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In the Matter of Encroachment Permit Application No. L-97-S-1081B

Gregory M. and Debra B. Wilson, Applicants.

Case No. PH-2020-PUB-10-001

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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 (8 1/2"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: Idaho Department of Lands Received		<input type="checkbox"/> Incomplete Application Returned		Date Returned:			
Idaho Department of Water Resources No.		Date Received: OCT 01 2020		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
Idaho Department of Lands No.		Date Received: Priest Lake Supervisory Area		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
1. CONTACT INFORMATION - APPLICANT Required:					2. CONTACT INFORMATION - AGENT:				
Name: Gregory M. and Debra B. Wilson					Name: Steven W. Syrcle, P.E.				
Company:					Company: Tri-State Consulting Engineers, Inc.				
Mailing Address: 32 Blackcap Lane					Mailing Address: 1859 N. Lakewood Dr., Suite 103				
City: Coolin		State: ID	Zip Code: 83821		City: Coeur d'Alene		State: ID	Zip Code: 83814	
Phone Number (include area code): 509-991-8575		E-mail: greg@wilsonlaw.us			Phone Number (include area code): 208-665-9502		E-mail: ssyrcle@tristateid.com		
3. PROJECT NAME or TITLE:					4. PROJECT STREET ADDRESS: 32 Blackcap Lane				
5. PROJECT COUNTY: Bonner		6. PROJECT CITY: Coolin		7. PROJECT ZIP CODE: 83821		8. NEAREST WATERWAY/WATERBODY: Priest Lake			
9. TAX PARCEL ID#: RP0008700017A0A		10. LATITUDE: 48.6560 LONGITUDE: -116.8521		11a. 1/4: SE	11b. 1/4: NE	11c. SECTION: 9	11d. TOWNSHIP: 61N	11e. RANGE: 4W	
12a. ESTIMATED START DATE: October 2020		12b. ESTIMATED END DATE: October 2023			13a. IS PROJECT LOCATED WITHIN ESTABLISHED TRIBAL RESERVATION BOUNDARIES? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Tribe:				
13b. IS PROJECT LOCATED IN LISTED ESA AREA? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES					13c. IS PROJECT LOCATED ON/NEAR HISTORICAL SITE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES				
14. DIRECTIONS TO PROJECT SITE: Include vicinity map with legible crossroads, street numbers, names, landmarks. From Coolin proceed north on East Shore Rd turning left onto Diamond Park Rd, then turning left onto Black Cap Lane									
15. PURPOSE and NEED: <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Public <input checked="" 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. Reduce shoreline erosion with rip rap installation									

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.:

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

The rip rap between Points B to C only has one side (south) exposed to the lake water at depths between 1 and 12 inches. Between Points C to D the rip rap will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

The installation methodology will use manual labor carrying and hand placing rip rap stones following Priest Lake's draw down. The rip rap will be mortared in place creating an armored surface thereby obviating the need for filter fabric. Following draw down, all construction activity will take place in the exposed dry lake bed. Therefore, there will be no impact on water quality. There will be no actions taken in the water which might cause lake bed turbidity. Applicant does not intend to disturb the lake bed, nor intend to remove any lake bed materials. No mechanized machinery will be used during the course of construction.

Points A, B, C and D are depicted on the Tri-State Consulting Engineer's Bank Stabilization Plan-Exhibit "A"

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.

The construction plan is to perform the proposed improvements once the lake has drawn down in the up and coming months and will be completed prior to the uprise of the lake water elevation in the spring. This plan will minimize the potential impacts to the Waters of the United States and is in compliance of this application.

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.

Applicant proposes to place a small amount of clean rip rap in the dry lake bed following the draw down during the fall and winter months. This material will be manually place with no mechanical equipment used during the construction process. With this construction process in mind, there will be no need for a mitigation plan.

Idaho Department of Lands
Received

OCT 01 2020

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: 0.8 cubic yards

Concrete: _____ cubic yards

Other (describe): _____ : _____ cubic yards

Other (describe): _____ : _____ cubic yards

TOTAL: 0.8 cubic yards

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

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.

No work has been commenced under this application. Applicant seeks to permit a portion of an existing legacy rip rap.

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:

L-97-S-1081A Encroachment Permit

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 jurisdiction 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 PRACTICES (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

Applicant proposes to reposition existing lake bed river stones, add more clean river stone in the form of clean rip rap in the lake bed as shown on the attached plan. The lake bed material along the subject property frontage is composed of glacial gravels. There will be no mechanical or manual digging into the lake bed. The proposed placement of said material will not produce any turbidity issues. Therefore, there will be no impact on a water quality standpoint.

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OCT 01 2020
Priest Lake
Supervisory Area

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
Rip rap	Priest Lake		8.5 ft long x 1 ft. wide x 1 ft. high (Point B to C)	8.5
Rip rap	Priest Lake		4.5 ft. long x 3 ft. wide x 1 ft. high (Point C to D)	4.5
TOTAL STREAM IMPACTS (Linear Feet):				13

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)
N/A				
TOTAL WETLAND IMPACTS (Square Feet):				

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

Name: William Faloon	Name: Phillips Keystone Inheritance Trust c/o Mary Ann Sugai, Trustee
Mailing Address: S. 6618 Tomaker Ln.	Mailing Address: 2292 Tanglewood Lane
City: Spokane	City: Emmett
State: WA	State: ID
Zip Code: 99223	Zip Code: 83617
Phone Number (include area code): 509-869-8652	Phone Number (include area code): 208-369-0483
E-mail: billlofspok@aol.com	E-mail: lmhaun8@msn.com

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

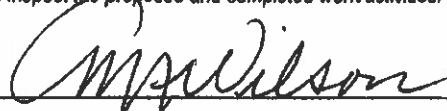
Name:	Name:
Mailing Address:	Mailing Address:
City:	City:
State:	State:
Zip Code:	Zip Code:
Phone Number (include area code):	Phone Number (include area code):
E-mail:	E-mail:

Idaho Department of Lands
Received
OCT 01 2020
Priest Lake
Supervisory Area

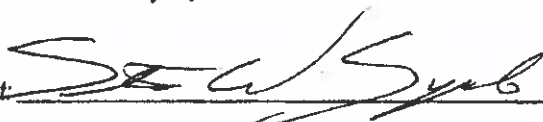
Name:	Name:
Mailing Address:	Mailing Address:
City:	City:
State:	State:
Zip Code:	Zip Code:
Phone Number (include area code):	Phone Number (include area code):
E-mail:	E-mail:

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.

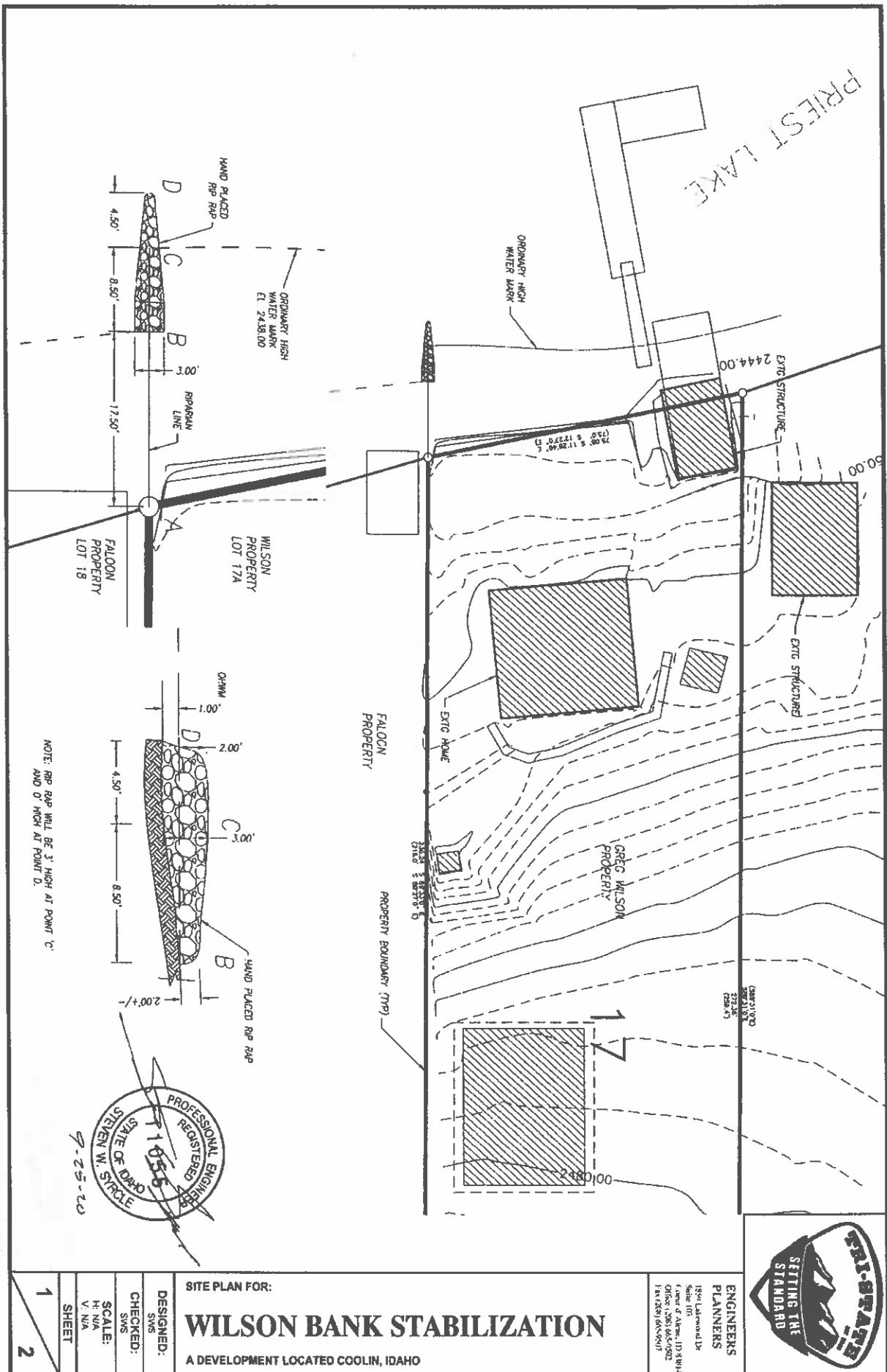
Signature of Applicant: 

Date: 9-21-20

Signature of Agent: 

Date: 9-21-20

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".



ANALYSIS FOR RIP RAP BANK STABILIZATION

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.

Applicant's proposed rip rap will extend into the lake horizontally 4.5 feet from the OHWM to a maximum depth of one foot. This minimal extension into the lake is designed to minimize excess rip rap material in the lake while providing sufficient material to maximize a diffusive effect on wave energy dissipation thereby reducing upland seasonal shore and upland property erosion.

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).

The proposed rip rap rock will be angular round lake bed type stones varying in size from 6-10 inches in diameter. This rock is sound, dense, and durable with sufficient angularity to diffuse wave action. The rock is weather resistant and free of fines. The use of mortar as a binding agent with the rock will provide a sound and stable armored barrier to erosive wave actions. The rip rap rock will overlie sand and gravel. The mortared rip rap rock will be used as an alternative to geotextile material because of the small scope of the treated shoreline. The applicant has submitted the application design signed and stamped, for construction purposes, by an Idaho professional engineer. Mr. Steve Syrcle, P.E. of Tri-State Consulting Engineers, Inc. is licensed in the State of Idaho.

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.

The rip rap will be placed on a slope which is no steeper than 1.5H:1V as an aid in wave energy dissipation as set forth on the engineered bank stabilization plan. The rip rap encroachment into the lake bed has been limited to a 4.5 foot entry to a depth of 12 inches based on this slope ratio. This configuration will significantly aid in wave energy seasonal dissipation from storm waves, boat wakes and spring flooding.

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.

Not applicable.

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.

Not applicable.

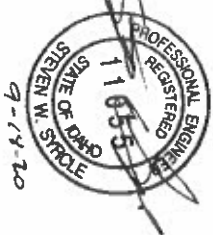
e) Seawalls, bulkheads or other vertical walls constructed at the OHWM or AHW shall have riprap material placed at the toe along the wall face to provide for aquatic life, dissipate wave energy and protect wall integrity.

Not applicable.

EXHIBIT "A"

WILSON PROPERTY

SECTION 9, T6N, R. 3W
PRIEST LAKE, BONNER COUNTY



ENGINEERS
PLANNERS

WILSON PROPERTY
ENGINEERING & PLANNING
1000 W. 10th St.
Coeur d'Alene, ID 83814

COVER SHEET FOR:

WILSON BANK STABILIZATION

A DEVELOPMENT LOCATED COOLIN, IDAHO

SWS

SWS

H: N/A
V: N/A

1

2

500 e cavanaugh ba X Q

+

-

Home

Parcels (1 of 3)

Parcel #: RP0008700017A0A
Owner: Wilson, Gregory M & Debra B
Instrument Number: [898581](#)
Acres: 0.62
Tax Code Area: 0300000
Last Assessed Value: \$1189653
Deed1: [898581 WD](#)
Deed2: [874751 PL](#)
Deed3: [633397 WD](#)
Deed4: [633396 QC](#)
Deed5: [572913 PR](#)
Description: 537-Resid improv on cat 15
Legal Description: 9-61N-4W DIAMOND PARK
REPLAT LOT 17A

1:1128

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<https://cloudgisapps.bonnercountyid.gov/public/>

0009

From: [Trevor Anderson](#)
To: billlofspok@aol.com
Subject: RE: Bill Faloon...concern about our beach erosion
Date: Friday, October 02, 2020 2:00:00 PM
Attachments: [Faloon Adj Notice.pdf](#)
[L97S1081B Application.pdf](#)

Dear Mr. Faloon,

Attached, please find your adjacent neighbor notice and Mr. Greg Wilson's encroachment application.

This notice and application has also been mailed to your Spokane mailing address as you indicated in your email below.

Sincerely,

Trevor Anderson, IDL Senior Resource Specialist Priest Lake Area

From: billlofspok@aol.com <billlofspok@aol.com>
Sent: Wednesday, September 23, 2020 9:24 AM
To: Trevor Anderson <tranderson@idl.idaho.gov>
Subject: Re: Bill Faloon...concern about our beach erosion

Dear Trevor,

Thank you for your e-mail and explanation.

I live in Spokane. I work in Hawaii fairly often but do not have a residence there.

**My address in Spokane is:
6618 South Tomaker Lane
Spokane, WA 99223**

My cell phone number is: 509-869-8652

My e-mail address is (the one that you have already used to correspond with me): Billlofspok@aol.com

As we discussed previously, I would like to meet with you. I am busy this week trying to catch up on things. Are you available next Wed., Thurs. or Friday (Sep. 30 - Oct. 2)? If so, what time is good for you?

Trevor, thank you for your consideration.

Bill Faloon

-----Original Message-----

From: Trevor Anderson <tranderson@idl.idaho.gov>
To: billlofspok@aol.com <billlofspok@aol.com>
Cc: Mike Ahmer <mahmer@idl.idaho.gov>
Sent: Mon, Sep 21, 2020 10:51 am
Subject: RE: Bill Faloon...concern about our beach erosion

Dear Mr. Faloon,

There is a formal procedural process that we must follow for adjacent neighbor objections to encroachment applications. IDL does not accept "preemptive" objections to applications that do not exist.

At this time, your adjacent neighbor, Greg Wilson, has not submitted an encroachment application for rip-rap to my office. An application does not exist. An application does not exist for you to object to.

When Mr. Wilson does submit an application to my office, I will mail the application both to your Spokane address and to your Hawaii address (I will need your Hawaii address). Additionally, I will email you the application notice, as it seems that you are able to receive regular emails from me.

Upon receiving the application, and upon reviewing the application, you may object to the application in writing to me (sending me an email objection is fine). I would request that you object to the specifics of the application in your objection if you can.

Please note, that a written objection to Mr. Wilson's application will begin the process of setting up a contested case hearing between yourself and Mr. Wilson. A case hearing will be setup and a hearing officer will be appointed to make a final decision on whether to permit Mr. Wilson's application.

With all of this in mind, please provide me with the most up to date mailing addresses for your Spokane residence and your Hawaii residence.

Thank you.

Trevor

CC: Mike Ahmer, IDL Navigable Waters Program Supervisor

From: billlofspok@aol.com <billlofspok@aol.com>
Sent: Sunday, September 20, 2020 6:55 PM
To: Trevor Anderson <tranderson@idl.idaho.gov>
Subject: Re: Bill Faloon...concern about our beach erosion

Dear Trevor,

Thank you for e-mailing me information about "rip-rap" and bank stabilization.

As I told you, I have been working in Hawaii. I have been here from Sep. 13 and plan to return to Spokane on Sep. 22.

I have reviewed some of the Idaho Dept. of Lands regulations concerning navigational encroachments. You told me that Greg Wilson is currently applying for permits for his beach. It is required that neighbors be notified about the permit. However I may not be in

Spokane in time to receive and review it.

Therefore I am sending you this e-mail to notify you that I formally object to his plan (and permit) to construct an encroachment, the use of "rip-rap" or any other type of barrier on the beach or shoreline.

I plan on talking with you further about this on the phone or when we meet after I return to Spokane.

Thank you for your assistance and consideration.

Bill Faloon

-----Original Message-----

From: Trevor Anderson <tranderson@idl.idaho.gov>
To: billlofspok@aol.com <billlofspok@aol.com>
Sent: Tue, Sep 15, 2020 11:54 am
Subject: RE: Bill Faloon...concern about our beach erosion

Bill,

I'm looking forward to scheduling a time to meet with you next week. As discussed, attached please find our bank stabilization brochure – "rip-rap" brochure.

Please study this brochure and lets talk more about it when we visit next week.

Thank you.

Trevor

From: billlofspok@aol.com <billlofspok@aol.com>
Sent: Sunday, September 13, 2020 4:11 PM
To: Trevor Anderson <tranderson@idl.idaho.gov>
Subject: Bill Faloon...concern about our beach erosion

Dear Trevor,

Thank you for talking with me recently concerning the erosion of our beach. I recently e-mailed Greg Wilson but have not heard back from him. I have attached copies of the e-mails.

I have complied pictures that were taken since purchasing my property in 2002. They document the changes that the Wilson's have made to the shoreline.

If possible, I would like to remain friends and good neighbors with the Wilson's. I would like to resolve this amicably.

Greg Wilson's contact information is below.

From what I understand, the Idaho Dept of Lands keeps records and pictures of the properties and shorelines on Priest Lake, including from before 1974. I would greatly appreciate it if you would make

copies of all documents that are on file for my property and the Wilson's properties that are to the north of ours, especially looking at the shorelines. My lot information, cabin and home address are listed below. The information could be sent to my home or e-mailed to me. If they could be sent ASAP it would be appreciated. If there is a fee for making the copies, I will pay for them.

If you have any questions or concerns, please contact me.

Thank you for your consideration and assistance.

Bill Faloon

Email: greg@wilsonlaw.us

Cell phone:509-991-8575

Home address: Unit # 448

Big Trout Condos

22855 East Country Vista Dr.

Liberty Lake, WA 99019

Priest Lake Address: 32 Black Cap Lane

Coolin, ID 83821

Bill Faloon's information:

Faloon's Parcel Number:

RP 000870000180A

Lot 18

Diamond Park Section 9,

Township 61 North,

Range 4 West,

B.M. Bonner County

Faloon Cabin Address:

16 South Diamond Park Rd. (lot 18)

Coolin, ID 83821

Faloon Home address:

6618 South Tomaker Lane

Spokane, WA 99223

Cell phone: 509-869-8652

E-mail: Billofspok@aol.com



**PRIEST LAKE
SUPERVISORY AREA**
4053 CAVANAUGH BAY
RD
COOLIN ID 83821
PHONE (208) 443-2516
FAX (208) 443-2162

DUSTIN T MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
Brad Little, Governor
Lawrence E. Denney, Secretary of State
Lawrence G. Wasden, Attorney General
Brandon Woolf, State Controller
Sherri Ybarra, Sup't of Public Instruction

MEMORANDUM

TO: Idaho Department of Fish and Game
Idaho Department of Environmental Quality
Idaho Department of Water Resources
Idaho Department of Transportation
US Army Corps of Engineers-Sandpoint
Bonner County Parks, Recreation/Waterways
Bonner County Marine Division
Bonner County Building & Planning & Zoning
Bonner Environmental Alliance
Panhandle Health District 1-Bonner County
Tri-State Water Quality Council
Lakes Commission
Idaho Conservation League
Adjacent Neighbors
Selkirk Conservation Alliance

FROM: Trevor Anderson, Resource Specialist, Lands & Waterways

DATE: **October 2, 2020**

SUBJECT: NOTICE OF APPLICATION L-97-S-1081B – Bonner County

Enclosed is an application and plats requesting permission **to install rip-rap, located at Section 9 61N-4W on Priest Lake, ID, in Bonner County.**

Please submit your comments, recommendations or objections to IDL by **October 31st, 2020** regarding the likely effect of the proposed encroachment 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.

Enclosures

**PRIEST LAKE
SUPERVISORY AREA**
4053 Cavanaugh Bay Rd
Coolin ID 83821
Phone (208) 443-2516
Fax (208) 443-2162



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Equal opportunity employer

STATE BOARD OF LAND COMMISSIONERS

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Brandon D. Woolf, State Controller
Sherri Ybarra, Sup't of Public Instruction*

10/02/20

Phillips Keystone Inheritance Trust c/o Mary Ann Sugai
2292 Tanglewood Lane
Emmett, ID 83617

Re: Courtesy Notification of Application for Encroachment

Dear Ms. Sugai:

This letter is to inform you as a courtesy that Greg & Debra Wilson have applied for a permit to install rip-rap on Priest Lake. The enclosed site diagram shows location of the rip-rap.

Department policy allows you **until November 4th, 2020** 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,

Trevor Anderson, IDL Resource Specialist Senior

Enclosures

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Sherri Ybarra, Sup't of Public Instruction

10/02/20

William Faloon
6618 South Tomaker Lane
Spokane, WA 99223

Re: Courtesy Notification of Application for Encroachment

Dear Mr. Faloon:

This letter is to inform you as a courtesy that Greg & Debra Wilson have applied for a permit to install rip-rap on Priest Lake. The enclosed site diagram shows location of the rip-rap.

Department policy allows you until November 4th, 2020 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,

Trevor Anderson, IDL Resource Specialist Senior

Enclosures

From: Chantilly.Higbee@deq.idaho.gov
To: [Trevor Anderson](#)
Subject: RE: Rip-Rap Project on Priest Lake -Project Application L97S1081B
Date: Wednesday, October 07, 2020 3:20:39 PM
Attachments: [image001.png](#)

Hi Trevor,

DEQ has no comment on the proposed work.

Thank you for the opportunity.



Chantilly Higbee | Water Quality Compliance Officer

Idaho Department of Environmental Quality
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814
Office: (208) 666-4605
<http://www.deq.idaho.gov/>

Our mission is to protect human health and the quality of Idaho's air, land, and water.

From: Trevor Anderson [mailto:tranderson@idl.idaho.gov]
Sent: Friday, October 2, 2020 1:22 PM
To: wcleveland@priestriver-id.gov; bsmith@idahoconservation.org; lakescommission@gmail.com; jjohnson@bonnercountyid.gov; mnykiel@idahoconservation.org; cityclerk@cityofdoverydaho.org; lakeasyst@gmail.com; shannon@lakependoreillewaterkeeper.org; Shane.P.Slate@usace.army.mil; William.Roberson@itd.idaho.gov; Amanda Cerise; Jason Johnson; planning@bonnercountyid.gov; merritt.horsmon@idfg.idaho.gov; sca@scawild.org; Kim Holzer; Todd.Higens@idwr.idaho.gov; Chantilly Higbee; Jeremy Varley; Robert Steed; Adam.frederick@idwr.idaho.gov
Subject: Rip-Rap Project on Priest Lake -Project Application L97S1081B

Hello,

I'm from the Idaho Department of Lands, Priest Lake Area Office.

An applicant has made application to **install rip-rap** on **Priest Lake**.

Please see the attachments, including the application, for your review.

Thank you.

Sincerely,

Trevor Anderson, IDL Senior Resource Specialist

Order Confirmation

Ad Order Number

0000411246

Customer

IDAHO DEPT OF LANDS

Payor Customer

IDAHO DEPT OF LANDS

PO Number**Sales Rep.**

bcbhouse

Customer Account

36552

Payor Account

36552

Ordered By

MM

Order Taker

mmoore

Customer Address

4053 CAVANAUGH BAY RD

COOLIN ID 83821 USA

Payor Address

4053 CAVANAUGH BAY RD

COOLIN ID 83821 USA

Customer Fax**Order Source****Customer Phone**

2084432516

Payor Phone

2084432516

Customer EMail

tranderson@idl.idaho.gov

Special Pricing**Tear Sheets**

0

Proofs

0

Affidavits

1

Blind Box**Promo Type****Materials****Invoice Text**

#8125 - L-97-S-1081B

Ad Order Notes

RUN DATES OCTOBER 6, 13, 2020

Net Amount

\$60.47

Tax Amount

\$0.00

Total Amount

\$60.47

Payment Method

Invoice

Payment Amount

\$0.00

Amount Due

\$60.47

Ad Number **Ad Type**
0000411246-01 ID Legal

Production Method **Production Notes**
AdBooker

External Ad Number **Ad Attributes** **Ad Released** **Pick Up**
No

Ad Size **Color**
1 X 35 li

WYSIWYG Content

NOTICE OF APPLICATION

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 Gregory & Debra Wilson have made application to install rip-rap located at, Section 9 61N-4W on Priest Lake, ID, in Bonner County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, 4053 Cavanaugh Bay Rd, Coolin, Idaho 83821 within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Trevor Anderson, Resource Specialist on behalf of Navigable Waters Program - at the above address or by calling (208) 443-2516.

/S/**Dan Brown**, Area Manager
Idaho Department of Lands
SNP LEGAL 8125
AD#411246
OCTOBER 6, 13, 2020

<u>Run Date</u>	<u>Product</u>	<u>Placement</u>	<u>Rate</u>	<u>Sched Cst</u>	<u>Disc/Prem</u>	<u>Color</u>	<u>Pickup</u>	<u>Tax</u>	<u>Subtotal</u>
10/06/2020	ID BCB	Legals	\$6.93 per Inch	\$26.95	\$0.00	\$0.00	\$0.00	\$0.00	\$26.95
10/06/2020	ID BCB ONL-Top Ads	Legals	\$0.00 per Inch	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
10/13/2020	ID BCB ONL-Top Ads	Legals	\$0.00 per Inch	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
10/13/2020	ID BCB	Legals	\$6.05 per Inch	\$23.52	\$0.00	\$0.00	\$0.00	\$0.00	\$23.52

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
 County of Bonner)

Danielle Rukmshottel, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached

Notice of Application.
 My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 2 consecutive weeks, commencing on the 6 day of October, 2020, and ending on the 13 day of October, 2020.

Danielle Rukmshottel

State of Idaho, county of Bonner ss.

On this 13 day of October, in the year of 2020, before me, Katrina George, Notary Public, personally appeared Danielle Rukmshottel known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

Katrina George
 Notary Public
 Residing at: Kootenai County

My Commission Expires 8/29/23



NOTICE OF APPLICATION

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 Gregory & Debra Wilson have made application to install rip-rap located at, Section 9 61N-4W on Priest Lake, ID, in Bonner County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, 4053 Cavanaugh Bay Rd, Coolin, Idaho 83821 within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Trevor Anderson, Resource Specialist on behalf of Navigable Waters Program - at the above address or by calling

(208) 443-2516.

/S/Dan Brown, Area Manager
 Idaho Department of Lands
 SNP LEGAL 8125
 AD#411246
 OCTOBER 6, 13, 2020

From: billofspok@aol.com
To: [Trevor Anderson](#)
Subject: Bill Faloon's objection to the Wilson's rip rap - Letter and supporting documents
Date: Sunday, October 25, 2020 1:03:35 PM
Attachments: [7. USGS Priest Lake Level 2016.pdf](#)
[8. USGS Priest Lake Level 2017.pdf](#)
[9. USGS Priest Lake Level 2018.pdf](#)
[10. USGS Priest Lake Level 2019.pdf](#)
[11. USGS Priest Lake Level 2020.pdf](#)
[12. E-mail to Greg Wilson, 9-1-20.docx](#)
[13. E-mail to Greg Wilson, 9-10-20.docx](#)
[14. E-mail to Debra Wilson 9-15-20.docx](#)
[15. E-mail to Debra Wilson Sep. 2020.docx](#)
[1. Faloon letter in opposition to Wilson's rip-rap.docx](#)
[2. Wilson's application for rip-rap \(L97S1081B Application\) \(3\).pdf](#)
[3. USGS Summer Pool level.pdf](#)
[4. USGS Priest Lake Level 2013.pdf](#)
[5. USGS Priest Lake Level 2014.pdf](#)
[6. USGS Priest Lake Level 2015.pdf](#)

Dear Trevor,

I am currently working in Hawaii. I will return to Spokane on Thursday, Oct 29th.

Yesterday I mailed you a check for \$75 for the newspaper publication fee. Please contact me when you receive it or if you do not receive it by Oct. 31.

I have attached my objection letter and supporting documents. I object to the Wilsons proposal to build a Rip rap barrier. I was not going to send you a copy of this letter and supporting documents via regular mail. However, if you want me to do so, please tell me. Because of my busy work schedule in Hawaii, I will probably not be able to mail it to you until Oct. 29th.

If you have any questions, concerns or comments, please contact me.

Thank you for your consideration.

Bill Faloon

-----Original Message-----

From: Trevor Anderson <tranderson@idl.idaho.gov>
To: billofspok@aol.com <billofspok@aol.com>
Sent: Wed, Oct 21, 2020 9:15 am
Subject: RE: Objection Process Update

Yes,

You can mail the \$75 check to my office: Attn: Trevor Anderson, 4053 Cavanaugh Bay Rd, Coolin, ID 83821

You can make the check out to, "IDL," or the "Idaho Department of Lands"

Trevor

From: billofspok@aol.com <billofspok@aol.com>
Sent: Wednesday, October 21, 2020 6:31 AM

To: Trevor Anderson <tranderson@idl.idaho.gov>
Subject: Re: Objection Process Update

Dear Trevor,

Thank you for your email.

I am in the process of finalizing my objection letter to the Wilson's encroachment permit. I will hopefully e-mail it to you by the end of this week.

I am currently working in Hawaii. I can send you the newspaper publication fee of \$75 while I am here.

Do I send it to you (to your office)?

Who do I write the check out to? Do I write it out to the "Idaho Department of Lands"?

Do you have any other suggestions or recommendations?

Thank you for your consideration.

Sincerely,

Bill Faloon

-----Original Message-----

From: Trevor Anderson <tranderson@idl.idaho.gov>

To: billofspok@aol.com <billofspok@aol.com>

Sent: Tue, Oct 20, 2020 11:15 am

Subject: Objection Process Update

Hi Bill,

I have some extra information to give you regarding the objection process to Mr. Wilson's encroachment permit application.

Because Mr. Wilson's encroachment application involves rip-rap, which requires a public notice (newspaper publication), any objection to Mr. Wilson's application will also require a public notice and a public hearing will need to be setup.

Thus, if you choose to object to Mr. Wilson's application, you will need to submit a newspaper publication fee of \$75 with your objection, so that we can advertise the public hearing date in the newspaper. A public hearing will then be setup for yourself and Mr. Wilson.

Trevor

6618 South Tomaker Lane
Spokane, WA 99223
Billofspok@aol.com
10/25/20

Trevor Anderson
IDL Resource Specialist Senior
Priest Lake Supervisory Area
4053 Cavanaugh Bay Rd.
Coolin, ID 83821

Dear Idaho Department of Lands,

I received Trevor Anderson's letter dated 10/2/20. It included the permit application (see attached) by Greg Wilson for a Rip-rap barrier at the property line between our properties. It begins on the beach and extends into the lake. I oppose this application and object to the Wilsons putting up a Rip- rap barrier.

The Wilson's have created a non-permittable barrier at our property line that they continue to enhance. According to Trevor Anderson, he told Greg Wilson to remove it.

This letter will document that:

1. The sole purpose of the Wilson's barrier is to enhance their beach by increasing the amount of the sand that accumulates on their beach. It has nothing to do with bank or beach stabilization. Because of the natural flow of the lake, their barrier(s) has/have caused, and will continue to cause, sand on my beach to erode, while enhancing theirs.
2. The Wilson's proposal is not accurate, untrue and factually unsubstantiated by records from the USGS.
3. The permit created by Steven Syrcle, P.E. of Tri-State Consulting Engineers is flawed, inaccurate and contradicts itself.

The creation of any barrier, especially the one that the Wilson's have proposed, will continue to be detrimental to my shore and beachfront. It adversely affects my beach for recreational use, is aesthetically displeasing and will negatively impact the property value.

The Wilsons proposal for a Rip-rap barrier for beach, bank or property stabilization is not justified or needed. I have created a timeline of pictures (below) that starts in 2002. It documents that there was no beach erosion until the Wilsons built the barrier at our property line.

Picture 1 (below): Taken in 2002, just after I purchased the cabin/property. My dock was in poor condition and needed to be replaced. I own the red boat house, dock, cabin and property in this picture. The Wilson's property is to the left of the boat house and is not seen in the picture. The sand on the beach in front of my boat house is very good and there is no erosion. There are 2 cement blocks on the shore side of the dock which were part of the approach to the dock. I eventually removed them in 2018.



Picture 1 (above)

Picture 2 (below): Taken in 2004. It shows that my new dock and approach were built at a different location. You can see the Wilson's "old" rock retaining wall on their bank to the left of my red boat house. If you look at the beach, there is no barrier at the property line between the Wilson's property and mine and there is no beach erosion. The 2 concrete blocks on the lake side of my boat house are still there. However, since I changed the position of my dock, they are non-functional, an impediment to using all of my beachfront and an "eye-sore". I planned to remove them in the future (done in 2018).



Picture 2 (above):

Picture 3 (below): Taken in 2005. It shows the Wilson's "old cabin" and their beachfront. There is no barrier at the property line between our properties and no beach erosion. The Wilson's "old" rock retaining wall on their bank runs approximately parallel to their beach. This was replaced by a retaining wall made of large boulders when they build their new cabin in approximately 2006 or 2007 (see pictures 4, 5, 6, 7 and 19) .



Picture 3 (above):

Pictures 4 and 5: Taken by the Wilson's and e-mailed to me by Debra Wilson. They were taken after they built their new cabin, in approximately 2006 or 2007.

Picture 4 shows their new rock retaining wall on their bank that runs approximately parallel to their beach. It is made of large boulders to prevent erosion of their upland property. If you look at the beach in front of my red boat house (in the distance) you can see a few rocks at the waterline and on shore. This is the beginning of the barrier that the Wilson's built. There is still no beach erosion.



Picture 4 (above):

Picture 5 (Below): Taken after 2006 or 2007. It shows the Wilson's new cabin and retaining wall. If you look closely at the property line between our properties it shows that the Wilsons were starting to build a barrier. **No beach erosion had occurred.**



Picture 5 (above):

Picture 6 (below): Taken on October 27, 2018. I broke up and removed the 2 concrete blocks. Please see that the Wilson's had built up, and added to, their rock and log barrier at the property line.



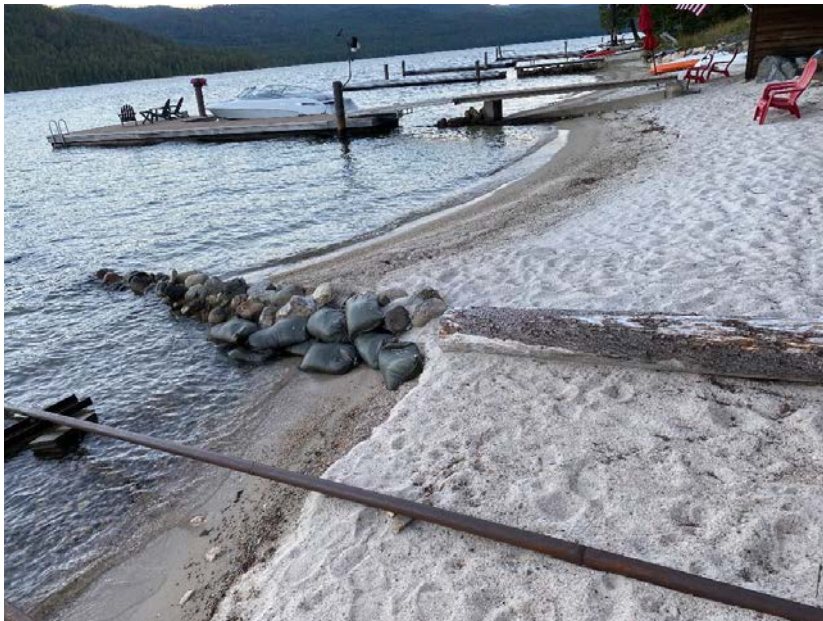
Picture 6 (above):

Picture 7 (below): Taken on August 9, 2020. It shows that the Wilson's had continued to build and added to the barrier at the property line. This includes adding more rocks and 10 bags of sand to reinforce the barrier. It also shows the erosion of my beach and the enhancement of the sand on their beach. In addition, it shows a 2nd rock barrier that they built previously under the ramp and approach to their dock (in the distance of the picture). The 2nd rock barrier extends into the lake under part of their approach and the ramp to their dock. (Please see below for further discussion)



Picture 7 (above):

Pictures 8, 9, 10, 11 + 12: All were taken on August 23, 2020. They show the erosion to my beach.



Picture 8 (above):



Picture 9 (above):



Picture 10 (above):



Picture 11 (above):



Picture 12 (above)

Pictures 13, 14 and 15 were taken on September 27, 2020. The Wilson's had put another sand bag (11th sandbag) on their side, in the middle of the barrier. This is seen well in picture 14. Why was this added? If you look closely at picture 15, it shows that sand had "come through" the barrier from the Wilson's side of the barrier to my side of the barrier. The Wilson's put the additional sand bag there to prevent sand from coming through the barrier!

Compare picture 15 with picture 16. Picture 16 was taken previously, on 8/23/20, approximately 1 month before picture 16 was taken. Picture 16 documents that as of 8/23/20 there was no additional (11th) sandbag and that no sand was on my side of the barrier.



Picture 13 (above)



Picture 14 (above):



Picture 15 (above):



Picture 16: Taken on 8/29/20. There is no additional sand bag and no sand coming onto my side of the barrier. (Compare with picture 15)

The Wilson's have 3 barriers on their properties that impedes the natural flow of the lake. The purpose of all of them is to enhance the amount of sand on their beach, not to stabilization the shoreline or bank. They are the following:

1. The barrier that they created at our property lines - as discussed above.

2. The Wilson's have 2 docks: One on Lot 16 and another on Lot 17. Each of the docks has an approach and a ramp that extends from the approach to the dock.

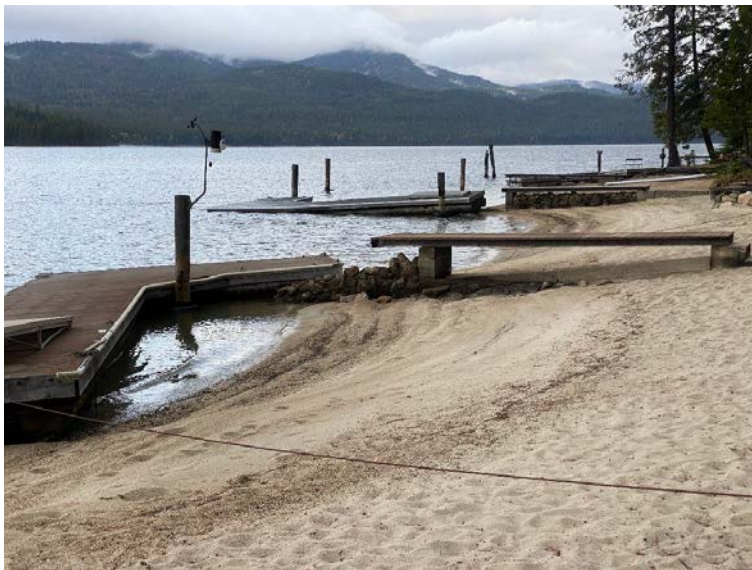
- A. The rock barrier under the approach on lot 16 was granted a permit to Michael and Nancy Brophy on 9/22/92. The Brophy's previously owned lot 16.
- B. The rock barrier under the approach and ramp on lot 17, where the Wilson's cabin is located, does not have a permit.

Picture 17 (below): Taken in 2003. This shows that there is no rock barrier under the Wilsons approach and ramp.

Picture 18 (below): Taken in 10/2020. It shows the rock barrier beneath the Wilson's ramp and approach.



Picture 17 (above):



Picture 18 (above):

The purpose of these rock barriers is to enhance the sand on their beach, not stabilization of the shoreline.

As discussed previously, and shown in picture 19 (below) that was taken in October, 2020, the Wilson's have a large, well-constructed retaining wall made of boulders that runs approximately parallel to their shoreline. It stabilizes their bank and property. There is no need for an additional Rip-rap barrier for bank stabilization.



Picture 19 (above): Taken 10/2/20 - Wilson's existing retaining wall

ADDRESSING THE WILSON'S PROPOSAL FOR THE RIP-RAP INSTALLATION:

The Wilsons proposal has multiple inaccuracies and is not truthful. A copy of their permit application is attached to this e-mail. The following are the inaccuracies and untruths:

1. At the bottom of page 1 of the proposal, it states that the Purpose and Need is to: "Continue to Block 16 to detail each work activity and overall project" (see below). However, the Wilsons own lot 16. Lot 16 is the lot to the north of their cabin. Their cabin is on lot 17. Therefore they are proposing to block themselves from detailing the work that they do on their shoreline on lot 17. I own lot 18.

15. PURPOSE and NEED: ☐ Commercial ☐ Industrial ☐ Public ☒ Private ☐ 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.

Reduce shoreline erosion with rip rap installation

2. On the top of page 2 of the proposal it states: "Each spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3 foot rise in the plan is designed to mitigate seasonal flooding and upland erosion" (see below).

will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

This statement is false and has no factual basis. I have attached records from the USGS that documents the elevations of Priest Lake. The USGS began keeping records in October, 2013. Please see the attached documentation of the water levels. I have summarized the data below:

The summer pool is normally at 3-3.5 feet.

THE TIMES WHEN THE WATER ELEVATION OF PRIEST LAKE WERE ABOVE THE SUMMER POOL:

2013: Records began being kept on Oct 17, 2013. They did not keep data about the water level before Oct.17, 2013

2014: May 18 – June 8 (21 days). Maximum lake elevation was **8 inches above** summer pool – it lasted for less than 7days.

2015: The lake elevation never went above summer pool level.

2016: A. April 24 – April 28 (4 days). Maximum elevation was **1.2 inches** above summer pool.

B. May 23 – June 1 (8 days). Maximum elevation was **4.2 inches** above summer pool.

2017: May 10 - June 12 (33 days). Maximum elevation was **8.4 inches** above summer pool.

2018: May 7 – June 8 (32 days). Maximum elevation was **24 inches** above summer pool, it lasted for approx. 2 days and was **18 inches** or higher above summer pool for 13 days.

2019: July 2 – July 5 (3 days). Maximum elevation was **3 inches** above summer pool.

2020: May 20 – June 13 (24 days). Maximum elevation was **11 inches** above summer pool - it lasted for approx. 2-3 days.

The Wilson's statement about the yearly spring flooding being 18 - 36 inches is inaccurate and false. Over the past 8 years, only in 2018 was the water elevation 18 inches or higher above summer pool. This was for a total of 13 days. From 2013 through 2020, it has never been higher than 24 inches above summer pool. Other than in 2018, the highest the water elevation has been is 11 inches above summer pool and it lasted for 2-3 days. Therefore from Oct 17, 2013 until Dec. 31, 2020, a total of 2,630 days, the lake has been 18 – 24 inches above summer pool for 13 days (0.49% of the days).

3. On the top of page 2 it states: " The installation of rip rap will commence 17.5 feet west of the SW corner of lot 17A (point A – Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west into the lake terminating at point D." (see below)

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

This statement, to my interpretation, is inaccurate and does not make directional sense. It says that the rip rap will begin at the intersection of the OHWM (point B) and then continues west to the OHWM (Point C). There is only one OHWM, yet in this statement they describe 2 OHMW's (at point B and point C).

4. There are conflicting statements and descriptions of the size of the proposed barrier.

On the top of page 2 it states: "Segment points C to D will have rip rap footprint of **4.5ft x 3 ft x 3 ft." (see below)**

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

However, on page 3 it documents that the size of the (same) barrier, from point C to D, is different than stated on page 2 (above). It states that from point C to D the size is: **4.5 ft long x 3 ft wide x 1 ft high (see below).**

Activity	Name of Water Body	Intermittent Perennial	Description of Impact and Dimensions	Impact Length Linear Feet
Rip rap	Priest Lake		8.5 ft long x 1 ft. wide x 1ft. high (Point B to C)	8.5
Rip rap	Priest Lake		4.5 ft. long x 3 ft. wide x 1 ft. high (Point C to D)	4.5

5. The schematic diagram (see Diagram 1, below) in the proposal is inaccurate and not consistent with the written descriptions of the barrier in the proposal (as discussed in item 4, above).

In the written proposal the segment from point B to point C is: 8.5 ft. x 1 ft x 1 ft. (it is 1 ft wide and 1 ft high throughout its entire length). However in the diagram (see Diagram 1 below) the barrier is 3 ft wide at point B and gets narrower as it continues to point C.

Also, according to the written proposal, the size of the segment from point C to point D is: 4.5 ft long x 3 ft wide x **either 3 ft or 1 ft high** (INACCURATE DESCEPANCY).

Therefore, according to the written proposal, the segment from point B to point C should be longer and **narrower** (8.5' x 1' x 1') than the segment from point C to point D (4.5' x 3' x 3' or 1'). However, in the diagram (see Diagram 1 below) the proposed barrier dimensions are the opposite to this description: Segment B to C is **wider** than the segment from points C to D.

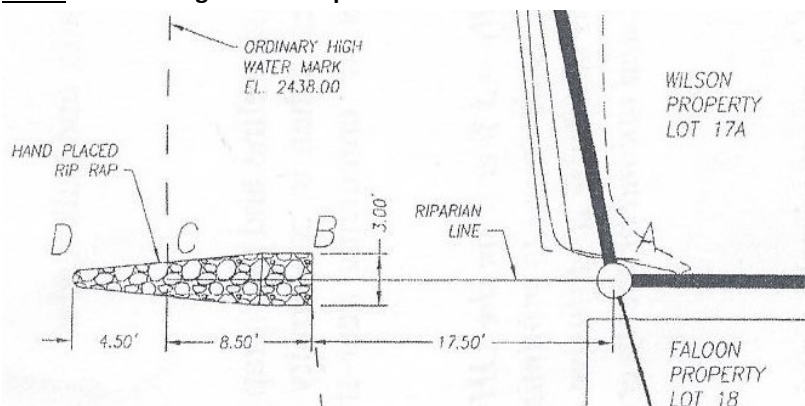


Diagram 1 (above):

Also, the other diagram (see Diagram 2 below) in the proposal is not accurate and is not consistent with the written proposal. In the written proposal, the segment from point B to point C is to be 1 ft in height throughout. However, in diagram 2 this segment gets progressively higher (taller) from point B to point C.

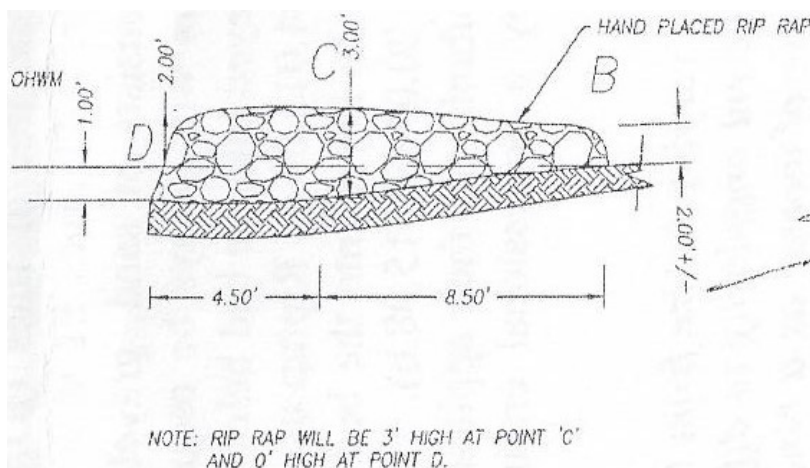


Diagram 2 (above):

In order to understand the magnitude of the Wilson's proposed barrier. I built models of it and then took pictures. One model is 8.5 ft x 1 ft. x 1ft and the other is 4.5 ft x 3 ft x 3 ft. I then went to my beach and measured and marked the proposed placement of the barrier. Please see the pictures and descriptions below:

Point A is approximately at the SW corner of the property (see picture 20).

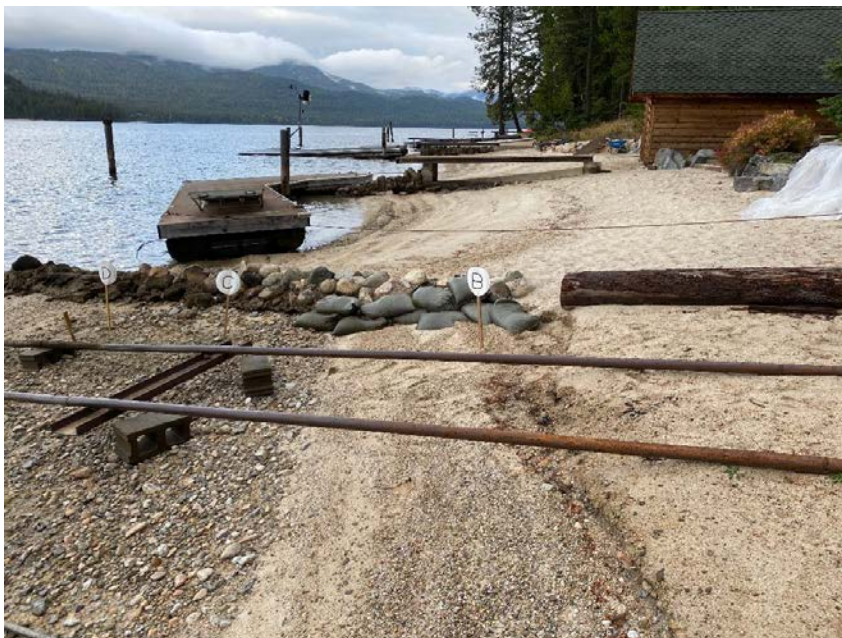


Picture 20 (above)

Point B is 17.5' west of the SW corner (see picture 21 – below)

Point C is 8.5' west of Point B (see picture 21 – below)

Point D is 4.5' west of point C (see picture 21 – below)



Picture 21 (above)

I then put the models in place. From Point B to Point C, I placed the model that is 8.5' long x 1' wide x 1' high. From point C to Point D I put the model that is 4.5' long x 3' wide x 3' high. Please see pictures 22, 23, 24, 25 to assess the size and dimensions of the Wilsons proposed barrier. In fact, the segment from point B to point C will be higher than in the pictures of my model because my beach has been eroded and the model is resting at a lower level.



Picture 22 (above)



Picture 23 (above):



Picture 24 (above):



Picture 25 (above):

On September 1, 2020 and September 10, 2020 I e-mailed Greg Wilson. I requested that he remove the barrier at the property line (see attached e-mails). However, he did not response to them and we have not spoken since my emails were sent. I then communicated with Debra Wilson twice via emailed in September (see attached).

In conclusion, there is no need for the Wilson's proposed barrier.

- There is no documentation of regular spring flooding as stated by the Wilsons. The statement that "Each spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches" is factually inaccurate and not supported by the USGS records.
- The Wilsons already have a large, well-constructed rock retaining wall on their bank that protects their upland property.
- The only reason the Wilsons created the barriers at our property line and under the approach and ramp to their dock is to enhance the sand on their beach. Unfortunately this is detrimental of my beach and property.
- The Wilsons proposed barrier engineering plan is flawed. There are numerous inconsistencies and inaccuracies throughout the plan.
- The Wilsons proposed barrier would, in fact, be larger than what they have already created, which is not permitable.
- The Wilson's 2 barriers do not follow the regulations under Idaho Title 58: Public Lands, Chapter 13: Navigational Encroachments.
- The Wilsons have already created a non-permitable barrier consisting of rock, sand bags and logs. This is not permitable according to Trevor Anderson and the Idaho Dept. of Lands regulations. In light of this, the size of the Wilson's proposed barrier will be difficult, if not impossible, to control by the Dept. of Lands. It will require frequent monitoring and action by the Dept. of Lands, possibly requiring legal assistance.

I object to the Wilson's proposal and request that the Wilson's remove the barriers that they currently have at our property lines and under the approach and ramp to their dock on Lot 17. This will allow the natural flow of the lake to be restored.

Thank you.

William W. Faloon Jr., M.D.

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 (8 1/2"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: Idaho Department of Lands Received		<input type="checkbox"/> Incomplete Application Returned		Date Returned:			
Idaho Department of Water Resources No.		Date Received: CCT 01 2020		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
Idaho Department of Lands No.		Date Received: Priest Lake Supervisory Area		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
1. CONTACT INFORMATION - APPLICANT Required:									
Name: Gregory M. and Debra B. Wilson									
Company: Tri-State Consulting Engineers, Inc.									
Mailing Address: 32 Blackcap Lane									
City: Coolin		State: ID		Zip Code: 83821		City: Coeur d'Alene		State: ID	
Phone Number (include area code): 509-991-8575		E-mail: greg@wilsonlaw.us		Phone Number (include area code): 208-665-9502		E-mail: ssyrcole@tristateid.com			
3. PROJECT NAME or TITLE:									
4. PROJECT STREET ADDRESS: 32 Blackcap Lane									
5. PROJECT COUNTY: Bonner		6. PROJECT CITY: Coolin		7. PROJECT ZIP CODE: 83821		8. NEAREST WATERWAY/WATERBODY: Priest Lake			
9. TAX PARCEL ID#: RP0008700017A0A		10. LATITUDE: 48.6560		11a. 1/4: SE		11b. 1/4: NE		11c. SECTION: 9	
		LONGITUDE: -116.8521				11d. TOWNSHIP: 61N		11e. RANGE: 4W	
12a. ESTIMATED START DATE: October 2020		12b. ESTIMATED END DATE: October 2023		13a. IS PROJECT LOCATED WITHIN ESTABLISHED TRIBAL RESERVATION BOUNDARIES? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Tribe:					
13b. IS PROJECT LOCATED IN LISTED ESA AREA? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		13c. IS PROJECT LOCATED ON/NEAR HISTORICAL SITE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES							
14. DIRECTIONS TO PROJECT SITE: Include vicinity map with legible crossroads, street numbers, names, landmarks. From Coolin proceed north on East Shore Rd turning left onto Diamond Park Rd, then turning left onto Black Cap Lane									
15. PURPOSE and NEED: <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Public <input checked="" 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. Reduce shoreline erosion with rip rap installation									

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.:

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

The rip rap between Points B to C only has one side (south) exposed to the lake water at depths between 1 and 12 inches. Between Points C to D the rip rap will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

The installation methodology will use manual labor carrying and hand placing rip rap stones following Priest Lake's draw down. The rip rap will be mortared in place creating an armored surface thereby obviating the need for filter fabric. Following draw down, all construction activity will take place in the exposed dry lake bed. Therefore, there will be no impact on water quality. There will be no actions taken in the water which might cause lake bed turbidity. Applicant does not intend to disturb the lake bed, nor intend to remove any lake bed materials. No mechanized machinery will be used during the course of construction.

Points A, B, C and D are depicted on the Tri-State Consulting Engineer's Bank Stabilization Plan-Exhibit "A"

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.

The construction plan is to perform the proposed improvements once the lake has drawn down in the up and coming months and will be completed prior to the uprise of the lake water elevation in the spring. This plan will minimize the potential impacts to the Waters of the United States and is in compliance of this application.

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.

Applicant proposes to place a small amount of clean rip rap in the dry lake bed following the draw down during the fall and winter months. This material will be manually place with no mechanical equipment used during the construction process. With this construction process in mind, there will be no need for a mitigation plan.

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OCT 01 2020

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: 0.8 cubic yards

Concrete: _____ cubic yards

Other (describe): _____ : _____ cubic yards

Other (describe): _____ : _____ cubic yards

TOTAL: 0.8 cubic yards

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

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.

No work has been commenced under this application. Applicant seeks to permit a portion of an existing legacy rip rap.

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:

L-97-S-1081A Encroachment Permit

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 jurisdiction 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 PRACTICES (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

Applicant proposes to reposition existing lake bed river stones, add more clean river stone in the form of clean rip rap in the lake bed as shown on the attached plan. The lake bed material along the subject property frontage is composed of glacial gravels. There will be no mechanical or manual digging into the lake bed. The proposed placement of said material will not produce any turbidity issues. Therefore, there will be no impact on a water quality standpoint.

Idaho Department of Lands
Received
OCT 01 2020
Priest Lake
Supervisory Area

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
Rip rap	Priest Lake		8.5 ft long x 1 ft. wide x 1 ft. high (Point B to C)	8.5
Rip rap	Priest Lake		4.5 ft. long x 3 ft. wide x 1 ft. high (Point C to D)	4.5
TOTAL STREAM IMPACTS (Linear Feet):				13

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)
N/A				
TOTAL WETLAND IMPACTS (Square Feet):				

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

Name: William Faloon	Name: Phillips Keystone Inheritance Trust c/o Mary Ann Sugai, Trustee
Mailing Address: S. 6618 Tomaker Ln.	Mailing Address: 2292 Tanglewood Lane
City: Spokane	City: Emmett
State: WA	State: ID
Zip Code: 99223	Zip Code: 83617
Phone Number (include area code): 509-869-8652	Phone Number (include area code): 208-369-0483
E-mail: billlofspok@aol.com	E-mail: lmhaun8@msn.com

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

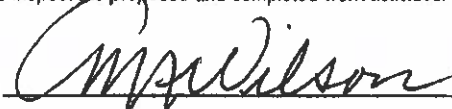
Name:	Name:
Mailing Address:	Mailing Address:
City:	City:
State:	State:
Zip Code:	Zip Code:
Phone Number (include area code):	Phone Number (include area code):
E-mail:	E-mail:

Idaho Department of Lands
Received
OCT 01 2020
Priest Lake
Supervisory Area

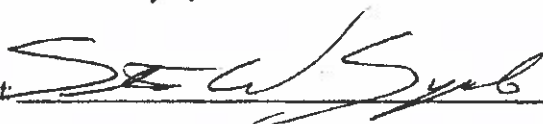
Name:	Name:
Mailing Address:	Mailing Address:
City:	City:
State:	State:
Zip Code:	Zip Code:
Phone Number (include area code):	Phone Number (include area code):
E-mail:	E-mail:

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.

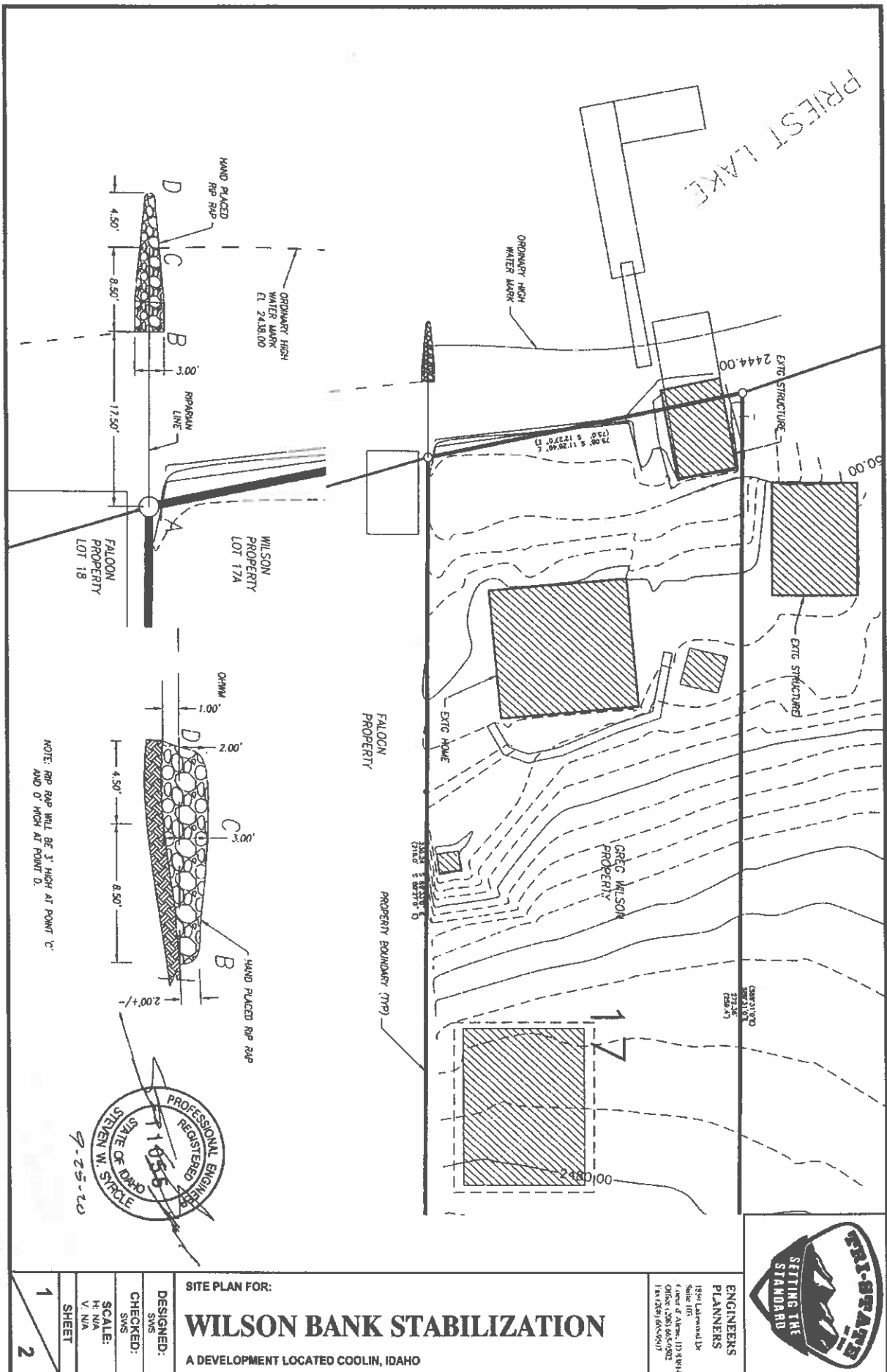
Signature of Applicant: 

Date: 9-21-20

Signature of Agent: 

Date: 9-21-20

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".



**ENGINEERS
PLANNERS**
1850 Laramie Blvd.
Suite 107
Coeur d'Alene, ID 83814
Office: (208) 666-0002
Fax: (208) 666-0003

SITE PLAN FOR:
WILSON BANK STABILIZATION
A DEVELOPMENT LOCATED COOLIN, IDAHO

DESIGNED: SWS
CHECKED: SWS
SCALE: H: N/A
V: N/A
SHEET
1 / 2

ANALYSIS FOR RIP RAP BANK STABILIZATION

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.

Applicant's proposed rip rap will extend into the lake horizontally 4.5 feet from the OHWM to a maximum depth of one foot. This minimal extension into the lake is designed to minimize excess rip rap material in the lake while providing sufficient material to maximize a diffusive effect on wave energy dissipation thereby reducing upland seasonal shore and upland property erosion.

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).

The proposed rip rap rock will be angular round lake bed type stones varying in size from 6-10 inches in diameter. This rock is sound, dense, and durable with sufficient angularity to diffuse wave action. The rock is weather resistant and free of fines. The use of mortar as a binding agent with the rock will provide a sound and stable armored barrier to erosive wave actions. The rip rap rock will overlie sand and gravel. The mortared rip rap rock will be used as an alternative to geotextile material because of the small scope of the treated shoreline. The applicant has submitted the application design signed and stamped, for construction purposes, by an Idaho professional engineer. Mr. Steve Syrcle, P.E. of Tri-State Consulting Engineers, Inc. is licensed in the State of Idaho.

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.

The rip rap will be placed on a slope which is no steeper than 1.5H:1V as an aid in wave energy dissipation as set forth on the engineered bank stabilization plan. The rip rap encroachment into the lake bed has been limited to a 4.5 foot entry to a depth of 12 inches based on this slope ratio. This configuration will significantly aid in wave energy seasonal dissipation from storm waves, boat wakes and spring flooding.

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.

Not applicable.

d) Seawalls, bulkheads and other vertical walls shall not be permitted waterward of the OHWM or AHWM, 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.

Not applicable.

e) Seawalls, bulkheads or other vertical walls constructed at the OHWM or AHWM shall have riprap material placed at the toe along the wall face to provide for aquatic life, dissipate wave energy and protect wall integrity.

Not applicable.

EXHIBIT "A"

WILSON PROPERTY

SECTION 9, T6N, R. 3W
PRIEST LAKE, BONNER COUNTY



ENGINEERS
PLANNERS

WILSON BANK STABILIZATION
A DEVELOPMENT LOCATED COOLIN, IDAHO

COVER SHEET FOR:

WILSON BANK STABILIZATION

A DEVELOPMENT LOCATED COOLIN, IDAHO

SWS

SWS

H: N/A
V: N/A

1

2

500 e cavanaugh ba X Q

+

-

Home

Parcels (1 of 3)

Parcel #: RP0008700017A0A
Owner: Wilson, Gregory M & Debra B
Instrument Number: [898581](#)
Acres: 0.62
Tax Code Area: 0300000
Last Assessed Value: \$1189653
Deed1: [898581 WD](#)
Deed2: [874751 PL](#)
Deed3: [633397 WD](#)
Deed4: [633396 QC](#)
Deed5: [572913 PR](#)
Description: 537-Resid improv on cat 15
Legal Description: 9-61N-4W DIAMOND PARK
REPLAT LOT 17A

1:1128

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<https://cloudgisapps.bonnercountyid.gov/public/>

0049



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[Contact USGS](#)
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National Water Information System: Web Interface

USGS Water Resources

Data Category:


Current Conditions ▼

Geographic Area:

United States ▼

GO

Click to hide News Bulletins

- [Introducing The Next Generation of USGS Water Data for the Nation](#)
- [Full News](#) 

* IMPORTANT: [Next Generation Station Page](#)

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

PROVISIONAL DATA SUBJECT TO REVISION

Available data for this site

Time-series: Current/Historical Observations ▼

GO

Click to hide station-specific text



Summer pool level is normally 3-3.5 ft.

~~Station is operated in cooperation with the~~ [Idaho Department of Water Resources \(IDWR\)](#).

This station managed by the Post Falls Field Office.

