higher extension (A, B, C, etc.)

C. Existing Permits

All encroachment applications shall be examined to determine if there is an existing encroachment and file for the proposed encroachment location.

II. Application Components

A. Receipt of Applications

Applications received by mail shall be date stamped when the mail is opened by the Area personnel. If an application is received during an office or site visit, the application shall be date stamped upon receipt.

After being date stamped, applications shall be forwarded to the appropriate IDL Area office and personnel.

B. Forms and Attachments

Encroachment applications will include:

- Joint Application for Permits (Attachment 2);
- IDL Single or Two-Family Application (Attachment 3) or Commercial/Community/Non-navigational Application (Attachment 4);
- Required drawings; and
- Applicable fees (Attachment 5).

III. Application Completeness

A. Application Completeness

All encroachment applications shall be examined for completeness. Area staff shall process an encroachment application based upon the filing information provided, not based upon assumed conditions.

Complete applications shall contain the following (IDAPA 20.03.04.020.07):

1. Lakebed profile (5 or 10 foot intervals) indicating OHWM (or AHWM), low water levels, and encroachment length;
2. Copy of most recent county survey or plat (covering at least applicant's lot and the two adjacent littoral lots);
3. Proof of ownership or control of littoral property (e.g. copy of deed, lease);
4. General vicinity map, including roads, water bodies and project location;
5. Scaled maps or aerial photographs of proposed encroachment(s) and adjacent encroachments with lengths of encroachments and distances between encroachments and littoral right lines (setbacks).
6. Dimensions and total square footage of proposed docks;
7. Names and mailing address of adjacent littoral owners; and
8. Completed adjacent land-owner consent form (required if setbacks are less than those

required in Procedure 25, Section E).

B. Signatures

The application must be signed or approved by the littoral owner (IDAPA 20.03.04.020.02).

IV. Processing Fees

A. Fee Schedule

Fees associated with the Navigable Waters Programs are established by Idaho Code and Rules (Idaho Code 58-1307 and IDAPA 20.03.04.020.05). Refer to Attachment 5 for the Fee Schedule.

B. Fee Exemptions

Application fees **shall not** be collected from any city, county, state or federal agencies for non-commercial navigational encroachment applications (IDAPA 20.03.04.020.07.d). Publication fees shall still be collected.

C. Depositing Fees

Processing fees shall be logged in the Daily Register and stamped for “deposit only” by the IDL support staff. Only cash, cashier checks, personal checks, or money orders may be accepted. Checks shall be written to “Treasurer, State of Idaho.” A copy of the deposit receipt will be kept with the application.

D. Non-Refundable Fees

Application fees will not be refunded (IDAPA 20.03.04.020.07.e).

E. Incomplete Applications

If an application is deemed incomplete, Area staff will submit a letter of incompleteness, identifying the deficiencies and establishing a 30 days response deadline (Attachment 6). The original application fee will remain valid for that 30 day period. The Department may extend the deadline with written correspondence documented in the file (IDAPA 20.03.04.020.07.j).

F. Fees for Multiple Applications

Attachment 5 has a list of scenarios that reflect the fees to be collected for multiple encroachments. Contact the Bureau for questions regarding fee collection for circumstances that are unclear or not described below.

G. Publication Fees

Area staff shall collect publication fees from the applicant, as necessary. The Area shall typically collect \$75.00 for the newspaper publication. The Area has the discretion to adjust this base deposit depending on local newspaper costs. The fee is collected to compensate the Department for the actual publication costs incurred. These fees shall only be refunded to the applicant if the publication expenses are not actually incurred (IDAPA 20.03.04.020.07.e and f). Refunds may be in total if publication does not occur, or partial if the actual costs are substantially less than the fee that is paid.

V. Application Log In

A. Application Date

The application date shall be documented in the encroachment file. This is the date the application was received by the department. If supplemental application information is received, then the application date becomes the date the supplemental information is received by the department.

B. Log-in LandFolio

All complete encroachment applications shall be logged in LandFolio and assigned an encroachment number. The date, entry number, applicant name, type of encroachment, waterway and encroachment number shall be entered in LandFolio.

C. Existing Permit Number

If it is determined that an encroachment permit already exists, the existing encroachment number shall be retained.

D. New Encroachment Numbers

If no encroachment permits or file exists, then a new file is started and a new number assigned (LXXSXXXX). An encroachment number will consist of the letter L-drainage number-letter S-four digit number. Encroachment numbers shall be assigned chronologically.

E. Numbering System

The Idaho Department of Water Resources drainage numbering system (Attachment 7) will be the control number for the encroachment numbering system. For example, in the number L01SXXXX the drainage number is 01.

VI. Application Time clocks

A. 58-1305 Applications

If a complete application is received for processing under Idaho Code 58-1305 (noncommercial, navigational encroachments, e.g. single-family and two-family docks), a sixty (60) day time clock applies to the processing of the permit application. **Failure to act on the application within the required sixty days will constitute approval of an encroachment permit as submitted** (IDAPA 20.03.04.025.08).

B. 60-day Time Clock

The 60 day clock starts on the date the Department receives a complete application. Examples:

- All information received on January 3rd. Reviewed by staff on January 10th and determined to be complete.

Time clock: 60 days from January 3rd

- First information received on January 3rd. Reviewed by staff on January 10th and determined to be incomplete and notification sent to applicant. Additional information received on January 20th. Reviewed by staff on January 23rd and determined to be complete

Time clock: 60 days from January 20th

- First information received on January 3rd. Reviewed by staff on January 10th and determined to be incomplete and notification sent to applicant. Additional information received on January 20th. Reviewed by staff on January 23rd and determined to be incomplete and notification sent to applicant. Additional information never received.

Time clock: never starts

C. 58-1306 Applications

Non-navigational encroachments or commercial navigational encroachments processed under Idaho Code 58-1306 do not have a sixty (60) day time clock; however, public hearings must be held within ninety (90) days of the date the completed application is submitted (IDAPA 20.03.04.030.05).



Section 20 – Notifications and Hearings

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Idaho Code 58-1305 Permits (Generally Single-family and two-family docks within the line of navigation).....	15
II. Idaho Code 58-1306 Permits (Generally commercial and community docks, and non-navigational encroachments).....	17

I. Idaho Code 58-1305 Permits (Generally Single-family and two-family docks within the line of navigation)

A. Adjacent Owners

Unless written consent from the adjacent littoral owners is provided by the applicant, IDL will provide notice of the application to the adjacent littoral owners. Attachment 8 provides a sample letter and review sheet. If the encroach may infringe on the ten (10) foot setback from the littoral right line IDL will notify the adjacent littoral owner by certified mail. If the applicant owns more than one lot, the owner of the next adjacent lot shall be notified (IDAPA 20.03.04.025.03).

B. Notification Timeframe

Adjacent littoral owner notification should be sent within five (5) days of accepting a complete encroachment application for processing. The adjacent littoral owners shall be allowed ten (10) days from receipt of notice to submit written comments and file an objection (IDAPA 20.03.04.025.04.a).

C. Objections and Mediation

When objections to applications (processed according to Idaho Code 58-1305) occur, Department staff are allowed to engage in informal mediation to resolve disputes. This process may result in changes to the permit application and the withdrawal of objections. A written withdrawal of objections shall be submitted to the Department and shall include the signatures of the applicant and objector and an outline of the acceptable changes made to the original application (IDAPA 20.03.04.025.04.b). The withdrawal of objections must be received within 30 days of the application date or a hearing will be scheduled.

D. Objections and Hearings

When informal mediation fails to resolve disputes, the Department shall proceed with the hearing process established in Idaho Code 58-1305 and IDAPA 20.03.04.025.06.

E. Hearing Coordinator

Area staff shall contact the Operations Chief and request a hearing coordinator as soon as possible, preferably 30 days prior to the sixty (60) day deadline.

Department staff shall typically act as the Hearing Coordinator. The Hearing Coordinator may be an Area Manager, Operations Chief, Program Manager, Bureau Chief, Deputy Attorney General, Navigable Waters Specialist, or a contracted third party. The appearance of neutrality is important in selecting a Hearing Coordinator, regardless of their position within the Department.

F. Hearing Schedule

The Area shall fix a time and place for the hearing after coordinating acceptable schedules with the hearing coordinator, applicant, and the objecting party; however, the hearing shall be within sixty (60) days from the date of accepting the complete application for processing (IDAPA 20.03.04.025.06). The sixty (60) day deadline can only be extended with a written waiver from the applicant.

G. Hearing Attendees

The applicant and any adjacent riparian owner who submitted timely objections can appear at the hearing personally or through a representative and present evidence. Department personnel, generally from the Area, may appear and present evidence. The Hearing Coordinator shall act as a fact finder not a party of the hearing (IDAPA 20.03.04.025.06).

H. Informal Disposition

The parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order or other informal means (IDAPA 20.03.04.025.06).

I. No Publication

No published notice of the hearing is necessary.

J. Pre-Hearing Requirements

In preparation for the hearing, the Area will submit the administrative record to the Hearing Record Coordinator, which is typically the Administrative Assistant serving the Bureau. The administrative record consists of:

1. Application;
2. Adjacent littoral owner notification;
3. Letters of objection, comment, or request for a hearing; and
4. Notice of Hearing.

K. Hearing Transcript and Other Hearing Materials

The hearing may be recorded and transcribed. The transcription shall include the certification language in Attachment 9 (Idaho Rules of Civil Procedure, Subsection 84(g)).

L. Hearing Record

The Hearing Record is the information gathered by the department for the Hearing Coordinator to base his decision on. This is the information that would be given to a District Judge for review if the decision is appealed. As a result, the Hearing Record is critical for the Department to defend the Director's Final Order. The Hearing Record should only consist of the following documents:

1. Application;
2. Adjacent littoral owner notifications;
3. Letters of objection, comment, or request for a hearing;
4. Notice of Hearing;
5. Hearing transcript;
6. Documents, presentations, or other materials admitted into the record at the hearing; and
7. Other documents incorporated by reference into the hearing proceedings. The documents should have been referred to during the hearing with all parties having an opportunity to comment on them.

M. Hearing Decision Preparation

The Hearing Coordinator shall develop and submit a Preliminary Order to the Director by the date established in the Notice of Appointment of Hearing Coordinator.

Internal Hearing Coordinators must provide a copy of the Preliminary Order to the Legal Department for review prior to submission to the Director.

The Final Order shall be issued by the Director within forty-five (45) days following the hearing. A copy of the Final Order and the Preliminary Order shall be mailed to the applicant and the objectors attending the hearing (IDAPA 20.03.04.025.07).

N. Reconsideration Hearings

Reconsideration hearings are not available for 58-1305 applications. Any applicant, or an aggrieved party appearing at a hearing, may seek judicial review upon objection to the Director's Final Order (IDAPA 20.03.04.025.09).

II. Idaho Code 58-1306 Permits (Generally commercial and community docks, and non-navigational encroachments)

A. Agency/Neighbor Notification

Copies of the application shall be submitted to federal (e.g. U.S. Army Corps of Engineers), state (e.g. Departments of Fish and Game, Environmental Quality, and Water Resources), and local agencies (e.g. County Marine Deputy, Planning and Zoning authority, County Parks Department, Health District, Lake Commission, etc.) (IDAPA 20.03.04.030.03). Adjacent property owners should also be notified even if not required by rule or statute. Attachment 10 has a list of the parties that are notified in each area. Areas with multiple and non-overlapping jurisdictions have parties that are notified when an application is within each party's jurisdiction.

The Agency Review and Notification of Application (Attachment 11) shall be sent within ten (10) days of accepting a complete encroachment application. Agencies shall have thirty (30) days from the first date of publication of the Notice of Application to respond (IDAPA 20.03.04.030.04).

B. Publication Requirements

An application notice shall be sent to the local newspaper for a legal advertisement within ten (10) days of accepting a complete application for processing. The publication shall run once a week for two (2) consecutive weeks (IDAPA 20.03.04.030.01). The Notice of Application (Attachment 12) comment period shall be thirty (30) days from the date of first publication (IDAPA 20.03.04.030.04).

C. Publication Exemptions

No publication is required for buried or submerged water intake lines and utility lines. Agency notification is still required (IDAPA 20.03.04.030.01).

D. Hearing Initiated by Director

The director may order a hearing on an application within ten (10) days of accepting a complete encroachment application (IDAPA 20.03.04.030.01). The director may order a hearing if requested by the applicant, when unusual circumstances exist, or when obvious public interest will likely result in a hearing. If this occurs, the area shall publish a combined Notice of Application (Attachment 12) and Notice of Hearing (Attachment 13). The hearing should be scheduled to fall on or after the thirty (30) day comment period. Publication and hearing details are given below.

E. Objections and Hearings

Any resident of the state of Idaho, or nonresident owner or lessee of real property adjacent to the lake where the proposed encroachment is located, shall have thirty (30) days from the date of first publication to file written objections, request a public hearing and pay the Notice of Hearing publication fee (see publication fees). The hearing must be specifically requested in writing and received along with the publication deposit within thirty (30) days of the first date of publication or it will not be scheduled and noticed (IDAPA 20.03.04.030.04 and I.C. § 58-1306(b)). This type of hearing is to allow the public an opportunity to offer comment, in written or oral testimony, concerning the proposed encroachment application.

Area staff shall contact the Operations Chief and request a hearing coordinator as soon as a hearing is requested.

F. Publication

If the Department receives a request for hearing, a time and place of the public hearing shall be published once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is to be located (Attachment 13) (IDAPA 20.03.04.030.05).

G. Hearing Schedule

The hearing shall be held within ninety (90) days from the date the application was accepted for filing (IDAPA 20.03.04.030.05).

H. Public Comment Period

The public comment period shall extend until the close of the hearing or thirty (30) days from the first date of publication of the Notice of Application, whichever is later. The hearing coordinator may extend the public comment period beyond that date, as necessary.

I. Hearing Attendees

Any person may appear at the public hearing and offer oral or written testimony (IDAPA 20.03.04.030.06). The hearing coordinator should limit testimony to issues relevant to the application.

J. Hearing Coordinators

Department staff shall typically act as the Hearing Coordinator. The Hearing Coordinator may be an Area Manager, Operations Chief, Program Manager, Bureau Chief, Deputy Attorney General, Navigable Waters Specialist, or a contracted third party. The appearance of neutrality is important in selecting a Hearing Coordinator, regardless of their position within the Department.

K. Pre-Hearing Requirements

In preparation for the hearing, the Area will submit the administrative record to the Hearing Record Coordinator, which is typically the Administrative Assistant serving the Bureau. The administrative record consists of:

1. Application;
2. Notice of Application;
3. Affidavit of Publication of the Notice of Application;
4. Letter requesting a hearing;
5. Letters of objection or comment;
6. Notice of Hearing; and
7. Affidavit of publication of the Notice of Hearing.

L. Hearing Transcript and Other Hearing Materials

The hearing may be recorded and transcribed. The transcription shall include the certification language in Attachment 9 (Idaho Rules of Civil Procedure, Subsection 84(g)).

M. Hearing Record

The Hearing Record is the information gathered by the department for the Hearing Coordinator to base his decision on. This is the information that would be given to a District Judge for review if the decision is appealed. As a result, the Hearing Record is critical for the Department to defend the Director's Final Order. The Hearing Record should only consist of the following documents:

1. Application;
2. Notice of Application and Affidavit of Publication;
3. Letters of objection, comment, or request for a hearing;
4. Notice of Hearing and Affidavit of Publication;
5. Hearing transcript;
6. Documents, presentations, or other materials submitted at the hearing; and
7. Other documents incorporated by reference into the hearing proceedings. The documents should have been referred to during the hearing with all parties having an

opportunity to comment on them.

N. Hearing Decision Preparation

The Hearing Coordinator shall develop and submit a Preliminary Order to the Director.

Internal Hearing Coordinators will provide a copy of the Preliminary Order to the Legal Department for review prior to submission to the Director.

The Final Order shall be issued by the Director within thirty (30) days following the hearing. A copy of the Final Order and the Preliminary Order shall be mailed to the applicant and the parties appearing and giving written or oral testimony (IDAPA 20.03.04.030.07).

O. Judicial Review

Any applicant, or an aggrieved party appearing at a hearing, may seek judicial review upon objection to the Director's Final Order (IDAPA 20.03.04.030.09).

P. Reconsideration Hearings

A reconsideration hearing may only be held when a public hearing is not held and the applicant is dissatisfied with the Department's decision regarding an application. The applicant can request, in writing, a reconsideration hearing within twenty (20) days from the date of the Department's decision. The Department will set a time and place for reconsideration within thirty (30) days from receipt of request (IDAPA 20.03.04.030.08).

Area staff shall contact the Operations Chief and request a hearing coordinator as soon as possible.

Q. Reconsideration Hearing Coordinator

Department staff shall typically act as the Hearing Coordinator. The Reconsideration Hearing Coordinator may be an Area Manager, Operations Chief, Program Manager, Bureau Chief, Deputy Attorney General, or a contracted third party. The appearance of neutrality is important in selecting a Reconsideration Hearing Coordinator, regardless of their position within the Department.

R. Pre-Reconsideration Hearing Requirements

In preparation for the hearing, the Area will submit the administrative record to the Hearing Record Coordinator, which is typically the Administrative Assistant serving the Bureau. The administrative record consists of:

1. Application;
2. Notice of Application and Affidavit of Publication;
3. Letter denying the application;
4. Letter requesting reconsideration; and
5. Hearing notification.

S. Reconsideration Hearing Attendees

The applicant or parties designated by the applicant may provide oral and written testimony at the reconsideration hearing (IDAPA 20.03.04.030.08.b).

T. Reconsideration Hearing Transcript and Other Hearing Materials

The hearing may be recorded and transcribed. The transcription shall include the certification language in Attachment 9 (Idaho Rules of Civil Procedure, Subsection 84(g)).

U. Reconsideration Hearing Record

The Hearing Record is the information gathered by the department for the Hearing Coordinator to base his decision on. This is the information that would be given to a District Judge for review if the decision is appealed. As a result, the Hearing Record is critical for the Department to defend the Director's Final Order. The Hearing Record should only consist of the following documents:

1. Application;
2. Notice of Application and Affidavit of Publication;
3. Letter denying the application;
4. Letter requesting reconsideration;
5. Hearing notification;
6. Hearing transcript;
7. Documents, presentations, or other materials submitted at the hearing; and
8. Other documents incorporated by reference into the hearing proceedings. The documents should have been referred to during the hearing with all parties having an opportunity to comment on them.

V. Reconsideration Hearing Decision Preparation

The Hearing Coordinator shall develop a decision document that includes a recommendation to the Director.

Internal Hearing Coordinators will provide a copy of a draft decision document to the Legal Department for review prior to submission to the Director.

The Final Order shall be issued by the Director following the hearing (no deadline established in Code or Rules). A copy of the Final Order and the recommendation of the Hearing Coordinator shall be mailed to the applicant.

W. Judicial Review

The applicant may seek judicial review upon objection to the Director's Final Order on Reconsideration (IDAPA 20.03.04.030.09).



Section 25 – Encroachment Standards & Requirements

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Nonnavigational Encroachments	22
II. Littoral Right Lines	22
III. Length of Navigational Encroachments	24
IV. Length of Nonnavigational Encroachments	25
V. Encroachment Standards	25
VI. Private Moorage within Commercial Marinas	41
VII. Conversions involving Private Moorage	42

I. Nonnavigational Encroachments

A. Restricted Approval

Nonnavigational encroachments in, on or over navigable waters of the State will normally not be approved by the Department. Nonnavigational encroachments will be considered **only in exceptional circumstances** involving significant environmental, economic, or social benefits to the public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when no other feasible alternative with less adverse impacts to the public trust values is viable (IDAPA 20.03.04.030.02).

II. Littoral Right Lines

A. Chord Method

For the purposes of permitting encroachments and ensuring that riparian rights are not infringed upon by encroachment placement, riparian right lines should be determined by applying the “Chord Method.” The result shall be that landowners with riparian rights will have unobstructed access to the navigable waters along all points of their riparian land.

B. Plat Map

Area Staff shall apply the Chord Method (described below) upon processing each encroachment permit application using a current county plat map with parcel boundaries (provided by the applicant or their agent).

C. Concave or Convex

The Chord Method can and shall be applied whether the shoreline is straight, concave (bay or inlet) or convex (point or peninsula). In most cases, the Chord Method should yield a riparian right line that is approximately perpendicular to generally straight shorelines and approximately perpendicular to the tangent of curved shorelines (applicable to both bays and points) and is consistent with the definition in IDAPA 20.03.04.010.34.

D. Unusual Circumstances/Results

Area Staff shall consult with the Program Manager when the Chord Method does not appear to yield a riparian right line pattern that is consistent with this policy or when the subject property or adjoining waterfront properties include transitions to points, bays or significant changes in the shoreline. When use of the Chord Method is not straightforward or does not yield a pattern consistent with this policy, the Program Manager, in consultation with Area, Bureau, Department and Legal Staff, shall make a final determination of the riparian right line.

E. Changes in Riparian Right Lines

Riparian right lines are altered when an upland parcel boundary is changed or created and the point of intersection between the parcel boundary and the artificial or ordinary high water mark (whichever is applicable) is either moved or created.

Determining riparian right lines is not a function of existing, proposed, or future encroachments. If adjoining landowners consent in writing to a proposed encroachment location, it may be permitted, regardless of the actual location of the riparian right lines (IDAPA 20.03.04.025.02).

F. Binding Decisions/Agreements

In addition, legal property line determinations, including littoral lines, are binding through written property owner agreements or court determinations.

G. Artificial High Water Marks

The Department recognizes that an encroachment may be legally permitted (satisfying the riparian buffers established in IDAPA 20.30.04) on a water body with an artificial high water mark that is actually located over a submerged portion of an adjoining waterfront property.

H. Methodology

The Chord Method is described in *Wisconsin Water Law – A Guide to Water Rights and Regulations - G3622* (Kent and Dudiak, 2001). The Chord Method locates riparian right lines by identifying the points of intersection with the parcel boundaries and the artificial or ordinary high water mark (whichever is applicable). These points are connected by chords. The riparian right lines fall along the bisector of the angles created by the chords. The riparian right lines

then extend to the line of navigability (see Figure 5-2 below).

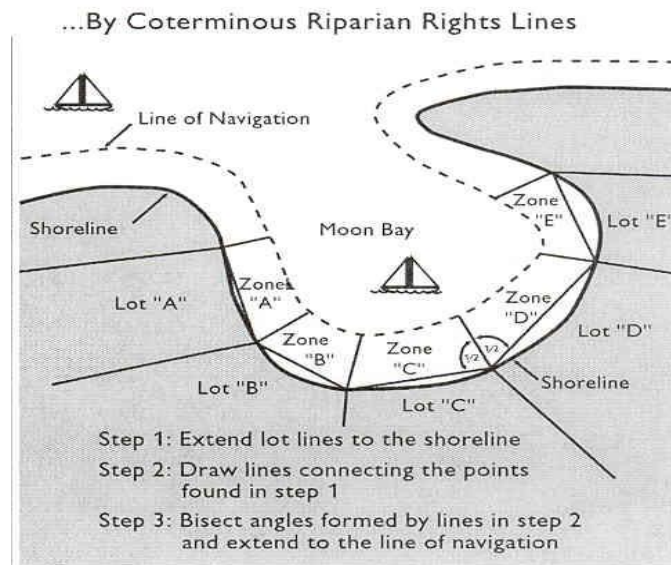


Figure 5-2

III. Length of Navigational Encroachments

A. Historically Established Line of Navigability

The Department shall recognize the historically established line of navigation in the area of a new navigational encroachment application (IDAPA 20.03.04.010.20). When the line of navigability is determined by existing permitted encroachments, applicants may apply for a navigational encroachment that extends out to the established line of navigability. This length shall be permitted, unless site specific conditions warrant a reduction or extension in length.

If the permitting of a single-family or two-family encroachment at or within the existing line of navigability results in the encroachment exceeding the standards set forth in IDAPA 20.03.04.015.01 (including encroachment length and depth), variances shall be issued in accordance with IDAPA 20.30.04.015.01.d. Language reflecting the variance shall be included in the general conditions section of the encroachment permit.

B. Establishing a New Line of Navigability

When the line of navigability is not established in the area of a new navigational encroachment permit application, the Area shall consider the definition of the "line of navigability" in Code 58-1302(g) and IDAPA 20.03.04.10.20.

When permitting a single-family or two-family encroachment in an area with no existing line of navigability, the permitted encroachment length should not exceed 100 feet unless site specific considerations warrant a variance (IDAPA 20.03.04.015.01.d). Language reflecting the variance shall be included in the general conditions section of the encroachment permit. The department may require shorter docks when conditions warrant (IDAPA 20.03.04.015.01.c).

The Area shall consider the public trust values (Idaho Code 58-1301 and 58-12) when permitting an encroachment whereby an extension or establishment of a new line of navigability is requested in an application.

IV. Length of Nonnavigational Encroachments

A. Case by Case

The nature of non-navigational encroachments is such that encroachment length determination, if applicable, will be determined on a case by case basis. Area staff should use the navigational encroachment criteria in Subsection III, as appropriate (public trust values in Idaho Code 58-1301 and 58-12), when permitting a non-navigational encroachment that involves line of navigability issues.

Floating toys should be kept within the line of navigability, but they can be beyond the line of navigability for periods of time up to 24 consecutive hours (IDAPA 20.03.04.010.18). County ordinances may govern most floating toys. Enforcement is generally left up to the county marine deputies (IDAPA 20.03.04.015.14.a). Temporary permits may be used for water ski courses or other encroachments that are of a temporary nature and are outside the line of navigability.

V. Encroachment Standards

A. Design and Sustainability

All encroachments shall be designed and installed by the applicant, agent, or marine contractor to withstand normally anticipated weather conditions in the area. All docks, piers, or floats shall be adequately secured to pilings or anchors to prevent displacement by ice, wind, or waves (IDAPA 20.03.04.015.13.f). Final design and engineering integrity shall rest with the applicant or their agent.

B. Single-Family and Joint Two-Family Dock Standards and Requirements

The following standards and requirements apply for single-family and two-family docks:

1. Eligible Applicants

One single-family dock shall be permitted for the owner of a legally established littoral lot, or lots, with associated littoral rights (IDAPA 20.03.04.010.36). A legally established lot is a separate tax lot or parcel, which has been approved by the local planning and zoning commission. A waterfront owner with more than one contiguous waterfront lot shall only be permitted one dock.

2. Structure Width

No part of the dock, float or pier waterward of the OHWM or AHWL shall exceed ten (10) feet in width (IDAPA 20.03.04.015.01.a).

3. Ramp, Pier and Approach Width

In order to minimize impacts on the near shore area, ramps are recommended to be no wider than three (3) feet, and piers and approaches are recommended to be six (6) feet in width. Site specific conditions may require wider structures.

4. Square Footage

Total decked surface area waterward of the OHWM or AHWL shall not exceed seven hundred (700) square feet, including piers, ramps, decked triangles used to support fingers as shown to the right, and approaches for a single-family encroachment and shall not exceed one thousand one hundred (1,100) square feet, including piers, ramps, approaches for a two-family encroachment (IDAPA 20.03.04.015.01.b). A variance to these standards can be granted when justified by site-specific conditions such as distance to the line of navigability (IDAPA 20.03.04.015.01.d). The application and permit should state the total square footage of the encroachment that extends beyond the ordinary or artificial high water mark.



5. Dock Length

No portion of the docking facility shall extend beyond the line of navigability (IDAPA 20.03.04.015.01.c).

6. Orientation

Where feasible, the major portions (not slip extensions or the ends of T or L docks) of all docks, floats, piers and similar structures shall be constructed approximately perpendicular to the general shoreline (IDAPA 20.03.04.015.13.c). The orientation of these encroachments, therefore, will typically fall on the shortest line that can be drawn from the dock's point of origin on the OHWM or AHWL out to the line of navigability.

7. Location

Where feasible, all docks, floats, piers, and similar structures shall be located near the center of the upland lot.

8. Front Footage and Setback - Single-Family

Riparian ownership of a minimum of twenty-five (25) feet of frontage is required to permit a single-family dock (IDAPA 20.03.04.010.36). The encroachment must be located at least ten (10) feet from the riparian right line, unless approved by the adjacent riparian owner (IDAPA 20.03.04.015.13.e).

9. Front Footage and Setback - Two-Family

Two adjoining owners must have a minimum of fifty (50) feet of combined riparian ownership to permit a two-family dock (IDAPA 20.03.04.015.39). The encroachment should be located on the common littoral right line. It must be located at least ten (10) feet from non-common littoral right lines, unless approved by the adjacent littoral owner (IDAPA 20.03.04.015.13.e).

10. Dimensions

Permit descriptions for single-family and two-family moorage facilities shall state the number of slips along with the widths and lengths of the structure components such as, "3'x13' ramp, 6'x20' approach and 35'x40' floating 4 slip joint two family dock with 4 pilings", "8'x20' and 10'x30' L-shaped pier" or "3'x17' ramp, 6'x20' and 40'x10' floating T-shaped dock with 3 pilings". All facilities with slips shall state the number of slips and not be described by the F, U or W shape.

11. Piling Limitation

A maximum of four (4) pilings are normally allowed on floating structures.

C. Boat and Jet-ski Lifts, Ports and Ramps Standards and Requirements

The following standards and requirements apply for boat and jet-ski lifts, ports and ramps:

1. Single-Family Docks

A maximum of either one (1) boat lift and two (2) jet ski lifts or two (2) boat lifts shall be permitted per single-family encroachment permit without including the square footage of the boat lift in the overall square footage calculation. Additional lifts require 50% of the footprint of the largest lifts be included in the total square footage calculation (IDAPA 20.03.04.015.13.b.i).

2. Two-Family Docks

A maximum of either two (2) boat-lifts and four (4) jet ski lifts or four (4) boat lifts shall be permitted per joint two-family encroachment permit without including the square footage of the boat lift in the overall square footage calculation. Additional lifts require 50% of the footprint of the largest lifts be included in the total square footage calculation (IDAPA 20.03.04.015.13.b.ii).

3. Single and Two-Family Lift Permit Exemption

- a) A permit will not be required for a boat lift added to a single or two-family dock only if all of the following apply (IDAPA 20.03.04.015.13.b.iii):
 - i. The lift is placed within lines drawn perpendicular from the shore to the outside dock edges.
 - ii. The lift is outside the ten (10) foot adjacent littoral owner setback.
 - iii. The lift does not extend beyond the line of navigability.
 - iv. The lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii.
- b) The permittee shall send a revised permit drawing with the lift location as an application to the department. If the lift meets the above conditions, the application shall be approved as submitted.
- c) Future applications shall include the lift.

4. Community Docks

A maximum of either one (1) boat-lift or two (2) jet ski lifts per boat moorage shall be permitted for a community dock without including the square footage of the boat lift in the overall square footage calculation. Additional lifts require 50% of the footprint of the largest lifts be included in the total square footage calculation. Lifts placed outside of a slip shall be oriented with the long axis parallel to the dock structure (IDAPA 20.03.04.015.13.b.iv).

5. Community Dock and Commercial Marina Abbreviated Lift Permitting

Boat lifts added to a community dock or a commercial marina may not require a full permitting process, see Section 40 of these Procedures for more details (Reconfiguration/ Rearrangement).

6. Setbacks

If approved, a boat lift or jet-ski lift shall be permitted as an encroachment in aid of navigation and, as such, shall maintain the corresponding buffer from the riparian/littoral right lines of adjoining waterfront properties (10 or 25 feet depending on the type of encroachment) and shall not impede navigation (IDAPA 20.03.04.015.13.e).

7. Location

If approved, a boat lift, jet-ski lift or ramp shall be located immediately adjacent to the proposed or existing dock.

D. Commercial Navigational Encroachment Standards and Requirements

The following standards and requirements apply for commercial navigational encroachments:

1. Definition

Commercial marinas are facilities whose primary purpose is provide moorage for rental or for free to the general public (IDAPA 20.03.04.010.09).

2. Submerged Lands Leases

A submerged lands lease is required for all commercial navigational encroachments located above public trust lands (IDAPA 20.03.17.020).

3. Fairways

The width of fairways within a commercial marina is recommended to be 1.75 times the longest boat anticipated to be moored at the facilities. The impacts of fairways on adjacent littoral rights should be considered.

4. Setbacks

Commercial navigational encroachments shall not be located closer than twenty-five (25) feet to property and/or riparian or littoral right lines without the written consent of the adjacent property owners (IDAPA 20.03.04.015.13.e).

5. Ramp Size

In order to minimize impacts on the near shore area, ramps are recommended to be no wider than three (3) feet, and piers and approaches are recommended to be six (6) feet in width. Site specific conditions may require wider structures.

6. Orientation

Commercial navigational encroachments extending beyond the line of navigability should typically be oriented perpendicular to the generalized shoreline.

7. Parking

Vehicle parking requirements may be adopted by City or County governments and shall apply accordingly, even if they are less restrictive (IDAPA 20.03.04.015.03.c).

Commercial marinas shall provide one (1) vehicle parking space per two (2) watercraft or float home moorages. If private moorage is tied to specific parking spaces or designated parking areas, then one (1) vehicle parking space per private watercraft or float home moorage must be provided. Side-ties shall not be included in the total slip count for parking requirements unless they are used for moorage beyond day use.

8. Side Ties

Applications for a commercial facility shall identify any proposed side-ties for day use or long term moorage.