Available Parameters

Available Period

Available Parameters

All 1 Available Parameters for this site

☒ 00065 Gage height**Available Period**

2013-10-17 2020-10-08

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/o stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (29)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

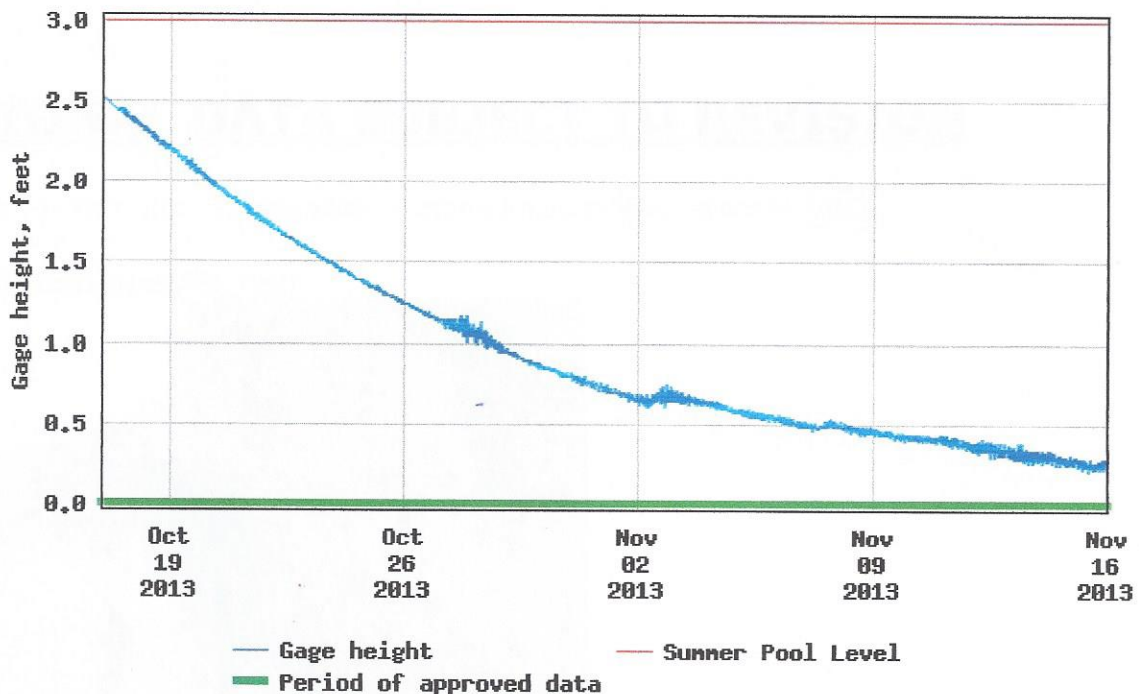
2013-10-17

Gage height, feet**End date**

2013-11-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-04-01

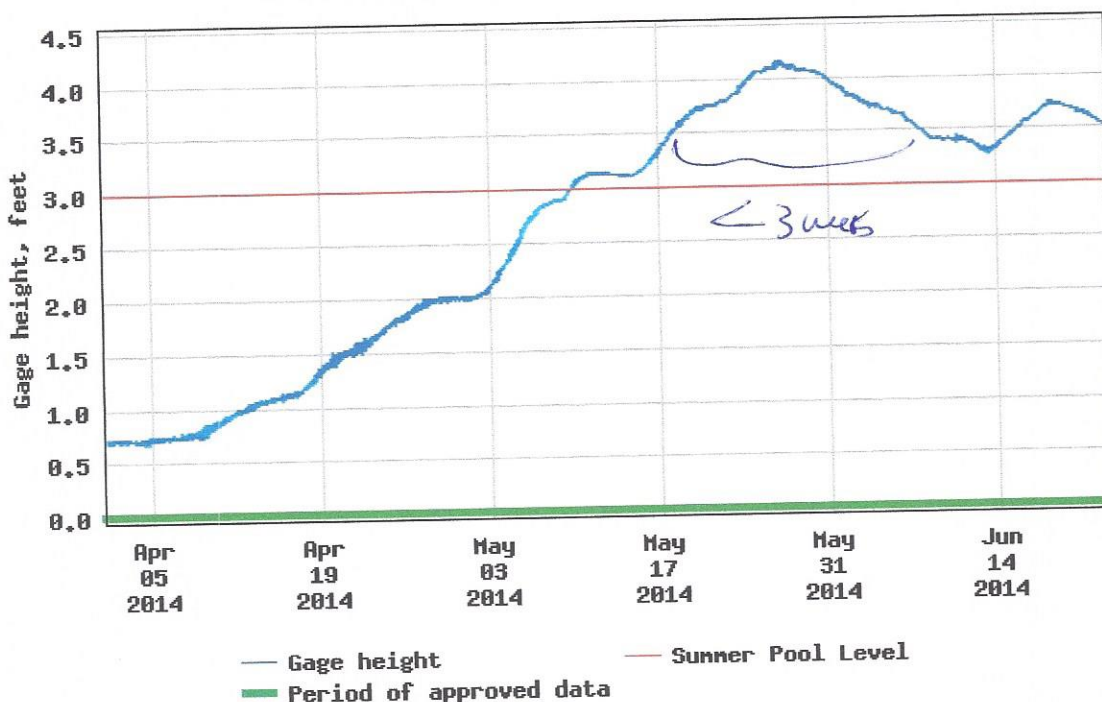
End date

2014-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-06-23

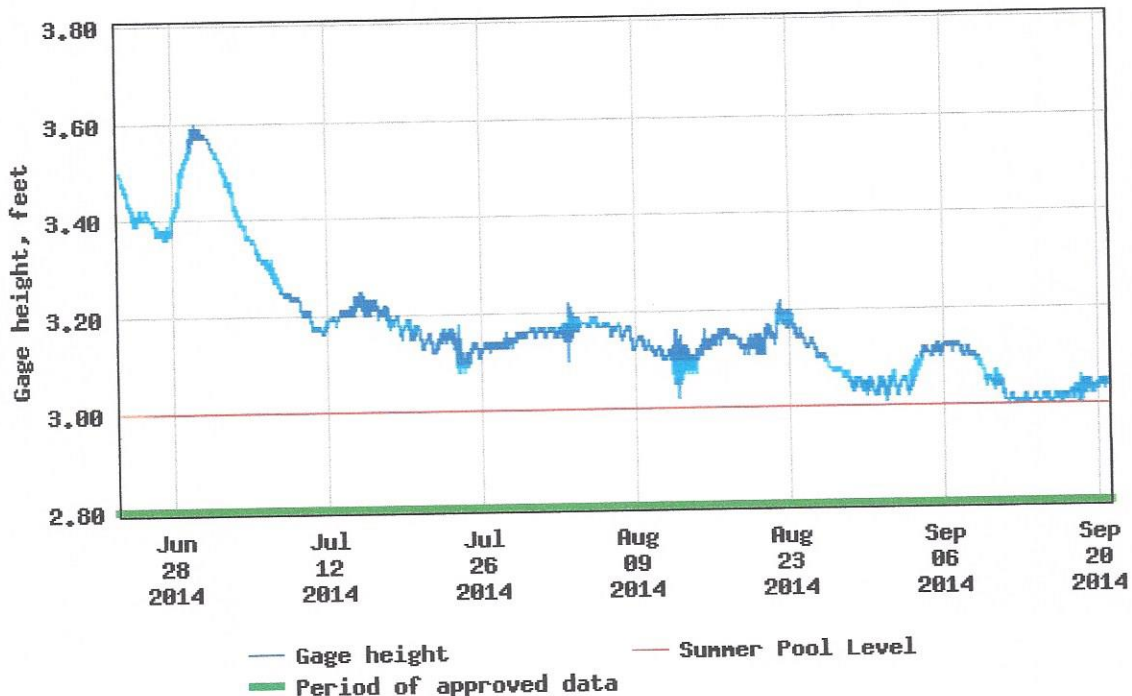
Gage height, feet

End date

2014-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-09-21

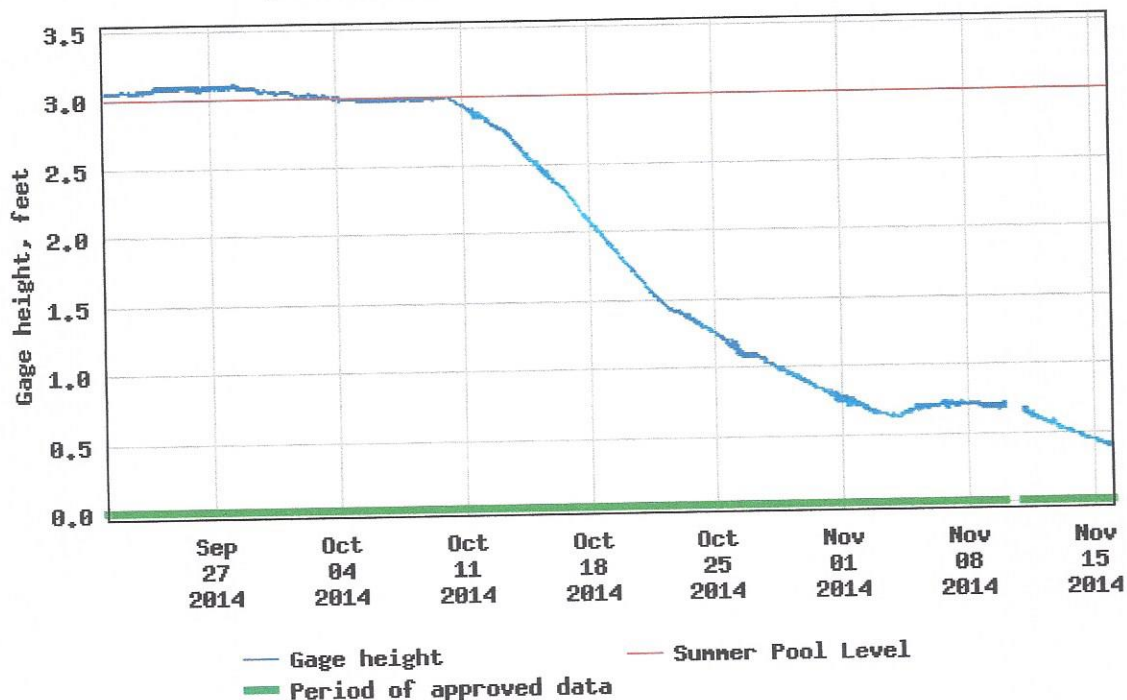
End date

2014-11-15

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

00065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (28)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-05-17

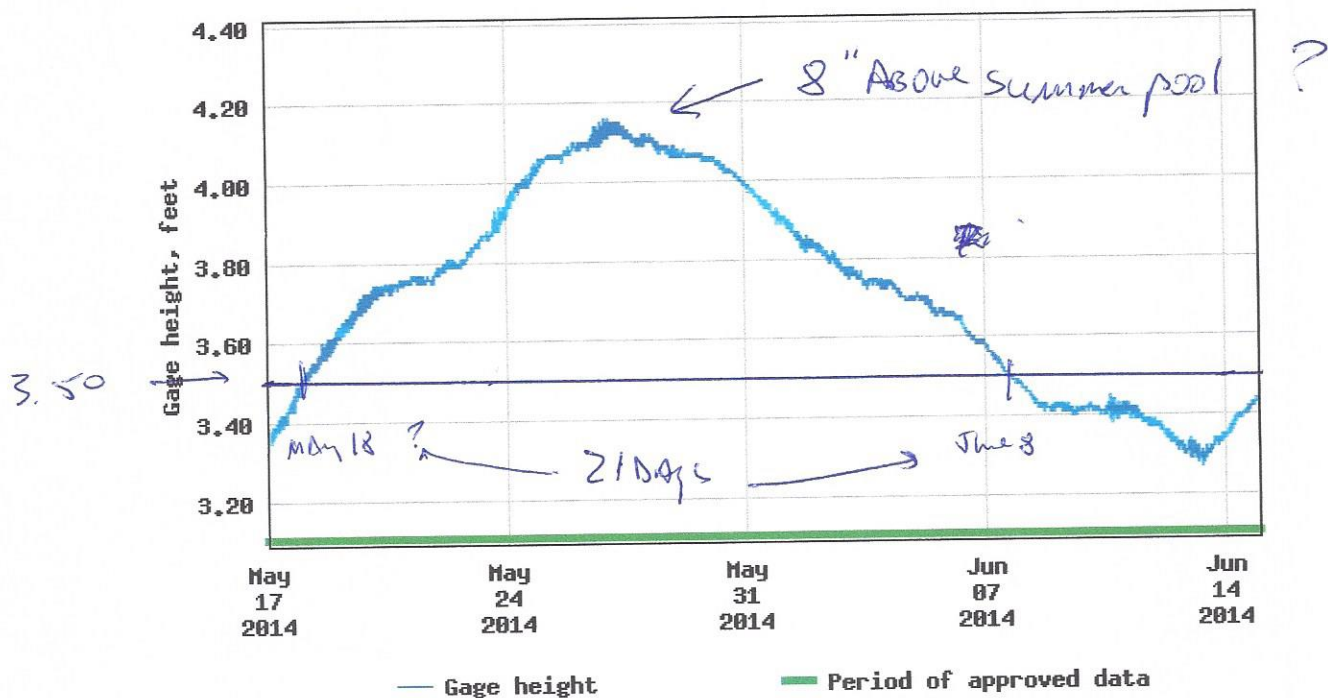
Gage height, feet

End date

2014-06-14

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

$$\begin{array}{r} 13 \\ + 8 \\ \hline 21 \end{array}$$

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2015-04-01

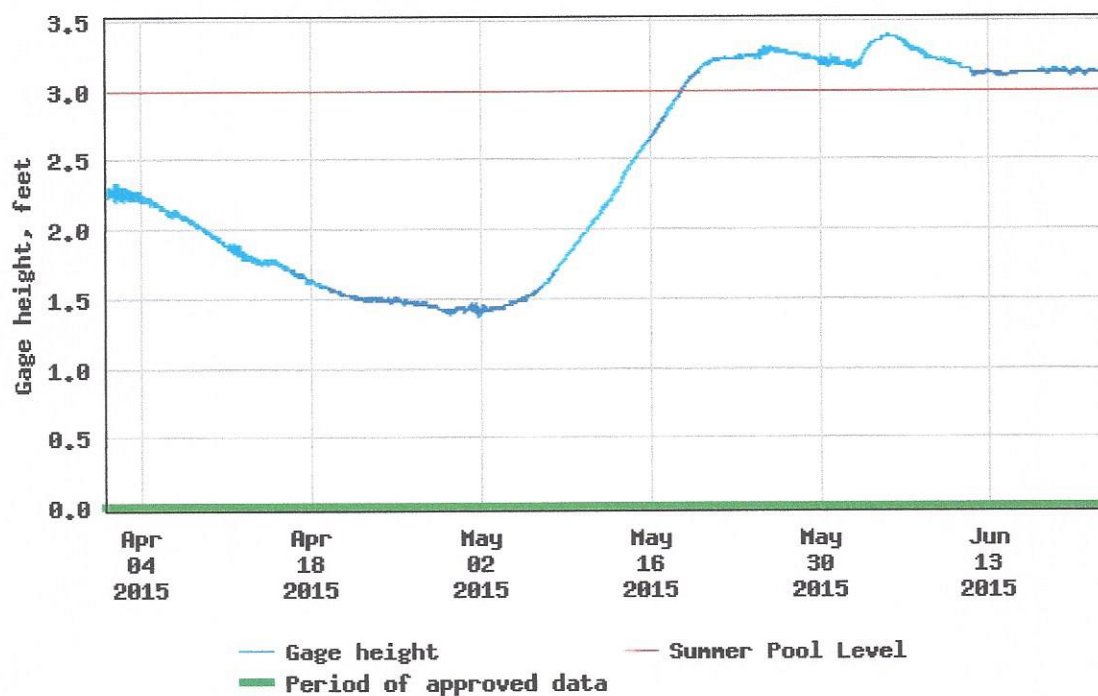
Gage height, feet

End date

2015-06-22

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2015-06-23

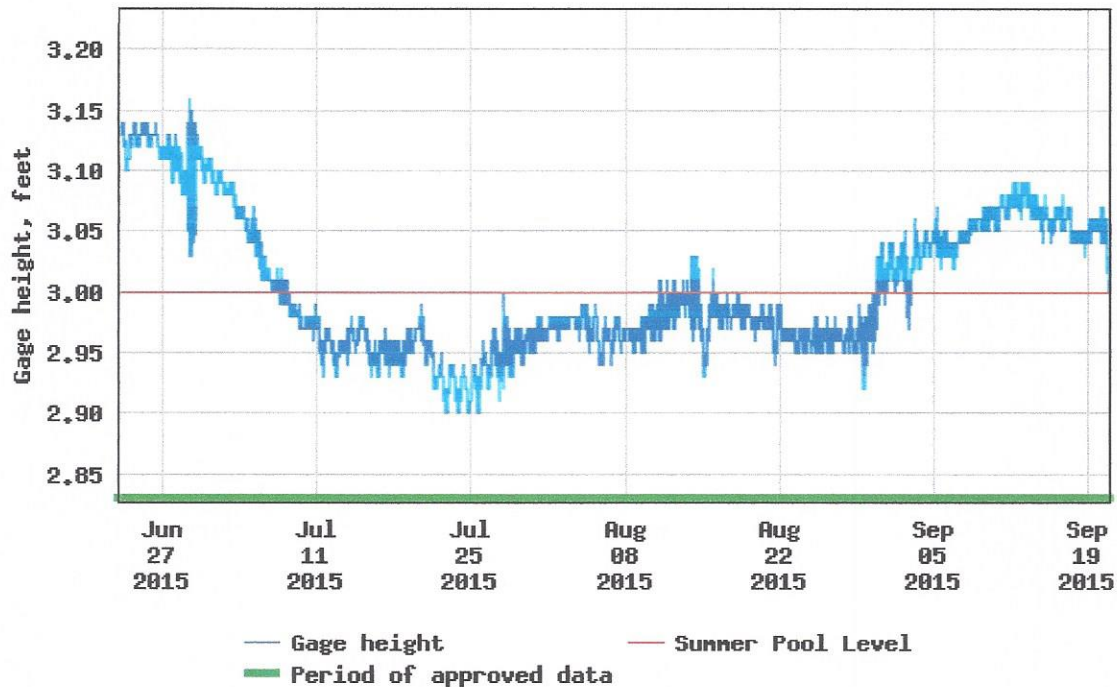
Gage height, feet

End date

2015-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2015-09-21

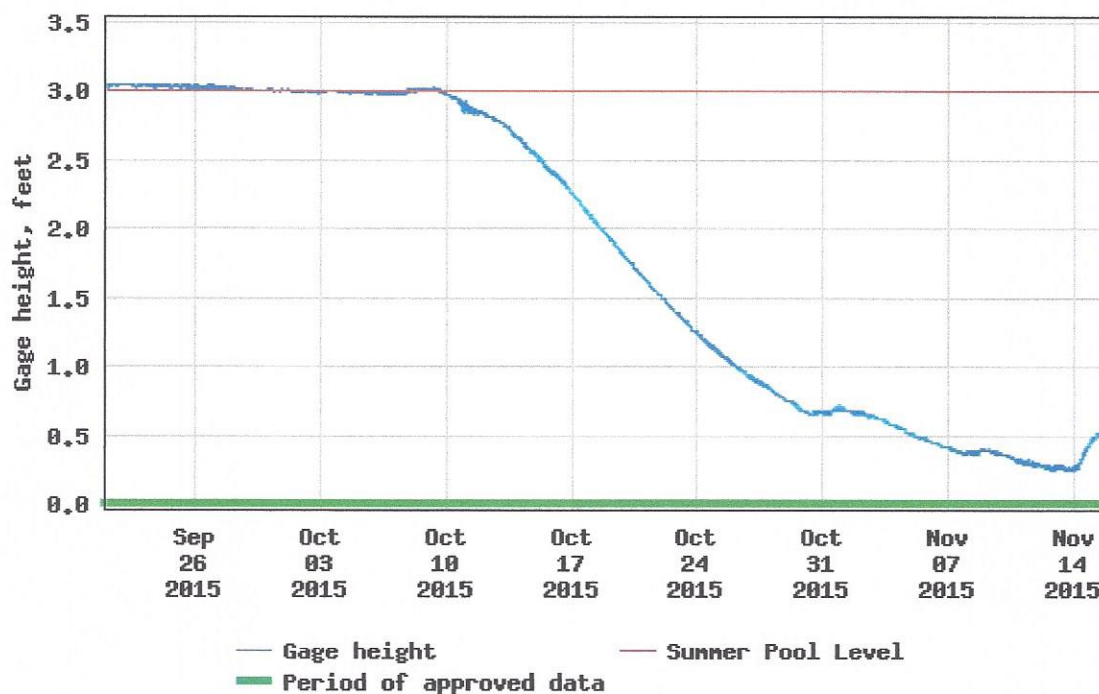
Gage height, feet

End date

2015-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-04-01

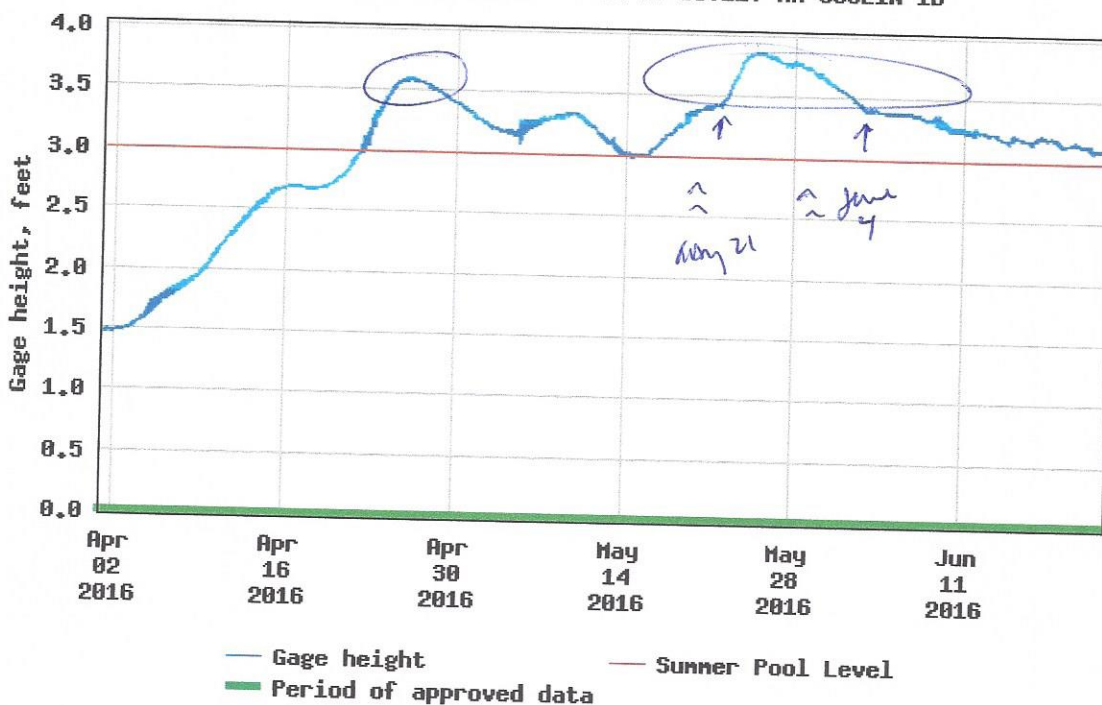
End date

2016-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-06-23

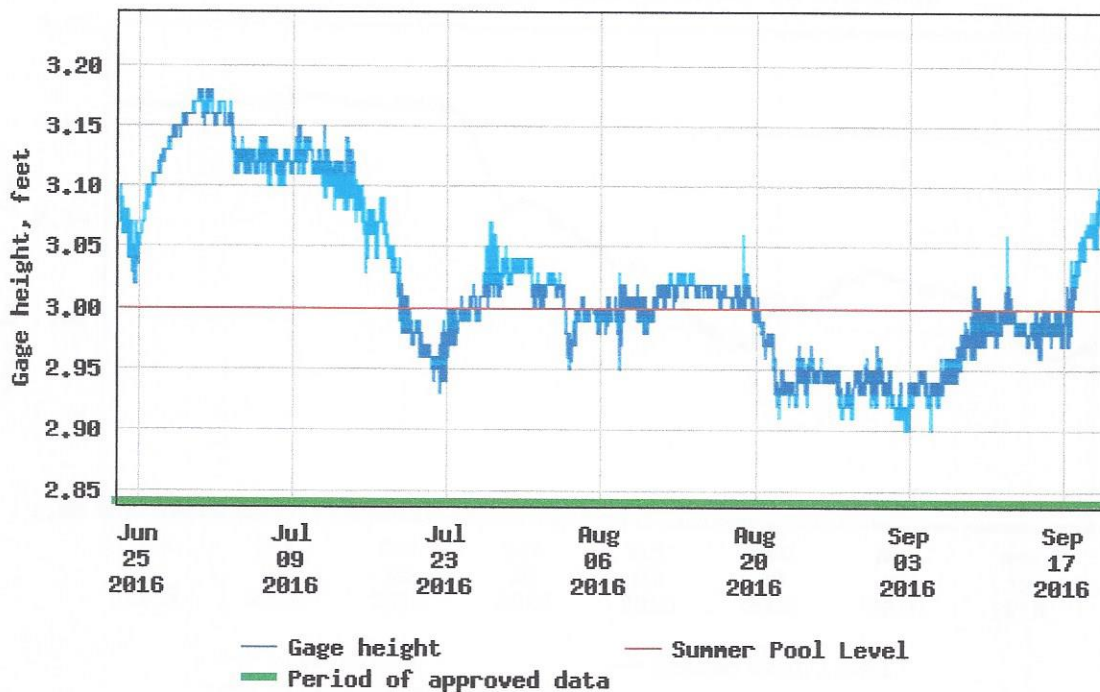
Gage height, feet

End date

2016-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-12

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (7)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-04-22

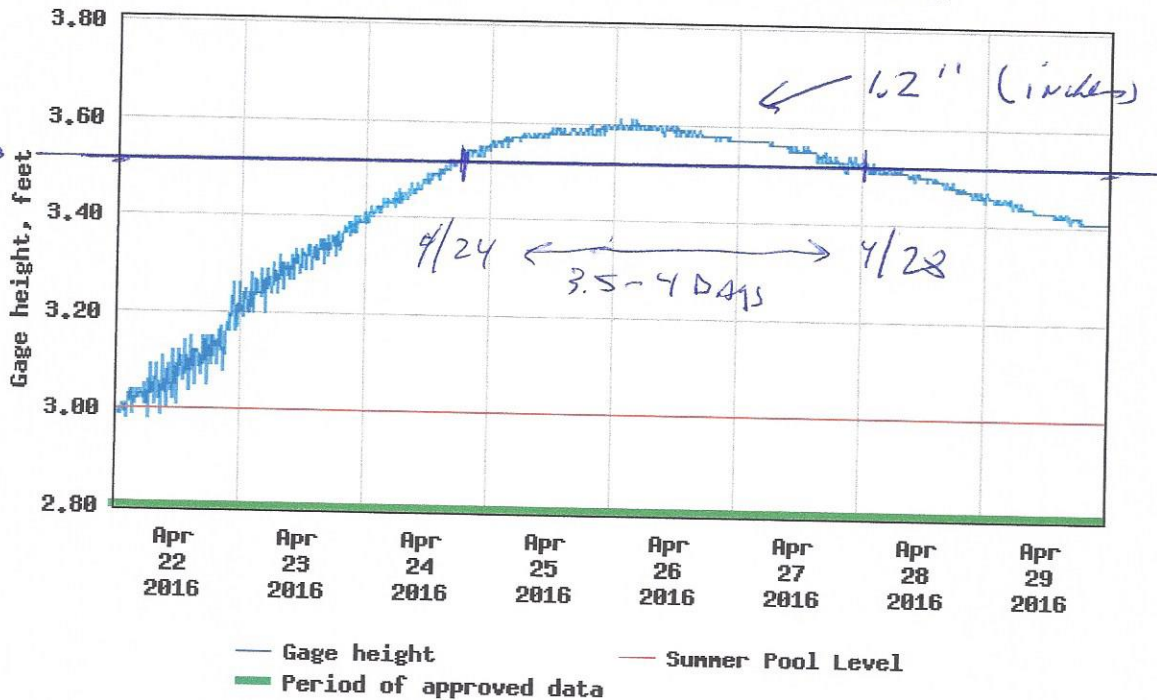
Gage height, feet

End date

2016-04-29

Most recent instantaneous value: 1.31 10-13-2020 06:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/o stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (26)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --
Begin date

2016-05-15

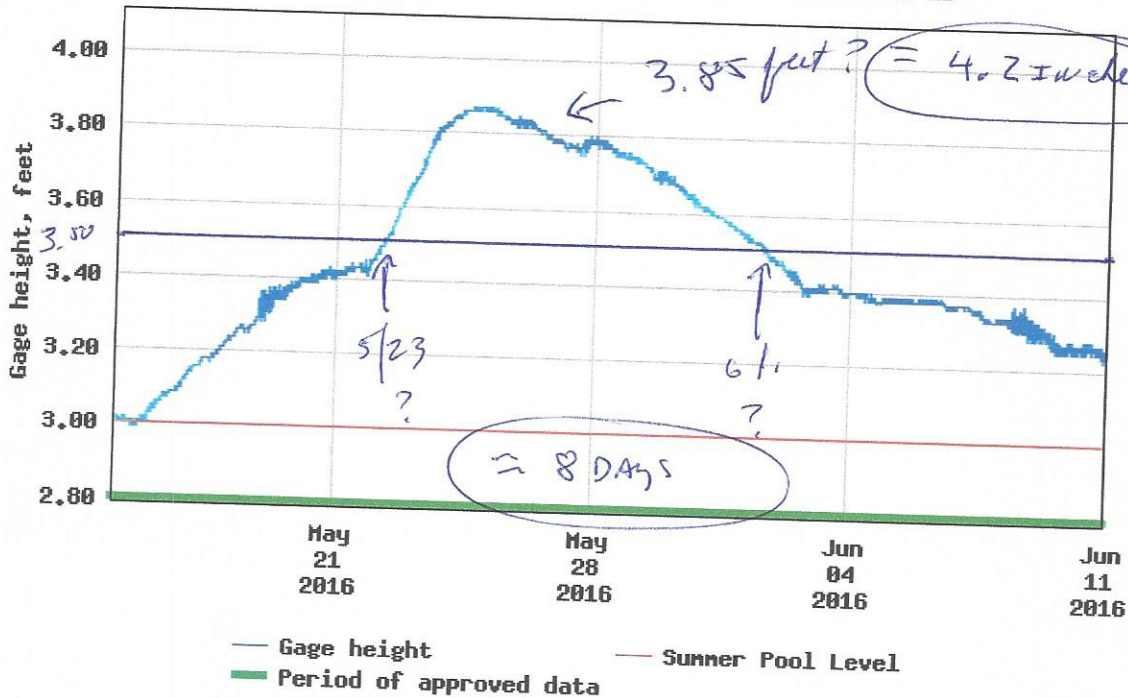
End date

2016-06-10

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2017

Days (82)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2017-04-01

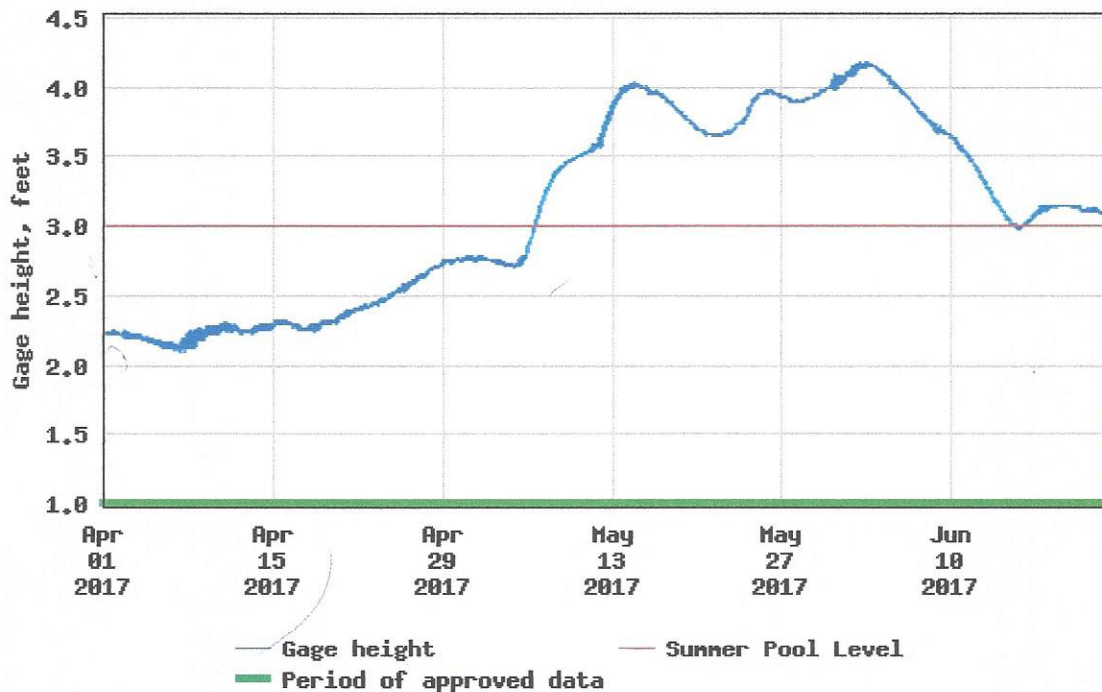
Gage height, feet

End date

2017-06-22

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-06-23

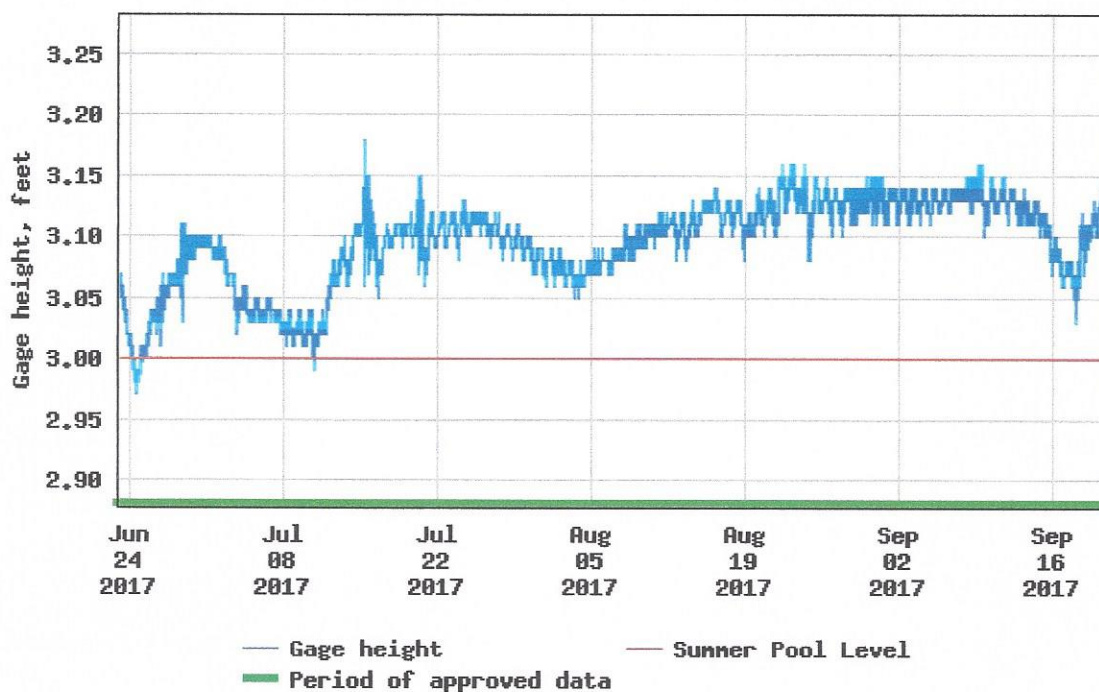
Gage height, feet

End date

2017-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-09-21

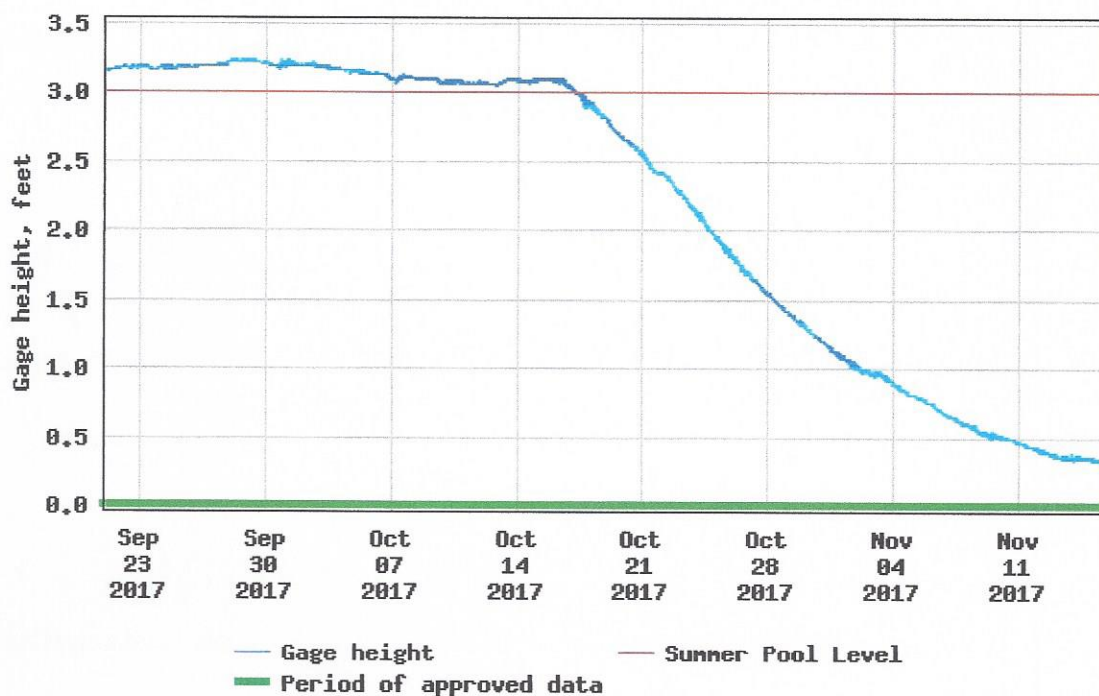
Gage height, feet

End date

2017-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (45)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-05-01

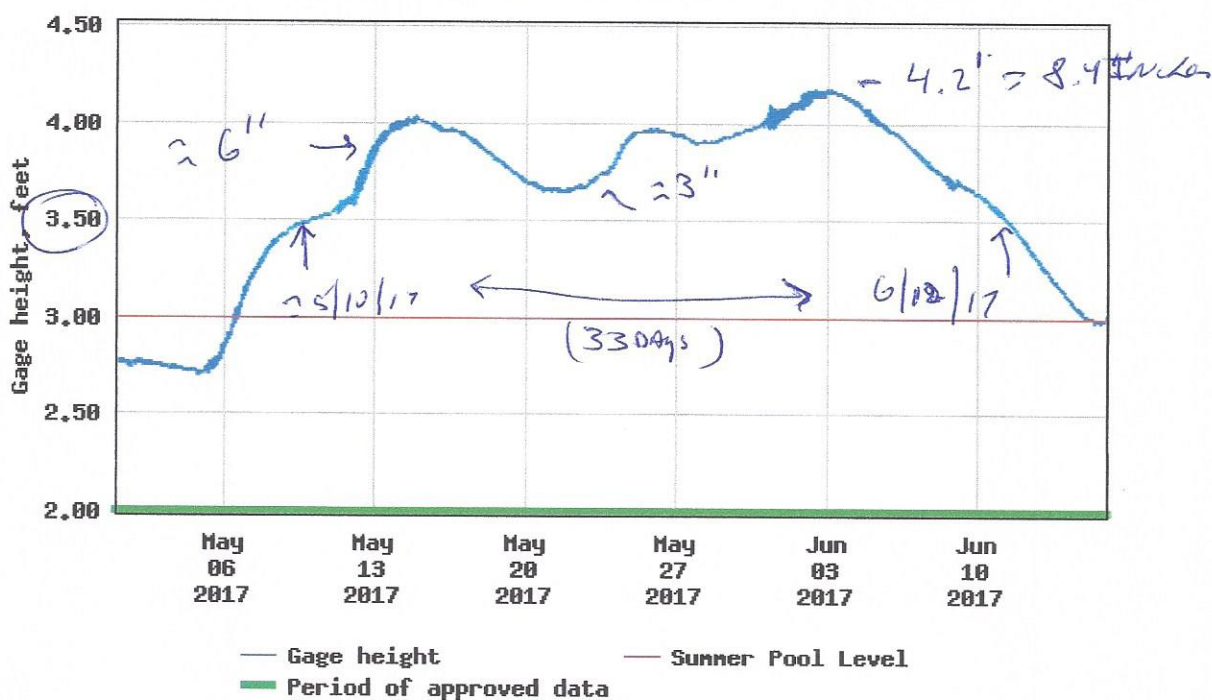
Gage height, feet

End date

2017-06-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2018

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-04-01

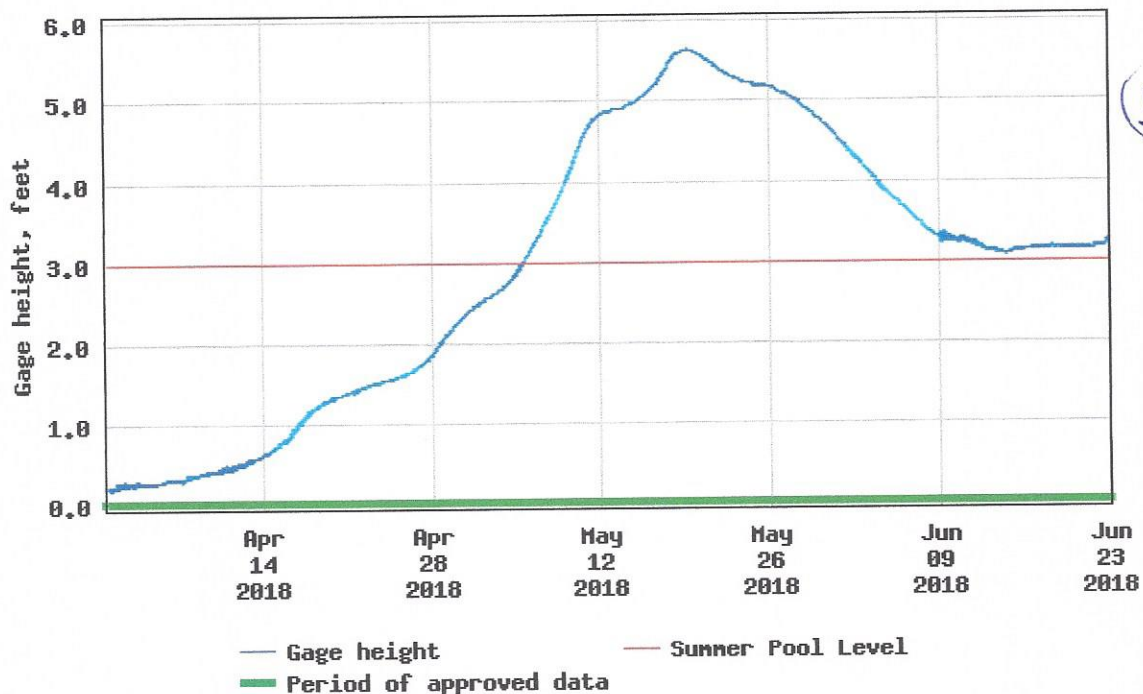
End date

2018-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-06-23

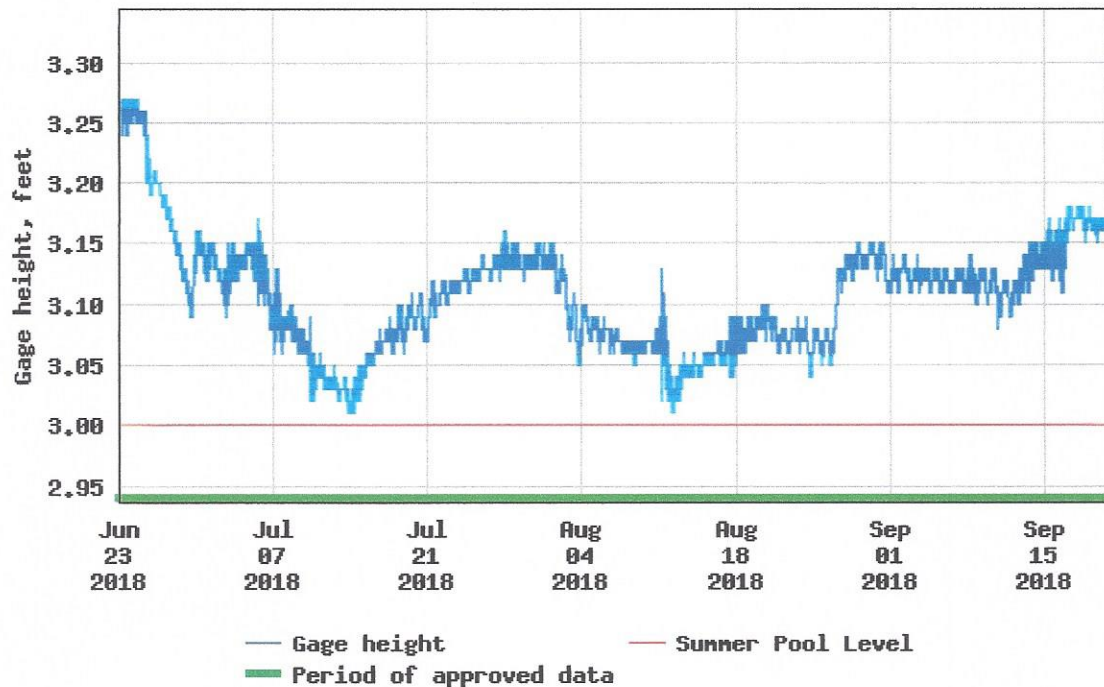
Gage height, feet

End date

2018-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated**Days** (55)[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

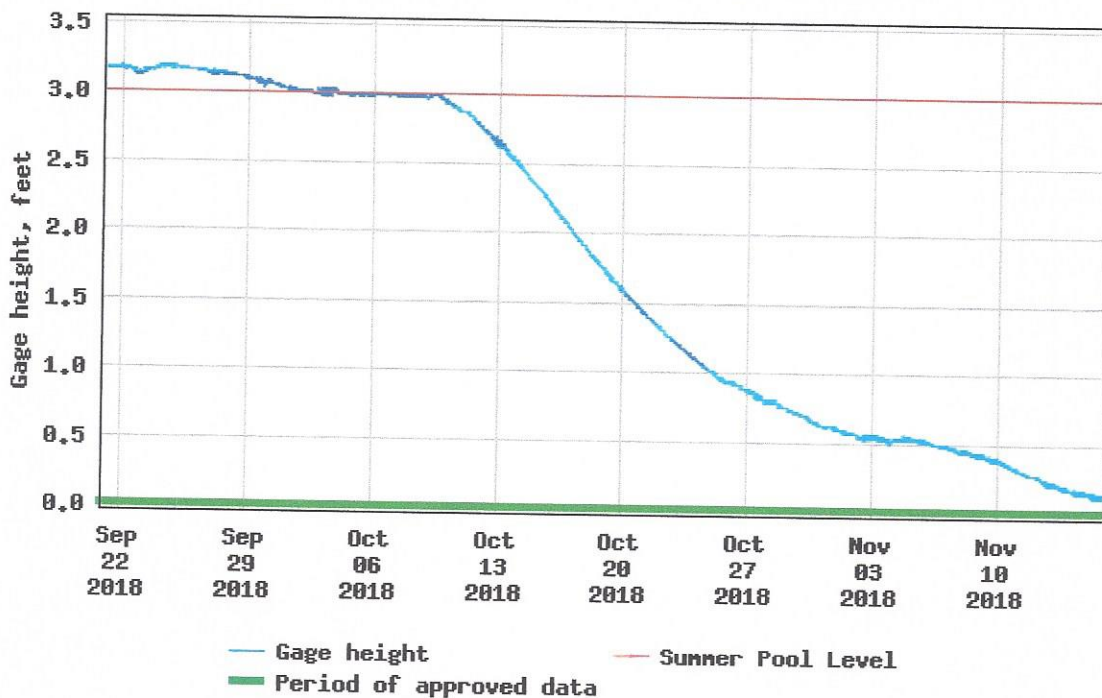
2018-09-21

Gage height, feet**End date**

2018-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**
☐ All 1 Available Parameters for this site

☒ 00065 Gage height
Output format

2013-10-17 2020-10-08

☒ Graph

☐ Graph w/ stats

☐ Graph w/o stats

☐ Graph w/ (up to 3) parms

☐ Table

☐ Tab-separated

Days (39)

Summary of all available data for this site
Instantaneous-data availability statement

GO

-- or --

Begin date

2018-05-01

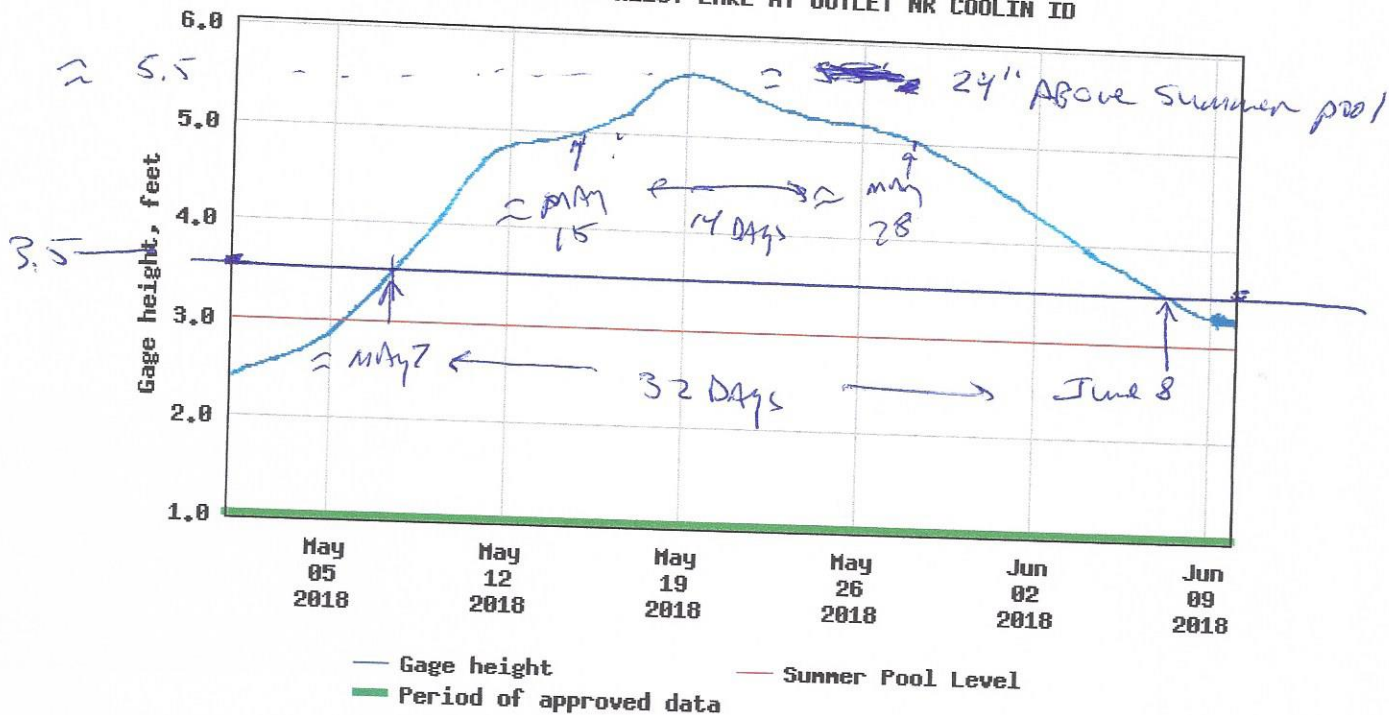
End date

2018-06-09

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

24
+8
—
32

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2019

Days (84)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

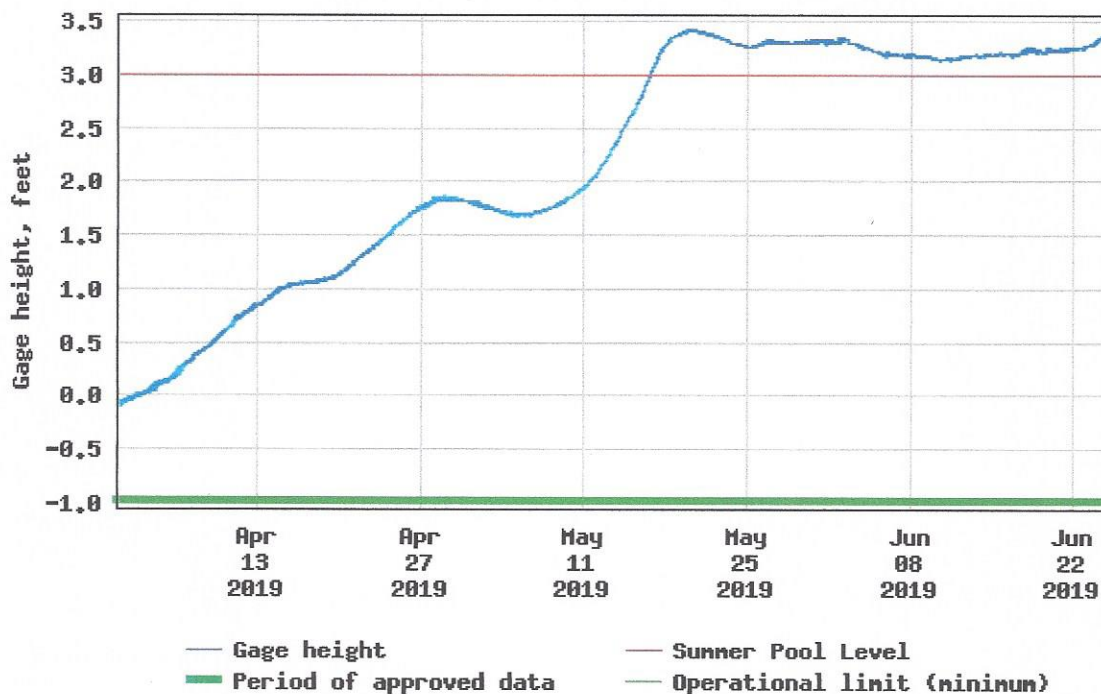
2019-04-01

End date

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-06-23

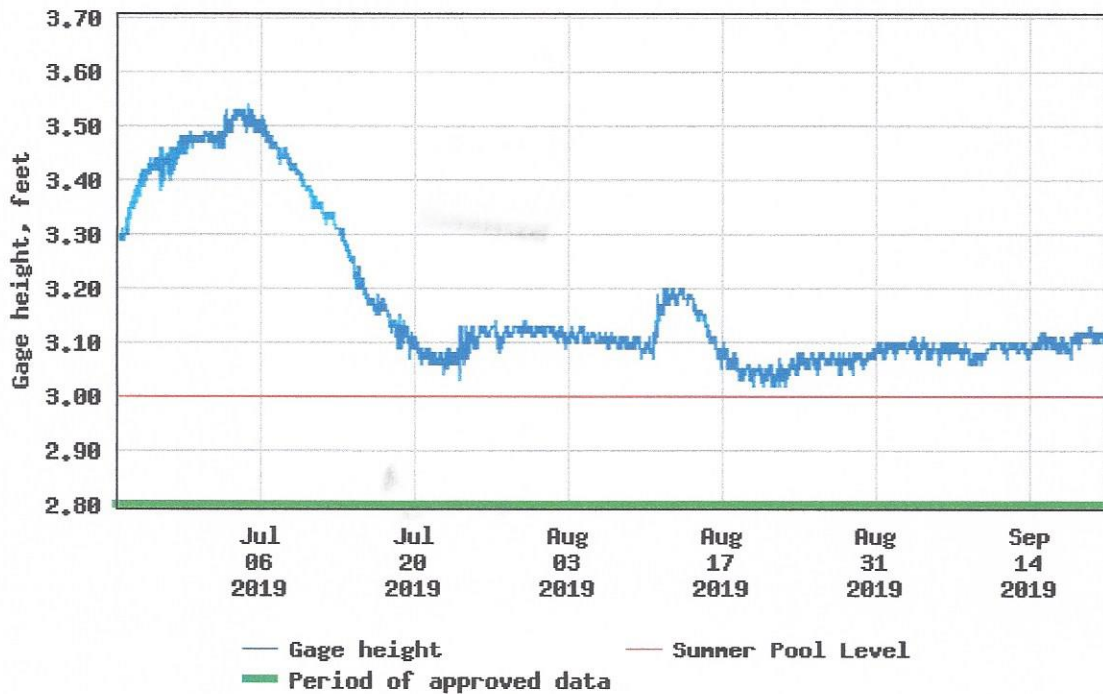
End date

2019-09-20

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-09-21

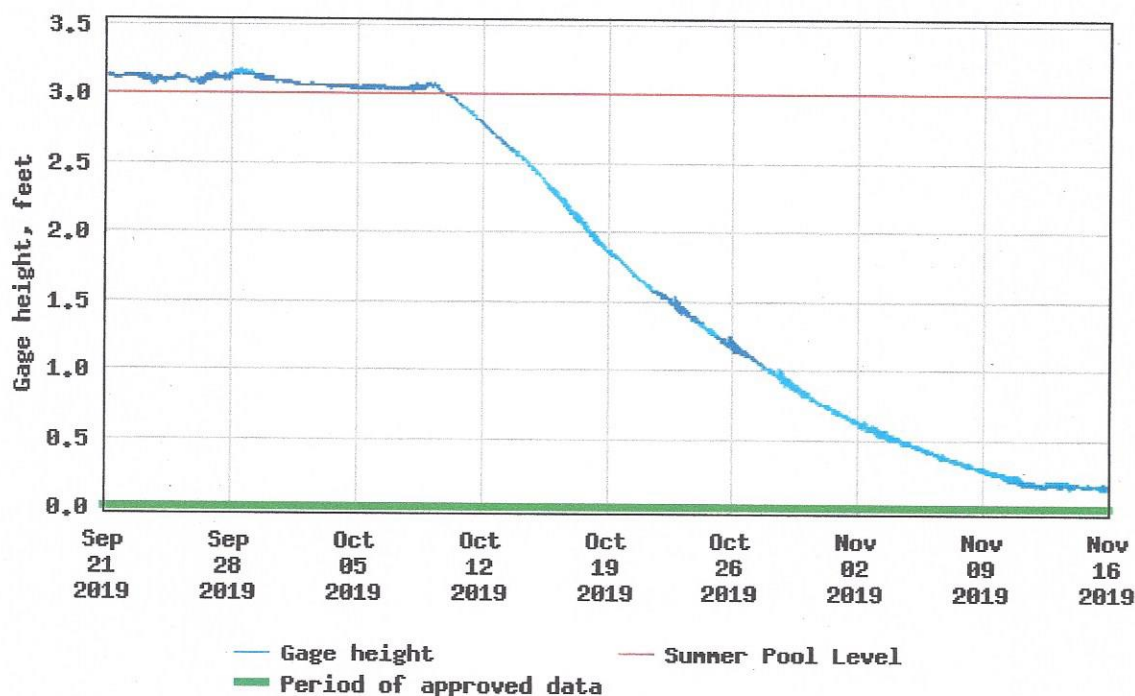
Gage height, feet

End date

2019-11-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (9)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-07-01

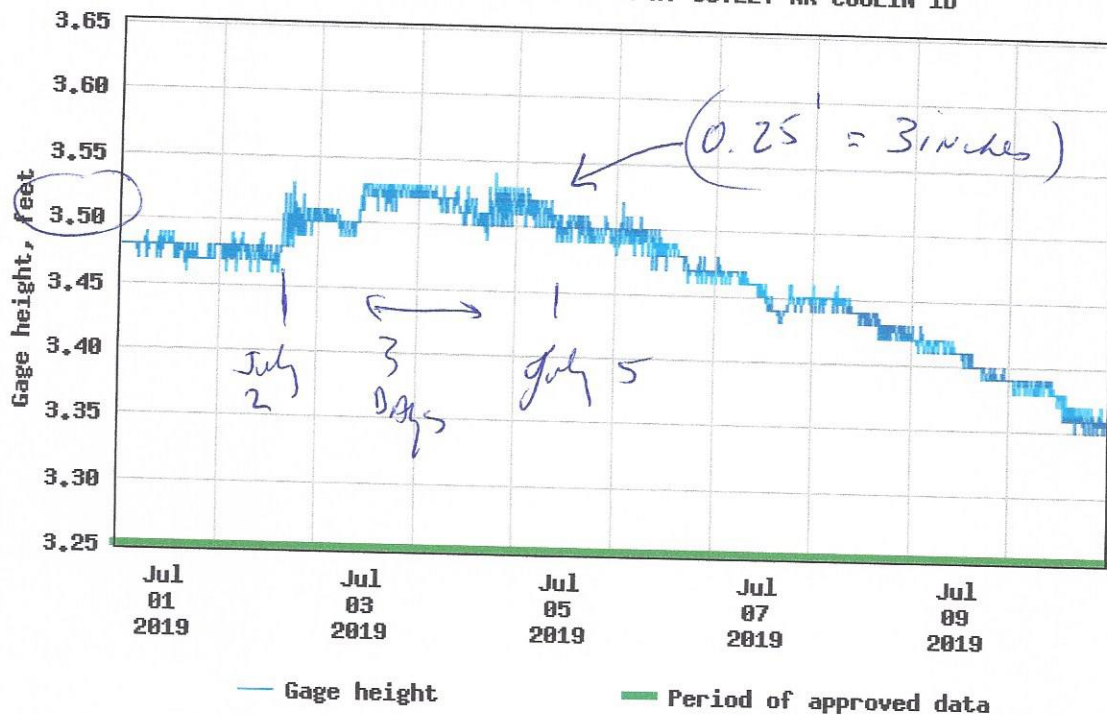
End date

2019-07-10

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (84)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-04-01

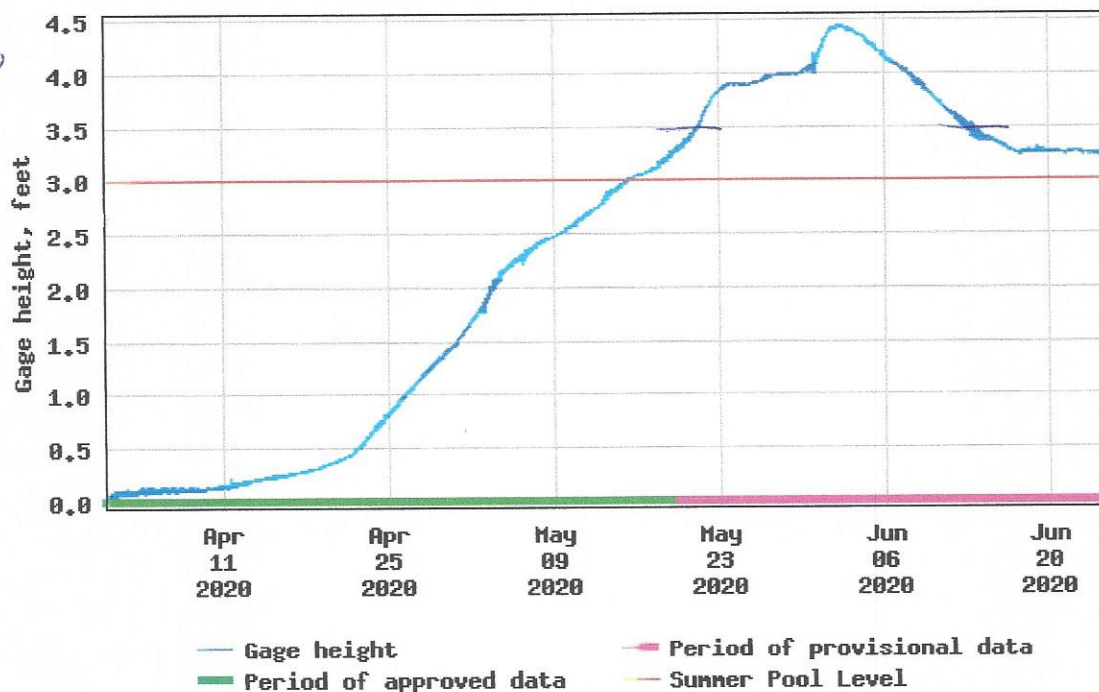
Gage height, feet

End date

2020-06-24

Most recent instantaneous value: 1.88 10-08-2020 09:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

☐ All 1 Available Parameters for this site☒ 00065 Gage height

Available Period

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (87)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-06-25

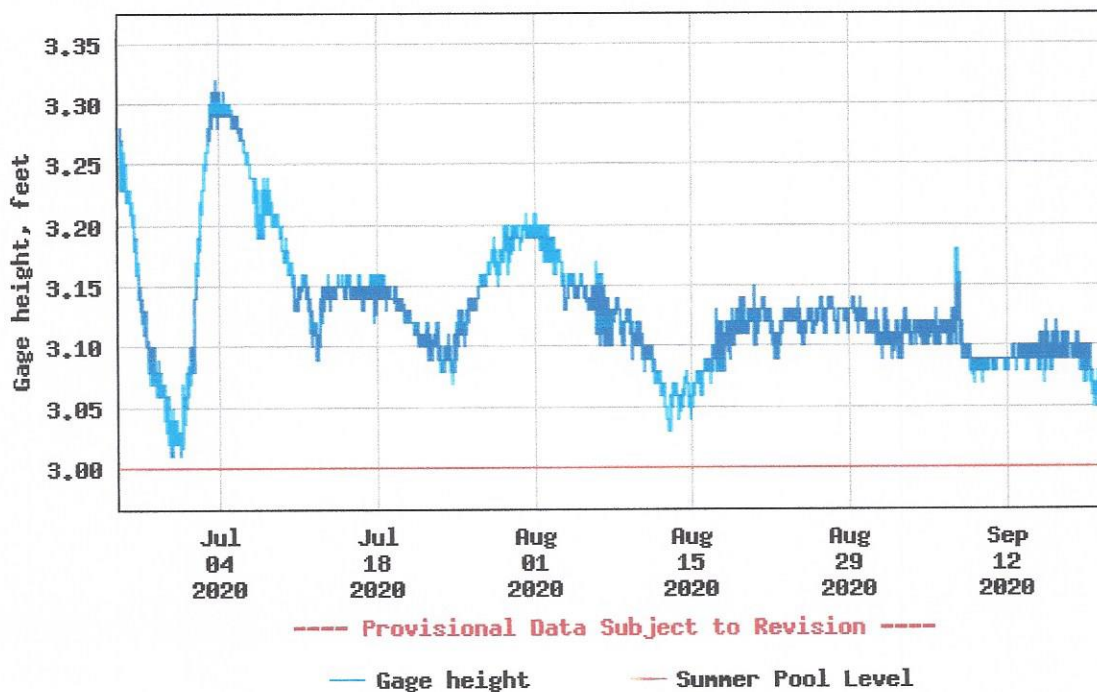
End date

2020-09-20

Gage height, feet

Most recent instantaneous value: 1.88 10-08-2020 09:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (16)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2020-09-21

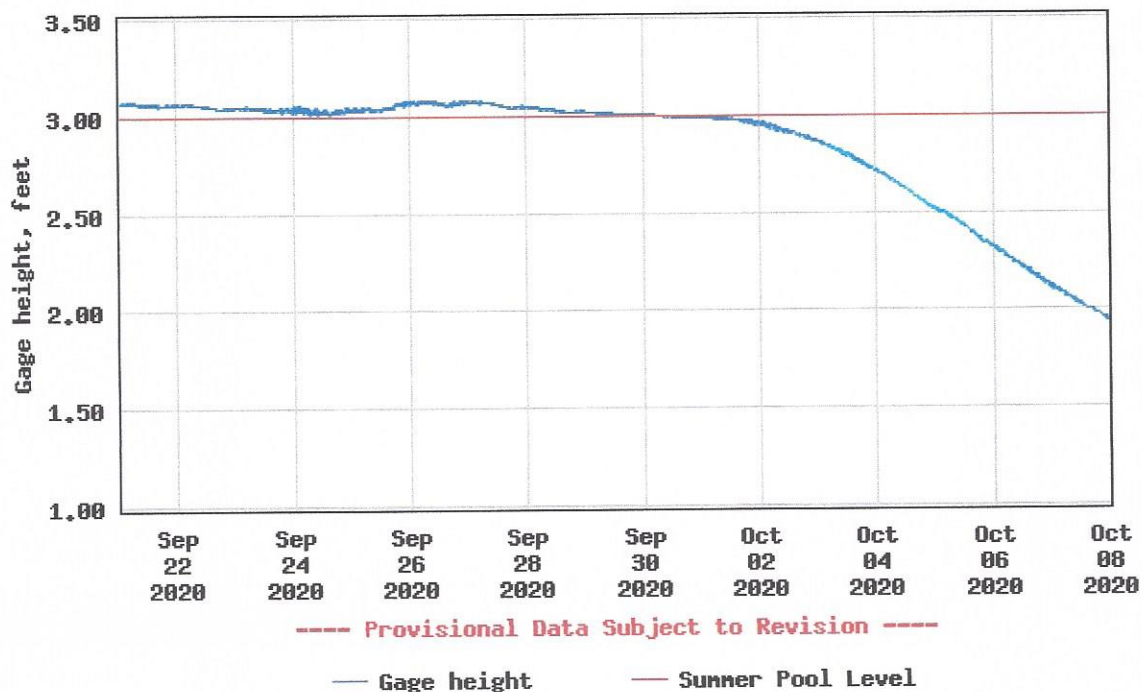
Gage height, feet

End date

2020-10-07

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (41)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2020-05-10

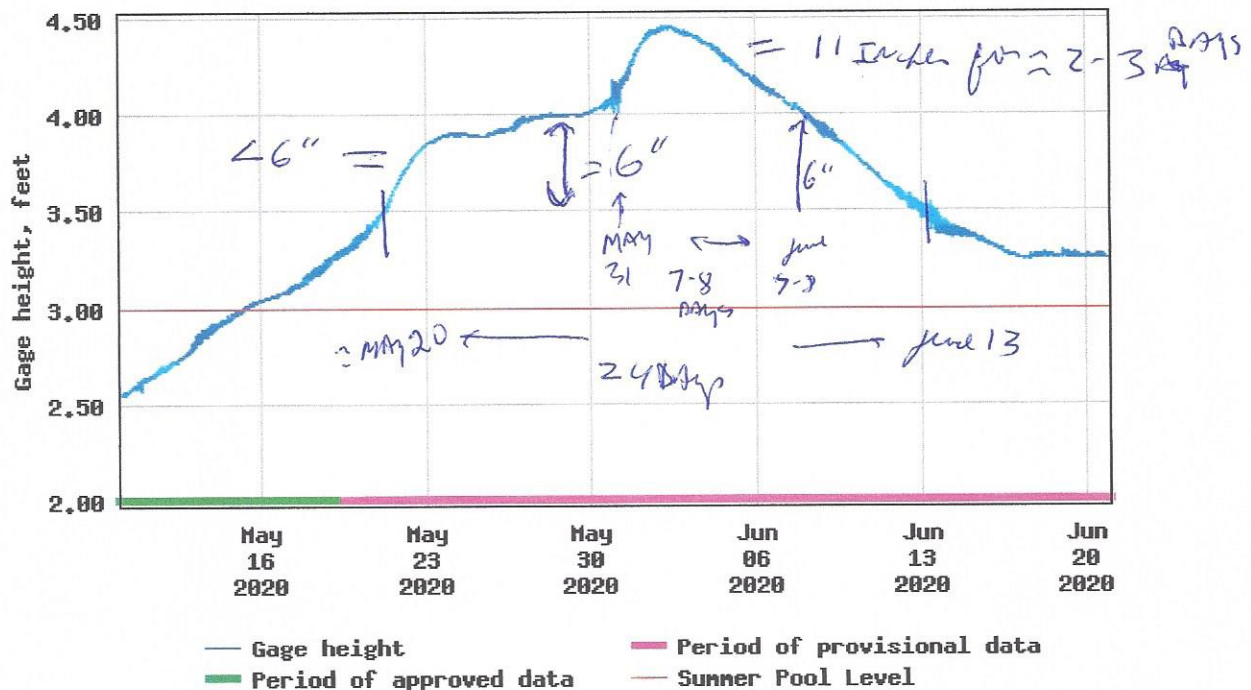
Gage height, feet

End date

2020-06-20

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

11
+ 13
—
24

9/1/20

Dear Greg,

I hope that you are well. I am sorry that we did not talk this past weekend. We both seemed busy and had company.