9. Dimensions

Permit descriptions for commercial facilities shall state the number and size of slips along with the widths and lengths of the structural components such as, 3'x13' ramp, 6'x20' approach and 50'x200' sixteen (16) slip commercial piers. If side-ties are included in the permit they should be stated separately such as, 3'x13' ramp, 6'x20' approach and 50'x200' floating sixteen (16) slip commercial marina with twenty-two (22) side-ties.

10. Petroleum and Spills

Petroleum boom and spill kits should be present at all commercial navigational encroachments with gas pumps.

E. Community Docks Standards and Requirements

The following standards and requirements apply for community docks:

1. Processing

Community dock applications shall be processed as a commercial navigational encroachment (Idaho Code 58-1306).

2. Submerge Lands Leases

A submerged lands lease is required for all community docks that have more than 1,100 square feet over public trust lands.

3. Eligible Applicants

The area shall only accept applications for a community dock from more than two adjacent littoral owners or from littoral owners with a common littoral right (IDAPA 20.03.04.010.11). The necessary littoral rights must be established through a legal subdivision prior to acceptance of the application by the Area. A legal subdivision includes establishment of separate tax lots or parcels, which have a final plat approved by the local planning and zoning commission.

4. Width of Structures

No portion of the waterward structure shall exceed ten (10) feet in width, except for integrated breakwaters, when justified (IDAPA 20.03.04.015.02.b).

5. Width of Fairways

The width of fairways is recommended to be 1.75 times the longest boat anticipated to be moored at the facilities. The impacts of fairways on adjacent littoral rights should be considered.

6. Setbacks

The encroachment must be located at least twenty-five (25) feet from the property and/or riparian or littoral right lines. A community dock located closer than twenty-five

(25) feet to adjacent riparian property lines shall be presumed to have an adverse affect on adjacent riparian property. Consent of the adjacent riparian owner/owners will automatically rebut the presumption and is required prior to approval (IDAPA 20.03.04.015.13.e).

7. Ramps, Piers and Approaches

In order to minimize impacts on the near shore area, ramps are recommended to be no wider than three (3) feet, and piers and approaches are recommended to be six (6) feet in width. Site specific conditions may require wider structures.

8. Littoral Property

Community docks shall have a minimum of fifty (50) lineal feet of shoreline frontage to be eligible for an encroachment permit (IDAPA 20.03.04.015.02.c). Applications must identify the littoral property dedicated to the encroachment. The littoral property need not be contiguous, but should generally be in close proximity.

9. Square Footage

Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The decked surface area of a community dock will be limited to the length of shoreline times seven (7) square feet or a minimum of seven hundred (700) square feet (IDAPA 20.03.04.015.02.c). For example, one hundred twenty-five (125) feet of dedicated shoreline for a community dock times seven (7) square feet of decked surface area equals eight hundred and seventy-five (875) square feet of allowed decked surface area.

10. Breakwater

The need for an integrated breakwater must be demonstrated by the applicant (IDAPA 20.03.04.015.02.d). Only the first ten (10) feet of width of the integrated breakwater will count toward the total square footage allowed. Decking of a breakwater exceeding ten (10) feet in width may be approved by the Area even if the additional decking exceeds the total square footage normally allowed for the community dock (IDAPA 20.03.04.015.02.d). The purpose of the additional decking is to safely cover the breakwater structure. No side ties on the outside of the breakwater shall be approved, and permanent structures or improvements on the breakwater deck will normally not be allowed.

11. Side Ties

Applications for a community facility shall indicate or identify any proposed side-ties.

12. Dimensions

Permit descriptions for community facilities shall state the number of slips along with the widths and lengths of the structure components such as, "3'x13' ramp, 6'x20' approach and 50'x200' floating sixteen (16)-slip community marina with four (4) piling. If side-ties are included in the permit, they should be stated separately such as, "3'x13'

ramp, 6'x20' approach, and 50'x200' sixteen (16)-slip and six (6) side-tie community marina pier."

13. Orientation

The length of community encroachments will generally be limited to the line of navigability (IDAPA 20.03.04.015.13.d) and should typically be oriented perpendicular to the generalized shoreline (IDAPA 20.03.04.015.13.c).

F. Buoy Standards and Requirements

The following standards and requirements apply for buoys:

1. Number

One (1) mooring buoy per riparian property owner will be allowed (IDAPA 20.03.04.015.09).

2. Setback

The mooring buoy anchor shall be installed a minimum of thirty (30) feet away from littoral right lines (IDAPA 20.03.04.015.09) and not beyond the established line of navigation (IDAPA 20.03.04.025.01) unless the watercraft needs additional draft.

3. Markings

Mooring buoys shall have Coast Guard approved markings (IDAPA 20.03.04.010.02 and 20.03.04.015.12).

4. Regulatory Buoys

Encroachment applications for regulatory buoys shall be submitted by the county commissioners or city council, where the buoys are to be located (IDAPA 20.03.04.020.07.d).

G. Breakwater Standards and Requirements

The following standards and requirements apply for breakwaters:

1. Public Use

Breakwater encroachments with piling or anchor system shall not exclude the public from using the breakwater as anchorage for fishing or emergency moorage, unless the breakwater is integrated into the dock structure.

2. Setback

Breakwaters shall not be located closer than twenty-five (25) feet to property and/or riparian or littoral right lines without the written consent of the adjacent property owner (IDAPA 20.03.04.015.13.e).

3. Function

Breakwaters shall be designed to disperse wave energy of known wave heights and lengths in the area of the proposed encroachment (IDAPA 20.03.04.015.06). Detailed design plans shall be submitted with the application to justify the intended use. A log boom is not a designed breakwater. In some cases, a log boom can cause more damage than it was intended to prevent.

4. Community and Commercial

Generally, breakwaters shall be permitted for community or commercial facilities. Only under unusual circumstances should breakwaters be permitted for other navigational encroachments. Breakwaters shall only be processed as aids to navigation.

H. Float Home Standards and Requirements

The following standards and requirements apply for float homes:

1. No new facilities

No new float homes shall be allowed waterward of the OHWM or AHWL (IDAPA 20.03.04.015.05.b and 20.03.04.015.10.a). The float home inventory shall be consulted to determine if a float home existed prior to 1974.

2. Setbacks

float home encroachments shall not be located closer than twenty-five (25) feet to property and/or riparian or littoral right lines, without the written consent of the adjacent property owners (IDAPA 20.03.04.015.13.e).

3. No Enlargement

Applications to enlarge float homes beyond their current permitted square feet will not be accepted (IDAPA 20.03.04.015.05.b and 20.03.04.015.10.a).

4. Square Footage Calculation

The square footage for ramps, piers and approaches associated with float homes shall be included in the total square footage calculation (IDAPA 20.03.04.015.13.a).

5. Remodeling

Construction or remodel work on a float home that costs fifty percent (50%) or more of its assessed value will require an encroachment application (IDAPA 20.03.04.015.10.h). In addition, the construction drawings must be stamped by an engineer licensed in the state of Idaho. The purpose is to make sure the float home has adequate flotation and that the structure has a stable center of gravity for expected snow loads, wind, etc.

6. Replacement/Vertical Expansion

Encroachment applications for the replacement of an existing float home (IDAPA 20.03.04.020.04) or adding another story to an existing float home shall require a new encroachment permit and proof of local building permits (IDAPA 20.03.04.015.10.c).

7. Relocation

Relocation of existing, permitted float homes (IDAPA 20.03.04.015.10.b) shall require a new encroachment permit. Proof of fee ownership or long-term lease of the upland adjacent to the relocation, or reconstruction site must be furnished to the Department.

8. Plumbing and Electrical

All plumbing and electrical work on float homes must be done in accordance with IDAPA 07.02.06, "Rules Concerning the Idaho State Plumbing Code" and IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code (IDAPA 20.03.04.015.10.d).

9. Sewage Disposal

All float homes that are hooked to upland sewer or septic systems must meet the standards in IDAPA 20.03.04.015.10.e by December 31, 2012. Permittees or their designees are responsible for providing this documentation to the department. Float homes must be inspected prior to this date by a professional plumber licensed in the State of Idaho. A report to IDL from the plumber will document whether the float home meets the standards in IDAPA 20.03.04.015.10.e (IDAPA 20.03.04.015.10.f). A permittee may request an extension prior to the above date (IDAPA 20.03.04.015.10.g). No extension will be approved beyond December 31, 2016.

I. Boat Garage Standards and Requirements

1. Applications

Except to support local emergency services, applications to construct new boat garages, expand the square footage of the existing footprint, or increase the height of a boat garage will not be accepted (IDAPA 20.03.04.015.05.b). Encroachment permit applications to relocate and/or reconstruct existing permitted boat garages or to construct new boat garages for local emergency services are processed pursuant to I.C. § 58-1306 and Rule 030. A permit is not required to clean, maintain, or repair an existing permitted boat garage (Rule 020.04).

2. Footprint

Except to support local emergency services, the footprint of a boat garage may not be expanded (Rule 015.05.b). The footprint is the area the encroachment covers, measured in square feet. In order to ensure the footprint of a boat garage is not expanded, the following must be identified in the application and permit:

- i. Boat garage footprint: Area enclosed by the walls and roof.

- ii. Float footprint: Area covered by the float(s) supporting the boat garage.

Surface decking area beyond the walls of the boat garage is regulated by the corresponding rules (e.g. the decking area beyond the walls of a non-commercial boat garage that serves one waterfront owner must meet the requirements of a single-family dock). If the decking area shares the float(s) with the boat garage, this area is counted in both the footprint of the boat garage and the dock.

3. Height

Except to support local emergency services, the square footage of the existing footprint or the height of a boat garage may not be increased (Rule 015.05.b).

4. Residential Area

A boat garage may not have a temporary or permanent residential area (Rule 010.06). Residential areas are regulated under the rules related to float homes (Rule 015.10).

5. Littoral Rights

Under the Rules, it is presumed (subject to rebuttal) that a boat garage located closer than twenty-five (25) feet to adjacent littoral right lines has an adverse effect upon adjacent littoral rights.

The approach and boat garage must be constructed to lessen the potential for infringement on littoral rights. This is typically done by constructing the encroachment to protrude as nearly as possible at right angles to the general shoreline (Rule 015.13.c).

6. Weather Conditions

A boat garage and its building materials must be designed and installed to withstand normally anticipated weather conditions in the area. A boat garage must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves (Rule 015.13.f).

7. Flotation Devices

Flotation devices for a boat garage must be reasonably resistant to puncture and other damage (Rule 015.13.f). Any beaded foam flotation must be completely encased in a manner that will maintain the structural integrity of the foam and be resistant to the entry of rodents (Rule 015.13.i).

8. Inspection

An on-site inspection is required as part of processing an application to rebuild or relocate an existing permitted boat garage prior to relocation, demolition, and/or construction. The inspector compares the size and footprint of the existing boat garage with the figures identified in the permit and provided in the application.

9. Permit Description

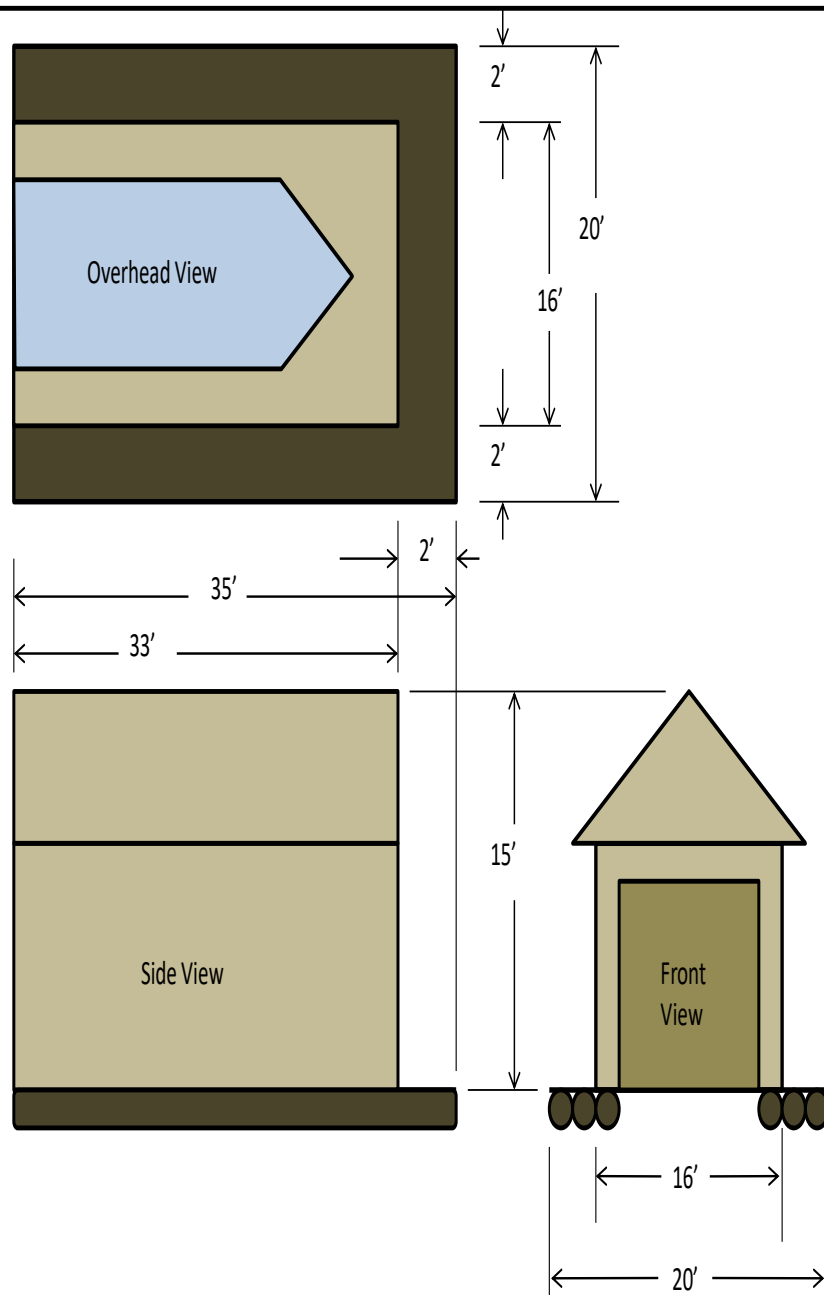
In the encroachment permit, a boat garage is described as follows:

A boat garage footprint-square foot, number of slips-slip boat garage (width parallel to the shore' x length perpendicular to the shore' x height') with a float footprint-square foot float (width parallel to the shore' x length perpendicular to the shore').

For example, the boat garage drawn in Figure 1 would be described as:

A 528-square foot, single-slip boat garage (33' x 16' x 15') with a 700-square foot float (35' x 20') including 172 square feet of decking.

Figure 1: Sample Boat Garage Drawing



J. Excavated or Dredged Channels/Basins Standards and Requirements

The following standards and requirements apply for excavated or dredged channels/basins:

1. High Standard for Approval

Excavation or dredging will be approved only when a clear environmental, economic, or social benefit to the citizens of Idaho is apparent (IDAPA 20.03.04.015.11.b). Blasting of underwater obstructions is considered dredging. The Department should work with the applicant to develop solutions minimizing the need for new dredging and maintenance dredging. Questions regarding the clear benefit should be discussed with the Area Supervisor and the Operations Chief in consultation with the Program Manager as needed.

2. Removal and Disposal

An application for dredging shall include the volume of lake or riverbed material to be removed and the location of the spoils disposal area.

3. Social Benefit

If a channel or basin is approved for an encroachment permit, the location shall be such that more than one (1) riparian lot owner can be served, when practical, or a commercial marina (IDAPA 20.03.04.015.11.c).

4. No Creation of Littoral Property

No channel or basin excavations shall be permitted that will provide non-riparian property with access to navigable waters (IDAPA 20.03.04.015.11.c).

K. Boat Ramps and Launch Rail Systems Standards and Requirements

The following standards and requirements apply for Boat Ramps and Launch Rail Systems:

1. Primarily Public Use

Boat ramps shall be issued only to city, county, state or federal agencies with parks and recreation facilities, except in the most unusual of circumstances. If a boat ramp is authorized for a commercial marina, the permit should typically specify that the facility will be open to the public. Boat ramps will generally not be permitted for exclusive use at single-family, two-family, and community docks based on the wide availability of public boat ramps.

2. Easements

Publicly owned boat ramps available free of charge shall require an easement (IDAPA 20.03.09). All other boat ramps will typically require a submerged lands lease. Contact the Program Manager for questions regarding boat ramps.

3. Unimproved Ramps

Unimproved or native boat ramps are discouraged, but allowed, providing the upland owner is not altering the lake, riverbeds, or banks waterward of the OHWM or AHWL.

4. Construction Standards

- a) Concrete must be reinforced for added strength and durability. Concrete should not be poured below the ordinary high water mark unless the lake or river can be kept isolated from the concrete. Pouring concrete into water is prohibited due to the effects on aquatic biota. Reinforced slabs may be poured into forms above the waterline and then pushed into place. A cofferdam can also be constructed around the boat ramp area and the ramp can be poured in place. Other methods that keep the work area dry may be used at the department's discretion.
- b) All authorized boat ramps shall be constructed in a manner to protect the toe of the ramp from boats power loading and power unloading. This may be done by extending the concrete ramps past the prop wash zone, or by placing riprap at the ramp toe.
- c) Boat ramps shall be constructed to prevent the ramp from acting as a conduit for storm water run-off.
- d) Launch rails, if approved, shall be constructed during the low water season of the year. The rails shall be elevated eighteen (18) to twenty-four (24) inches above the lakebed surface to allow for natural drifting material.

5. Setbacks

- a) Single-family and joint two-family launch rail encroachments shall not be located closer than ten (10) feet to property, riparian or littoral right lines without the written consent of the adjacent property owner (IDAPA 20.03.04.015.13.e).
- b) Boat ramps shall not be located closer than twenty-five (25) feet to the property, riparian, or littoral right lines without the written consent of the adjacent property owner (IDAPA 20.03.04.015.13.e).

L. Riprap, Seawall, and Bulkheads Standards and Requirements

The following standards and requirements apply for riprap, seawalls, and bulkheads:

1. Near Shore Construction

Riprap material shall be placed along the present contour of the shoreline and no riprap material shall be placed in excess of that necessary to stop erosion, except when in conformity with the Idaho Department of Fish and Game's recommended methods for enhancing near-shore fish habitats.

2. Construction Standards

- a) Riprap used to stabilize shorelines will consist of rock that is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock shall be sound, dense, durable, and angular rock resistant to weathering and free of fines (IDAPA 20.03.04.015.08.a). The length of the stone should be less than three (3) times its width or thickness. The riprap shall overlie a distinct filter layer which consists of sand, gravel, or nonwoven geotextile fabric (IDAPA 20.03.04.015.08.a). Such filters will always be required within the Coeur d'Alene basin. The riprap and filter layer shall be keyed into the bed below the ordinary or artificial high water mark, as applicable (IDAPA 20.03.04.015.08.a). Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the Area's discretion (IDAPA 20.03.04.015.08.b). If the applicant wishes to install riprap with different standards, they must submit with their application a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho (IDAPA 20.03.04.015.08.a).
- b) Riprap should be placed on a slope no steeper than 1.5H:1V to aid in wave energy dissipation. Where possible, cutbanks shall be sloped landward and rip rap placed on this slope to minimize encroachment onto the lakebed or riverbed.
- c) Permits to repair or replace existing unpermitted seawalls, bulkheads or other vertical walls shall be stipulated to require riprap material be placed at the toe along the entire wall face. It is important to get these structures under permit for inventory and historic purposes.
- d) Seawalls, bulkheads and other vertical walls shall not be permitted waterward of the OHWM or AHW, except in unusual circumstances (IDAPA 20.03.04.015.07). Seawalls, bulkheads or other vertical walls built on state owned lakebeds or riverbeds and designed to protect upland property, if permitted at all, shall typically require an easement or lease.
- e) Seawalls, bulkheads or other vertical walls constructed at the OHWM or AHW shall have riprap material placed at the toe along the wall face to provide for aquatic life, dissipate wave energy and protect wall integrity.

3. Jetties and Barbs

Jetties and bank barbs shall generally not be permitted as a method of controlling erosion on lakes and slack waters of reservoirs administered by the Department for trust purposes. These types of encroachment can have adverse impacts to navigation and recreation.

M. Water Intake Systems and Utility Line Standards and Requirements

The following standards and requirements apply for water intake systems and utility lines:

1. Permitting

Encroachment permits will be required for all water intake lines (IDAPA 20.03.04.012.02). Existing, unpermitted water intake lines must go through the current permitting process, and pay the current application fee, unless the applicant provides proof that the encroachment was constructed prior to January 1, 1975 and has not been modified since that time.

2. Setbacks

Utility line encroachments shall not be located closer than twenty-five (25) feet to property and/or riparian or littoral right lines, without the written consent of the adjacent property owner (IDAPA 20.03.04.015.13.e).

3. Heat Pumps

Heat pumps are generally not permitted because they are a nonnavigational encroachment and upland areas can be used for the same purposes. Area staff shall consult with, and receive approval from, Idaho DEQ prior to approving heat pumps that involve lines containing anti-freeze or other chemicals. Heat pumps must also follow the same screening and anchoring standards used for water lines.

4. Screen Diameter

Water intakes shall be screened with a maximum screen mesh diameter of one-quarter (1/4) inch to keep aquatic life from being impacted, and approach velocities should be less than 0.5 feet per second.

5. Line Anchoring

Any exposed water intake line shall be anchored to the bed of the lake with a nontoxic type of weight.

6. Orientation

Water intake lines should typically be oriented perpendicular to the generalized shoreline (IDAPA 20.03.04.015.13.c).

7. Easements

Utility line encroachments shall require an easement from the Department. Easements are only required for water intake lines that draw five (5) cubic feet per second (cfs) or more (IDAPA 20.03.09.001.02).

N. Fill Standards and Requirements

The following standards and requirements apply for fill:

1. High Standard for Approval

Applications for fill placed waterward of the OHWM or AHWL will be approved only when a clear environmental, economic, or social benefit to the citizens of Idaho is apparent. Questions regarding the clear benefit should be discussed with the Area Supervisor and the Operations Chief in consultation with the Program Manager as needed (IDAPA 20.03.04.030.02).

2. Permits, Leases and Easements

Fill material placed waterward of OHWM may require an easement or submerged lands lease (IDAPA 20.03.09 and 20.03.17). Fill placed between an OHWM and an AHWL will require an encroachment permit, but not an easement or lease.

3. Volume and Type of Fill

If fill is proposed, the application shall state the volume and type of fill and include a cross-section of any excavation or fill including vertical and horizontal dimensions.

O. Other Encroachments Standards and Requirements

When processing other encroachments not included in the sections above, Areas should consult with the Operations Chief and Program Manager.

VI. Private Moorage within Commercial Marinas

A. Creation of Private Moorage

Private moorage within a commercial marina is created through one or more of the following actions:

1. Moorage contracts executed that last longer than one year (IDAPA 20.03.04.015.03.a); or
2. Moorage is obtained through a purchase, or other transfer of ownership, of real property including fractional ownership of the marina, littoral rights, and associated upland property (IDAPA 20.03.04.015.03.a); or
3. Moorage is obtained through a membership in a club or organization (IDAPA 20.03.04.015.03.a).

B. Eligible Applicants

The applicant for a commercial marina with private moorage must be a condominium association, co-op, or other entity which owns the marina, littoral rights, and associated uplands sufficient to maintain and operate the marina (IDAPA 20.03.04.015.03.h).

C. Public and Private Use

Applications for commercial marinas with private moorage shall designate which moorage will be available for private or public use. Private moorage is limited to a maximum of 50% of the

total moorage. One private float home moorage is equivalent to either one public float home moorage or two public boat moorages (IDAPA 20.03.04.015.03.a, .03.f, and .03.i). This comparison is made only when calculating the amounts of private and public moorage.

D. Comparable Moorage

Public moorage must be of similar size as private moorage at a commercial marina, except for float home moorage as noted above. In general, boat moorage may be compared by examining the usable, wet square footage (length and width) of each boat moorage. The applicant shall provide these calculations with the application. These calculations may be used to determine the percentage of public and private moorage. When two public boat moorages are used to offset a private float home moorage, the square footage of the two public boat moorages should be approximately the size of the weighted average of other public boat moorages. Public and private moorage at the same facility must be of similar quality (IDAPA 20.03.04.015.03.g).

E. Access

All patrons of a commercial marina with private moorage must be provided with equivalent access to the facility (IDAPA 20.03.04.015.03.d).

F. Parking

One full parking space is required for every two moorages or fraction thereof. Rounding must be made to the benefit of the public. If a situation arises whereby the amount of public moorage is an odd number and parking is divided between public and private spaces, then the number of required parking spaces for the public moorage shall be rounded up. For example, if 101 public moorages and 24 private moorages are proposed and 74 parking spaces exist, then 51 public parking spaces must be made available leaving 23 private parking spaces.

VII. Conversions involving Private Moorage

A. Permit Required

A new encroachment permit is required for commercial marinas to convert moorage between public and private usage. A maximum of 50% of the moorage may be private to retain commercial marina status. If more than 50% of the moorage will be private, then the marina must meet the community dock standards including square footage limitations (IDAPA 20.03.04.015.03.b and .03.i).

A new encroachment permit is required for community docks to convert to a commercial marina with private moorage. A maximum of 50% of the moorage may remain private, and community dock standards will no longer apply if the application is approved (IDAPA 20.03.04.015.02.e).



Section 30 – Permit Issuance

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Permit Template and Signatures	43
II. Contents	43
III. Terms and Conditions	43
IV. Preexisting Permits	44
V. Dock Dimensions.....	44
VI. Permit Expiration	44
VII. Notary Public.....	44
VIII. Document Distribution	44

I. Permit Template and Signatures

Encroachment permits shall be prepared by Area staff on a Department template. The Area Manager or designee shall sign one (1) original encroachment permit.

II. Contents

The permit shall state the encroachment number; the permittee's name and address; the site's county; legal description and address (if different); the type of encroachment (single-family, community dock, nonnavigational, etc.); a description of the activity or activities being permitted; and the name of the water body.

III. Terms and Conditions

All permits shall have appropriate provisions and conditions for the activity permitted. The first ten (10) terms and conditions of all permits shall be the same (Attachment 14). Additional provisions and conditions may be applied. Most conditions or stipulations have been identified

and are included in Attachment 14. It may be necessary to create a new provision or condition. New conditions or provisions should be discussed with the Program Manager prior to issuing a permit. Granted variances and specifications outside those normally allowed should be specifically described in the encroachment permit.

IV. Preexisting Permits

If the permit will replace a preexisting permit, then the following term must be included: "This permit replaces all previous permits, which are hereby null and void."

V. Dock Dimensions

The written permit description shall provide the waterward dimensions and total square footage of the encroachment being permitted. The measurements paralleling the shoreline are stated first (width), the measurements extending waterward are stated second (length), such as "A 700 square foot single-family dock consisting of 3'x13' ramp, 6'x20' approach, and 30'x25' floating single-slip dock or pier." From the example, the length of encroachment is fifty-eight (58) feet waterward and less than seven hundred (700) square feet of deck surface area.

VI. Permit Expiration

All activities authorized within the scope of an encroachment permit shall be completed within three (3) years of the issuance date. If the activities authorized are not completed within three (3) years, the permit shall expire, unless previously revoked or extended by the Department (IDAPA 20.03.04.060.04). The department may issue a permit with an initial sunset clause that exceeds three (3) years, if the need is demonstrated by the applicant.

VII. Notary Public

Each encroachment permit shall be notarized by the Department upon issuance.

VIII. Document Distribution

Upon completion of the permit process, the Area shall:

- A. Forward to the permittee the original permit, a copy of the encroachment application package, and attachments; and
- B. Forward to LMR Document Exchange an electronic (scanned) copy of the permit, the application package, and a copy of any significant correspondence and receipt of required fees. Blank work completion reports and assignment forms shall not be included in the electronic submittal. Files too large for e-mail can be placed in the following location on the Boise8 pool drive: P:\NavWaters\Encroachment Permits, with an e-mail to the Program Manager alerting him of the permit. The Bureau should not receive any of this information prior to permit issuance unless a hearing is being held

- or other circumstances require it. Copies of permits shall be sent to other agencies or other interested parties, at the Area's discretion.
- C. Email an electronic (scanned) copy of the permit to the Idaho Department of Water Resources' State Floodplain Coordinator.



Section 35 – Assignments, Amendments & Extensions

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Assignments of Encroachment Permits.....	46
II. Amendments to Encroachment Permits	47
III. Extensions of Encroachment Permits	47

I. Assignments of Encroachment Permits

A. Forms

All requests for assignment shall be on the Department of Lands Request for Assignment of Encroachment Permit form (Attachment 15) (IDAPA 20.03.04.065.01).

B. Signatures

The request for assignment shall have the signatures of the new property owner and the notarized signature of the prior owner (IDAPA 20.03.04.065.01).

C. Fees

All requests for an assignment shall require a \$300 processing fee. Submerged land leases will require a separate assignment form and fee (IDAPA 20.03.04.065.02).

D. File Review

A review of the file is necessary to complete the assignment. All non-compliance must be addressed (IDAPA 20.03.04.065.04).

E. Site Inspections

It is recommended that Area staff conduct site inspections for encroachment assignments, when possible, with an emphasis on completing inspections with encroachment permits older than 15 years. Approval of the assignment may be delayed until weather conditions allow an inspection. Upon completing the site visit, it may be necessary to either request an encroachment application for an unpermitted portion of the encroachment or request removal of unpermitted structures.

F. File Update

A request for an assignment shall be logged into the Area ledger or electronic journal, indicating the encroachment activity. A new file label is prepared if necessary and the file is updated with the new encroachment information.

G. Document Distribution

The assignment original form and related paperwork will be forwarded to the Bureau for record keeping after the assignment is completed

H. Cottage Sites

Encroachment permits associated with a state cottage site lease will not be assigned until the cottage site lease is assigned. The cottage site lease will require a separate assignment form and fee.

II. Amendments to Encroachment Permits

A. Community Docks and Commercial Marinas

Changes to the interior of these facilities may qualify as a reconfiguration or rearrangement as per IDAPA 20.03.04.020.05.b. See Section 40 of these Procedures for more information.

B. Forms

A request to amend an existing encroachment permit must be submitted on an encroachment application (Attachment 2 with either Attachment 3 or Attachment 4) and processed as a new permit with the required application fee (IDAPA 20.03.04.020.04).

C. Permit Number

No changes to the permit number are needed.

III. Extensions of Encroachment Permits

A. Sunset Clause

Unless a longer period is specifically requested in an encroachment permit application and granted in the permit, encroachment permits are issued with a sunset period of three years pursuant to IDAPA 20.03.04.060.04. If activities authorized within the scope of the encroachment permit are not completed within the sunset period identified in the encroachment permit, the permit automatically expires unless it was previously revoked or extended by IDL.

B. Request for Extension

IDL will only consider a request to extend an encroachment permit's sunset period if the request is received prior to the end of the sunset period.

C. Granting Extensions

Extensions are normally granted for one (1) year intervals, but can be issued for up to three years if there is justification. The extensions are granted by letter. The letter shall state the

extension is being granted and the termination date of the extension. The new sunset date must be entered into LandFolio.

D. Denying Extensions

Denying an extension is done by letter and must state:

1. The request for extension has been denied.
2. If the sunset period has already past, and if:
 - a. None of the encroachments authorized in the permit have been completed, that the permit is expired, otherwise
 - b. Identify the encroachments for which authorization has expired and issue a new permit listing only the encroachments that remain permitted.
3. Identify next steps which may include:
 - a. May apply for a new encroachment permit
 - b. May apply for an after-the-fact encroachment permit if the encroachment is partially complete and meets current standards
 - c. Remove all unauthorized encroachments



Section 40 – Repair & Replacement

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Clean, Maintain, Repair.....	49
II. Replacement	49
III. Changing Type of Encroachment	50
IV. Enlarging, Relocating, Extending.....	50
V. Re-dredging.....	50
VI. Modifications of a “Grandfathered” Encroachment.....	50
VII. Reconfiguration/Rearrangement.....	50

I. Clean, Maintain, Repair

No approval is required to clean, maintain or repair an existing permitted encroachment (IDAPA 20.03.04.020.04).

Replacing the decking of an existing permitted encroachment with the same or different materials is considered a repair. Replacing damaged piling, float logs and other means of flotation (the same or different flotation device) of an existing permitted encroachment is a repair (IDAPA 20.03.04.020.04).

II. Replacement

Replacing an entire encroachment will require a new permit application (IDAPA 20.03.04.020.04). The permitting process for replacement is the same process as required for new encroachments (Idaho Code 58-1312). If the existing encroachment does not meet the current requirements, it may not be replaced. It must be redesigned to conform to the current permitting requirements.

The only exception is for single-family and two-family docks that meet all the following criteria (Idaho Code 58-1305(e)):

- The existing encroachment is covered by a valid permit in good standing;
- The existing encroachment meets the current requirements for new encroachments;

- The location and orientation of the replacement do not change from the existing encroachment;
- The replacement will be the exact same size or smaller and the same shape as the existing encroachment; and
- The replacement will not be located closer to adjacent littoral right lines than the existing encroachment.

If all these conditions are met, then replacement of a single or two-family dock will not require a permit.

III. Changing Type of Encroachment

Changing the type of encroachment structure, such as replacing a floating section with a pier and ramp will require a new permit application.

IV. Enlarging, Relocating, Extending

A permit application is required for enlarging, relocating, or extending an existing permitted encroachment (IDAPA 20.03.04.020.04 and 20.03.04.020.05). The permitting process for modification is the same process as required for new encroachments (Idaho Code 58-1312). As a result, the entire encroachment must meet the current permitting requirements.

V. Re-dredging

Re-dredging an existing channel or basin shall be considered a replacement and a new permit application is required, unless redredging is authorized in the current permit. Water quality certification from the Idaho Department of Environmental Quality (DEQ) is required prior to any dredging or redredging. Littoral owners conducting dredging or redredging shall supply Department personnel with proof of water quality certification from DEQ (IDAPA 20.03.04.020.06).

VI. Modifications of a “Grandfathered” Encroachment

Modification of an encroachment constructed prior to January 1, 1975 will require the owner to submit a permit application and enter the same permitting process as required for new encroachments (Idaho Code 58-1312). The current encroachment standards must also be applied to the entire structure. This applies to all single and two-family docks as well as community docks.

VII. Reconfiguration/Rearrangement

Rearrangement of single-family and two-family docks will require a new application for an encroachment permit (IDAPA 20.03.04.020.05).

Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal and will have no adverse impacts on navigation or adjacent littoral owners. The permittee will provide plans for the proposed changes to Area personnel for review. Area personnel will review the proposed changes

and shall use the following criteria to help determine if a new application must be submitted (IDAPA 20.03.04.020.05):

1. Overall footprint does not change in dimension or orientation;
2. No increase in square footage (additional slips);
3. The entrances and exits of the facility do not change.

Adding boat lifts to a community dock or commercial marina will normally qualify as a rearrangement if the three above criteria are met, and will not require a permitting process. The Area may, however, require a permitting process if unusual circumstances exist (e.g. the presence of spawning areas or proposed uses of materials or fluids that have the potential to impact water quality or other public trust resources). To ensure state-wide consistency, the Area should consult with the Navigable Waterways Program Manager in instances where a permitting process is being considered only for the addition of boat lifts to a community dock or commercial marina.

Even if a new permit application is not required, a lease adjustment may be needed for changes to community docks or commercial marinas. For more information, please see Section 50.II.C 'Submerged Land Lease Adjustments' in the Submerged Lands Leases Procedures.



Section 44 – Inspection Procedures

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Purpose	52
II. Preparation	53
III. Entry	53
IV. Opening meeting.....	54
V. Interviewing	55
VI. Financial Audits	56
VII. Inspecting the site.....	56
VIII. Evidence	57
IX. Photographs	57
X. Closing meeting.....	58
XI. Inspection report	59
XII. Safety	60

I. Purpose

- A.** In order to verify compliance with the laws and rules administered by the Idaho Department of Lands (IDL) under the Navigable Waterways Program, IDL personnel conduct inspections/on-site evaluations/investigations of activities and structures on Public Trust Lands. These inspections are conducted to support and ensure compliance regarding encroachment permits, disclaimers of interest, submerged lands leases, submerged lands easements, riverbed mineral leases, and other activities regulated by IDL.
- B.** These procedures outline the steps IDL personnel follow when conducting inspections under the Navigable Waterways Program. The role of the inspector/investigator is to observe and report. Inspections are conducted as part of processing applications, evaluating assignments, routine compliance checks, and in response to complaints.

II. Preparation

- A.** Thorough preparation is the key to a successful inspection. Prior to an inspection, the inspector should carefully review the following documents, as applicable, to become as familiar as possible with the inspection site, statutes, and rules applicable to the inspection:
1. The documented complaint
 2. Application and supporting documents
 3. Related instruments
 4. Prior compliance documents
 5. Prior inspection reports
 6. Sample analysis
 7. Applicable statutes and rules
 8. Applicable program Procedures
 9. Any specific requests made by a supervisor
 10. Aerial photographs and maps (historic and present)
- B.** Prior to leaving for inspections, the inspector should verify he or she has all of the materials needed to conduct and document the inspection, such as: IDL file or copies of pertinent documents (such as application, permit, lease, etc.), inspection report, pen and paper for notes, applicable rules, SOP, camera, sampling materials, GPS unit, laptop/tablet, business cards, tape measure, and proper attire and safety gear.
- C.** In most cases, the responsible party, or the authorized agent, should be notified prior to the inspection. Having someone on-site that has knowledge of the history, operation, and structure will allow you to conduct a more thorough inspection. This also ensures authorized entry onto the inspection site. If the responsible party is not available or cannot be contacted, consider conducting inspections from the lake or river to avoid entering private lands. Although term 4 of the standard encroachment permit terms allows IDL representatives to enter permittee's lands at all reasonable times to inspect an encroachment authorized by the permit, inspectors must use discretion when inspecting without the permittee or landowner being present. There may be situations when an unannounced inspection should be conducted. The factors to consider when making this decision include, but are not limited to, immediate or irreparable harm to water quality, fisheries, or other public trust values.

III. Entry

- A.** Upon arriving on-site to conduct an inspection, the inspectors must:
1. Visit at a reasonable hour.
 2. Enter through the primary entrance.
 3. Locate the responsible party.

4. Identify themselves to responsible party, even if not requested.
 5. Explain the legal basis for the inspection.
 6. Explain the scope of the inspection.
 7. If applicable, present necessary written notices.
- B.** Only after completing these seven requirements may the inspector determine whether he or she has been denied entry. An inspector is denied entry when the responsible party at the inspection site says so or when conditions are placed on activities that prevent the inspector from fully carrying out and/or documenting the intended purpose of the inspection. Do not allow behavior or emotional reactions to prevent a fair and professional assessment. If there is an imminent danger to the public or environment, the inspector must use best judgment to leave or clearly and calmly identify potential consequences of entry being denied, which may include other agencies being notified, injunctive relief, and potential civil penalties. If denial is clear and nonnegotiable, leave immediately. The inspector should not risk his or her personal safety. All events surrounding the refused entry should be fully documented as soon as possible.

IV. Opening meeting

- A.** The purpose of the Opening Meeting is to set expectations and the tone of the inspection. The inspector is in charge of the inspection and must maintain control throughout the inspection. Adopting a demeanor that is cordial, direct, assertive, and professional will create an environment that fosters rapport and trust. Use customer service skills to keep the inspected party engaged, cooperative, and not defensive. Remember, the inspected party may perceive you as threatening even if they have done nothing wrong. Also remember, that as a representative of IDL, your actions reflect on IDL.
- B.** After introduction to the responsible party as described above, start the inspection with an opening meeting. During the opening meeting inspectors:
1. Explain that the sole role of the inspector is to obtain information.
 2. Outline the inspection plan to let the inspected party know how long the inspection will take.
 3. Ask questions to learn about the inspection site, layout, staff, safety, history, and other information relevant to the visit.
 4. Describe the methods that will be used to document the inspection including making copies of records, drawing diagrams, taking samples, talking to employees, taking notes on paper or tape recorder, and taking photographs or video.
 5. Learn about the site specific safety concerns. You should already have the required safety training. Come to the inspection prepared with the required personal protection equipment (PPE).

6. Be courteous, respectful and polite. Treat the inspected party as you would want to be treated if someone was inspecting your property. It is important for your credibility and that of IDL to do so even when the inspected party is not doing the same.

V. Interviewing

- A.** The interview is one of the inspector's most useful tools for gathering information. While preparing for the inspection, plan the questions you will ask and how you will ask them. During the inspection, establish rapport by being open and friendly.
- B.** How you ask a question is often more important than the question itself. You must adapt to the environment, circumstances, and personalities involved. Poor questions get poor answers. The following are tips to help ask good questions:
 1. Simply ask the inspected party to tell you what they know and then sit back and listen with only occasional comments or questions to fill in vital information as it is revealed.
 2. Begin by asking questions to get general information, and then focus questions to get specific details.
 3. Avoid questions that may be answered with a simple yes or no.
 4. Avoid leading questions.
 5. Keep questions clear and uncomplicated by asking one question at a time and avoiding compound questions.
 6. Use simple acknowledgments and pauses to motivate the subject to continue their narrative.
 7. Ask follow-up questions to verify assertions. ("Why do you say that? How do you know that?")
 8. Repeat or rephrase information to verify that you have understood accurately and completely.
 9. Show concern for the subject's comfort and situation.
 10. Avoid negative or accusatory statements.
 11. Listen carefully.
 12. Maintain control.
 13. It is not uncommon to be asked during an inspection what your conclusions are. If you are uncertain or if full and complete rationale to support decisions has not yet been formulated, it is perfectly acceptable (and usually accepted) to state that you are currently just gathering information. A decision will be made at a later time after complete review of all pertinent information.
- C.** Be sure to document interviews by noting who you were talking to, what you asked, and how they responded.

VI. Financial Audits

- A.** Records to be reviewed in the field are generally those related to submerged land leases, riverbed mineral leases, and land use permits. The inspector should have a general idea of the records he or she will need to review during an inspection. The inspector should make the determination during the opening meeting when to review the records based on priorities of the inspection, availability of records/staff, or environmental factors such as weather.
- B.** In addition to identifying which records to review, the inspector should determine the method of reviewing records:

 - 1. Random (or shotgun) sampling.
 - 2. Best judgment call by inspector (activities may dramatically increase in the summer months so the inspector may focus on those months).
 - 3. Complete audit of all related records (usually this is done when there are not many records to review).
- C.** When possible, the inspector should review primary records. At a minimum the inspector should perform the following, as applicable:

 - 1. Cross check summary reports with the original data whenever possible.
 - 2. Check for completeness and accuracy of required records and reports.
 - 3. Determine if records are kept for the required length of time and reporting periods.
 - 4. Compare information contained in the records and databases with firsthand observations.
- D.** When documenting records reviewed in the inspection report, include the name of the record, where it was kept, and who is responsible for the record. In addition, the inspector should note the method of reviewing documents and a brief explanation why that method was chosen. Copies should be taken of documents relevant to potential noncompliances and may be provided by the inspected party or obtained by using a camera. Please see Attachments 17 & 18 for Notice of Compliance examples. Any questions regarding the confidentiality of documents should be brought to the attention of the Program Manager.

VII. Inspecting the site

- A.** The inspector directs the inspection. The pathway may be directed by geographic criteria, processes, and/or any other parameter the inspector decides are important. Be sure to follow the site map to ensure that important areas are not missed. Take notes, photographs, conduct interviews, and make diagrams as you tour the location. Record each site or event with more than one method of documentation and remember that redundancy is important for all critical compliance issues.

- B.** Try to maintain a methodical pace and demeanor throughout the inspection so that you do not over emphasize noncompliance issues. However, it is also important to obtain concurrence and confirm critical aspects of your observations with site representatives.

VIII. Evidence

- A.** The inspector should prepare to conduct and document his or her investigations thoroughly enough to withstand hearing officer or judicial review. The inspector should have the mindset that every inspection will go to court.
- B.** Solid evidence, that is admissible in court, is documentation (photos, notes, reports, statements, samples, and records) that meet the three primary cornerstones of credibility:
 - 1. **Foundation:** the argument that one piece of information leads to the next in a logical sequence. It may be thought of as a pyramid of information with one piece building upon the other.
 - 2. **Authenticity:** the evidence demonstrates to be what it is claimed to be. If there is a perception (or reality) that the information “could have been compromised,” the information will not be accepted into evidence.
 - 3. **Relevance:** the evidence pertains to the fact in question. Relevant evidence tends to make the existence of the fact either more or less probable than would be the case without the evidence.
- C.** There is good documentation and poor documentation, but there is seldom too much documentation. It is better to document something from more than one approach. The quantity and quality of documentation brought forward by the inspector will be compared with that of the defendant. The cornerstone to quality assurance and quality control is to do the right thing correctly.
- D.** Remember that you are telling a story or painting a picture for people who have never been to the site in question.
- E.** When an error is identified; clearly identify it, evaluate its potential effects on the objectives, and, if possible, correct the mistake. Do not cover it up. Document every step in making the correction.

IX. Photographs

- A.** While solid technical data is often critical to documenting or proving a noncompliance issue, photographic evidence can have a real influence on a case because of its ability to tie things together and add perspective. The test for entering photographs into evidence: “Is this a fair

and accurate representation of what you saw?" Photo documentation should tell a story using three basic kinds of photographs:

1. The establishing shot(s) shows a wide area that includes the subject and a fixed landmark to establish location and help the viewer understand where the subject is located.
2. The subject shot(s) shows the entire object or special area of an event that the photographer wants to emphasize to the viewer.
3. The close-up shot(s) shows unique details of the object or event that makes it unique and different from other similar objects that may be in the same area.

- B.** Be sure the camera is set up to display the time and date on the photograph.
- C.** Take photographs in approximately the same location and angle (viewpoint) as any previous photos that may have been taken.
- D.** Photographs must be described in the inspection report and include date, time, photo number, direction taken, and other comments to give meaning to the photograph.
- E.** Original digital images must be saved to the network as soon as practicable after image capture following the standard naming convention (See Endowment Leasing Administrative Procedure A7 Using the Document Exchange Document Naming Convention). Never edit the original. Any enhancements needed should only be made to a copy.
- F.** In addition to the original photographs, copies of photographs may be pasted into a document and annotated.

X. Closing meeting

- A.** The purpose of the closing meeting is to confirm your observations and review your preliminary findings with the inspected party. Prior to conducting the closing meeting, take a few minutes to review the inspection notes to identify points that need clarification and areas of concern. The closing meeting must be held with the inspected party and/or an authorized representative.
- B.** The closing meeting is your chance to go over and verify all of your significant observations with the inspected party and to request clarification or further documentation. The fact that you made this request during the inspection may be important if new material is provided by the inspected party at a later time and they claim that you never requested the relevant information.
- C.** During the closing meeting, review any issues of concern identified during the inspection. Use customer service skills to ensure the inspected party understands these issues.

- D.** Outline the next steps in the process. Indicate that the inspection report will be finalized and reviewed, and that the inspected party will receive a copy of the final report. If IDL identifies a noncompliance, the inspected party will be notified. Often, the inspected party or their representatives will seek advice on improvements or actions they must take to come into compliance. Simple, straightforward advice is usually fine, but the inspector's role may become jeopardized if he or she acts as a consultant.

XI. Inspection report

- A.** Inspection reports (see Attachment 16) must be submitted to the supervisor as soon as practicable after completing the inspection. As more time passes following the inspection, memories fade and credibility may be brought into question during legal proceedings.
- B.** The primary objective in generating the inspection report is to organize and coordinate all documentation and potential evidence in a comprehensive, understandable and usable manner. A good report should not need additional explanation. The narrative and supporting documentation must be:
 - 1. Accurate. All information must be factual and based upon verifiable observations.
 - 2. Relevant. Information in the report should be pertinent to the subject and objectives of the inspection. Information that is not material to the objective should be omitted.
 - 3. Comprehensive. Include everything which would contribute to an accurate determination of the facts or support the objective of the inspection. It is better to have too much good evidence than not enough.
 - 4. Organized. Your report should be well organized and flow in logical sequences. Readers with less technical experience or knowledge should be able to reach rational conclusions based upon the narrative and supporting evidence.
 - 5. Objective. Factual information should be presented objectively without drawing conclusions. Let the narrative and logical presentation of information lead the reader to draw his/her own conclusions.
 - 6. Clear. The report should be written at a level for its intended audience. It should be succinct and to the point.
 - 7. Professional appearance. This is a permanent record that could be used to support or refute any future agency actions. Use acceptable grammar, spelling, and punctuation. Make the document legible, neat in appearance, and organized for easy use.
- C.** Writing techniques:
 - 1. Write in the first person.
 - 2. Write in the active voice.
 - 3. Write in logical order.

4. Provide supporting verifiable data for any calculations or summaries included in the report.
5. Avoid using “absolute” words such as “all”, “never”, and “always”.

D. Outline of inspection report:

1. Type of inspection:
 - a. Quality assurance inspections are conducted randomly or when there is reason to believe there is a noncompliance.
 - b. Complaint based inspections are conducted upon receipt of a complaint.
 - c. Application review-based inspections are conducted upon receipt of an application for a new instrument or assignment.
2. Related instrument(s): list the encroachment permit, lease, easement, disclaimer, and/or other instrument number, as applicable. If no instrument has been issued, please indicate what activity is being inspected.
3. Name of Instrument Holder or Responsible Party: List the legal name of the responsible party (business or individual). Be sure the name entered matches the name on any instrument and is spelled correctly.
4. Location of Inspection: List the street address if known, otherwise use the legal description with applicable Government Lot numbers.
5. On-site representatives: Identify the people you met with on-site by name, title, and contact information.
6. Narrative: At a minimum this should include:
 - a. Purpose and scope of the inspection.
 - b. Sequential summary of observations including what was inspected, how it was inspected or audited, and what was observed.
 - c. As applicable, a description of the recordkeeping system, records reviewed, method used to review records, and records copied.
 - d. Summary of the closing meeting including individuals present, topics discussed, and information requested and timeframes to submit information.
7. Summary of findings: List all issues of concern identified. Be sure to cite the specific statute, rule, and/or instrument term.
8. Attachments: Number each attachment and provide the electronic file name.
9. Inspector’s signature, name, title/office, and date: Sign, legibly print name, include the position title and the name of home office, and the date of the signature. This should be the date the report is submitted to the supervisor for review.

XII. Safety

- A.** Inspections are potentially dangerous. These dangers can be minimized through adequate knowledge and planning. The ultimate responsibility for safety rests with the inspector. It is important to remain alert and attentive to surroundings for hazards. Use all of the available

clues to help recognize hazards and prepare for them. The following clues will help you to recognize many hazards:

1. Begin by asking the inspected party about hazards.
2. Pay attention to your senses. One of the greatest hazards is to focus so closely that you fail to notice an obvious smell, sound or visual clue that you are in danger.
3. Slippery and uneven surfaces are common near rivers and lakes. Wear appropriate footwear and be mindful of where you walk.
4. Drive safely.
5. If the inspected party becomes belligerent towards you during the inspection, calmly and politely back away from the situation. The inspection can be completed later at a less confrontational time.
6. If there is an immediate threat to public safety, get to a safe location and contact a supervisor and if necessary, emergency services.



Section 45 – Compliance Procedures

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Public Trust Program Manager, Boise Staff Office

Contents

I. Purpose	62
II. Applicable Statutes and Rules.....	62
III. Policy	62
IV. Procedure.....	63
V. Compliance Actions.....	65

I. Purpose

This procedure is followed when any attempt to resolve a noncompliance through conference is unsuccessful. This document outlines the process IDL employees follow to respond to noncompliances under the Lake Protection Act. It is intended to be a tool. It is not intended to replace good judgment, nor does it alter or amend the applicable statutes and rules. The Program Manager must be consulted when questions arise. Any deviation from these procedures must be documented and defensible.

II. Applicable Statutes and Rules

Lake Protection Act, Idaho Code Title 58, Chapter 13.

Administrative Procedure Act, Idaho Code Title 67, Chapter 52.

Rules of Practice and Procedure Before the State Board of Land Commissioners, IDAPA

20.01.01.000 *et seq.*

Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho, IDAPA 20.03.04.000 *et seq.*

III. Policy

It is the policy of the Navigable Waterways Program to help individuals and entities understand and comply with the Lake Protection Act and corresponding administrative rules. The goal of the compliance process is to bring Individuals and entities into compliance.

IV. Procedure

A. Verify noncompliance

1. A noncompliance is any action or inaction that violates any applicable statute, rule and/or permit provision.
2. Noncompliances are investigated and verified by IDL staff through inspections and file reviews.
3. The time and cost of the compliance process must be documented throughout the process, beginning with the inspection or file review. This information is used to justify recovery of expenses as provided for in Idaho Code § 58-1308(3).

B. Assess noncompliance

There are two levels of noncompliances based on potential risk to public trust values.

1. **Low risk** noncompliances do not pose an imminent environmental threat or a significant navigational hazard, and may be corrected with the issuance of an instrument. Low risk noncompliances include unpermitted encroachments that are otherwise in compliance with all pertinent statutes and administrative rules.
2. **High risk** noncompliances pose an imminent environmental threat or a significant navigational hazard. These noncompliances typically require removal, replacement, repair or some other physical corrective action, and may require coordination with other agencies. High risk noncompliances include unpermitted encroachments that are otherwise not in compliance with pertinent statutes and administrative rules.

C. Issue notice

The responsible party must be notified in writing of each noncompliance. In situations where there are multiple noncompliances, only one notice should be issued and the type of notice sent is determined by the noncompliance with the highest level of risk. Regardless of the level of noncompliance, all noncompliances must be identified in the notice.

1. Notice of Noncompliance

- a) Issued when: A low risk noncompliance is identified.
- b) Issued by: Someone other than the individual who verified the noncompliance.
- c) Issued via: Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail.
- d) A Notice of Noncompliance must include:
 - i. The authority under which the notice is sent.
 - ii. The statute, rule, and/or permit provision that was violated.
 - iii. The facts upon which the notification is based.
 - iv. The steps needed to come into compliance.
 - v. The date by which the recipient must respond to the notice or submit supporting documentation of each corrective action. The deadline may not be less than 30 days from the date of the letter unless immediate action is needed to prevent substantial or irreparable harm.
 - vi. The potential consequence(s) for not responding to the notice.
- e) See attachments 17 and 18 for examples.

2. Request for Additional Information

- a) Issued when: The responsible party submits an incomplete response to a notice. If the responsible party submits an incomplete response to a Request for Additional Information, use discretion to determine whether to issue a subsequent Request for Additional Information or proceed in the next step in the compliance process.
- b) Issued by: The same person who issued the Notice of Noncompliance.
- c) Issued via: Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail. See attachment 19 for an example.

3. Notice of Resolution

- a) Issued when: IDL has verified that all actions necessary for compliance have been completed.
- b) Issued by: The same person who issued the Notice of Noncompliance.
- c) Issued via: Regular U.S. mail. See attachment 20 for an example.

4. Combined Notice of Noncompliance and Proposed Permit Revocation

- a) Issued when: A high risk noncompliance is identified. Prior to issuance obtain legal review by submitting a Compliance Action Memo to the assigned Deputy Attorney General (see attachment 21 for an example).
- b) Issued by: Someone other than the individual who verified the noncompliance.
- c) Issued via: Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail.

5. Notice of Proposed Permit Revocation

- a) Issued when: The responsible party fails to rebut or correct the noncompliance(s) within the time period identified in a Notice of Noncompliance. Prior to issuance, the following two steps must be completed:
 - i. Verify that the Notice of Noncompliance was received by confirming the signature and date on the Certified Mail Receipt or online at www.usps.com by looking up the Certified Mail Receipt number.
 - ii. Obtain legal review by submitting a Compliance Action Memo to the assigned Deputy Attorney General (see attachment 21 for an example).
- b) Issued by: The same person who issued the Notice of Noncompliance.
- c) Issued via: Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail. See attachment 22 for an example.

6. Cease and Desist Order

- a) Issued when: A violation of the rules is occurring due to either the ongoing construction of an unauthorized encroachment or an ongoing unauthorized modification of a permitted encroachment. A Stop Work Order may be posted on-site prior to the issuance of a Cease and Desist Order. The Cease and Desist Order is used to maintain the status quo pending formal proceedings by IDL to rectify the violation.
- b) Issued by: The director.
- c) Issued via: Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail. See attachment 23 for an example.

D. Log and File Notice

1. Copies of all notices must be saved in the appropriate file. If the noncompliance is related to an existing IDL instrument, it is saved in the corresponding instrument's file. Otherwise, a new file is created.
2. Update the Navigable Waterways Program Compliance Log.

E. Assess response & issue subsequent notice

1. Upon receipt of a response to a notice, date stamp the response.
2. Assess the response to determine if each corrective action identified in the Notice of Noncompliance has been adequately addressed. This may include conducting an inspection.
3. Issue a subsequent notice and follow steps C through E until the noncompliance(s) is/are resolved or the matter is escalated to the Office of the Attorney General.
4. Save a copy of responses in the appropriate file.
5. Update the Navigable Waterways Program Compliance Log.

V. Compliance Actions

IDL may seek administrative and judicial actions for violations. Although administrative and judicial actions are sought separately, they may be sought simultaneously.

A. Administrative Actions

1. Types of Administrative Actions
 - a) Cease and Desist Order (IDAPA 20.03.04.080.01)
 - b) Encroachment permit revocation (IDAPA 20.03.04.080.07)
 - c) Civil penalty (I.C. §58-1308(1), IDAPA 20.03.17.060.05.a)
 - d) Cost recovery (I.C. § 58-1308(3))
2. Procedure
 - a) If the responsible party fails to adequately respond to a Notice of Proposed Revocation within the timeframe identified in the notice, receipt of the notice is verified by confirming the signature and date on the Certified Mail Receipt or online at www.usps.com by looking up the Certified Mail Receipt number.
 - b) Any additional documents created or received since the issuance of the Notice will be forwarded to the assigned Deputy Attorney General.
 - c) The Attorney General's Office will file a complaint with the Director of the Department of Lands to initiate a hearing for an administrative action.
 - d) Upon receipt of a complaint, the Director will order a hearing.

B. Judicial Actions

1. Types of Judicial Actions:
 - a) Injunctive relief (I.C. §58-1308(a))
 - b) Mitigation/restoration (I.C. §58-1309)
 - c) Civil penalty (I.C. §58-1308(2))
 - d) Cost recovery (I.C. § 58-1308(3))

2. Procedure
 - a) If the responsible party fails to adequately respond to a Notice of Proposed Revocation within the timeframe identified in the notice, receipt of the notice is verified by confirming the signature and date on the Certified Mail Receipt or online at www.usps.com by looking up the Certified Mail Receipt number.
 - b) Any additional documents created or received since the issuance of the Notice will be forwarded to the assigned Deputy Attorney General.
3. The Attorney General's Office will file a complaint to the district court in and for the county where the violation occurred.



Section 55 – Stream Channel Alteration Permits

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Public Trust Program Manager, Boise Staff Office

Contents

I. Department Roles	67
II. Application Review.....	67

I. Department Roles

A. IDWR and IDL

The Idaho Department of Water Resources (IDWR) is responsible for permitting all stream channel alteration activities located in, on, or over waters of the state, including navigable rivers (Idaho Code 42-38). The Idaho Department of Lands (IDL) is responsible for permitting all encroachment activities located in, on, or over navigable lakes and slack waters of non-federal dam projects (Idaho Code 58-13). Attachment 25 describes the limits of IDL's authority on dammed rivers.

B. Application Filing

Applications are originally filed with the IDWR. In accordance with IDL's MOU with IDWR (Attachment 24), IDWR will forward a copy of each application to the appropriate Area for review and comment. The Supervisory Area must review the applications in a timely manner and provide a written response to IDWR.

II. Application Review

The following procedures will be followed when stream channel alteration applications are submitted by IDWR to IDL for review and comment.

A. Identify Area

If the Area receives a stream channel alteration application that is outside its Supervisory Area, staff will forward the application to the appropriate Area.

B. Review Timeframe

The Area Supervisor, or his designee, will review all stream channel alteration applications within one (1) week of receipt at the Area office. Review should focus on proprietary and regulatory activities administered by IDL.

C. Applicability of Application

If the proposed activity does not affect endowment lands, is not administered under IDL's regulatory requirements, and is not in, on, or over a navigable waterway, then a letter will be sent to IDWR's regional office stating that our Department's review is complete and no further action is required by IDL. These applications and IDL's response shall be recorded in a logbook or in an electronic spreadsheet. The Supervisory Area shall retain the application and the response letter for one (1) year.

If the proposed activity is located on a navigable river, IDWR has lead responsibility for permitting and administration of the stream channel alteration permit. If the activity is low impact and non-permanent in nature, the Area's comment letter should request IDWR to include a term in their permit that indicates their permit constitutes a permit from IDL. The letter should also recommend that docks, launch ramps, riprap, water intake lines, utility lines, and other projects should have the same standards as those permitted under the Lake Protection Act, and the applicable standards should be listed. IDL comments must be sent to IDWR within 20 days of IDL receiving the applications (Idaho Code 42-38). These comment letters shall be retained by the Supervisory Area for at least three (3) years.

D. Boat Ramps

Boat ramps on navigable rivers require an easement from the Department if they allow public access. New boat ramps that lack public access will generally not be permitted. Applicants for new boat ramps must justify their need based on limited access or unusual circumstances. Private boat ramps require a submerged lands lease (IDAPA 20.03.17.020).

E. Easements

If the proposed activity involves utility construction, water lines that draw five (5) or more cubic feet per second, public boat ramps or other installations of a permanent nature, the Area must request that the applicant obtain an easement (IDAPA 20.03.09.001.02).

F. Submerged Lands Leases

If the proposed activity is commercial in nature, a community dock, a float home, or a non-navigational activity, the Area must request that the applicant apply for and obtain a submerged land lease (IDAPA 20.03.17.020).

G. Riverbed Mineral Leases

If the proposed activity involves mineral extraction, the Area will refer to riverbed mineral leasing procedures for additional guidance on their comments.

H. Document Retention

The stream channel alteration applications and the IDL's comment letter to IDWR must be retained with IDL's original permit, lease, or easement file. The comment letter and a copy of the application shall be sent to the Program Manager in Boise.

I. Numbering Convention

Stream Channel Alteration Applications are numbered by IDWR, utilizing drainage units. Attached is a map of the drainage units (Attachment 7).



Section 60 – Prize Logs

This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

Contents

I. Definition of Prize Log.....	70
II. Applications Required To Remove Prize Logs.....	70
III. Application Processing.....	71
IV. Prize Log Auction and Purchase Agreement.....	72

I. Definition of Prize Log

All logs or timbers suitable for manufacture into lumber, ties, poles, or other timber products, not bearing a legally recorded mark or marks, which shall be placed aboard a transport vehicle for land transportation or placed afloat on a waterway, or permitted to be afloat upon any of the public waters of this state, not confined in booms or rafts, and all such logs or timbers bearing a legally recorded mark or marks not claimed within one (1) year after being placed in transit or afloat shall be prize logs (Idaho Code 38-809).

II. Applications Required To Remove Prize Logs

A. IDL Jurisdiction

Logs and other debris floating on lakes or resting on the lake beds are not considered encroachments. Removal of prize logs, therefore, is an activity that does not clearly fall into the definition of navigational or nonnavigational encroachments. In addition, prize logs are not mentioned in IDAPA 20.03.04. As a result, handling this activity under the constraints of IDAPA 20.03.04 is not desirable. IDL does, however, have authority to address prize log removal under 58-104(9).

B. Type of Permits Used

While encroachment permits may not be the most appropriate type of permit to be used for prize log removal, IDL regularly issues Land Use Permits for activities on state lands. These permits shall be used for prize log removal due to the potential adverse effects on fish habitat,

water quality, aesthetics, navigation, and other public trust values of the lake. The permit will be similar to an encroachment permit, but will contain several special terms specific to prize log removal. These special terms may include, but are not limited to:

1. Restricting the operating window.
2. Requiring a minimum distance from shore.
3. Requiring a water quality and turbidity monitoring plan that is also approved by the Idaho Department of Environmental Quality.
4. Limiting the number of operating days.
5. Requiring shoreline protection measures.

C. Prize Log Permit Application

An individual wishing to remove prize logs from navigable lakes must submit a complete application package to the applicable IDL Area Office. This application package must consist of:

1. A 404 Joint Application for Permit signed by the applicant (Attachment 2).
2. A description and map of where the prize logs will be removed from the lakebed.
3. A description of how the prize logs will be removed from the lakebed and what equipment will be used.
4. A description and map of where the prize logs will be transferred from a barge or boat to the uplands.
5. List of littoral owners adjacent to the littoral property where logs will be transferred to the uplands. If logs are proposed to be removed from the lakebed within the line of navigability, then a list of the littoral owners adjacent to that area must also be provided.
6. Written permission from the owner of littoral property allowing access for the removal and transfer of prize logs from a barge or boat to the uplands.
7. A nonrefundable application fee of \$1,000.00.
8. Other information determined to be necessary by IDL personnel.

III. Application Processing

A. Application Processing

The application will be processed similar to an encroachment permit, and in conformance with the directive for public involvement given by the Idaho Supreme Court in Kootenai Environmental Alliance, Inc., Appellant v. Panhandle Yacht Club, Inc., 105 Idaho 622, 671 P.2d 1085 (1983).

Area staff shall follow Subsection 20.B of these procedures in regards to publication, notification, and hearings. IDL will also send letters to the adjacent littoral neighbors, as described in Subsection B above, informing them of the proposal and requesting comment. Comments received from other agencies, littoral neighbors, and the general public must be addressed by the applicant to the satisfaction of IDL.

B. Letter of Intent to Approve

If a permit will be issued, the Area Office will send a letter of intent to the applicant. The letter shall state that IDL will send them a permit for signature following the applicant's successful bid

in a prize log auction. The letter will also list any specific conditions that will be included in the permit beyond the standard conditions. Applications may be approved either as submitted or with specific conditions or modifications.

C. Application Approval

After an applicant has successfully bid on a prize log auction, the Area Office will issue a Land Use Permit similar to an encroachment permit with terms specific to the individual application. One of those conditions will be to obtain a purchase agreement for the logs from the Idaho Board of Scaling Practices (IBSP). The permit should not exceed three years.

The permit should be mailed to the Permittee for signature and payment of an additional \$1,000.00 Administrative Fee to cover operational inspections and permit administration. The Area Manager shall not sign the permit until this fee is paid.