Both of us have worked hard to try to maintain and improve our beachfronts. Unfortunately the sand on my beach, especially in front of the boathouse, has progressively eroded and washed away. This is due to the barrier of rocks and sandbags that you created between our properties. Because of the flow of the lake, the barrier causes rocks to accumulate on our side while the sand filters through and accumulates on your property. I am not sure if the rock barriers beneath the approaches to your two docks are adversely affecting my beach or your neighbors to the north.

In order for the beach on my property to stop eroding and return to a natural state, the flow of the lake has to be restored. Therefore I would like the barrier that you created between our properties to be removed, preferably within the next few weeks. I am happy, and willing, to help you with this.

I would like to remain amicable, good neighbors and friends. Both of us want to maintain or improve our properties. This includes enjoying our beaches for recreation, improving the aesthetics and maintaining our property values.

Thank you.

Sincerely,

Bill Faloon

9/10/20

Dear Greg and Debra,

Thank you for the card and muffins that you gave Shelley last weekend.

The loss of Ty's friend was very sad and unexpected. We never met him but from everything that we know he was a very good musician, loved the outdoors, was very smart and had a hilarious sense of humor. He was a great young man with potentially a very bright future. It is very sad...

Debra told Shelley that it would be better if I work with her concerning our beach erosion. I am happy to discuss and work with either of you as I would like to remain friends and amicable neighbors.

I appreciate Debra offering to help me build a barrier into the lake, including filling sand bags. This would be similar to the one that you created. However this is not permitted by the State of Idaho and may negatively impact the Aspen's beach and waterfront.

Because of the flow of the lake, unfortunately our beach erosion will persist and most likely get worse unless the barrier between our properties is removed.

If you would like me to communicate with Debra, please tell me her e-mail address. I would like to resolve this issue amicably between ourselves ASAP, preferably within the next few weeks.

If you or Debra would respond to this e-mail it would be greatly appreciated.

Thanks.

Bill Faloon

9/15/20

Dear Debra,

Thank you for talking last weekend.

I have attached 2 pictures. One shows our old dock and approach in 2002, prior to me taking ownership of the cabin and property. The other is a picture of the current dock, the remaining concrete approach, our boat lift and beach. It was taken in 2004.

Please send or e-mail me pictures that you have from 60 years ago of our beaches as well as other pictures of our beaches taken previously.

Thank you very much.

Bill Faloon

Dear Debra,

I have been working hard in HI. Not much fun. However the weather has been nice and there is no smoke.

Thank you for e-mailing me the pictures of your cabin and beach. They were taken after your new cabin was built, so approximately after 2006 or 2007. You had started to build the rock barrier at the property line by then.

I would greatly appreciate it if you would e-mail me copies of the pictures that you have from 60 years ago.

Thank you.

Bill Faloon

-----Original Message-----

From: Debra Wilson <debwilson29@icloud.com>

To: Bill Faloon <billlofspok@aol.com>

Sent: Wed, Sep 16, 2020 3:54 pm

Subject: Photos

Hi Bill!

Here are some photos. It is still smokey at the lake. It should be better by the weekend. I hope you are enjoying nice weather in Hawaii!

Debra

Sent from my iPhone

[Reply](#) [Reply All](#) [Forward](#)

From: [Horsmon, Merritt](#)
To: [Trevor Anderson](#)
Subject: Re: Rip-Rap Project on Priest Lake -Project Application L97S1081B
Date: Wednesday, October 28, 2020 4:36:43 PM

Hi Trevor,

The Idaho Department of Fish and Game does not have any comments to submit for this application.

Thank you for the opportunity.

Merritt Horsmon

Environmental Staff Biologist

2885 W. Kathleen Ave.

Coeur d'Alene, Id 83815

208-769-1414 (Office)

208-251-4509 (Mobile)

merritt.horsmon@idfg.idaho.gov<<mailto:merritt.horsmon@idfg.idaho.gov>>

From: Trevor Anderson <tranderson@idl.idaho.gov>

Sent: Friday, October 2, 2020 2:22:09 PM

To: wcleveland@priestriver-id.gov; bsmith@idahoconservation.org; lakescommission@gmail.com; jjohnson@bonnercountyid.gov; mnykiel@idahoconservation.org; cityclerk@cityofdoveridaho.org; lakeasyst@gmail.com; shannon@lakependoreillewaterkeeper.org; Shane.P.Slate@usace.army.mil; William.Roberson@itd.idaho.gov; Amanda Cerise; Jason Johnson; planning@bonnercountyid.gov; Horsmon, Merritt; sca@scawild.org; Kim Holzer; Todd.Higens@idwr.idaho.gov; Chantilly.Higbee@deq.idaho.gov; Jeremy Varley; Robert.Steed@deq.idaho.gov; Adam.frederick@idwr.idaho.gov

Subject: Rip-Rap Project on Priest Lake -Project Application L97S1081B

Hello,

I'm from the Idaho Department of Lands, Priest Lake Area Office.

An applicant has made application to install rip-rap on Priest Lake.

Please see the attachments, including the application, for your review.

Thank you.

Sincerely,

Trevor Anderson, IDL Senior Resource Specialist

10/23/20

Case No. PH-2020-PUB-10-001

Dear Trevor,

I object to Greg Wilson's encroachment application for riprap. I ~~will~~ emailed you a copy of my objection letter + information that supports my position + concerns.

I have enclosed a check for \$75 for the newspaper publication fee.

If you have any other suggestions, concerns or questions, please contact me.

Bill Felson

William U. Felson J. MD

Idaho Department of Lands
Received

OCT 29 2020

Priest Lake
Supervisory Area

BM

From: billlofspok@aol.com
To: [Trevor Anderson](#); [Kourtney Romine](#)
Subject: Additional information concerning Priest Lake elevations
Date: Monday, November 09, 2020 09:53:48 AM
Attachments: [USGS data - summarized.xlsx](#)
[Records of lake elevation.docx](#)

Dear Trevor and Ms. Romine,

I recently spoke with Ross Dickinson of the USGS about obtaining additional information concerning Priest Lake elevations.

In my objection letter concerning the Wilson's permit for rip-rap, I incorrect said that the USGS only had records of the elevation of Priest Lake beginning in 2013. In fact, records have been kept much longer than that. Therefore I did additional research about Priest Lake elevation and revised my records to include data from 2000 to 2020. I have attached the following to this e-mail:

- 1. Priest Lake elevation each year from 2000 - 2020**
- 2. A summary of the data on a spread sheet. I hope this makes it easier to evaluate the data.**
- 3. Copies of the USGS records of the annual elevation of Priest Lake from 2000 - 2013. In my objection letter (e-mail) that I sent to Trevor on Oct 25, 2020, I attached USGS records from 2014 to 2020.**

If possible I would like this information to be provided to the IDL Board or other staff members so that it can be reviewed prior to the hearing and available at the hearing on Dec. 3.

If you have any questions or concerns, please contact me.

Thank you for your consideration and assistance.

Sincerely,

Bill Faloon

-----Original Message-----

From: Trevor Anderson <tranderson@idl.idaho.gov>
To: billlofspok@aol.com <billlofspok@aol.com>
Sent: Wed, Oct 21, 2020 9:15 am
Subject: RE: Objection Process Update

Yes,

You can mail the \$75 check to my office: Attn: Trevor Anderson, 4053 Cavanaugh Bay Rd, Coolin, ID 83821

You can make the check out to, "IDL," or the "Idaho Department of Lands"

Trevor

From: billlofspok@aol.com <billlofspok@aol.com>
Sent: Wednesday, October 21, 2020 6:31 AM

To: Trevor Anderson <tranderson@idl.idaho.gov>
Subject: Re: Objection Process Update

Dear Trevor,

Thank you for your email.

I am in the process of finalizing my objection letter to the Wilson's encroachment permit. I will hopefully e-mail it to you by the end of this week.

I am currently working in Hawaii. I can send you the newspaper publication fee of \$75 while I am here.

Do I send it to you (to your office)?

Who do I write the check out to? Do I write it out to the "Idaho Department of Lands"?

Do you have any other suggestions or recommendations?

Thank you for your consideration.

Sincerely,

Bill Faloon

-----Original Message-----

From: Trevor Anderson <tranderson@idl.idaho.gov>

To: billlofspok@aol.com <billlofspok@aol.com>

Sent: Tue, Oct 20, 2020 11:15 am

Subject: Objection Process Update

Hi Bill,

I have some extra information to give you regarding the objection process to Mr. Wilson's encroachment permit application.

Because Mr. Wilson's encroachment application involves rip-rap, which requires a public notice (newspaper publication), any objection to Mr. Wilson's application will also require a public notice and a public hearing will need to be setup.

Thus, if you choose to object to Mr. Wilson's application, you will need to submit a newspaper publication fee of \$75 with your objection, so that we can advertise the public hearing date in the newspaper. A public hearing will then be setup for yourself and Mr. Wilson.

Trevor

Records of Priest Lake Elevation from 2000 to 2020 (21 years):

2000: May 22 – June 1 (9 days). Maximum elevation was 4" above summer pool.

2001: Never went above summer pool level.

2002: May 15 – June 30 (22 days). Maximum elevation was 12" above summer pool (for approximately 3 days)

2003: May 15 – June 30 (11 days). Maximum elevation was 5" above summer pool.

2004: Never went above summer pool level.

2005: Never went above summer pool level.

2006: May 17 – June 21 (34 days). Maximum elevation was 21" above summer pool. It was 18" – 21" above summer pool for 6 days.

2007: Never went above summer pool level.

2008: May 19 – June 14 (30 days). Maximum elevation was 18" above summer pool. It was 12"- 18" above summer pool for 13 days.

2009: June 1 – June 4 (3 days). Maximum elevation was 2" above summer pool.

2010: June 2 – June 18 (16 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for approximately 3 days.

2011: May 17 – June 9 (53 days). Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 7 days.

2012: May 15 – July 8 (53 days) Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 10 days.

2013: ~~Records began Oct 17, 2013~~ May 12 – June 2 (21 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for 3 days.

2014: May 18 – June 8 (21 days). Maximum elevation was 8" above summer pool.

2015: Never went above summer pool level.

2016: A. April 24 – April 28 (4 days). Maximum elevation was 1.2" above summer pool.

B. May 23 – June 1 (8 days). Maximum elevation was 4.2" above summer pool.

2017: May 10 - June 12 (33 days). Maximum elevation was 8.4" above summer pool.

2018: May 7 – June 8 (32 days). Maximum elevation was 24" above summer pool (approx. 2 days). It was 18" – 24" above summer pool for 13 days.

2019: July 2 – July 5 (3 days). Maximum elevation was 3" above summer pool.

2020: May 20 – June 13 (24 days). Maximum elevation was 11" above summer pool (for approximately 2-3 days)

2000 - 2020 Priest Lake Elevations (21 years):

Definition of Summer Pool (S.P.): 3 feet - 3.5 feet above elevation

	Number of years: (Total: 21)	% of years above S.P.:	Maximum Elevation each year:	Duration > 6" - 12" above S.P.	Duration > 12" - 18" above S.P.	Duration > 18" - 24" above S.P.	Duration > 24" above S.P.
<u>Lake Level Elevation:</u>							
Never above S.P.:	5	24%					
> 0" - 6" above S.P.:	5	24%	2", 3", 4", 4.2", 5"				
> 6" - 12" above S.P.:	6	25%	7", 7", 8", 8.4", 11", 12"	3-11 days			
> 12" - 18" above S.P.:	3	14%	15", 15", 18"	17-29 days	10-18 days		
> 18" - 24" above S.P.:	1	5%	21"	5 days	5 days	6 days	
> 24" above S.P.:	1	5%	Approx. 24"	7 days	9 days	14 days	1 day
Totals (21 years):				32-52 days	24-32 days	20 days	1 day

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2000

Days (51) Summary of all available data for this site
Instantaneous-data availability statement

GO

-- or --

Begin date

2000-04-30

Gage height, feet

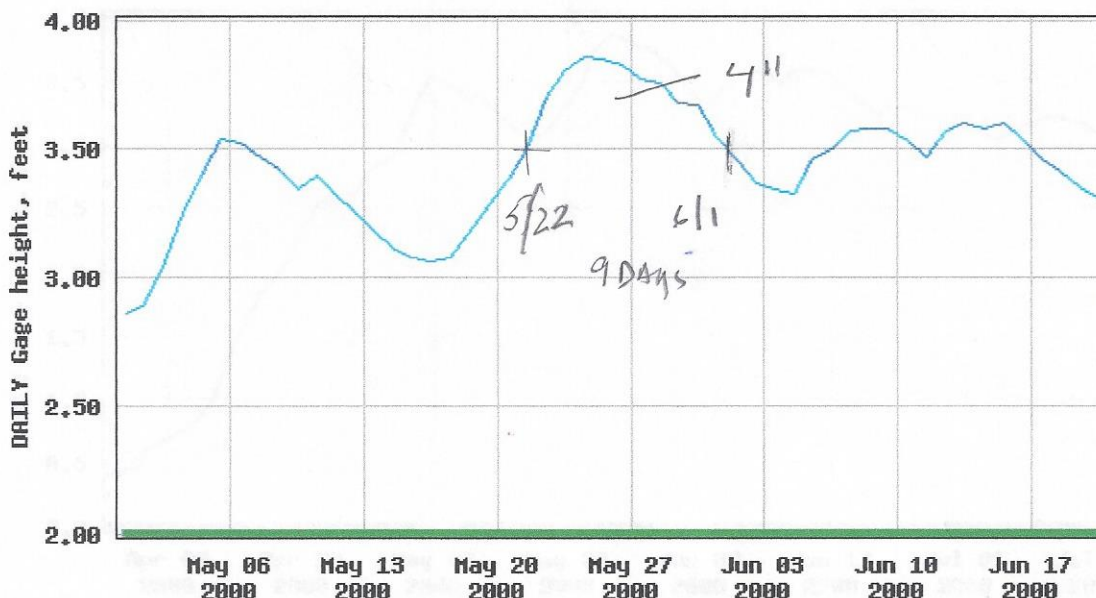
End date

2000-06-20

-- Daily Instantaneous data unavailable for the time period specified --

9 DAYS - 4" MAX

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

0090

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2001

Days (105)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2001-04-01

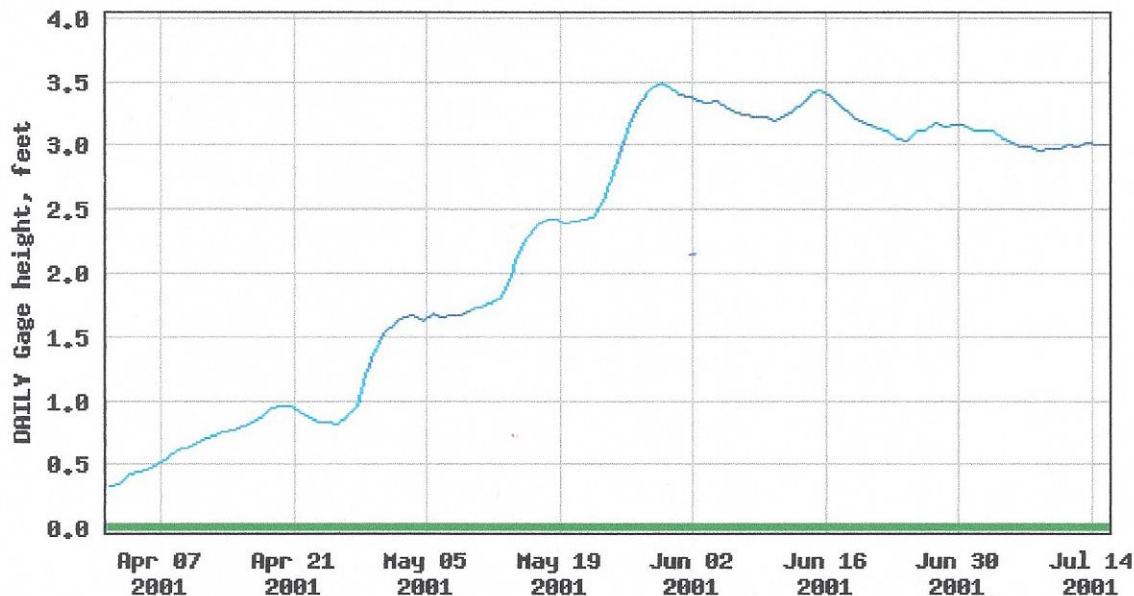
Gage height, feet

End date

2001-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



NEVER ABOVE
Summer pool

— Daily observation at midnight gage height
— Period of approved data

0091

Begin date

2002-05-18

Gage height, feet

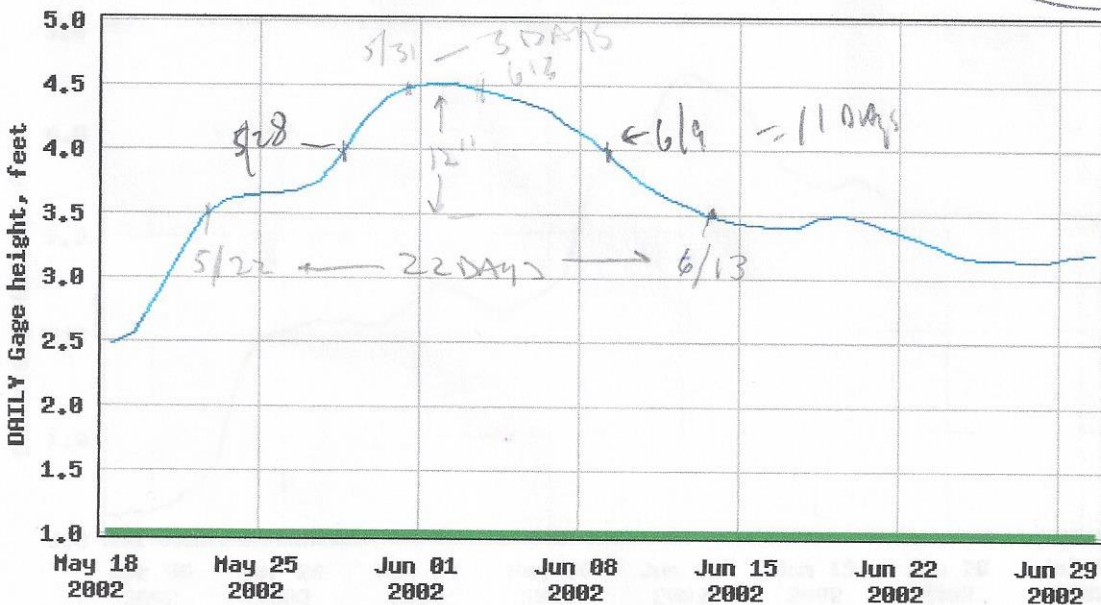
End date

2002-06-30

-- Daily Instantaneous data unavailable for the time period specified --

2002

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



5/15/02

1

6/30/02

-22 DAYS ABOVE
Summer pool.

-MAY 12" x \approx 3 DAYS

2002

— Daily observation at midnight gage height
— Period of approved data

0092

Days (46)

Summary of all available data for this site
Instantaneous-data availability statement

GO

-- or --

Begin date

2003-05-15

Gage height, feet

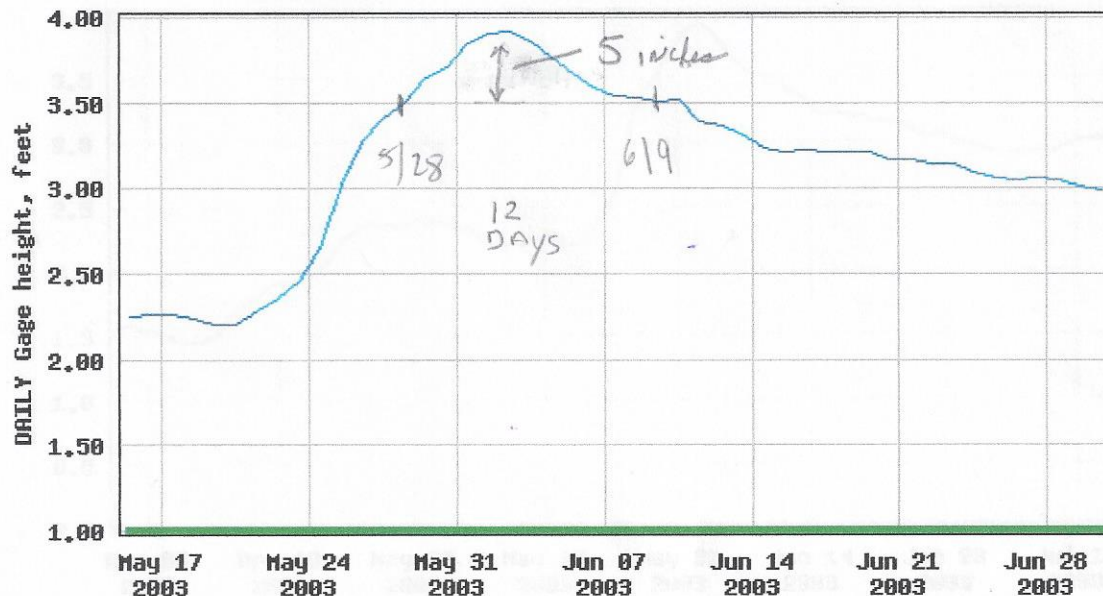
End date

2003-06-30

-- Daily Instantaneous data unavailable for the time period specified --

2003

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

5/15/03

6/30/03

11 DAYS ABOVE Summer POOL

MAX: 5" ABOVE Summer pool.

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2004

Days (105)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2004-04-01

Gage height, feet

End date

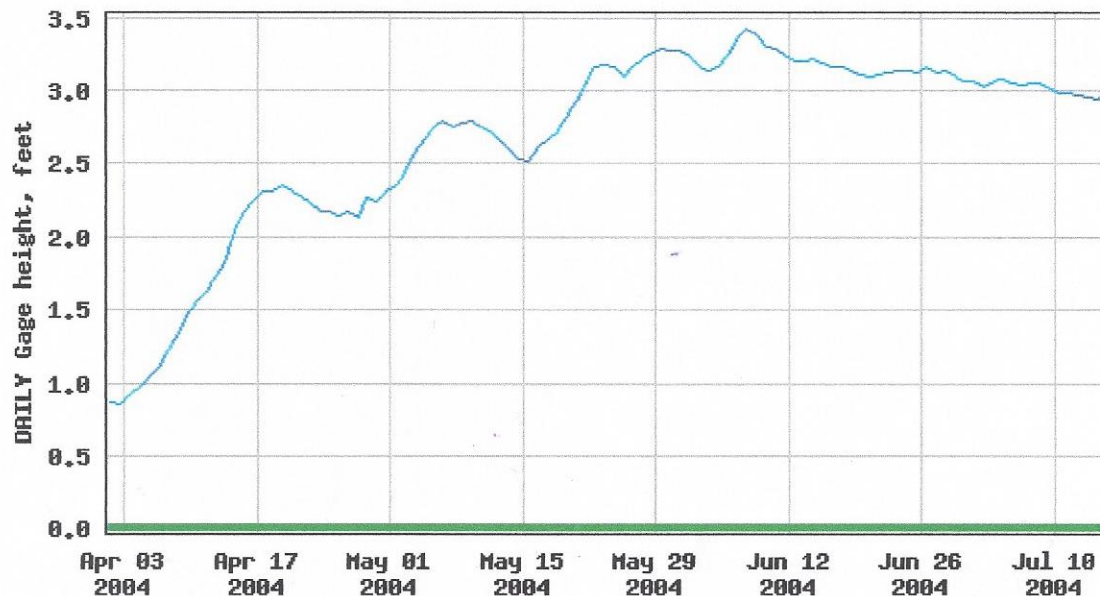
2004-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

- NEVER ABOVE

Summer pool -



— Daily observation at midnight gage height
 — Period of approved data

0094

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

5
2004

Days (105)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2005-04-01

Gage height, feet

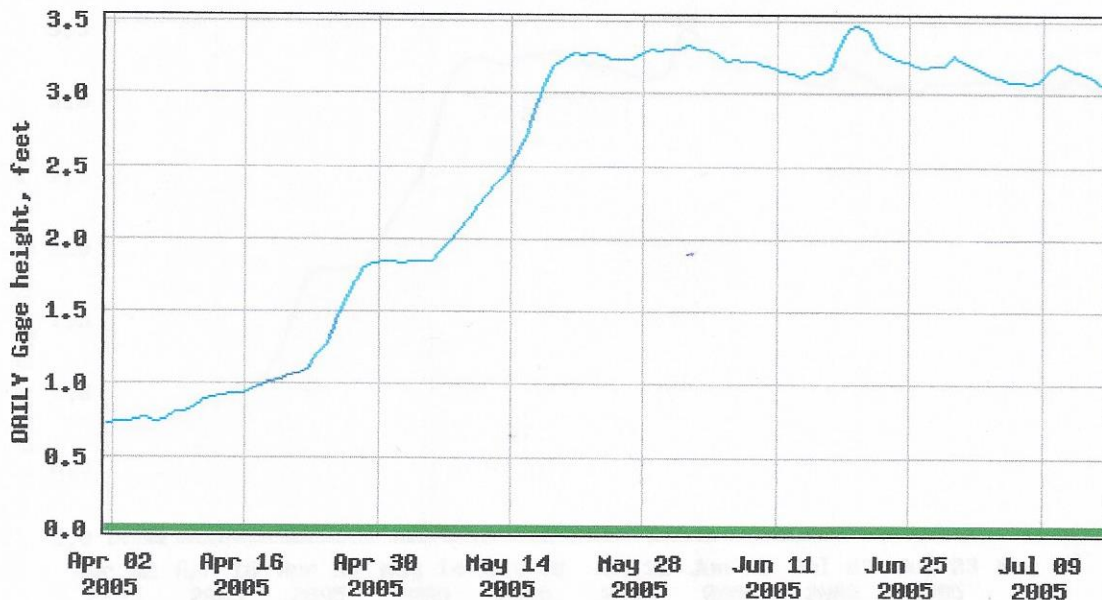
End date

2005-07-15

-- Daily Instantaneous data unavailable for the time period specified --

NEVER ABOVE
Summer pool

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

0095

- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2006

Days (61)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2006-04-30

Gage height, feet

End date

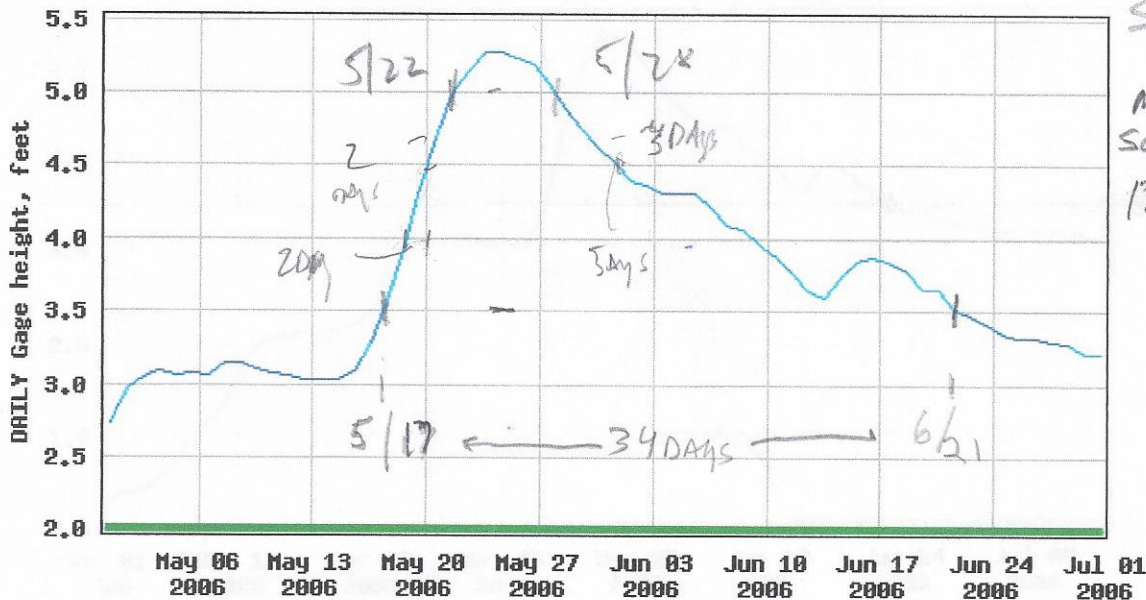
2006-06-30

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

34 Days ABOVE
Summer pool

MAX 21" ABOVE
Summer pool x
18" or higher x 6 days



— Daily observation at midnight gage height
 — Period of approved data

0096

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2007

Days (76)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2007-04-30

Gage height, feet

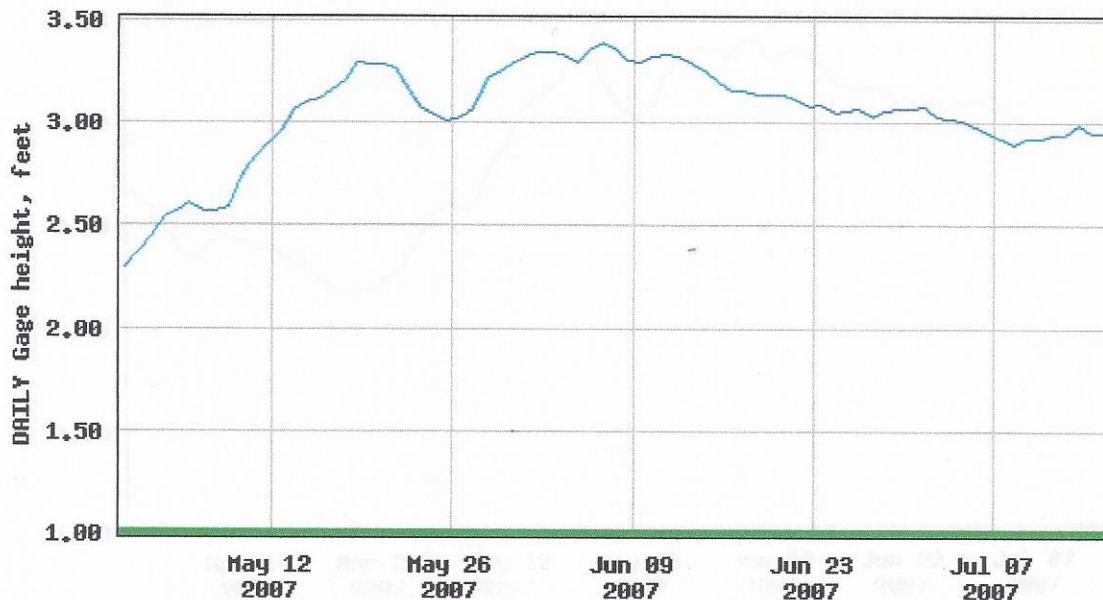
End date

2007-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

NEVER
ABOVE
Summer Pool



— Daily observation at midnight gage height
 — Period of approved data

0097

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2008

Days (47)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2008-05-15

Gage height, feet

End date

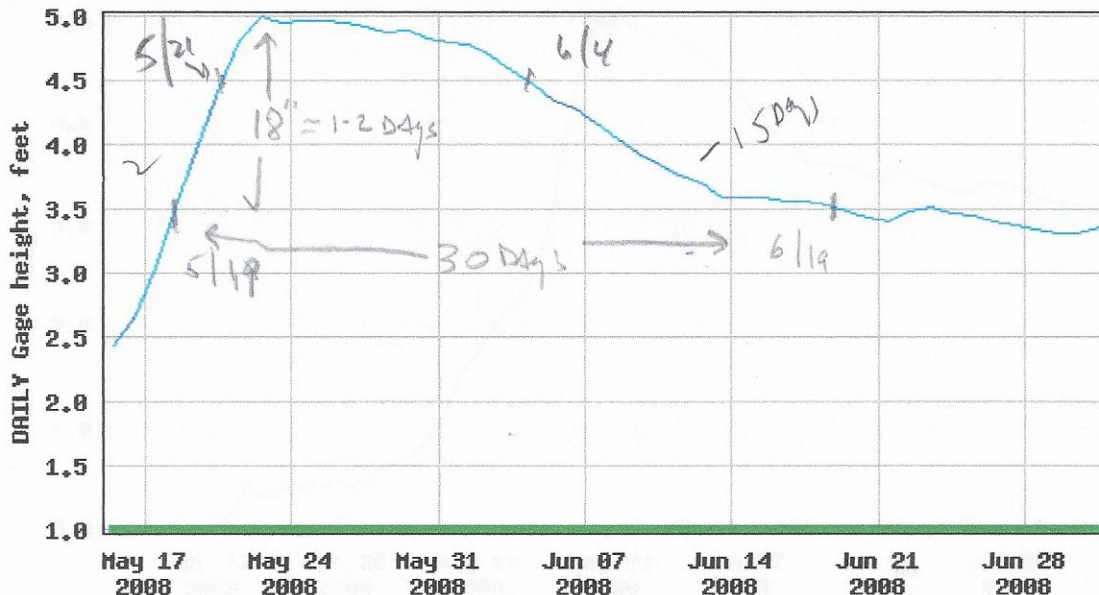
2008-07-01

-- Daily Instantaneous data unavailable for the time period

specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

30 DAYS ABOVE Summer



POOL

MAX: 18"

12" or higher x 13 Days

— Daily observation at midnight gage height
 — Period of approved data

0098

- ☐ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2009

GO

Days (51)

Summary of all available data for this site
Instantaneous-data availability statement

-- or --

Begin date

2009-05-10

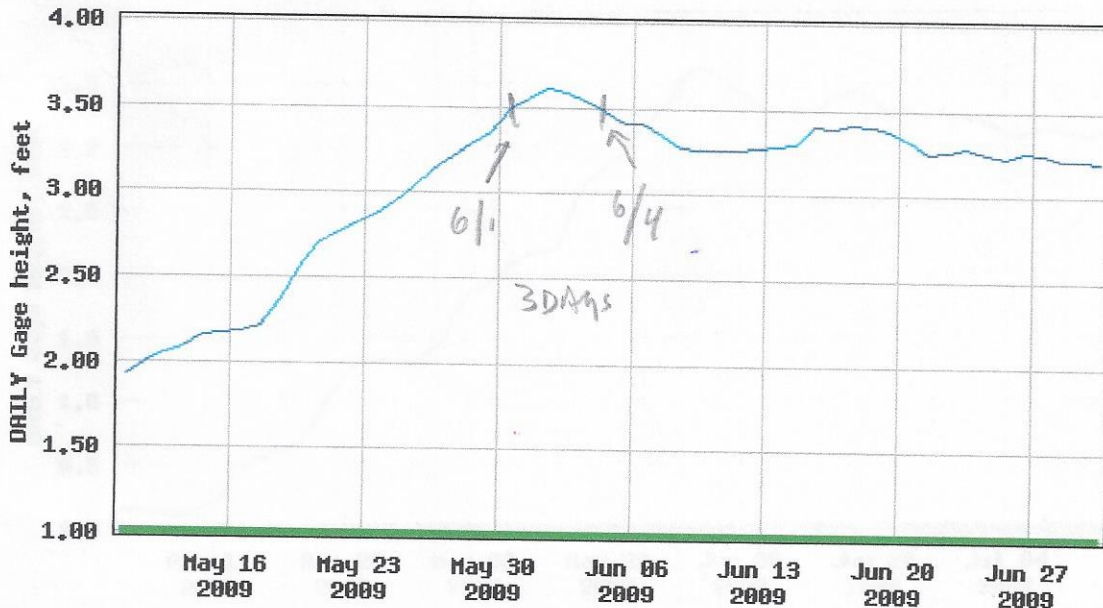
Gage height, feet

End date

2009-06-30

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



2" ABOVE SUMMER
 POOL for 3-4 days

— Daily observation at midnight gage height
 — Period of approved data

0099

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2010

GO

Days (41) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

-- or --

Begin date

2010-05-20

Gage height, feet

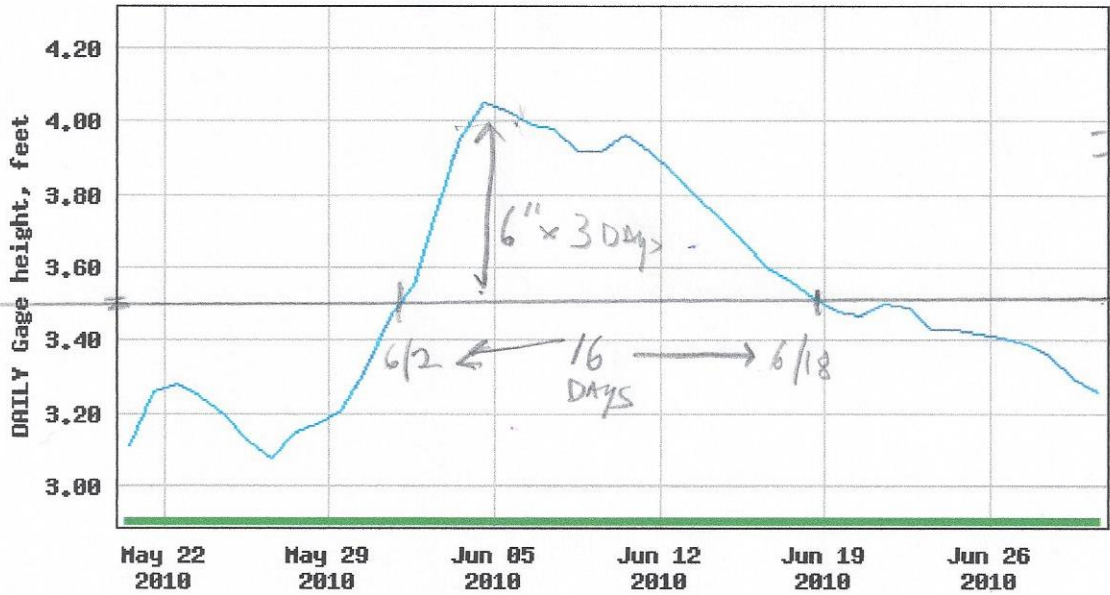
End date -- Daily Instantaneous data unavailable for the time period

2010-06-30

specified --

16 Days Above Summer pool

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



MAX: 6" ABOVE Summer pool
 = 7" x 3 Days

— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2011

GO

Days (66) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

-- or --

Begin date

2011-05-10

Gage height, feet

End date -- Daily Instantaneous data unavailable for the time period specified --

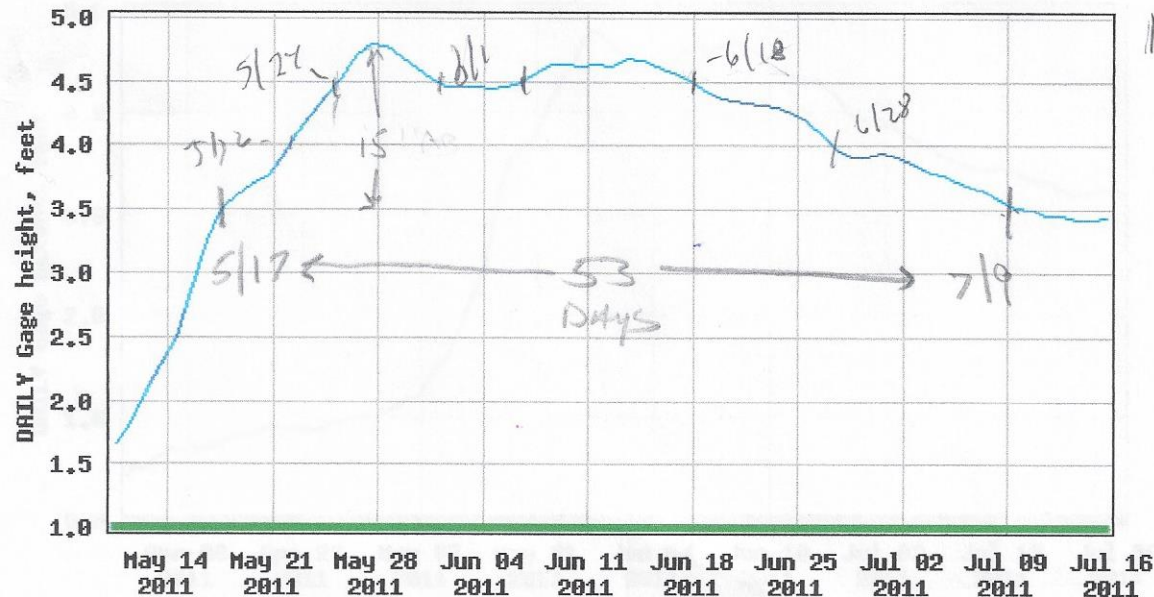
2011-07-15

53 days ABOVE Summer pool

MAX = 15"

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

12" on higher x 7 days



$2 + 12 = 14$

13
15
~

0101

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2012

GO

Days (81)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

-- or --

Begin date

2012-04-25

Gage height, feet

End date

2012-07-15

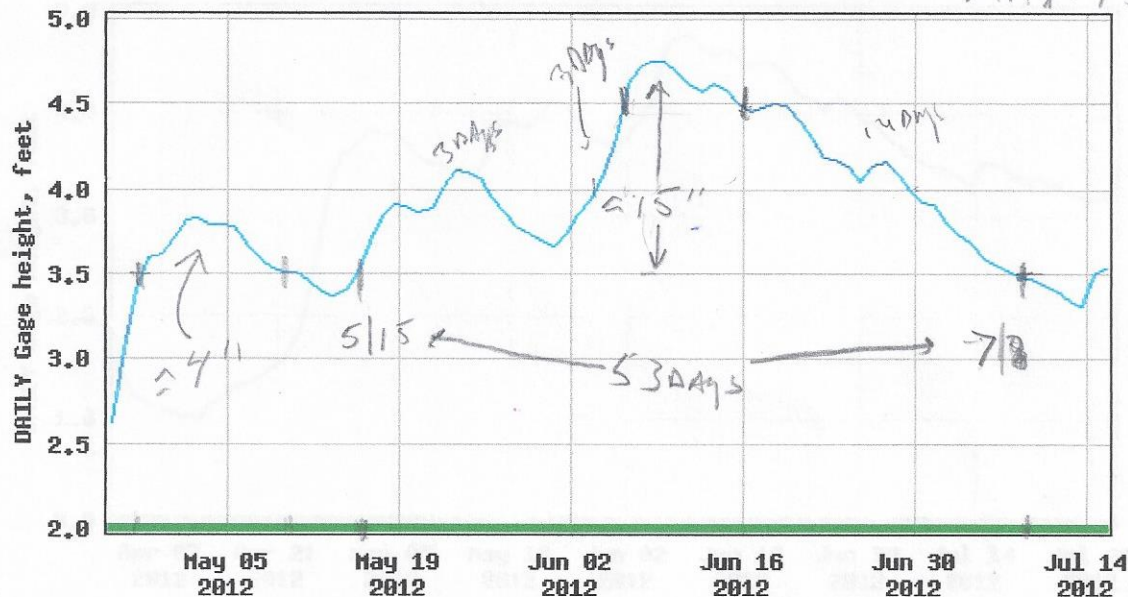
-- Daily Instantaneous data unavailable for the time period specified --

53 DAYS ABOVE SUMMER POOL

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

MAY: 15"

12"-15" x 10 DAYS



— Daily observation at midnight gage height
— Period of approved data

0102

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2013

Days (87)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2013-05-04

Gage height, feet

End date

2013-07-30

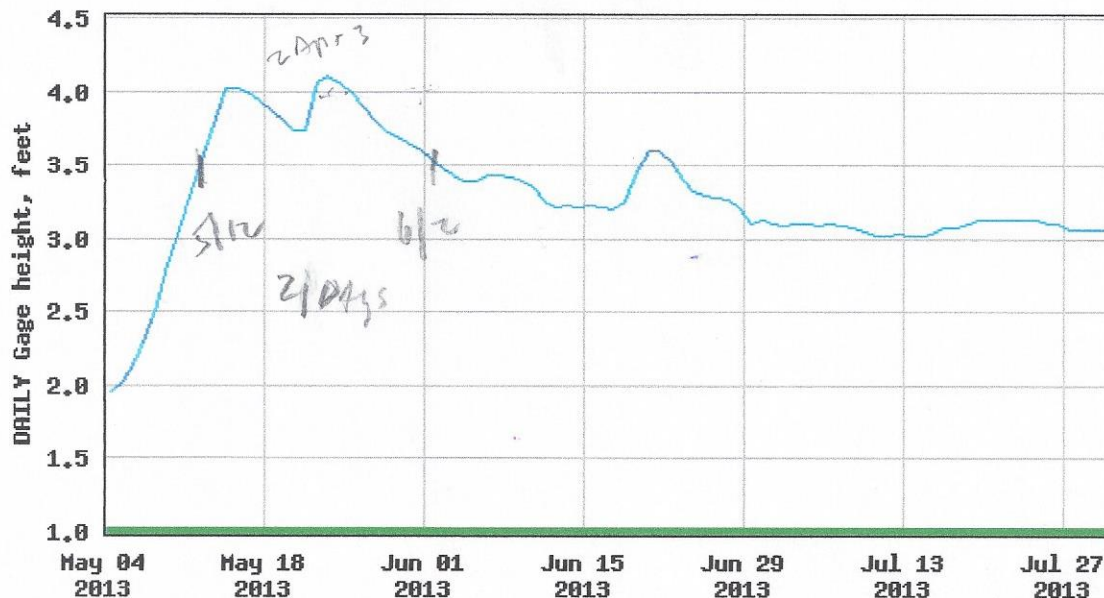
-- Daily Instantaneous data unavailable for the time period

specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

MAX. 7" ABOVE SUMMER POOL

6" or Higher x = 3 DAYS



— Daily observation at midnight gage height
— Period of approved data

0103

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:)	
	)	Case No. PH-2020-PUB-10-001
Encroachment Permit Application)	
No. L-97-S-1081B	)	NOTICE OF APPOINTMENT OF
	)	HEARING COORDINATOR
Gregory M. and Debra B. Wilson,	)	AND PUBLIC HEARING
Applicant.)	

NOTICE IS HEREBY GIVEN that pursuant to the Lake Protection Act, Idaho Code Title 58, Chapter 13 (which may be viewed at <https://legislature.idaho.gov/statutesrules/idstat/Title58/T58CH13/>) and the Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho, IDAPA 20.03.04.000 *et seq.*, (which may be viewed at <https://adminrules.idaho.gov/rules/current/20/0304.pdf>) the Director of the Idaho Department of Lands (“IDL”) has appointed Andrew Smyth, Public Trust Program Manager, as “Hearing Coordinator” to conduct a public hearing in the above-captioned matter. The public hearing will be conducted pursuant to Idaho Code § 58-1306(c). The Hearing Coordinator has the scope of authority delineated by IDAPA 20.01.01.413.01 and, as applicable, by IDAPA 20.03.04.030.

The provisions of Idaho Code § 58-1306 and IDAPA 20.03.04.030 apply to the above-captioned matter and require that a hearing on the application be held within ninety (90) days of the application date. Idaho Code § 58-1306(c) and IDAPA 20.03.04.030.05. In order to comply with this deadline, I delegate initial decision-making authority to the Hearing Coordinator. In accordance with Idaho Code § 67-5245, the Hearing Coordinator shall submit a preliminary order to the Director of IDL, who shall then issue a Final Order no more than thirty (30) days after the conclusion of the hearing.

As provided in Idaho Code § 67-5240, the contested case provisions of the Administrative Procedure Act do not apply where the legislature has directed the use of

alternative procedures. Because the Legislature has enacted specific alternative procedures in Idaho Code § 58-1306 that require a final order to be issued within thirty (30) days of the hearing, and leave insufficient time to consider petitions for review of the preliminary order, the procedures of Idaho Code § 67-5245 addressing petitions for review of preliminary orders are not applicable.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be conducted in accordance with IDAPA 20.01.01.000 *et seq.* on **Thursday, December 3, 2020 at 1:00 p.m. Pacific Daylight Time** via videoconference. To participate in the hearing, you may use the following link:

<https://idl.zoom.us/j/86565419462?pwd=bXFBREltUFhiVDZhWG5EVGJudWFRZz09>

or from the Zoom application main menu, select Join and then enter Meeting ID 865 6541 9462, and Passcode 420214. Alternatively, to participate by phone only, you may dial (669) 900-6833 and enter Meeting ID 86565419462 # and Passcode 420214. Please note that written comments, submitted as set forth below, and oral comments, will be given the same weight and consideration.

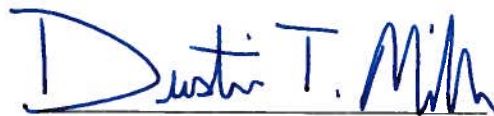
In order to allow for a smoother video conference hearing, it is important that parties submit their exhibits prior to the hearing. Therefore, by five o'clock (5:00 p.m.) Pacific Time, Monday, November 30, 2020, all parties must email to the Hearing Coordinator, via kromine@idl.idaho.gov, **and to all other parties**, a list of all exhibits you may offer at the hearing along with a complete and correct copy of each exhibit., The Applicants, Gregory and Debra Wilson, will label any exhibits alphabetically (A, B, C . . .). The Objector, William Faloon, will label any exhibits numerically (1, 2, 3, . . .). The Idaho Department of Lands will label any exhibits numerically and preceded by "IDL" (IDL-1, IDL-2, IDL-3. . .).

The Rules of Procedure (IDAPA 20.01.01.000 *et.seq.*) may be viewed at <https://adminrules.idaho.gov/rules/current/20/0101.pdf>. The hearing record may be viewed at <https://www.idl.idaho.gov/lakes-rivers/administrative-hearings/>

You may attend and present comments at the public hearing. You may also submit written comments to comments@idl.idaho.gov (please enter "Case No. PH-2020-PUB-10-001" in the subject line) or to Idaho Department of Lands, PO Box 83720, Boise, ID 83720-0050. In order to be considered, all written comments must be received by the close of the hearing.

The hearing will be conducted in facilities that meet the accessibility requirements of the Americans with Disabilities Act ("ADA"), in accordance with IDAPA 20.01.01.550 and 551. If a person requires assistance of the kind IDL is required to provide under the ADA in order to participate or in order to understand the hearing, IDL will supply the assistance upon request. Documents, pleadings, or requests for ADA assistance, a copy of the Rules of Procedure, or other general requests may be submitted to Mike Ahmer at mahmer@idl.idaho.gov or at 3258 W. Industrial Loop, Coeur d'Alene, ID 83815. Any request for ADA assistance must be submitted by noon on Monday, November 30, 2020.

DATED this 10th day of November 2020.



DUSTIN T. MILLER, Director
Idaho Department of Lands

CERTIFICATE OF MAILING

I hereby certify that on this 10th day of November 2020. I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Gregory M. and Debra B. Wilson
32 Blackcap Ln
Coolin, ID 83821

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: greg@wilsonlaw.us

Tri-State Consulting Engineers, Inc
Steven W. Syrcle, P.E.
1859 N. Lakewood Dr, Suite 103
Coeur d'Alene, ID 83814

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: ssyrcle@tristateid.com

William Faloon
6618 South Tomaker Lane
Spokane, WA 99223

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: billlofspok@aol.com

Angela Schaer Kaufmann
Office of the Attorney General
P.O. Box 83720
Boise, ID 83720-0010
Counsel for IDL

- ☒ Statehouse Mail
☐ Hand Delivery
☒ Email: angela.kaufmann@ag.idaho.gov

Kourtney Romine *on behalf of*
Andrew Smyth, Hearing Coordinator

- ☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Email: kromine@idl.idaho.gov


Diane Griffin, Administrative Assistant

Copy sent via email and/or regular U.S. Mail, postage prepaid to Those Who Have Provided Comments.

Idaho Department of Environmental Quality
c/o Chantilly Higbee
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814
Chantilly.Higbee@deq.idaho.gov

Idaho Department of Fish & Game
c/o Merritt Horsmon
2885 W. Kathleen Ave.
Coeur d'Alene, Id 83815
merritt.horsmon@idfg.idaho.gov

From: [Trevor Anderson](#)
To: [Kourtney Romine](#)
Subject: FW: Bill Faloon's shoreline erosion in Diamond Park
Date: Friday, November 20, 2020 11:56:56 AM

Kourtney,

Can you please add this email and attachments to the Faloon/Wilson hearing record.

Thank you.

Trevor

From: billofspok@aol.com <billofspok@aol.com>
Sent: Monday, August 24, 2020 11:26 AM
To: Trevor Anderson <tranderson@idl.idaho.gov>
Subject: Bill Faloon's shoreline erosion in Diamond Park

Dear Trevor,

Thank you for talking with me today.

As we discussed, I own a cabin in Diamond Park Addition. The address is: 16 South Diamond Park Rd (lot 18).

My concern is that the sand on our beach is eroding away. This is detracting from the recreational use and appearance of the beach and potentially adversely affecting the property value. My neighbor to the north, Greg Wilson, has a "wall" at the property line between our properties. It extends across the beach and approximately 20 - 30 feet into the lake. It is made of large rocks, sand bags and a log. I have attached pictures of my shoreline (beach), the "Wilson's wall" and some of their beach so that you can better understand what I am describing.

Because of the natural flow of the lake, the wall that was created by Mr. Wilson is causing our beach to be eroded. The reason that Mr. Wilson's created (and maintains) the wall in the first place was to improve his beach. Unfortunately this seems to be to the detriment of ours. I have assessed the dynamic flow of the lake. Rocks and sand are constantly being displaced by the water. The lake seems to flow from southwest to northeast. The rocks, which are relatively heavy, are impeded by the "Wilson's wall", while the sand, that is lighter, flows over or through it onto their beach. Because of the lake's flow pattern, the sand is eroded away from our beach and retained on theirs while the heavier rocks are retained on our beach. Please

review the attached pictures to see the difference between the Wilson's beach and ours.

Greg Wilson told me that he purchased sand for his beach several years ago. However, from what I understand, this sand was put on their beach, not in the lake. This would not affect the status of our beach.

I would like to discuss this with you prior to you notifying Mr. Wilson. I am in the process of reviewing the Idaho rules/laws of the lake (i.e. Navigational Encroachments) prior to discussing this with Mr. Wilson. I would like to maintain an amicable relationship with him while restoring our beach to its natural state. Therefore, I have not provided Mr. Wilson's contact information until you and I discuss this matter.

Please feel free to contact me.

Trevor, thank you for your consideration.

My contact information is:

William W. Faloon Jr., M.D.
6618 South Tomaker Lane
Spokane, WA 99223

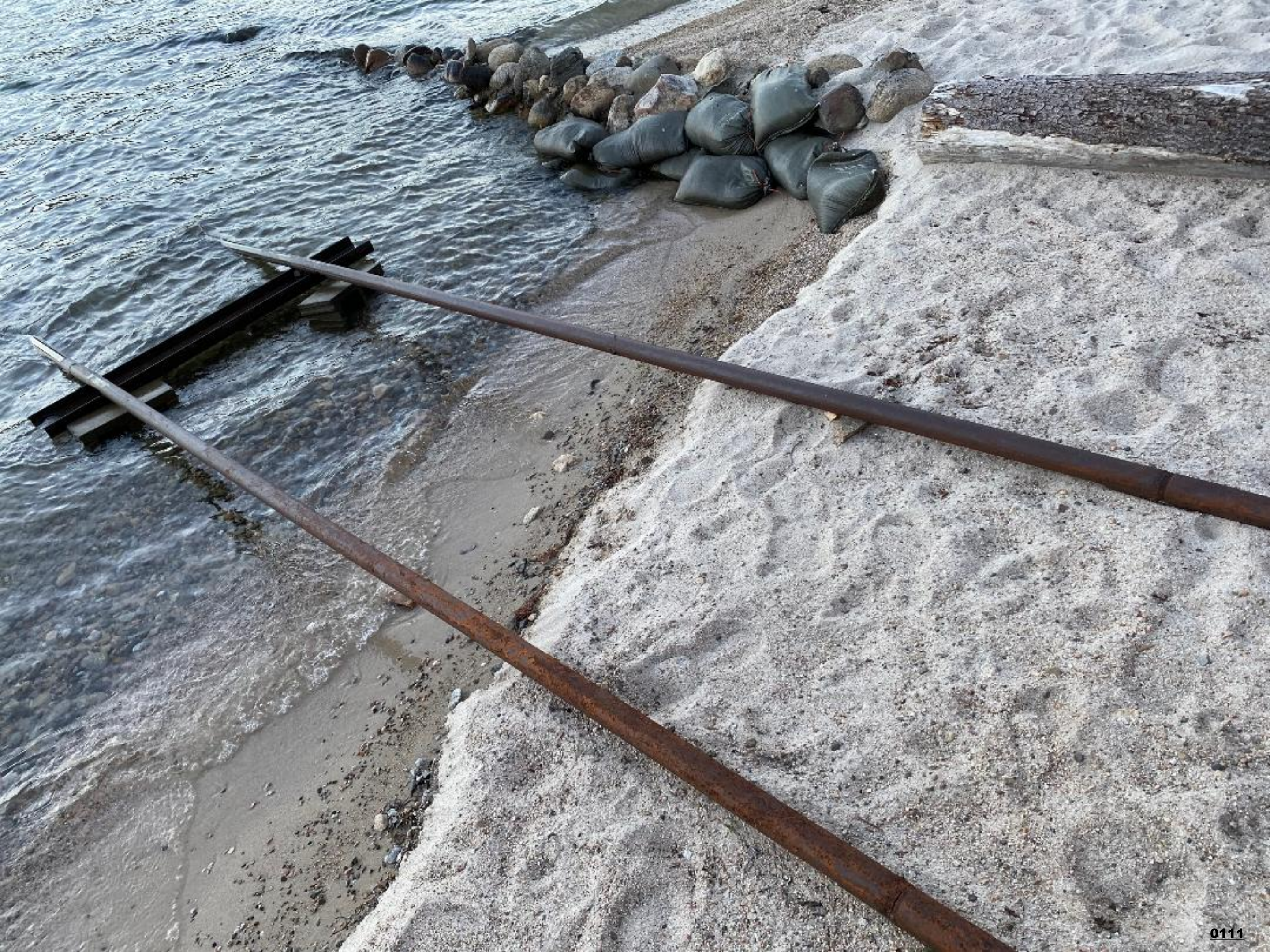
Cell: 509-869-8652

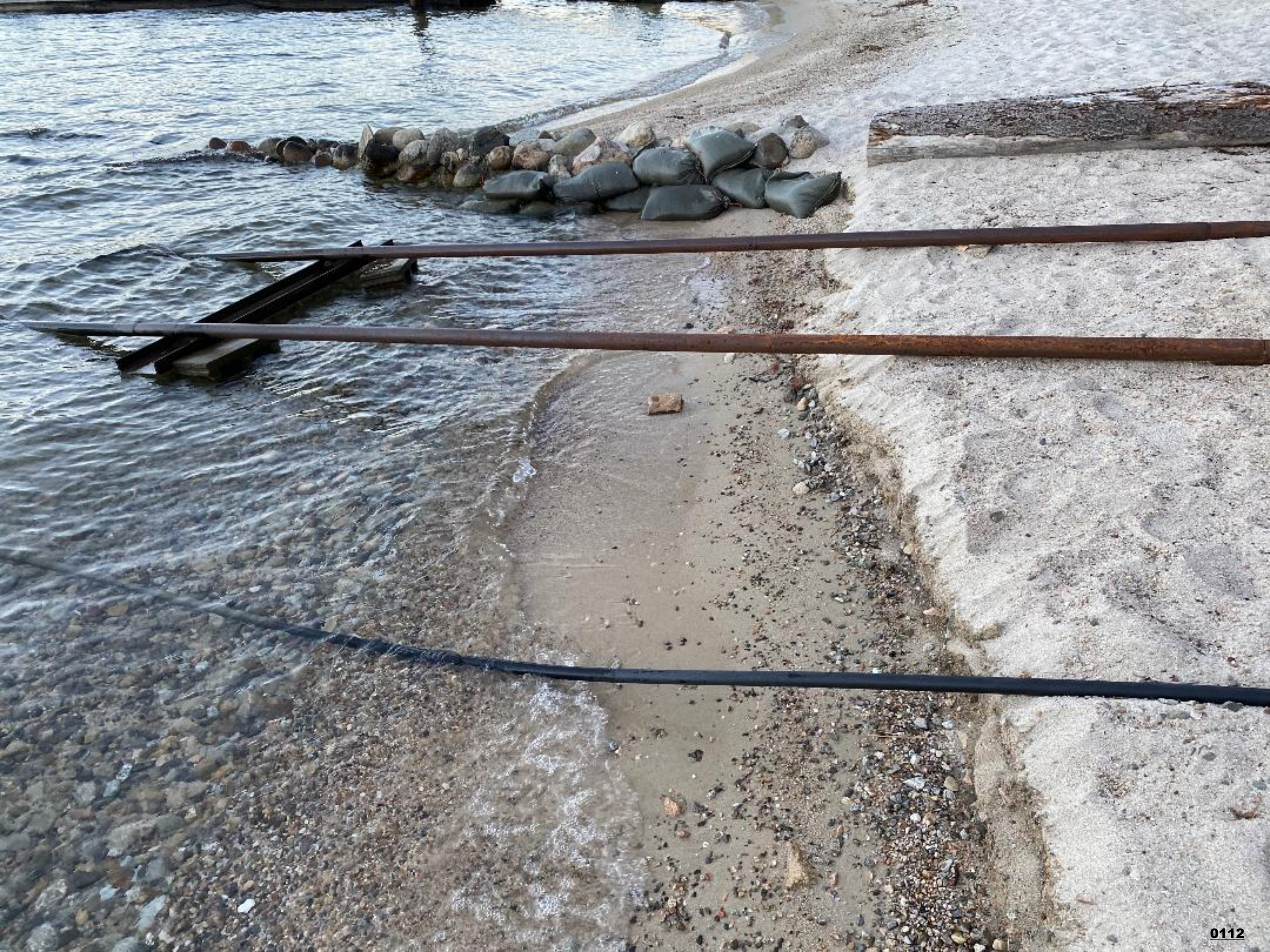
E-mail: Billofspok@aol.com or WFaloon3@gmail.com

Sincerely,

Bill Faloon

























From: billofspok@aol.com
To: greg@wilsonlaw.us; ssyrcl@tristateid.com; angela.kaufmann@ag.idaho.gov; [Kourtney Romine](#)
Subject: Bill Faloos response to the Wilsons Encroachment (Permit Application No. L-97-S-1081B)
Date: Saturday, November 28, 2020 08:21:43 AM
Attachments: [1. Faloos response \(opposition\) to Wilson's rip-rap.docx](#)
[2014 - USGS PL Level 2014.pdf](#)
[2015 - USGS PL Level 2015.pdf](#)
[2016 - USGS PL Level 2016.pdf](#)
[2017 - USGS PL Level 2017.pdf](#)
[2018 - USGS PL Level 2018.pdf](#)
[2019 - USGS PL Level 2019.pdf](#)
[2020 - USGS PL Level 2020.pdf](#)
[2021- USGS Summer Pool level definition A.pdf](#)
[2022 - Annual Summary of USGS PL elevations.docx](#)
[2023 - Table-summary of PL elevations .xlsx](#)
[1-W \(E-mail to Greg Wilson, 9-1-20\).docx](#)
[2-W \(E-mail to Greg Wilson, 9-10-20\).docx](#)
[3-W \(E-mail to Debra Wilson, 9-15-20\).docx](#)
[4-W \(E-mail to Debra Wilson Sep. 2020\).docx](#)

**To: Greg Wilson Esq.
Steven Syrcle P.E.
Angela Schaer Kaufman
Kourtney Romaine**

As requested, I have provided my response and information in objection to the Wilsons application for a rip-rap barrier on Priest Lake - Encroachment Permit Application No. L-97-S-1081B

The attachments to this e-mail include:

- 1. My response letter: 1. Faloos response (opposition) to Wilson's rip-rap**
- 2. 2000 - 2023: Data on Priest Lake elevation from the USGS for the years 2000 - 2020, and additional information**
- 3.1-W through 4-W: E-mail correspondence that I sent to Greg and Debra Wilson concerning the barrier at our property line.**

I hope that all of you are having a nice, safe and healthy Thanksgiving Holiday

Bill Faloos

6618 South Tomaker Lane
Spokane, WA 99223
Billofspok@aol.com
11/27/20

Dear Idaho Department of Lands,

I received Trevor Anderson's letter dated 10/2/20. It included the permit application from Greg and Debra Wilson for a rip-rap barrier at the property line between our properties. The permit application proposes that the rip rap begins on the beach and extends into the lake. I oppose this application and object to the Wilsons putting up a rip-rap barrier.

The Wilson's have already created a "non-permittable" barrier at our property line. According to Trevor Anderson, he told Greg Wilson to remove it.

This letter will document that:

1. The only purpose of the Wilson's barrier is to enhance their beach by increasing the amount of sand that accumulates on it. It has nothing to do with bank or beach stabilization. Because of the natural flow of the lake, their barrier(s) has/have caused, and will continue to cause, sand on my beach to erode, while enhancing theirs.
2. The Wilson's proposal is not accurate, untrue and factually unsubstantiated by records from the USGS.
3. The permit created by Steven Syrcle, P.E. of Tri-State Consulting Engineers, is flawed, inaccurate and contradicts itself.

The creation of any barrier, including the one that the Wilsons have proposed, will continue to be detrimental to my shore and beachfront. It adversely affects my beach for recreational use, is aesthetically displeasing and will negatively impact the property value.

SEE DOCUMENTATION BELOW

The Wilsons proposal for a rip-rap barrier for beach, bank or property stabilization is not justified or needed.

I have created a timeline of pictures (below) that begins in 2002. It documents that there was no beach erosion until the Wilsons created the barrier at our property line.

Picture 1 (Below): This picture was taken in 2002, when I purchased the cabin/property. I own the red boat house, dock, cabin and property in this picture. The dock was in poor condition and needed to be replaced. The Wilson's property is to the left of the boat house and is not seen in the picture. The sand on the beach in front of my boat house is very good and there is no erosion. There are 2 cement blocks on the shore side of the dock which were part of the approach to the dock. I removed them in 2018.



Picture 1

Picture 2 (Below): Taken in 2004. This shows that my new dock and approach were built at a different location than the old dock. You can see the Wilson's "old" rock retaining wall on their bank to the left of my red boat house. If you look at the beach, there is no barrier at the property line between the Wilson's property and mine and there is no beach erosion. The 2 concrete blocks on the lake side of my boat house are still there. However, since I changed the position of my dock, they are non-functional, an impediment to using all of my beachfront and an "eye-sore". I planned to remove them in the future (done in 2018).



Picture 2

Picture 3 (Below): Taken in 2005. It shows the Wilson's "old" (prior) cabin and their beachfront. There is no barrier at the property line between our properties and no beach erosion. The Wilson's "old" rock retaining wall on their bank runs approximately parallel to their beach. This was replaced by a retaining wall made of large boulders when they build their new cabin in approximately 2006 or 2007 (see pictures 4, 5, 6, 7 and 19).



Picture 3

Pictures 4 and 5 (Below): Taken by the Wilsons and e-mailed to me by Debra Wilson. These pictures were taken after they built their new cabin in approximately 2006 or 2007.

Picture 4 shows their new rock retaining wall on their bank that runs approximately parallel to their beach. It is made of large boulders and prevents erosion of their upland property. If you look at the beach in front of my red boat house (in the distance) you can see a few rocks at the waterline and on shore. This is the beginning of the barrier that the Wilson's built. There is still no beach erosion.



Picture 4

Picture 5 (Below): Taken after 2006 or 2007. It shows the Wilson's new cabin and retaining wall. If you look closely at the property line between our properties it shows that the Wilsons were starting to build a barrier. **No beach erosion had occurred.**



Picture 5

Picture 6 (Below): Taken on October 27, 2018. I broke up, and later removed, the 2 concrete blocks. Please notice that the Wilsons had built up, and added to, their rock and log barrier at the property line. Also notice the distance between the end of the log and their retaining wall, approximately 15 – 20 feet.



Picture 6

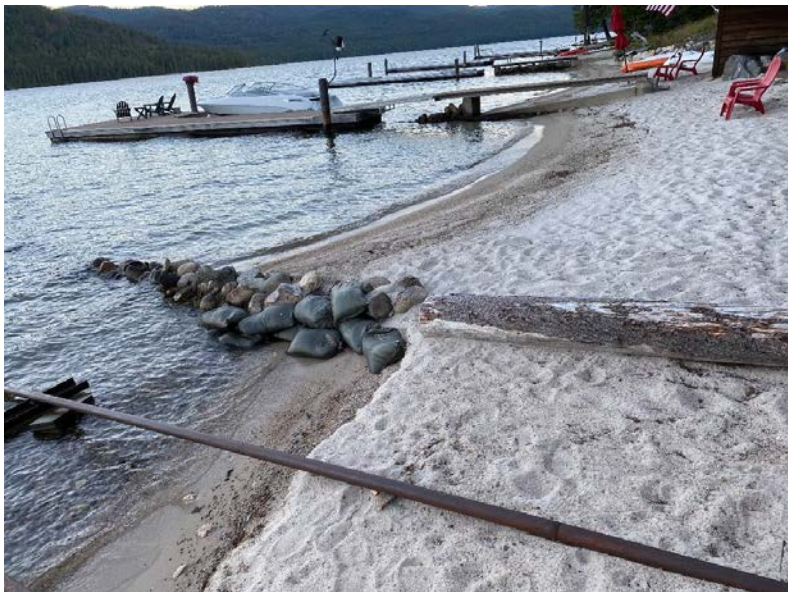
Picture 7 (Below): Taken on August 9, 2020. It shows that the Wilsons have continued to build, and added to, the barrier at the property line. They added more rocks and 10 sandbags to reinforce the barrier. The log on the beach is now approximately 3 – 5 feet away from their retaining wall while in picture 6 (above) it was approximately 15-20 feet away. This is because the barrier had been built up further.

The picture also documents the erosion of my beach and the enhancement of the sand on their beach. In addition, it shows a 2nd rock barrier that they built previously under the ramp and approach to their dock (in the distance in the picture). The 2nd rock barrier extends into the lake under part of their approach and the ramp to their dock. (Please see below for further discussion)



Picture 7

Pictures 8, 9, 10, 11 + 12 (Below): These pictures were taken on August 23, 2020. They show the erosion to my beach.



Picture 8



Picture 9



Picture 10



Picture 11



Picture 12

Pictures 13, 14 and 15 (Below) were taken on September 27, 2020. The Wilsons had put an additional sand bag (11th sandbag) on their side, in the middle of the barrier. This is seen well in picture 14. Why was this added? If you look closely at picture 15, it shows that sand had “come through” the barrier from the Wilson’s side of the barrier to my side of the barrier. The Wilsons put the additional sand bag there to prevent sand from coming through the barrier from their side to my side. Please compare picture 15 with picture 16. Picture 16 was taken on August 29, 2020, approximately 1 month before picture 15 was taken. Picture 16 shows that there was no additional (11th) sandbag as of August 29, 2020 and that no sand was on my side of the barrier at that time.



Picture 13



Picture 14



Picture 15



Picture 16

Taken on 8/29/20. There is no additional sand bag and no sand coming onto my side of the barrier.

The Wilson's have 3 barriers on their properties that impedes the natural flow of the lake. The purpose of them is to enhance the amount of sand on their beach, not to stabilize the shoreline or bank.

The barriers are the following:

1. The barrier that they created at our property lines, as discussed above.
2. The Wilson's have 2 docks; one on Lot 16 and another on Lot 17. Each dock has an approach and a ramp that extends from the approach to the dock.
 - A. The rock barrier under the approach on lot 16 was granted a permit to Michael and Nancy Brophy on 9/22/92. The Brophy's previously owned lot 16.
 - B. The rock barrier under the approach and ramp on lot 17, where the Wilson's cabin is located, does not have a permit.

See picture 17 (below). It was taken in 2003 and shows that there is no rock barrier under the Wilsons approach and ramp.

See picture 18 (below). It was taken in October, 2020 and shows the rock barrier beneath the Wilson's ramp and approach.



Picture 17



Picture 18

The purpose of these rock barriers is to enhance the sand on their beach, not stabilization of the shoreline.

As discussed previously, and shown in picture 19 (below) that was taken in October, 2020, the Wilsons have a large, well-constructed retaining wall made of boulders that runs approximately parallel to their shoreline. It stabilizes their bank and property. There is no need for an additional rip-rap barrier for bank stabilization.



Picture 19

ADDRESSING THE WILSON'S PROPOSAL FOR THE RIP-RAP INSTALLATION:

The Wilsons permit proposal has multiple inaccuracies and is not truthful. Please refer to the Wilson's permit application as these discrepancies are discussed below.

1. At the bottom of page 1 of the proposal, it states that the Purpose and Need is to: "Continue to Block 16 to detail each work activity and overall project" (see copy below). However, the Wilsons own lot 16. Lot 16 is the lot to the north of their cabin. Their cabin is on lot 17. Therefore they are proposing to block themselves from detailing the work that they do on their shoreline on lot 17. I own lot 18.

15. PURPOSE and NEED: ☐ Commercial ☐ Industrial ☐ Public ☒ Private ☐ 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.

Reduce shoreline erosion with rip rap installation

2. On the top of page 2 of the proposal it states: "Each spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3 foot rise in the plan is designed to mitigate seasonal flooding and upland erosion" (see copy below).

will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

This statement is false and has no factual basis.

I have attached to this letter (pages 2000 – 2023) the annual records from the USGS that delineates the elevation of Priest Lake from the year 2000 through 2020 (21 years). I have summarized the USGS information for each year below.

The summer pool is normally at 3-3.5 feet. (See page 2021)

2000: May 22 – June 1 (9 days). Maximum elevation was 4" above summer pool.

2001: Never went above summer pool level.

2002: May 15 – June 30 (22 days). Maximum elevation was 12" above summer pool (for approximately 3 days)

2003: May 15 – June 30 (11 days). Maximum elevation was 5" above summer pool.

2004: Never went above summer pool level.

2005: Never went above summer pool level.

2006: May 17 – June 21 (34 days). Maximum elevation was 21" above summer pool. It was 18" – 21" above summer pool for 6 days.

2007: Never went above summer pool level.

2008: May 19 – June 14 (30 days). Maximum elevation was 18" above summer pool. It was 12" – 18" above summer pool for 13 days.

2009: June 1 – June 4 (3 days). Maximum elevation was 2" above summer pool.

2010: June 2 – June 18 (16 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for approximately 3 days.

2011: May 17 – June 9 (53 days). Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 7 days.

2012: May 15 – July 8 (53 days) Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 10 days.

2013: May 12 – June 2 (21 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for 3 days.

2014: May 18 – June 8 (21 days). Maximum elevation was 8" above summer pool.

2015: Never went above summer pool level.

2016: A. April 24 – April 28 (4 days). Maximum elevation was 1.2" above summer pool.

B. May 23 – June 1 (8 days). Maximum elevation was 4.2" above summer pool.

2017: May 10 - June 12 (33 days). Maximum elevation was 8.4" above summer pool.

2018: May 7 – June 8 (32 days). Maximum elevation was 24" above summer pool (approx. 1 day). It was 18" – 24" above summer pool for 13 days.

2019: July 2 – July 5 (3 days). Maximum elevation was 3" above summer pool.

2020: May 20 – June 13 (24 days). Maximum elevation was 11" above summer pool (for 2-3 days)

This information is summarized in Table 1 (See page 2023)

The USGS data documents that during the past 21 years the maximum lake elevations were the following:

- Never went above summer pool in 5 years (24%)
- Was 0 - 6 inches above summer pool in 5 years (24%). The maximum elevations during these years were: 2", 3", 4", 4.2" + 5".
- Was > 6 - 12 inches above summer pool in 6 years (28%). The maximum elevations during these years were: 7", 7", 8", 8.4", 11" + 12".
- Was > 12 - 18 inches above summer pool in 3 years (14%). The maximum elevations during these years were: 15", 15" + 18".
- Was > 18 - 24 inches above summer pool in 1 year (5%). The maximum elevation was 21".
- Was > 24 inches above summer pool in 1 year (5%). The maximum elevation was 24". It lasted for 1 day.

From 2000 through 2020, Priest Lake has been 18 – 24 inches above summer pool for a total of 21 days.

The statement in the Wilsons permit application that “the yearly spring flooding is 18 - 36 inches above summer pool” is inaccurate and false.

3. On the top of page 2 it states: “ The installation of rip rap will commence 17.5 feet west of the SW corner of lot 17A (point A – Applicant’s lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west into the lake terminating at point D.” (See copy below)

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

This statement is inaccurate and does not make directional sense. It says that the rip rap will begin at the intersection of the OHWM (point B) and then continues west to the OHWM (Point C). There is only one OHWM, yet in this statement they describe 2 OHMW's (at point B and point C).

4. There are conflicting statements and descriptions of the size of the proposed barrier.

On the top of page 2 it states: “Segment points C to D will have rip rap footprint of 4.5ft x 3 ft x 3 ft.” (see copy below).

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

However, on page 3 it documents that the size of the barrier, from point C to D, is different than stated on page 2 (above). It states that from point C to D the size is: 4.5 ft long x 3 ft wide x 1 ft high (See copy below).

Activity	Name of Water Body	Intermittent Perennial	Description of Impact and Dimensions	Impact Length Linear Feet
Rip rap	Priest Lake		8.5 ft long x 1 ft. wide x 1ft. high (Point B to C)	8.5
Rip rap	Priest Lake		4.5 ft. long x 3 ft. wide x 1 ft. high (Point C to D)	4.5

5. The schematic diagram (see Diagram 1, below) in the proposal is inaccurate and not consistent with the written descriptions of the barrier in the proposal (as discussed in item 4, above). In the written proposal, the segment from point B to point C is: 8.5 ft. x 1 ft x 1 ft. (1 ft wide and 1 ft high throughout its entire length). However, in the diagram (see Diagram 1 below) the barrier is 3 ft wide at point B and gets narrower as it continues to point C.

Also, according to the written proposal, the size of the segment from point C to point D is: 4.5 ft long x 3 ft wide x either 3 ft or 1 ft high (inaccurate discrepancy).

Therefore, according to the written proposal, the segment from point B to point C should be longer and narrower (8.5' x 1' x 1') than the segment from point C to point D (4.5' x 3' x 3' or 1'). However, in the diagram (see Diagram 1 below) the proposed barrier dimensions are the opposite of this description: Segment B to C is wider than the segment from points C to D.

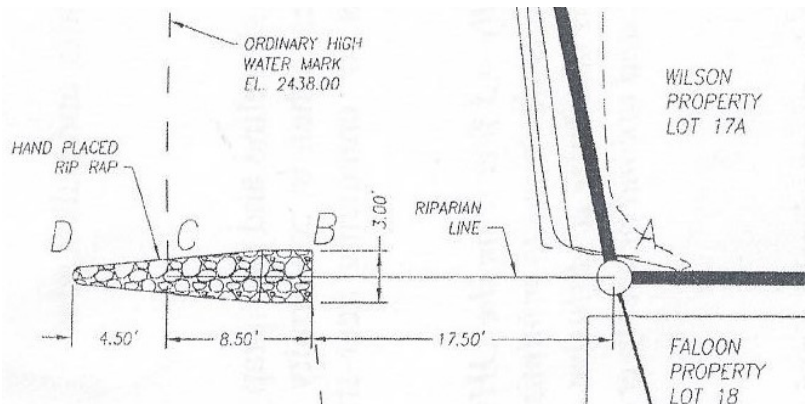


Diagram 1 (above):

Also, the other diagram (see Diagram 2 below) in the proposal is not accurate and not consistent with the written proposal. In the written proposal, the segment from point B to point C is to be 1 ft in height throughout. However, in diagram 2 this segment gets progressively higher (taller) from point B to point C.

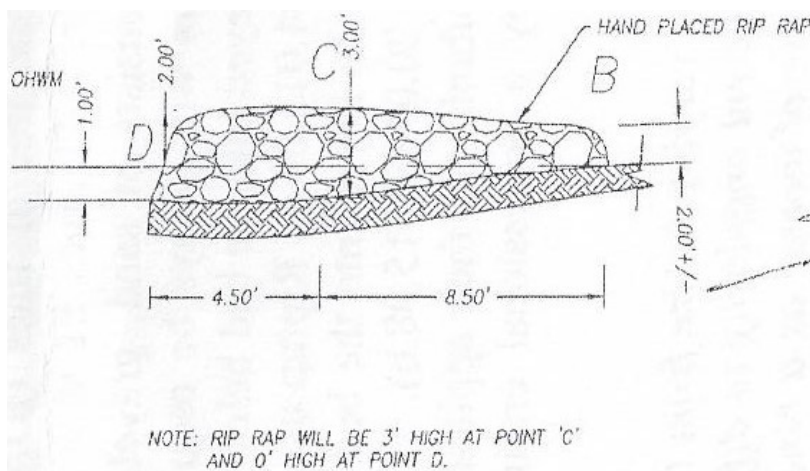


Diagram 2 (above):

In order to understand the magnitude of the Wilson's proposed barrier I built a full scale models of it. I then put the models on the shore at the proposed places at our property line and took pictures of it. One model is 8.5 ft x 1 ft. x 1ft and the other is 4.5 ft x 3 ft x 3 ft. I went to my beach and measured and marked the proposed placement of the barrier.

Please see the pictures and descriptions below.

Point A is at the SW corner of the property (see picture 20).

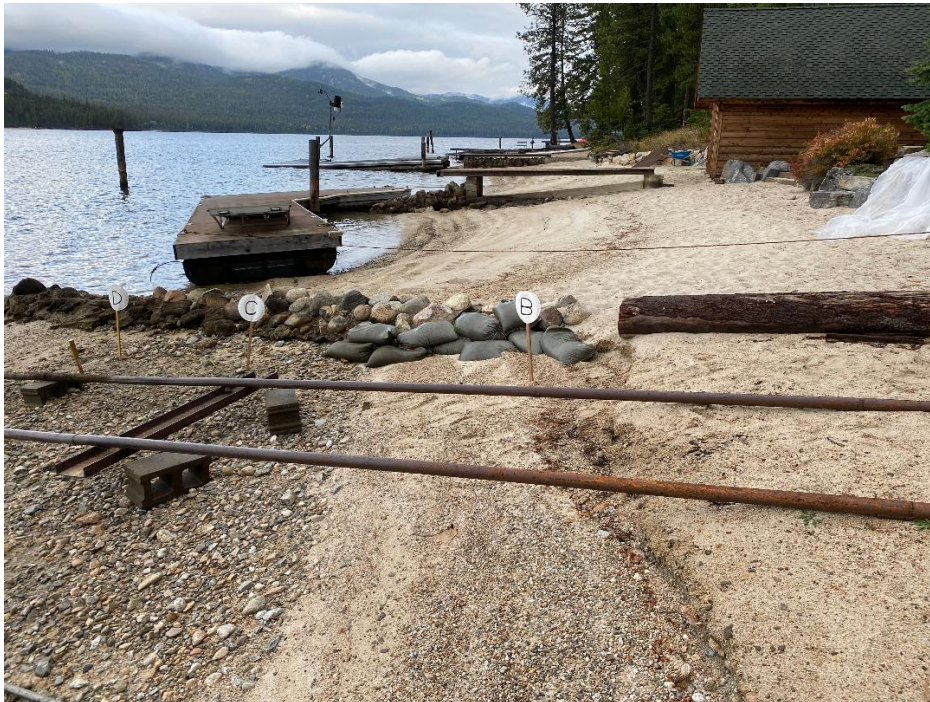


Picture 20

Point B is 17.5' west of the SW corner (see picture 21 – below)

Point C is 8.5' west of Point B (see picture 21 – below)

Point D is 4.5' west of point C (see picture 21 – below)



Picture 21

I then put the models in place. From Point B to Point C, I placed the model that is 8.5' long x 1' wide x 1' high. From point C to Point D, I put the model that is 4.5' long x 3' wide x 3' high.

Please see pictures 22, 23, 24, 25 to assess the size and dimensions of the Wilsons proposed barrier. In fact, the segment from point B to point C will be higher than in the pictures of my model because my beach has eroded and the model is resting at a lower level.



Picture 22



Picture 23



Picture 24



Picture 25

The rip-rap barrier proposed by the Wilsons will be larger and create more erosion to my beach than their current barrier that is not “permissible”. It will require frequent monitoring by the Idaho Dept. of Lands that may necessitate the department and the Wilsons to have further discussions, meetings and possibly require legal assistance.

On September 1, 2020 and September 10, 2020 I e-mailed Greg Wilson. I requested that he remove the barrier. However, he never response to my e-mails and we have not spoken since my e-mails were sent. I then

spoke with Debra Wilson once and communicated twice via e-mail. (Please see attached documents: 1-W through 4-W).

In conclusion, there is no need for the Wilson's proposed barrier.

1. There is no documentation of regular spring flooding of the lake as described by the Wilsons. The statement that "Each spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches" is factually inaccurate and not supported by the USGS records.
2. The Wilsons already have a large, well-constructed rock retaining wall on their bank that protects their upland property.
3. The only reason that the Wilsons created the barriers at our property line and under the approach and ramp to their dock is to enhance the sand on their beach. Unfortunately this is detrimental of my beach and property.
4. The Wilsons proposed barrier engineering plan is flawed. There are numerous inconsistencies and inaccuracies throughout.
5. The Wilsons proposed barrier would be larger than what they have already created, which is not "permissible".
6. The Wilson's 2 barriers do not follow the regulations under Idaho Title 58: Public Lands, Chapter 13: Navigational Encroachments.
7. The Wilsons have already created a barrier consisting of rock, sand bags and logs that is not "permissible" according to Trevor Anderson and the Idaho Dept. of Lands regulations. Trevor Anderson has told them to remove it. The size of the Wilsons proposed barrier will be difficult for the Dept. of Lands to control and regulate. It may require frequent monitoring and possible action by the Dept. of Lands which may require further discussions, meetings and possible legal assistance.

I object to the Wilson's proposal and request that the Wilsons remove the barriers at our property line and under the approach and ramp to their dock on Lot 17. This will allow the natural flow of the lake to be restored.

Thank you.

William W. Faloon Jr., M.D.

1-W

9/1/20

Dear Greg,

I hope that you are well. I am sorry that we did not talk this past weekend. We both seemed busy and had company.

Both of us have worked hard to try to maintain and improve our beachfronts. Unfortunately the sand on my beach, especially in front of the boathouse, has progressively eroded and washed away. This is due to the barrier of rocks and sandbags that you created between our properties. Because of the flow of the lake, the barrier causes rocks to accumulate on our side while the sand filters through and accumulates on your property. I am not sure if the rock barriers beneath the approaches to your two docks are adversely affecting my beach or your neighbors to the north.

In order for the beach on my property to stop eroding and return to a natural state, the flow of the lake has to be restored. Therefore I would like the barrier that you created between our properties to be removed, preferably within the next few weeks. I am happy, and willing, to help you with this.

I would like to remain amicable, good neighbors and friends. Both of us want to maintain or improve our properties. This includes enjoying our beaches for recreation, improving the aesthetics and maintaining our property values.

Thank you.

Sincerely,

Bill Faloon

9/10/20

Dear Greg and Debra,

Thank you for the card and muffins that you gave Shelley last weekend.

The loss of Ty's friend was very sad and unexpected. We never met him but from everything that we know he was a very good musician, loved the outdoors, was very smart and had a hilarious sense of humor. He was a great young man with potentially a very bright future. It is very sad...

Debra told Shelley that it would be better if I work with her concerning our beach erosion. I am happy to discuss and work with either of you as I would like to remain friends and amicable neighbors.

I appreciate Debra offering to help me build a barrier into the lake, including filling sand bags. This would be similar to the one that you created. However this is not permitted by the State of Idaho and may negatively impact the Aspen's beach and waterfront.

Because of the flow of the lake, unfortunately our beach erosion will persist and most likely get worse unless the barrier between our properties is removed.

If you would like me to communicate with Debra, please tell me her e-mail address. I would like to resolve this issue amicably between ourselves ASAP, preferably within the next few weeks.

If you or Debra would respond to this e-mail it would be greatly appreciated.

Thanks.

Bill Faloon

3-W

9/15/20

Dear Debra,

Thank you for talking last weekend.

I have attached 2 pictures. One shows our old dock and approach in 2002, prior to me taking ownership of the cabin and property. The other is a picture of the current dock, the remaining concrete approach, our boat lift and beach. It was taken in 2004.

Please send or e-mail me pictures that you have from 60 years ago of our beaches as well as other pictures of our beaches taken previously.

Thank you very much.

Bill Faloon

4-W

Dear Debra,

I have been working hard in HI. Not much fun. However the weather has been nice and there is no smoke.

Thank you for e-mailing me the pictures of your cabin and beach. They were taken after your new cabin was built, so approximately after 2006 or 2007. You had started to build the rock barrier at the property line by then.

I would greatly appreciate it if you would e-mail me copies of the pictures that you have from 60 years ago.

Thank you.

Bill Faloon

-----Original Message-----

From: Debra Wilson <debwilson29@icloud.com>

To: Bill Faloon <billlofspok@aol.com>

Sent: Wed, Sep 16, 2020 3:54 pm

Subject: Photos

Hi Bill!

Here are some photos. It is still smokey at the lake. It should be better by the weekend. I hope you are enjoying nice weather in Hawaii!

Debra

Sent from my iPhone

[Reply](#) [Reply All](#) [Forward](#)

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2000

Days (51) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2000-04-30

Gage height, feet

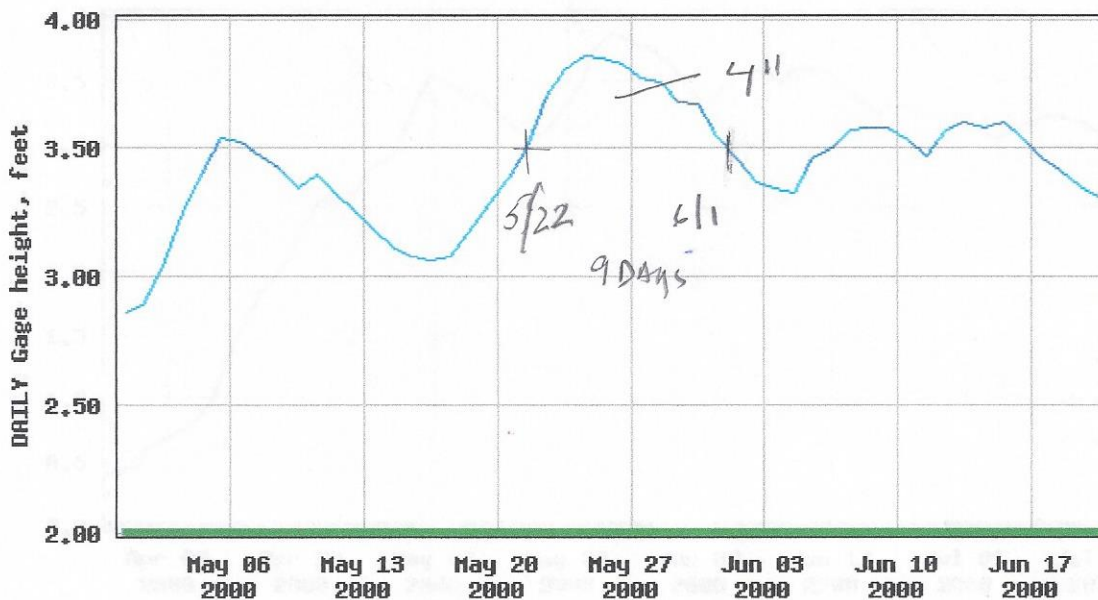
End date

2000-06-20

-- Daily Instantaneous data unavailable for the time period specified --

9 DAYS - 4" MAX

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

0145

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2001

Days (105)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2001-04-01

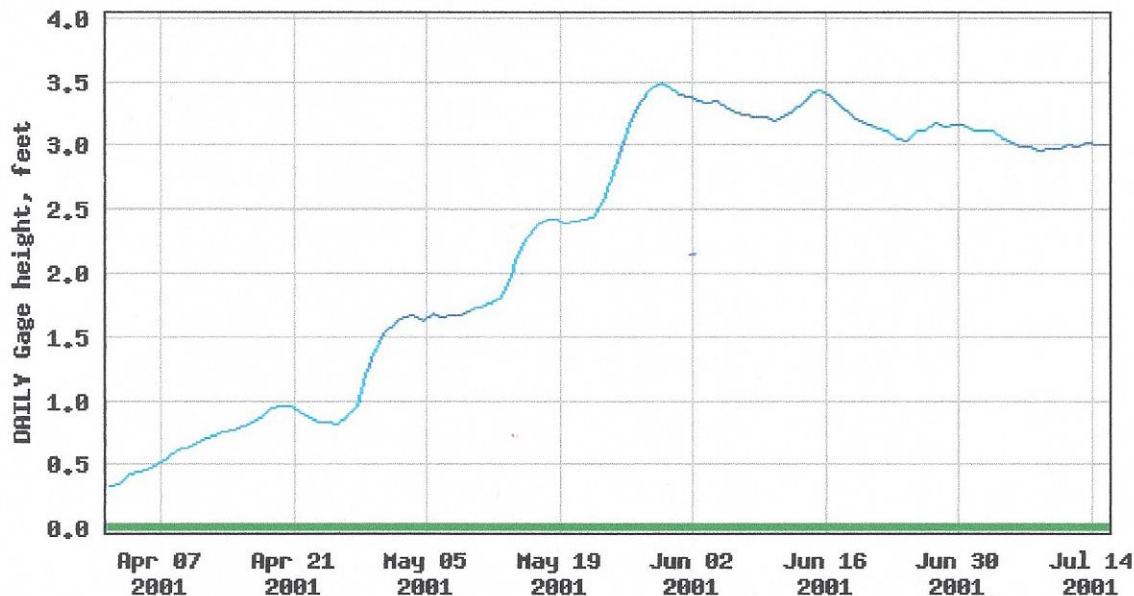
Gage height, feet

End date

2001-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



NEVER ABOVE
Summer pool

— Daily observation at midnight gage height
— Period of approved data

Begin date

2002-05-18

Gage height, feet

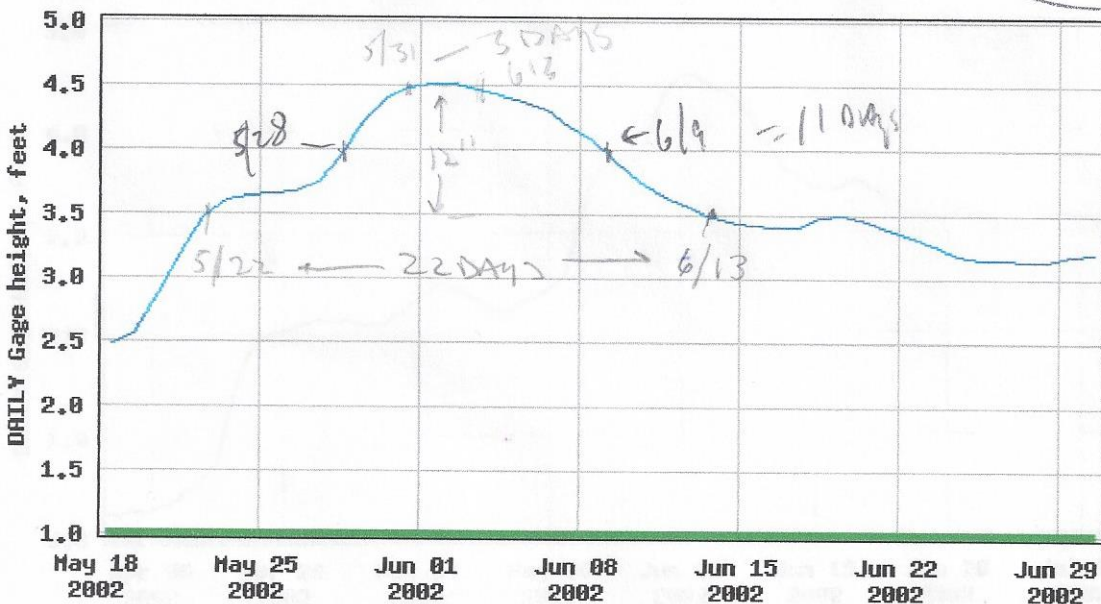
End date

2002-06-30

-- Daily Instantaneous data unavailable for the time period specified --

2002

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



5/15/02

1

6/30/02

-22 DAYS ABOVE
Summer pool.

-MAY 12" x \approx 3 DAYS

2002

— Daily observation at midnight gage height
— Period of approved data

0147

Days (46)

Summary of all available data for this site
Instantaneous-data availability statement

GO

-- or --

Begin date

2003-05-15

Gage height, feet

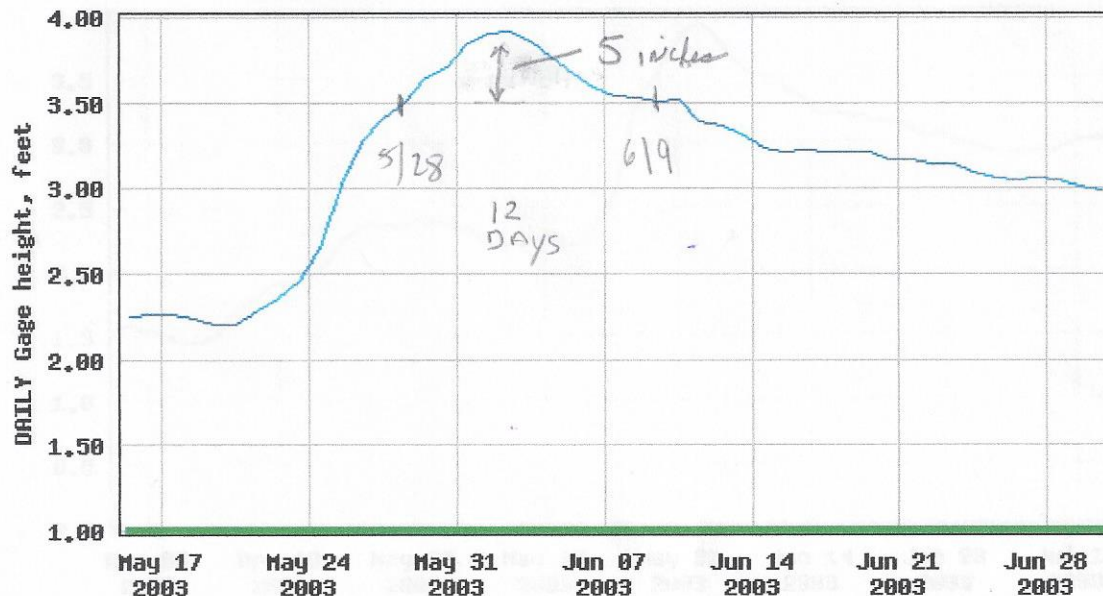
End date

2003-06-30

-- Daily Instantaneous data unavailable for the time period specified --

2003

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



5/15/03

6/30/03

11 DAYS ABOVE Summer POOL

MAX: 5" ABOVE Summer pool.

— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2004

Days (105) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2004-04-01

Gage height, feet

End date

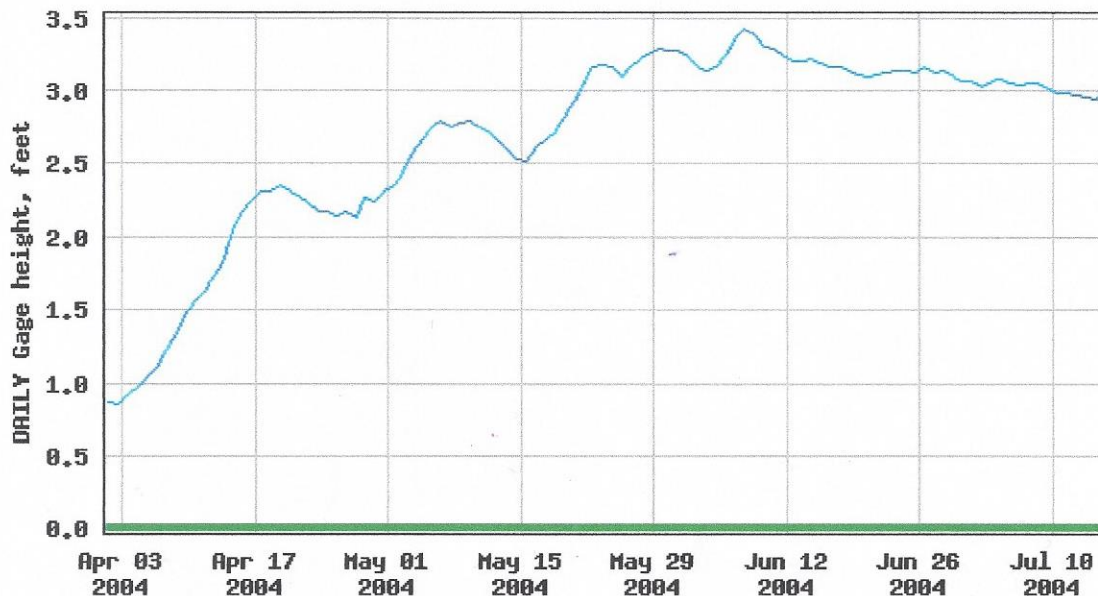
2004-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

- NEVER ABOVE

Summer pool -



— Daily observation at midnight gage height
 — Period of approved data

0149

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

5
2004

Days (105)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2005-04-01

Gage height, feet

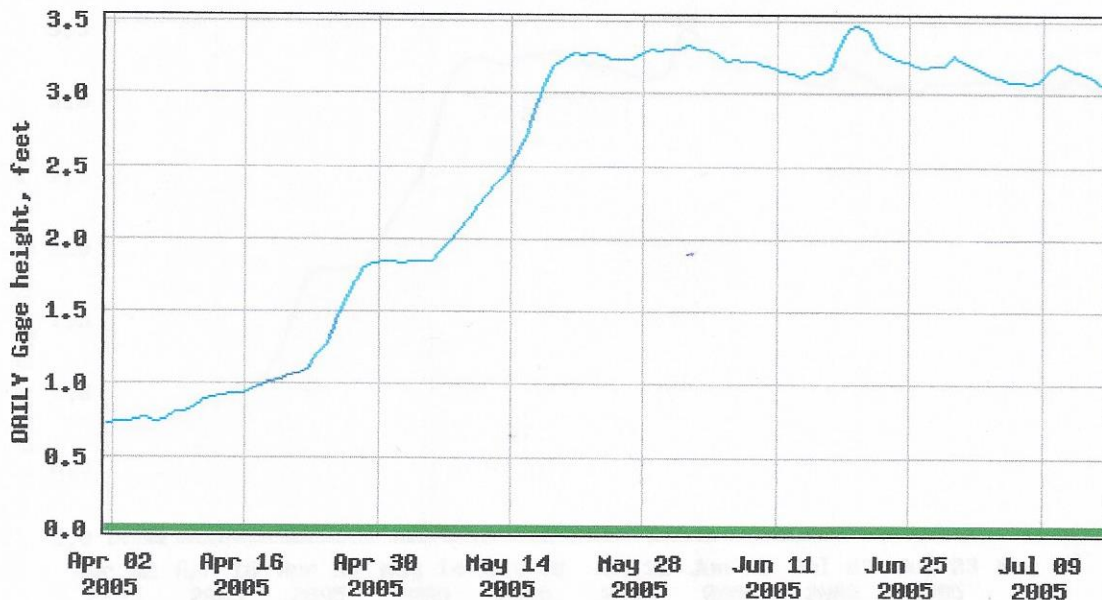
End date

2005-07-15

-- Daily Instantaneous data unavailable for the time period specified --

NEVER ABOVE
Summer pool

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2006

Days (61)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2006-04-30

Gage height, feet

End date

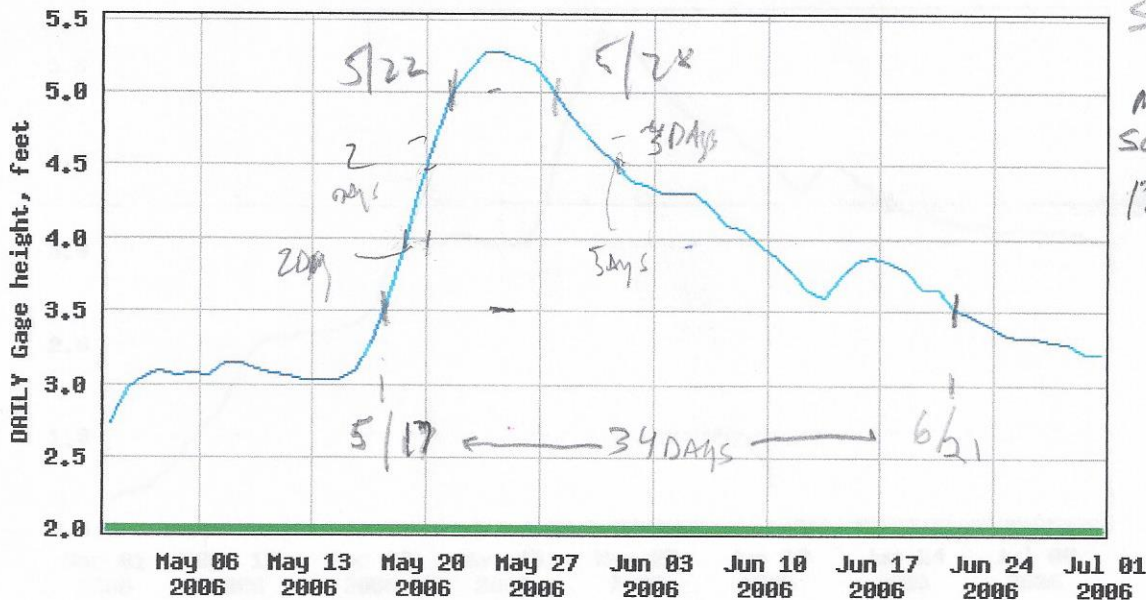
2006-06-30

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

34 Days ABOVE
Summer pool

MAX 21" ABOVE
Summer pool x
18" or higher x 6 days



— Daily observation at midnight gage height
 — Period of approved data

0151

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2007

Days (76)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2007-04-30

Gage height, feet

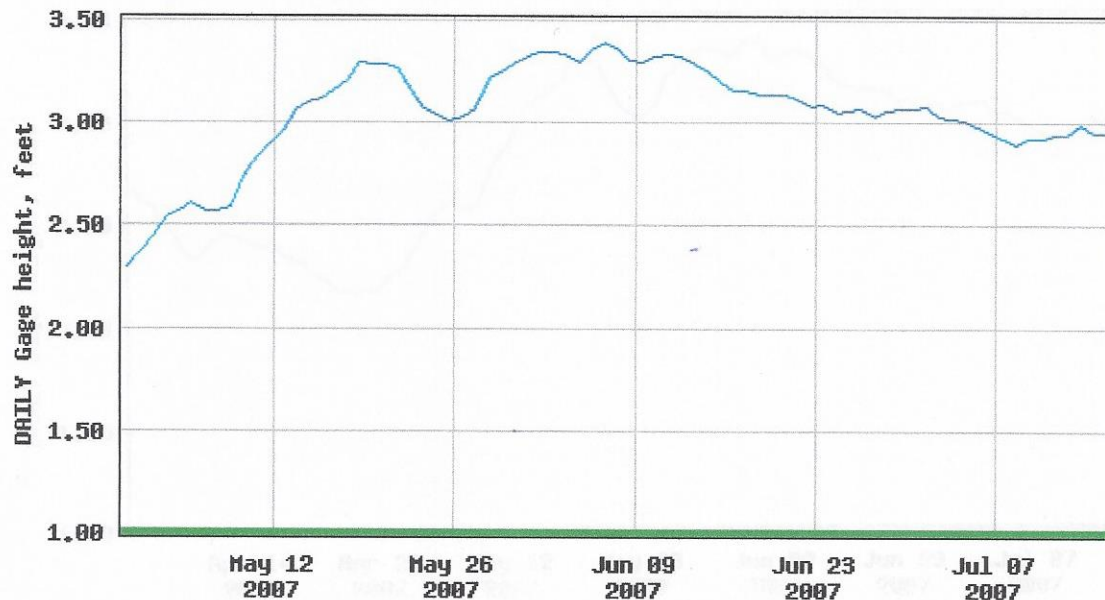
End date

2007-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

NEVER
ABOVE
Summer Pool



— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2008

Days (47)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2008-05-15

Gage height, feet

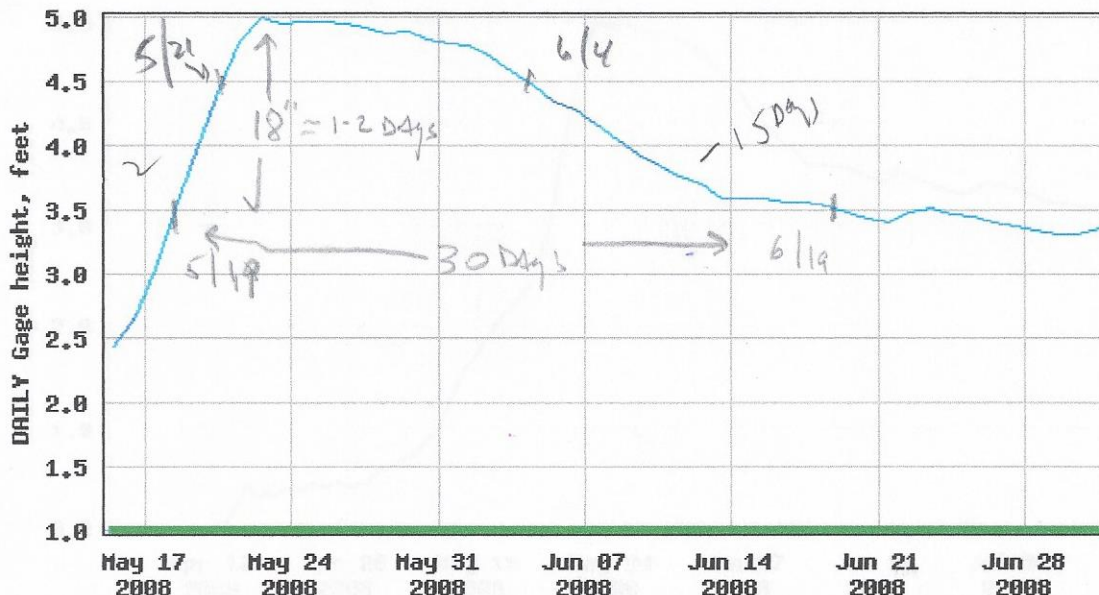
End date

2008-07-01

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

30 DAYS ABOVE Summer



POOL

MAX: 18"

12" or higher x 13 Days

— Daily observation at midnight gage height
 — Period of approved data

0153

- ☐ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2009

GO

Days (51)

Summary of all available data for this site
Instantaneous-data availability statement

-- or --

Begin date

2009-05-10

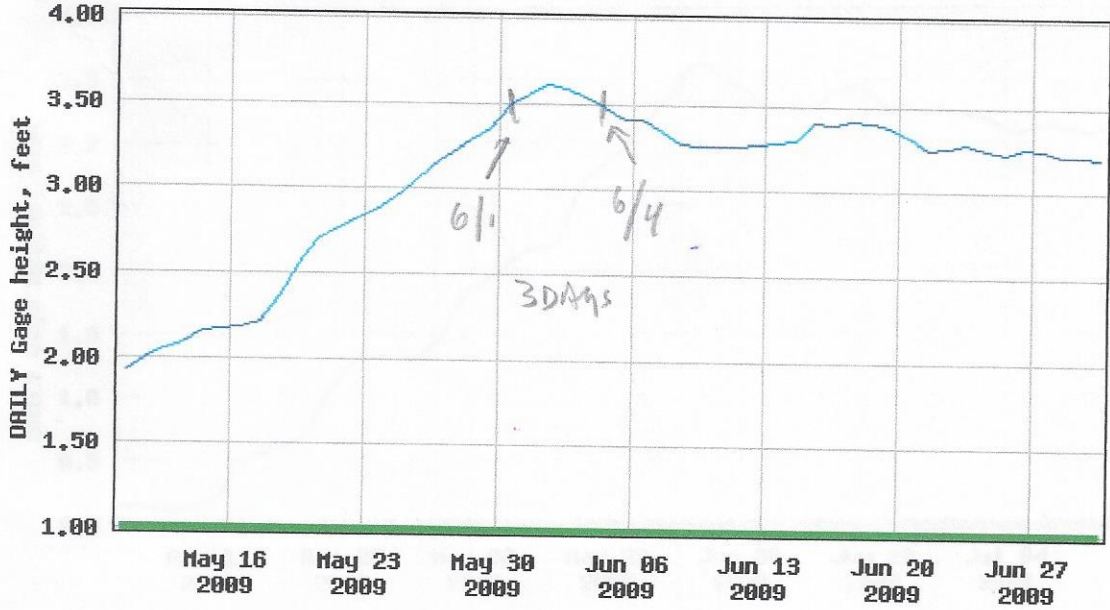
Gage height, feet

End date

2009-06-30

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



2" ABOVE SUMMER
 POOL for 3-4 days

— Daily observation at midnight gage height
 — Period of approved data

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2010

GO

Days (41) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

-- or --

Begin date

2010-05-20

Gage height, feet

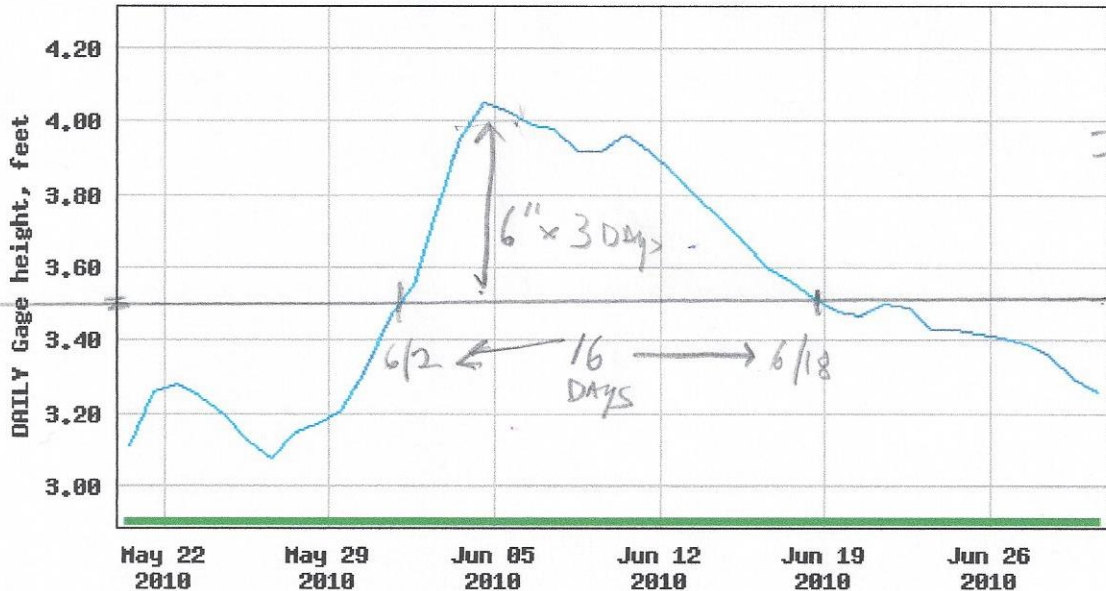
End date

2010-06-30

-- Daily Instantaneous data unavailable for the time period specified --

16 Days Above Summer pool

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



MAX: 6" ABOVE SUMMER pool
 = 7" x 3 DAYS

— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2011

GO

Days (66) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

-- or --

Begin date

2011-05-10

Gage height, feet

End date -- Daily Instantaneous data unavailable for the time period specified --

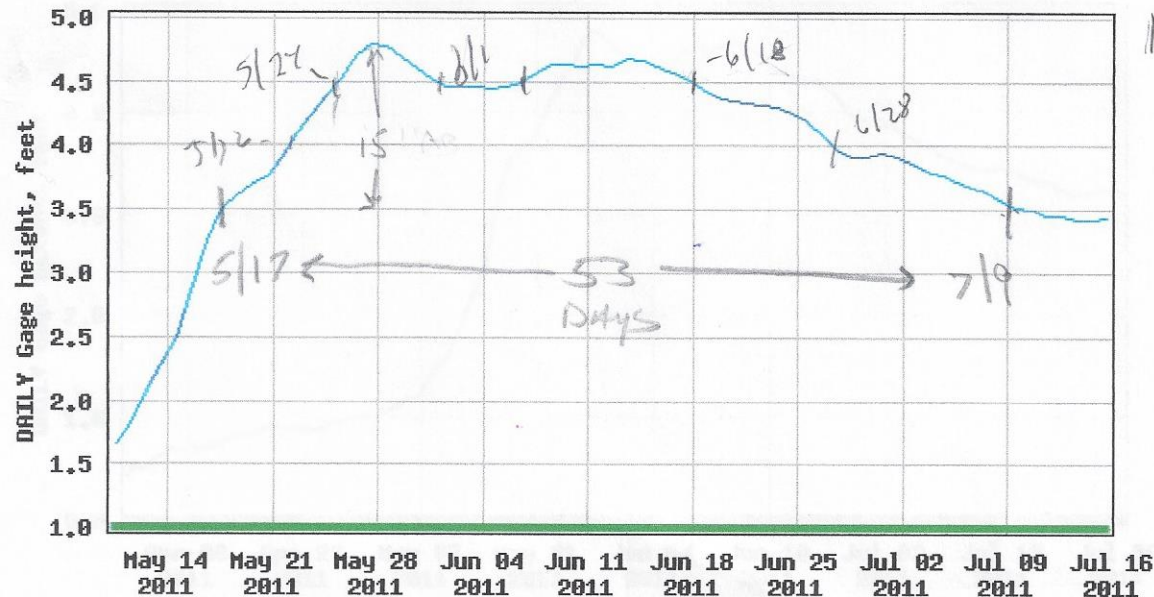
2011-07-15

53 days ABOVE Summer pool

MAX = 15"

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

12" on higher x 7 days



2 + 12 = 14

13
15
~

0156

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2012

GO

Days (81)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

-- or --

Begin date

2012-04-25

Gage height, feet

End date

2012-07-15

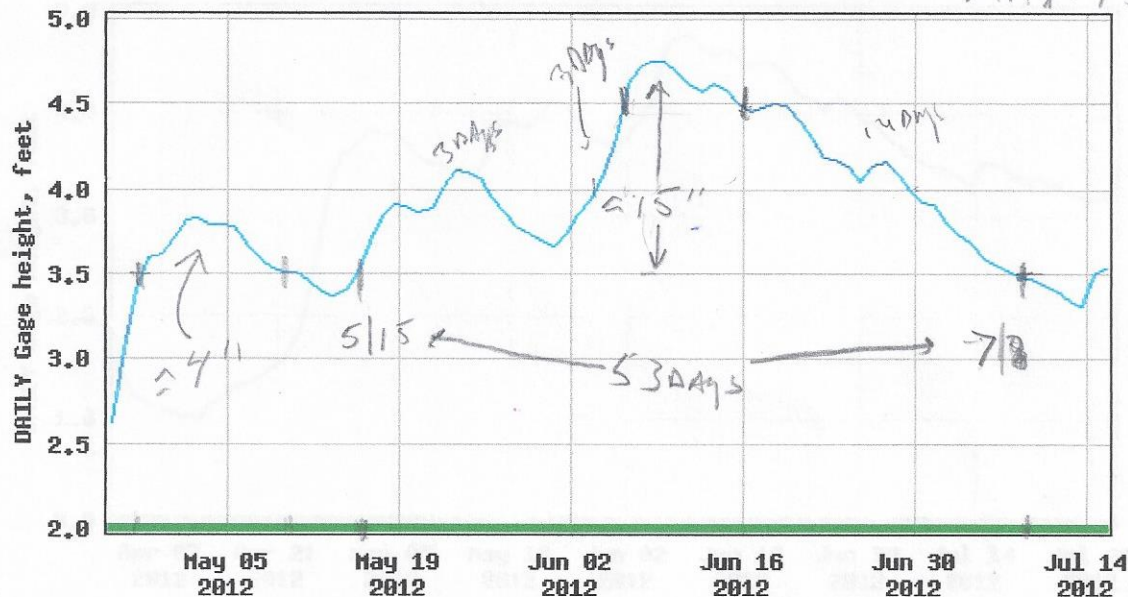
-- Daily Instantaneous data unavailable for the time period specified --

53 DAYS ABOVE SUMMER POOL

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

MAY: 15"

12"-15" x 10 DAYS



— Daily observation at midnight gage height
— Period of approved data

0157

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2013

Days (87)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2013-05-04

Gage height, feet

End date

2013-07-30

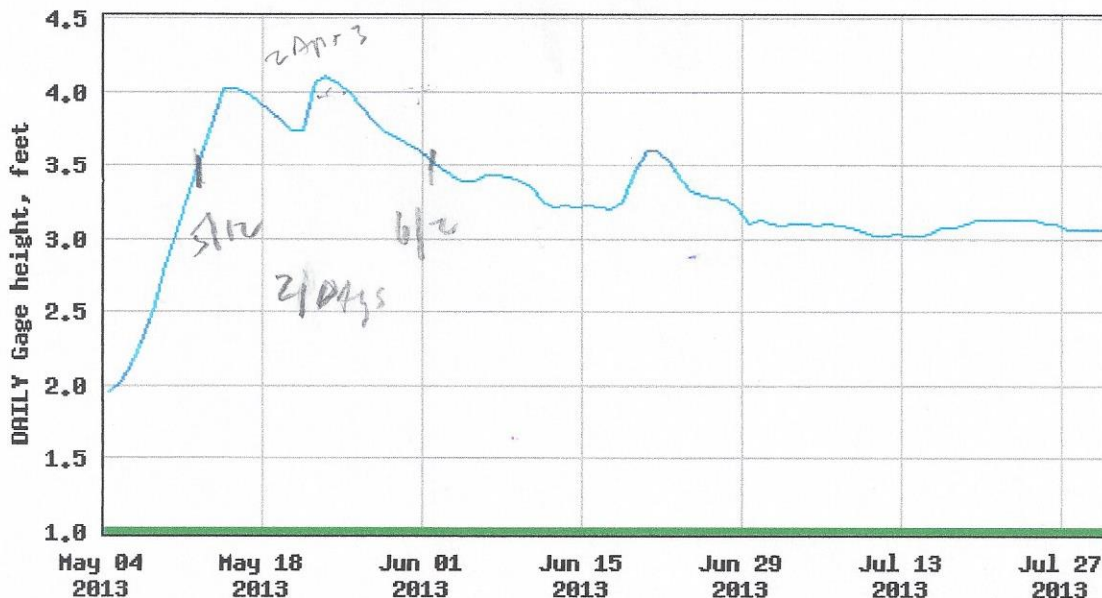
-- Daily Instantaneous data unavailable for the time period

specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

MAX. 7" ABOVE SUMMER POOL

6" or Higher x = 3 DAYS



Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-04-01

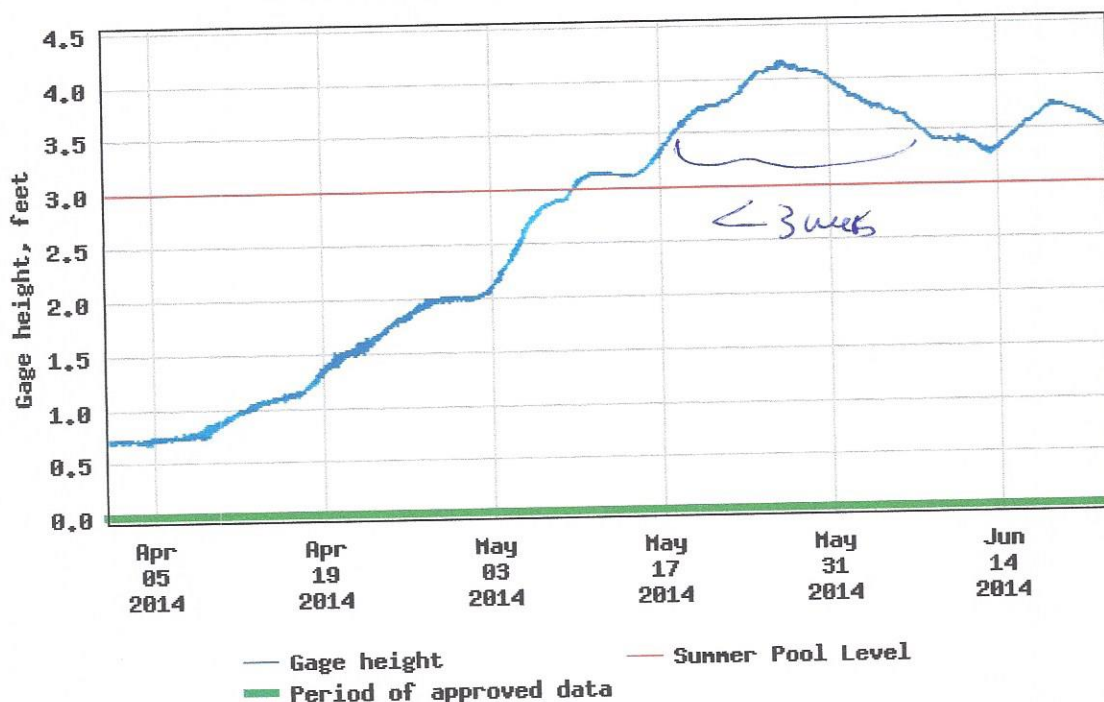
End date

2014-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-06-23

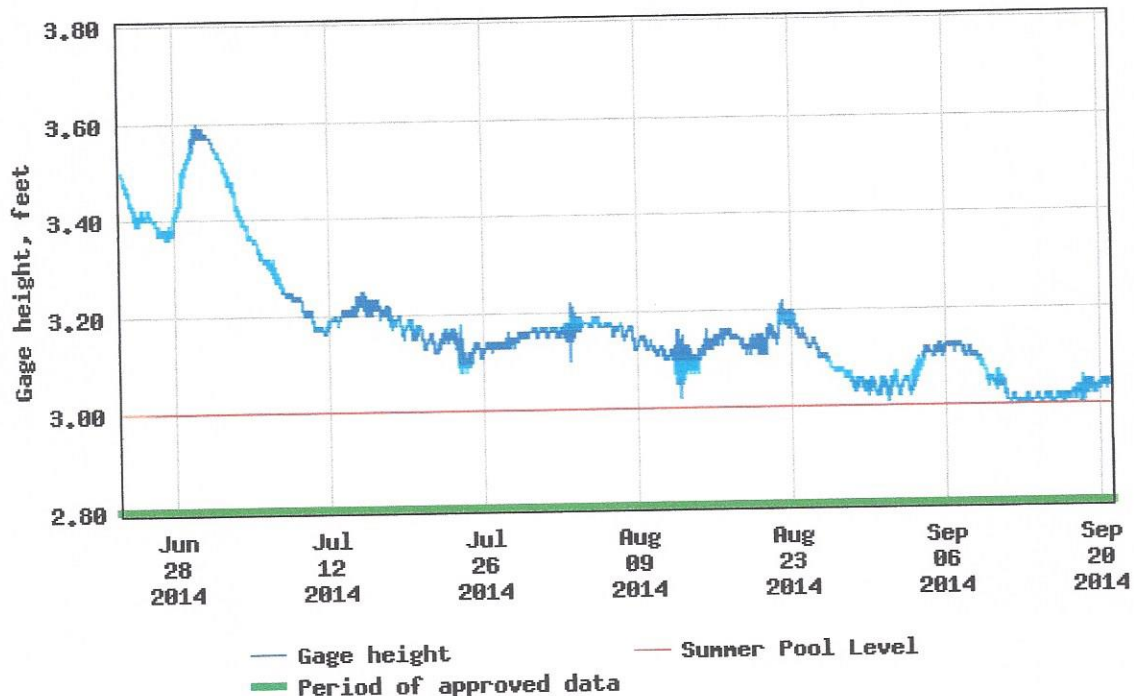
Gage height, feet

End date

2014-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-09-21

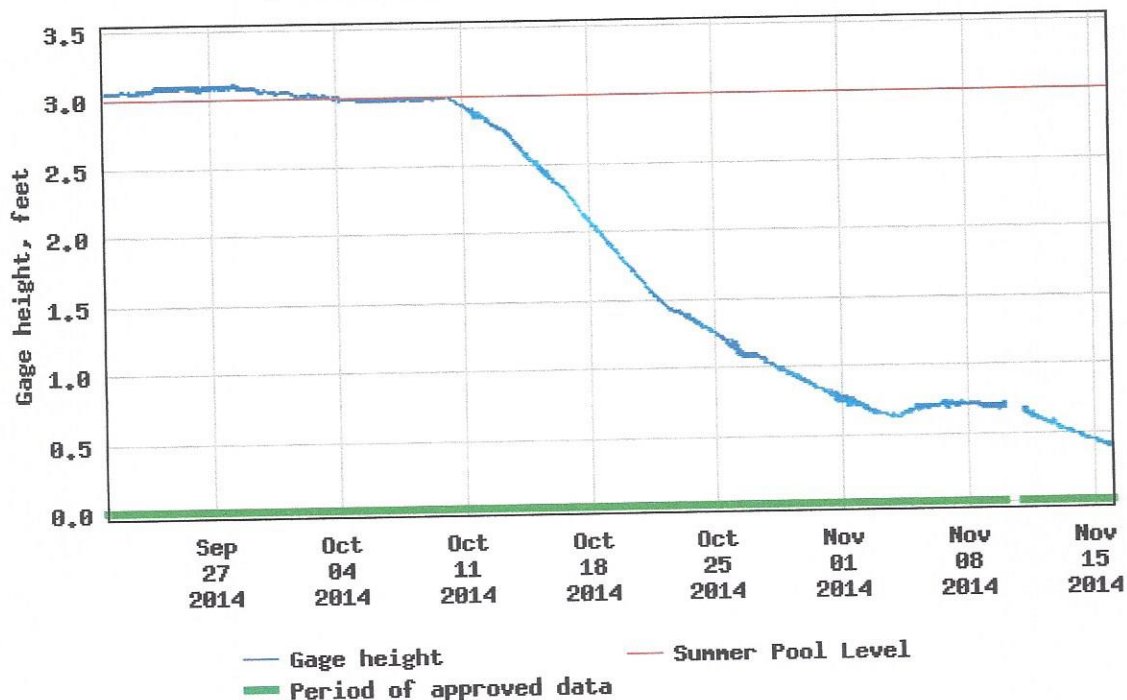
End date

2014-11-15

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

00065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (28)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-05-17

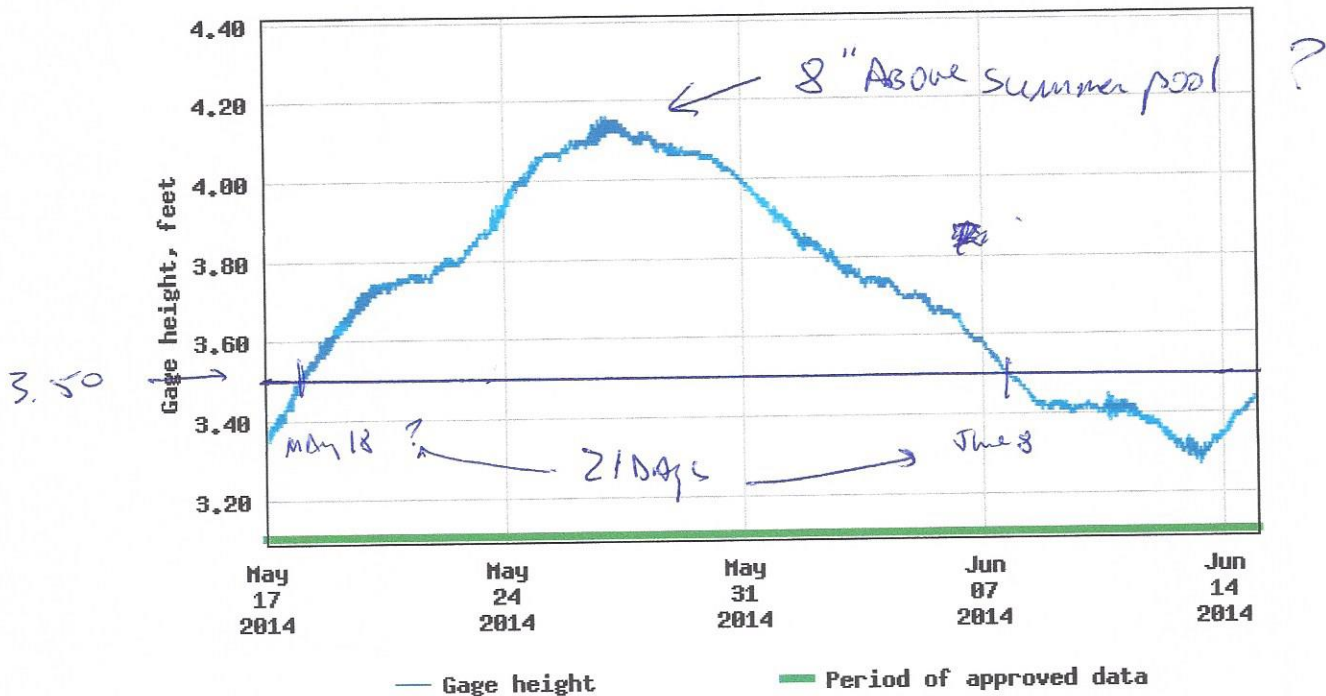
Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