D. Application Denial

IDL may deny applications based on impacts to public trust values, infringement on littoral rights, or other reasons consistent with the Public Trust Doctrine.

IV. Prize Log Auction and Purchase Agreement

A. Prize Log Auction

After IDL approves a permit, the applicant must work with the Idaho Board of Scaling Practices (IBSP) to conduct a prize log auction. The auction must be locally advertised as a legal notice for three (3) weeks. IBSP will prepare a sale prospectus and make it available to interested parties. IBSP then conducts a public auction for the sale of the prize logs to the highest bidder. Bidders must post a \$500.00 bid deposit which is returned to unsuccessful bidders. The deposit for the successful bidder will be applied toward the purchase agreement. If the agreement is not executed, then the deposit is forfeit to IBSP.

If the successful bidder has not applied for a Land Use Permit from IDL, then they must apply for and receive that permit prior to any log removal. IDL will process the application as described above in Subsections II and III.

B. Purchase Agreement

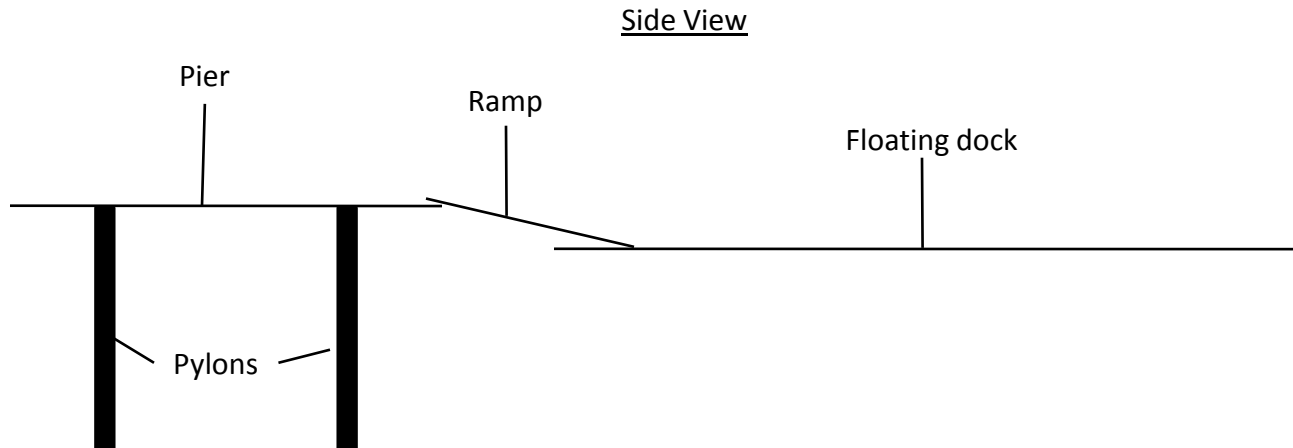
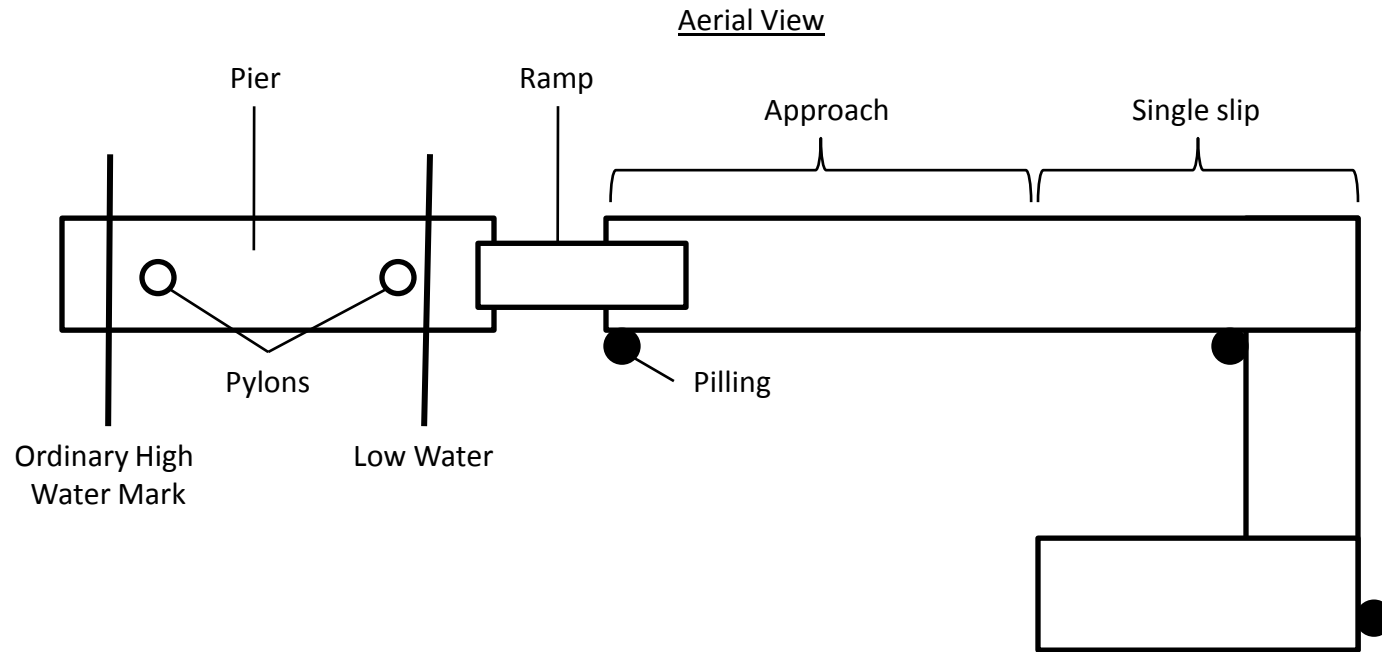
Specifics may vary depending on the specific situation, but generally the following actions must occur within ten (10) days of the auction:

1. Purchase agreement must be executed with IBSP.
2. A nonrefundable down payment equal to the bid price on the first fifty thousand (50,000) Board Feet must be submitted. This is approximately \$4,000.00, but may be more.
3. Provide a \$1,500.00 performance bond.
4. Provide an advertising fee of approximately \$150.00 to \$200.00
5. Submit proof of \$1,000,000.00 liability insurance meeting the requirements of IBSP.

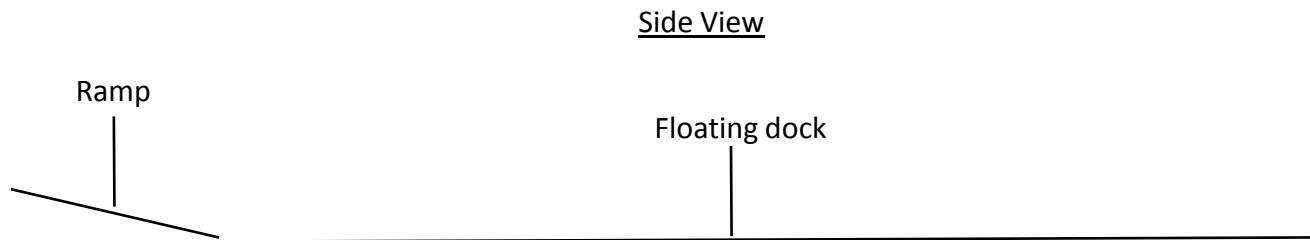
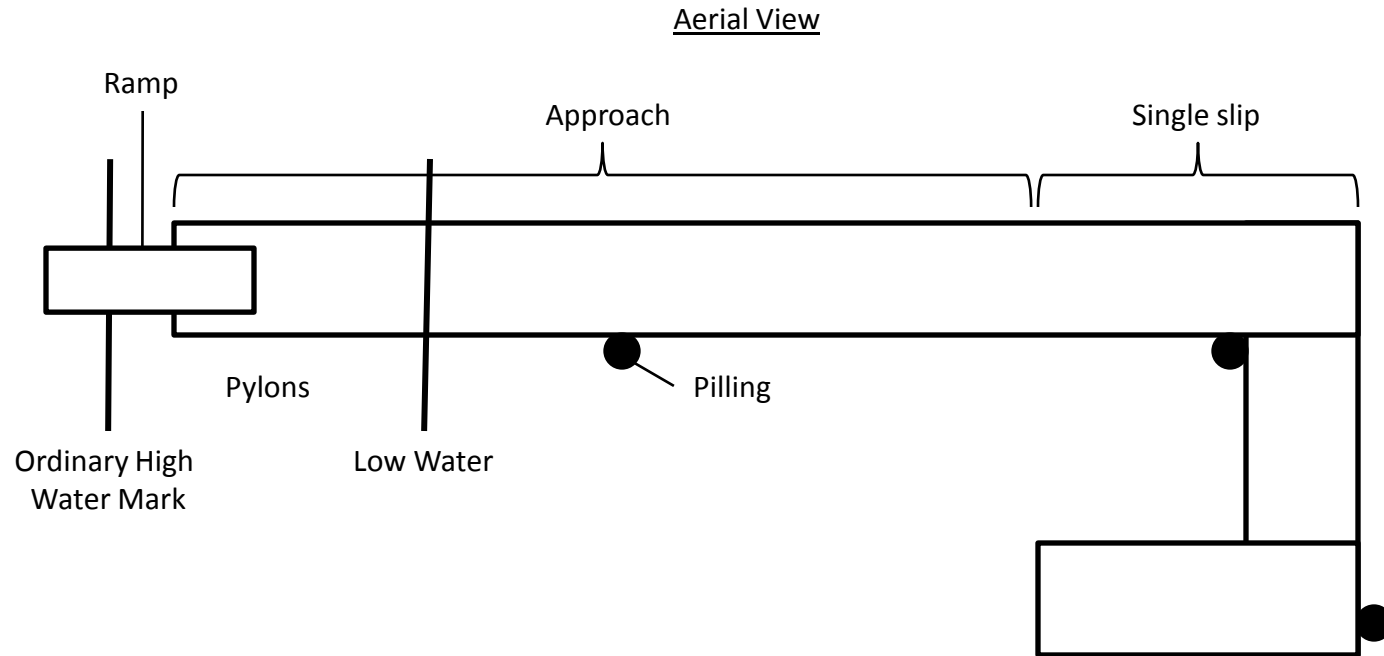
C. Process Time

IBSP's estimated time line for a prize log sale is forty (40) days. The complete time line, including both IDL and IBSP processes, is approximately eighty (80) days. All fees are nonrefundable, and the IDL permit or IBSP purchase agreement cannot be guaranteed.

Dock Nomenclature – Pier/Ramp/Approach



Dock Nomenclature – Ramp/Approach



JOINT APPLICATION FOR PERMITS

U.S. ARMY CORPS OF ENGINEERS - IDAHO DEPARTMENT OF WATER RESOURCES - IDAHO DEPARTMENT OF LANDS

Authorities: The Department of Army Corps of Engineers (Corps), Idaho Department of Water Resources (IDWR), and Idaho Department of Lands (IDL) established a joint process for activities impacting jurisdictional waterways that require review and/or approval of both the Corps and State of Idaho. Department of Army permits are required by Section 10 of the Rivers & Harbors Act of 1899 for any structure(s) or work in or affecting navigable waters of the United States and by Section 404 of the Clean Water Act for the discharge of dredged or fill materials into waters of the United States, including adjacent wetlands. State permits are required under the State of Idaho, Stream Protection Act (Title 42, Chapter 38, Idaho Code and Lake Protection Act (Section 58, Chapter 13 et seq., Idaho Code). In addition the information will be used to determine compliance with Section 401 of the Clean Water Act by the appropriate State, Tribal or Federal entity.

Joint Application: Information provided on this application will be used in evaluating the proposed activities. Disclosure of requested information is voluntary. Failure to supply the requested information may delay processing and issuance of the appropriate permit or authorization. **Applicant will need to send a completed application, along with one (1) set of legible, black and white (8½"x11"), reproducible drawings that illustrate the location and character of the proposed project / activities to both the Corps and the State of Idaho.**

See Instruction Guide for assistance with Application. Accurate submission of requested information can prevent delays in reviewing and permitting your application. Drawings including vicinity maps, plan-view and section-view drawings must be submitted on 8-1/2 x 11 papers.

Do not start work until you have received all required permits from both the Corps and the State of Idaho

FOR AGENCY USE ONLY									
USACE NWW-		Date Received:			<input type="checkbox"/> Incomplete Application Returned			Date Returned:	
Idaho Department of Water Resources No.		Date Received:			<input type="checkbox"/> Fee Received DATE:			Receipt No.:	
Idaho Department of Lands No.		Date Received:			<input type="checkbox"/> Fee Received DATE:			Receipt No.:	
INCOMPLETE APPLICATIONS MAY NOT BE PROCESSED									
1. CONTACT INFORMATION - APPLICANT Required:					2. CONTACT INFORMATION - AGENT:				
Name:					Name:				
Company:					Company:				
Mailing Address:					Mailing Address:				
City:			State:	Zip Code:	City:			State:	Zip Code:
Phone Number <small>(include area code)</small> :		E-mail:			Phone Number <small>(include area code)</small> :		E-mail:		
3. PROJECT NAME or TITLE:					4. PROJECT STREET ADDRESS:				
5. PROJECT COUNTY:		6. PROJECT CITY:			7. PROJECT ZIP CODE:		8. NEAREST WATERWAY/WATERBODY:		
9. TAX PARCEL ID#:		10. LATITUDE: LONGITUDE:			11a. 1/4:	11b. 1/4:	11c. SECTION:	11d. TOWNSHIP:	11e. RANGE:
12a. ESTIMATED START DATE:		12b. ESTIMATED END DATE:			13a. IS PROJECT LOCATED WITHIN ESTABLISHED TRIBAL RESERVATION BOUNDARIES? <input type="checkbox"/> NO <input type="checkbox"/> YES Tribe:				
13b. IS PROJECT LOCATED IN LISTED ESA AREA? <input type="checkbox"/> NO <input type="checkbox"/> YES					13c. IS PROJECT LOCATED ON/NEAR HISTORICAL SITE? <input type="checkbox"/> NO <input type="checkbox"/> YES				
14. DIRECTIONS TO PROJECT SITE: Include vicinity map with legible crossroads, street numbers, names, landmarks.									
15. PURPOSE and NEED: <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Public <input type="checkbox"/> Private <input type="checkbox"/> Other Describe the reason or purpose of your project; include a brief description of the overall project. Continue to Block 16 to detail each work activity and overall project.									

16. DETAILED DESCRIPTION OF EACH ACTIVITY WITHIN OVERALL PROJECT. Specifically indicate portions that take place within waters of the United States, including wetlands: Include dimensions; equipment, construction, methods; erosion, sediment and turbidity controls; hydrological changes: general stream/surface water flows, estimated winter/summer flows; borrow sources, disposal locations etc.:

17. DESCRIBE ALTERNATIVES CONSIDERED to AVOID or MEASURES TAKEN to MINIMIZE and/ or COMPENSATE for IMPACTS to WATERS of the UNITED STATES, INCLUDING WETLANDS: See Instruction Guide for specific details.

18. PROPOSED MITIGATION STATEMENT or PLAN: If you believe a mitigation plan is not needed, provide a statement and your reasoning why a mitigation plan is NOT required. Or, attach a copy of your proposed mitigation plan.

19. TYPE and QUANTITY of MATERIAL(S) to be discharged below the ordinary high water mark and/or wetlands:

Dirt or Topsoil: _____ cubic yards
Dredged Material: _____ cubic yards
Clean Sand: _____ cubic yards
Clay: _____ cubic yards
Gravel, Rock, or Stone: _____ cubic yards
Concrete: _____ cubic yards
Other (describe): _____ : _____ cubic yards
Other (describe): _____ : _____ cubic yards

TOTAL: _____ cubic yards

20. TYPE and QUANTITY of impacts to waters of the United States, including wetlands:

Filling: _____ acres _____ sq ft. _____ cubic yards
Backfill & Bedding: _____ acres _____ sq ft. _____ cubic yards
Land Clearing: _____ acres _____ sq ft. _____ cubic yards
Dredging: _____ acres _____ sq ft. _____ cubic yards
Flooding: _____ acres _____ sq ft. _____ cubic yards
Excavation: _____ acres _____ sq ft. _____ cubic yards
Draining: _____ acres _____ sq ft. _____ cubic yards
Other: _____ : _____ acres _____ sq ft. _____ cubic yards

TOTALS: _____ acres _____ sq ft. _____ cubic yards

21. HAVE ANY WORK ACTIVITIES STARTED ON THIS PROJECT?

☐ NO
☐ YES

If yes, describe ALL work that has occurred including dates.

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:

23.
☐ YES, Alteration(s) are located on Public Trust Lands, Administered by Idaho Department of Lands

24. SIZE AND FLOW CAPACITY OF BRIDGE/CULVERT and DRAINAGE AREA SERVED:
Square Miles

25. IS PROJECT LOCATED IN A MAPPED FLOODWAY?

☐ NO
☐ YES

If yes, contact the floodplain administrator in the local government jsridiction in which the project is located. A Floodplain Development permit and a No-rise Certification may be required.

26a WATER QUALITY CERTIFICATION: Pursuant to the Clean Water Act, anyone who wishes to discharge dredge or fill material into the waters of the United States, either on private or public property, must obtain a Section 401 Water Quality Certification (WQC) from the appropriate water quality certifying government entity.
See Instruction Guide for further clarification and all contact information.

The following information is requested by IDEQ and/or EPA concerning the proposed impacts to water quality and anti-degradation:

☐ NO
☐ YES

Is applicant willing to assume that the affected waterbody is high quality?

☐ NO
☐ YES

Does applicant have water quality data relevant to determining whether the affected waterbody is high quality or not?

☐ NO
☐ YES

Is the applicant willing to collect the data needed to determine whether the affected waterbody is high quality or not?

26b. BEST MANAGEMENT PRACTICTES (BMP's): List the Best Management Practices and describe these practices that you will use to minimize impacts on water quality and anti-degradation of water quality. All feasible alternatives should be considered - treatment or otherwise. Select an alternative which will minimize degrading water quality

Through the 401 Certification process, water quality certification will stipulate minimum management practices needed to prevent degradation.

27. LIST EACH IMPACT to stream, river, lake, reservoir, including shoreline: Attach site map with each impact location.

Activity	Name of Water Body	Intermittent Perennial	Description of Impact and Dimensions	Impact Length Linear Feet
TOTAL STREAM IMPACTS (Linear Feet):				

28. LIST EACH WETLAND IMPACT include mechanized clearing, fill excavation, flood, drainage, etc. Attach site map with each impact location.

Activity	Wetland Type: Emergent, Forested, Scrub/Shrub	Distance to Water Body (linear ft)	Description of Impact Purpose: road crossing, compound, culvert, etc.	Impact Length (acres, square ft linear ft)
TOTAL WETLAND IMPACTS (Square Feet):				

29. ADJACENT PROPERTY OWNERS NOTIFICATION REQUIREMENT: Provide contact information of ALL adjacent property owners below.

Name:	Name:
Mailing Address:	Mailing Address:
City: State: Zip Code:	City: State: Zip Code:
Phone Number (include area code): E-mail:	Phone Number (include area code): E-mail:

Name:	Name:
Mailing Address:	Mailing Address:
City: State: Zip Code:	City: State: Zip Code:
Phone Number (include area code): E-mail:	Phone Number (include area code): E-mail:

Name:	Name:
Mailing Address:	Mailing Address:
City: State: Zip Code:	City: State: Zip Code:
Phone Number (include area code): E-mail:	Phone Number (include area code): E-mail:

Name:	Name:
Mailing Address:	Mailing Address:
City: State: Zip Code:	City: State: Zip Code:
Phone Number (include area code): E-mail:	Phone Number (include area code): E-mail:

30. SIGNATURES: STATEMENT OF AUTHORIZATION / CERTIFICATION OF AGENT / ACCESS

Application is hereby made for permit, or permits, to authorize the work described in this application and all supporting documentation. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein; or am acting as the duly authorized agent of the applicant (Block 2). I hereby grant the agencies to which this application is made, the right to access/come upon the above-described location(s) to inspect the proposed and completed work/activities.

Signature of Applicant: _____ *Date:* _____

Signature of Agent: _____ *Date:* _____

This application must be signed by the person who desires to undertake the proposed activity AND signed by a duly authorized agent (see Block 1, 2, 30). Further, 18 USC Section 1001 provides that: "Whoever, in any manner within the jurisdiction of any department of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both".

STATE OF IDAHO

INSTRUCTION GUIDE: JOINT APPLICATION FOR PERMIT

U.S. ARMY CORPS OF ENGINEERS IDAHO DEPARTMENT OF WATER RESOURCES IDAHO DEPARTMENT OF LANDS

This guide is intended to assist the applicant/agent in completing the Joint Application for Permit (NWW Form 1145-2/IDWR 3804-B). The application provides the information needed for evaluation and issuance/denial of a Department of Army Corps of Engineers permit, Stream Alteration Permit from the Idaho Department of Water Resources, Lake Encroachment permit from the Idaho Department of Lands and an individual water quality certification or waiver for impacts to waters within the State of Idaho.

Applicant will need to send a completed application and one set of drawings (and supplemental information, if needed) **to both the Corps of Engineers and the State of Idaho. Do not start work until you receive ALL permits from the Corps and State of Idaho agencies.**

Content information can be found on the following pages:

Permit Fees.....	2
Water Quality Certification.....	2
Submitting a Joint Application for Permit.....	2
Block 1 – Block 12.....	3
Block 13 – Block 16.....	4
Block 16 – Block 20.....	5
Block 21 – Block 26.....	6
Block 26(b).....	7
Block 27 – Block 28.....	8
Block 29 – Block 30.....	9
Drawings & Supplemental Information.....	9-10
Contact Information:	
Water Quality Certification.....	7
Corps of Engineers.....	10
State of Idaho.....	11

The Corps and State of Idaho strongly encourages the completion of all blocks on the application to ensure a proper evaluation can be done in a timely manner. All drawings and illustrations should be thoughtfully prepared with information and dimensions accurately depicted.

Minimal information required to begin the Corps permit process include: applicant's name, address, telephone number; project location, including latitude/longitude' project purpose and need; a mitigation plan OR statement of why no mitigation is needed; all previously issued permit authorizations; the required drawings (location map, plan, cross-section); and the applicant and agent signature(s) are required to be completed (see 33 CFR 325). Additional information requested within this document is needed for it to be considered a complete application for the State of Idaho and may be utilized by the Corps in it permit evaluation process.

The disclosure of information for this application is **voluntary**. Incomplete applications will not be processed, nor can permits be issued. If you need additional guidance to prepare this document please contact the appropriate Corps and/or State office to schedule a pre-application meeting so we may assist you.

By signing the application, the applicant is granting the State agencies to which this application is made the right to access/come upon the described location(s) to inspect the proposed and completed work activities.

PERMIT FEES

The **Corps of Engineers** does not require a fee for nationwide or other permit actions. However, the Corps does require a fee for a Department of Army Individual Permit, at the time a permit is issued. Do not send a fee to the Corps when you send in the application. When the permit is ready to be issued, you will be asked for the fee before the permit is issued. A \$10 fee is charged for non-commercial activities and a \$100 fee is charged for commercial or industrial activities.

The State of Idaho requires a \$20 filing fee for State Stream Alteration Permits administered by the **Idaho Department of Water Resources** and MUST BE SUBMITTED WITH THE APPLICATION.

The **Idaho Department of Lands** charges fees based on the type of activity being conducted. ALL STATE FEES MUST BE SUBMITTED WITH THE APPLICATION. For specific fees charged, please visit their website at http://www.idl.idaho.gov/bureau/smr/navwaters/nw_procedures.html.

There is no charge for a 401 water quality certification.

WATER QUALITY CERTIFICATION

If applying to the Corps of Engineers for a project that involves discharging dredged or fill material into waters of the United States, including wetlands, you will need to obtain a Section 401 water quality certification (WQC) for the work activities **before** the Corps can issue a permit. The State of Idaho Department of Environmental Quality (IDEQ) is the water quality certifying agency for most areas within the State of Idaho.

The United States Environmental Protection Agency, Region 10, is the certifying agency for activities located within established tribal boundaries, with the exception of lands located within the exterior boundaries of the Fort Hall Indian Reservation AND approximately the southern 1/3 of Coeur d'Alene Lake and the St. Joe River within the Coeur d'Alene Reservation (see page 7 for agency contact on WQC information).

As part of the permit review process, the Corps will notify the appropriate agency of your project and request an individual 401 water quality certification be issued.

SUBMITTING A JOINT APPLICATION FOR PERMIT

The Joint Application for Permit and all required drawings (vicinity map, plan view drawing and cross sectional drawing) should be sent to all appropriate agencies. Send your application to the office address that corresponds with your project/activity location, see page 10-11 for contact information.

The Joint Application for Permit is used by the Corps of Engineers, Walla Walla District (Corps), State of Idaho Department of Water Resources (IDWR) and State of Idaho Department of Lands (IDL) to issue a permit for activities that impact waters of the United States.

It is the applicant's responsibility to verify with local, county, city and/or Tribal governments that additional regulation, requirement, application, permit, etc. are or are not required.

APPLICATION INSTRUCTIONS

BLOCK 1 – Contact Information, Applicant: Provide all contact information of the responsible party or parties. Include name, company, mailing address, city, state, zip code, day-time telephone number, and e-mail address. If the responsible party is a company, corporation, agency, other organization, etc. indicate the responsible officer/title. If more than one party is associated with the application, attach an additional 8-½"x 11" sheet with the necessary information. The applicant's signature is required in Block 30 *Signature of Applicant*.

BLOCK 2 – Contact Information, Agent: Provide all contact information of the agent representing the primary party or parties provided in Block 2. Include name, company, mailing address, city, state, zip code, day-time telephone number, and e-mail address. An agent can be an attorney, builder, contractor, engineer, consultant, or any other person or organization. An agent is not required unless the applicant wishes to designate someone to represent him/her during the permit process. The agent's signature is required in Block 31 *Certification of Agent*.

BLOCK 3 – Project Name/Title: Provide the name or title identifying the proposed project; this should **NOT** be the applicant's name (e.g., Two Mile Crossing; Phyllis Drain Culvert; Snake River @ river mile #248.5).

BLOCK 4 – Project Street Address: Provide the *physical* address - not a box number - where proposed activities will be conducted. If no physical address is available, provide the nearest crossroads.

BLOCK 5 – Project County: Provide the county in which proposed activity/project is located.

BLOCK 6 – Project City: Provide the city where proposed activity/project is located.

BLOCK 7 – Project Zip Code: Provide the zip code in which proposed activity/project is located.

BLOCK 8 – Nearest Waterway/Waterbody: Provide the name of the stream, river, lake, pond, reservoir, irrigation facility, shoreline, etc. to be directly impacted by the activity/project. If a minor (unnamed) water, identify the waterbody the minor stream flows into.

BLOCK 9 – Tax Parcel ID#: This is an Idaho Department of Lands requirement. Provide the Tax Assessor's parcel number or description, which may be obtained by calling the local Tax Assessor's Office of the county in which the project is located in.

BLOCK 10 – Latitude/Longitude: Provide an accurate Latitude and Longitude coordinate of where the proposed project is located. If project covers a large area, please provide multiple coordinates that best define the project boundaries for an accurate and timely assessment of your application. Attach this on an 8-1/2" x 11" sheet, labeled Block 10. The required vicinity map should also contain the latitude & longitude coordinates. Contact a local government agency in the area for assistance. You may also try using Bing, Google Earth, Google Maps, Yahoo Maps or other similar websites for assistance in obtaining the latitude/longitude for the project site.

BLOCK 11(a-e) – Quarter, Quarter, Section, Township, Range: Provide the ¼, ¼, section, township, and range where proposed activity/project will be conducted. This information may be obtained by contacting the local tax assessor's office where the proposed project site is located.

BLOCK 12(a/b) – Estimated Start/End Date: Provide the anticipated or best estimated dates of when activity/project will begin and end.

Do not start work until receiving all permits from the Corps and the State of Idaho.

INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

BLOCK 13(a) – Project within Tribal Reservation Boundaries: If the proposed project is located within an established tribal reservation boundary, check the YES box. As required by the Clean Water Act, proper tribal coordination may need to be initiated by the Corps as part of the decision making process. Coordination may also be necessary to obtain Section 401 water quality certification from either the tribe and/or the U.S. Environmental Protection Agency. See page 7 for contact information.

BLOCK 13(b) – Is project located in listed ESA area? If the proposed project is located within a specific geographical area or watershed that has or ever has had an [ESA listed species](#) present, check the YES box. This question will help identify if your project requires further analysis regarding effects on species listed as “threatened” or “endangered” and/or its “critical habitat”, as defined under Section 7 of the [Endangered Species Act](#) (ESA).

BLOCK 13(c) – Is project located on/near Historical site? If the proposed project is located on or near an [Idaho historical or cultural site](#), check the YES box. All federal agencies are required to take into account the effects of their actions (permit) on Historic Properties, as outlined in the [National Historic Preservation Act](#), Section 106.

BLOCK 14 – Directions to Site: Provide directions to the site from a known location or landmark. Include highway, roads, major crossroads, street numbers, and names. Also, provide distances from known locations and any other information that would assist in locating the site.

EXAMPLE: *From intersection of Park Ave. & 10th Street, drive 1.5 miles, turn right onto River Street, drive approx. one mile; project is on right descending bank (or east side) of Two Pines Creek, 1 mile downstream of US-14 Bridge, RM 32.*

BLOCK 15 – Purpose and Need: Check the appropriate box - commercial, industrial, public, private, or check other (e.g.: social, economic, environmental). Describe the purpose and need for the structure or fill material to be placed in the waterway or waterbody, including wetlands. If the activities involve the discharge of dredge and/or fill material into a wetland or waterbody, include the temporary placement of material and explain the specific purpose of the materials being placed, i.e.: erosion control.

EXAMPLE Purpose and Need: *The purpose of this project is to construct an access road for Sundown Subdivision which requires the placement of a 48” arch culvert on Two Pines Creek.*

BLOCK 16 – Detailed Description of Each Activity: Provide a detailed breakdown of EACH specific activity involved in the overall project. Provide dimensions – length, width, height, depth, area, acres, linear feet, etc. – of all proposed structures (e.g.: dikes, culvert, road, cofferdam, etc.). Written descriptions and illustrations are a crucial part of this application. Please identify the following:

- All quantities and types of materials to be used
- Indicate whether discharge of dredge or fill material is involved or not; provide correct dimensions
- Identify any structure to be constructed on a fill, piles, or float supported platform

EXAMPLE Overall project description: *Construct a road crossing of Two Pines Creek, using a 40”long x 48” diameter arch culvert pipe and the discharge of approximately 20 yds³ of three quarter minus gravel, to facilitate the construction of a three acre housing development, located 250 feet from the high water mark of Two Pines Creek.*

Each activity should include a complete narrative of the proposed project work and activities. Include a description of current site conditions and how the site will be modified by the proposed project, all structures and fill materials to be installed, area of excavation or dredging, volumes of material to be removed, uses and disposal location of dredged material, work methods and type of equipment to be used and pollution control method (erosion, sediment, turbidity, etc). If applicable, include phasing or construction sequencing of activities.

EXAMPLE: Breakdown of project activities, phases, sequencing: *Install a 48-inch diameter X 40-foot arch culvert pipe into Two Pines Creek, associated with a road crossing. The base footprint dimensions of the road crossing will be 38-foot wide x 30-foot long.* (Continued on page 5)

INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

The driving surface of the roadway will consist of two, 12-foot driving lanes with 3-foot shoulders.

All work will be performed using a backhoe and front end loader, working from the top-of-bank of Two Pines Creek and/or the top-of-fill. No equipment will operate in the open channel, minimizing impacts to the extent possible within the project area.

Impacts associated with the road crossing include 900 square foot of open channel and 60 square foot of emergent wetlands.

Install a temporary 5-foot wide X 40-foot Jersey barrier/visqueen cofferdam to minimize sediment transport during the installation of the 48-inch diameter X 30-foot arch culvert pipe into Two Pines Creek.

BLOCK 17 – Alternatives Analysis to Avoid, Minimize, Compensate for Impacts: The Corps of Engineers is responsible to ensure that any environmental impact to the aquatic resources from your proposed project is avoided, minimized, and if needed compensated for, as much as possible. In some cases, the Corps may require compensatory mitigation to offset the losses of aquatic resources (33 CFR 325, 332: Final Mitigation Rule, April 2008).

Compensatory Mitigation is the restoration, establishment, enhancement or preservation of aquatic resources for the purpose of offsetting losses of aquatic resources resulting from activities authorized by a Corps of Engineers' permit. Compensatory mitigation requires a mitigation plan and must be reviewed and concurrence received from the Corps, prior to an issuance of a DA permit.

Minimal Impacts - If your project involves a *minimal impact to aquatic resources*, provide a brief summary and explanation describing how on-site measures are being or will be taken to avoid and minimize activity impacts to the waterway/waterbody. **Examples** of avoiding and minimizing on-site activity impacts may include revising work activities or sequencing, conducting work from atop the bank, work done during low water, use of rubber tired equipment, silt curtains, silt fences, straw waddles, etc.

More Than Minimal Impacts - If your project involves *more than minimal impacts to aquatic resources*, provide a detailed description and explanation describing which/where off-site alternatives were considered for your project. These alternatives must be a realistic alternative to site location, design(s), construction methods, etc. Each alternative discussed must have an explanation of why it was or was not chosen. A vicinity map of each alternative site must also be included and labeled accordingly (on 8-1/2" x 11" white paper).