End date

2014-06-14

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

$$\begin{array}{r}
 13 \\
 + 8 \\
 \hline
 21
 \end{array}$$

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2015-04-01

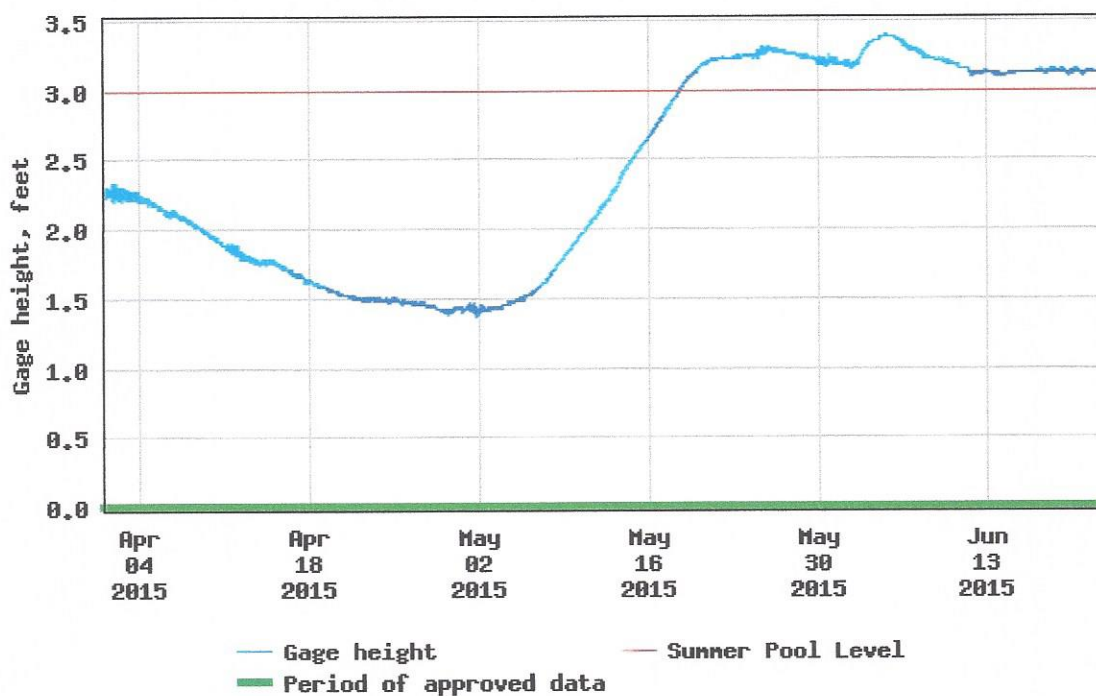
End date

2015-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2015-06-23

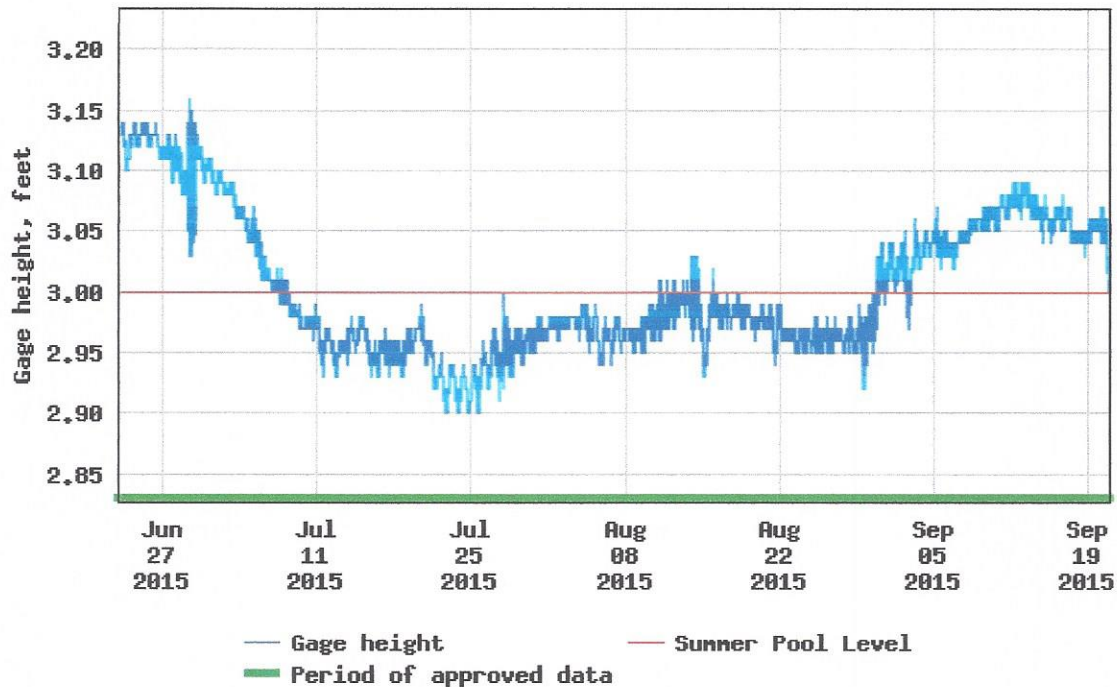
Gage height, feet

End date

2015-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2015-09-21

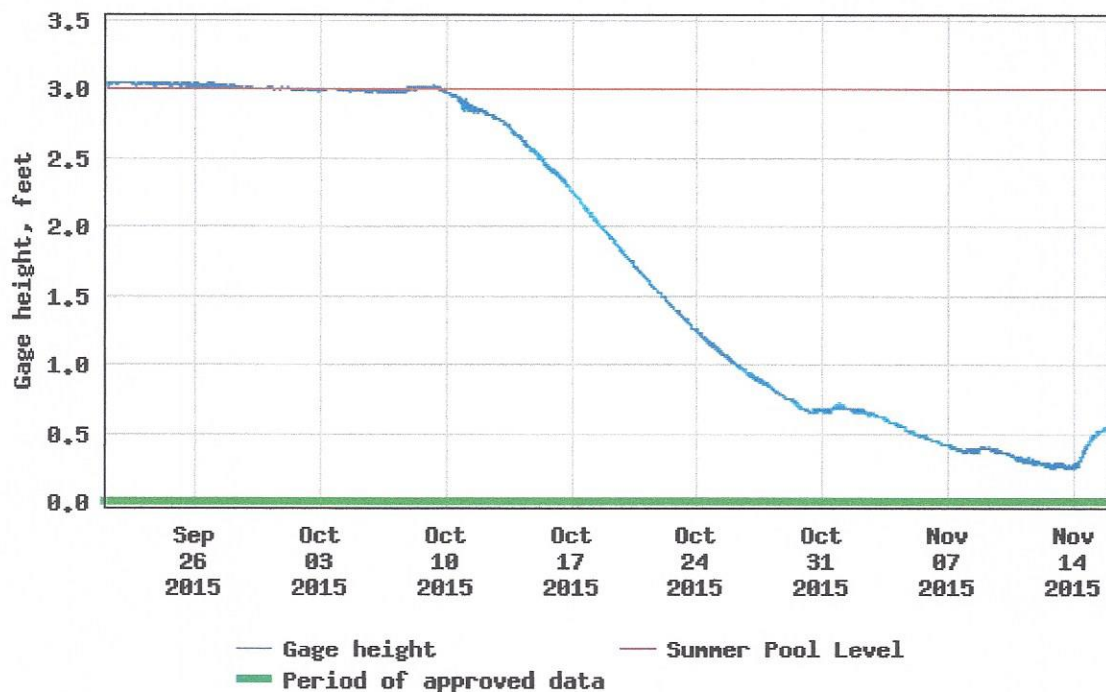
Gage height, feet

End date

2015-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-04-01

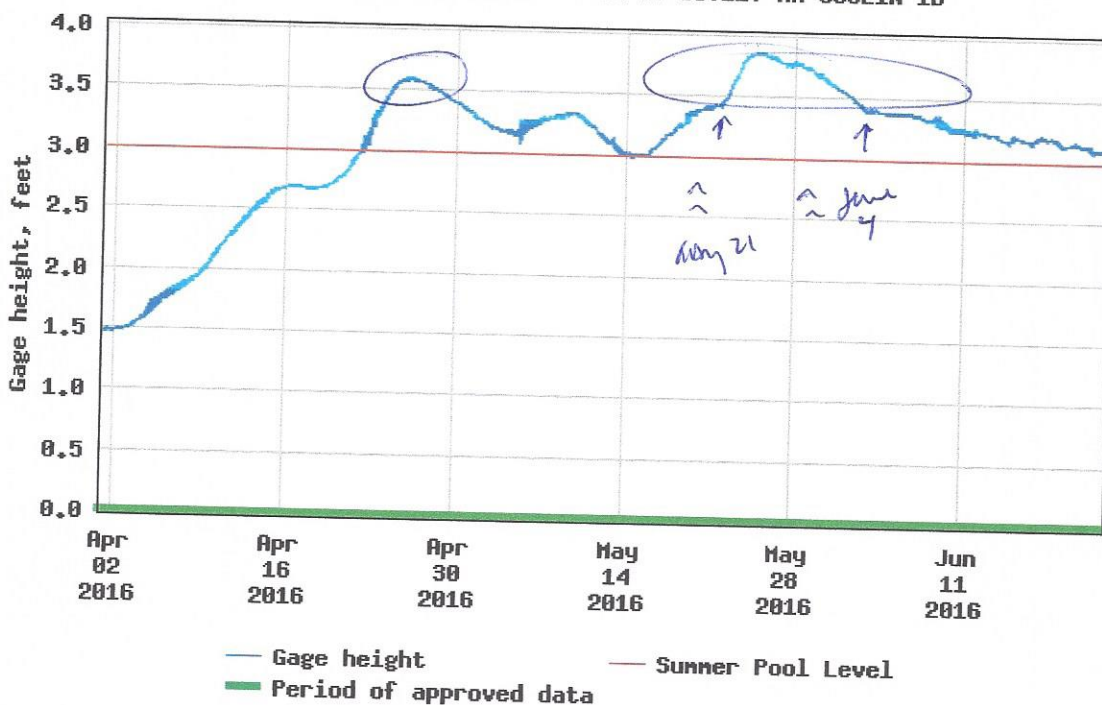
End date

2016-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-06-23

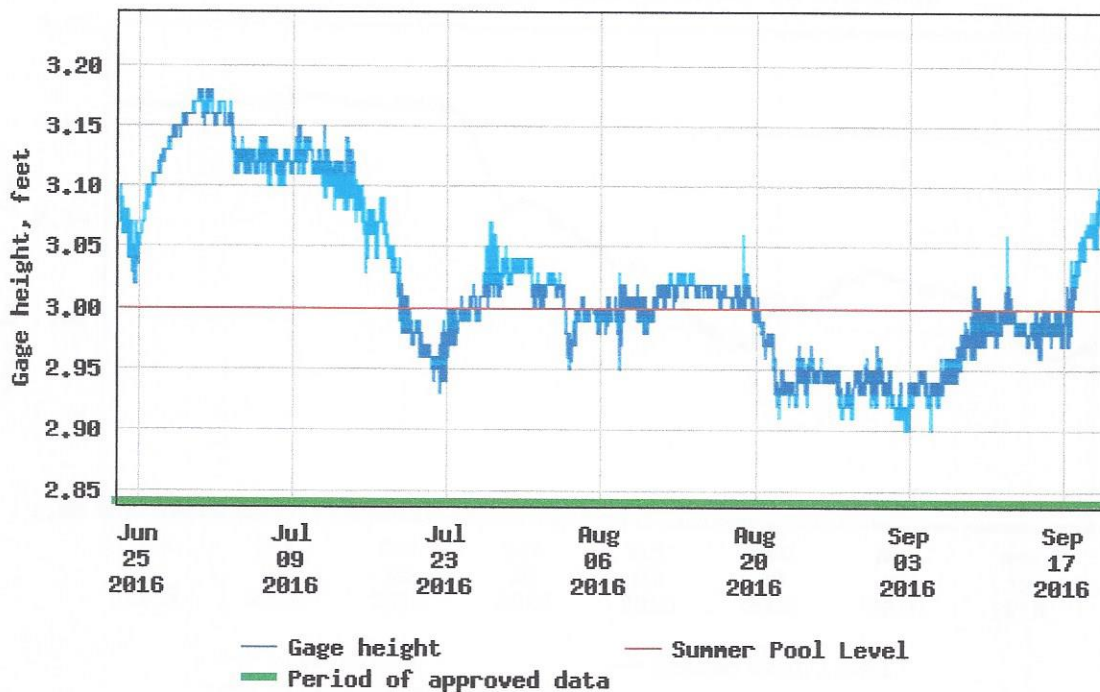
Gage height, feet

End date

2016-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-12

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (7)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-04-22

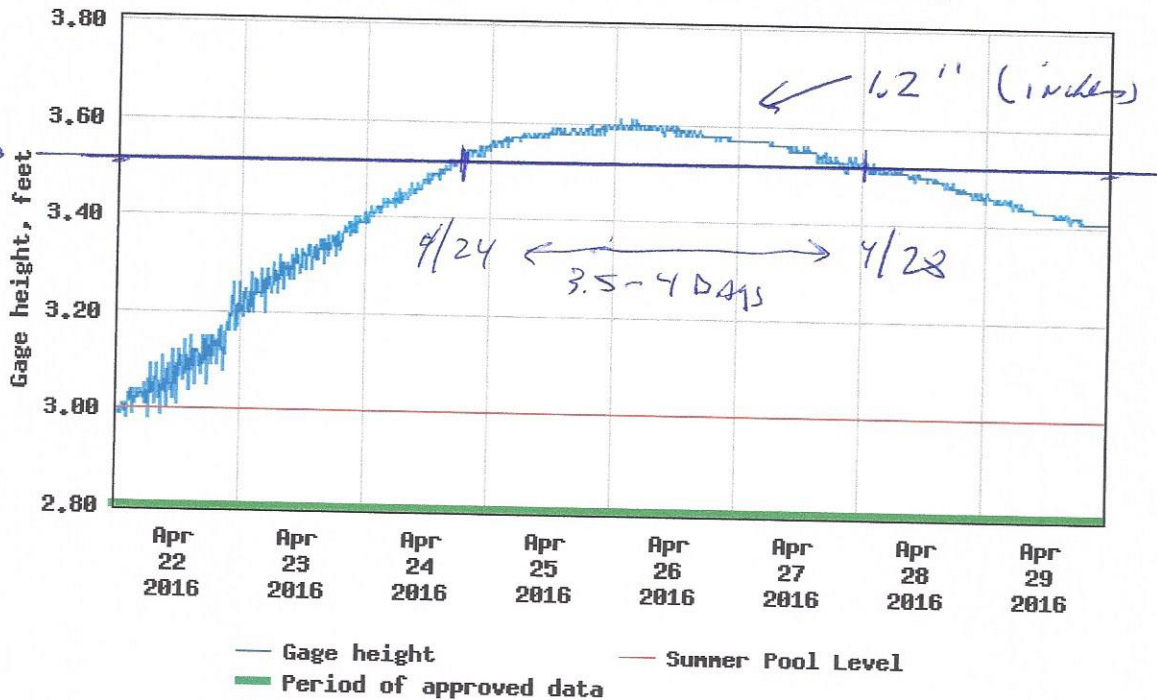
Gage height, feet

End date

2016-04-29

Most recent instantaneous value: 1.31 10-13-2020 06:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (26)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --
Begin date

2016-05-15

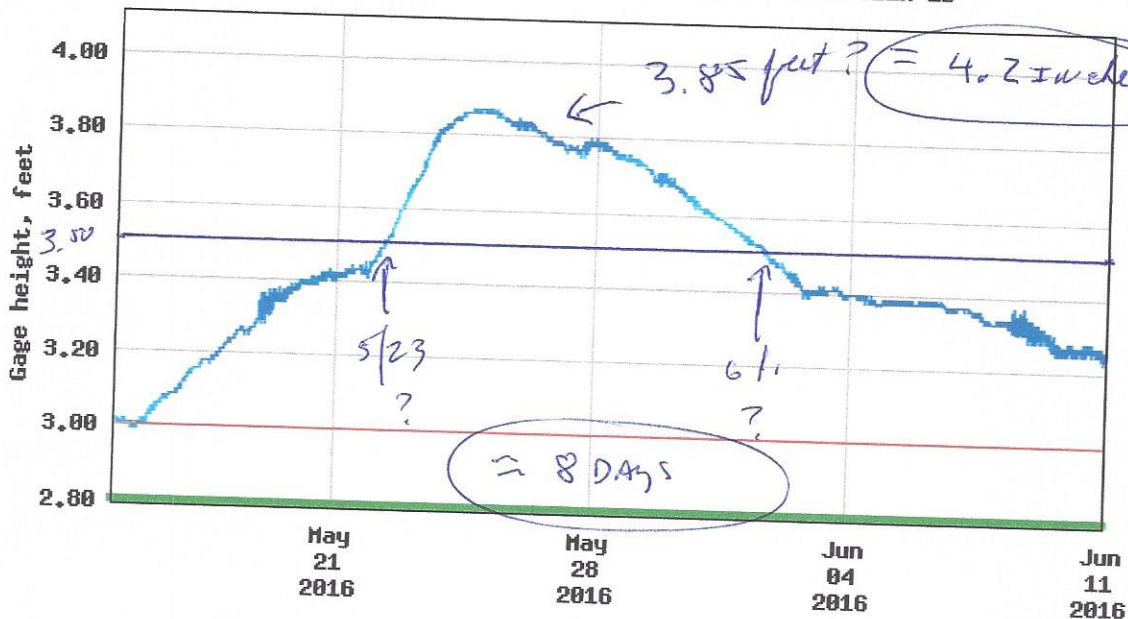
End date

2016-06-10

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Gage height

— Sunner Pool Level

— Period of approved data

Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2017

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-04-01

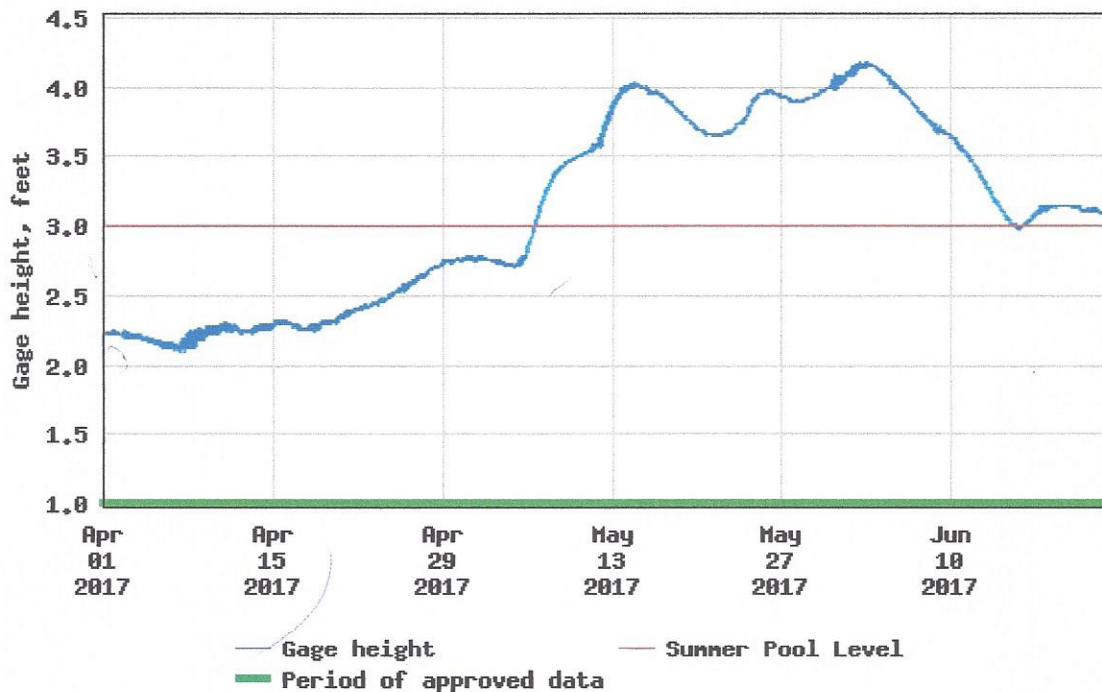
Gage height, feet

End date

2017-06-22

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

See
BACK
Pg

Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-06-23

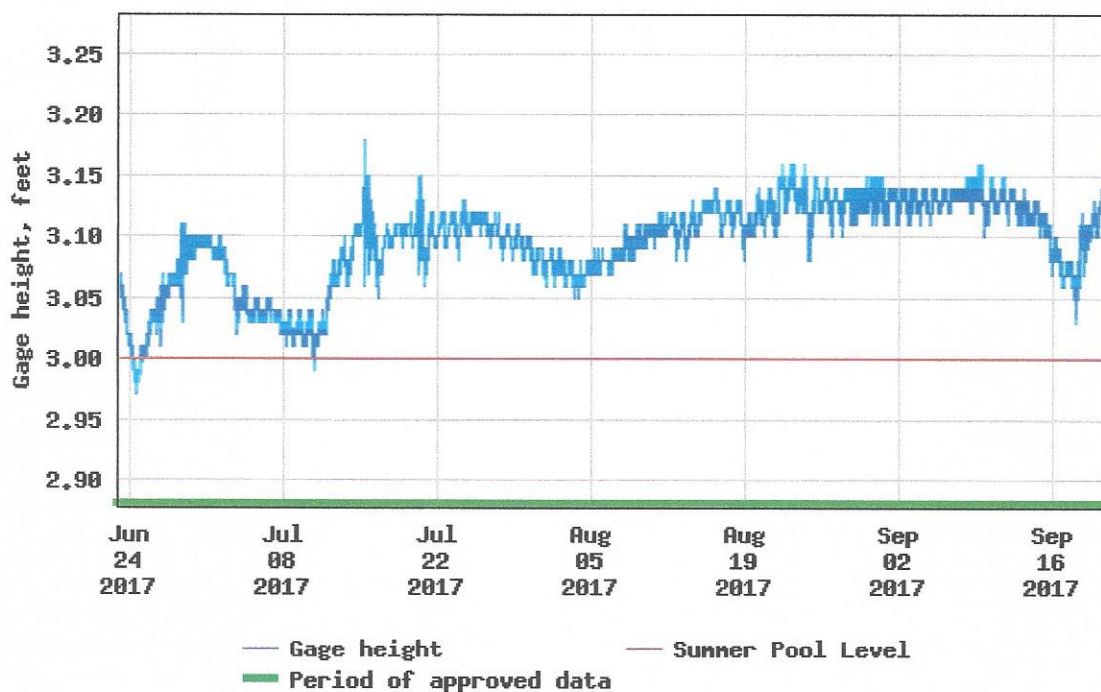
Gage height, feet

End date

2017-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-09-21

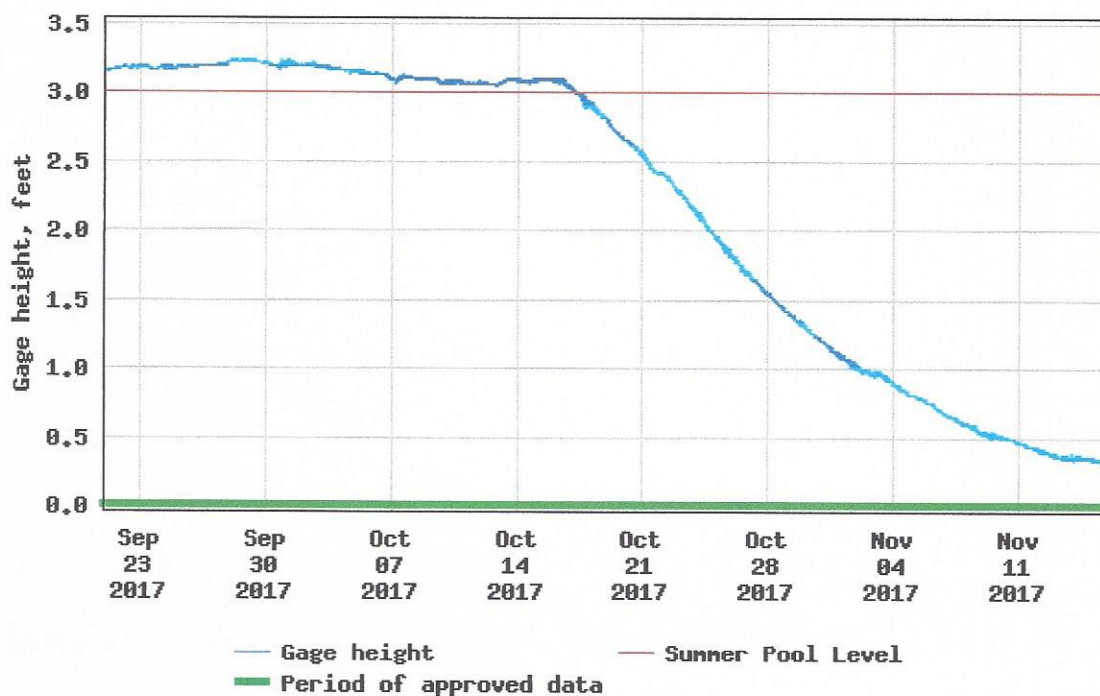
Gage height, feet

End date

2017-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (45)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-05-01

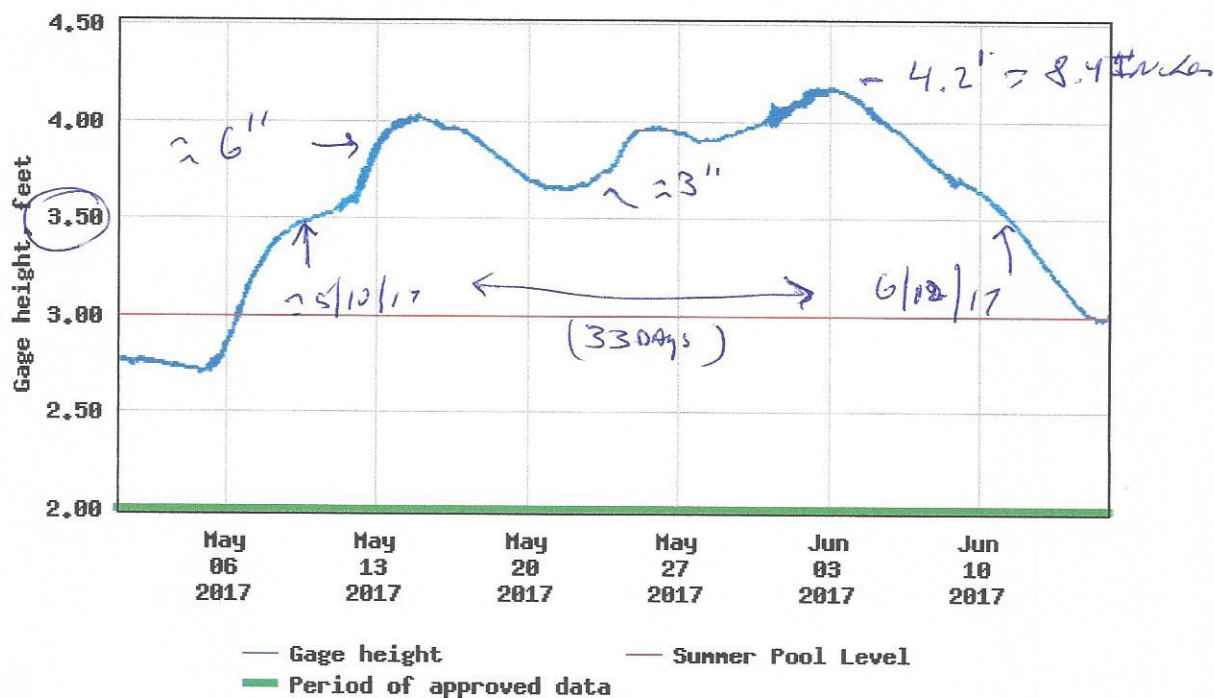
Gage height, feet

End date

2017-06-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2018

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-04-01

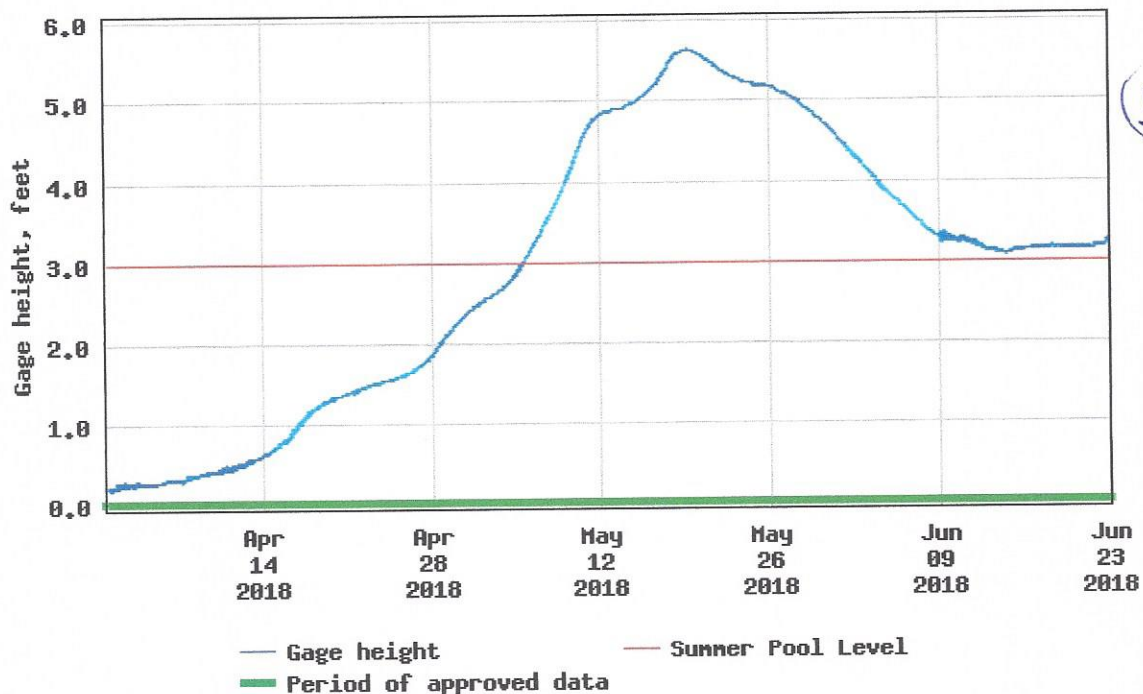
End date

2018-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

(See
Back
Pg.)

Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-06-23

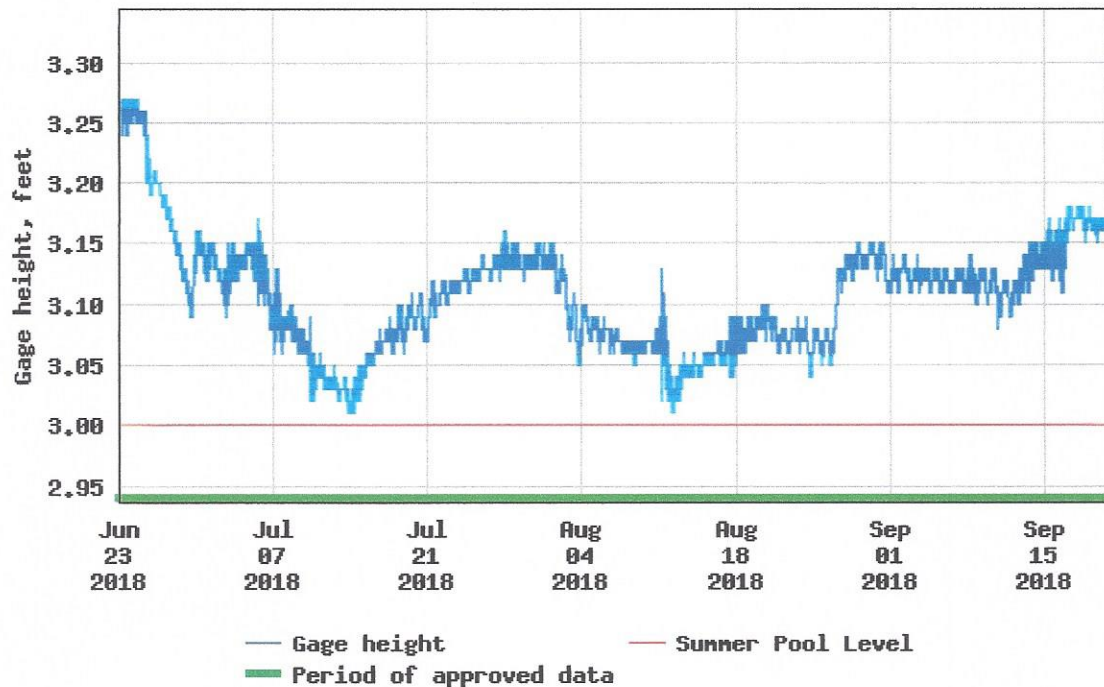
Gage height, feet

End date

2018-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph

☐ Graph w/ stats

☐ Graph w/o stats

☐ Graph w/ (up to 3) parms

☐ Table

☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-09-21

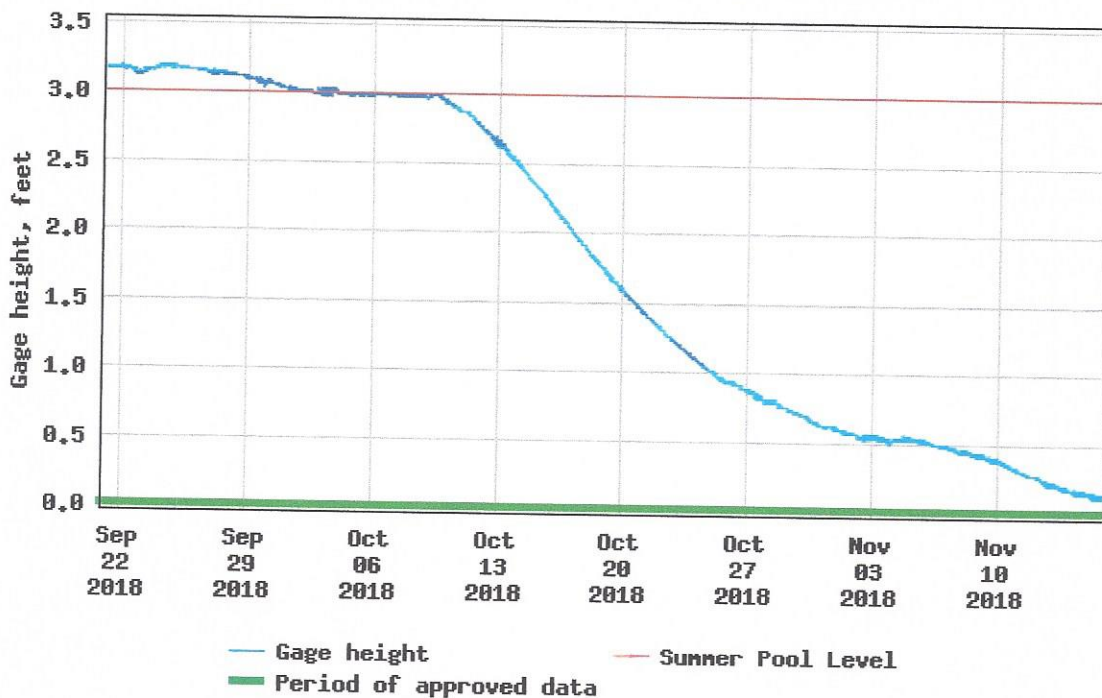
Gage height, feet

End date

2018-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height**Output format**

2013-10-17 2020-10-08

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (39)

Summary of all available data for this site
Instantaneous-data availability statement

GO

-- or --

Begin date

2018-05-01

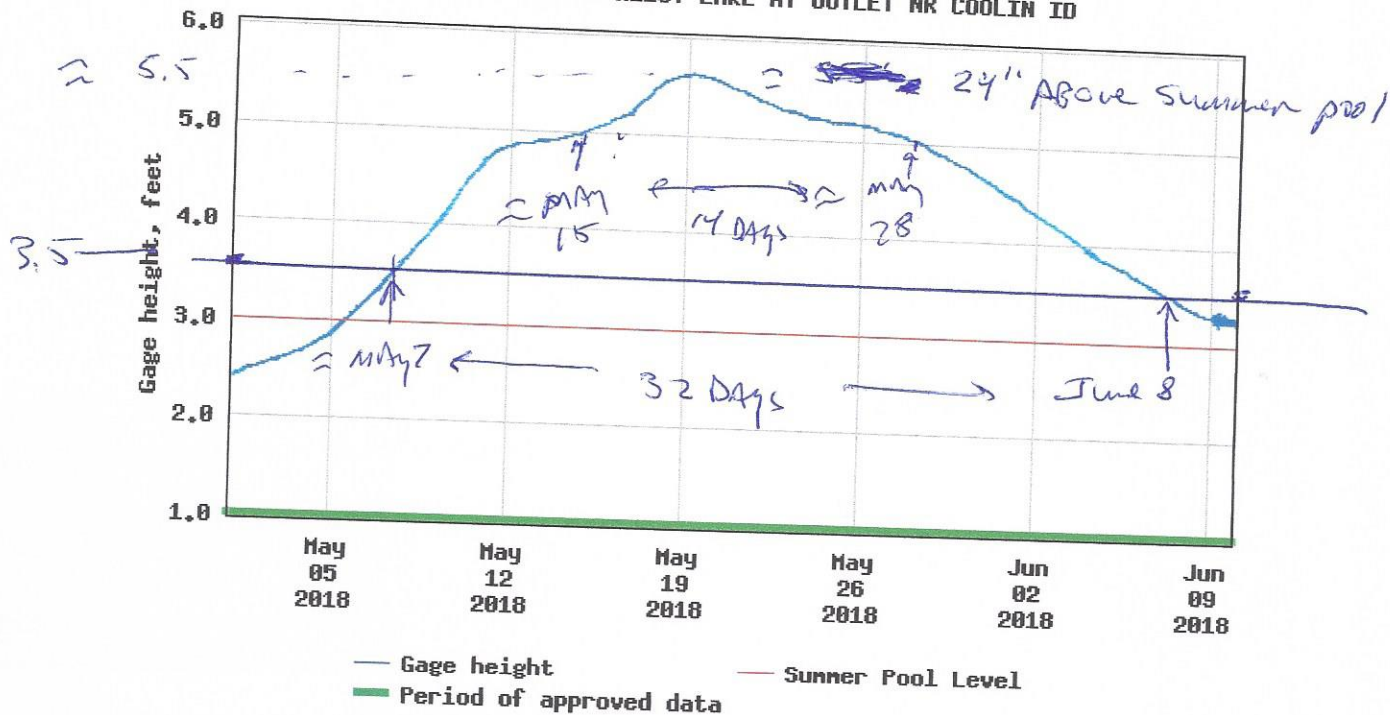
End date

2018-06-09

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

24
+8
—
32

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2019

Days (84)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

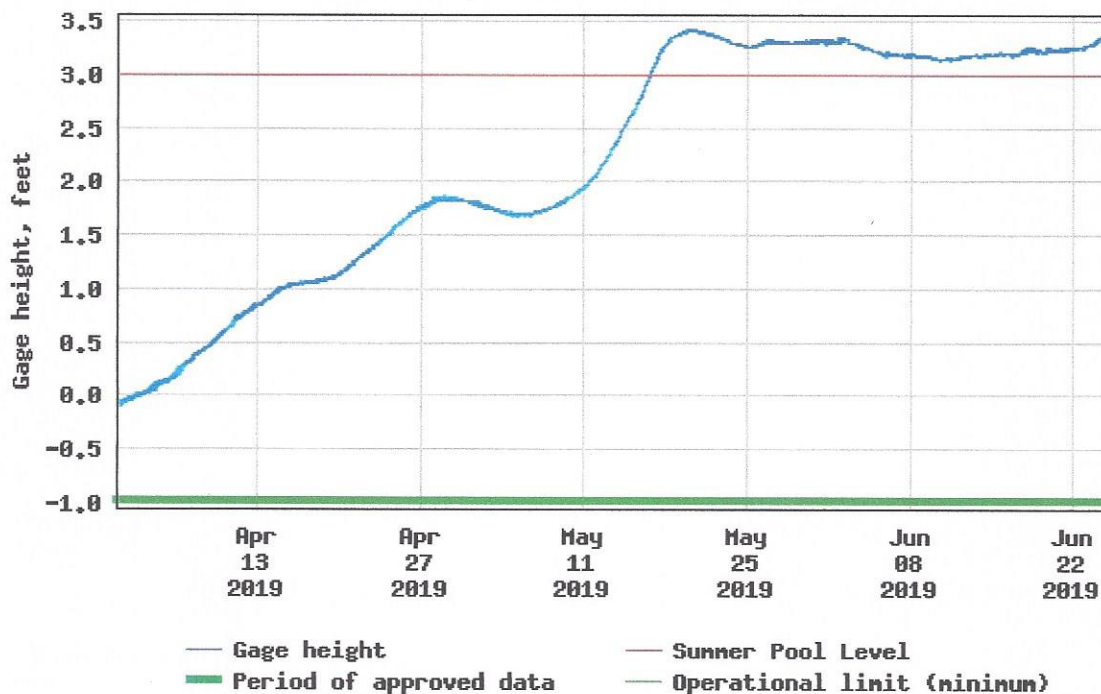
2019-04-01

End date

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-06-23

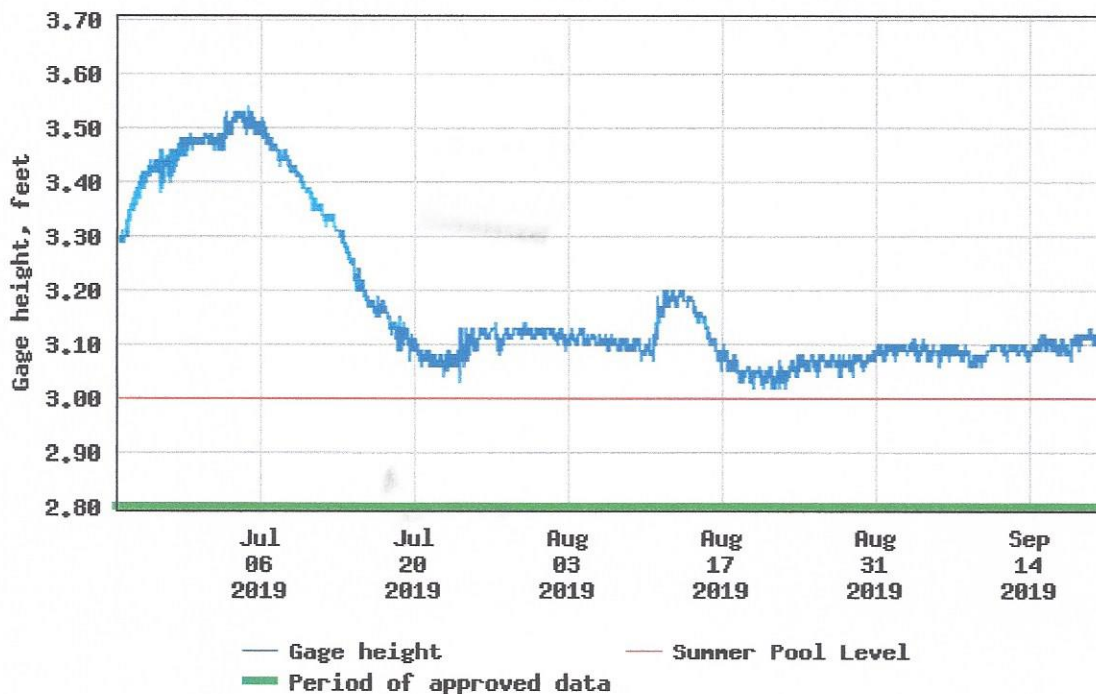
End date

2019-09-20

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-09-21

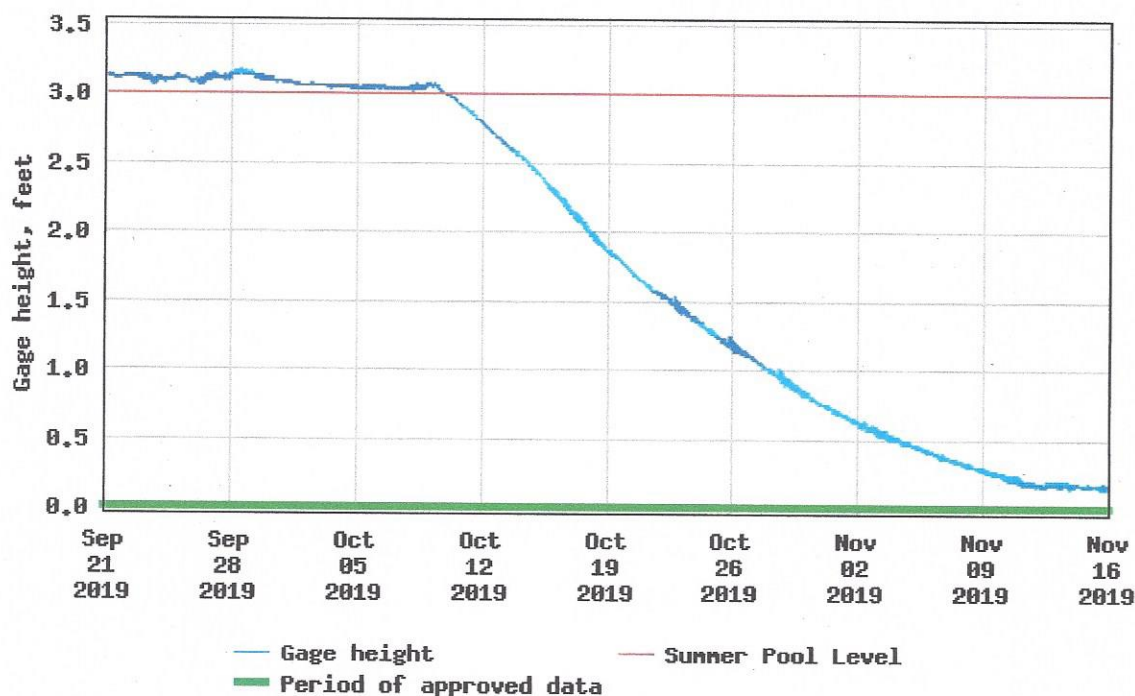
Gage height, feet

End date

2019-11-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated**Days (9)**[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

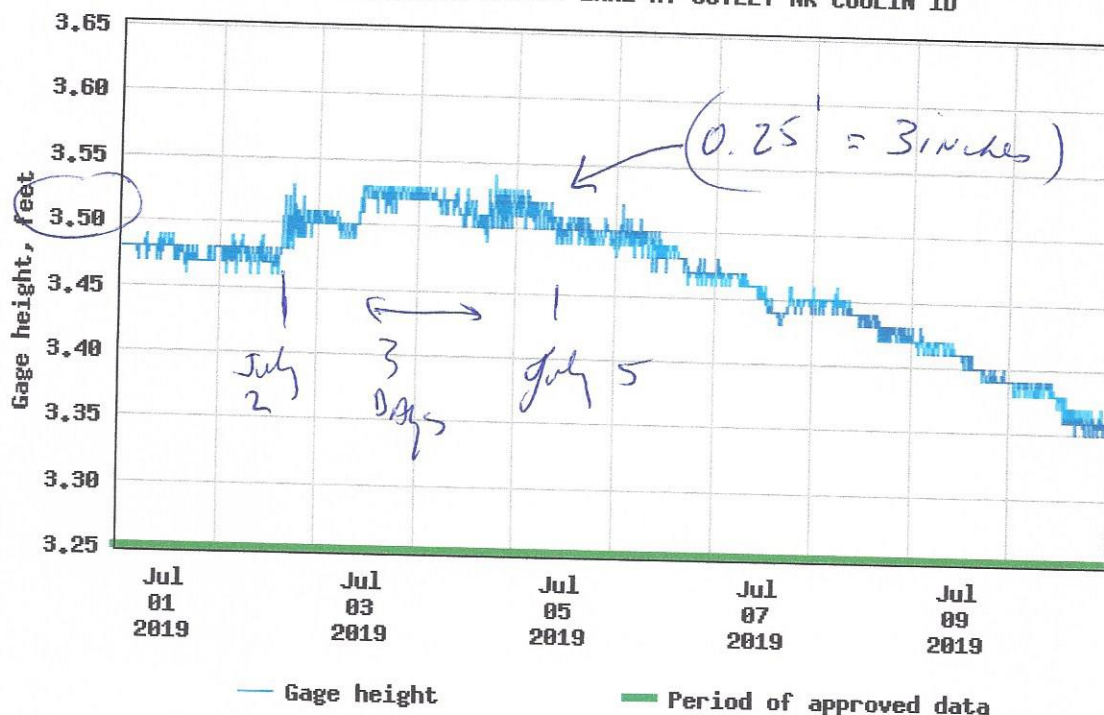
2019-07-01

Gage height, feet**End date**

2019-07-10

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (84)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-04-01

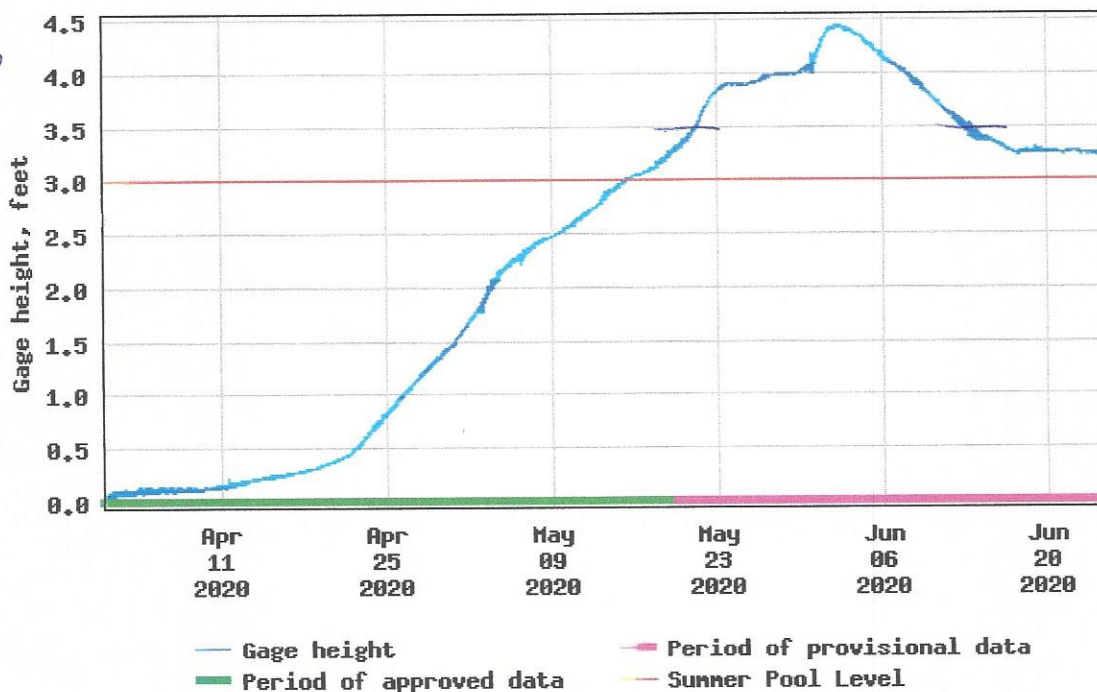
Gage height, feet

End date

2020-06-24

Most recent instantaneous value: 1.88 10-08-2020 09:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (87)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-06-25

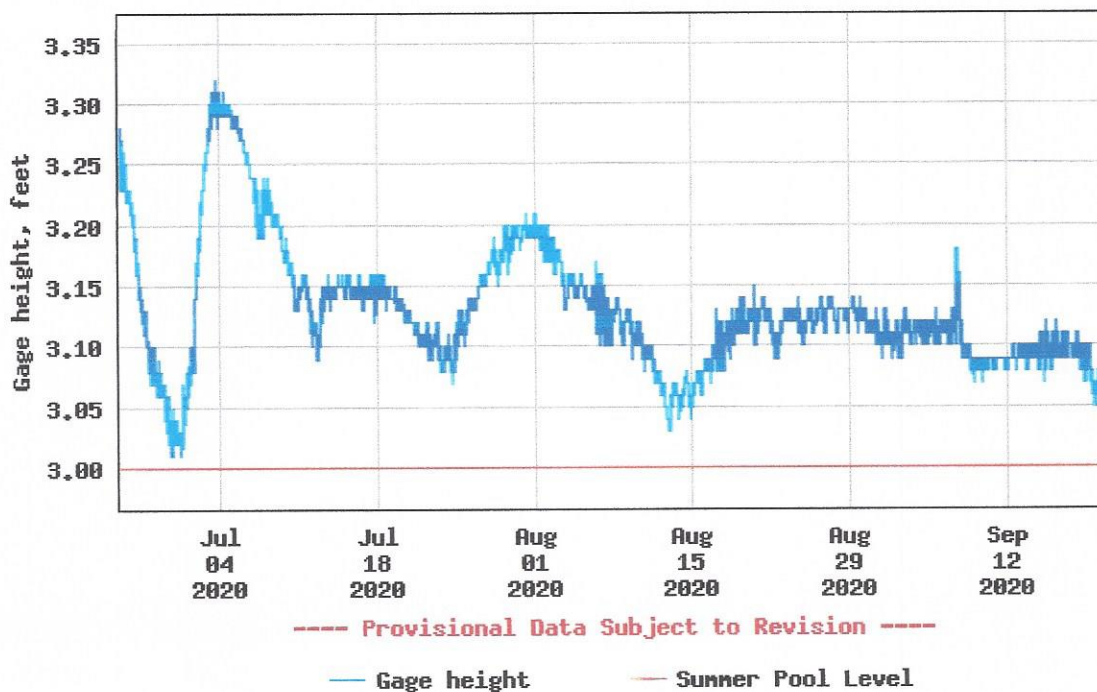
End date

2020-09-20

Gage height, feet

Most recent instantaneous value: 1.88 10-08-2020 09:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (16)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2020-09-21

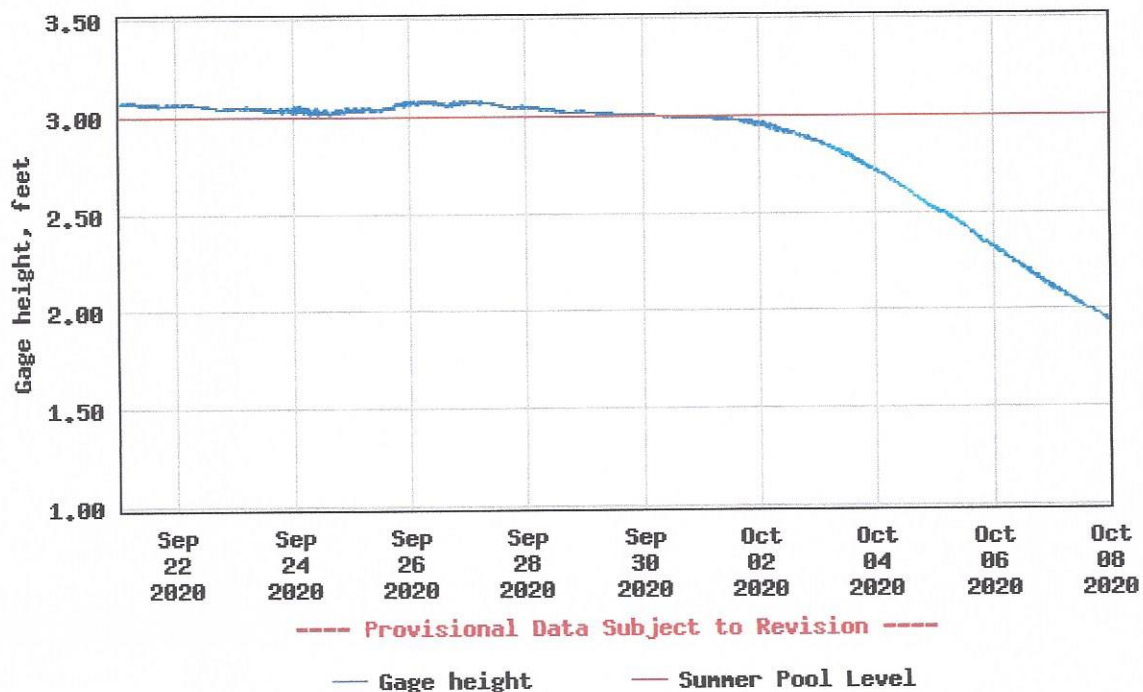
Gage height, feet

End date

2020-10-07

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (41)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-05-10

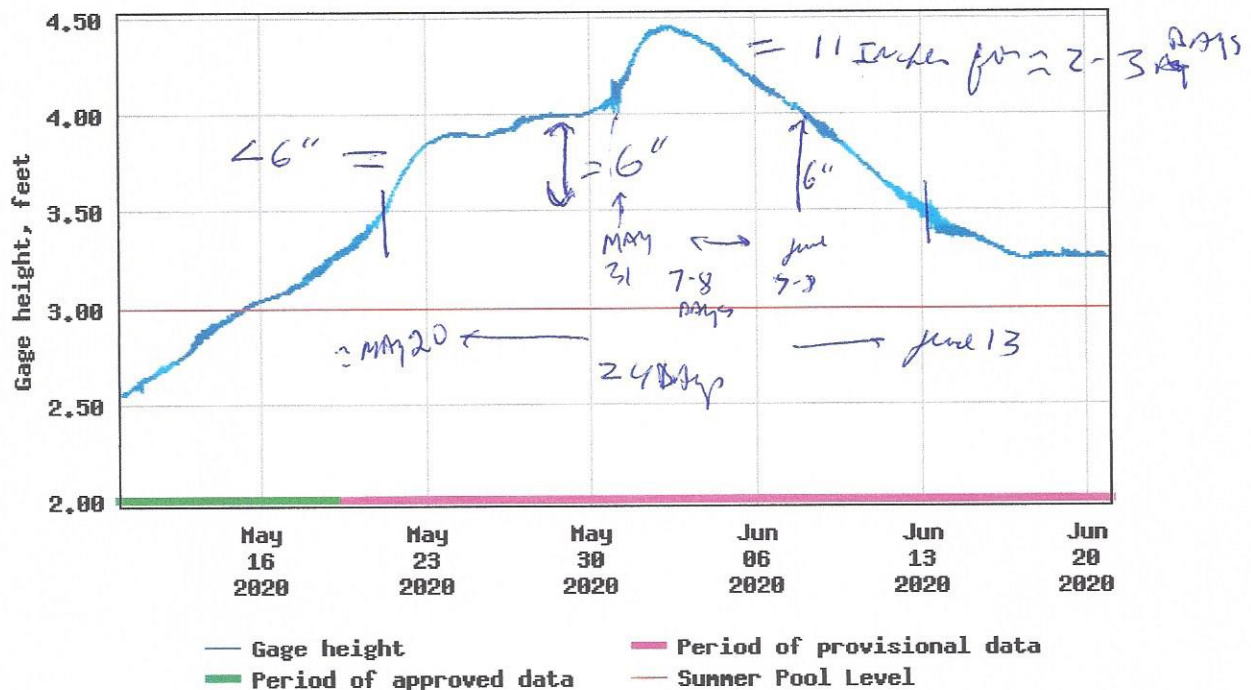
Gage height, feet

End date

2020-06-20

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

11
+ 13
—
24



USGS Home
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National Water Information System: Web Interface

USGS Water Resources

Data Category:

Current Conditions ▾

Geographic Area:

United States ▾

▾

GO

Click to hide News Bulletins

- [Introducing The Next Generation of USGS Water Data for the Nation](#)
- [Full News](#)

* IMPORTANT: [Next Generation Station Page](#)

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

PROVISIONAL DATA SUBJECT TO REVISION

Available data for this site

Time-series: Current/Historical Observations ▾

GO

Click to hide station-specific text



Summer pool level is normally 3-3.5 ft.

Station is operated in cooperation with the [Idaho Department of Water Resources \(IDWR\)](#).

This station managed by the Post Falls Field Office.

Available Parameters

Available Period

Records of Priest Lake Elevation from 2000 to 2020 (21 years):

- 2000: May 22 – June 1 (9 days). Maximum elevation was 4" above summer pool.
- 2001: Never went above summer pool level.
- 2002: May 15 – June 30 (22 days). Maximum elevation was 12" above summer pool (for approximately 3 days)
- 2003: May 15 – June 30 (11 days). Maximum elevation was 5" above summer pool.
- 2004: Never went above summer pool level.
- 2005: Never went above summer pool level.
- 2006: May 17 – June 21 (34 days). Maximum elevation was 21" above summer pool. It was 18" – 21" above summer pool for 6 days.
- 2007: Never went above summer pool level.
- 2008: May 19 – June 14 (30 days). Maximum elevation was 18" above summer pool. It was 12" - 18" above summer pool for 13 days.
- 2009: June 1 – June 4 (3 days). Maximum elevation was 2" above summer pool.
- 2010: June 2 – June 18 (16 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for approximately 3 days.
- 2011: May 17 – June 9 (53 days). Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 7 days.
- 2012: May 15 – July 8 (53 days) Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 10 days.
- 2013: May 12 – June 2 (21 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for 3 days.
- 2014: May 18 – June 8 (21 days). Maximum elevation was 8" above summer pool.
- 2015: Never went above summer pool level.
- 2016: A. April 24 – April 28 (4 days). Maximum elevation was 1.2" above summer pool.
B. May 23 – June 1 (8 days). Maximum elevation was 4.2" above summer pool.
- 2017: May 10 - June 12 (33 days). Maximum elevation was 8.4" above summer pool.
- 2018: May 7 – June 8 (32 days). Maximum elevation was 24" above summer pool (approx. 1 day). It was 18" – 24" above summer pool for 13 days.
- 2019: July 2 – July 5 (3 days). Maximum elevation was 3" above summer pool.
- 2020: May 20 – June 13 (24 days). Maximum elevation was 11" above summer pool (for 2-3 days)

2000 - 2020 Priest Lake Elevations (21 years):

Page 2023

Definition of Summer Pool (S.P.): 3 feet - 3.5 feet above elevation

	Number of years: (Total: 21)	% of years above S.P.:	Maximum Elevation each year:	Duration > 6" - 12" above S.P.	Duration > 12" - 18" above S.P.	Duration > 18" - 24" above S.P.	Duration > 24" above S.P.
<u>Lake Level Elevation:</u>							
Never above S.P.:	5	24%					
> 0" - 6" above S.P.:	5	24%	2", 3", 4", 4.2", 5"				
> 6" - 12" above S.P.:	6	25%	7", 7", 8", 8.4", 11", 12"	3-11 days			
> 12" - 18" above S.P.:	3	14%	15", 15", 18"	17-29 days	10-18 days		
> 18" - 24" above S.P.:	1	5%	21"	5 days	5 days	6 days	
> 24" above S.P.:	1	5%	Approx. 24"	7 days	9 days	14 days	1 day
Totals (21 years):				32-52 days	24-32 days	20 days	1 day

From: [Debbie Evenoff](#)
To: [Kourtney Romine](#)
Cc: [greg@wilsonlaw.us](#); [ssyrcl@tristateid.com](#); [billofspok@aol.com](#); [angela.kaufmann@ag.idaho.gov](#); [merritt.horsmon@idfg.idaho.gov](#); [chantilly.higbee@deq.idaho.gov](#); [mfulgham@lukins.com](#); [hkitz@lukins.com](#)
Subject: In the Matter of Encroachment Permit Application No. L-97-S-1081B - Gregory & Debra Wilson
Date: Monday, November 30, 2020 04:57:51 PM

Attached please find Objector's Exhibits 1-3 for the hearing scheduled on December 3 @ 1:00 p.m.:

EXHIBIT 1 - Objector's Written Notice of Objection to Encroachment Permit Application No. L-97-S-1081B.

EXHIBIT 2 - Memorandum of Authorities in Support of Objector's Written Notice of Objection to Encroachment Permit Application No. L-97-S-1081B.

EXHIBIT 3 - Powerpoint Presentation for Public Hearing on 12/3/20.

Files attached to this message

Filename	Size	Checksum (SHA1)
Objector's Exhibits 1-3 (02318933x9F871).pdf	32.2 MB	79095003f11c372a6a652ddc480f128da2d67ac2

Please click on the following link to download the attachments:
<https://sendfile.lukins.com/message/5ITQcdlAStpv0tXOrUVU4O>

This email or download link can be forwarded to anyone.

The attachments are available until: **Friday, 29 January.**

Message ID: 5ITQcdlA

LiquidFiles Appliance: <https://sendfile.lukins.com>

OBJECTOR'S EXHIBIT LIST:

EXHIBIT 1	Objectors Written Notice of Objection To Encroachment Permit Application, No. L-97-S-1081B
Attachments to Exhibit 1:	Attachment 1: Encroachment Permit Application Attachment 2A: 2000-2022 Summary of USGS PL Records Attachment 2B: Table of USGS PL Data Attachment 2C: USGS PL Records 2000 – 2020 Attachment 3A: Email — September 1, 2020 Attachment 3B: Email — September 10, 2020 Attachment 3C: Email — September 15, 2020 Attachment 3D: Email — September 16, 2020
EXHIBIT 2	Memorandum of Authorities in Support of Objector's Written Notice of Objection To Encroachment Permit Application, No. L-97-S-1081B
EXHIBIT 3	PowerPoint Presentation for Public Hearing on December 3, 2020

EXHIBIT 1

Objectors Written Notice of Objection To
Encroachment Permit Application, No. L-97-S-
1081B

6618 South Tomaker Lane
Spokane, WA 99223
Billofspok@aol.com
10/17/20

Trevor Anderson
IDL Resource Specialist Senior
Priest Lake Supervisory Area
4053 Cavanaugh Bay Rd.
Coolin, ID 83821

Dear Idaho Department of Lands,

I received Trevor Anderson's letter dated 10/2/20. It included the permit application (see attached) by Greg Wilson for a Rip-rap barrier at the property line between our properties that begins on the beach and extends into the lake. I oppose this application and object to the Wilsons putting up a Rip- rap barrier.

The Wilson's have already created a non-permittable barrier at our property line that they continue to enhance. According to Trevor Anderson, he told Greg Wilson to remove this barrier.

This letter will document that:

1. The sole purpose of the Wilson's barrier is to enhance their beach by increasing the amount of the sand that accumulates on their beach. It has nothing to do with bank or beach stabilization. Because of the natural flow of the lake, their barrier has caused, and will continue to cause, sand on my beach to erode, while enhancing theirs.
2. The Wilson's proposal is not accurate, untrue and unsubstantiated by records from the USGS.
3. The permit created by Steven Syrcle, P.E. of Tri-State Consulting Engineers is flawed, inaccurate and contradicts itself.

The creation of any barrier, especially the one that the Wilson's have proposed, will continue to be detrimental to my shore and beachfront. It adversely affects my beach for recreational use, is aesthetically displeasing and will negatively impact the property value.

The Wilsons proposal for a Rip-rap barrier for beach, bank or property stabilization is not justified or needed. I have created a timeline of pictures (below) that starts in 2002. It documents that there was no erosion until the Wilsons built the barrier at our property line.

Picture 1 (below): Taken in 2002, just after I purchased the cabin/property. The dock was in poor condition and needed to be replaced. I own the red boat house, cabin and property. The Wilson's property is to the left of the boat house and is not seen in the picture. The sand on the beach in front of my boat house is very good and there is not erosion. There are 2 cement blocks on the shore side of the dock which I eventually removed.



Picture 1 (above)

Picture 2 (below): Taken in 2004. It shows that my new dock and approach were put at a different location. You can see the rock retaining wall on the Wilson's bank to the left of my red boat house. If you look at the beach, there is no barrier at the property line between the Wilson's property and mine and there is no beach erosion. The 2 concrete blocks on the lake side of my boat house are still there. However, since I changed the position of my dock they are non-functional, an impediment to using all of my beachfront and an "eye-sore". I planned to remove them in the future.



Picture 2 (above):

Picture 3 (below): Taken in 2005. It shows the Wilson's "old cabin" and their beachfront. There is no barrier at the property line between our properties and no beach erosion. Their "old" rock retaining wall on their bank runs approximately parallel to their beach. It was replaced by a retaining wall made of large boulders when they build their new cabin in approximately 2006 or 2007 (see pictures 4, 5, 6, 7 and 19) .



Picture 3 (above):

Pictures 4 and 5: Taken by the Wilson's and e-mailed to me by Debra Wilson. They were taken after they built their new cabin, in approximately 2006 or 2007.

Picture 4 shows their new rock retaining wall on their bank that runs approximately parallel to their beach. It is made of large boulders to prevent erosion of their upland property. If you look at the beach in front of my red boat house (in the distance) you can see a few rocks at the waterline and on shore. This is the beginning of the barrier that the Wilson's built. There is still no beach erosion.