BLOCK 18 – Proposed Mitigation Statement or Plan: A mitigation plan for your proposed project may be required if impacts to the aquatic resource are more than minimal (see Block 17 for further details). If you believe your project does not require a compensatory mitigation plan, provide a statement of how measures are being taken to avoid and minimize activity impacts to the waterway or waterbody, including wetlands. Also include your reasoning of why a mitigation plan is not required.

If your proposed project does require a mitigation plan, attach a copy of the plan labeled Block 18. The plan must be on white paper no larger than standard 8-1/2" x 11", white paper and of good reproducible quality. While a detailed mitigation plan may be required as part of the permit process, it is NOT required for a complete application.

BLOCK 19 – Type & Quantity of Materials: Identify and list each type and quantity of material that your project proposes to discharge. Any material discharged into waters of the U.S. below the Ordinary High Water Mark and/or in wetlands must be identified.

Calculation for Cubic Yards (yd³): LENGTH (ft) multiplied by WIDTH (ft) multiplied by DEPTH (ft); divide by 27

BLOCK 20 – Type & Amount of Impacts to Waters of the U.S., including Wetlands: Identify and list quantity amounts of each type of impact to waters of the U.S., including wetlands. Include quantity amounts in acres, square feet, and cubic yards. To help determine quantity amounts, see calculations below.

Calculation for Square Feet (ft²): LENGTH (ft) multiplied by WIDTH (ft)

Calculation for Acres: LENGTH (ft) multiplied by WIDTH (ft); divided by 43,560

Calculation for Cubic Yards (yd³): LENGTH (ft) multiplied by WIDTH (ft) multiplied by DEPTH (ft); divide by 27

INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

BLOCK 21 – List and/or describe all work activities that has occurred on the project and within the project site. If none, check “no”. If “yes”, provide all dates, work activities, type of work, the quantity – in linear feet, square feet, and/or acre area – for each type of work activity (impact) completed on either the project and/or the project site. Include work in waters of the United States; include all wetland areas.

Calculation for Square Feet (ft²): LENGTH (ft) multiplied by WIDTH (ft)

Calculation for Acres: LENGTH (ft) multiplied by WIDTH (ft); divided by 43,560

BLOCK 22 – Previously Issues Permits/Authorizations: Provide permit number, date, authorization, agency and status of all approvals, permits, authorizations from other Federal, state, local, county or other permitting/licensing agency that may be needed for your proposed project. Provide status as issued, approved, pending, denied.

BLOCK 23 – Alterations on Public Trust Land(s): Check the box if activity/project is located on Idaho Public Trust Land. The State of Idaho was granted title to the beds of navigable waters in 1890. For further information on State of Idaho Public Trust Lands, contact Department of Lands directly; see page 11 for contact information.

BLOCK 24 – Size & Flow Capacity of Bridge/Culvert & Drainage Area: This is an Idaho Department of Water Resource (IDWR) requirement. For further information on Block 24, contact IDWR directly, see page 11.

IDWR requires all applications for bridges or culverts to include the drainage area above the crossing AND design flow capacity of the structure, with required allowances for debris and ice passage. Minimum clearance shall be at least one foot at all bridges; this may need to be increased substantially in the areas where ice passage or debris may be a problem.

Design flows shall be based on the following minimum criteria:

DRAINAGE AREA	DESIGN FLOW FREQUENCY
50 square miles or less.....	25 years
Over 50 square miles.....	50 years or greatest flow of record, whichever is greater

IDWR and the Corps strongly encourage the use of bottomless arch culverts and free-span bridge structures for stream and river crossings. Installation of bottomless arch culverts and free span bridge structures:

- Reduces the risk of not passing flows during a high water event
- Lowers the long-term maintenance costs of the crossing
- Decreases the possibility of down-cutting of the streambed or riverbed (upstream or downstream of the crossing)
- Minimizes the possibility of bank erosion upstream and/or downstream of the crossing
- Promotes fish passage

Although the use of bottomless arch culverts and free-span bridge structures in lieu of round metal culverts is strongly recommended, but not required. Contact IDWR for minimum culvert sizes for stream and river crossings.

BLOCK 25 – Project in a Mapped Floodway: Contact your local city or county government for assistance to determine if the work activities/project is located in a Federal Emergency Management Agency (FEMA) mapped floodway.

BLOCK 26(a/b) – Section 401, Water Quality Certification: This information is requested by Idaho Department of Environmental Quality (IDEQ), U.S. Environmental Protection Agency (USEPA), the Coeur d’Alene Tribe (CDA) or the Shoshone-Bannock, Fort Hall Tribes (ShoBan). The agency/tribe that will issue the water quality certification or waiver depends upon the location of your project.

(a) Water Quality & Anti-Degradation: Check YES or NO to the three questions listed regarding proposed impacts of your project and anti-degradation (*a policy implemented to prevent deterioration of existing water quality*) to the waterway or waterbody where your project is located.

INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

(b) Best Management Practices (BMPs): Describe the Best Management Practices that you will use to minimize impacts on water quality to support the anti-degradation of the water. Provide a description of these practices; include timeframe, dimensions, amounts, etc. which will be implemented to minimize the effects on the water quality. Also include information on how your project will/will not affect hydrologic characteristics, surface water flows, etc.

All feasible alternatives should be considered: treatment or otherwise. Select an alternative which will minimize degrading the water quality. Through the 401 Water Quality Certification process, IDEQ, USEPA, CDA Tribe or ShoBan Tribes will stipulate minimum management practices to help prevent degradation of the water.

Idaho One Plan, BMPs: <http://www.oneplan.org/BMPs.asp>

USEPA, Protecting Natural Wetlands (pg 111): <http://www.epa.gov/owow/wetlands/pdf/protecti.pdf>

Contact Information

Agency	Boundaries	Telephone #
Idaho Department of Water Quality	State of Idaho	(208) 373-0574
Coeur d'Alene Tribe	Southern 1/3 of Coeur d'Alene Lake; Lower St. Joe River, within Coeur d'Alene Reservation	(208) 686-0252
Shoshone-Bannock, Fort Hall Tribes	Within the exterior boundaries of Fort Hall Indian Reservation	(208) 239-4582
U.S. Environmental Protection Agency	All other locations within established tribal boundaries of a tribe within State of Idaho and that has not yet assumed 401 responsibility	(208) 378-5755

Water Quality Certification, Agency Information:

The **Idaho Department of Environmental Quality** (IDEQ) is responsible for issuing 401 Water Quality Certification for projects located within the boundaries of the State of Idaho.

Website: <http://www.deq.idaho.gov/water-quality/surface-water/standards/401-certification.aspx>

IDEQ, 401 Guidance: <http://www.deq.idaho.gov/media/516305-401-certification-guidance-0811.pdf>

Anti-Degradation Guidance: <http://www.deq.idaho.gov/water-quality/surface-water/antidegradation.aspx>

The **Coeur d'Alene Tribe** has assumed responsibility for issuing 401 Water Quality Certification for projects located within the southern 1/3 of Coeur d'Alene Lake and the lower St. Joe River within the Coeur d'Alene Reservation. USEPA, Region 10 issues 401 water quality certifications for all other waters located within the Coeur d'Alene Reservation.

Website: <http://www.cdatribe-nsn.gov/>

The **Shoshone-Bannock, Fort Hall Tribes** have assumed responsibility for issuing 401 Water Quality Certification for projects located within the exterior boundaries of the Fort Hall Indian Reservation.

Website: <http://www.shoshonebannocktribes.com/>

The **U.S. Environmental Protection Agency** (USEPA) Region 10 is responsible for issuing all other water quality certification for projects located within the established tribal boundaries of a tribe within Idaho and that has not assumed responsibility for issuing water quality certifications.

Website: <http://water.epa.gov/>

USEPA, 401 Guidance: http://water.epa.gov/lawsregs/guidance/cwa/waterquality_index.cfm

Anti-Degradation Guidance: <http://water.epa.gov/scitech/swguidance/standards/adeq.cfm>

INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

Block 27 – Impacts to Water: Detail each individual activity that will cause impact to the waterbody (e.g., stream, shoreline, tributary) by providing:

- The name of the waterbody
- If the waterbody is a seasonal or perennial waterbody
- Provide the length of impact to the riverbank, stream bank, lake, shoreline, etc. of the individual activity
- Describe the type of activity being proposed that will have an impact on the waterbody
- Provide the length of impact to the riverbank, stream bank, lake, shoreline, etc. of the individual activity

NOTE: *Perennial is defined as flowing year-round; Intermittent (seasonal) is defined as flowing less than 12 months*

Each type of impact to the stream, shoreline, and/or water body must be individually listed. Provide the **TOTAL OF ALL IMPACTS**, in linear feet. **Impacts may include fill, backfill/bedding, land clearing, dredge (excavate/drain), coffer dams, riprap, dock/pier, etc.**

Calculation for Square Feet (ft²): LENGTH in feet, multiplied by WIDTH in feet

Calculation for Acres: LENGTH in feet, multiplied by WIDTH in feet; divided by 43,560

EXAMPLE:

Activity	Name of Waterbody	Season or Perennial	Description of Impact	Impact Length
Construct Road	Two Pines Creek	Perennial	Road base 30' x 38'	70 feet
Construct Shoulder	Two Pines Creek	Perennial	3' shoulders, each side	6 feet
Temporary Cofferdam	Two Pines Creek	Perennial	Install 40' x 5' temporary visqueen cofferdam	40 feet
TOTAL STREAM IMPACTS (Linear Feet):				116 feet

Block 28 – Impacts to Wetlands: Detail each individual activity that will cause impact to the wetland(s) by using the following examples:

- Wetland Type -
 - Emergent wetlands: may contain horsetail, reed grass (Reed Canary Grass), wire grass (Baltic Rush), bulrush (Bulrush), poison hemlock, etc.
 - Scrub/Shrub wetlands: may contain coyote/sandbar willow (Narrow Leaf Willow), dogwood (Red Twig Dogwood), Alder, etc.
 - Forested wetlands: may contain cottonwood, silver maple, river birch, red alder (red maple, green ash)
- Distance to nearest waterbody, in linear feet
- Purpose of each individual impact
- Area that proposed activity or project will impact, in acres or square feet
- Provide the total impacts, in acres or square feet

Calculation for Square Feet (ft²): LENGTH in feet, multiplied by WIDTH in feet

Each type of impact to the wetland must be individually listed, including mechanized fixed blade and clearing, fill and dredge material discharged, flood, drainage, etc. Spacing for four separate impacts has been provided. Additional impacts must be listed on an attached 8-½" x 11" sheet(s) with the necessary information labeled Block 28.

EXAMPLE:

Activity	Wetland Type	Distance to Waterbody	Description of Activity and Dimensions	Impact Length (L x W)
Construct Crossing	Emergent	2 feet	Road Crossing 30' x 38'	60 ft ²
TOTAL WELAND IMPACT(S) in Square Feet:				60 ft²

BLOCK 29 – Adjacent Property Owners Notification: Include full name, complete physical address, and telephone number of ALL public and private, adjacent property owners, lessees, etc. whose property adjoins the waterbody or aquatic site where work is being proposed. Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be located.

Adjacent property owners includes adjoining property owners with ownership located on both sides of the near bank AND/OR all other ownership on the waterway/body that may be affected by the proposed activity/project. Also, include homeowner or community associations within the proposed project area.

BLOCK 30 – Signature of Applicant, Agent: Each application must have an original signature of the applicant and date signed. If applicant has authorized an agent, he/she must also sign an original signature and date. Certification ensures the applicant/agent is authorized to undertake the work described or is duly authorized to act in behalf of the applicant, and that all work and uses described in this application/supporting documentation is complete and accurate. These signatures shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with general, regional and/or special conditions, mitigation, etc.).

DRAWING & SUPPLEMENTAL INFORMATION

Three types of drawings are required to accurately depict work activities: (1) *vicinity map*, (2) *plan view drawing*, and (3) *cross sectional drawing*. All drawings or illustrations must be included in order for the application to be considered complete. Drawings should be reviewed for clarity and all unnecessary data/layers should be omitted.

1. Illustrations do not need to be professionally prepared, however, they must be clear, accurate, and contain all necessary information so a proper and timely evaluation can be done. Photographs of proposed work site are not required, although they are helpful and may be submitted as part of the application packet.
Sample Drawings: <http://www.nww.usace.army.mil/Portals/28/docs/regulatory/JtApplication/SampleDrawings.pdf>
2. **VICINITY MAP:** This map should be of sufficient scale & detail to allow someone who is unfamiliar with the area to access the site from the nearest city/town or major highway intersection/exit. The vicinity map should show the nearest main road and intersection and should also show the **entire project boundaries** – not just the impact site. Location maps for off-site mitigation areas must also be included. **Latitude and Longitude coordinates should be included on vicinity map.** MapQuest or Google Maps may provide enough detail for a vicinity map. USGS Quad Maps generally show topography and a landscape perspective and do not show the name and/or location of the roads; and therefore may not be an appropriate vicinity map.
3. **PLAN VIEW DRAWING:** The plan view drawing must be clear enough so that a person can understand where the waterway and wetland resources are and how they will be impacted by the proposed activities. The plan view drawing should include, as appropriate:
 - Entire project - including boundaries, roads, buildings, utilities, etc.
 - Existing and proposed contours, as applicable
 - Jurisdictional boundaries by resource type, for example, wetland boundary by Cowardin and HGM class, location of Ordinary High Water Mark, etc.
 - Stormwater outfalls, if applicable
 - Clear identification of the areas proposed for all activities and impacts, both temporary and permanent; Cross-hatching may be used to distinguish various types of impacts. If there is more than one impact site, identifiers should be assigned - wetland A, B, etc. - and referenced in Blocks 16 & 22 of the application
 - Staging area(s) and equipment or construction access points
 - Location of the cross sections
 - Compensatory mitigation areas

INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

4. **CROSS SECTIONAL DRAWING:** The cross section drawing is required to illustrate the vertical extent of impacts (removal, dredge and fill activities) to existing elevations. To be effective, the location of the cross section on the plan view should be in the area of greatest extent of impact activities. The cross section drawing should be of a scale sufficient to evaluate proposed impacts/activities and should include:
- A vertical and horizontal scale
 - Existing and proposed ground elevations
 - Jurisdictional boundaries – wetland boundary, ordinary high water mark, etc.
 - Proposed water elevation, if applicable
 - All structures or construction limits

Submit **one original, good, quality drawing on white paper no larger than 8-½ inches X 11 inches**. Drawings must be prepared using the general format of samples provided and use block lettering. Leave a 1-inch margin at the top of each sheet for reproduction and binding purposes. Drawings must be reproduced and therefore color shading cannot be used. Heavy dark lines, dot shading, hatching, or similar graphic symbols must be used instead of color shading to clarify drawings.

A legal property description is required and must include the number, name of subdivision, block, and lot number from plot, deed, or tax assessment information. A title block is also required on all three drawings. *Title block must contain the project name/title, applicant name, name of waterbody, river mile (if applicable), name of county and state, date prepared, and # of sheet & total # of sheets in set (1:3, 2:3, 3:3).* Also include a **north arrow and scale** on all drawings.

CONTACT INFORMATION

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers
Walla Walla District, **Regulatory Division**
201 North 3rd Avenue
Walla Walla, Washington 99362-1876
General Line: (509) 527-7150

U.S. Army Corps of Engineers
Walla Walla District, **Boise Field Office**
10095 W Emerald Street
Boise, Idaho 83704
General Line: (208) 345-2155

U.S. Army Corps of Engineers
Walla Walla District, **Idaho Falls Field Office**
900 N Skyline Drive, Suite A
Idaho Falls, Idaho 83402-1718
General Line: (208) 522-1676

U.S. Army Corps of Engineers
Walla Walla District, **Coeur d'Alene Field Office**
2065 W Riverstone Drive, Suite #201
Coeur d'Alene, Idaho 83814
General Line: (208) 765-8961

<http://www.nww.usace.army.mil/BusinessWithUs/RegulatoryDivision/ContactUs.aspx>

CONTACT INFORMATION

State of Idaho Department of Water Resources

State of Idaho
Department of Water Resources
Northern Regional Office
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone (208) 762-2800

State of Idaho
Department of Water Resources
Southern Regional Office
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380
Phone (208) 736-3033

State of Idaho
Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082
Phone (208) 334-2190

State of Idaho
Department of Water Resources
Eastern Regional Office
900 N Skyline Drive, Suite A
Idaho Falls, ID 83402-1718
Phone (208) 525-7161

<http://www.idwr.idaho.gov/contact/contact.htm>

CONTACT INFORMATION

State of Idaho Department of Lands

Coeur d'Alene Area	3258 West Industrial Loop	Coeur d'Alene, ID 83815	(208) 769-1577
Eastern Idaho Area	3563 Ririe Highway	Idaho Falls, ID 83401	(208) 525-7167
Kootenai Valley Area	6327 Main Street	Bonn timer Ferry, ID 83805	(208) 267-5577
Payette Lakes Area	555 Deinhard Lane	McCall, ID 83638	(208) 634-7125
Pend Oreille Area	2550 Highway 2 West	Sandpoint, ID 83864	(208) 263-5104
Priest Lake Area	4053 Cavanaugh Bay Road	Coolin, ID 83821	(208) 443-2516
South Central Area	324 S 417 E - US Hwy 93 Business Park	Jerome, ID 83338	(208) 324-2561
South West Area	8355 West State Street	Boise, ID 83338	(208) 334-3488
St. Maries Area	1806 Main Avenue	St. Maries, ID 83861	(208) 245-4551

<http://www.idl.idaho.gov/areas.htm>



ENCROACHMENT PERMIT APPLICATION

Thank you for your inquiry concerning placement of an encroachment in, on, or over navigable waters of the State of Idaho. **Please note:** You must first obtain an encroachment permit from the Idaho Department of Lands prior to placement of any new structures or changes to existing structures in navigable waters. A processing fee (made payable to Treasurer, State of Idaho) is required and must accompany each application. Please note that a new permit, if issued, will replace any existing permit you may now have. Please include all existing structures so they can be included on your permit.

Please complete all elements on the attached application. The legal description, names and addresses of adjacent property owners, and encroachment dimensions must be accurate and complete. These permits are site specific. **Please note:** The signature of the adjacent littoral owner (neighbor) is required if any part of your proposed encroachment will be located closer than 10 feet from the common littoral/property line of the adjacent property.

An accurate drawing similar to the sample provided is required. Include all dimensions as shown on the sample (i.e., distance to littoral/property line, dock length and width, water depth and high and low water marks) and names of both adjacent property owners/lessees.

Idaho State Single Family Dock Specifications:

1. Encroachments shall be installed to protrude as near as possible perpendicular to the general shoreline.
2. Encroachments shall not extend beyond a water depth necessary for customary navigation or beyond the established line of navigation.
3. Dock encroachments, excluding slip cutout, shall not exceed 700 square feet in size or 10 feet in width; two-family docks shall not exceed 1,100 square feet in size.
4. Ramp encroachments shall not exceed 6 feet in width.
5. Single- and two-family encroachments shall not exceed four (4) piling, excluding stationary piers.
6. Encroachments should not be located closer than 10 feet to adjacent property riparian right lines. Riparian right lines extend waterward of ordinary/artificial high water mark perpendicular from the general shoreline.
7. All mooring covers used on encroachments must be removable.
8. For protection of the public trust rights of navigation, structure dimensions will be limited to size actually needed in aid to navigation. Encroachments proposed in rivers shall be held as close as possible to shore to avoid interfering with navigation.

Please submit your completed application to the Idaho Department of Lands:

Priest Lake Area - 4053 Cavanaugh Bay Road - Coolin, ID 83821 - (208) 443-2516

Pend Oreille Area - 2550 Highway 2 West - Sandpoint ID 83864 - (208) 263-5104

Coeur d'Alene Area - 3258 W Industrial Loop - Coeur d'Alene, ID 83815 - (208) 769-1577

St. Maries Area - 1806 Main Avenue - St Maries, ID 83861 - (208) 245-4551

Payette Lakes Area - 555 Deinhard Lane - McCall, ID 83638 - (208) 634-7125

South Central Area - 324 South 417 East; Suite 2, Jerome ID 83338-6206 - (208) 324-2561

Eastern Idaho - 3563 Ririe Hwy - Idaho Falls ID 83401 - (208) 525-7167

Thank you for your cooperation.

IDAHO LAKE PROTECTION ACT ADMINISTRATION

N



N



VICINITY MAP

IN
IN/NEAR

COUNTY,

DATE: SHEET 1 OF
APPLICATION BY:

N

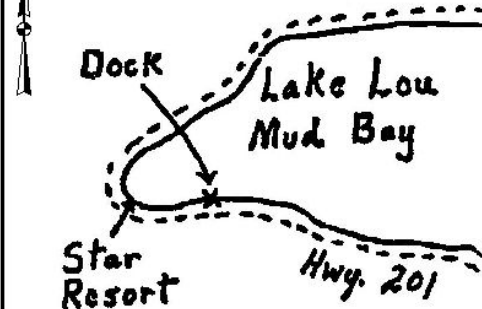


SAMPLE ENCROACHMENT DRAWING(Dock - Piles)

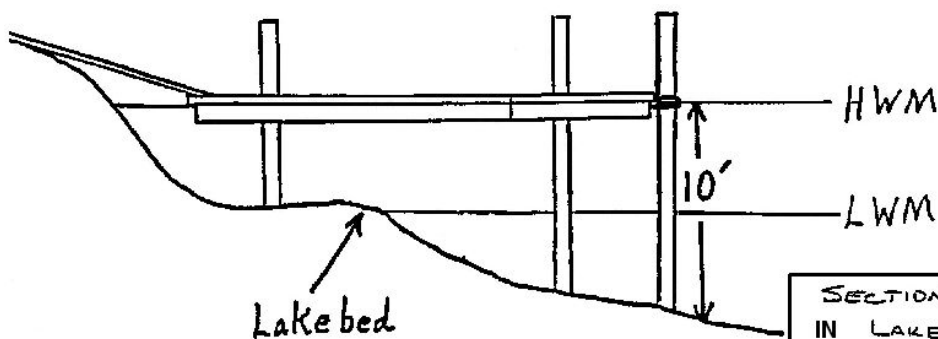
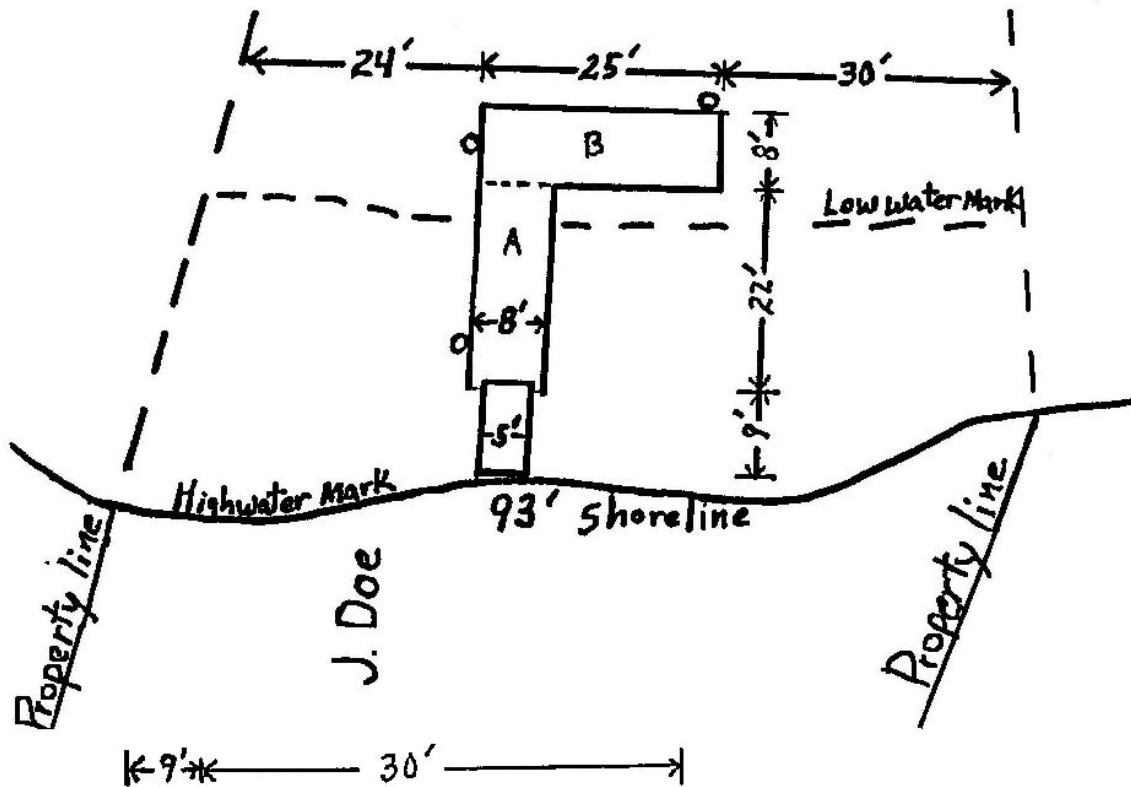
Square Footage

Ramp $5' \times 9' = 45 \text{ sq. ft}$
 A Dock $8' \times 22' = 176 \text{ " "}$
 B Dock $8' \times 25' = 200 \text{ " "}$
421 sq. feet

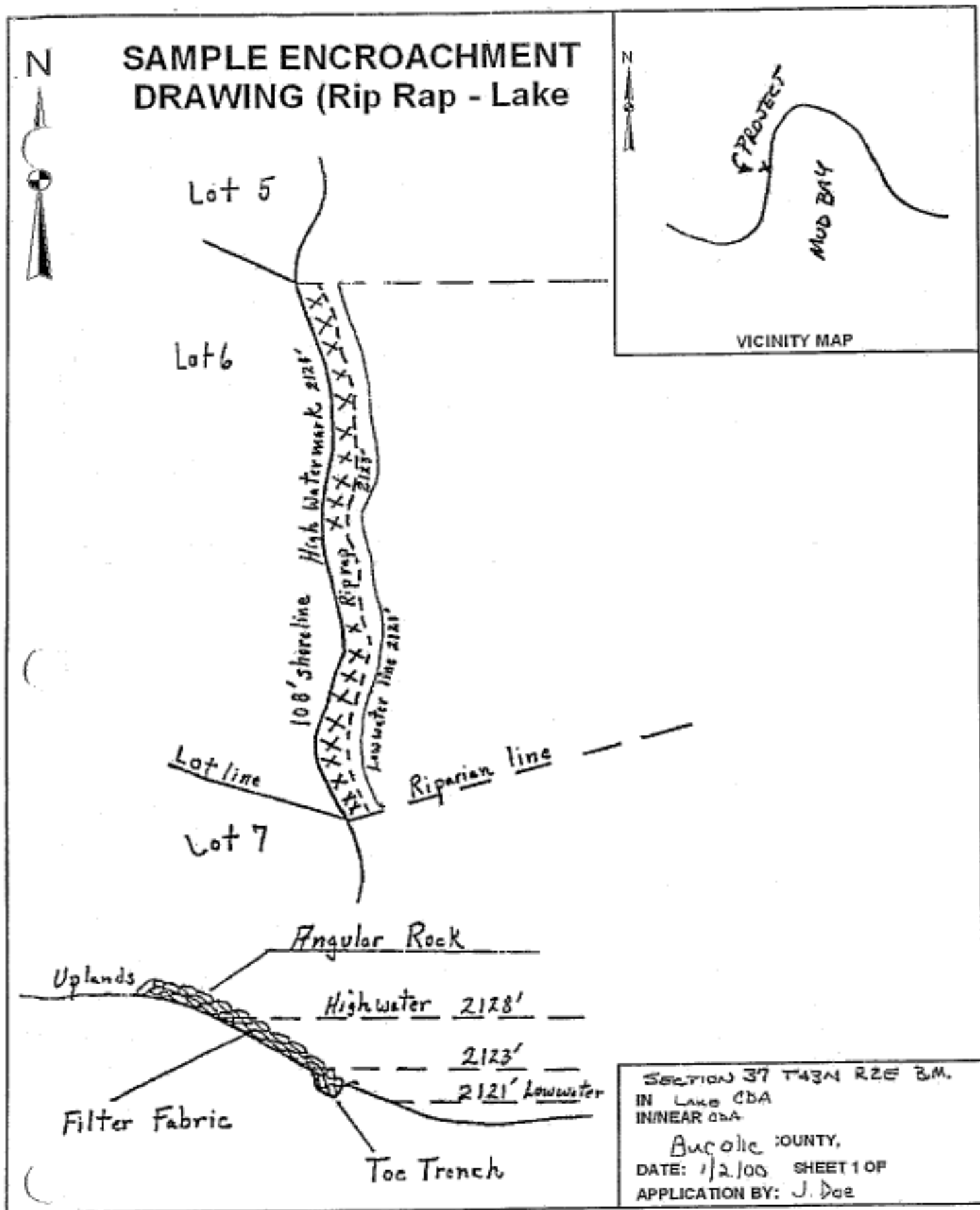
N



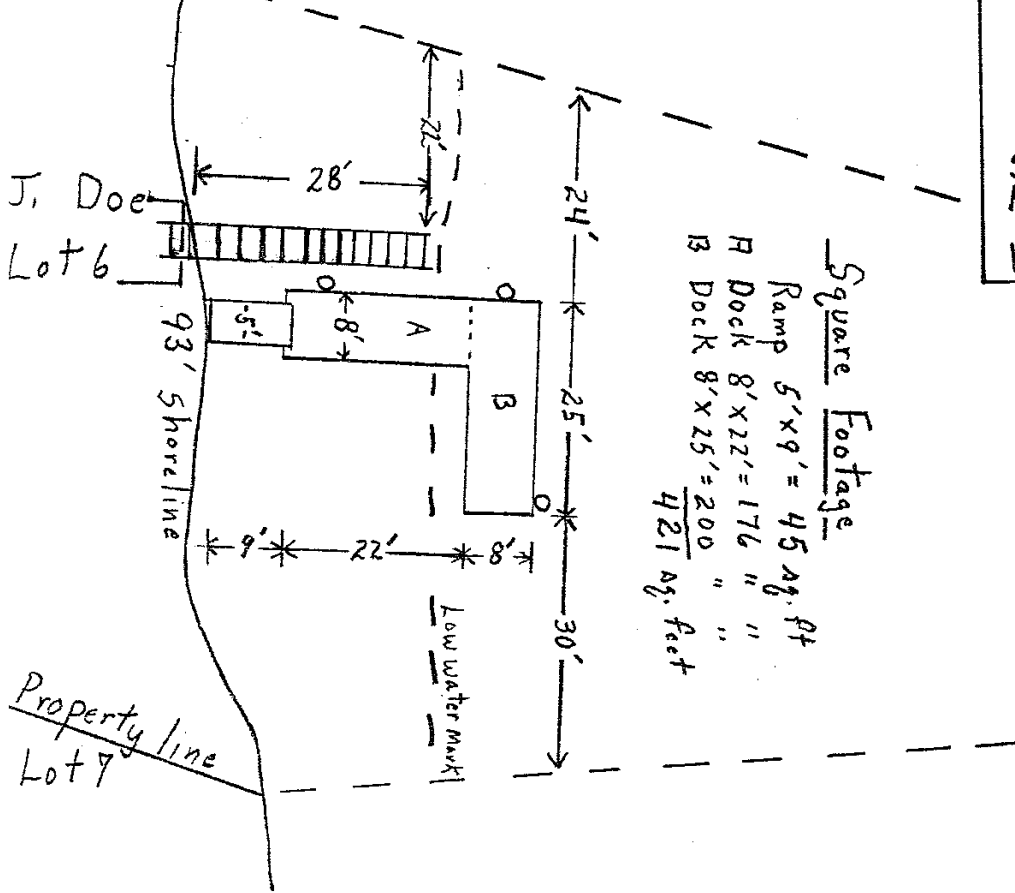
VICINITY MAP



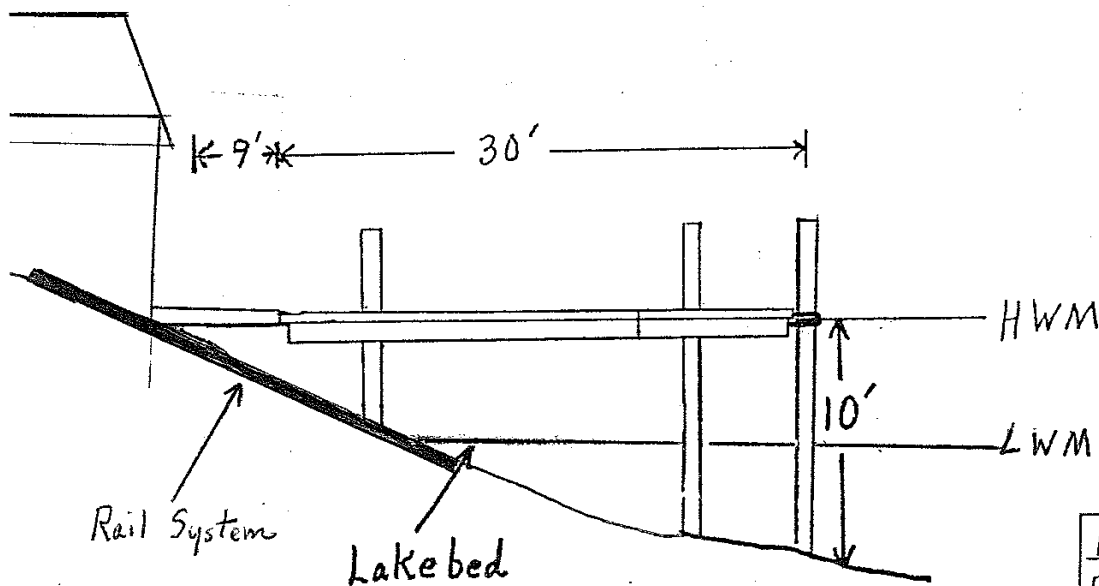
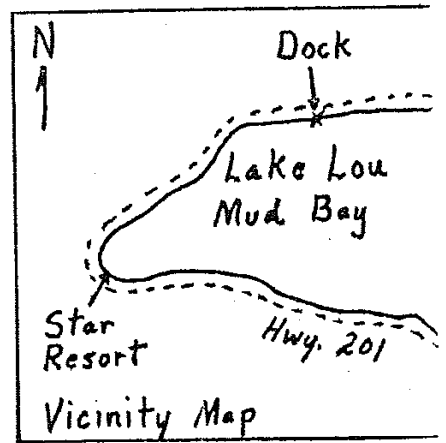
SECTION 37 T43N R2E B.M.
 IN LAKE CDA
 IN/NEAR CDA
 BUCOLIC COUNTY,
 DATE: 1/2/00 SHEET 1 OF
 APPLICATION BY: J. Doe