Picture 4 (above):

Picture 5 (Below): Taken after 2006 or 2007. It shows the Wilson's new cabin and retaining wall. If you look closely at the property line it shows that the Wilsons were starting to build a barrier. No beach erosion had occurred.



Picture 5 (above):

Picture 6 (below): Taken on October 27, 2018. I broke up and removed the 2 concrete blocks. Please see that the Wilson's had built up, and added to, their rock and log barrier at the property line.



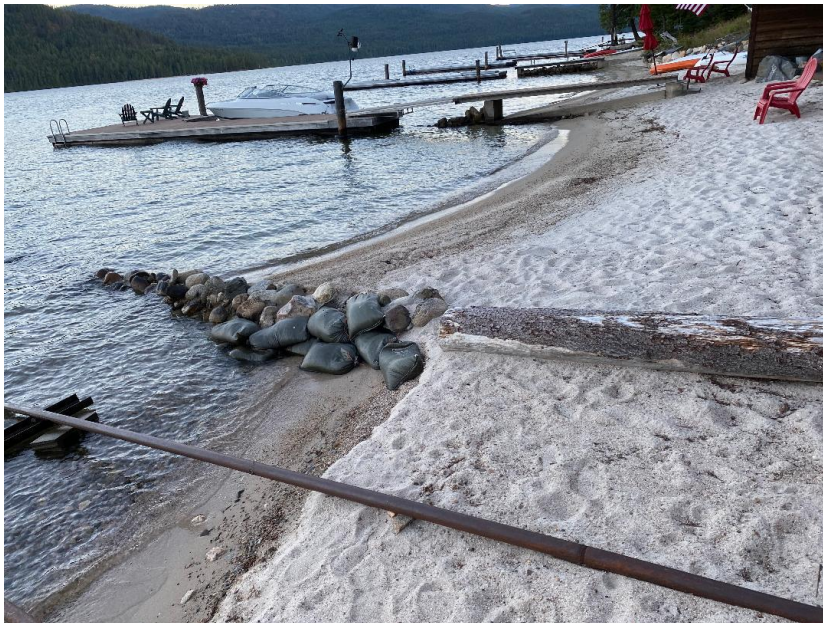
Picture 6 (above):

Picture 7 (below): Taken on August 9, 2020. It shows that the Wilson's had continued to build and added to the barrier at the property line. This includes adding more rocks and 10 bags of sand to reinforce the barrier. It also shows the erosion of my beach and the enhancement of the sand on their beach. In addition, it shows a 2nd rock barrier that they built previously under the ramp to their dock (in the distance of the picture). The 2nd rock barrier extends into the lake under part of their approach and the ramp to their dock. (Please see below for further discussion)



Picture 7 (above):

Pictures 8, 9, 10, 11 + 12: All were taken on August 23, 2020. They show the erosion to my beach.



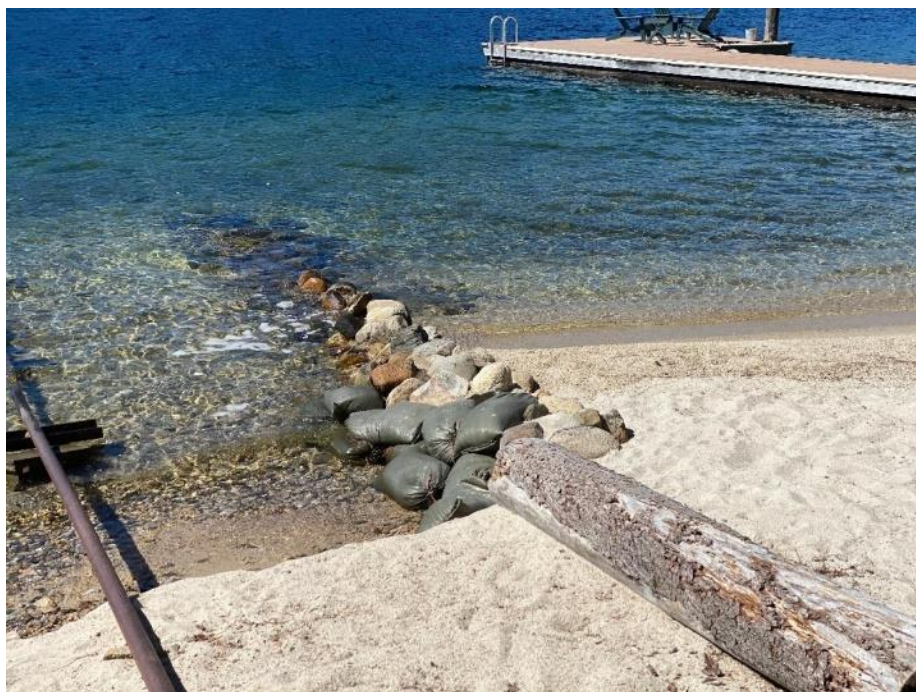
Picture 8 (above):



Picture 9 (above):



Picture 10 (above):



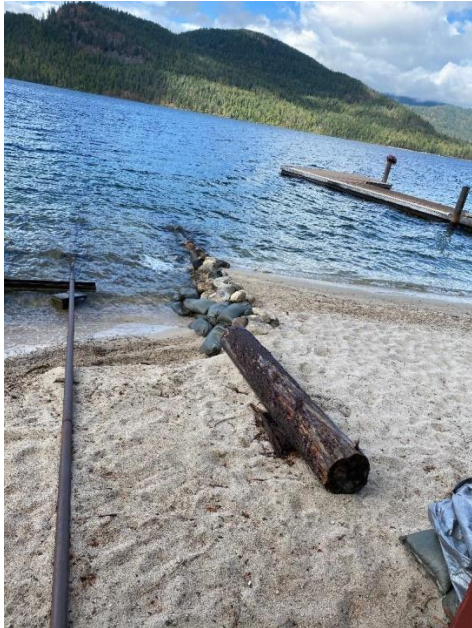
Picture 11 (above):



Picture 12 (above)

Pictures 13, 14 and 15 were taken on September 27, 2020. The Wilson's had put another sand bag (11th sandbag) on their side, in the middle of the barrier. This is seen well in picture 14. Why was this added? If you look closely at picture 15, it shows that sand had "come through" the barrier from the Wilson's side of the barrier to my side of the barrier. The Wilson's put the additional sand bag there to prevent sand from coming through the barrier!

Compare picture 15 with picture 16. Picture 16 was taken previously, on 8/23/20, approximately 1 month earlier. Picture 16 documents that as of 8/23/20 there was no additional (11th) sandbag and that no sand was on my side of the barrier.



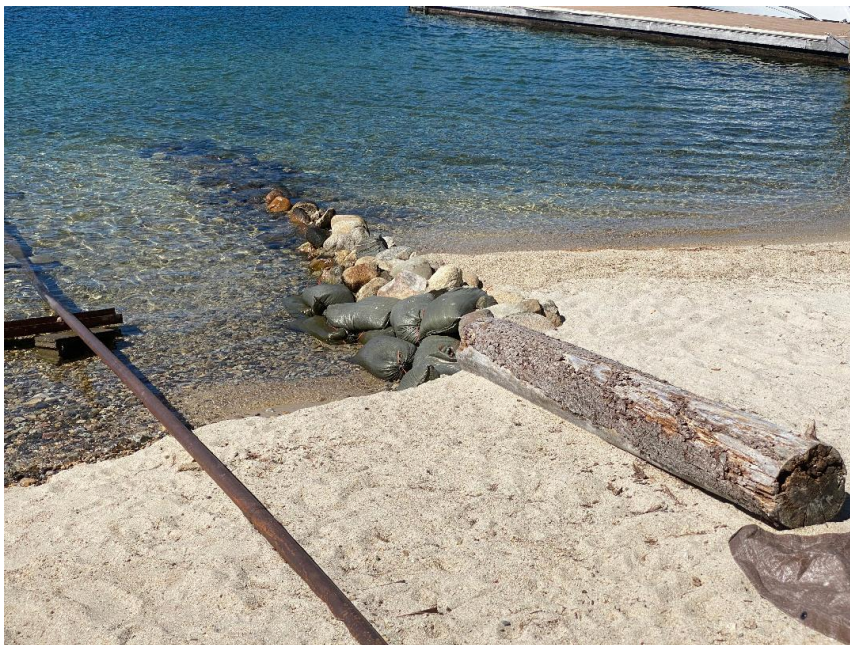
Picture 13 (above)



Picture 14 (above):



Picture 15 (above):



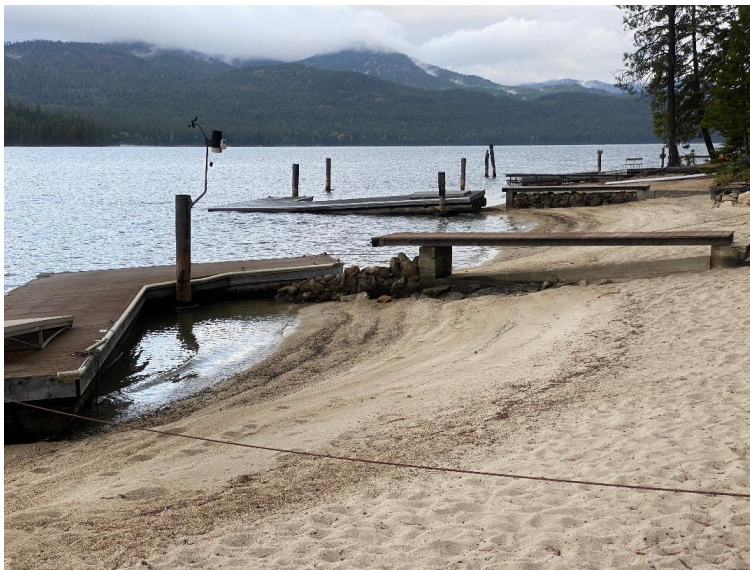
Picture 16: Taken on 8/29/20. There is no additional sand bag and no sand came onto my side of the barrier. (Compare with picture 15)

The Wilson's have 3 barriers on their properties that impedes the natural flow of the lake. The purpose of all of them is to enhance the amount of sand on their beach, not to stabilization the shoreline or bank. They are the following:

1. The barrier that they created at our property lines - as discussed above.
 2. The Wilson's have 2 docks: One on Lot 16A and another on Lot 17A. Each of the docks has an approach and a ramp that extends from the approach to the dock.
 - A. The rock barrier under the approach on lot 16A was granted a permit to Michael and Nancy Brophy (the previous owners of the lot) on 9/22/92.
 - B. The rock barrier under the approach and ramp on lot 17A, where the Wilson's cabin is located, does not have a permit.
- Picture 17 (below): Taken in 2003. Shows that there is no rock barrier under the Wilsons "old" approach and ramp.
- Picture 18 (below): Taken in 10/2020. It shows the rock barrier beneath the Wilson's ramp.



Picture 17 (above):



Picture 18 (above):

The purpose of these rock barriers is to enhance the sand on their beach, not stabilization of the shoreline.

As discussed previously, and shown in picture 19 (below) that was taken in October, 2020, the Wilson's have a large, well-constructed retaining wall made of boulders that runs approximately parallel to their shoreline. It stabilizes their bank and property. There is no need for an additional Rip-rap barrier for bank stabilization.



Picture 19 (above): Taken 10/2/20 - Wilson's existing retaining wall

ADDRESSING THE WILSON'S PROPOSAL FOR THE RIP-RAP INSTALLATION:

The Wilsons proposal has multiple inaccuracies and is not truthful. A copy of their permit application is attached to this e-mail. The following are the inaccuracies and untruths:

1. At the bottom of page 1 of the proposal, it states that the Purpose and Need is to: "Continue to Block 16 to detail each work activity and overall project" (see below). However, the Wilsons own lot 16. Lot 16 is the lot to the north of their cabin. Their cabin is on lot 17. Therefore they are proposing to block themselves from detailing the work that they do on their shoreline on lot 17. I own lot 18.

15. PURPOSE and NEED: ☐ Commercial ☐ Industrial ☐ Public ☒ Private ☐ 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.

Reduce shoreline erosion with rip rap installation

2. On the top of page 2 of the proposal it states: "Each spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3 foot rise in the plan is designed to mitigate seasonal flooding and upland erosion" (see below).

will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

This statement is false and has no basis. I have attached records from the USGS that documents the elevations of Priest Lake. The USGS began keeping records in October 2013. Please see the attached documentation of the water levels. I have summarized the data below:

The summer pool is normally at 3-3.5 feet

THE TIMES WHEN THE WATER ELEVATION OF PRIEST LAKE WERE ABOVE THE SUMMER POOL:

2013: Records began being kept on Oct 17, 2013. No data about the water level before Oct. 17, 2013

2014: May 18 – June 8 (21 days). Maximum elevation was **8 inches above** summer pool – for less than 7 days.

2015: The lake elevation never went above summer pool level.

2016: A. April 24 – April 28 (4 days). Maximum elevation was **1.2 inches** above summer pool.

B. May 23 – June 1 (8 days). Maximum elevation was **4.2 inches** above summer pool.

2017: May 10 - June 12 (33 days). Maximum elevation was **8.4 inches** above summer pool.

2018: May 7 – June 8 (32 days). Maximum elevation was **24 inches** above summer pool for approx. 2 days and **18 inches** or higher above summer pool for 13 days.

2019: July 2 – July 5 (3 days). Maximum elevation was **3 inches** above summer pool.

2020: May 20 – June 13 (24 days). Maximum elevation was **11 inches** above summer pool for approx. 2-3 days.

Therefore, the Wilson's statement about the yearly spring flooding being 18- 36 inches is inaccurate and false. Over the past 8 years, only in 2018 was the water elevation 18 inches or higher above summer pool. This was for a total of 32 days. From 2013 through 2020, it has never been higher than 24 inches above summer pool. Other than in 2018, the highest the water elevation has been is 11 inches above summer pool and it lasted for 2-3 days.

3. On the top of page 2 it states: "The installation of rip rap will commence 17.5 feet west of the SW corner of lot 17A (point A – Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west into the lake terminating at point D." (see below)

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

This statement, to my interpretation, is inaccurate and does not make directional sense. It says that the rip rap will begin at the intersection of the OHWM (point B) and then continues west to the OHWM (Point C). There is only one OHWM, yet in this statement they describe 2 OHMW's (at point B and point C).

4. There are conflicting statements and descriptions of the size of the proposed barrier.

On the top of page 2 it states: "Segment points C to D will have rip rap footprint of **4.5ft x 3 ft x 3 ft." (see below)**

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

However, on page 3 it documents that the size of the barrier from point C to D is different than stated on page 2 (above). It states that from point C to D the size is: **4.5 ft long x 3 ft wide x 1 ft high (see below)**

In order to understand the magnitude of the Wilson's proposed barrier. I built models of it and took pictures. One model is 8.5 ft x 1 ft. x 1ft and the other is 4.5 ft x 3 ft x 3 ft. I then went to my beach and measured and marked the proposed placement of the barrier. Please see the pictures and descriptions below:

Point A is approximately at the SW corner of the property (see picture 20).

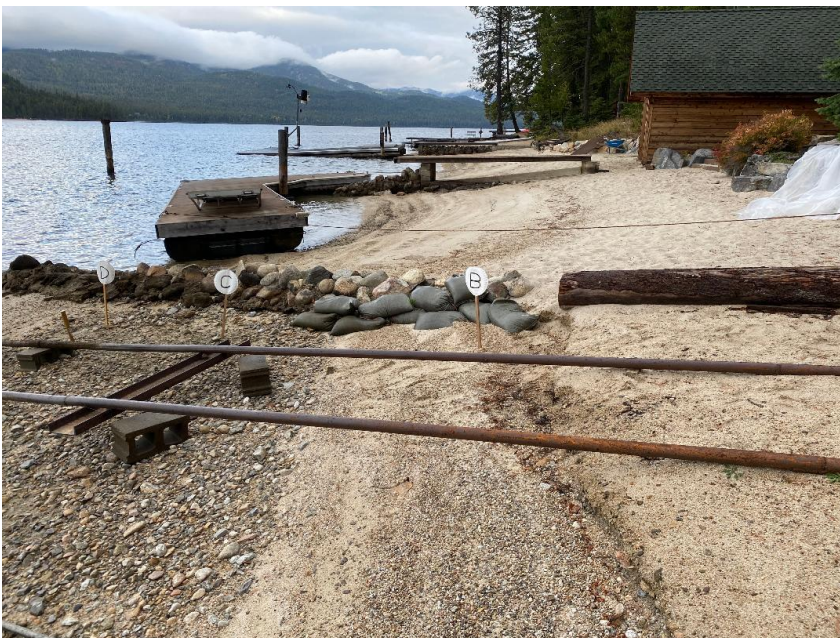


Picture 20 (above)

Point B is 17.5' west of the SW corner (see picture 21 – below)

Point C is 8.5' west of Point B (see picture 21 – below)

Point D is 4.5' west of point C (see picture 21 – below)



Picture 21 (above)

I then put the models in place. From Point B to Point C, I placed the model that is 8.5' long x 1' wide x 1' high. From point C to Point D I put the model that is 4.5' long x 3' wide x 3' high. Please see pictures 22, 23, 24, 25 to assess the size and dimensions of the Wilsons proposed barrier. In fact, the segment from point B to point C will be higher than in the pictures of my model because my beach has been eroded and the model is resting at a lower level.



Picture 22 (above)



Picture 23 (above):



Picture 24 (above):



Picture 25 (above):

On September 1, 2020 and September 10, 2020 I e-mailed Greg Wilson. I requested that he remove the barrier at the property line (see attached e-mails). However, he did not response to them and we have not spoken since my emails were sent. I then communicated with Debra Wilson twice via emailed in September (see attached).

In conclusion, there is no need for the Wilson's proposed barrier.

There is no documentation of regular spring flooding as proposed by the Wilsons.

The Wilsons already have a large, well-constructed rock retaining wall on their bank that protects their property.

The only reason the Wilsons created the barriers at our property line and under the approach and ramp to their dock is to enhance the sand on their beach. Unfortunately this is detrimental of my beach and property.

The Wilsons proposed barrier engineering plan is flawed. There are numerous inconsistencies and inaccuracies throughout the plan.

The Wilsons proposed barrier would, in fact, be larger than what they have already created, which is not permissible.

The Wilson's 2 barriers do not follow the regulations under Idaho Title 58: Public Lands, Chapter 13: Navigational Encroachments.

Thank you.

William W. Faloon Jr., M.D.

Attachments to Exhibit 1:

Attachment 1: Encroachment Permit Application

Attachment 2A: 2000-2022 Summary of USGS PL Records

Attachment 2B: Table of USGS PL Data

Attachment 2C: USGS PL Records 2000 – 2020

Attachment 3A: Email — September 1, 2020

Attachment 3B: Email — September 10, 2020

Attachment 3C: Email — September 15, 2020

Attachment 3D: Email — September 16, 2020

Attachment 1A

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 (8 1/2"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: Idaho Department of Lands Received		<input type="checkbox"/> Incomplete Application Returned		Date Returned:			
Idaho Department of Water Resources No.		Date Received: CCT 01 2020		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
Idaho Department of Lands No.		Date Received: Priest Lake Supervisory Area		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
1. CONTACT INFORMATION - APPLICANT Required:									
Name: Gregory M. and Debra B. Wilson									
Company: Tri-State Consulting Engineers, Inc.									
Mailing Address: 32 Blackcap Lane									
City: Coolin		State: ID		Zip Code: 83821		City: Coeur d'Alene		State: ID	
Phone Number (include area code): 509-991-8575		E-mail: greg@wilsonlaw.us		Phone Number (include area code): 208-665-9502		E-mail: ssyrcole@tristateid.com			
3. PROJECT NAME or TITLE:									
4. PROJECT STREET ADDRESS: 32 Blackcap Lane									
5. PROJECT COUNTY: Bonner		6. PROJECT CITY: Coolin		7. PROJECT ZIP CODE: 83821		8. NEAREST WATERWAY/WATERBODY: Priest Lake			
9. TAX PARCEL ID#: RP0008700017A0A		10. LATITUDE: 48.6560		11a. 1/4: SE		11b. 1/4: NE		11c. SECTION: 9	
		LONGITUDE: -116.8521				11d. TOWNSHIP: 61N		11e. RANGE: 4W	
12a. ESTIMATED START DATE: October 2020		12b. ESTIMATED END DATE: October 2023		13a. IS PROJECT LOCATED WITHIN ESTABLISHED TRIBAL RESERVATION BOUNDARIES? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Tribe:					
13b. IS PROJECT LOCATED IN LISTED ESA AREA? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES		13c. IS PROJECT LOCATED ON/NEAR HISTORICAL SITE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES							
14. DIRECTIONS TO PROJECT SITE: Include vicinity map with legible crossroads, street numbers, names, landmarks. From Coolin proceed north on East Shore Rd turning left onto Diamond Park Rd, then turning left onto Black Cap Lane									
15. PURPOSE and NEED: <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Public <input checked="" 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. Reduce shoreline erosion with rip rap installation									

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.:

The installation of rip rap will commence 17.5 feet west of the SW corner of Lot 17A (Point A-Applicant's lot) at the intersection of the OHWM (Point B) and continued 8.5 feet west to the OHWM (Point C), thence west 4.5 feet into the lake terminating at Point D. Segment points B to C rip rap will have a footprint of 8.5 ft. x 1 ft. Segment points C to D will have rip rap footprint of 4.5 ft. x 3 feet x 3 ft.

The rip rap between Points B to C only has one side (south) exposed to the lake water at depths between 1 and 12 inches. Between Points C to D the rip rap will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

The installation methodology will use manual labor carrying and hand placing rip rap stones following Priest Lake's draw down. The rip rap will be mortared in place creating an armored surface thereby obviating the need for filter fabric. Following draw down, all construction activity will take place in the exposed dry lake bed. Therefore, there will be no impact on water quality. There will be no actions taken in the water which might cause lake bed turbidity. Applicant does not intend to disturb the lake bed, nor intend to remove any lake bed materials. No mechanized machinery will be used during the course of construction.

Points A, B, C and D are depicted on the Tri-State Consulting Engineer's Bank Stabilization Plan-Exhibit "A"

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.

The construction plan is to perform the proposed improvements once the lake has drawn down in the up and coming months and will be completed prior to the uprise of the lake water elevation in the spring. This plan will minimize the potential impacts to the Waters of the United States and is in compliance of this application.

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.

Applicant proposes to place a small amount of clean rip rap in the dry lake bed following the draw down during the fall and winter months. This material will be manually place with no mechanical equipment used during the construction process. With this construction process in mind, there will be no need for a mitigation plan.

Idaho Department of Lands
Received

OCT 01 2020

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: 0.8 cubic yards
Concrete: _____ cubic yards
Other (describe): _____ : _____ cubic yards
Other (describe): _____ : _____ cubic yards

TOTAL: 0.8 cubic yards

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

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.

No work has been commenced under this application. Applicant seeks to permit a portion of an existing legacy rip rap.

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:

L-97-S-1081A Encroachment Permit

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 jurisdiction 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 PRACTICES (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

Applicant proposes to reposition existing lake bed river stones, add more clean river stone in the form of clean rip rap in the lake bed as shown on the attached plan. The lake bed material along the subject property frontage is composed of glacial gravels. There will be no mechanical or manual digging into the lake bed. The proposed placement of said material will not produce any turbidity issues. Therefore, there will be no impact on a water quality standpoint.

Idaho Department of Lands
Received
OCT 01 2020
Priest Lake
Supervisory Area

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
Rip rap	Priest Lake		8.5 ft long x 1 ft. wide x 1 ft. high (Point B to C)	8.5
Rip rap	Priest Lake		4.5 ft. long x 3 ft. wide x 1 ft. high (Point C to D)	4.5
TOTAL STREAM IMPACTS (Linear Feet):				13

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)
N/A				
TOTAL WETLAND IMPACTS (Square Feet):				

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

Name: William Faloon	Name: Phillips Keystone Inheritance Trust c/o Mary Ann Sugai, Trustee
Mailing Address: S. 6618 Tomaker Ln.	Mailing Address: 2292 Tanglewood Lane
City: Spokane	City: Emmett
State: WA	State: ID
Zip Code: 99223	Zip Code: 83617
Phone Number (include area code): 509-869-8652	Phone Number (include area code): 208-369-0483
E-mail: billlofspok@aol.com	E-mail: lmhaun8@msn.com

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

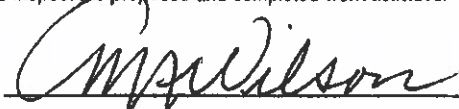
Name:	Name:
Mailing Address:	Mailing Address:
City:	City:
State:	State:
Zip Code:	Zip Code:
Phone Number (include area code):	Phone Number (include area code):
E-mail:	E-mail:

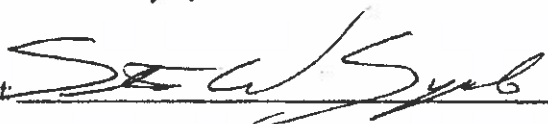
Idaho Department of Lands
Received
OCT 01 2020
Priest Lake
Supervisory Area

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

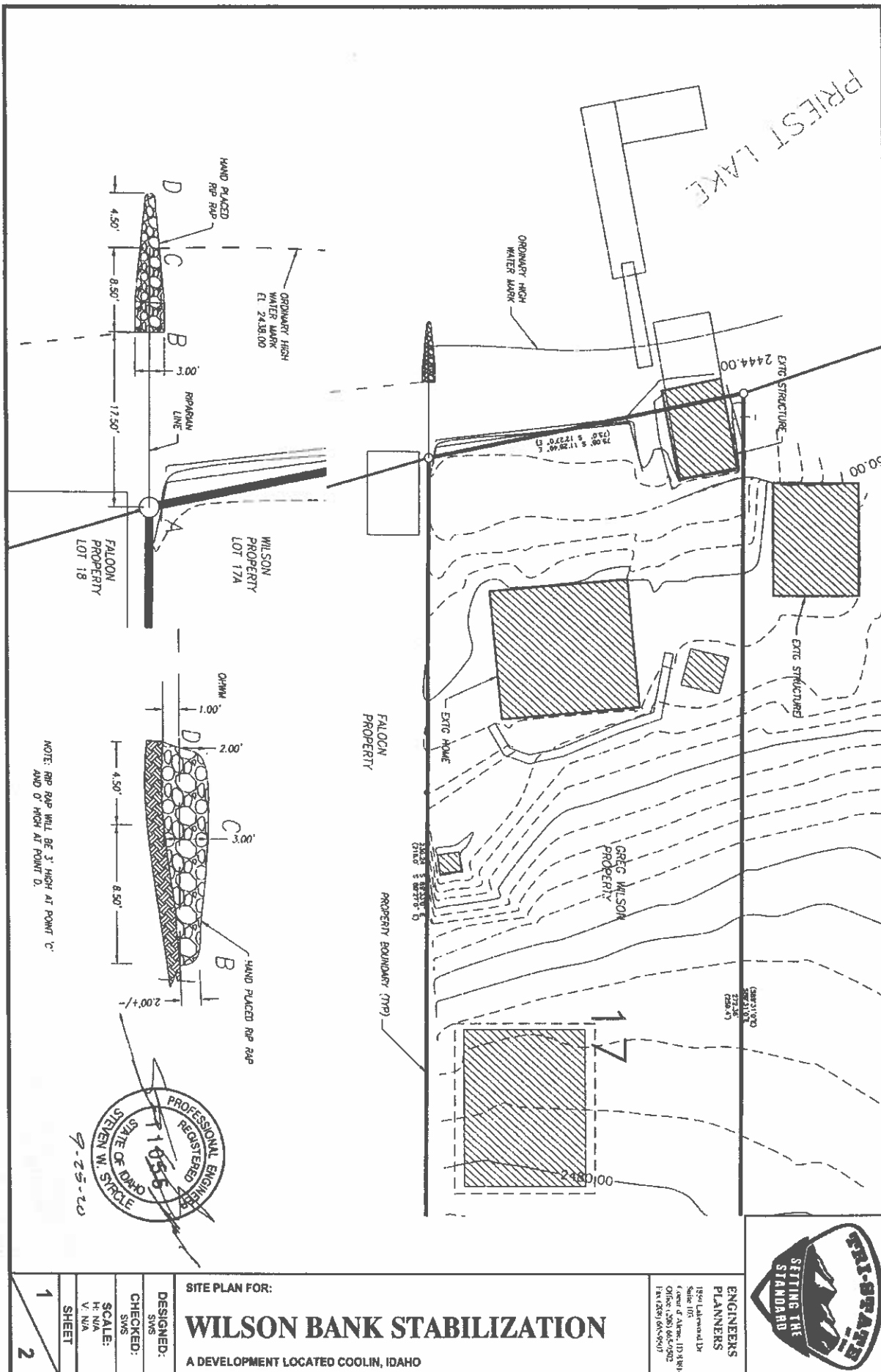
30. SIGNATURES: STATEMENT OF AUTHORIZATION / CERTIFICATION OF AGENT / ACCESS

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: 9-21-20

Signature of Agent:  Date: 9-21-20

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".



**ENGINEERS
PLANNERS**
1850 Laurelwood
Suite 107
Coeur d'Alene, ID 83814
Office: (208) 666-0002
Fax: (208) 666-0003

SITE PLAN FOR:
WILSON BANK STABILIZATION
A DEVELOPMENT LOCATED COOLIN, IDAHO

DESIGNED:
SWS
CHECKED:
SWS
SCALE:
H: N/A
V: N/A
SHEET
1 / 2

ANALYSIS FOR RIP RAP BANK STABILIZATION

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.

Applicant's proposed rip rap will extend into the lake horizontally 4.5 feet from the OHWM to a maximum depth of one foot. This minimal extension into the lake is designed to minimize excess rip rap material in the lake while providing sufficient material to maximize a diffusive effect on wave energy dissipation thereby reducing upland seasonal shore and upland property erosion.

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).

The proposed rip rap rock will be angular round lake bed type stones varying in size from 6-10 inches in diameter. This rock is sound, dense, and durable with sufficient angularity to diffuse wave action. The rock is weather resistant and free of fines. The use of mortar as a binding agent with the rock will provide a sound and stable armored barrier to erosive wave actions. The rip rap rock will overlie sand and gravel. The mortared rip rap rock will be used as an alternative to geotextile material because of the small scope of the treated shoreline. The applicant has submitted the application design signed and stamped, for construction purposes, by an Idaho professional engineer. Mr. Steve Syrcle, P.E. of Tri-State Consulting Engineers, Inc. is licensed in the State of Idaho.

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.

The rip rap will be placed on a slope which is no steeper than 1.5H:1V as an aid in wave energy dissipation as set forth on the engineered bank stabilization plan. The rip rap encroachment into the lake bed has been limited to a 4.5 foot entry to a depth of 12 inches based on this slope ratio. This configuration will significantly aid in wave energy seasonal dissipation from storm waves, boat wakes and spring flooding.

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.

Not applicable.

d) Seawalls, bulkheads and other vertical walls shall not be permitted waterward of the OHWM or AHWM, 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.

Not applicable.

e) Seawalls, bulkheads or other vertical walls constructed at the OHWM or AHWM shall have riprap material placed at the toe along the wall face to provide for aquatic life, dissipate wave energy and protect wall integrity.

Not applicable.

EXHIBIT "A"

WILSON PROPERTY

SECTION 9, T6N, R. 3W
PRIEST LAKE, BONNER COUNTY



ENGINEERS
PLANNERS

WILSON PROPERTY
ENGINEERING AND PLANNING
1000 W. 10th St.
Coeur d'Alene, ID 83814

COVER SHEET FOR:

WILSON BANK STABILIZATION

A DEVELOPMENT LOCATED COOLIN, IDAHO

SWS
SWS
H: N/A
V: N/A

1
2

500 e cavanaugh ba X Q

+

-

Home

Parcels (1 of 3)

Parcel #: RP0008700017A0A
Owner: Wilson, Gregory M & Debra B
Instrument Number: [898581](#)
Acres: 0.62
Tax Code Area: 0300000
Last Assessed Value: \$1189653
Deed1: [898581 WD](#)
Deed2: [874751 PL](#)
Deed3: [633397 WD](#)
Deed4: [633396 QC](#)
Deed5: [572913 PR](#)
Description: 537-Resid improv on cat 15
Legal Description: 9-61N-4W DIAMOND PARK
REPLAT LOT 17A

1:1128

Powered by Esri

<https://cloudgisapps.bonnercountyid.gov/public/>

0219

Attachment 2A

Records of Priest Lake Elevation from 2000 to 2020 (21 years):

- 2000: May 22 – June 1 (9 days). Maximum elevation was 4" above summer pool.
- 2001: Never went above summer pool level.
- 2002: May 15 – June 30 (22 days). Maximum elevation was 12" above summer pool (for approximately 3 days)
- 2003: May 15 – June 30 (11 days). Maximum elevation was 5" above summer pool.
- 2004: Never went above summer pool level.
- 2005: Never went above summer pool level.
- 2006: May 17 – June 21 (34 days). Maximum elevation was 21" above summer pool. It was 18" – 21" above summer pool for 6 days.
- 2007: Never went above summer pool level.
- 2008: May 19 – June 14 (30 days). Maximum elevation was 18" above summer pool. It was 12" - 18" above summer pool for 13 days.
- 2009: June 1 – June 4 (3 days). Maximum elevation was 2" above summer pool.
- 2010: June 2 – June 18 (16 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for approximately 3 days.
- 2011: May 17 – June 9 (53 days). Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 7 days.
- 2012: May 15 – July 8 (53 days) Maximum elevation was 15" above summer pool. It was 12" – 15" above summer pool for approximately 10 days.
- 2013: May 12 – June 2 (21 days). Maximum elevation was 7" above summer pool. It was 6" – 7" above summer pool for 3 days.
- 2014: May 18 – June 8 (21 days). Maximum elevation was 8" above summer pool.
- 2015: Never went above summer pool level.
- 2016: A. April 24 – April 28 (4 days). Maximum elevation was 1.2" above summer pool.
B. May 23 – June 1 (8 days). Maximum elevation was 4.2" above summer pool.
- 2017: May 10 - June 12 (33 days). Maximum elevation was 8.4" above summer pool.
- 2018: May 7 – June 8 (32 days). Maximum elevation was 24" above summer pool (approx. 1 day). It was 18" – 24" above summer pool for 13 days.
- 2019: July 2 – July 5 (3 days). Maximum elevation was 3" above summer pool.
- 2020: May 20 – June 13 (24 days). Maximum elevation was 11" above summer pool (for 2-3 days)

Attachment 2B

2000 - 2020 Priest Lake Elevations (21 years):

Page 2023

Definition of Summer Pool (S.P.): 3 feet - 3.5 feet above elevation

<u>Lake Level Elevation:</u>	Number of years: (Total: 21)	% of years above S.P.:	Maximum Elevation each year:	Duration > 6" - 12" above S.P.	Duration > 12" - 18" above S.P.	Duration > 18" - 24" above S.P.	Duration > 24" above S.P.
Never above S.P.:	5	24%					
> 0" - 6" above S.P.:	5	24%	2", 3", 4", 4.2", 5"				
> 6" - 12" above S.P.:	6	25%	7", 7", 8", 8.4", 11", 12"	3-11 days			
> 12" - 18" above S.P.:	3	14%	15", 15", 18"	17-29 days	10-18 days		
> 18" - 24" above S.P.:	1	5%	21"	5 days	5 days	6 days	
> 24" above S.P.:	1	5%	Approx. 24"	7 days	9 days	14 days	1 day
Totals (21 years):				32-52 days	24-32 days	20 days	1 day

Attachment 2C

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2000

Days (51)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2000-04-30

Gage height, feet

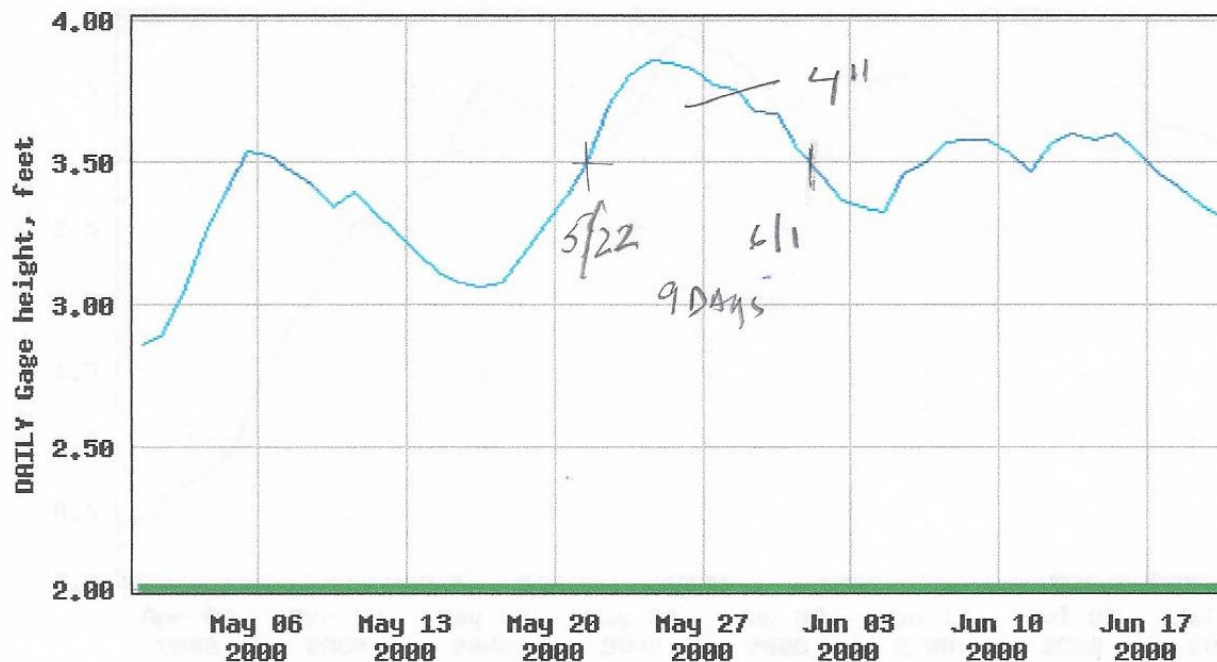
End date

2000-06-20

-- Daily Instantaneous data unavailable for the time period specified --

9 DAYS - 4" MAX

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2001

Days (105) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2001-04-01

Gage height, feet

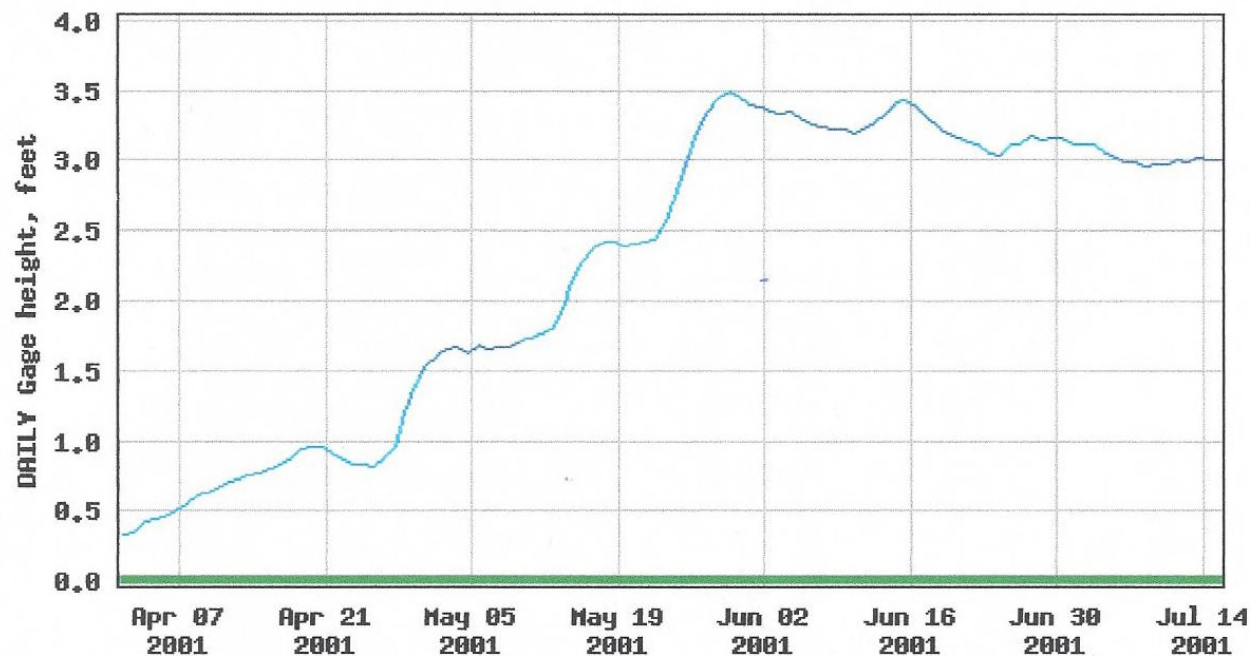
End date

2001-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

NEVER ABOVE
Summer pool



— Daily observation at midnight gage height
 — Period of approved data

Begin date

2002-05-18

Gage height, feet

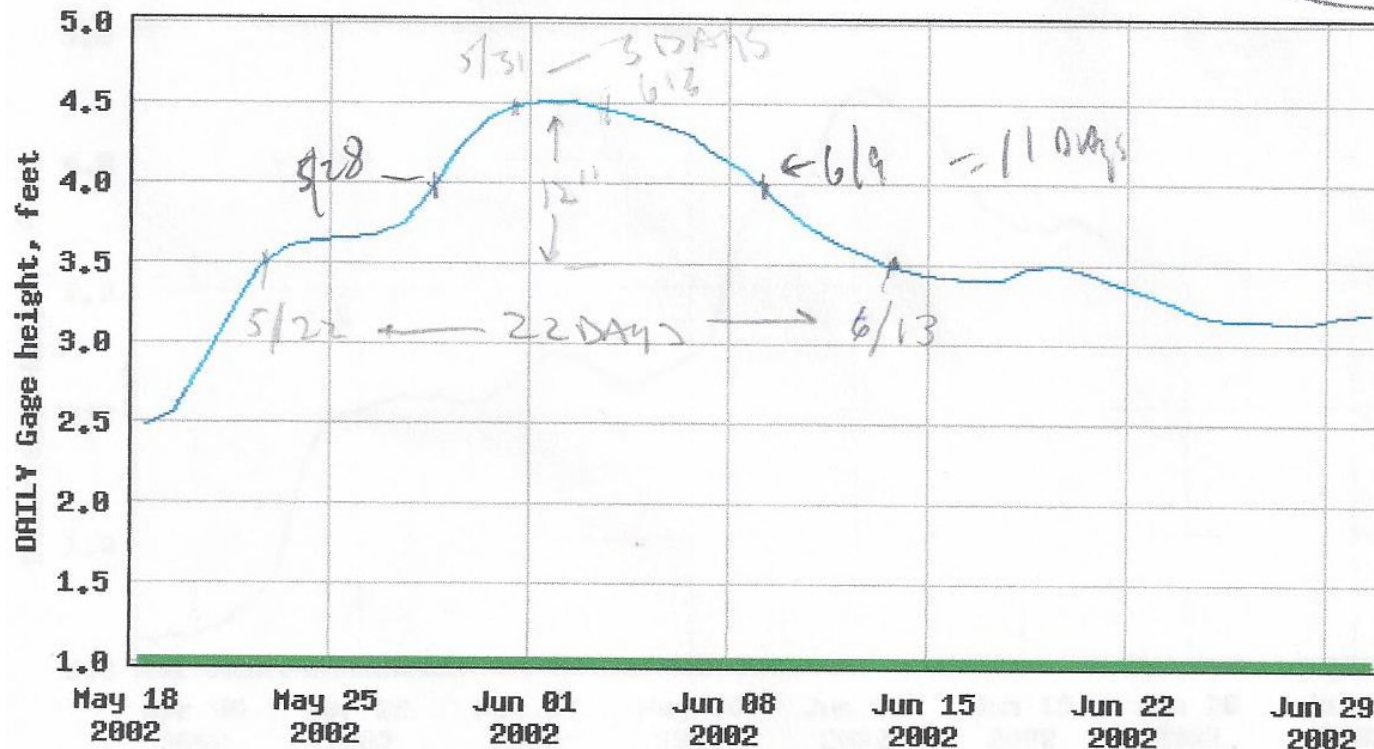
End date

2002-06-30

-- Daily Instantaneous data unavailable for the time period specified --

2002

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
— Period of approved data

5/15/02
1
6/30/02

-22 DAYS ABOVE
Summer pool.
- MAY 12" x ~3 DAYS

2002

Tab separated

Days (46)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2003-05-15

Gage height, feet

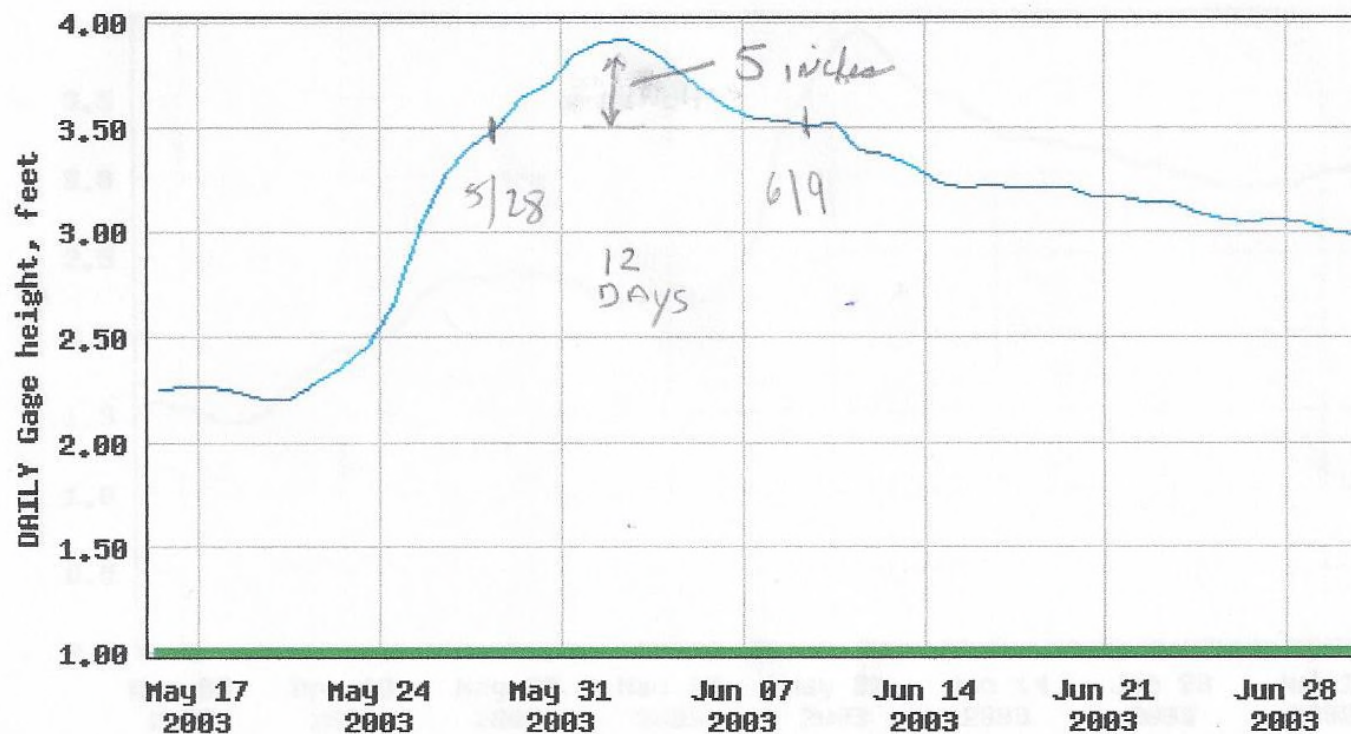
End date

2003-06-30

-- Daily Instantaneous data unavailable for the time period specified --

2003

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
— Period of approved data

5/15/03
1
6/30/03
11 DAYS ABOVE SUMMER
POOL
MAX: 5" ABOVE
SUMMER POOL.

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2004

Days (105) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2004-04-01

Gage height, feet

End date

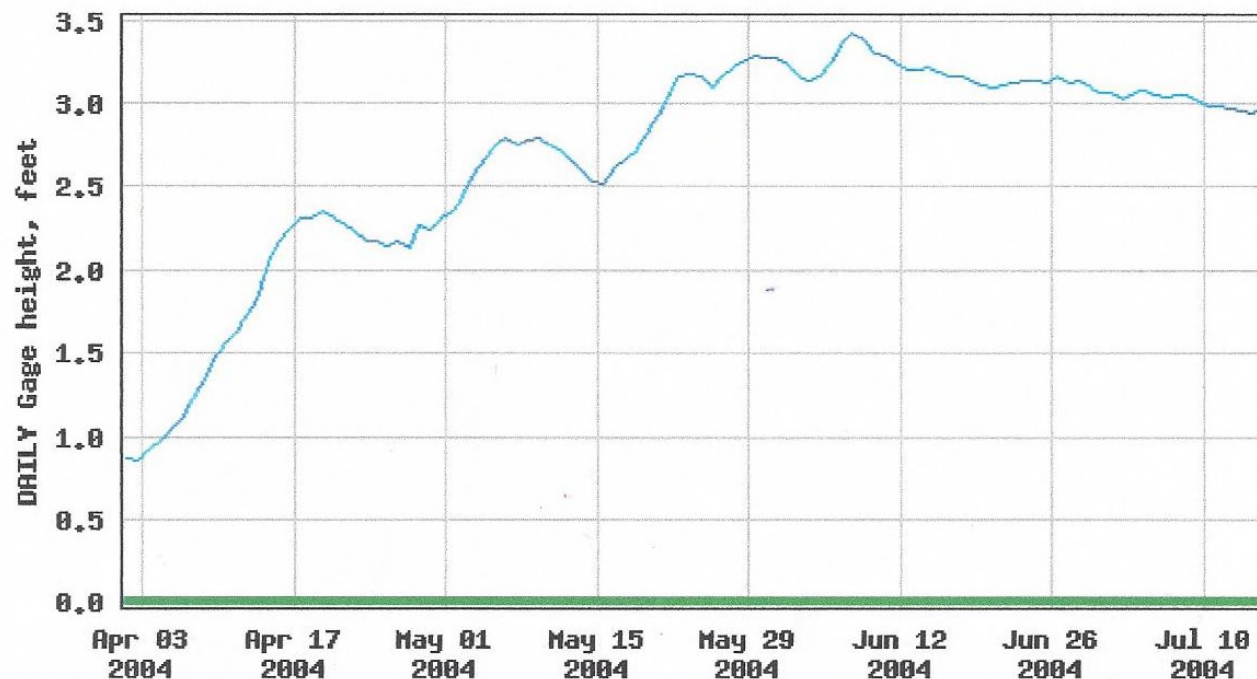
2004-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

- NEVER ABOVE

Summer pool -



— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2005 5

Days (105) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2005-04-01

Gage height, feet

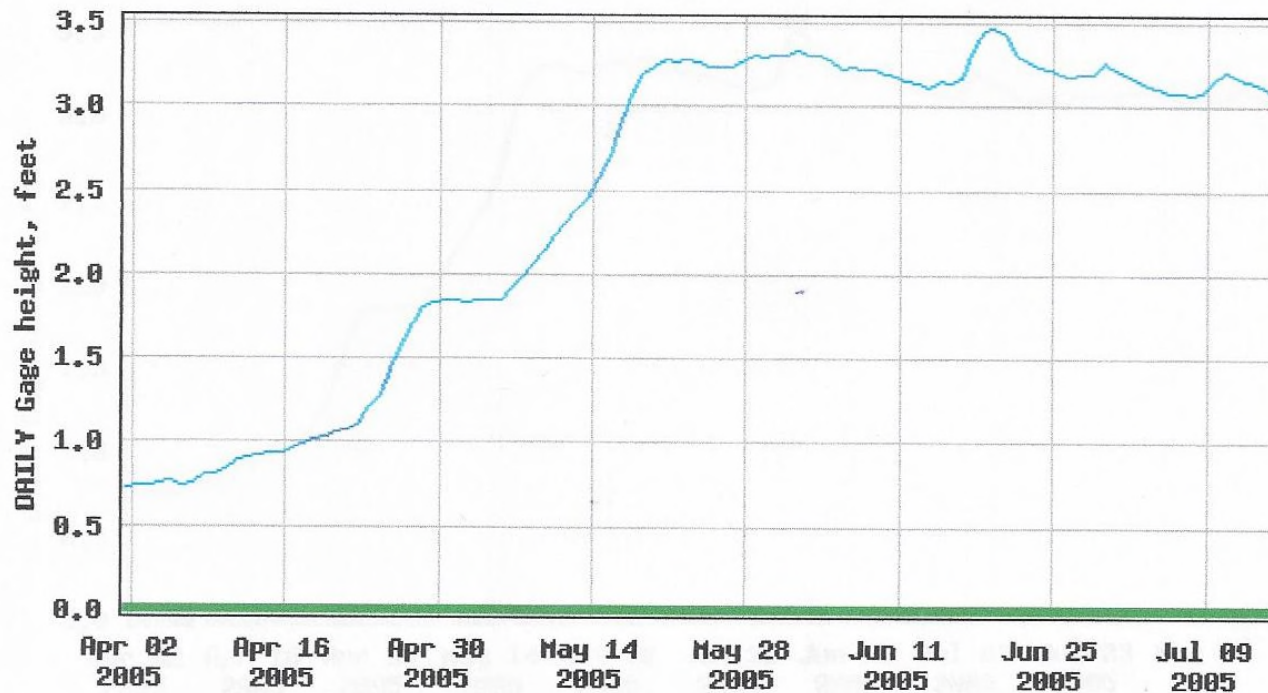
End date

2005-07-15

-- Daily Instantaneous data unavailable for the time period specified --

NEVER ABOVE
Summer pool

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2007

Days (76)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2007-04-30

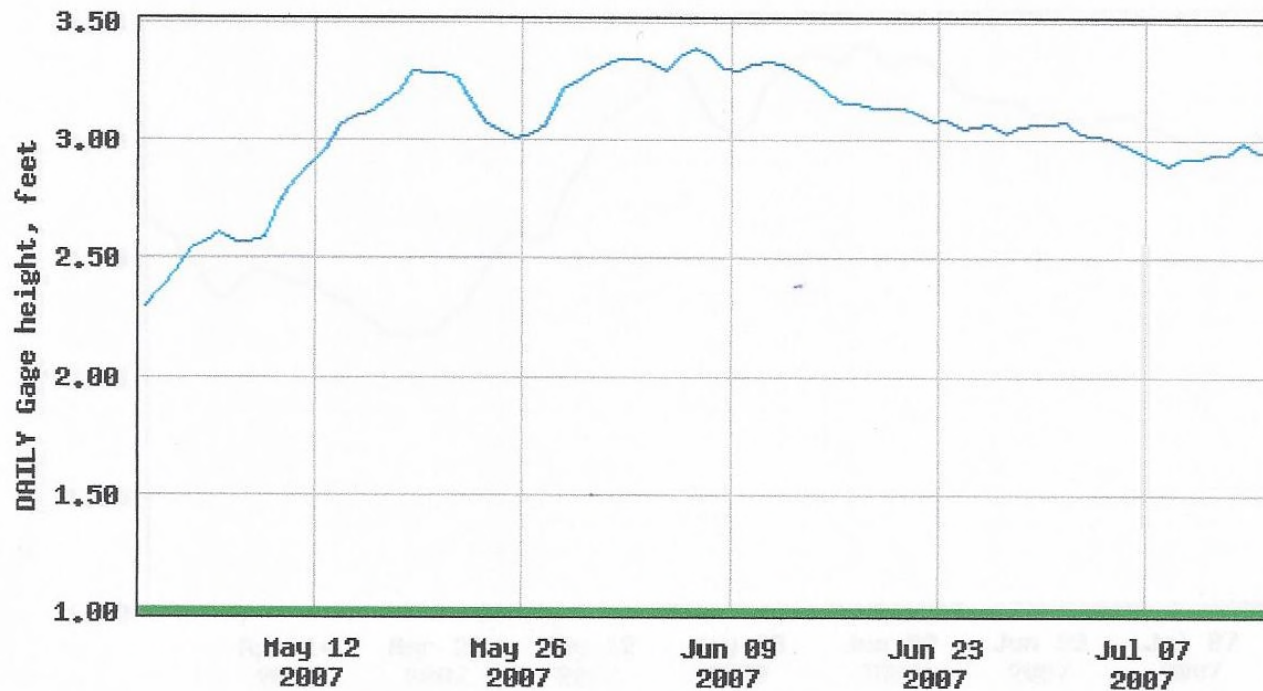
Gage height, feet

End date

2007-07-15

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



NEVER
ABOVE
Summer Pool

— Daily observation at midnight gage height
 — Period of approved data

- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2006

Days (61)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2006-04-30

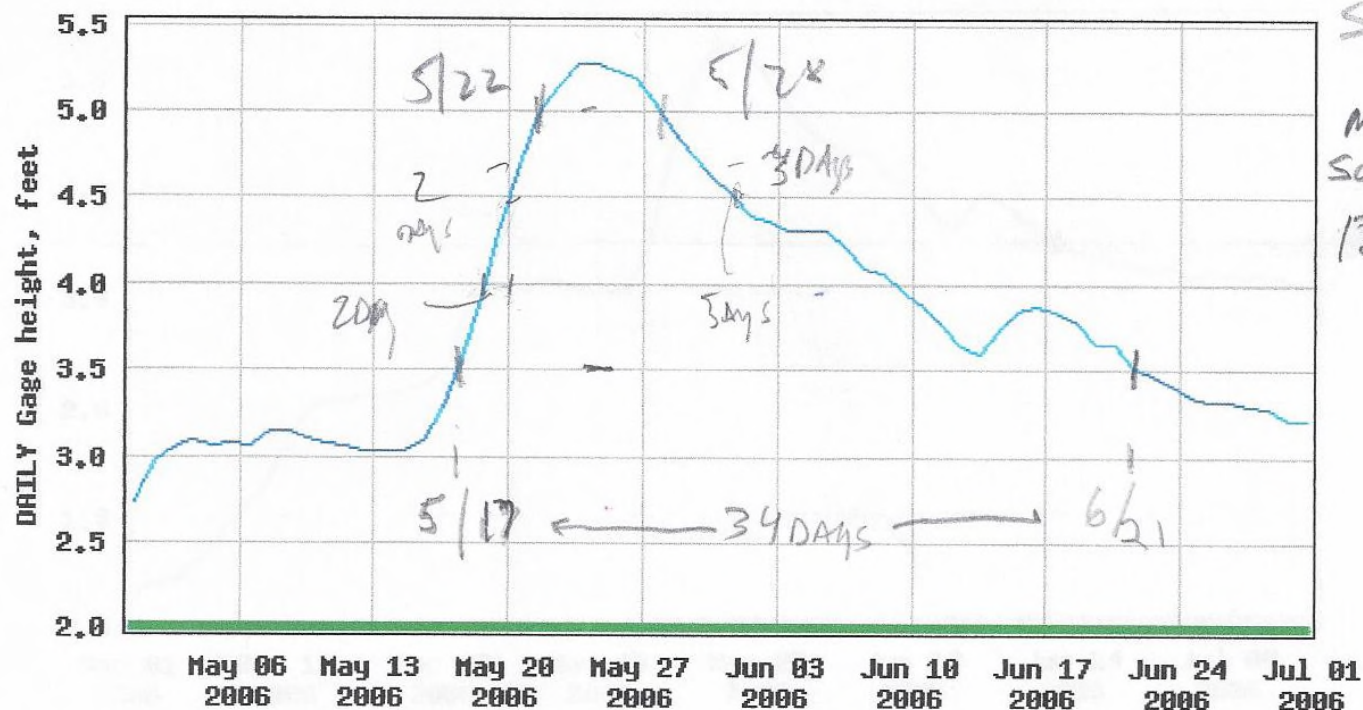
Gage height, feet

End date

2006-06-30

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



34 DAYS ABOVE
Summer pool

MAX 21" ABOVE
Summer pool x
18" or higher x 6 days

- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2008

Days (47) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2008-05-15

Gage height, feet

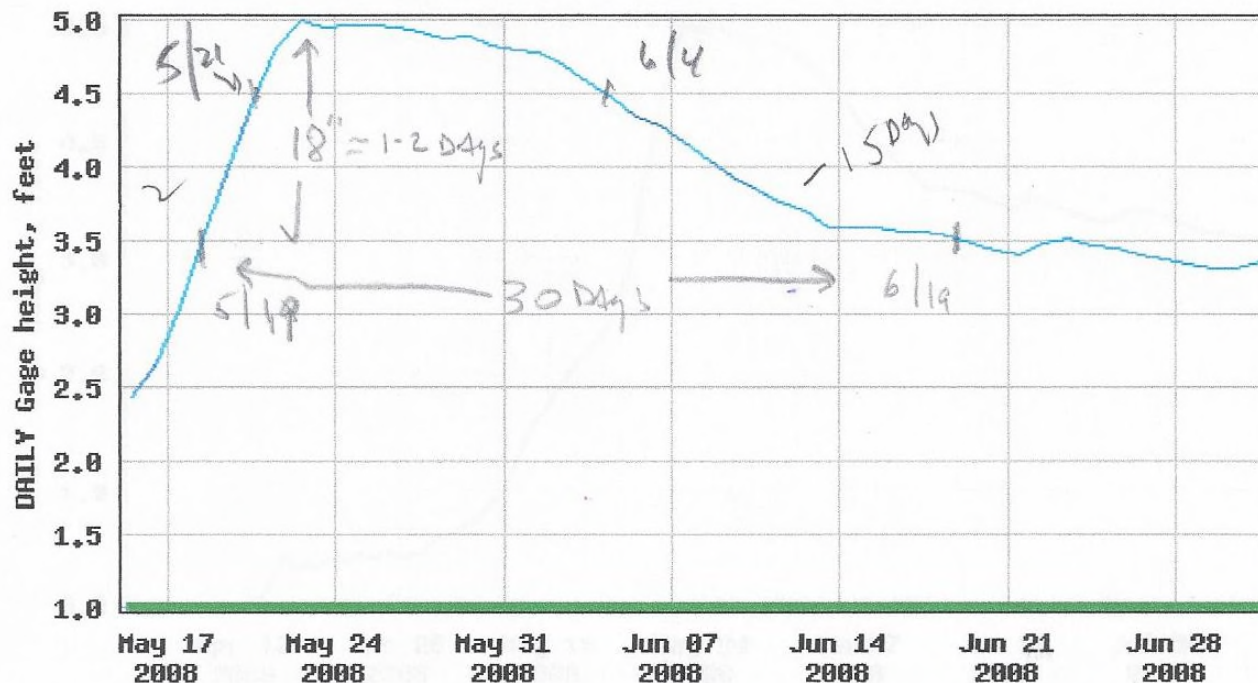
End date

2008-07-01

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

30 Days ABOVE Summer



POOL

MAX: 18"

12" or higher x 13 Days

— Daily observation at midnight gage height
 — Period of approved data

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (41)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2010-05-20

Gage height, feet

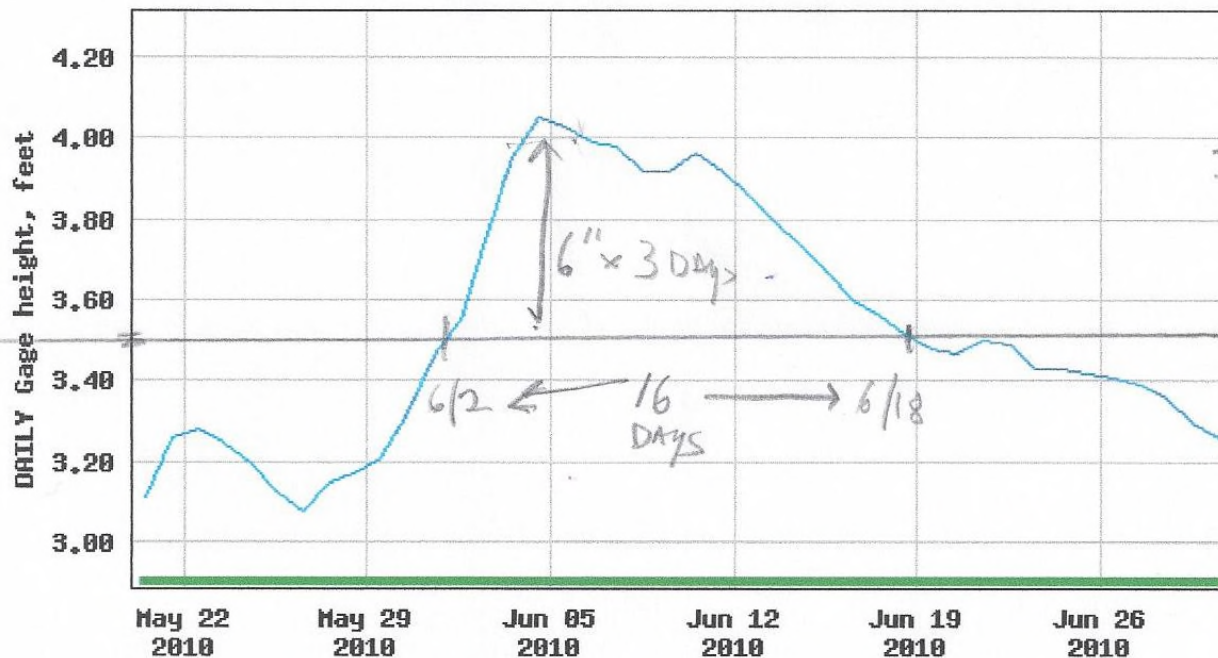
End date

2010-06-30

-- Daily Instantaneous data unavailable for the time period specified --

16 Days Above Summer pool

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



MAX: 6" ABOVE
Summer pool
= 7" x 3 Days

— Daily observation at midnight gage height
 — Period of approved data

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (51) [Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

2009

-- or --

Begin date

2009-05-10

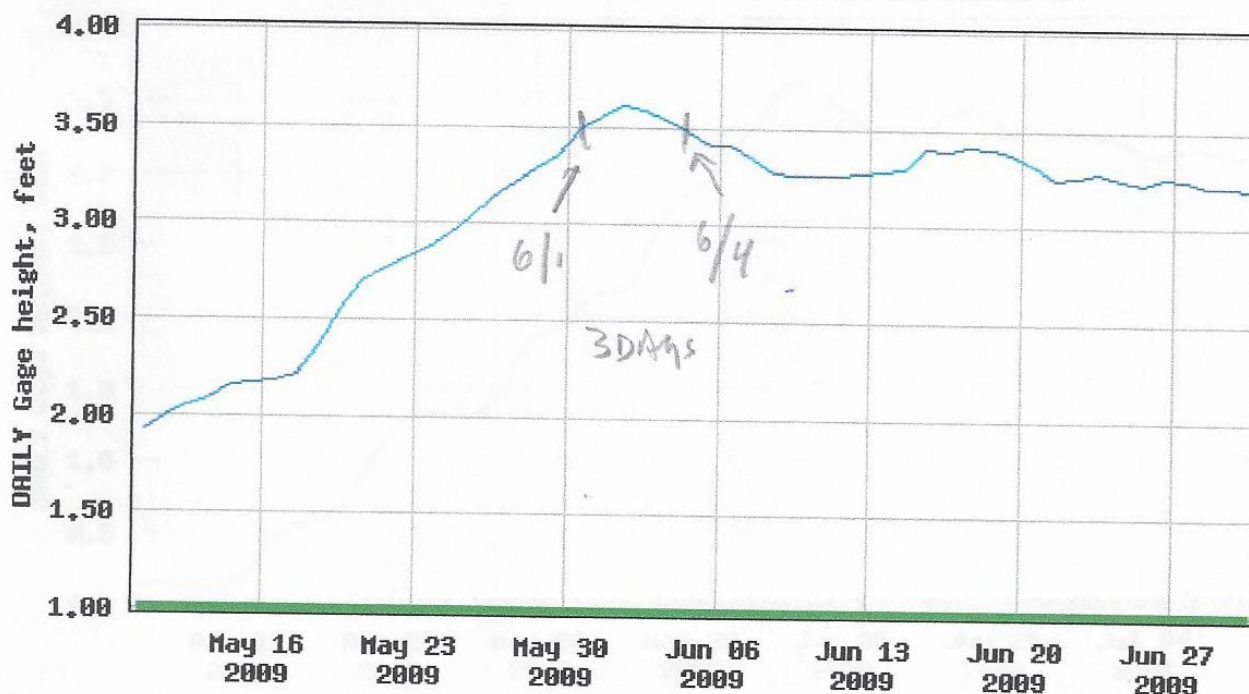
Gage height, feet

End date

2009-06-30

-- Daily Instantaneous data unavailable for the time period specified --

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



2" ABOVE SUMMER
POOL for 3-4 DAYS

— Daily observation at midnight gage height
 — Period of approved data

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (66)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2011-05-10