Sample Encroachment Drawing

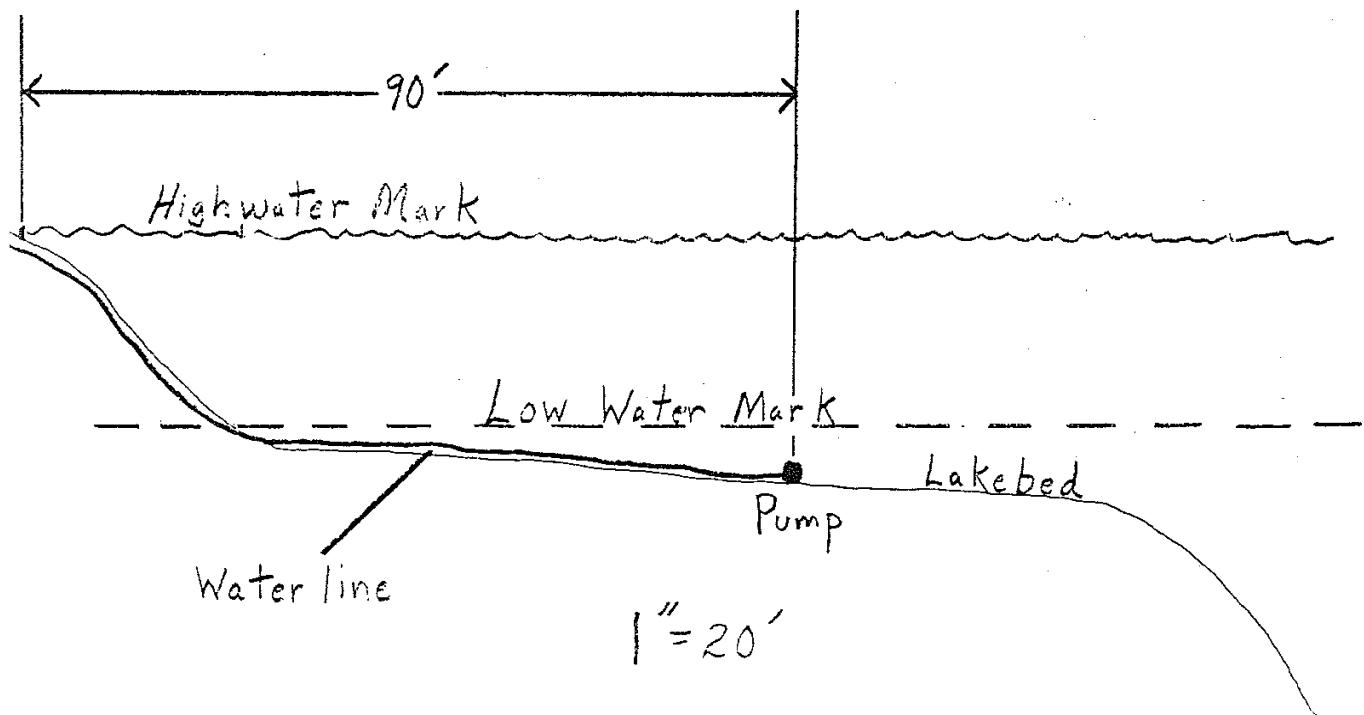
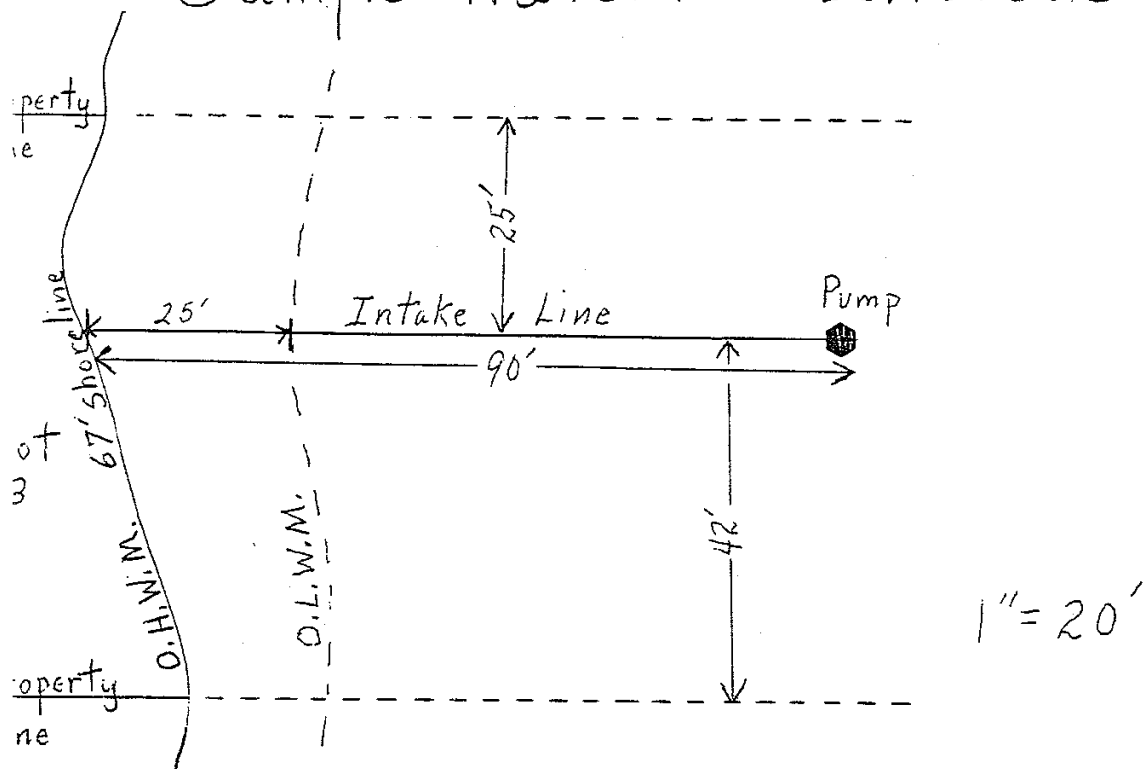


	Square Footage
Ramp 5' x 9' =	45 sq. ft
H Dock 8' x 22' =	176 "
B Dock 8' x 25' =	200 "
	<u>421</u> sq. feet

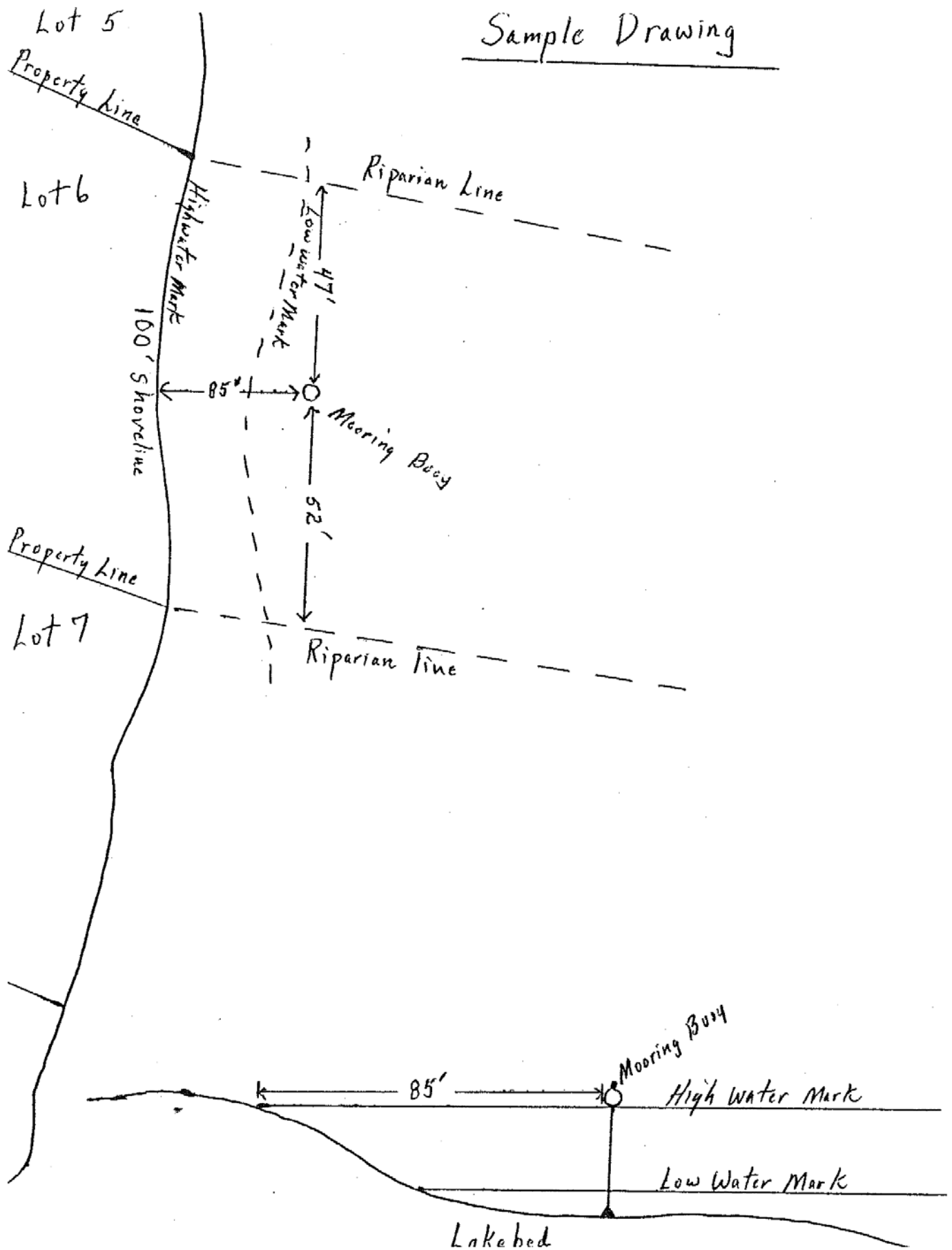


Proposed Dock
By: J. Doe
In: Lake Lou

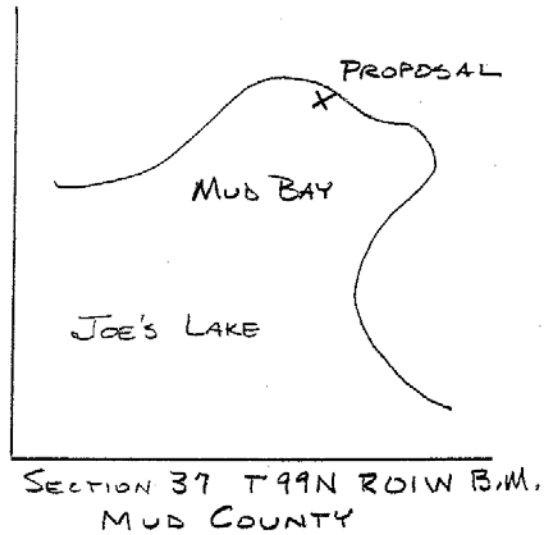
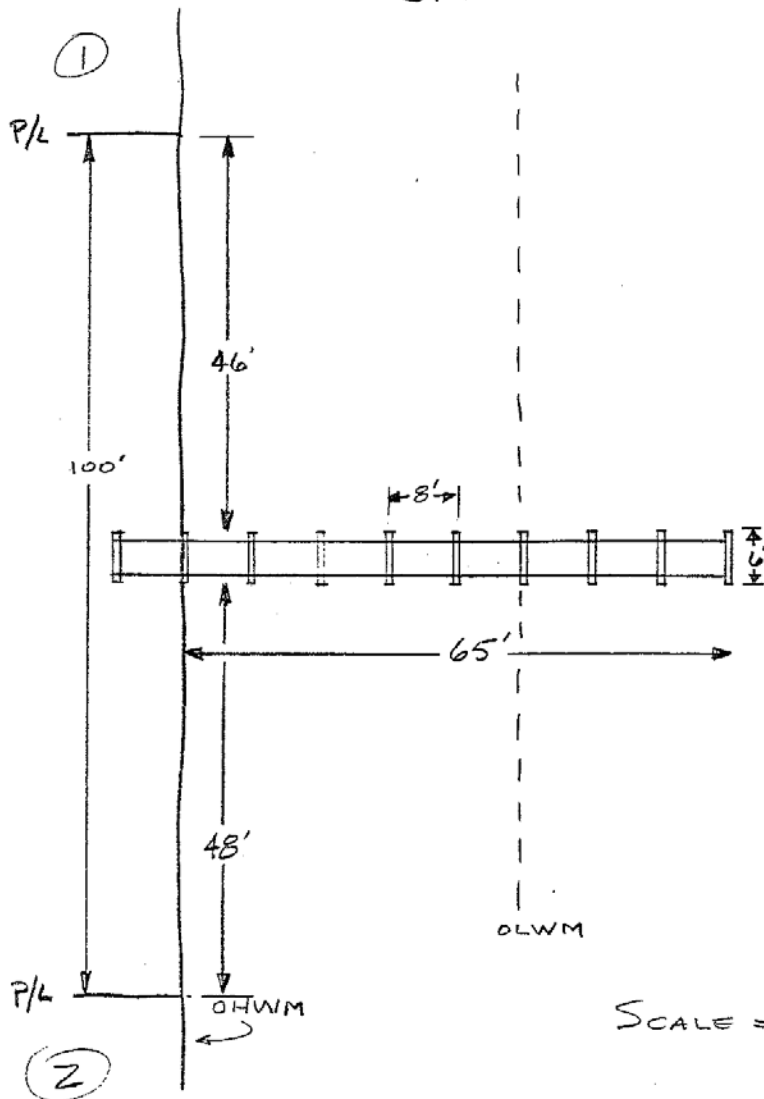
Sample: Waterline Encroachment



Sample Drawing



SAMPLE LAUNCH RAIL DRAWING



- CONCRETE TIES LAYED ON BED OF LAKE,
- WORK DONE AT LOW WATER.

SCALE = 1" = 20'

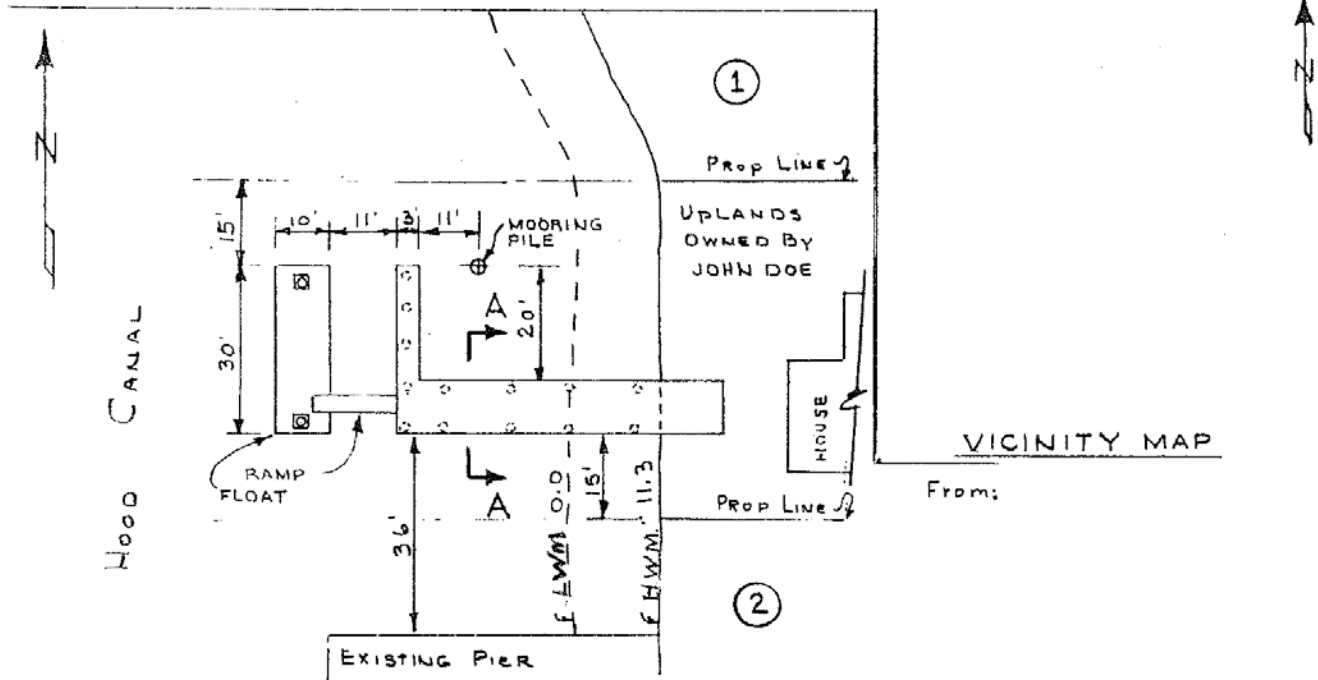


ADJACENT NEIGHBORS

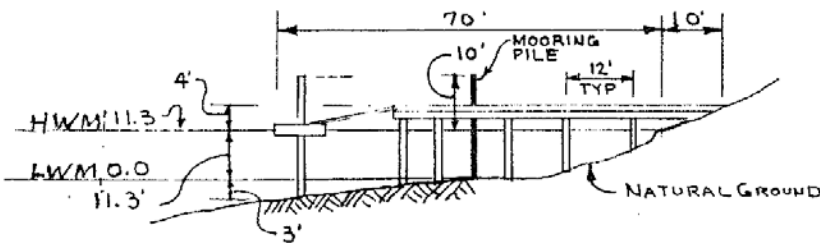
- (1) _____
- (2) _____

APPLICATION BY: _____

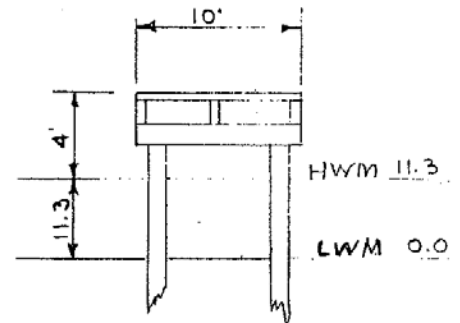
PIER SAMPLE DRAWING



PLAN
SCALE: 1" = 30'



ELEVATION
SCALE: 1" = 30'



SECTION A-A
SCALE: 1" = 10'

1. PURPOSE:

2. DATUM:

3. SOUNDINGS ARE IN FATHOMS/FEET

4. ARE FEDERAL HARBOR LINES ESTABLISHED? ☐ YES ☐ NO

5. NAME AND ADDRESS OF ADJACENT PROPERTY OWNERS

①

②

PROPOSED PIER, FLOAT
AND MOORING PILE.

IN:

IN/NEAR

COUNTY OF

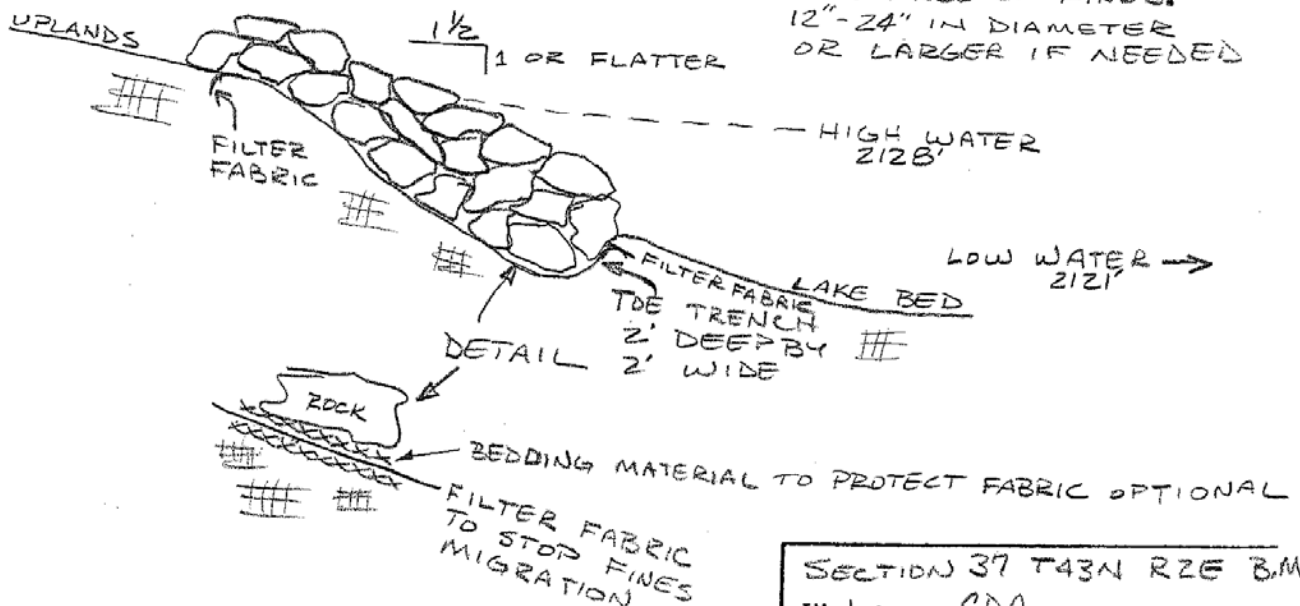
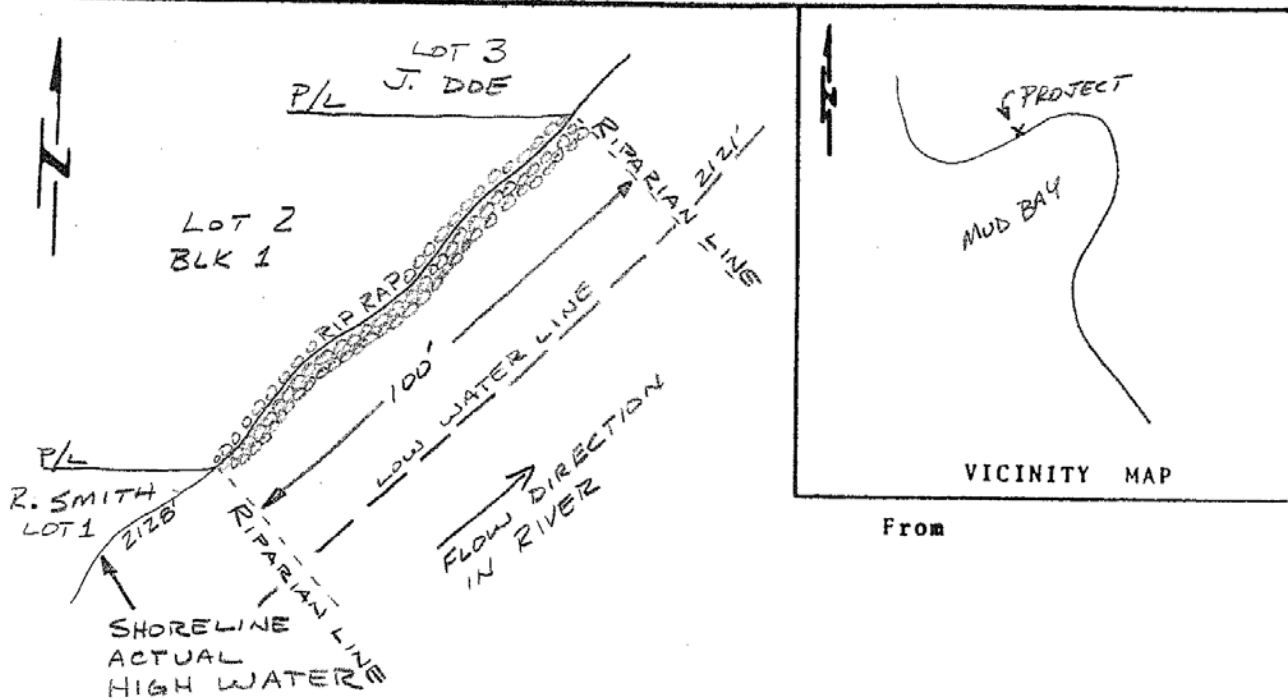
STATE

APPLICATION BY:

DATE:

SHEET of

SAMPLE RIP RAP DRAWING



SOUND DENSE ANGULAR
ROCK FREE OF FINES.
12"-24" IN DIAMETER
OR LARGER IF NEEDED

SECTION 37 T43N R2E B.M.
IN LAKE CDA
IN/NEAR CDA

COUNTY,
DATE: SHEET 1 OF
APPLICATION BY:



ENCROACHMENT PERMIT APPLICATION

Thank you for your inquiry concerning placement of an encroachment in, on, or over navigable waters of the State of Idaho. **Please note:** You must first obtain an encroachment permit from the Idaho Department of Lands prior to placement of any new structures or changes to existing structures in navigable waters. A processing fee (made payable to Treasurer, State of Idaho) is required and must accompany each application. Please note that a new permit, if issued, will replace any existing permit you may now have. Please include all existing structures so they can be included on your permit.

Please complete all elements on the attached application. The legal description, names and addresses of adjacent property owners, and encroachment dimensions must be accurate and complete. These permits are site specific. **Please note:** The signature of the adjacent littoral owner (neighbor) is required if any part of your proposed encroachment will be located closer than 10 feet from the common littoral/property line of the adjacent property.

An accurate drawing similar to the sample provided is required. Include all dimensions as shown on the sample (i.e., distance to littoral/property line, dock length and width, water depth and high and low water marks) and names of both adjacent property owners/lessees.

Idaho State Single Family Dock Specifications:

1. Encroachments shall be installed to protrude as near as possible perpendicular to the general shoreline.
2. Encroachments shall not extend beyond a water depth necessary for customary navigation or beyond the established line of navigation.
3. Dock encroachments, excluding slip cutout, shall not exceed 700 square feet in size or 10 feet in width; two-family docks shall not exceed 1,100 square feet in size.
4. Ramp encroachments shall not exceed 6 feet in width.
5. Single- and two-family encroachments shall not exceed four (4) piling, excluding stationary piers.
6. Encroachments should not be located closer than 10 feet to adjacent property riparian right lines. Riparian right lines extend waterward of ordinary/artificial high water mark perpendicular from the general shoreline.
7. All mooring covers used on encroachments must be removable.
8. For protection of the public trust rights of navigation, structure dimensions will be limited to size actually needed in aid to navigation. Encroachments proposed in rivers shall be held as close as possible to shore to avoid interfering with navigation.

Please submit your completed application to the Idaho Department of Lands:

Priest Lake Area - 4053 Cavanaugh Bay Road - Coolin, ID 83821 - (208) 443-2516

Pend Oreille Area - 2550 Highway 2 West - Sandpoint ID 83864 - (208) 263-5104

Coeur d'Alene Area - 3258 W Industrial Loop - Coeur d'Alene, ID 83815 - (208) 769-1577

St. Maries Area - 1806 Main Avenue - St Maries, ID 83861 - (208) 245-4551

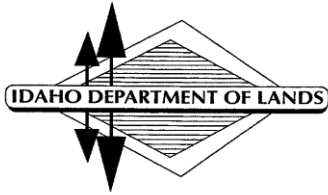
Payette Lakes Area - 555 Deinhard Lane - McCall, ID 83638 - (208) 634-7125

South Central Area - 324 South 417 East; Suite 2, Jerome ID 83338-6206 - (208) 324-2561

Eastern Idaho - 3563 Ririe Hwy - Idaho Falls ID 83401 - (208) 525-7167

Thank you for your cooperation.

IDAHO LAKE PROTECTION ACT ADMINISTRATION

**SINGLE AND TWO-FAMILY LOT
ENCROACHMENT PERMIT APPLICATION**

This information sheet and checklist must be completed when submitting an encroachment permit application. Incomplete applications will be returned without processing.

Encroachment Type:

(Check all that apply)

- | | |
|---|--|
| <input type="checkbox"/> - Single family dock (58-1305) | <input type="checkbox"/> - Riprap (58-1306) |
| <input type="checkbox"/> - Two-family dock (58-1305) | <input type="checkbox"/> - Waterline (58-1306) |
| <input type="checkbox"/> - Mooring buoy (58-1305) | <input type="checkbox"/> - Other – describe: _____ |

Applicant's Littoral Rights Are:

☐ - Signature of littoral rights owner is obtained if applicant is not the owner of the riparian/littoral rights

- ☐ - Owned, fee simple title holder
☐ - Leased
☐ - Other – describe: _____

Provide a Black/White Copy of Each Required Document on 8½"x14" or Smaller Paper:

- ☐ - County plat map showing both neighboring littoral lots.
- ☐ - Tax record identifying the owner of the upland parcel(s)
- ☐ - Lakebed profile with encroachment and water levels of winter and summer
- ☐ - General vicinity map that allows Department to find the encroachment
- ☐ - Scaled air photo or map showing lengths of nearby encroachments, distances to adjacent encroachments, and location and orientation of the proposed encroachment

Are Existing Docks or Other Encroachment(s) Permitted On This Parcel(s)?

- ☐ - No
☐ - Yes

Please attach a current photograph and a "to scale" drawing (see Document Requirements Above)

Permit # _____ Date of Construction: _____

What will happen to the existing dock or encroachment if this permit application is approved?

- ☐ - Remain unchanged
☐ - Complete removal
☐ - Modification
☐ - Other: _____

(Please note that old dock materials must be removed from the lake. Discarding these materials creates serious boating safety issues and offenders will be subject to prosecution and penalties.)

Does the Property Have 25 Feet of Lake Frontage for a Single-Family Dock or 50 Feet for a Two-Family Dock?

- ☐ - Yes Total front footage: _____ feet
☐ - No

How Many Feet Does the Proposed Encroachment Extend Beyond the Ordinary (or Artificial) High Water Mark? _____ feet**The Proposed Dock Length Is:**

- ☐ **The same or shorter** than the two adjacent docks
☐ **Longer** than the two adjacent docks
☐ **Longer** than the two adjacent docks, but within the line of navigability established by the majority of existing docks in the area.
☐ _____ **feet and not located near any other docks or other encroachments.**

What is the water depth at the end of the proposed dock?

Summer level _____ feet

Winter level _____ feet

Does the Proposed Dock Exceed the Maximum Square Footage of 700 ft² for Single-Family Docks or 1,100 ft² for Two-Family Docks?

☐ - No

Total square footage:

☐ - Yes

_____ ft²

Will the Proposed Encroachment Exceed the Maximum Width of 10 Feet?

☐ - No

☐ - Yes

If yes, explain why: _____

Will the Proposed Encroachment Be Located Closer Than 10 Feet to the Riparian/Littoral Right Lines Established With Your Neighbors?

☐ - No

☐ - Yes

If yes, what are the proposed distances? _____ feet

☐ - Consent of affected neighbor was obtained

Determining Riparian/Littoral Right Lines

Littoral right lines are not simple extensions of the upland property lines. Littoral right lines are generally perpendicular, or at right angles, to the shoreline. Curved shorelines or unusual circumstances may require Department Staff, or other professionals, to closely examine littoral right lines and assess the potential for infringement on adjacent littoral property owners.

Printed Name

Date

Signature of Applicant or Agent



Application Number _____

COMMERCIAL/COMMUNITY/NON-NAVIGATIONAL ENCROACHMENT PERMIT APPLICATION

This information sheet and checklist must be completed when submitting an encroachment permit application. Incomplete applications will be returned without processing.

ENCROACHMENT TYPE: (Check all that apply)

<input type="checkbox"/> - Community dock	<input type="checkbox"/> - Float home
<input type="checkbox"/> - Commercial marina	<input type="checkbox"/> - Boat garage
<input type="checkbox"/> - Bank stabilization	<input type="checkbox"/> - Mooring buoy(s)
<input type="checkbox"/> - Other – describe: _____	

Applicant's Littoral Rights Are:

☐ - Signature of littoral rights owner is obtained if applicant is not the owner of the riparian/littoral rights

☐ - Owned, fee simple title holder
☐ - Leased
☐ - Other – describe: _____

Provide a Black/White Copy of Each Required Document on 8½"x14" or Smaller Paper:

- ☐ - County plat map showing both neighboring littoral lots.
- ☐ - Tax record identifying the owner of the upland parcel(s)
- ☐ - Lakebed profile with encroachment and water levels of winter and summer
- ☐ - General vicinity map that allows Department to find the encroachment
- ☐ - Scaled air photo or map showing lengths of nearby encroachments, distances to adjacent encroachments, and location and orientation of the proposed encroachment.