Gage height, feet

End date

2011-07-15

-- Daily Instantaneous data unavailable for the time period specified --

53 DAYS ABOVE SUMMER POOL

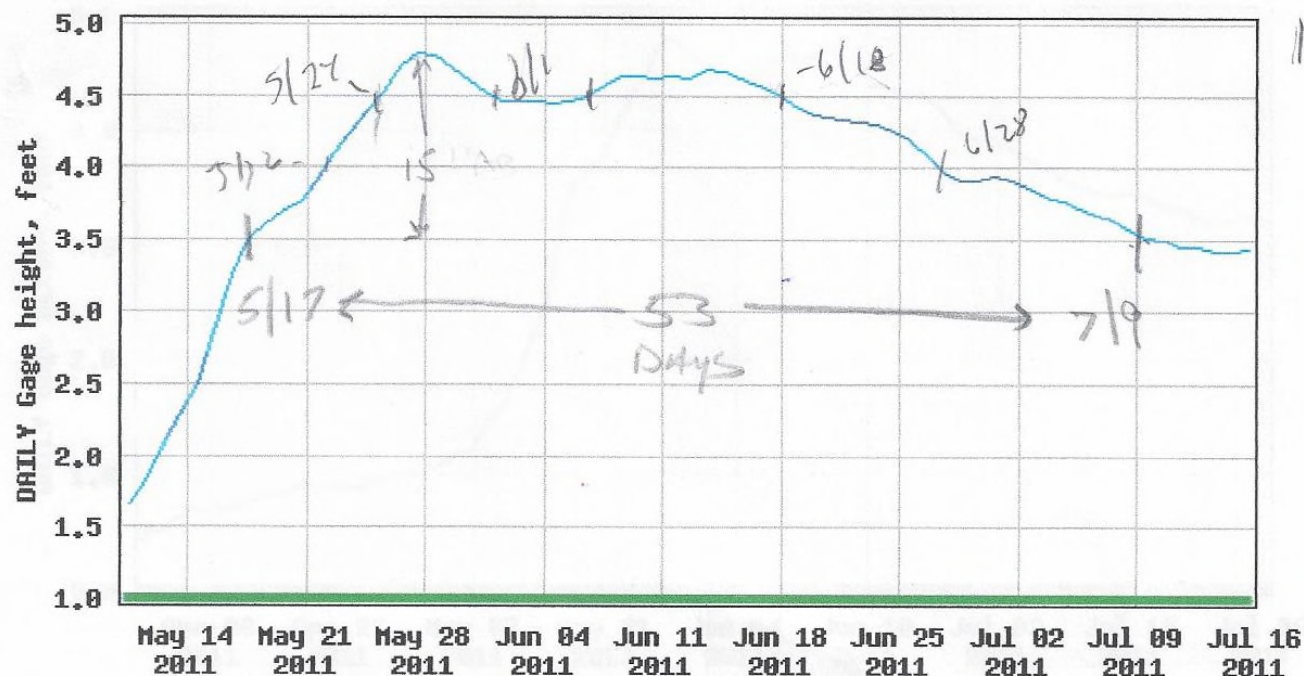
MAX = 15"

12" or higher x 7 days

$\Sigma +12 = 14$

13
15
~

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

2013

Days (87)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2013-05-04

Gage height, feet

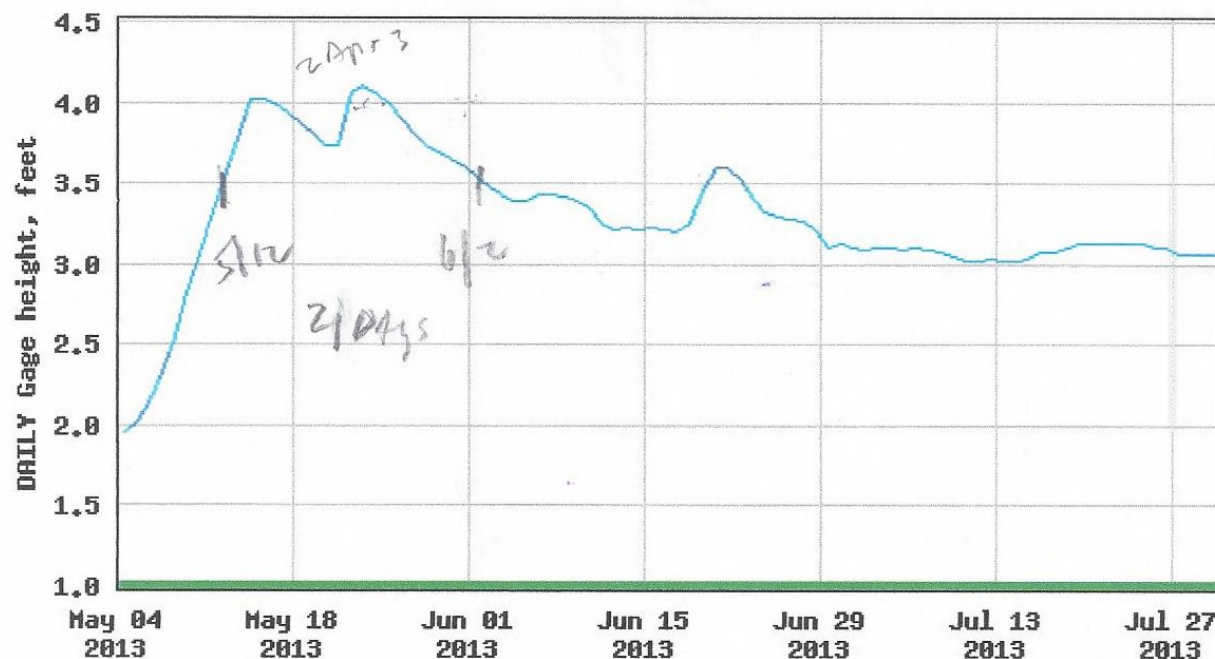
End date

2013-07-30

-- Daily Instantaneous data unavailable for the time period specified --

MAX. 7" ABOVE SUMMER POOL

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



6" or Higher x = 3 days

— Daily observation at midnight gage height
— Period of approved data

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (81)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

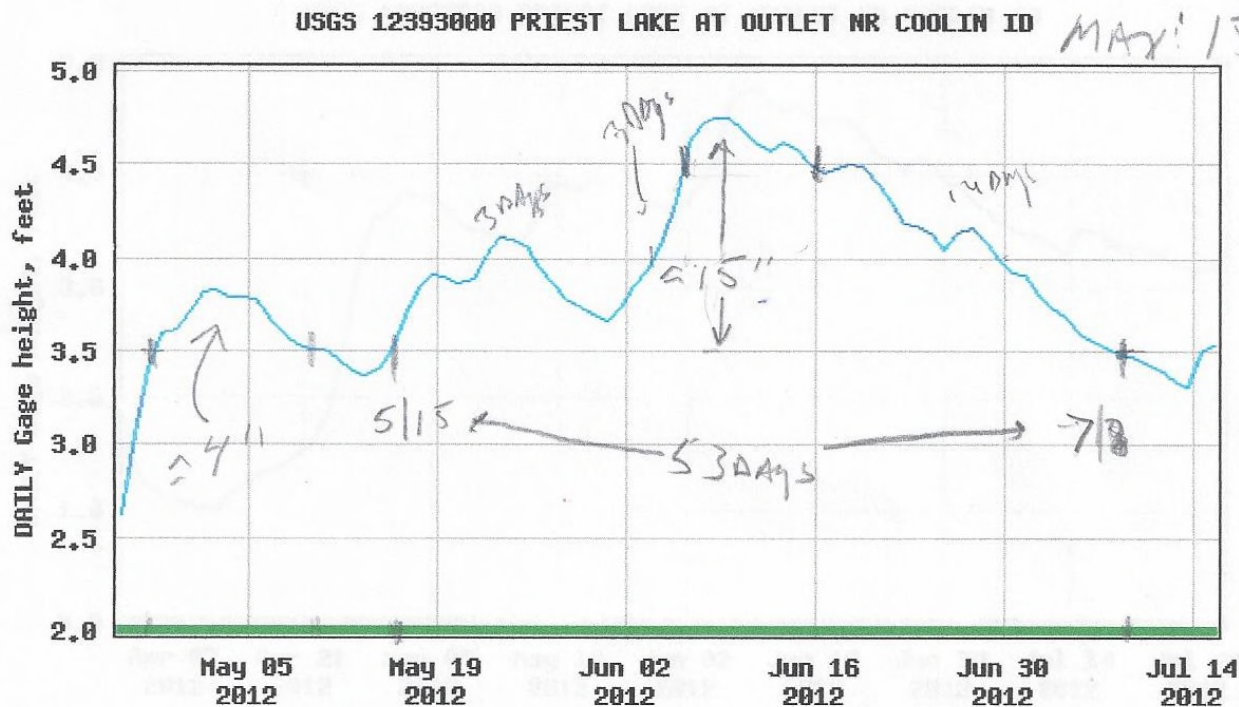
2012-04-25

Gage height, feet

End date

2012-07-15

-- Daily Instantaneous data unavailable for the time period specified --



— Daily observation at midnight gage height
— Period of approved data

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-04-01

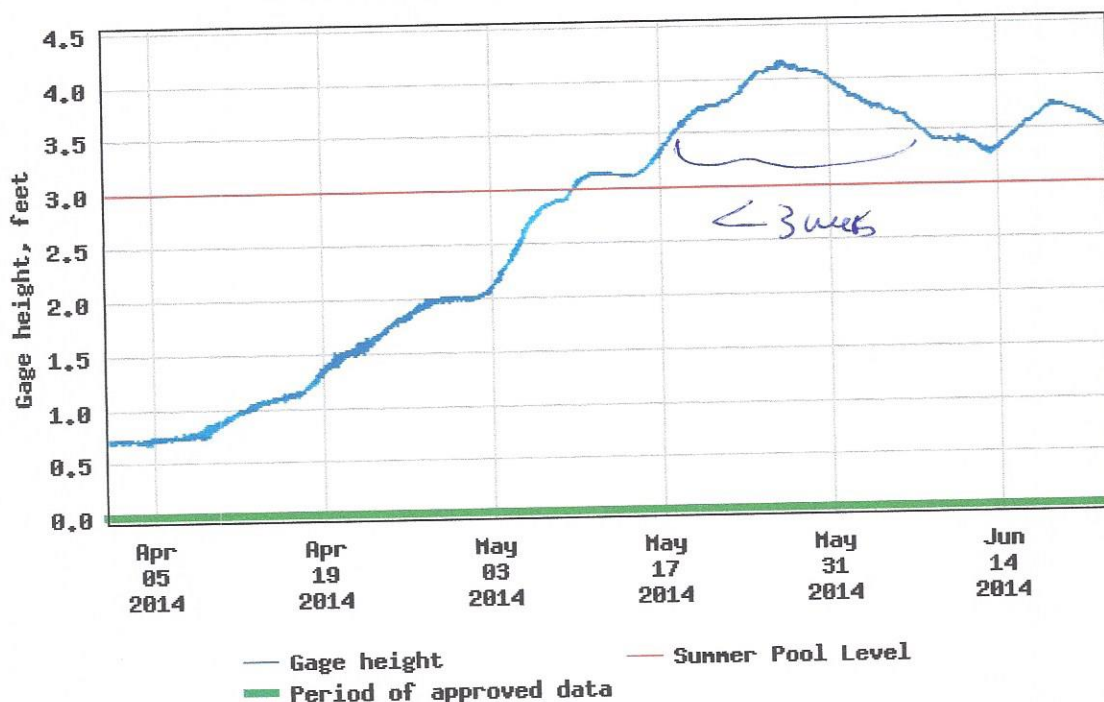
End date

2014-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-06-23

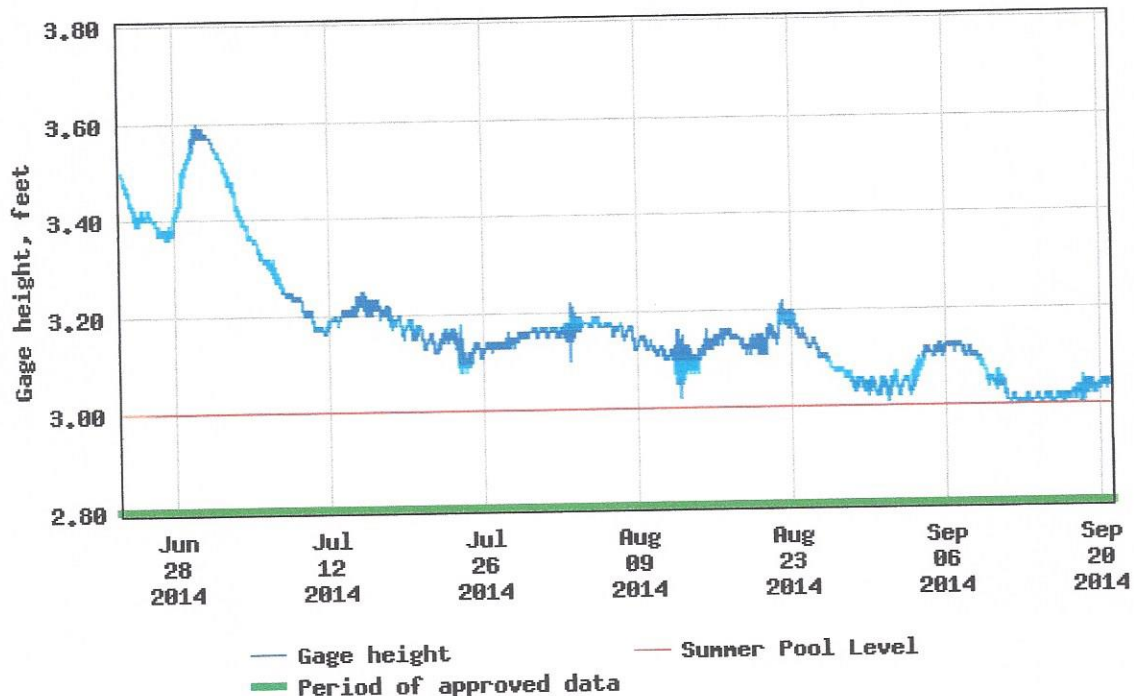
Gage height, feet

End date

2014-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

0065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-09-21

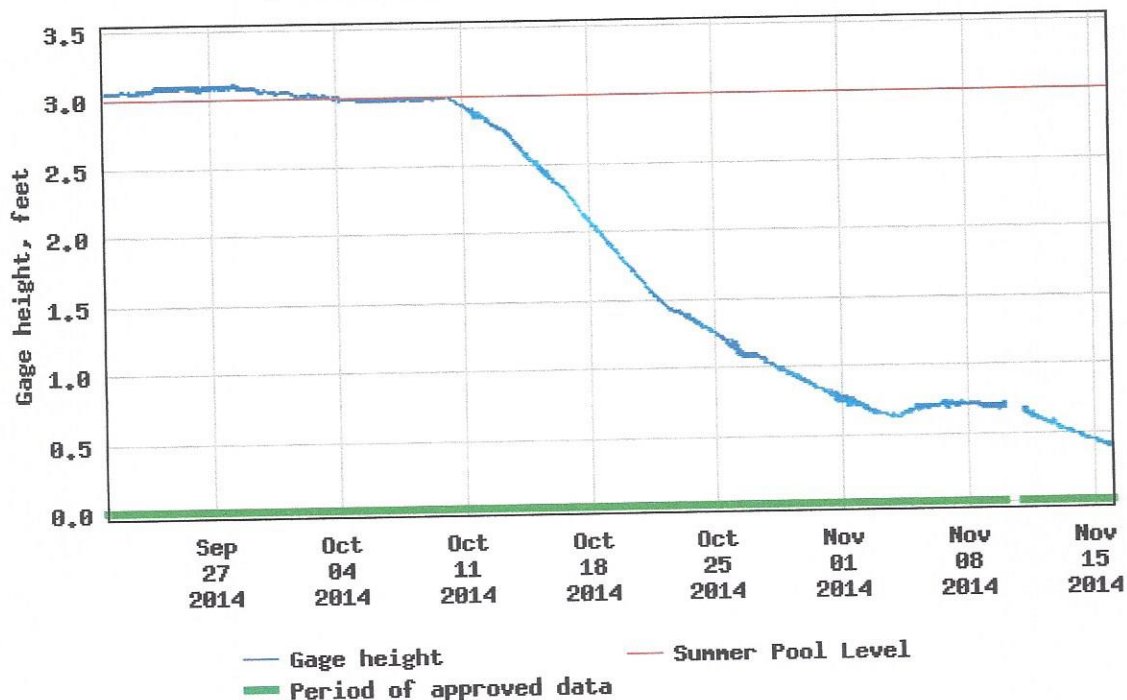
End date

2014-11-15

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

Available Parameters for this site

2013-10-17 2020-10-08

00065 Gage height

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (28)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2014-05-17

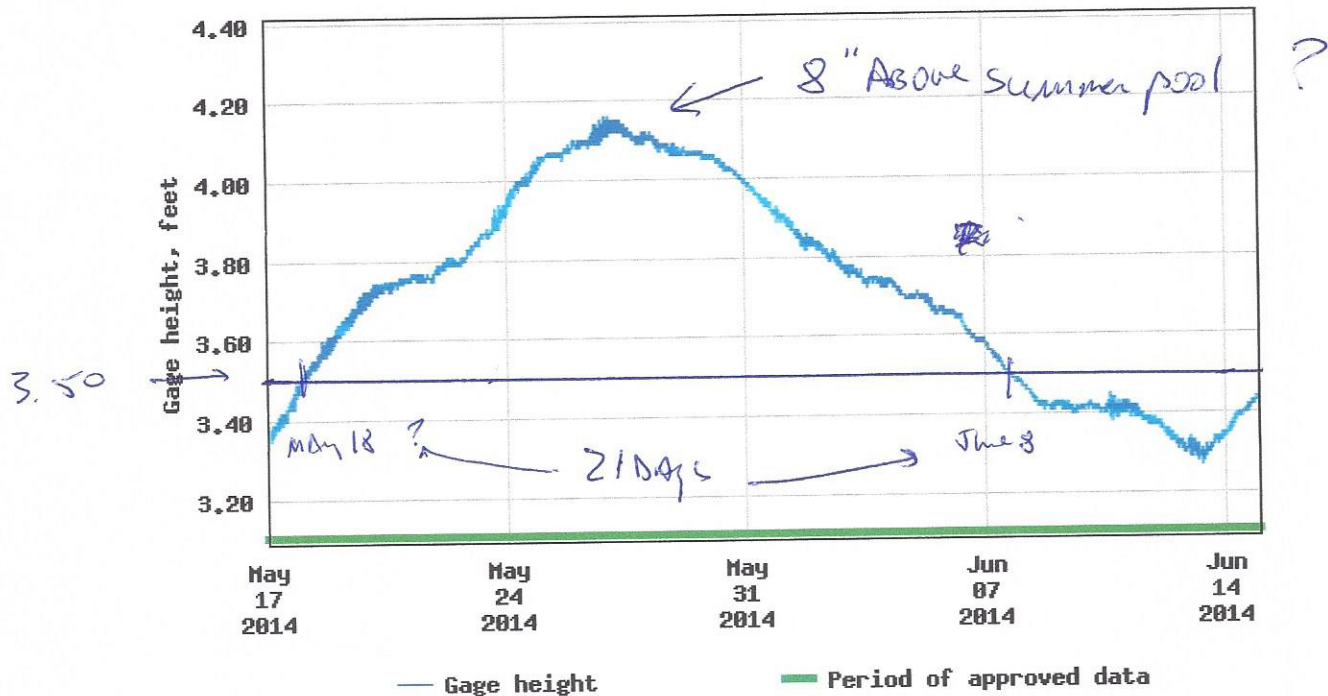
Gage height, feet

End date

2014-06-14

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

$$\begin{array}{r} 13 \\ + 8 \\ \hline 21 \end{array}$$

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-04-01

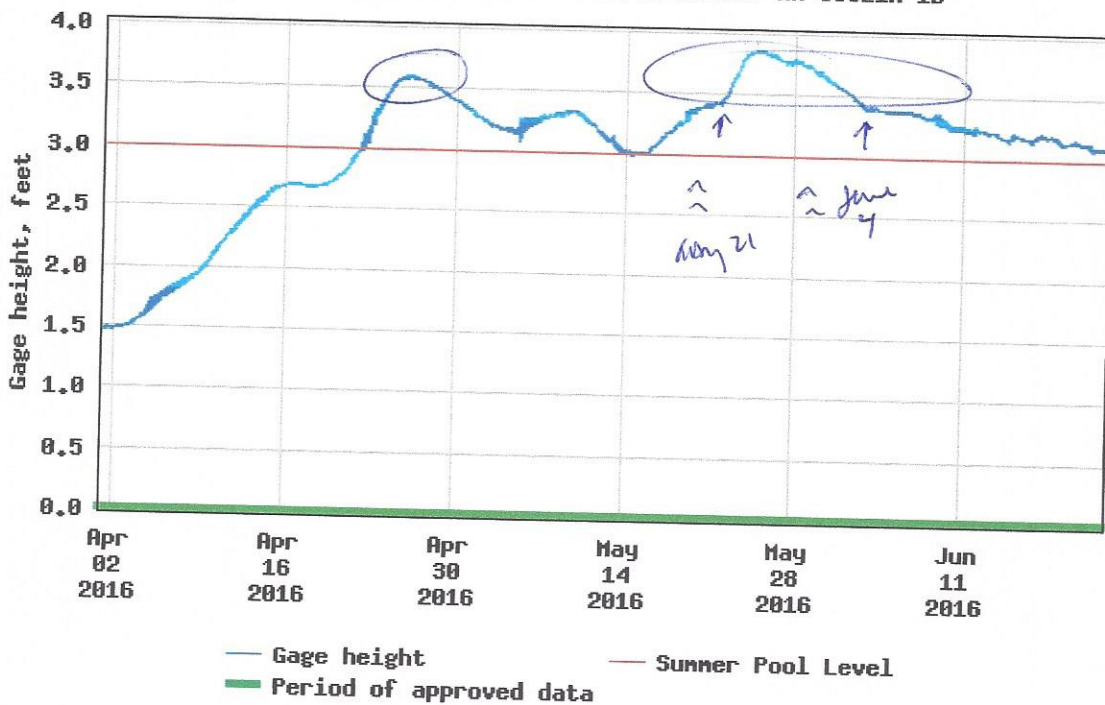
End date

2016-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-06-23

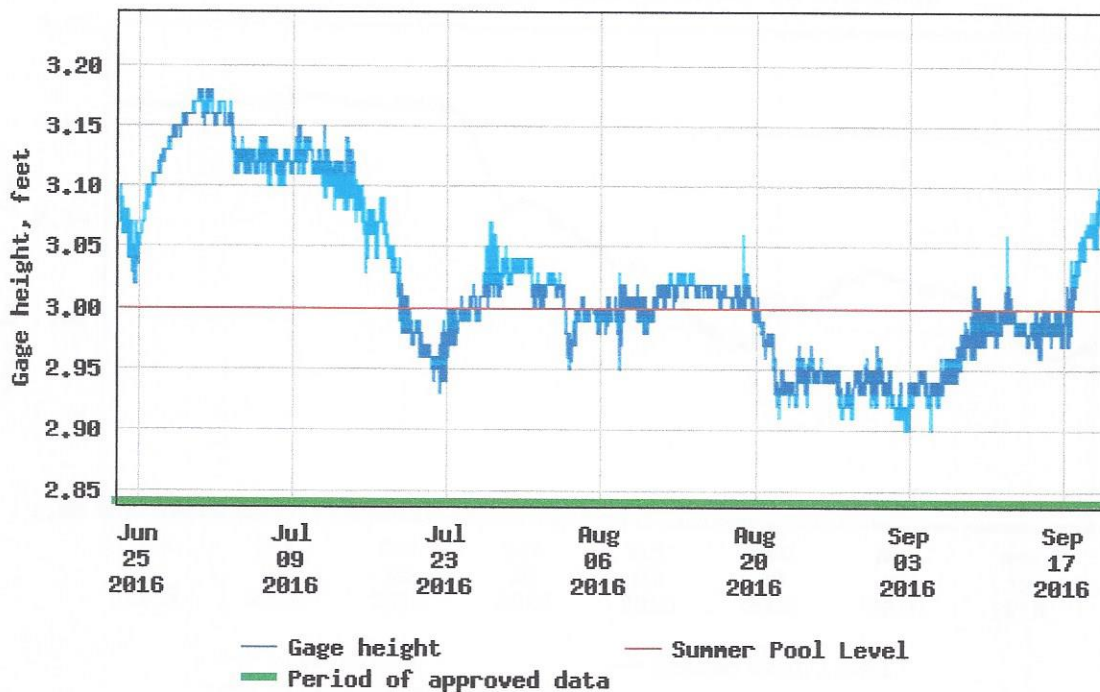
Gage height, feet

End date

2016-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-12

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (7)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2016-04-22

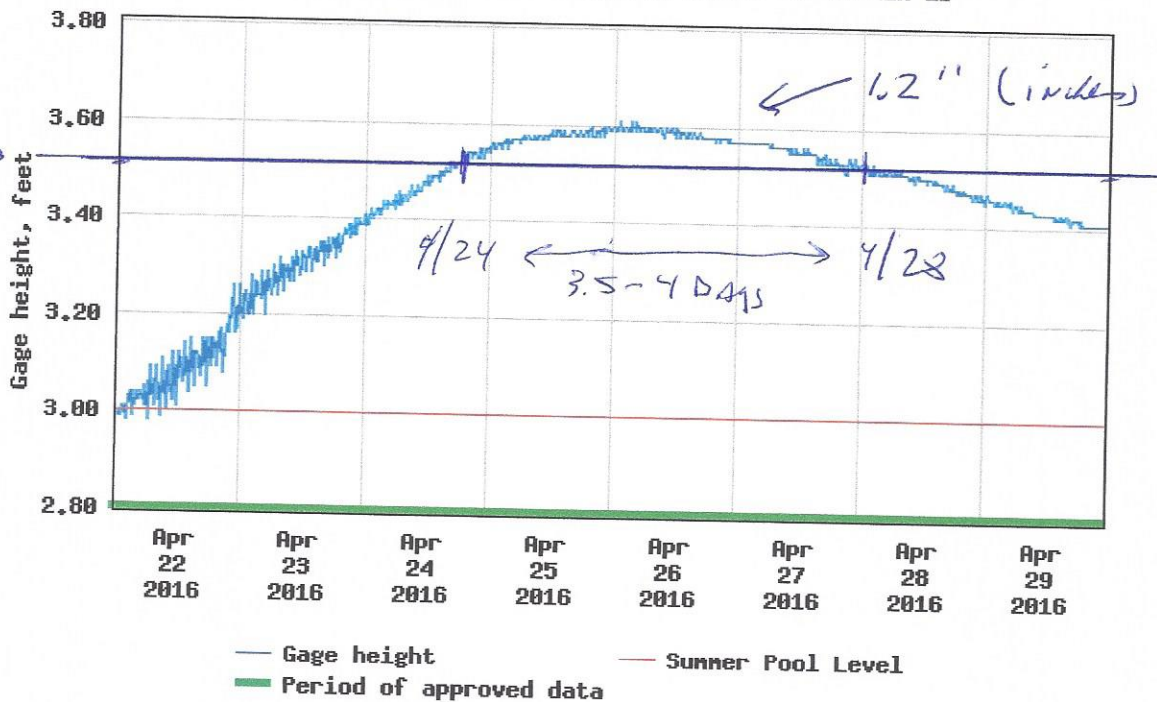
Gage height, feet

End date

2016-04-29

Most recent instantaneous value: 1.31 10-13-2020 06:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (26)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --
Begin date

2016-05-15

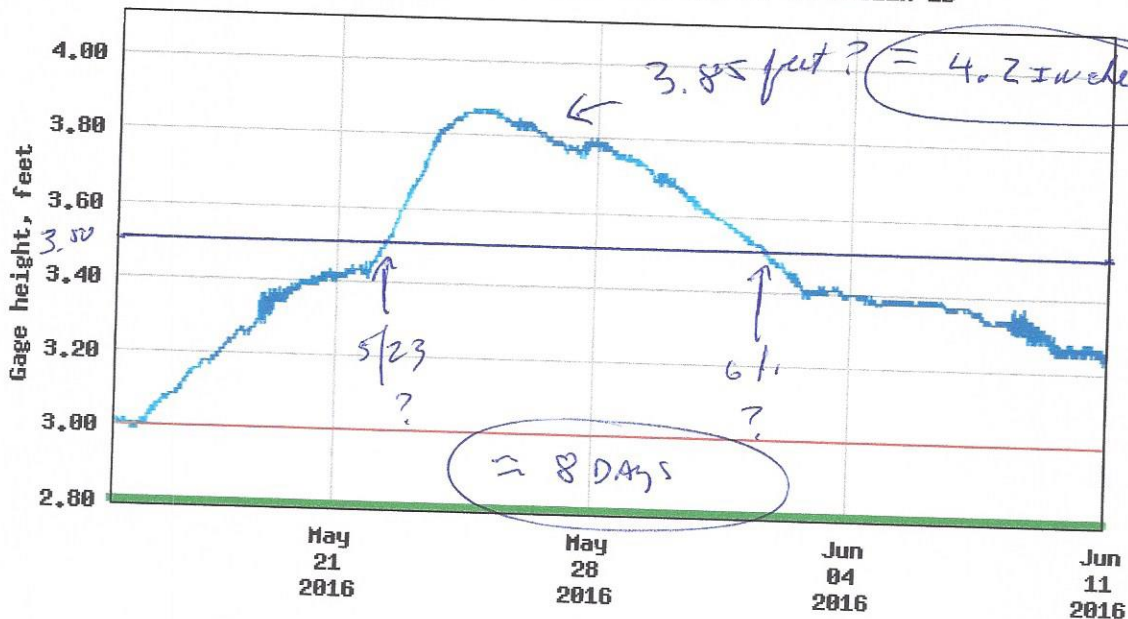
End date

2016-06-10

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2017

Days (82)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2017-04-01

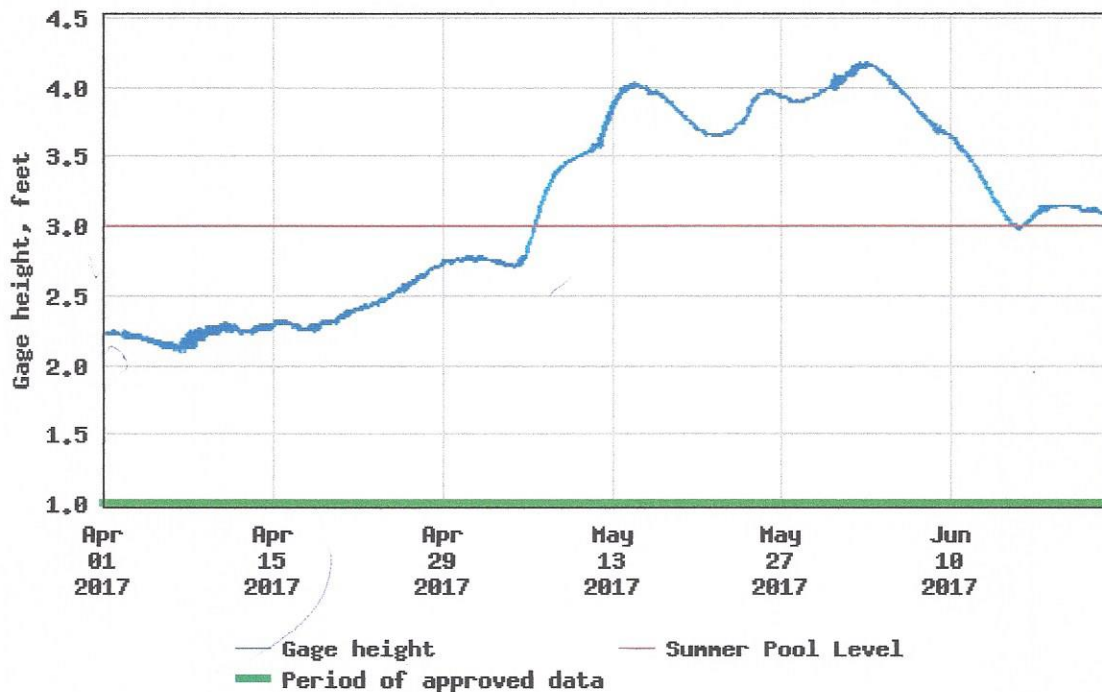
Gage height, feet

End date

2017-06-22

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-06-23

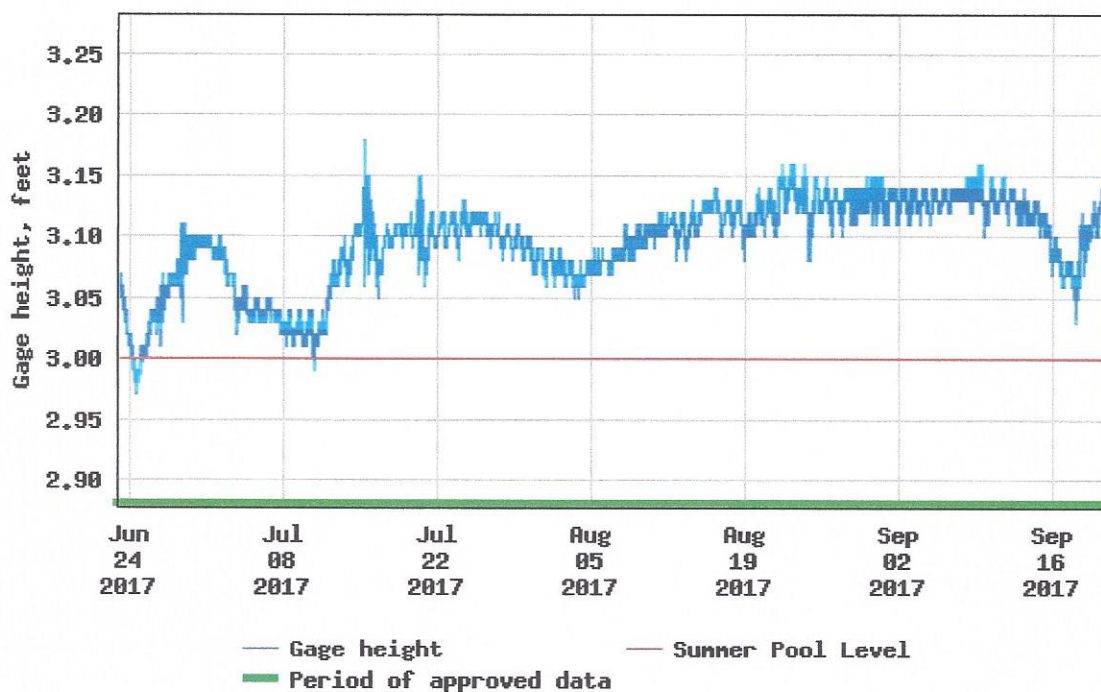
Gage height, feet

End date

2017-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-09-21

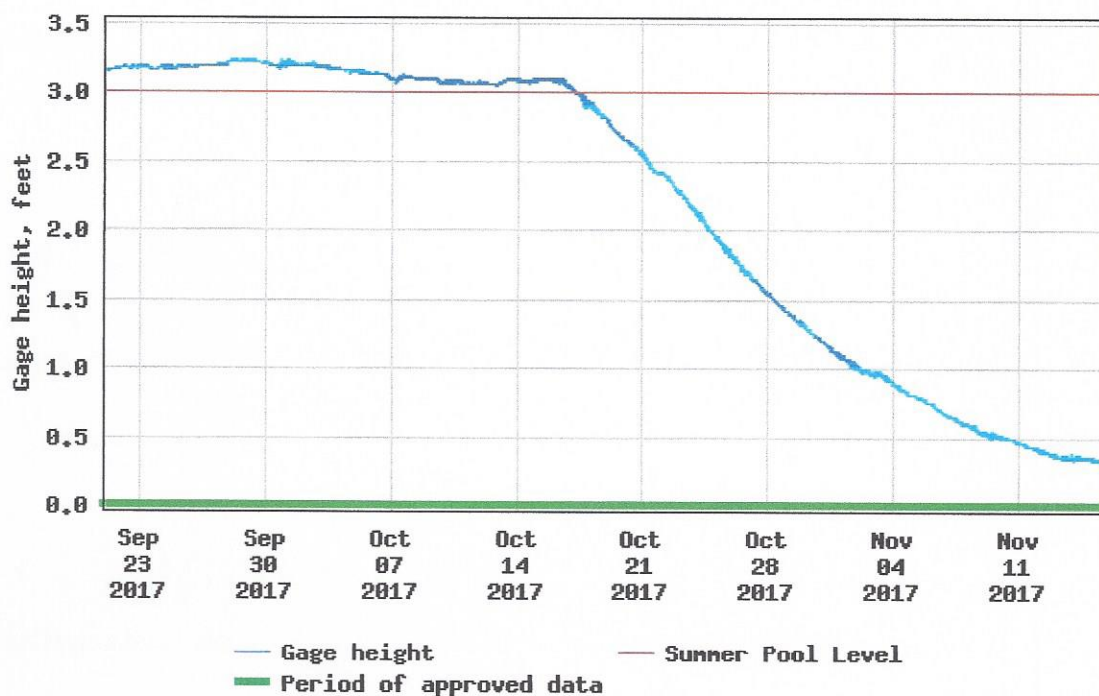
Gage height, feet

End date

2017-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (45)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2017-05-01

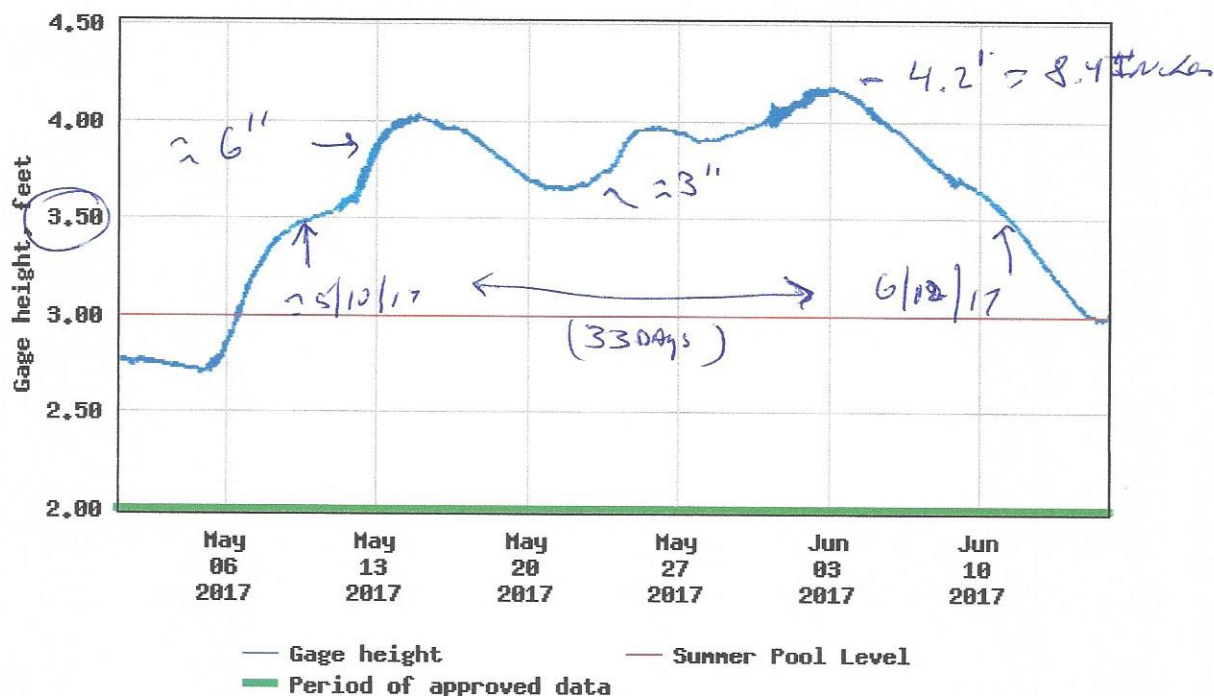
Gage height, feet

End date

2017-06-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site

☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2018

Days (82)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-04-01

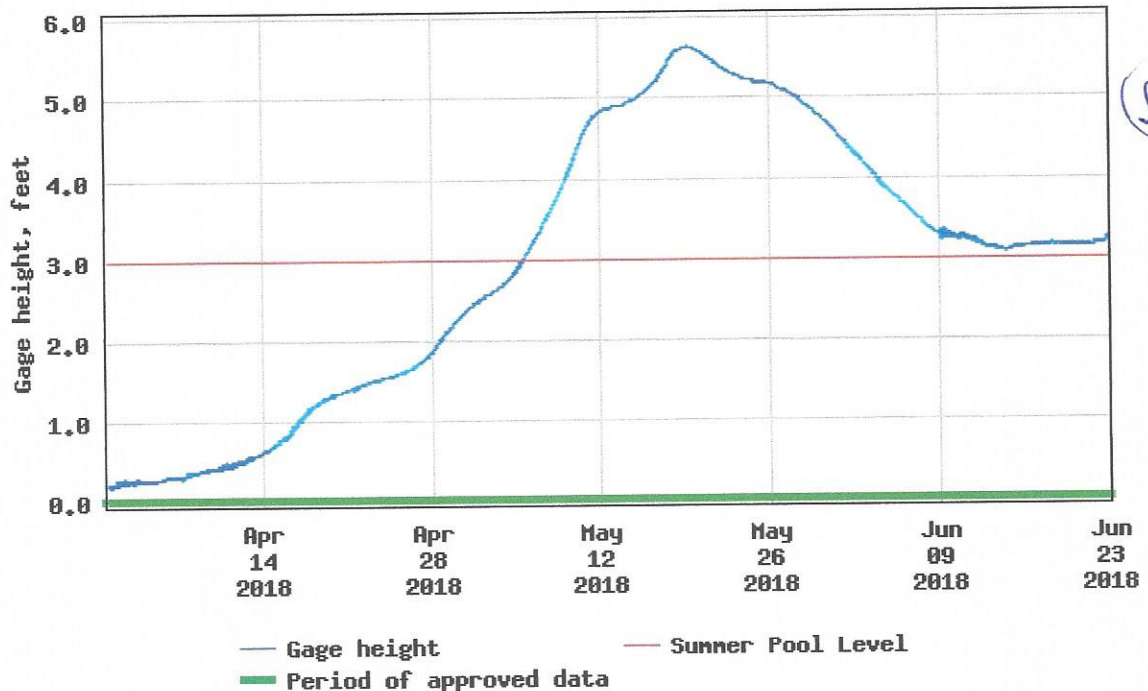
End date

2018-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

(See
Back
Pg.)

Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
- ☐ Graph w/ stats
- ☐ Graph w/o stats
- ☐ Graph w/ (up to 3) parms
- ☐ Table
- ☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)

[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2018-06-23

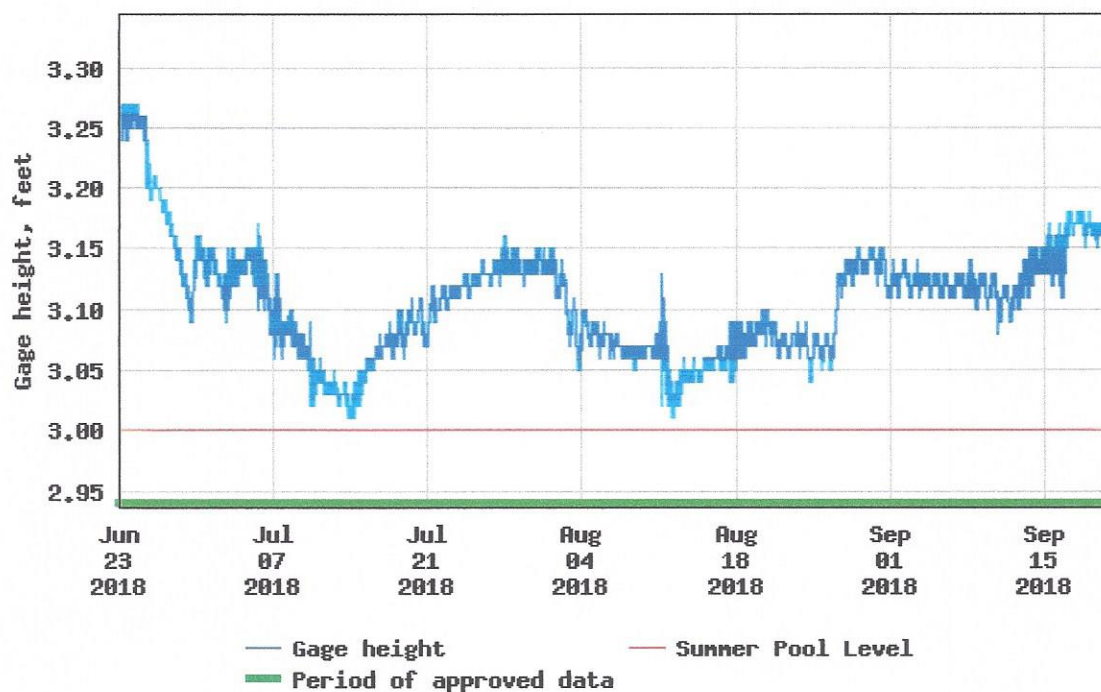
Gage height, feet

End date

2018-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format☒ Graph☐ Graph w/ stats☐ Graph w/o stats☐ Graph w/ (up to 3) parms☐ Table☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

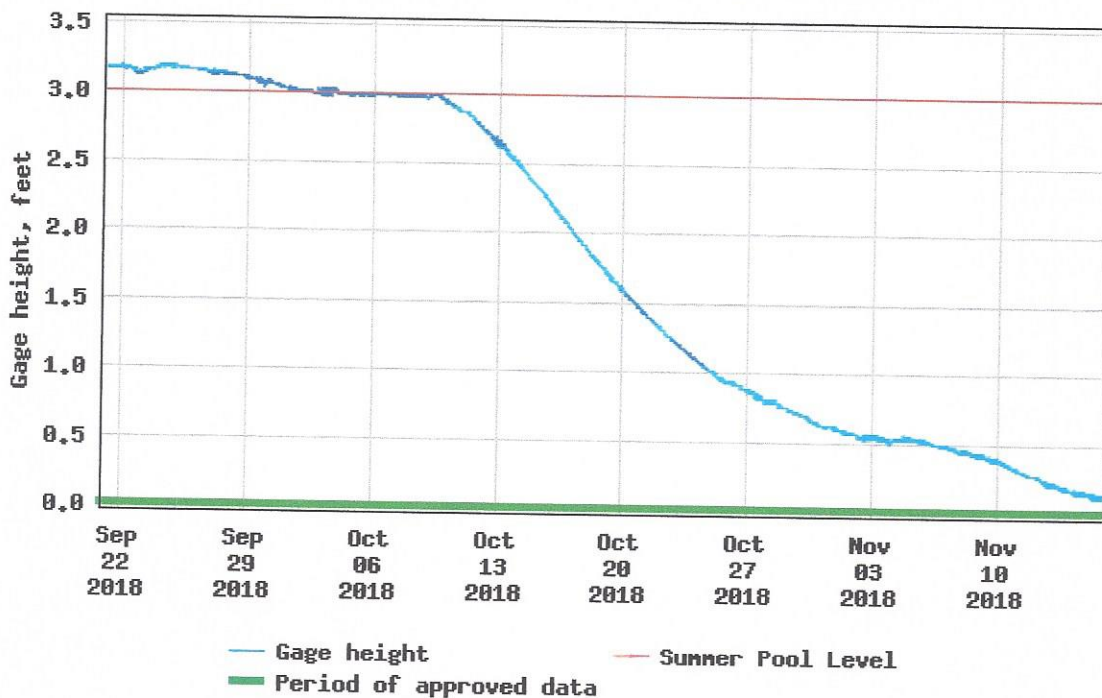
2018-09-21

Gage height, feet**End date**

2018-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**
☐ All 1 Available Parameters for this site

☒ 00065 Gage height
Output format

2013-10-17 2020-10-08

☒ Graph

☐ Graph w/ stats

☐ Graph w/o stats

☐ Graph w/ (up to 3) parms

☐ Table

☐ Tab-separated

Days (39)

Summary of all available data for this site
Instantaneous-data availability statement

GO

-- or --

Begin date

2018-05-01

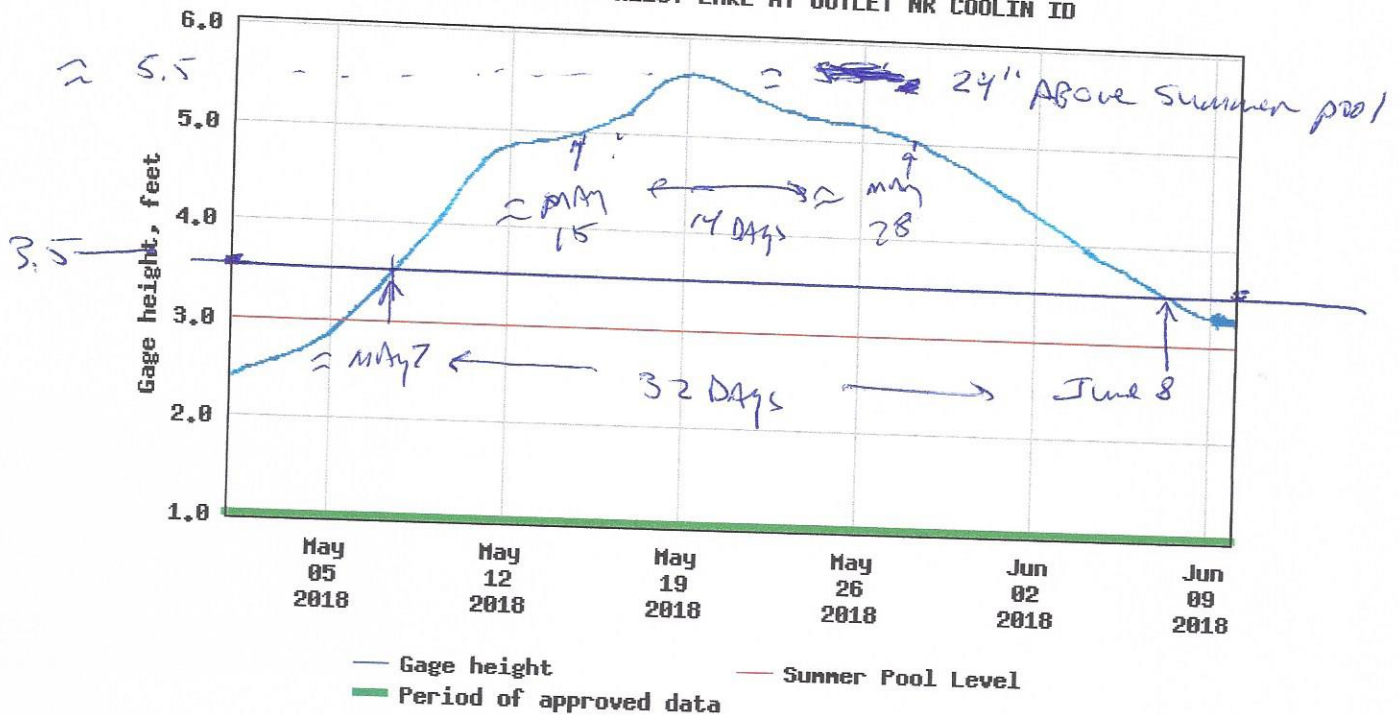
End date

2018-06-09

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

24
+8
—
32

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

2019

Days (84)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

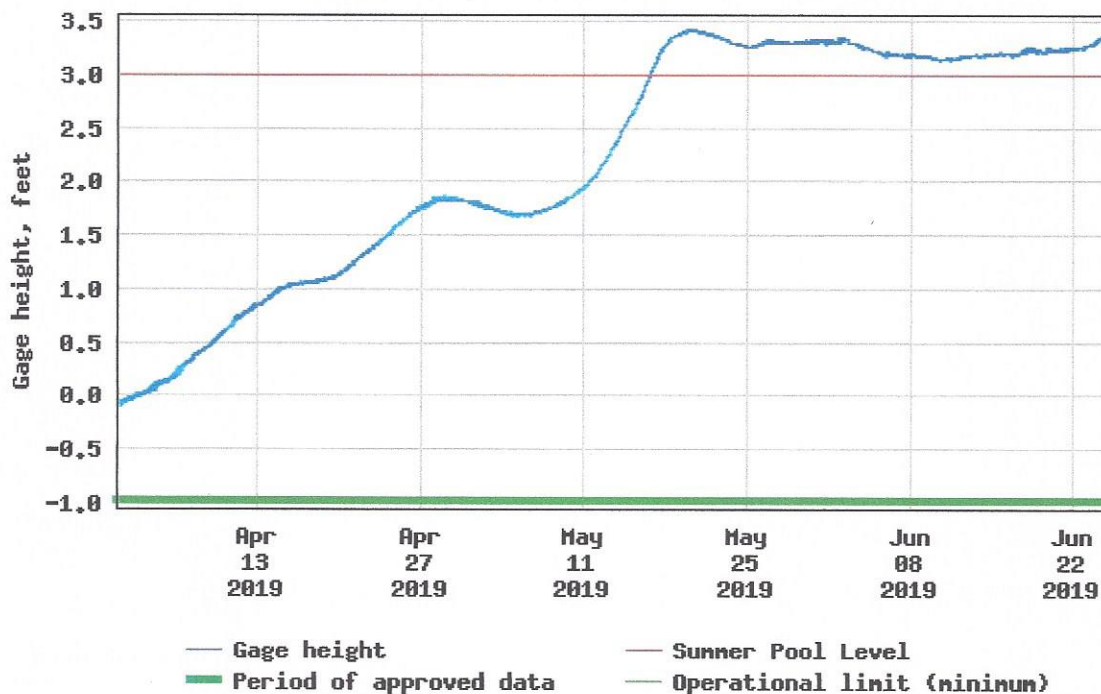
2019-04-01

End date

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-06-23

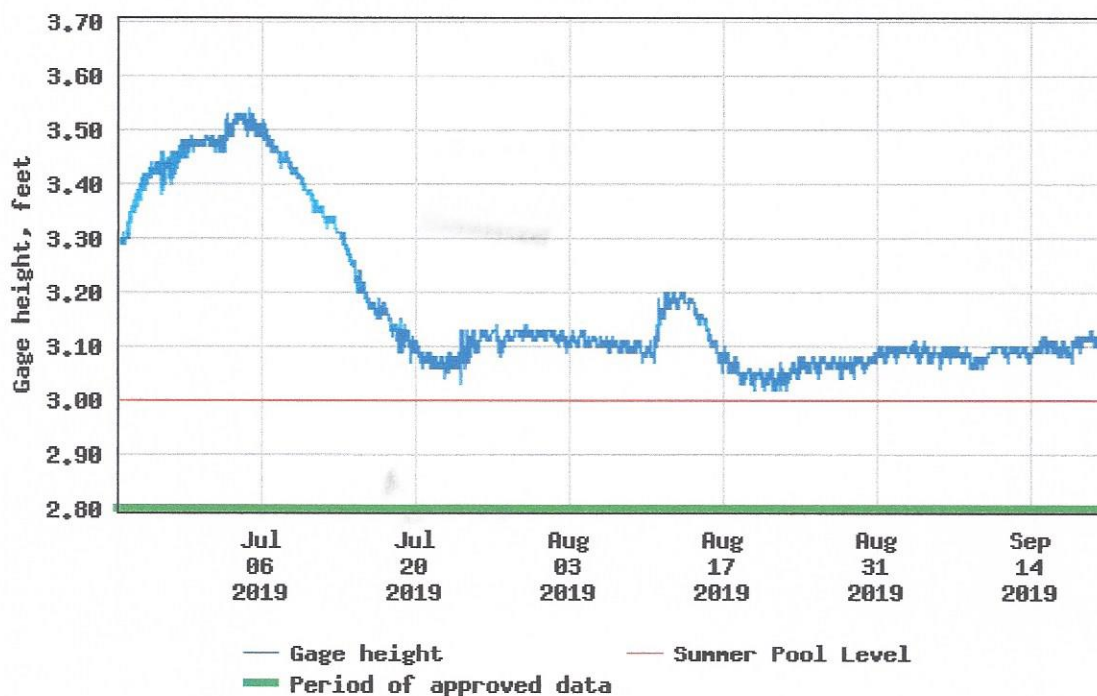
End date

2019-09-20

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-09-21

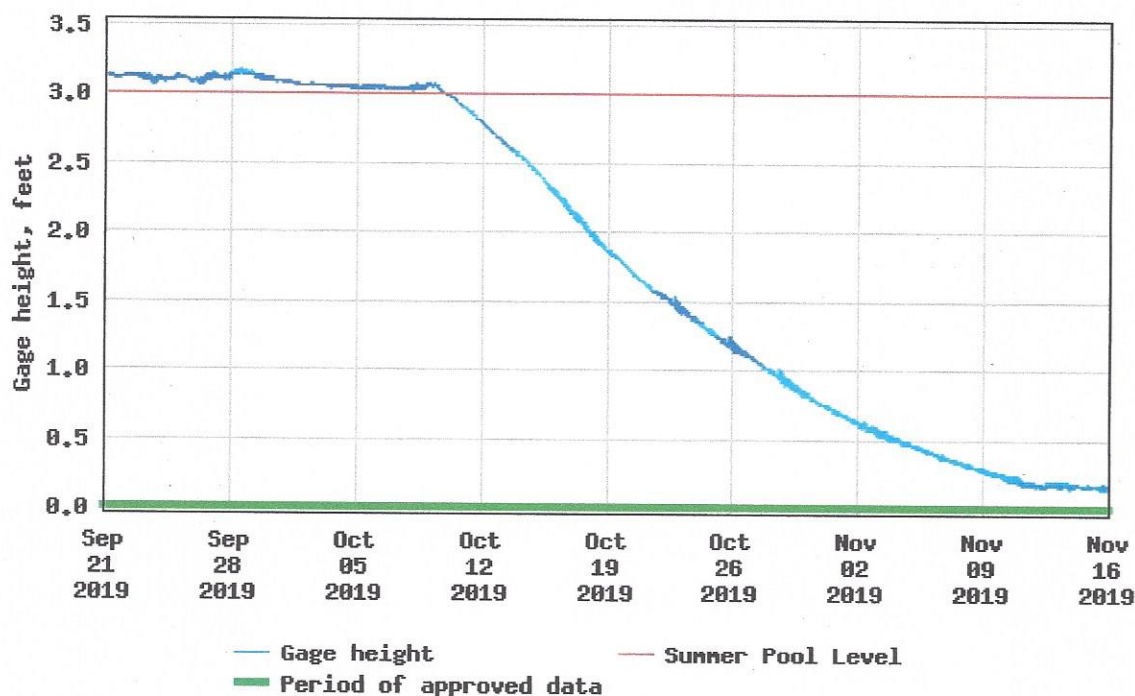
Gage height, feet

End date

2019-11-15

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (9)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2019-07-01

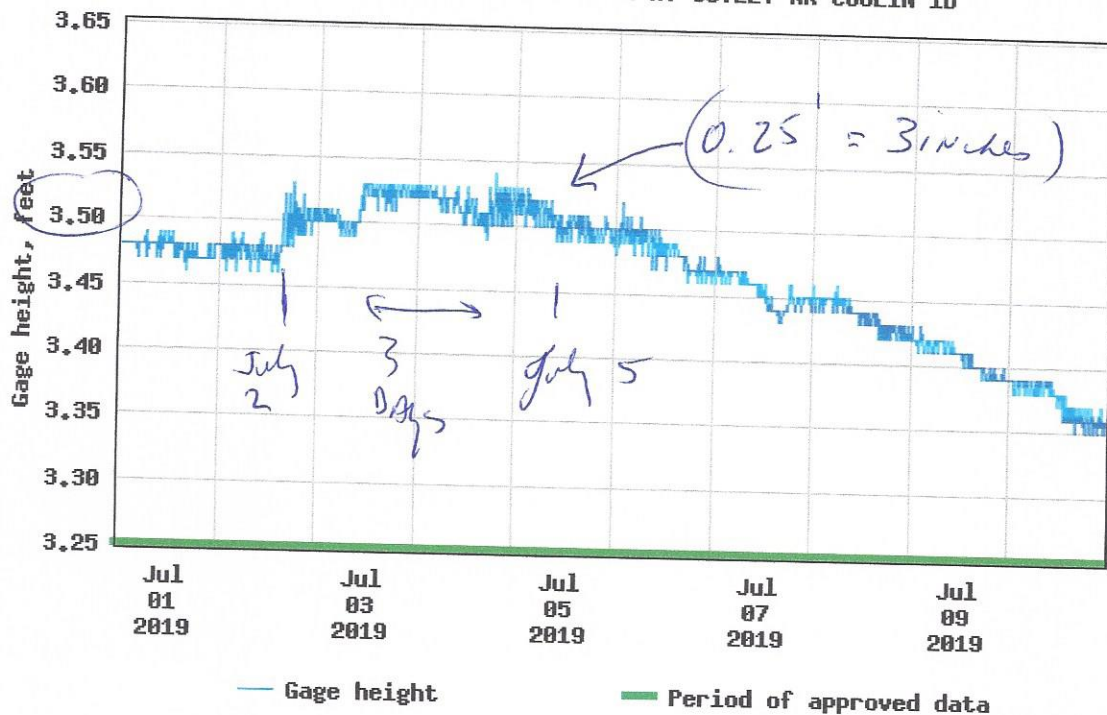
End date

2019-07-10

Gage height, feet

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (84)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-04-01

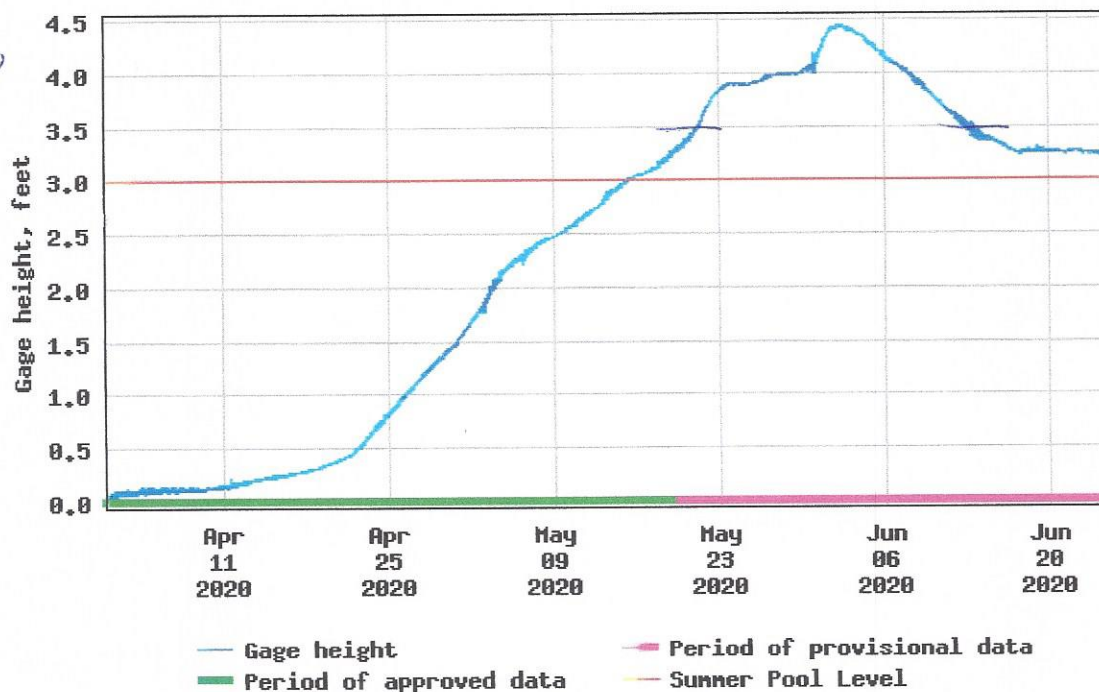
Gage height, feet

End date

2020-06-24

Most recent instantaneous value: 1.88 10-08-2020 09:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

☐ All 1 Available Parameters for this site☒ 00065 Gage height

Available Period

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (87)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-06-25

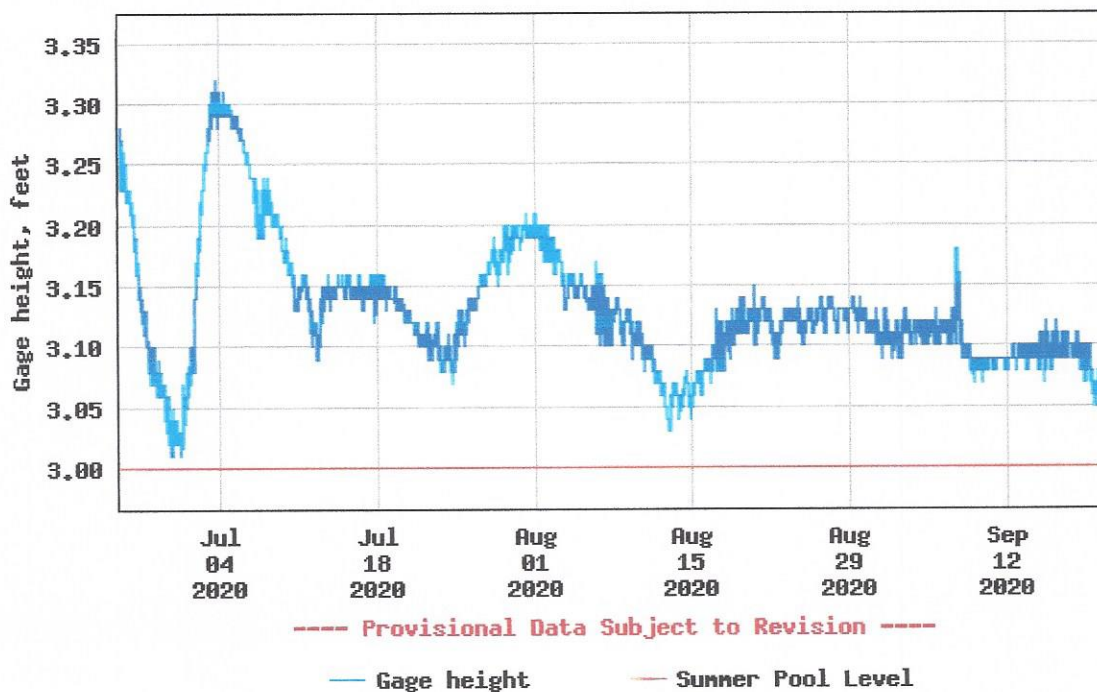
End date

2020-09-20

Gage height, feet

Most recent instantaneous value: 1.88 10-08-2020 09:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (16)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

2020-09-21

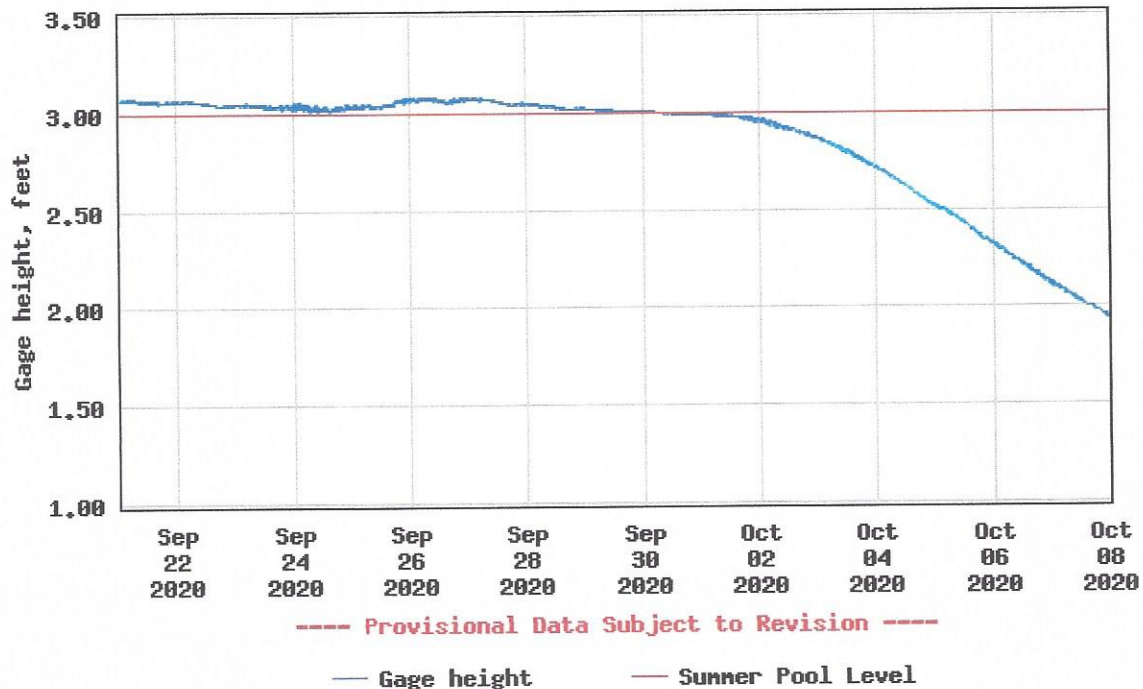
Gage height, feet

End date

2020-10-07

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (41)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2020-05-10

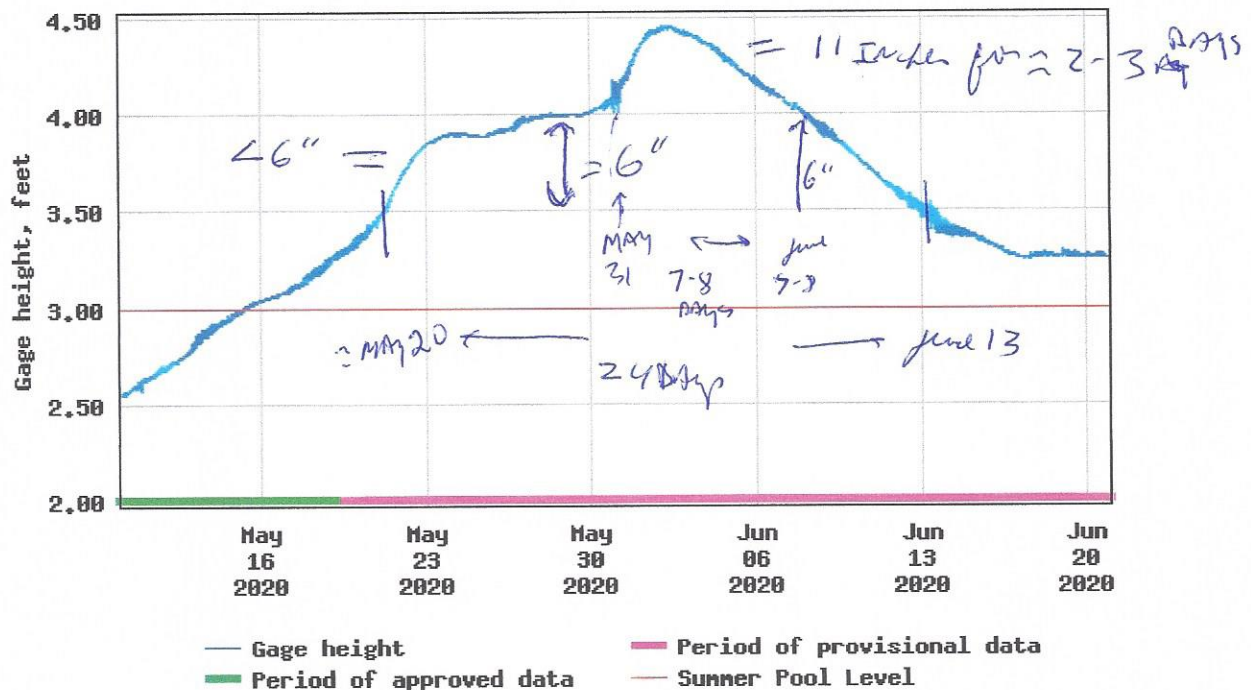
Gage height, feet

End date

2020-06-20

Most recent instantaneous value: 1.86 10-08-2020 11:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

Note

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

11
+ 13
—
24



USGS Home
Contact USGS
Search USGS

National Water Information System: Web Interface

USGS Water Resources

Data Category:

Current Conditions ▾

Geographic Area:

United States ▾

▾

GO

Click to hide News Bulletins

- [Introducing The Next Generation of USGS Water Data for the Nation](#)
- [Full News](#)

* IMPORTANT: [Next Generation Station Page](#)

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID

PROVISIONAL DATA SUBJECT TO REVISION

Available data for this site

Time-series: Current/Historical Observations ▾

GO

Click to hide station-specific text



Summer pool level is normally 3-3.5 ft.