Are Existing Docks or Other Encroachment(s) Permitted On This Parcel(s)?

☐ - No

☐ - Yes Please attach a current photograph and a "to scale" drawing (see Document Requirements Above)

Permit # _____ Date of Construction: _____

What will happen to the existing dock or encroachment if this permit application is approved?

- ☐ - Remain unchanged
- ☐ - Complete removal
- ☐ - Modification
- ☐ - Other: _____

(Please note that old dock materials must be removed from the lake. Discarding these materials creates serious boating safety issues and offenders will be subject to prosecution and penalties.)

How Many Feet Does the Proposed Encroachment Extend Beyond the Ordinary (or Artificial) High Water Mark? _____ feet

The Proposed Dock Length Is:

- ☐ **The same or shorter** than the two adjacent docks
- ☐ **Longer** than the two adjacent docks
- ☐ **Longer** than the two adjacent docks, but within the line of navigability established by the majority of existing docks in the area.
- ☐ _____ **feet and not located near any other docks or other encroachments.**

For Community Docks, Does the Proposed Dock Exceed the Maximum Square Footage of 7 ft² per Littoral Front Foot?

☐ - No **Total square footage:** _____
☐ - Yes _____ ft²

For Community Docks, Does the Property Have at Least 50 Feet of Littoral Frontage?

☐ - Yes **Total front footage:** _____ feet
☐ - No

Will the Proposed Encroachment Exceed the Maximum Width of 10 Feet?

☐ - No

☐ - Yes If yes, explain why: _____

Will the Proposed Encroachment Be Located Closer Than 25 Feet to the Riparian/Littoral Right Lines Established With Your Neighbors?

☐ - No

☐ - Yes If yes, what are the proposed distances? _____ feet

☐ - Consent of affected neighbor was obtained

Determining Riparian/Littoral Right Lines

Littoral right lines are not simple extensions of the upland property lines. Littoral right lines are generally perpendicular, or at right angles, to the shoreline. Curved shorelines or unusual circumstances may require Department Staff, or other professionals, to closely examine littoral right lines and assess the potential for infringement on adjacent littoral property owners.

Printed Name Date

Signature of Applicant or Agent



Encroachment Permit Fee Schedule

Encroachment Type	Filing Fee	Publication Deposit	Total
Permit assignment	\$300.00	N/A	\$300.00
Single-family dock	\$425.00	N/A	\$425.00
Two-family dock	\$425.00	N/A	\$425.00
Boat lift added to single or two-family dock	\$425.00	N/A	\$425.00
Mooring buoy within the line of navigability	\$425.00	N/A	\$425.00
Rail system	\$425.00	N/A	\$425.00
Water intake line serving four or less households	\$425.00	N/A	\$425.00
Bank stabilization and erosion control (riprap)	\$550.00	\$75.00	\$625.00
Navigational encroachment beyond the line of navigability	\$1,000.00	\$75.00	\$1,075.00
Nonnavigational encroachment	\$1,000.00	\$75.00	\$1,075.00
Community dock	\$2,000.00	\$75.00	\$2,075.00
Commercial navigational encroachment	\$2,000.00*	\$75.00	\$2,075.00*

*Commercial navigational encroachments require a base fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by Idaho Code § 58-1307.

Fees are cumulative for multi-part projects that combine navigational and non-navigational components. Projects with only navigational encroachments that are permitted concurrently will not have cumulative fees, but if the same navigational encroachments are permitted separately the fees will be cumulative. Some examples are:

Navigational combined with non-navigational concurrently:

Single Family Dock (\$425) + Water Intake Line ≤ 4 houses (\$425) = \$850
 Single Family Dock (\$425) + riprap project (\$550) + \$75 publication fee = \$1,050
 Commercial Navigational (\$2,000) + riprap project (\$550) + \$75 publication fee = \$2,625
 Commercial Navigational (\$2,000) + non-navigational project (\$1,000) + \$75 publication fee = \$3,075

Only navigational encroachments permitted concurrently:

Single Family Dock (\$425) + boat lift (\$425) (concurrently) = \$425

Only navigational encroachments permitted separately:

Single Family Dock (\$425) + boat lift (\$425) (separately) = \$850

Letterhead

Date

Applicant's Name

Address

SUBJECT: Incomplete Encroachment Application, [Encroachment number](#)

Dear [Applicant](#),

The Department has reviewed your encroachment application for a [Type of Encroachment](#). The application is incomplete as submitted and cannot be processed for approval. Subsection 020.07 of IDAPA 20.03.04 (Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in Idaho) states that incomplete applications may not be accepted for filing. The following information is needed before the application can be considered complete:

[List of All Deficiencies in Application, as per IDAPA 20.03.04.020.07.](#)

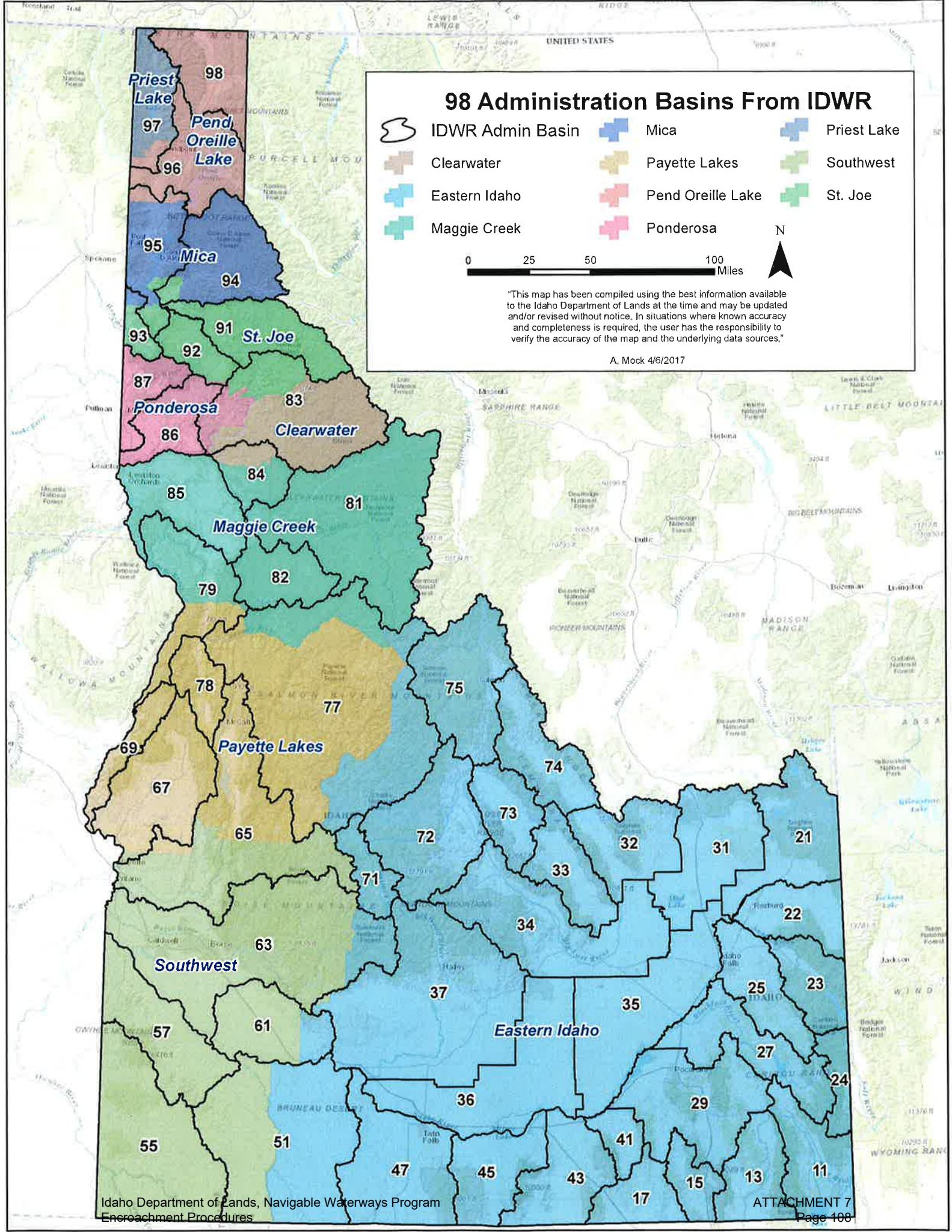
Please provide the above information within 30 days of receiving this letter. If the information is not received within this 30 day period, then your application may be denied due to a lack of the information required by Section 020 of IDAPA 20.03.04. A new application, and application fee, will then be required to restart the permitting process.

If you have any questions, please call me at [Phone Number](#).

Sincerely,

[Name](#)

[Title](#)



98 Administration Basins From IDWR

- | | | |
|------------------|-------------------|-------------|
| IDWR Admin Basin | Mica | Priest Lake |
| Clearwater | Payette Lakes | Southwest |
| Eastern Idaho | Pend Oreille Lake | St. Joe |
| Maggie Creek | Ponderosa | |

0 25 50 100 Miles



"This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources."

A. Mock 4/6/2017

Contact Information for IDWR Stream Channel Protection Program

State Office

Idaho Water Center
322 E Front Street, Suite 648
Boise, Idaho 83702
208-287-4800

Southern Regional Office

650 Addison Ave W, Suite 500
Twin Falls, ID 83301
208-736-3033

Western Regional Office

2735 W Airport Way
Boise, Idaho 83705
208-334-2190

Eastern Regional Office

900 N Skyline Drive, Suite A
Idaho Falls, ID 83402
208-525-7161

Northern Regional Office

7600 N Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815
208-762-2800

Salmon Field Office

102 S Warpath
Salmon, ID 83467
208-742-0658

**STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT**

Required When Applying for an Idaho Dept. of Lands Lake Encroachment Permit

"Joint COE-IDL Applications" for encroachment must be signed by the riparian or littoral property owner or his lessee. A riparian or littoral owner is the person whose upland property interfaces the ordinary or artificial highwater mark of a given waterway. A complete application must include the legal description of the upland property; a vicinity map showing the location of the proposal; design plans showing the adjacent boundary lines, encroachment dimensions, water depth, and a lakebed profile, all relative to the ordinary or artificial high water mark; and name and address of the adjacent property owner(s).

DOCK REQUIREMENTS AND SET BACKS

General requirements are as follows:

- 1) Encroachment installed perpendicular to the general shoreline.
- 2) Encroachment not to extend beyond a depth necessary for customary navigation nor beyond the established line of navigation.
- 3) Dock encroachment is not to exceed 700 square feet in size nor 10 feet in width, excluding a slip cutout.
- 4) Approach ramp is not to exceed 6 feet in width. ONLY 4 PILINGS ALLOWED.
- 5) Structure may not be closer than 10 feet to adjacent property and/or riparian boundary lines without written consent from the adjacent property owner, as riparian lines extend into the water perpendicular from the general shoreline.
- 6) Commercial encroachments are required to maintain 25 feet from adjacent property and/or riparian boundary lines.

CONSENT OF ADJACENT RIPARIAN OR LITTORAL PROPERTY OWNERS

Navigational and nonnavigational encroachments located adjacent to an upland property may infringe upon the adjacent property owner. Signature of the owner(s) will automatically rebut this presumption. The owner's signature below and initials per applicant's drawing will complete the permit requirement process.

I, _____, am the owner of riparian or littoral property adjacent to the riparian or littoral area listed in this application. I am familiar with the scope and location of the proposed encroachment as evidenced by accompanying plans which I have initialed. I offer no objection to the encroachment.

Date

Name

Address

I, _____, am the owner of riparian or littoral property adjacent to the riparian or littoral area listed in this application. I am familiar with the scope and location of the proposed encroachment as evidenced by accompanying plans which I have initialed. I offer no objection to the encroachment.

Date

Name

Address

Letterhead

Date

Littoral Neighbor Name
Address

Re: Courtesy Notification of Application for Encroachment

Dear **Name**:

This letter is to inform you as a courtesy that **Applicant** has applied for a permit to install a **list encroachment** on **Lake**. The enclosed site diagram shows location and indicates dimensions and distances to your mutual property boundary.

Department policy allows you **10 days** from the date of this letter to comment in writing on this proposal. It would be helpful if your comments addressed effects on navigation, fish and wildlife habitat, aquatic life, recreation, water quality, aesthetic beauty, and/or protection of property. Please include facts or documents that support your position. If you have no comments, please sign the enclosed form and return as soon as possible to expedite the processing of the applicant's permit.

If you have questions concerning the application, it is suggested you contact the applicant. If the applicant is unable to answer your questions, please contact us.

Sincerely,

Name and title

Enclosures

Sample Certificate of Transcription

CERTIFICATE OF TRANSCRIPTION

The undersigned does hereby certify that he or she correctly and accurately transcribed and typed the above transcript from the recording of the _____ [describe hearing: e.g. hearing before the hearing officer X, oral argument before commission Y, etc.] which was recorded on [date] in the above-entitled action or proceeding [or, name the proceeding if the transcript is not on a format without a case caption].

Dated and certified this ____ day of ____, 202__.

Transcriber

Encroachment Application Notifications

IDL Area	Priest Lake	Pend Oreille	Mica	St. Joe	Payette Lakes	South Central	Eastern
	IDFG	IDFG	IDFG	IDFG	IDFG	IDFG	IDFG
	IDEQ	IDEQ	IDEQ	IDEQ	IDEQ	IDEQ	IDEQ
	IDWR	IDWR	IDWR	IDWR	IDWR	IDWR	
Always notified	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers
	Panhandle Health District	Panhandle Health District 1	Panhandle Health District 1	Benewah County Auditor	Central District Health		
	Clean Lake Coordinating Council	Tri-State Water Quality Council	Tri-State Water Quality Council	Adjacent littoral owners	Valley County Planning & Zoning		
	Lakes Commission	Lakes Commission	Lakes Commission		City of McCall		
	Bonner County Planning and Zoning	Adjacent littoral owners			Payette Lakes WAG		
	Bonner County Public Works/Marine Division				Adjacent littoral owners		
	Priest Lake Ranger District (US Forest Service)						
	Idaho Conservation League						
Sometimes Notified		Bayview Chamber of Commerce	Kootenai County Parks, Recreation/Waterways	Panhandle Health District		Bureau of Reclamation	
		Bayview Water and Sewer	Kootenai County Marine Division	Coeur d'Alene Tribe		Big Wood Canal Co.	

Encroachment Application Notifications

		Bayview Community Council	Kootenai County Building & Planning & Zoning				
		Kootenai County Parks, Recreation/Waterways	Bonner County Planning Department				
		Kootenai County Marine Division	Bonner County Public Works				
		Kootenai County Building & Planning & Zoning	Bonner County Marine Division				
		Bonner County Planning & Zoning	Bonner County Parks, Recreation/Waterways				
		Bonner County Public Works	City of Coeur d'Alene				
		Bonner County Marine Division	City of Hayden				
		Kootenai Environmental Alliance	City of Post Falls				
		Idaho Conservation League	City of Hauser				
			City of Fernan				
			Kootenai Environmental Alliance				
			Save Hayden Lake				
			Spokane River Homeowners Association				

Letterhead

MEMORANDUM

TO: Idaho Department of Fish and Game
Idaho Department of Environmental Quality
Idaho Department of Water Resources
US Army Corps of Engineers-CDA
[Bonner County Planning & Zoning](#)
[Bonner County Public Works](#)
[Bonner County Marine Division](#)
[Panhandle Health District 1-Sandpoint](#)
[Tri-State Water Quality Council](#)
[Lakes Commission](#)
[Idaho Conservation League](#)
[Other interested agencies or parties](#)
[Names of Littoral Neighbors](#)

FROM: [Name and Title](#)

DATE: [Date](#)

SUBJECT: NOTICE OF APPLICATION L-[XX-X-XXXX](#), [Applicant Name](#)

Enclosed is an application and plats requesting permission to [encroachment description and lake](#).

Please submit your comments, recommendations or objections to IDL by [date 30 days out](#), regarding the likely effect of the proposed encroachments upon adjacent property, lake, and streambed value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, or water quality. If you have concerns or are opposed to the project as proposed, please list your specific reasons for concern or opposition and any facts or documentation to support your position.

You should recommend alternate plans if they are economically feasible to accomplish the purpose of the proposed encroachment. You should also recommend any mitigation measures or special restrictions/provisions you would like included as part of the permit if one is issued.

If you do not submit a comment, IDL will assume you have no objections to the application. If you have questions concerning the application, we suggest you contact the applicant. If the applicant cannot answer your questions, please contact us.

[initials](#)

enclosures

Letterhead

Date

Newspaper
address

Re: Legal Notice of Application L-XX-X-XXXX – Name of Applicant

Enclosed is a notice of application. Please publish this as a legal advertisement for two consecutive weeks on Date and Date.

Upon completion, please provide a tear sheet for the Last date above publication, an affidavit of publication, and statement of cost.

Thank you. Your help in this matter is greatly appreciated.

Sincerely,

Name and Title

Enclosures

NOTICE OF APPLICATION

Pursuant to Section 58-104(9) and 58-1301, et seq., Idaho Code (The Lake Protection Act) and rules of the State Board of Land Commissioners, notice is hereby given that Applicant of Address made application to encroachment description. Located on Lake, Idaho adjacent to: Section XX, Township XX North or South, Range XX West or East; B.M., in ? County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, Address within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Name and title at the above address or by calling (208) Number.

/S/
Name, Area Supervisor
Idaho Department of Lands

Letterhead

Date

Paper
Address

Re: Legal Notice of Public Hearing L-XX-X-XXXX – Applicant Name

Enclosed is a notice of application. Please publish this as a legal advertisement for two consecutive weeks on Date and Date.

Upon completion, please provide a tear sheet for the Second date publication, an affidavit of publication, and statement of cost.

Thank you. Your help in this matter is greatly appreciated.

Sincerely,

Name and Title

Enclosures

NOTICE OF PUBLIC HEARING

Pursuant to Section 58-104(g) and 58-1301, et seq., Idaho Code (The Lake Protection Act) and rules of the State Board of Land Commissioners, notice is hereby given that [Applicant's name](#) of [Address](#) made application to [Encroachment Description](#). Located on [Lake](#), Idaho adjacent to: Section [XX](#), Township [XX North or South](#), Range [XX West or East](#); B.M., in [?](#) County.

This announcement will serve as **Notice of Public Hearing** for this project. The Public Hearing will be held [Date](#), at the [Location](#) at [Time](#), [Physical Address](#) – [Town](#), Idaho. This Public Hearing will be conducted by the Idaho Department of Lands to take testimony regarding the proposed project.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, [Local Address](#) within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from [Name and Title](#) at the above address or by calling (208) [Number](#).

/S/
[Name](#), Area Supervisor
Idaho Department of Lands

Attachment 14: Encroachment Permit Terms

1. General

- A. In order for this permit to be valid, Permittee must record this permit in the records of the county in which the encroachment is located and furnish proof of recordation to the Department pursuant to Idaho Code §§ 58-1305(h) and -1306(f).
- B. All applicable provisions of the Lake Protection Act (Idaho Code Title 58, Chapter 13) and Rules for Regulation of Beds, Waters, and Airspace over Navigable Lakes and Streams in the State of Idaho (IDAPA 20.03.04.000 *et seq.*) are incorporated herein by reference and made a part hereof.
- C. This permit does not convey the State's title to nor jurisdiction or management of lands lying below the natural or ordinary high water mark.
- D. Construction must follow details and specifications shown on the approved application, plans, and drawings provided by Permittee. Should such information prove to be materially false, incomplete and/or inaccurate, this authorization may be modified, suspended, or revoked in accordance with the Administrative Procedures Act, Idaho Code Title 67, Chapter 52 and IDAPA 20.03.04.080.07. At any time, and prior to any modification to the application, plans, drawings or encroachments Permittee must consult with the Idaho Department of Lands to determine if a new permit is required.
- E. Permittee shall maintain the structure or work authorized herein in a good and safe condition and in accordance with the approved application, plans and drawings. Permittee shall contact the Idaho Department of Lands 10 days prior to the planned start date of any maintenance or replacement activities.
- F. Acceptance of this permit constitutes permission by Permittee for representatives of the Idaho Department of Lands to come upon Permittee's Property at all reasonable times to inspect the encroachment authorized by this permit.
- G. Permittee shall indemnify, defend and save harmless the State, its officers, agents and employees from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with Permittee's acts or omissions under this permit or Permittee's failure to comply with any state or federal statute, law, regulation or rule.
- H. Authorization for any activity authorized herein that is not completed on or before the completion date identified above, shall automatically terminate unless an extension was granted in writing by IDL.
- I. This permit supersedes and voids any permit previously issued for this property. Unless specifically authorized in this permit, any pre-existing or abandoned portions of encroachments, whether previously permitted or not, shall be removed from below the ordinary or artificial high water mark.
- J. This permit does not relieve Permittee from obtaining additional approvals or otherwise complying with other local, state, or federal laws.
- K. Idaho State Water Quality Standards (IDAPA 58.01.02.000 *et seq.*) shall be maintained at all times during and after project start up.
- L. This permit is issued contingent upon Permittee's continuing status as an owner or lessee of the littoral right associated with the property described on page 1 of this permit.
- M. Permittee shall not assign this permit without first obtaining the written consent of IDL. Any request for approval of an assignment must be in writing, on forms provided by IDL, and accompanied by the applicable processing fee.
- N. Permittee assumes all liability for damages, which may result from the exercise of this permit.

2. Pre-construction

A preconstruction conference must be held on site between the contractor, IDL and Permittee (if Permittee desires to be present) to ensure that the contractor is familiar with the terms of this permit. The meeting must be held at least one working day prior to the commencement of construction. The contractor or Permittee must contact IDL to arrange the date and time of the meeting.

3. Construction

- A. The Permittee or contractor shall have a copy of this permit available on site for inspection at all times during construction.
- B. Permittee is responsible for all work done by any contractor. Permittee shall provide contractor with a copy of this permit. Permittee shall ensure any contractor who performs the work is informed of and follows all the terms and conditions of this permit.
- C. Construction barges or other watercraft shall not be grounded on the lakebed for any reason.
- D. Permittee, contractor and anyone acting on their behalf are prohibited from allowing equipment, boats, barges or associated machinery to create petroleum product sheen on the water or otherwise create a release of petroleum or petroleum products due to petroleum products handling, use or storage. The contractor shall maintain an adequate supply of petroleum absorbent pads. The Emergency Response Team phone number, 1-800-632-8000, must be readily available at all times.
- E. Operation of excavation equipment will not be allowed below the ordinary or artificial high water mark without prior written authorization from IDL. Equipment may be operated only on dry land above the level of the lake at the time of operation.
- F. Demolition debris and construction waste shall be removed from the lake and disposed of at an approved upland location.
- G. Foam flotation shall be completely encased in a manner that will maintain the structural integrity of the foam. The encasement shall be resistant to the entry of rodents and shall be replaced if cracked, damaged, or similarly compromised.
- H. It is illegal to possess or transport Quagga or Zebra mussels into or through Idaho, and to launch infested watercraft. Used boat lifts shall be inspected for invasive species and determined to be free from such species prior to installation. Permittee shall provide IDL with proof of inspection by an authorized inspector prior to installing the boat lift and/or placing it in the water. Prior to installation call 877-336-8676 for decontamination.
- I. Piles and pylons shall be driven with noise reduction devices.
- J. Construction materials shall be natural or pressure treated utilizing only those preservative chemicals registered for the specific uses by the U.S. Environmental Protection Agency (EPA). All treated wood materials shall be produced in compliance with "Best Management Practices (BMPs) For the Use of Treated Wood in Aquatic and other Sensitive Environments" issued by the Western Wood Preservers Institute (WWPI) 2012. Treated materials not in contact with the water shall be completely dry before use near navigable waters. Use of Chromated Copper Arsenate (CCA) treated wood shall adhere to the EPA recommendations regarding use of arsenate treated wood. Contact Idaho Department of Environmental Quality for information on acceptable treatment methods and materials.
- K. All construction material including maintenance material must be stockpiled landward of the ordinary or artificial high water mark
- L. No trees or vegetation shall be removed below the ordinary high water mark without written approval of the Idaho Department of Lands.
- M. The disturbed portion of the lakebed shall be shaped to its original contour upon completion of the project.

- N. Any vegetation located below the ordinary high water mark disturbed by construction activity shall be replanted with native plants, unless otherwise agreed to in writing by IDL.
- O. All construction shall meet the standards of the Uniform Building and International Fire Codes. Permittee shall contact the appropriate body of jurisdiction concerning these codes prior to installation.
- P. A silt curtain, fence, or other appropriate Best Management Practice (BMP) shall be installed waterward of the project site. It must remain in place and functional until the turbidity level inside the curtain, fence or BMP equals the turbidity outside the curtain, or until all disturbed sediment has been removed from the BMP and stabilized in an upland location.
- Q. If any excavation or pile driving occurs the operator must comply with the provisions of the Underground Facilities Damage Prevention Law (Idaho Code Title 55, Chapter 22). The one-call locator service number is 811.

4. Submerged Land Leases and Easements

- A. This permit is issued contingent upon Permittee's agreement to enter into a submerged land lease or easement when notified by the IDL director that a lease or easement is necessary to occupy state-owned lake or riverbeds pursuant to IDAPA 20.03.04.055. In the event the submerged lands lease or easement is terminated, Permittee shall be solely responsible for removal of the encroachment.
- B. This permit is issued contingent upon the Permittee's agreement to enter into a submerged land lease pursuant to IDAPA 20.03.04.055. In the event the submerged lands lease is terminated, the Permittee may be solely responsible for removal of the encroachment.
- C. This permit is issued contingent upon the Permittee's agreement to obtain a submerged land easement pursuant to IDAPA 20.03.04.055. In the event the easement is terminated, the Permittee may be solely responsible for removal of the encroachment.

5. Single-family Docks

- A. Covered slips and lifts must meet the standards established in IDAPA 20.03.04.015.04 and .13.b.

6. Two-family Docks

- A. This dock serves two waterfront lot owners. Neither owner is eligible for additional docks at the properties described on page 1 of this permit.
- B. In the event this dock ceases to provide noncommercial moorage to two (2) adjacent waterfront owners, having fifty (50) feet of combined waterfront property, this dock must be removed or Permittees must apply for and obtain a new permit.
- C. Covered slips and lifts must meet the standards established in IDAPA 20.03.04.015.04 and .13.b.

7. Mooring Buoy

- A. Only Coast Guard approved buoys will be allowed. The buoy must display the permit identification number in characters not less than three inches (3") in size.

8. Riprap

- A. No riprap shall be placed in excess of the minimum needed for erosion control.
- B. Riprap shall be placed along the present contour of the shoreline.
- C. BMPs must be implemented to prevent sediment or sediment laden water from reentering the lake. BMPs must remain in place until the risk of sediment reentering the lake has been fully mitigated. Sediment mitigation BMPs

must be removed prior to or designed to withstand any rise in lake water level which might cause an unplanned release of trapped sediment.

- D. Any excavated material shall be sidecast to only one side of the trench and shall either be replaced in the trench or removed to an area above the ordinary or artificial high water mark and in a position such that it will not reenter the lake.

9. Dredging

- A. Excavated material not replaced shall be removed to an area above the ordinary or artificial high water mark and in a position such that it will not reenter the lake.
- B. Mechanized excavation is authorized between the ordinary high water mark and Low Water Level per the approved application, plans, and drawings. During excavation, BMPs must be incorporated to prevent sediment or sediment laden water from reentering the lake. BMPs must remain in place until the risk of sediment reentering the lake has been fully mitigated. Sediment mitigation BMPs must be removed prior to or designed to withstand any rise in lake water level which might cause an unplanned release of trapped sediment.

10. Waterline

- A. The water intake should be screened in a manner that would create approach velocities of not more than **0.5 feet per second** and a maximum screen mesh diameter of one-quarter inch.
- B. The waterline shall be anchored to the bed of the lake with a nontoxic type of weight.
- C. No water shall be diverted by the water intake system until a valid permit to appropriate water or water right is obtained from the Idaho Department of Water Resources.
- D. Any excavated material shall be sidecast to only one side of the trench and shall either be replaced in the trench or removed to an area above the ordinary or artificial high water mark and in a position such that it will not reenter the lake.

11. Pumpout Station

- A. Pumpout station must comply with the local health district requirements.

12. Lake Specific Terms

A. Lake Pend Oreille

Existing piling to be removed that are in a known spawning area or near the confluence of a bull trout stream shall be cut off. Other existing piling to be removed may be snapped off with a tug or barge, however, this method shall not cause turbidity from prop wash, and the remaining piling shall not become a hazard to navigation nor protrude more than two feet above the bed of the waterway.

B. Mid-Snake River Reservoirs

No work shall disturb the reservoir bed below the ordinary or artificial high water mark during the sport fish spawning and rearing season from March 15 to July 15.



Request for Assignment of Encroachment Permit

I/We, _____, am/are the current permittee(s) of the Idaho Department of Lands encroachment permit(s) listed below. I/We, as Assignor(s), request that the identified permit(s) be assigned to _____, identified below as "Assignee(s)."

Encroachment Number (s): _____

Body of Water: _____

County: _____

ASSIGNOR(S) -- CURRENT PERMITEE(S)

We hereby swear and affirm that the information contained herein is true and correct to the best of our knowledge, and the existing encroachment is in compliance with the permit issued.

Assignor _____ Assignor _____

STATE OF _____)
County of _____) :ss

On this ____ day of _____, in the year 20____, before me, a notary public in and for said State, personally appeared _____, known to me to be the Assignor(s)/Permittee(s) that executed the within instrument, and acknowledged to me that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Notary Public _____
Residing at: _____
My Commission Expires: _____

ASSIGNEE(S) -- NEW PERMITEE(S)

I/We accept and agree to comply with the terms and conditions of the permit(s) as issued.

Name: _____ Phone: _____

Address: _____

Assignee _____ date _____ Assignee _____ date _____

✓ You must submit an assignment fee of \$300.00.

SUBMIT DOCUMENTATION TO THE APPROPRIATE IDL AREA OFFICE:

Priest Lake Area - 4053 Cavanaugh Bay Road - Coolin, ID 83821 - (208) 443-2516

Pend Oreille Area - 2550 Highway 2 West - Sandpoint ID 83864 - (208) 263-5104

Coeur d'Alene Area - 3258 W Industrial Loop - Coeur d'Alene, ID 83815 - (208) 769-1577

St. Maries Area - 1806 Main Avenue - St Maries, ID 83861 - (208) 245-4551

Payette Lakes Area - 555 Deinhard Lane - McCall, ID 83638 - (208) 634-7125

South Central Area - 324 South 417 East; Suite 2, Jerome ID 83338-6206 - (208) 324-2561

Eastern Idaho - 3563 Ririe Hwy - Idaho Falls ID 83401 - (208) 525-7167

Inspection Data		Inspection Time (hrs)	Related instrument(s) (include instrument type & number)	
Body of water:		Preparation:		
Inspection date:		Travel:		
Type: <input type="checkbox"/> Quality Assurance <input type="checkbox"/> Complaint <input type="checkbox"/> Application Review, #:		Inspection:		
		Report:		
		Total:		
Name of Instrument Holder/Responsible Party:				
Location of Inspection:				
On-site representative(s):				
Name:		Name:		
Title:		Title:		
Phone:		Phone:		
Email:		Email:		
Narrative (Describe who, what, when, where, why, and how):				
Summary of Findings:				
<input type="checkbox"/> No issues of concern identified.				
<input type="checkbox"/> The following issue(s) of concern were identified (include citation and brief description):				
Attachments:				
Inspector's Signature:		Name:	Title/Office:	Date:

Date

RECEIPT

Name
Mailing Address

CERTIFIED RETURN

and REGULAR MAIL
#####

If mailed via
certified mail, list
receipt number

SUBJECT: Notice of Noncompliance
Encroachment Permit No.: L-95-S-9999Z
Physical location of noncompliance

Subject block includes the type of
notice, pertinent instrument numbers,
and the physical address or legal
description of the location of the
noncompliance

Dear XXX:

This Notice of Noncompliance is being sent pursuant to Rule 80.02 of *The Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*, IDAPA 20.03.04.000 *et seq.* ("Rules"), and is a result of the inspection of your dock conducted on July 24, 2014. The noncompliance is as follows:

Introduction
paragraph describes
why the letter is
being sent.

IDAPA 20.03.04.020.015.01.a Single-Family and Two-Family Docks.
This section states, "[n]o part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ten (10) feet in width, excluding the slip cut out." During the course of the inspection, Mr. George Frederick, Resource Specialist, documented that your single-family dock is fourteen (14) feet wide. The diagram of your dock submitted with your encroachment permit application on April 1, 2012, indicates that the dock will be ten (10) feet in width.

Cite the applicable
statute, rule, and/or
instrument
provision.

Describe the facts
upon which the
notification is based

For your convenience, I have enclosed a copy of the rules for your reference. In order to bring the encroachment into compliance and avoid permit revocation and other penalties outlined in Idaho Code §§ 58-1308 and -1309 and IDAPA 20.03.04.080, please complete the following within **30 days from receipt of this notice:**

Identify corrective
actions and
deadline.

- A. Submit a plan to modify your dock so that no part exceeds ten (10) feet in width. The plan must include the proposed dimensions of the dock and the date of modification. Modification must take place no later than 90 days from receipt of this notice.

If you have any comments or questions regarding this matter, feel free to contact me at (208) ###-#### or at name@idl.idaho.gov.

Sincerely,
Signature
Resource Supervisor's or Area Manager's printed name
Title

AMI/rsi

Initials of signatory (upper case) and
person who drafted letter (lower case)

Enclosure: IDAPA 20.03.04 (22 pages)
Cc: Name, Navigable Waterways Program Manager

List all documents to be sent
accompanying the notice

List people receiving copy of
the notice

Sample Notice of Noncompliance

July 28, 2014

CERTIFIED RETURN RECEIPT
and REGULAR MAIL
0123 4567 8910 1112 1314

George Washington
PO Box 1776
Mount Vernon, VA 22121

SUBJECT: Notice of Noncompliance
IDAPA 20.03.04.015.01.a Encroachment Standards
Encroachment Permit Number: L-96-S-9999A
100 Lake Front Drive, Sandpoint, Bonner County, Idaho 83864

Dear Mr. Washington:

This Notice of Noncompliance is being sent pursuant to Rule 80.02 of *The Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*, IDAPA 20.03.04.000 *et seq.* ("Rules"), and is a result of the inspection of your dock conducted on July 24, 2014. The noncompliance is as follows:

IDAPA 20.03.04.015.01.a Encroachment Standards. This section provides, in pertinent part, "No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ten (10) feet in width, excluding the slip cut out." During the course of the inspection, Mr. George Frederick, Resource Specialist, documented that your single-family dock is fourteen (14) feet wide. The diagram of your dock submitted with your encroachment permit application on April 1, 2012, indicates that the dock will be ten (10) feet in width.

In order to bring the encroachment into compliance and avoid permit revocation and other penalties outlined in Idaho Code §§ 58-1308 and -1309 and IDAPA 20.03.04.080, please complete the following within **30 days from receipt of this notice**:

- I. Submit a plan to modify your dock so that no part exceeds ten (10) feet in width. The plan must include the proposed dimensions of the dock and the date of modification. Modification must take place no later than 90 days from receipt of this notice.

If you have any questions or concerns regarding this matter please contact me at (208) 263-5104 or whowe@idl.idaho.gov.

Sincerely,

William Howe

William Howe
Resource Supervisor

AMI/rsi

Cc: Banastre Tarleton, Navigable Waterways Program Manager

Section 45 Compliance Procedures – Attachment 18
(02/2017)

August 31, 2014

CERTIFIED RETURN RECEIPT
and REGULAR MAIL
0123 4567 8910 1112 1315

George Washington
PO Box 1776
Mount Vernon, VA 22121

**SUBJECT: Request for Additional Information
IDAPA 20.03.04.015.01.a Encroachment Standards
Encroachment Permit Number: L-96-S-9999A
100 Lake Front Drive, Sandpoint, Bonner County, Idaho 83864**

Dear Mr. Washington:

This letter is a request for additional information. This letter is being written as a result of the review of your response to the July 28, 2014, Notice of Noncompliance, received by this office on August 24, 2014.

The July 28, 2014, Notice of Noncompliance requested "a plan to modify your dock so that no part exceeds ten (10) feet in width. The plan must include the proposed dimensions of the dock and the date of modification. Modification must take place no later than 90 days from receipt of this notice." In the plan received on August 24, 2014, the width of the proposed dock was not identified. In addition, the timeframe to modify the dock was not disclosed.

In order to bring the encroachment into compliance and avoid permit revocation and other penalties outlined in Idaho Code §§ 58-1308 and -1309 and IDAPA 20.03.04.080, please complete the following within **30 days from receipt of this notice**:

1. Update and resubmit your plan to ensure all of the dimensions of the proposed dock, including the width, are identified.
2. Identify the projected date by which the work will be completed.

If you have any questions or concerns regarding this matter please contact me at (208) 263-5104 or howe@idl.idaho.gov.

Sincerely,

William Howe

William Howe
Resource Supervisor

AMI/rsi

Cc: Banastre Tarleton, Navigable Waterways Program Manager

October 15, 2014

George Washington
PO Box 1776
Mount Vernon, VA 22121

SUBJECT: Notice of Resolution
IDAPA 20.03.04.015.01.a Encroachment Standards
Encroachment Permit Number: L-96-S-9999A
100 Lake Front Drive, Sandpoint, Bonner County, Idaho 83864

Dear Mr. Washington:

This letter is an official Notice of Resolution. On October 1, 2014, IDL staff conducted an on-site inspection of your dock and found that no portion of the dock exceeds ten feet in width. It appears you have adequately addressed the noncompliance identified in the Notice of Noncompliance issued on July 28, 2014. Thank you for your cooperation to resolve this matter in a timely manner. If you have any questions or concerns please contact me at (208) 263-5104 or howe@idl.idaho.gov.

Sincerely,

William Howe

William Howe
Resource Supervisor

AMI/rsi

Cc: Banastre Tarleton, Navigable Waterways Program Manager

MEMORANDUM

TO: Area Manager
Navigable Waterways Program Manager

FROM: Resource Supervisor

DATE: September 3, 2014

SUBJECT: Failure to Correct Noncompliance IDAPA 20.03.04.015.01.a

Background:

Mr. George Washington owns property adjacent to Lake Coeur d'Alene in Kidd Island Bay and holds IDL Encroachment Permit number L-95-S-9999A. This permit was assigned to Mr. Washington on June 6, 2005, and authorized the construction and maintenance of a 245 square foot single-family dock consisting of a 3'x10' pier, 3'x10' ramp, 5'x40' single slip dock and three piling (see Attachment 1 for copy of permit).

On July 1, 2014, IDL received an anonymous complaint that Mr. Washington had modified his dock to increase the width to 14 feet.

On July 16, 2014, Resource Specialist George Frederick conducted an on-site inspection of Mr. Washington's dock. His observations confirmed the complaint. Mr. Washington's dock now measures 14 feet in width. During the inspection, Mr. Washington stated that he made this modification this Spring (2014) and did not realize he needed approval. Mr. Frederick's inspection report, submitted on July 19, 2014, is Attachment 2.

On July 28, 2014, I issued a Notice of Noncompliance (Attachment 3) to Mr. Washington and provided him 30 days to submit a response. The certified mail receipt was signed by Mr. Washington and dated August 3, 2014 (see Attachment 4 for certified mail receipt). As of September 3, 2014, IDL has not received a response. On August 10, 13, and 21 George Frederick called Mr. Washington and left voice messages, but has not received a return phone call.

Recommendation:

Issue a Notice of Proposed Permit Revocation for the unauthorized modification to the single-family dock which made the dock noncompliant with IDAPA 20.03.04.020.015.01.a.

Attachments:

- a. Encroachment Permit
- b. Inspection Report
- c. Notice of Noncompliance
- d. USPS signed certified receipt

September 3, 2014

CERTIFIED RETURN RECEIPT
and REGULAR MAIL
0123 4567 8910 1112 1315

George Washington
PO Box 1776
Mount Vernon, VA 22121

SUBJECT: Notice of Proposed Permit Revocation
IDAPA 20.03.04.015.01.a Encroachment Standards
Encroachment Permit Number: L-96-S-9999A
100 Lake Front Drive, Sandpoint, Bonner County, Idaho 83864

Dear Mr. Washington:

This letter is an official Notice of Proposed Permit Revocation pursuant to Rule 80.02 of the *Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho* IDAPA 20.03.04.000 *et. seq.* ("Rules"). This proposed permit revocation is based on the failure to respond to the Notice of Noncompliance issued on July 28, 2014. Our records indicate that you received the Notice of Noncompliance on August 3, 2014; however, to date, this office has not received a response. The reason for the proposed permit revocation is that you have failed to comply with the following:

IDAPA 20.03.04.015.01.a Encroachment Standards. This section states, in part, "No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ten (10) feet in width, excluding the slip cut out." During the course of the inspection, Mr. George Frederick, Resource Specialist, documented that your single-family dock is fourteen (14) feet wide. The diagram of your dock submitted with your encroachment permit application on April 1, 2012, indicates that the dock will be ten (10) feet wide.

You may respond to this Notice of Proposed Permit Revocation in one of three ways:

1. Submit your plan by the close of business **October 8, 2014**, to modify your dock to ensure that no part exceeds ten (10) feet in width. The plan must include the date you will complete the modification, which must be within 90 days of receipt of this letter.
2. Submit a written request for an informal settlement meeting. This request must be received by the close of business **October 8, 2014**.
3. Submit a written request for a formal hearing. This request must be received by the close of business **October 8, 2014**.

If you do not submit the required documentation or request an informal settlement meeting or formal hearing by the dates identified above, IDL will begin the permit revocation process. In addition, you may be charged for the expenses incurred by the State in enforcing the Lake Protection Act and Rules pursuant to Idaho Code § 58-1308(3). If you have any questions or concerns regarding this matter please contact me at (208) 263-5104 or amanager@idl.idaho.gov.

Sincerely,

Area Manager

Guy Carleton
Pend Oreille Area Manager

Cc: Banastre Tarleton, Navigable Waterways Program Manager

BEFORE THE STATE BOARD OF LAND COMMISSIONERS STATE OF IDAHO

In the matter of:)	
Unauthorized Placement of Fill in Bear Lake)	
John Adams,)	CEASE AND DESIST ORDER
Littoral Owner.)	
)	

The Director of the Idaho Department of Lands (IDL) has determined that due to the ongoing construction of an unauthorized encroachment John Adams has violated and continues to violate the Lake Protection Act, Title 58, Chapter 13, Idaho Code (LPA) and *The Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho*, IDAPA 20.03.04.000 *et seq.* ("Rules"). As a result, the Director is issuing this Cease and Desist Order to stop all work below the Ordinary High Water Mark ("OHWM") of Bear Lake adjacent to John Adams' property in order to maintain the status quo pending formal proceedings by IDL to rectify the violation.

a. AUTHORITY

The Director is authorized to issue this Order pursuant to IDAPA 20.03.04.080.01.

b. PERTINENT LEGAL PROVISIONS

Idaho Code § 58-1301. 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.

IDAPA 20.03.04.012.02. No Encroachments Without Permit. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefore has been given as provided in these rules. An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho.

c. FACTS

On July 1, 2014, IDL received an anonymous complaint that Mr. Adams was placing fill on the bed of Bear Lake adjacent to his upland property.

On July 16, 2014, IDL Resource Specialist Thomas Jefferson conducted an on-site inspection of Mr. Adams's activities. His observations confirmed the complaint. Mr. Adam had placed earthen material below the ordinary high water mark and additional material and equipment were located upland.

d. CONCLUSION AND ORDER

The Director has determined that John Adams has violated and is violating Idaho Code § 58-1301 and IDAPA 20.03.04.012.02. Therefore, it is hereby ORDERED that John Adams cease and desist from work below the OHWM of Bear Lake pending formal proceedings by IDL to rectify the violation.

DATED this ____ day of _____, 20____.

JAMES MADISON
Director, Idaho Department of Lands

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

**RELATIVE TO FOREST PRACTICES,
NAVIGABLE WATERS, THE IDAHO DREDGE AND PLACER MINING ACT
AND
THE STREAM CHANNEL PROTECTION ACT**

This Memorandum of Understanding (MOU) is entered into by the Idaho Department of Lands (IDL) and the Idaho Department of Water Resources (IDWR). The provisions contained in this MOU pertain to stream channel alterations, in conjunction with forest practices and dredge and placer mining, which impact navigable waters, endowment lands and/or non-federal forestlands. This MOU supercedes the amended Memorandum of Understanding dated July 9, 2002.

I. PURPOSE:

It is the policy of the State of Idaho to protect the lands, lakes, streams, and rivers within the State of Idaho, and the State of Idaho acquired title upon statehood to the bed of all navigable waters, and endowment lands.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

The State Board of Land Commissioners, through IDL, has authority under the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code, to regulate forest practices; and has authority under the Idaho Dredge and Placer Mining Act, Title 47, Chapter 13, Idaho Code, to protect lands, lakes and streams from damage resulting from dredge and placer mining.

IDWR has authority under Title 42, Chapter 38, Idaho Code, to regulate the alteration of stream channels for the health, safety and welfare of the public and to protect stream channels from alteration for protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality; and has authority under Title 58, Chapter 4, Idaho Code, to interpose any objections to timber sales on state land because of any interference with the conservation of the irrigation water of any watershed.

Silviculture activities including discharges of dredge and fill material for construction and maintenance of forest roads are not prohibited by or subject to regulation under Section 404 of the Clean Water Act and its implementing regulations. *See* 33 U.S.C. § 1344; 33 C.F.R. Part 323. This exemption does not relieve IDL from obtaining other approvals required under the Clean Water Act regulations.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

The responsibilities of IDWR and IDL must be coordinated to provide service to the citizens of Idaho, to administer the policies of the State and to avoid waste and duplication of effort.

III. INTER-AGENCY PROCEDURES:

IDWR and IDL shall, annually, hold IDWR Regional – IDL Area level meetings in the spring at the respective IDL Supervisory Area Offices. The Idaho Department of Environmental Quality, Idaho Department of Fish and Game (Regional Fishery Biologist), and the US Army Corps of Engineers will be invited to attend these spring meetings. Combination of these Area meetings for efficiency reasons is encouraged when endorsed by both IDL and IDWR.

The purpose of the annual meetings is to exchange information on programs, inform each other of pending activities as provided for in sections of this agreement and to discuss matters pertaining to the accomplishment of mutual objectives of stream channel protection.

IDWR and IDL staff shall meet and develop an Administrative Procedures and Guidance Document relative to the Forest Practices Act and the Stream Channel Protection Act to be used as a guide to field staff and to provide a list of principal contacts. Each Department and their respective staff will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each Department will carry out its separate activities in a coordinated and mutually beneficial manner.

IV. OPERATIONS ON ENDOWMENT OR PUBLIC TRUST LANDS:

IDAHO DEPARTMENT OF WATER RESOURCES SHALL:

a. Consider IDL activities that are reviewed at the annual spring meetings or follow-up notification, that meet the requirements of the Forest Practices Act, the Stream Channel Protection Act, and IDAPA 37.03.07, as complying with IDWR procedural requirement for such activities. Any IDL activities (including but not limited to Section V.a. of this MOU) presented at the meeting will not require submission of a Stream Channel Alteration Permit application. IDWR reserves the right to comment on the timing and methods used to complete these projects, to ensure channel stability, for the protection of fish and wildlife habitat, water quality, aquatic life, recreation, and aesthetic beauty.

b. Provide to IDL a copy of all joint applications for permits to alter a stream channel within 20-work days from receipt, in PDF electronic format, which would alter streams on or adjacent to endowment lands, on or adjacent to lands administered by IDL or occupying the beds of navigable streams or beds of lakes and non-federal reservoirs. Notify IDL of activities on non-state lands, which develop subsequent to the annual

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

spring meetings that may affect IDL lands, streams or programs. IDL shall consider this notification as meeting the intent of Sections 42-3803 and 42-3804, Idaho Code.

c. Upon request, furnish to IDL copies of all drawing, maps, and specifications relating to applications submitted to IDWR.

d. Include special terms and conditions in permits, which will affect endowment lands or state owned beds of navigable streams as requested by IDL.

e. Provide assistance in identifying the ordinary high water mark on navigable rivers for establishment of jurisdiction purposes for the Stream Channel Protection Act and for title purposes. IDWR and IDL recognize that rivers are dynamic and established land surveys do not always reflect the mean or ordinary high water mark under the Stream Channel Protection Act.

f. Comment to IDL regarding approval under the Stream Channel Protection Act after receiving comments solicited from other agencies in connection with proposals to alter or occupy beds of navigable rivers or as part of dredge and placer mining activities and refer applications or applicants desiring a permit to alter or occupy beds or waters of navigable lakes, non-federal reservoirs, located on navigable rivers to IDL.

g. Upon request by IDL, deny a permit which IDL determines will adversely affect endowment lands.

h. Inform IDL of law, rule and policy changes relating to the Stream Channel Protection Act and provide training to IDL employees concerning Stream Channel Alteration requirements as necessary.

IDAHO DEPARTMENT OF LANDS SHALL:

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Provide maps to IDWR Regional Stream Channel Coordinator at the annual meetings. These maps will identify predetermined areas, including stream name and legal description, where IDL activities may have an effect on stream channels. Such activities may include, but are not limited to, proposed timber sales, mining operations, roads, culverts, bridge construction, maintenance projects, stream channel restoration projects and fishery habitat improvement projects.

c. Provide a Joint Application for Permit (IDWR form No. 3804B) to IDWR for activities not covered under either the IDAPA 37.03.07.055 or .064 proposed to be

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

carried out in protected reaches of streams designated in an IWRB adopted comprehensive river plan. For example, stream channel relocation and reconstruction activities require filing a Joint Application for Permit.

d. Notify, in writing, IDWR Regional Stream Channel Specialist or Regional Manager of activities that develop subsequent to the annual meeting that are located in or will likely affect a perennial stream channel, including applications for lease or easements in navigable waters or endowment lands.

e. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

f. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

g. Prepare permits, lease easements as required by Land Board policy, include on each permit issued a statement indicating that a permit from IDWR may be required and provide copies to IDWR when stream channel alterations are proposed.

h. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

V. OPERATIONS ON PRIVATE LANDS:

IDAHO DEPARTMENT OF WATER RESOURCES SHALL:

a. Consider a completed Notification of Forest Practices and completed Supplemental Notification Form for private timber harvest activities as a stream channel alteration permit, provided all activities meet the requirements of the Forest Practices Act and the Stream Channel Protection Act and IDAPA 37.03.07. Projects not installed or maintained to meet these criteria must be removed.

Projects qualifying for approval under the Notification of Forest Practices and completed Supplemental Notification Form are:

- Installation of round, squash culverts, open arch or open box culverts, forty (40) square feet open end area or less.
- Installation of culverts, less than sixty (60) feet in length, constructed in non-fish-bearing, perennial streams.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

- Construction of bridges on nonpublic roads, seventy-five (75) feet or less in length, that do not require placement of piers within the mean high water marks; cause an encroachment of the stream channel with fill material, or cause wetlands to be filled.
- Construction or reconstruction of fords less than seventy-five (75) feet in overall length and twenty-five (25) feet in width.
- Removal of perennial stream crossing culverts (40 square feet open ended area or less). Removal of culverts must be done during low flows and if practical, during dry stream conditions created by temporary diversion or dewatering. All fill over the culvert, perched material, and fill encroaching on the channel must be removed using machinery equipped with a bucket and placed in stable locations, above the high water mark, seeded and mulched. Once the culvert is removed, the banks need to be sloped back to a stable configuration, seeded and mulched.

Applicants must provide a description of the project, the location by stream name, quarter/quarter, section, township and range. Applicants must also verify that the project is exclusively for forest practices activities and will be installed and maintained in accordance with applicable regulations of the Stream Channel Protection Act and Forest Practices Act.

All new or reconstructed stream crossing structures in any stream supporting a fishery must provide for fish passage.

b. Process Stream Channel Alteration Permits for projects involving Forest Practices and other projects that do not meet the criteria under item V.a. above. When the banks must be armored, when in-channel structures are required to ensure stream stability in conjunction with installation or removal of stream crossings, when using machinery equipped with a blade or operating machinery within the stream channel for stabilization, improved fish passage or placement of woody debris for fish habitat and anytime state water quality standards cannot be met, a Stream Channel Alteration Permit and a Section 404 permit is required.

c. Investigate and enforce any violation of the Stream Channel Protection Act that cannot be resolved under the Forest Practices Act or as requested by IDL. IDWR reserves the right to undertake a separate enforcement action any time it is determined necessary for protection of fish and wildlife habitat and water quality as required by law.

d. Inform IDL of law, rule and policy changes relating to the Stream Channel Protection Act and provide training to IDL employees concerning Stream Channel Alteration requirements as necessary.

e. Include a statement on permits indicating whether the permit also constitutes approval from IDL, that an additional authorization is necessary from IDL, or that a permit is not required, as requested by IDL.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

THE IDAHO DEPARTMENT OF LANDS SHALL:

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

c. Ensure that the completed Notification of Forest Practices and Supplemental Notification Form meet stream channel alteration permit criteria for forest practices and stream channel crossing projects. IDL will furnish IDWR's Stream Channel Specialist and other interested parties a copy of all completed Supplemental Notifications.

d. Consider failure to follow requirements of the Forest Practices Act a violation of permit conditions and report to IDWR related NOV's pertaining to stream crossings and stream channel alterations. Work not in compliance with the Notice of Forest Practices and Supplemental Notification Form will be considered a violation of the Stream Channel Protection Act.

e. Coordinate oversight and enforcement with IDWR when violations do not fall under the Forest Practices Act. Violations of the Forest Practices Rules require corrective action and potential mitigation. Normally accepted restoration and mitigation practices for violations of the Forest Practices Act pertaining to stream crossings and stream channel alterations are:

- The removal of materials placed within a stream channel as a result of a silviculture violation.
- Stabilization and re-vegetation of all areas disturbed as a result of a silviculture violation.
- IDL or Idaho Department of Fish and Game fishery enhancement projects permitted by IDWR for the installation or removal of large woody debris from impacted stream channels. Placement of material in a stream channel for activities other than culverts and bridges, and not directed under a Notice of Violation issued by IDWR or IDL, may require filing of an application under Section 42-3803, Idaho Code.

f. Refer applicants not covered by a Forest Practices Notification, and desiring to alter a stream channel to IDWR.

**2007 MOU BETWEEN THE
IDAHO DEPARTMENT OF WATER RESOURCES
AND THE IDAHO DEPARTMENT OF LANDS**

g. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

h. Consider an approved Stream Channel Alteration Permit for the removal of gravel bar or bed material from non-navigable rivers by a flood control district for flood control purposes as final state approval for this activity. IDL has determined that the requirements of the Dredge and Placer Mining Act, Title 47, Chapter 13, or the Surface Mining Act, Title 47, Chapter 15, do not apply, regardless of the disposition or sale of the material removed for this purpose. The operator is not mining materials from a placer deposit and the activity is not a surface mining operation.

i. Inform IDWR of law, rule and policy changes established by the Board of Land Commissioners relating to navigable streams, to dredge and surface mining and the Forest Practices Act. IDL will provide training for IDWR staff as necessary.

j. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

VI. MAINTENANCE AND REVISION PROCEDURES:

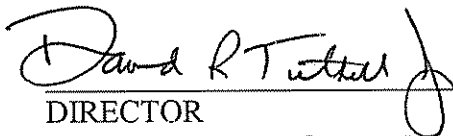
The Idaho Department of Lands and Idaho Department of Water Resources will hold a state level meeting in Boise, whenever mutually agreed to be necessary, to discuss a broad policy, standards and procedures of mutual interest and to consider the adequacy of the terms of this memorandum. This Memorandum of Understanding may be amended by mutual consent of the parties hereto as often as necessary to maintain the stated objectives and may be terminated by either party by providing written notice thirty (30) days prior to the termination date.



DIRECTOR

Idaho Department of Lands

11-7-07
Date



DIRECTOR
Idaho Department of Water Resources

Oct 25, 2007
Date



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

RECEIVED

SEP 14 1979

Department of Water Resources
Northern District Office

MEMORANDUM

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

TO: File

September 10, 1979

FROM: L. Glen Saxton

Re: Memorandum of Understanding
Water Resources/Department of Lands - Annual Meeting

Pursuant to the above agreement, the annual meeting was held with the following persons in attendance:

Norman Young, Administrator - Resource Administration - IDWR
L. Glen Saxton, Chief, Bureau of Operations - IDWR
Ken Foit, Supervisor - Stream Channel - IDWR
Bill Scribner - Department of Lands

At the 1979 meeting Water Resources began review of a listing of reservoirs on the streams of Idaho. The list clarifies portions of streams exempt under the Stream Channel Protection Act but included in the language of the Lake Protection Act. Water Resources concurs in the list which will clarify the jurisdictions of the two agencies. The listing is attached.

We reported that we were drafting Rules and Regulations for Tailings Pond Dams and that the Department of Health and Welfare is drafting related rules for water quality under Section 208 of the F.W.P.C.

We described we have difficulty insuring that tailings ponds will be safe or rehabilitated after abandonment. We agreed to send all new settling and tailings pond plans to Lands to determine if Lands can get involved to insure safety after abandonment. We asked for clarification as to where Department of Lands authority ends under the Surface Mining Act as regards to tailings ponds.

Water Resources expressed a need for close coordination between Lands, Water Resources, Fish and Game and Health and Welfare on private logging jobs and stream channel work. We asked that copies of the preliminary inspection and the permit be sent to our regional office.

We asked that file or I.D. numbers be assigned to Reclamation Plans before the plans are "walked" around for emergency approvals. A further request was made to Lands to be sure that a true emergency exists before trying to speed up the review process.

We reported that the C.O.E. is going beyond its authority in studying the impact of water withdrawals by new irrigation pump installations. We feel the Corps has responsibility only for regulating the installation, not how much water will be used.

We urged that Lands should expedite a review of water used on State Land to meet the June 30, 1983 deadline for claiming existing use rights.

CLARK FORK RIVER SYSTEM^{1/}

STRUCTURE	RIVER MILE	POOL ELEVATION	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elev.	River Mile			
Albeni Falls Dam Pend Oreille River	90.1	2062	2062	119.0	Sec. 26, Twp. 57 North, Rge. 2 West, B-N Bridge	Priest River/Sagle	29.1 miles
Priest River	0.0	2062	2062	2.2	C/L Sec. 13, T56N, R5W	Priest River	2.2 miles
Clark Fork River	139.0	2062	2062	145.8	Sec. 24, T55N, R2East	Clark Fork	6.8 miles
Pack River	0.0	2062	2062	8.0	Sec. 6, Twp. 57 North, Rge. 1 East, US-10 Bridge	Elmira	8.0 miles
Cabinet Gorge Dam	149.9	2175	2175	150.5	Sec. 26, Twp. 55 North, Rge. 3 East, State Line	Clark Fork	0.6 miles

^{1/} Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

SPOKANE RIVER SYSTEM^{1/}

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Falls Dam Spokane River	102.1	2128	2128	111.1	Sec. 14, Twp. 50 N., Rge. 4 W.	Coeur d'Alene	9.0 miles
Coeur d'Alene River	131.3	2128	2128	156.31	Dudley Bridge Sec. 2, Twp. 48 N., Rge. 1 W.	Kingston	25.0 miles
St. Joe River	0.0	2128	2128	31.1	St. Joe Bridge Sec. 21, Twp. 46 N., Rge. 1 E.	St. Joe	31.1 miles
St. Maries River	0.0	2128	2128	7.6	Section Line 4/9 Township 45 North, Rge. 2 W.	St. Maries	7.6 miles

^{1/}

Minor tributaries to Lake Coeur d'Alene and major streams will be considered to end at the ordinary highwater mark (2128 W.W.P) as indicated by the perennial vegetation line on the major stream.

1/
SNAKE RIVER SYSTEM

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Hells Canyon	247	1688'	1688'	270	Sec. 21, Twp. 19 N., Rge. 4 W.	Cooperfield	23 miles
Ox Bow <i>not on map 1957 quadrangle</i>	273	1805'	1805'	281.5	Sec. 30, Twp. 18 N., Rge. 4 W.	Cooperfield	8.5 miles
Brownlee Dam <i>is on Cooperfield & Mores Hollow Quad</i>	285	2077'	2077' <i>OK</i>	345.3	Sec. 32, Twp. 11 N., Rge. 6 W.	Cooperfield Mores Hollow	60.3 miles
Swan Falls	456	2314'	2314'	457.8	Sec. 30, Twp. 2 S., Rge. 1 E.	Sinker Butte	1.8 miles
C.J. Strike	494	2455'	2455'	520	Sections 3 and 34, Twp. 5 & 6 N., Rge. 7 E.	Indian Cove	26.0 miles
Bliss	560.3	2655'	2655'	565.6	Sec. 12, Twp. 6 S., Rge. 12 E.	Bliss	5.3 miles
Lower Salmon Falls	753	2798'	2798'	579.6	Sec. 2, Twp. 7 S., Rge. 13 E.	Hagerman	6.6 miles
Upper - Unit A Salmon Falls	580.8	2878'	2878'	581.4	Sec. 2, Twp. 8 S., Rge. 13 E.	Hagerman	1.4 miles
Upper - Unit B Salmon Falls	581.4	2888'	2888'	591.6	Sec. 2, Twp. 8 S., Rge. 13 E.	Hagerman	10.2 miles
Shoshone Falls	614.7	3362'	3362'	616.8	Sec. 32, Twp. 9 S., Rge. 18 E.	Kimberly	2.1 miles
Twin Falls reservoir	617.4	3512'	3512'	618.9	Sec. 10, Twp. 10 S., Rge. 18 E.	Kimberly	1.5 miles
Milner Diversion	639.1	4135'	4135'	672.4	Sec. 3, Twp. 9 South, Rge. 25 E.	Acequia	33.3 miles
Minidoka	674.5	4195'	4195'	707.2	Sec. 29, Twp. 5 South, Rge. 30 E.	Neeley	22.7 miles
American Falls	714.7	4354'	4354'	736.1	Secs. 1 & 36, T. 5 S., Rge. 32 E.	Springfield	21.4 miles
Idaho Falls Lower	796.5	4672'	4672'	797.7	Sec. 26, Twp. 2 N., Rge. 37 E.	Idaho Falls South	1.2 miles
Idaho Falls Upper	798.1	4672'	4672'	800.2	Sec. 24, Twp. 2 N., Rge. 37 E.	Idaho Falls South	2.1 miles

CONTINUED

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Porter Canal Diversion	802.4	4705'	4705'	803.0	Sec. 1, Twp. 2 N., Rge. 37 E.	North Idaho Falls	.6 miles
Idaho Falls Power Co.	804.5	4736'	4736'	808.4	Sec. 12, Twp. 3 N., Rge. 37 E.	Idaho Falls North	4.1 miles
Idaho Canal Diversion Dam	811.2	4755'	4755'	813.5	Sec. 23, Twp. 4 N., Rge. 37 E.	Lewisville	2.3 miles
Palisades Dam	901.6	5620'	5620'	918.6	Sec. 22, 15, 10, 3, Twp. 3 S., Rge. 46 E., State Line	Alpine	17.0 miles

1/ Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

1/
HENRY'S FORK RIVER

DAM	RIVER MILE	SPILLWAY ELEVATION	END OF FLOWAGE ELEV. R.MILE	LOCATION OF END OF FLOWAGE	QUAD MAP REFERENCE SERIES	LENGTH OF FLOOD POOL
Consolidated Farmers Diversion	29.5	4910'	4910' 29.8	T.7N, R.40E, Sec. 10	St. Anthony	.3 Miles
Salem Union Canal	33.8	4980'	4980' 34.2	T.8N, R.41E, Sec. 32	St. Anthony	.4 Miles
St. Anthony Canal Dam	35.1	4996'	4996' 35.4	T.8N, R.4E, Sec. 33	St. Anthony	.3 Miles
Last Chance Canal Dam	38.5	5040'	5040' 39.0	T8N, R.4E, Sec. 14	Lemon Lake	.5 Miles
Ashton Dam	45.0	5157'	5157' 49.5	T.9N, R.42E, Sec. 13	Ashton	4.5 Miles
Island Park Dam	91.7	6302'	6302' 99.0	T.13N, R.42E, Sec. 8	Island Park	7.3 Miles

1/ Minor tributaries to the reservirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

PAYETTE RIVER SYSTEM^{1/}

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Black Canyon Dam	37.8	2498	2498	47.2	Sec. 21, Twp. 7 N., Rge. 1 E. Montour Bridge	Montour	9.4
North Fork Payette Cascade Dam	40.2	4828	4828	52.9	Sec. 33, Twp. 17 N., Rge. 3 E.	Lake Fork	12.9
North Fork Payette Outlet Payette Lake	75.4	4989.29	4989.29	83.0	East Shore Bridge Sec. 2, Twp. 19 N., Rge. 3 E.	Granite Lake	7.6

^{1/} Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

1/
BOISE RIVER SYSTEM

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Barber Dam	58.8	2767	2767	60.5	Sec. 33, Twp. 3 N., Rge. 3 E. South S/L	Lucky Peak	1.7 miles
Barber Division New York Canal	61.4	2818	2767	63.9	Sec. 11, Twp. 2 N., Rge. 3 E. Lucky Peak Dam	Lucky Peak	2.5 miles
Lucky Peak Dam	61.0	3060	3060	74.0	Sec. 13, Twp. 3 N., Rge. 4 E. Arrow Rock Dam	Lucky Peak Arrow Rock	10.0 miles
Arrow Rock Dam	74.0	3216	3216	87.3	Sec. 33, Twp. 4 N., Rge. 6 E. Willow Creek Camp	Arrow Rock	13.3 miles
South Fork Boise Arrow Rock	0.0	3216	3216	9.8	Sec. 39, Twp. 3 N., Rge. 6 E.	Grape Mtn. Long Gulch	9.8 miles
Anderson Ranch	43.5	4196	4196	57.5	Sec. 30, Twp. 2 N., Rge. 10 E. Bridge @ Pine	Anderson Ranch Pine	14.0 miles

1/
Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.