Station is operated in cooperation with the [Idaho Department of Water Resources \(IDWR\)](#).

This station managed by the Post Falls Field Office.

Available Parameters

Available Period

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (82)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2015-04-01

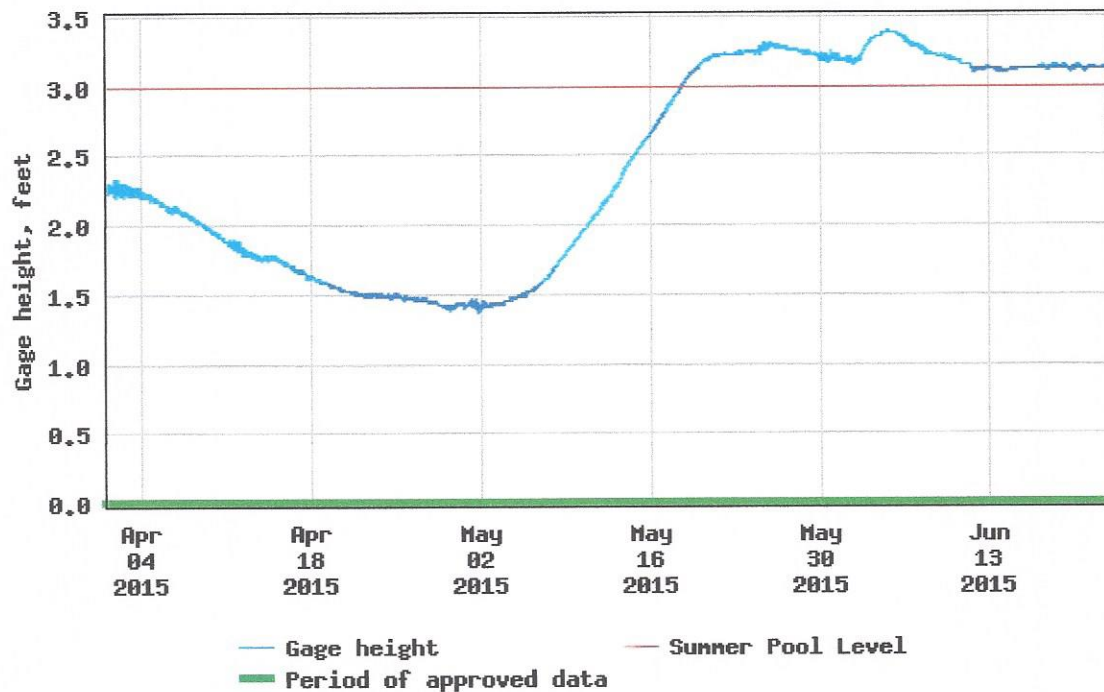
End date

2015-06-22

Gage height, feet

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters

Available Period

☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (89)

[Summary of all available data for this site](#)

GO

[Instantaneous-data availability statement](#)

-- or --

Begin date

2015-06-23

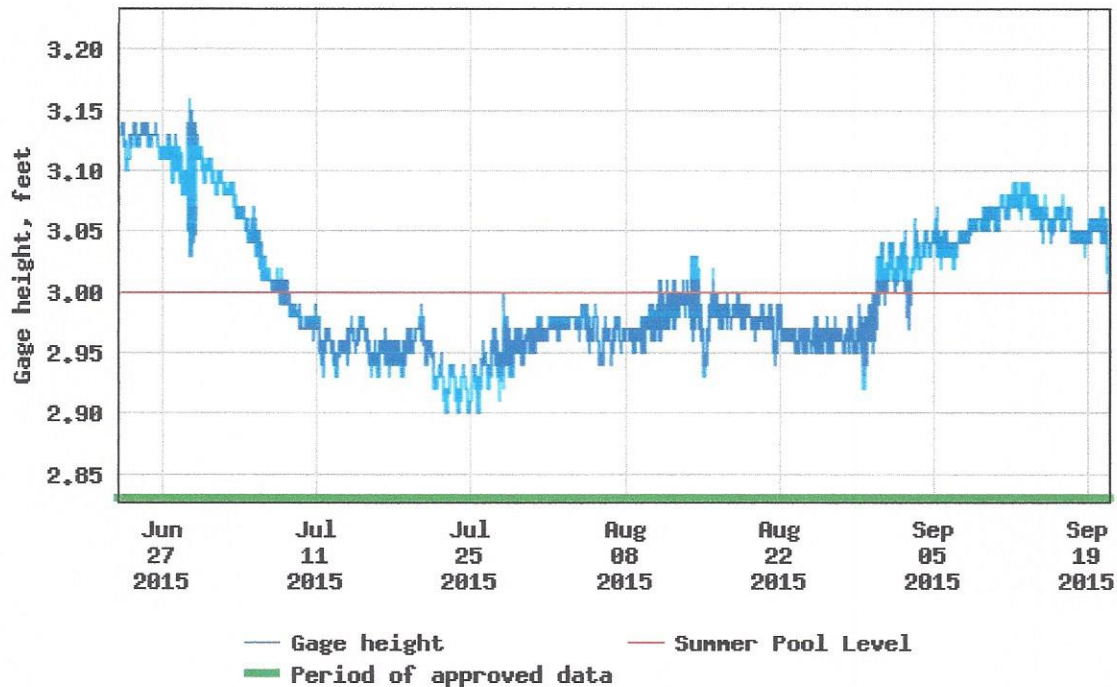
Gage height, feet

End date

2015-09-20

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Available Parameters**Available Period**☐ All 1 Available Parameters for this site☒ 00065 Gage height

2013-10-17 2020-10-08

Output format

- ☒ Graph
☐ Graph w/ stats
☐ Graph w/o stats
☐ Graph w/ (up to 3) parms
☐ Table
☐ Tab-separated

Days (55)

[Summary of all available data for this site](#)
[Instantaneous-data availability statement](#)

GO

-- or --

Begin date

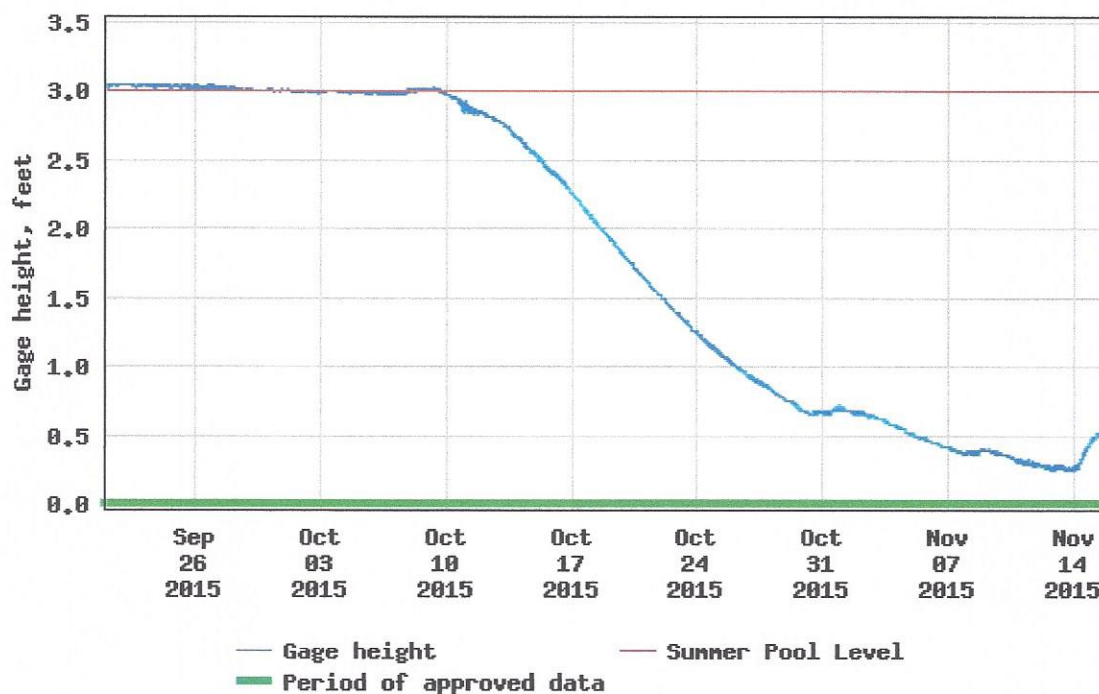
2015-09-21

Gage height, feet**End date**

2015-11-15

Most recent instantaneous value: 1.87 10-08-2020 10:30 PDT

USGS 12393000 PRIEST LAKE AT OUTLET NR COOLIN ID



Add up to 2 more sites and replot for "Gage height, feet"

?

Add site numbers

[Note](#)

Enter up to 2 site numbers separated by a comma. A site number consists of 8 to 15 digits

Attachment 3A

1-W

9/1/20

Dear Greg,

I hope that you are well. I am sorry that we did not talk this past weekend. We both seemed busy and had company.

Both of us have worked hard to try to maintain and improve our beachfronts. Unfortunately the sand on my beach, especially in front of the boathouse, has progressively eroded and washed away. This is due to the barrier of rocks and sandbags that you created between our properties. Because of the flow of the lake, the barrier causes rocks to accumulate on our side while the sand filters through and accumulates on your property. I am not sure if the rock barriers beneath the approaches to your two docks are adversely affecting my beach or your neighbors to the north.

In order for the beach on my property to stop eroding and return to a natural state, the flow of the lake has to be restored. Therefore I would like the barrier that you created between our properties to be removed, preferably within the next few weeks. I am happy, and willing, to help you with this.

I would like to remain amicable, good neighbors and friends. Both of us want to maintain or improve our properties. This includes enjoying our beaches for recreation, improving the aesthetics and maintaining our property values.

Thank you.

Sincerely,

Bill Faloon

Attachment 3B

9/10/20

Dear Greg and Debra,

Thank you for the card and muffins that you gave Shelley last weekend.

The loss of Ty's friend was very sad and unexpected. We never met him but from everything that we know he was a very good musician, loved the outdoors, was very smart and had a hilarious sense of humor. He was a great young man with potentially a very bright future. It is very sad...

Debra told Shelley that it would be better if I work with her concerning our beach erosion. I am happy to discuss and work with either of you as I would like to remain friends and amicable neighbors.

I appreciate Debra offering to help me build a barrier into the lake, including filling sand bags. This would be similar to the one that you created. However this is not permitted by the State of Idaho and may negatively impact the Aspen's beach and waterfront.

Because of the flow of the lake, unfortunately our beach erosion will persist and most likely get worse unless the barrier between our properties is removed.

If you would like me to communicate with Debra, please tell me her e-mail address. I would like to resolve this issue amicably between ourselves ASAP, preferably within the next few weeks.

If you or Debra would respond to this e-mail it would be greatly appreciated.

Thanks.

Bill Faloon

Attachment 3C

3-W

9/15/20

Dear Debra,

Thank you for talking last weekend.

I have attached 2 pictures. One shows our old dock and approach in 2002, prior to me taking ownership of the cabin and property. The other is a picture of the current dock, the remaining concrete approach, our boat lift and beach. It was taken in 2004.

Please send or e-mail me pictures that you have from 60 years ago of our beaches as well as other pictures of our beaches taken previously.

Thank you very much.

Bill Faloon

Attachment 3D

4-W

Dear Debra,

I have been working hard in HI. Not much fun. However the weather has been nice and there is no smoke.

Thank you for e-mailing me the pictures of your cabin and beach. They were taken after your new cabin was built, so approximately after 2006 or 2007. You had started to build the rock barrier at the property line by then.

I would greatly appreciate it if you would e-mail me copies of the pictures that you have from 60 years ago.

Thank you.

Bill Faloon

-----Original Message-----

From: Debra Wilson <debwilson29@icloud.com>

To: Bill Faloon <billlofspok@aol.com>

Sent: Wed, Sep 16, 2020 3:54 pm

Subject: Photos

Hi Bill!

Here are some photos. It is still smokey at the lake. It should be better by the weekend. I hope you are enjoying nice weather in Hawaii!

Debra

Sent from my iPhone

[Reply](#) [Reply All](#) [Forward](#)

EXHIBIT 2

Memorandum of Authorities in Support of Objectors
Written Notice of Objection To Encroachment Permit
Application, No. L-97-S-1081B

MISCHELLE R. FULGHAM
LUKINS & ANNIS, P.S.
601 E. Front Ave., Ste. 302
Coeur d'Alene, Idaho 83814
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Attorneys for Objector, William Faloon

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:

Encroachment Permit Application
No. L-97-S-1081B

Gregory M. and Debra B. Wilson,
Applicant.

Case No. PH-2020-PUB-10-001

**MEMORANDUM OF AUTHORITIES
RE: OBJECTOR'S WRITTEN
NOTICE OF OBJECTION
ENCROACHMENT PERMIT
APPLICATION**

Objector, William B. Faloon, submits the following Memorandum of points and authorities in support of *Written Notice of Objection Encroachment Permit Application No. L-97-S-1081b*, incorporated hereto as Objector's Exhibit 1, simultaneously filed herewith

I. BACKGROUND

Gregory M. and Debra B. Wilson (collectively, “Applicant”) and William B. Faloon (“Objector”) each own certain property located on the shoreline of Priest Lake, in Bonner County, Idaho, as depicted in *Figure 1*:

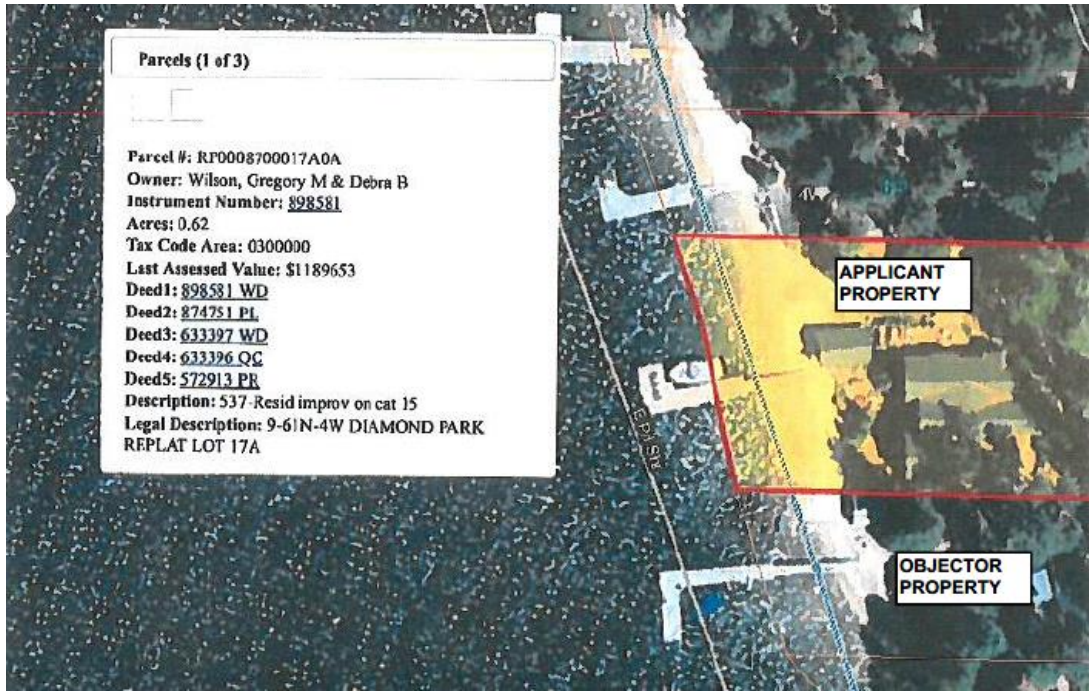


Figure 1

As described in Exhibit 1, since approximately 2006, Applicant has intermittently constructed a riprap retaining wall using rocks, wooden logs and sandbags, near the southern property line of its lot (the “Encroachment”). Objector has monitored and recorded the construction of the Encroachment. The photo of the Encroachment in *Figure 2* below, was taken by Objector on September 27, 2020 and the photo of the Encroachment in *Figure 3* below, was taken by the Objector on October 2, 2020.



Figure 2

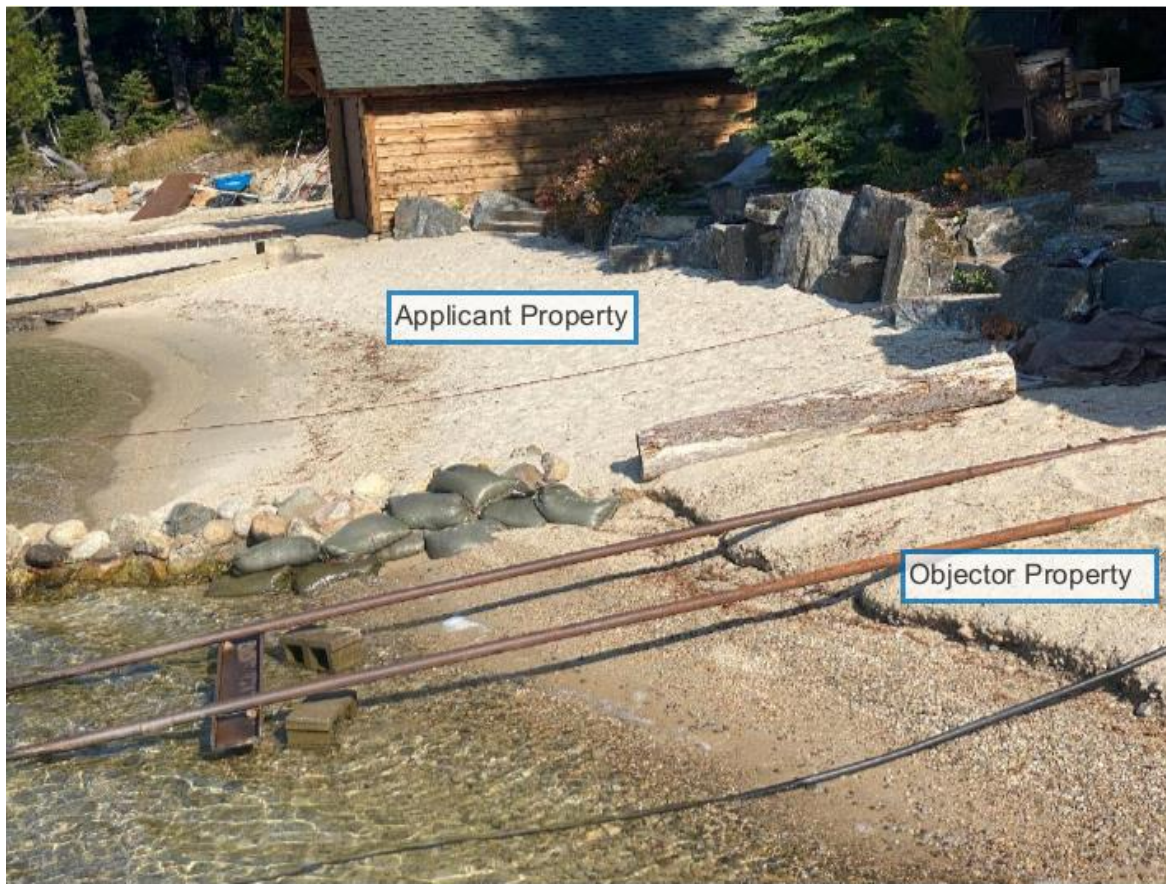


Figure 3

On October 2, 2020, Objector received a letter from Trevor Anderson, the Senior Resource Specialist of the Idaho State Land Commission, which included an encroachment permit application submitted by Applicant.

As stated in the Encroachment Permit Application, the Applicant's purpose and need for the Encroachment is to "[c]ontinue to Block 16 to detail each work activity and overall project." *Application, pg. 1, no. 15*. The Applicant is the owner of Lot 16 and 17. The Encroachment is on Lot 17. The Objector is the Owner of Lot 18. It is possible that the Applicant intended restrict the ability of the owner of Lot 18, the Objector, from detailing the work and activity.

The Applicants purported justification for the Encroachment is to "[r]educe shoreline erosion." *Application, pg. 1, no. 15*. Per Section I(1) of the analysis summary attached to the Application, the Encroachment is designed to "maximize a diffusive effect on wave energy dissipation thereby reducing upland seasonal shore and upland property erosion."

To date, the Encroachment has significantly enhanced the Applicants shoreline. Objector is concerned for his property and for Priest Lake. The Encroachment interrupts the shoreline and extends into the lake, causing significant on-going erosion to his shoreline and the beds of Priest Lake. The destabilization of the lake damages the Objector's property and property value. As seen in the email attachments to Exhibit 1, on multiple occasions Objector requested that Applicant remove the Encroachment, the Applicant has consistently rejected the Objector's requests.

Objector now provides to the Hearing Commissioner and the Idaho State Land Commission, his written notice of objection to the encroachment permit application based on the authorities and support contained herein.

MEMORANDUM OF AUTHORITIES RE: OBJECTOR'S WRITTEN OBJECTION TO ENCROACHMENT PERMIT APPLICATION NO. L-97-S-1081B –

II. LEGAL STANDARD

A. The Idaho Board of Land Commissioners has jurisdiction over the beds and banks of Priest Lake.

The State of Idaho and private property owners share the responsibility to protect navigable lakes of the state. I.C. § 58-1306(c). When a private property owner desires to encroach upon lands lying between the natural or ordinary high water mark and the artificial high water mark in a navigable lake, the owner must obtain an encroachment permit or easement from the IDL, or both. I.C. §§ 58-1301; 58-1306(e).

The Idaho legislature enacted the Lake Protection Act, Title 58, Chapter 13, Idaho Code (“LPA”), granting the Idaho Department of Lands (“IDL”) the power to regulate all encroachments upon, in or above the beds or waters of navigable lakes of the state. *Kaseburg v. State, Bd. of Land Comm’rs*, 154 Idaho 570, 578, 300 P.3d 1058, 1066 (2013) (“the duty of administering the Lake Protection Act falls upon the IDL.”)

In accordance with the LPA, the IDL has promulgated rules for navigable waters encroachment permits — the Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho (“Rules”). IDAPA 20.03.04.000 *et seq.*

Under the LPA and Rules, a navigable lake is defined *as*:

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

I.C. § 58-1302(a); IDAPA 20.03.04.010.024.

Priest Lake is a navigable lake under the LPA. and therefore, IDL has jurisdiction to regulate the proposed encroachments. *See State v. Hudson*, 162 Idaho 888, 889, 407 P.3d 202 (2017)(“Priest Lake has been a navigable lake since Idaho became a state in 1890.”)

B. Whether the proposed encroachment is navigational or nonnavigational determines how the Encroachment Permit Application is processed by the IDL.

The distinction between navigational and nonnavigational encroachments, significantly impacts how permit applications are processed. For example:

I.C. § 58-1305(a) provides:

Applications for construction or enlargement of navigational encroachments not extending beyond the line of navigability nor intended primarily for commercial or community use shall be processed by the board with a minimum of procedural requirements and shall not be denied nor appearance required except in the most unusual of circumstances or if the proposed encroachment infringes upon or it appears it may infringe upon the riparian or littoral rights of an adjacent property owner.

In contrast, IDAPA. 20.03.04.030.02 states:

Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values.

To determine whether an encroachment is navigational, the LPA provides the following definitions:

“Encroachments in aid of navigation” means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” may be used interchangeably herein with the term “navigational encroachments.” I.C. § 58-1302(h).

“Encroachments not in aid of navigation” means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other

structures not constructed primarily for use in aid of the navigability of the lake. The term “encroachments not in aid of navigation” may be used interchangeably herein with the term “nonnavigational encroachments.” I.C. § 58-1302(i).

The definitions of navigational and nonnavigational encroachments must be construed harmoniously. Together, the two definitions establish a dichotomy: an encroachment is either navigational or nonnavigational.” *Kaseburg*, at 578, 300 P.3d, at 1066.

C. Objector is Entitled to Object to the Encroachment Permit Application pursuant to I.C. § 58-1306(c).

The IDL must provide notice of any encroachment permit application submitted to the IDL in the manner provided by I.C. § 58-1306(b). Within 30 days of the first date of publication of this notice, any resident of the state of Idaho, or a nonresident owner or lessee of real property adjacent to the lake in question, or any state, federal or local agency may, file with the director written objections to the proposed encroachment and a request for a public hearing on the application. I.C. § 58-1306(c).

The Objector is a resident of the state of Idaho and an owner of real property adjacent to Priest Lake and is entitled to object to the proposed encroachment.

D. The Applicant carries the burden of proof.

The Applicant generally bears the burden of proof in administrative proceedings. "The customary common law rule that the moving party has the burden of proof — including not only the burden of going forward but also the burden of persuasion — is generally observed in administrative hearings." *Intermountain Health Care, Inc. v. Bd. of County Comm'rs of Blaine County*, 107 Idaho 248, 251, 688 P.2d 260, 263 (Ct. App. 1984) rev'd on other grounds 109 Idaho 299, 707 P.2d 410 (1985).

Unless the Idaho Supreme Court or legislature has said otherwise, the "preponderance of

the evidence" is generally the applicable standard for administrative proceedings. *N. Frontiers, Inc. v. State ex rel. Cade*, 129 Idaho 437, 439, 926 P.2d 213, 215 (Ct. App. 1996). "A preponderance of the evidence means that when weighing all of the evidence in the record, the evidence on which the finder of fact relies is more probably true than not." *Oxley v. Medicine Rock Specialties, Inc.*, 139 Idaho 476, 481, 80 P.3d 1077, 1082 (2003).

E. The IDL must determine whether the detrimental effects of the Encroachment outweigh the justification or benefits to be derived from allowing the Encroachment.

When the Director of the IDL grants a request for a public hearing, the Director will appoint a hearing coordinator to conduct a public hearing. I.C. § 67-5245. Based on the hearing, the hearing coordinator will submit a preliminary order to the Director of the IDL. IDAPA 20.03.04 *et seq.*

Following a hearing, the Board of the IDL will grant or deny the permit according to whether the navigational or economic necessity or justification, or the public or private benefits to be derived from allowing such encroachment, exceed its detrimental effects. I.C. §§ 58-1301; 58-1306(e).

In determining whether to grant the permit for encroachment, the hearing commissioner and the Director of the IDL must weigh the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. IDAPA 20.03.04.030.03.

III. ARGUMENT

A. The IDL should process the Encroachment Permit Application as a nonnavigational encroachment pursuant to IDAPA 20.03.04.030.02.

The distinction between navigational and nonnavigational encroachments, significantly impacts how permit applications are processed. I.C. § 58-1305(a), *cf* IDAPA 20.03.04.030.02.

The Encroachment was not constructed primarily for use in aid of navigation, the Applicant's encroachment is designed to reduce upland seasonal shore and upland property erosion. *Application, Analysis I(1)*. The encroachment at issue is riprap retaining wall made of rocks, wood and sand bags — it is not a dock, pier, float, breakwater, boat ramp, channel or basin. As the definitions of navigational and nonnavigational encroachments must be construed harmoniously, if the IDL determines the Encroachment constitutes “pilings” — then it must also be constructed primarily for use in aid of navigation, which it is not. *Kaseburg*, at 578, 300 P.3d, at 1066. The Applicant's encroachment is nonnavigational and the IDL must process the encroachment application at issue under IDAPA. 20.03.04.030.02.

1. The Encroachment is nonnavigational because it fails to conform to the definition of “Navigational Encroachment” under I.C. § 58-1302(h).

To determine whether an encroachment is navigational, the LPA provides the following definitions:

“Encroachments in aid of navigation” means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” may be used interchangeably herein with the term “navigational encroachments.” I.C. § 58-1302(h).

“Encroachments not in aid of navigation” means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other

structures not constructed primarily for use in aid of the navigability of the lake. The term “encroachments not in aid of navigation” may be used interchangeably herein with the term “nonnavigational encroachments.” I.C. § 58-1302(i).

“The definitions of navigational and nonnavigational encroachments must be construed harmoniously. Together, the two definitions establish a dichotomy: an encroachment is either navigational or nonnavigational.” *Kaseburg*, at 578, 300 P.3d, at 1066.

In *Kaseburg*, a littoral property owner challenged an encroachment application submitted by *Kaseburg*, for the encroachment of a set of decaying wooden pilings arranged in an L-shaped configuration located in the water near *Kaseburg*’s property. *Id.* at 572, 300 P.3d, at 1060. Upon review, the First District Court for Bonner County, reversed the IDL, holding that that all pilings are navigational encroachments as a matter of law, regardless of whether they have ever been used to aid navigation. The Idaho Supreme Court reversed the district court, finding:

“The IDL’s interpretation—that the inclusion of the word “pilings” is illustrative rather than definitional—is reasonable and not contrary to the express language of the statute. The phrase “and other such aids to the navigability of the lake” interjects ambiguity into the statute. I.C. § 58–1302(h). It is unclear whether this phrase was meant only to expand the class of encroachments that are navigational beyond those types of structures explicitly listed, or whether the phrase excludes particular structures that are not in fact aids to navigation.” *Id.* at 578, 300 P.3d, at 1060.

To apply the ambiguity in the statute, the Supreme Court considered the Legislature’s intent and determined that it is highly unlikely that the Legislature intended pilings driven into a lakebed to be considered “navigational” when such pilings have no specified use relating to navigation. *Id.* This conclusion is supported by the lack of evidence in the record that the series of pilings had ever served as an aid to navigation. *Id.*

The encroachment at issue is riprap retaining wall made of rocks, wood and sand bags. The encroachment is not a dock, pier, float, breakwater, boat ramp, channel or basin. If IDL determines the encroachment is constitutes “pilings” — then it must also be constructed primarily for use in aid of navigation. No evidence of record suggests that the riprap retaining wall was constructed for use in aid of navigation.

2. The Encroachment is nonnavigational because it was not constructed primarily for use in aid of navigation.

As stated in the Encroachment Permit Application, the Encroachment is intended to limit the owner of Lot 16 (the Applicant) from detailing the work and activity associated with the construction of the Encroachment (it is likely the Applicant intended restrict the ability of the owner of Lot 18, the Objector, from detailing the work and activity. Either way, this justification carries little weight under standards set forth in the LPA and Rules). *Application, pg. 1, no. 15.* According to the application, the purpose of the Encroachment is to reduce upland seasonal shore and upland property erosion. *Id.* These purposes, in contrast with a dock that a watercraft may connect to, or a channel created to enable the shipment of goods by watercraft, indicate that the Encroachment was not constructed primarily for aid in navigational use.;

Pursuant to the Rules, “encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values.”

Applicant has not provided evidence that the allowing the Encroachment will result in any major environmental, economic, or social benefits to the general public. The Applicant’s

Encroachment may benefit their property by reducing upland seasonal shore and upland property erosion — but the general public sees no benefit and the environment is clearly harmed due to the continuing erosion to the Objector's shoreline and Priest Lake.

B. The IDL should deny the Encroachment Permit Application because the detrimental effects of the proposed encroachment outweigh any navigational and economic justification for the encroachment.

The Applicant has not provided navigational or economic justification for the Encroachment. As previously discussed, the Applicant justified the Encroachment as a means to block the Objector from monitoring the ongoing construction of the encroachment and to reduce the purported seasonal erosion of their own shoreline and property. *Application, Analysis I(1)*. The detrimental effects of the Encroachment to Priest Lake and the Objector's property significantly outweigh any the Applicant's justification and the IDL should deny the Applicants Encroachment Permit Application.

In determining whether to grant the permit for encroachment, the hearing commissioner and the Director of the IDL must weigh the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. IDAPA 20.03.04.030.03.

The Erosion of a shoreline caused by unnatural wave energy dissipation can negatively impact property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality. Considering the protection of property, the most significant factor at issue, the Encroachment has caused significant damage to the shoreline of the Objectors property.

In August, 2020, the Objector measured the erosion of his shoreline as seen in seen in *Figure 4* below:



Figure 4

The Applicants desire to reduce the erosion of their shoreline resulted in the non-permitted construction of a nonnavigational encroachment. The adverse effect of this encroachment is felt by their neighbor, the Objector. As seen in *Figure 5* (also taken in August, 2020) the location of the Encroachment is where erosion created an uneven shoreline between the properties.



Figure 5

As no economic or navigational justification has been offered by the Applicant, and the Encroachment adversely effects the property of the Objector, the IDL should deny the Encroachment Permit Application.

C. The IDL should require the Applicant to restore the lake and mitigate the damage caused or resulting from the Encroachment.

The LPA authorizes the court to order the Applicant to “restore the lake to as near its condition immediately prior to the unauthorized encroachment as possible or to effect such other measures as recommended by the board and ordered by the court toward mitigation of any damage caused by or resulting from such unlawful encroachment.” I.C. § 58-1309.

Objector requests that the IDL order the Applicant to restore the Objectors shoreline and the lake and mitigate the damage to Objector, including, but not limited to, reasonable attorney’s fees accrued by Objector in connection with the Encroachment Permit Application.

CONCLUSION

Based on the foregoing, Objector respectfully requests that the Hearing Commissioner recommend that the IDL to deny the Encroachment Permit Application and order Applicant to remove the encroachment and mitigate the damage caused or resulting from the encroachment.

DATED this 30th day of November, 2020.

LUKINS & ANNIS, P.S.

By 
MISCHELLE R. FULGHAM
Attorney for Objector – William Faloon

By 
HANNAH G. KITZ
Attorney for Objector – William Faloon

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of NOVEMBER, 2020, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

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32 Blackcap Ln
Coolin, ID 83821

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☐ Hand Delivery
☒ Email: greg@wilsonlaw.us

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MISCHELLE R. FULGHAM

EXHIBIT 3

Powerpoint Presentation for Hearing on
December 3, 2020

OBJECTOR'S EXHIBIT 3

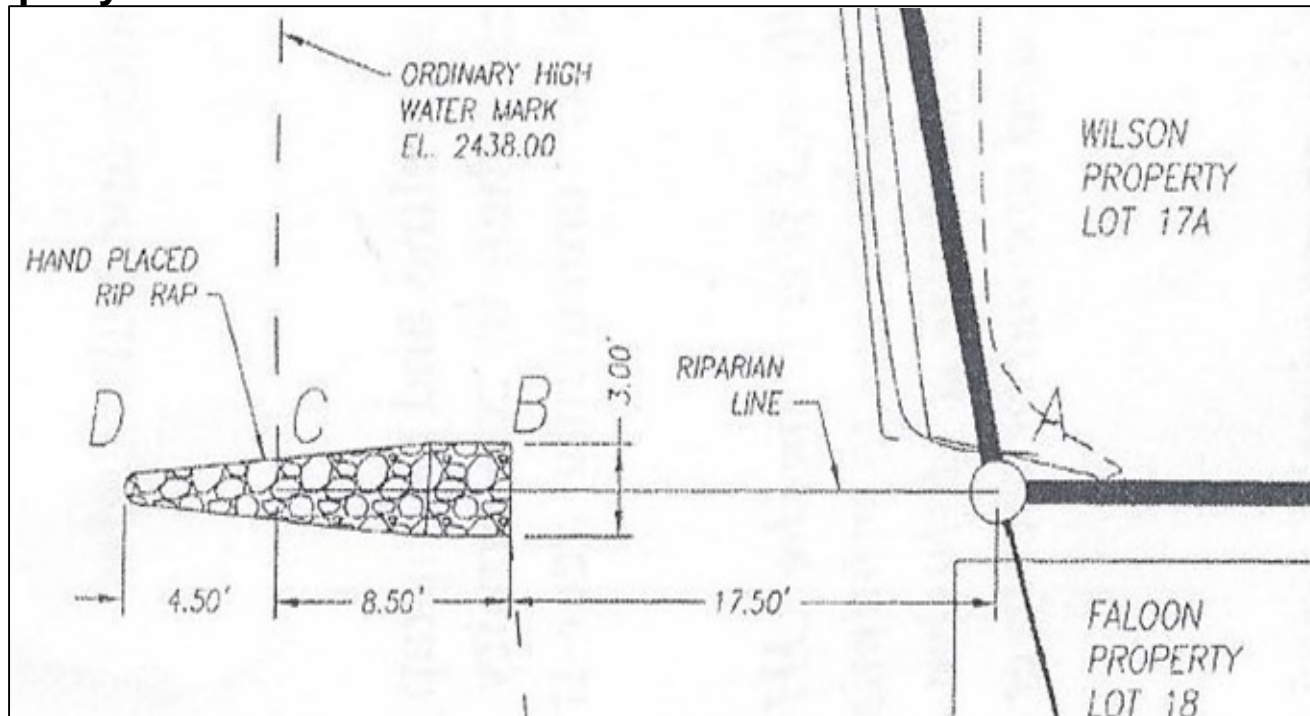
Encroachment Permit Application
No. L-97-S-1081B
PUBLIC HEARING
December 3, 2020

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

Applicant's proposed encroachment:

Applicant requests encroachment permit for a non-navigational encroachment. The encroachment is a riprap retaining wall located between Applicant's property and Objectors Property.

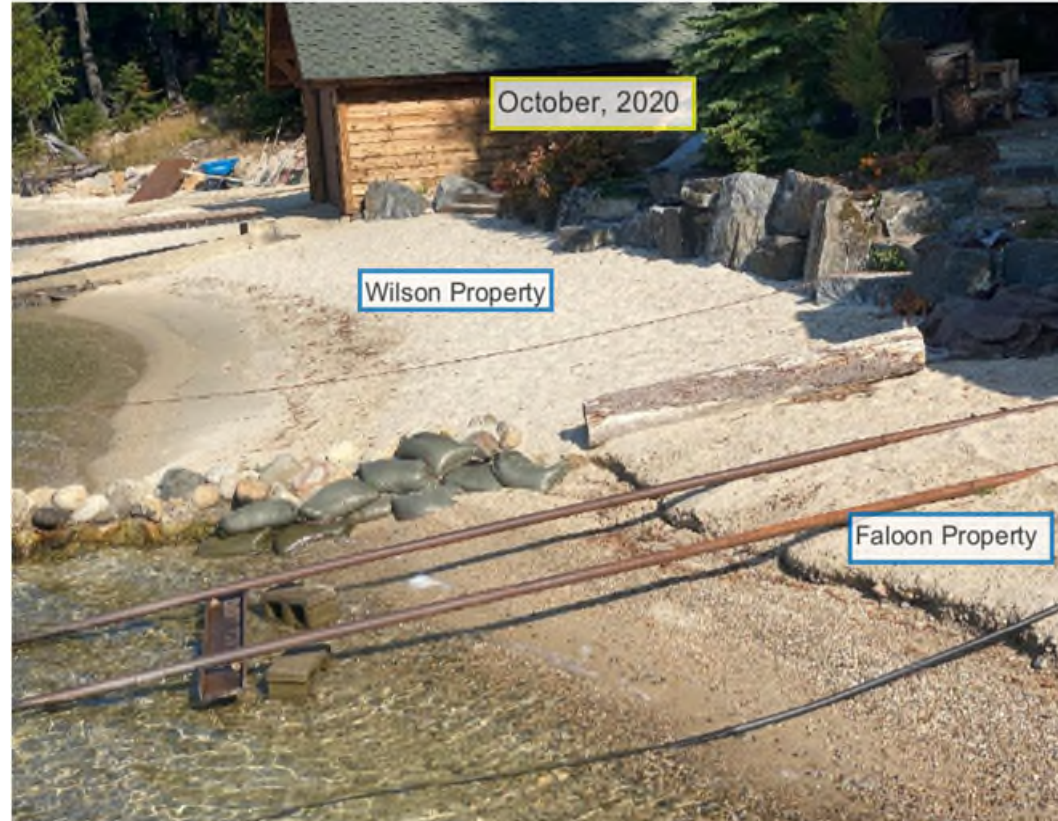


The above image was provided to the IDL by Applicant and is included in this Exhibit 3 for reference only. As stated in Exhibit 1, this image is inconsistent with description of the encroachment stated by Applicant in the written proposal.

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

CURRENT STATUS OF ENCROACHMENT



Prior to obtaining a permit for encroachment from the IDL, the Applicant has started to construct the encroachment.

IDAHO STATE BOARD OF LAND COMMISSIONERS
CASE NO. PH-2020-PUB-10-001

IDAPA 20.03.04

012. POLICY.

01. Environmental Protection and Navigational or Economic Necessity. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the State Board of Land Commissioners to regulate and control the use or disposition of state-owned lake beds, so as to provide for their commercial, navigational, recreational or other public use.

IDAHO STATE BOARD OF LAND COMMISSIONERS
CASE NO. PH-2020-PUB-10-001

IDAPA 20.03.04.030.02

030. Processing of Applications for All Other Types of Encroachments.

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public.

Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values.”

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

History of the Encroachment:



2006-2007:
Installation of
encroachment begins

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

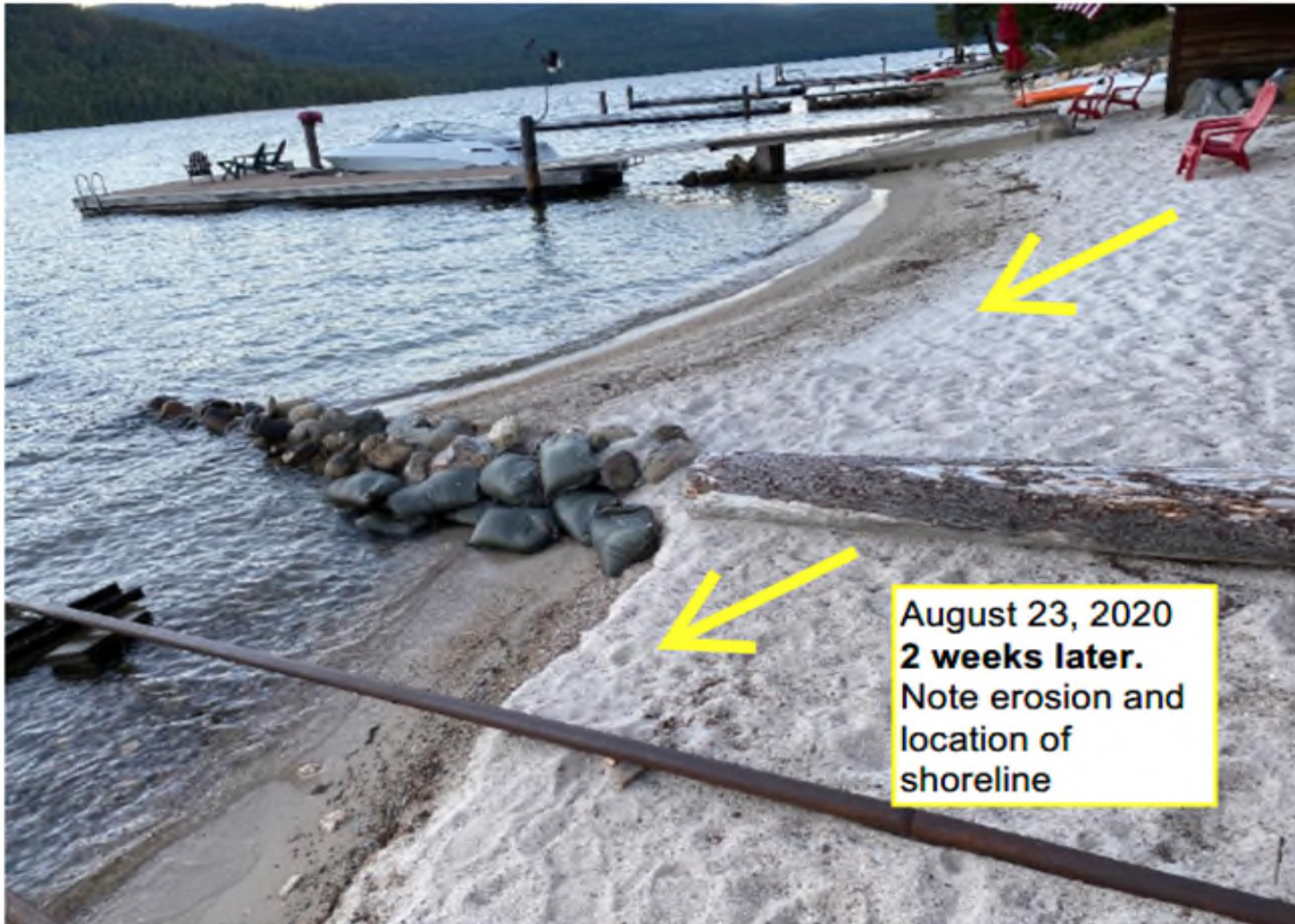
History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

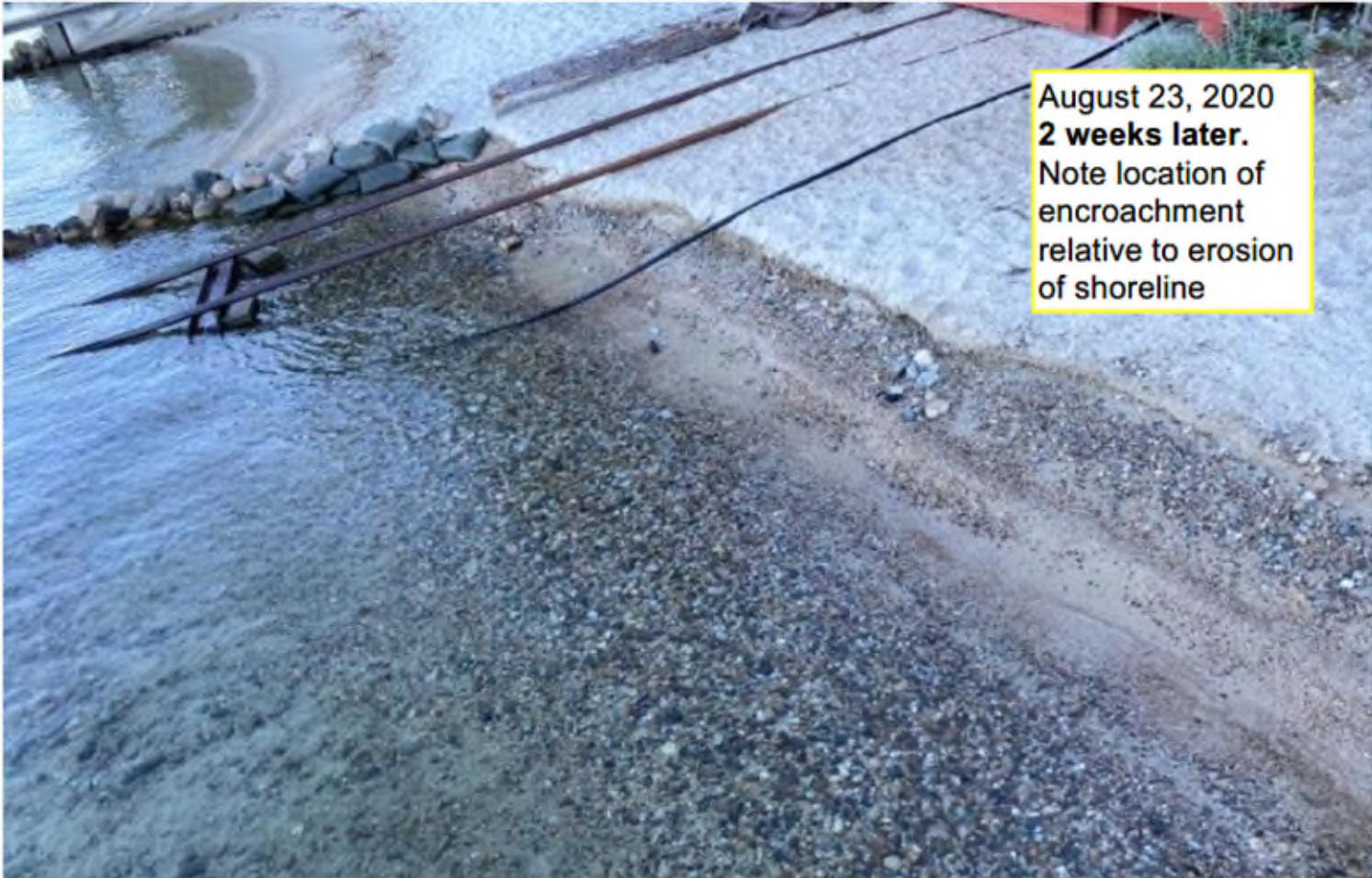
History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

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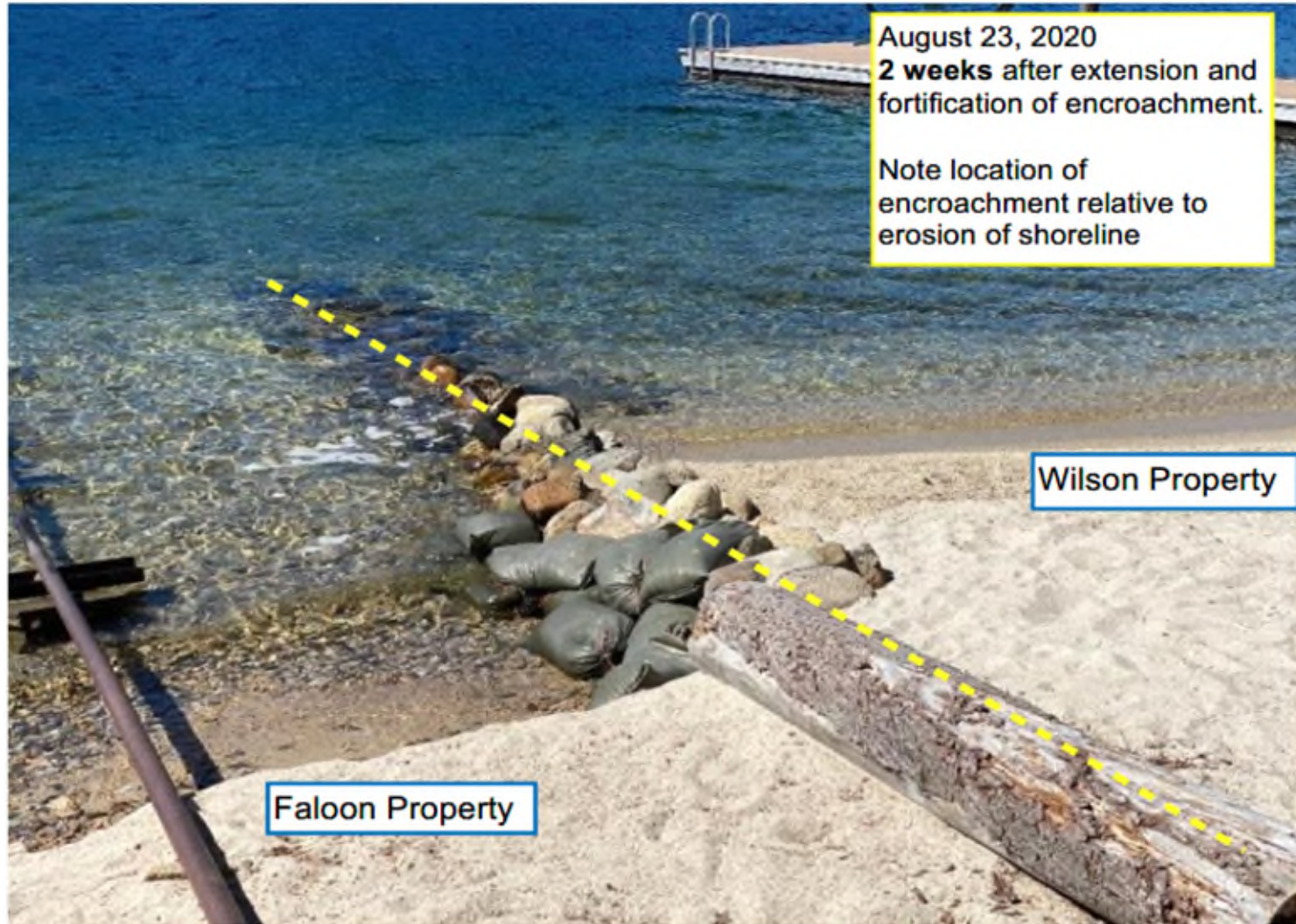
History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

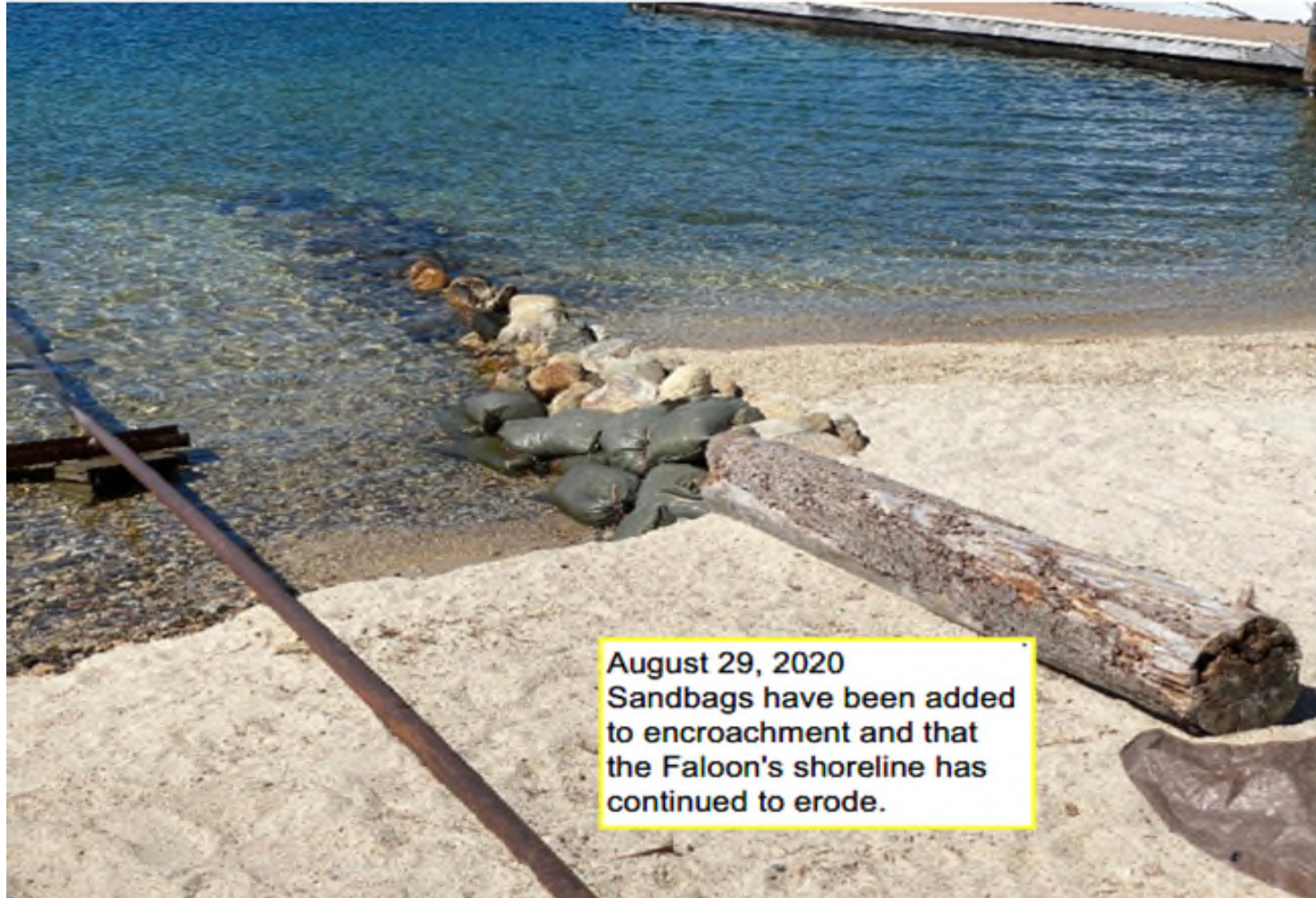
History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

History of the Encroachment:



August 29, 2020
Sandbags have been added
to encroachment and that
the Faloon's shoreline has
continued to erode.

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

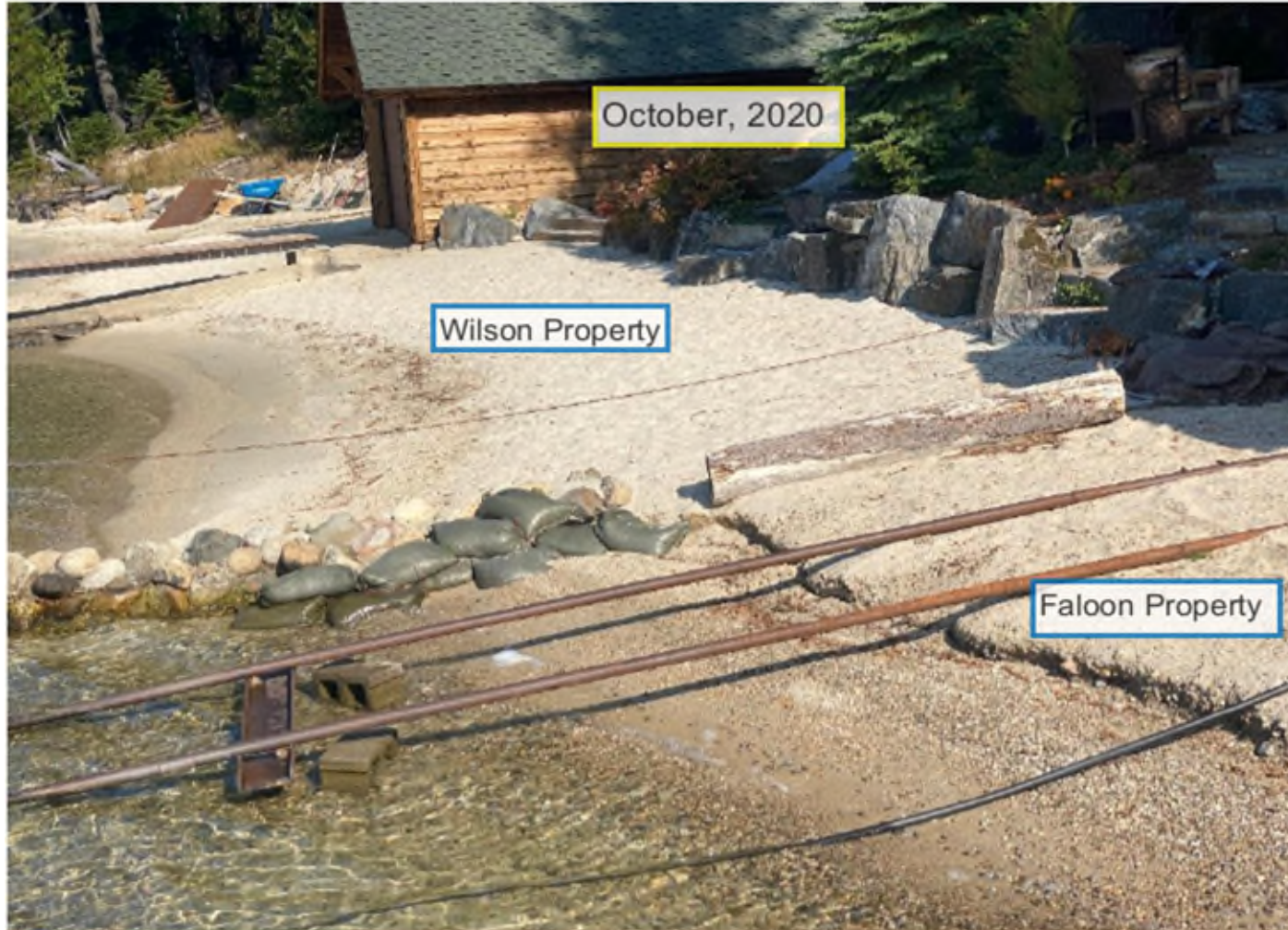
History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

History of the Encroachment:



IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

Excerpt from Exhibit 1 (Objector's letter to IDL) regarding the Applicant's proposed purpose for the encroachment:

1. At the bottom of page 1 of the proposal, it states that the Purpose and Need is to: "Continue to Block 16 to detail each work activity and overall project" (see below). However, the Wilsons own lot 16. Lot 16 is the lot to the north of their cabin. Their cabin is on lot 17. Therefore, they are proposing to block themselves from detailing the work that they do on their shoreline on lot 17. I own lot 18.

15. PURPOSE and NEED: ☐ Commercial ☐ Industrial ☐ Public ☒ Private ☐ 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.

Reduce shoreline erosion with rip rap installation

The Applicant's purported justification for the encroachment is to mitigate erosion to the shoreline. The encroachment clearly enhances the Applicant's shoreline at the expense of significant erosion to the Objectors shoreline.

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

Excerpt from Exhibit 1 (Objector's letter to IDL) regarding the Applicant's proposed purpose for the encroachment:

2. On the top of page 2 of the proposal it states: "Each spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3 foot rise in the plan is designed to mitigate seasonal flooding and upland erosion" (see below).

will be in the lake at a depth of 1 foot. The Plan calls for the rock to rise above the lake surface as a barrier to large waves and Spring flooding. Each Spring the lake floods between 18-36 inches above the 2,438 ft. elevation (Summer pool/OHWM). This seasonal flooding can be erosive on upland beaches. The 3-foot rise in the Plan is designed to mitigate seasonal flooding and upland erosion.

The Applicant's purported justification for the encroachment is to mitigate erosion to the shoreline caused by seasonal flooding. As detailed on the following chart, it is unlikely that seasonal flooding causes erosion to the Applicant's shoreline.

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

2000 - 2020 Priest Lake Elevations (21 years):

Page 2023

Definition of Summer Pool (S.P.): 3 feet - 3.5 feet above elevation

	Number of years: (Total: 21)	% of years above S.P.:	Maximum Elevation each year:	Duration > 6" - 12" above S.P.	Duration > 12" - 18" above S.P.	Duration > 18" - 24" above S.P.	Duration > 24" above S.P.
<u>Lake Level Elevation:</u>							
Never above S.P.:	5	24%					
> 0" - 6" above S.P.:	5	24%	2", 3", 4", 4.2", 5"				
> 6" - 12" above S.P.:	6	25%	7", 7", 8", 8.4", 11", 12"	3-11 days			
> 12" - 18" above S.P.:	3	14%	15", 15", 18"	17-29 days	10-18 days		
> 18" - 24" above S.P.:	1	5%	21"	5 days	5 days	6 days	
> 24" above S.P.:	1	5%	Approx. 24"	7 days	9 days	14 days	1 day
Totals (21 years):				32-52 days	24-32 days	20 days	1 day

IDAHO STATE BOARD OF LAND COMMISSIONERS
CASE NO. PH-2020-PUB-10-001

IDAPA 20.03.04

012. POLICY.

01. Environmental Protection and Navigational or Economic Necessity.... encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the ~~navigational or economic necessity or justification~~ for, or benefit to be derived from the proposed encroachment.

The Applicant's purported justification for the encroachment lacks any evidence relating to navigational or economic necessity — the encroachment, however, causes significant damage to Objector's property.

IDAHO STATE BOARD OF LAND COMMISSIONERS
CASE NO. PH-2020-PUB-10-001

IDAPA 20.03.04.030.02

030. Processing of Applications for All Other Types of Encroachments.

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases ~~involving major environmental, economic, or social benefits to the general public.~~

Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values.”

The Applicant’s purported justification for the encroachment lacks any evidence involving major environmental, economic or social benefits to the general public.

IDAHO STATE BOARD OF LAND COMMISSIONERS

CASE NO. PH-2020-PUB-10-001

OBJECTOR REQUESTS:

- 1. The Application for Encroachment permit be denied;**
- 2. The Applicant be directed to restore the lake to the condition it was in prior to the unauthorized encroachment; and**
- 3. The Applicant reimburse Objector's reasonable attorney's fees.**

From: [Kaufmann, Angela](#)
To: [Kourtney Romine](#); ["Gregory M. Wilson"](#); ["ssyrcl@tristateid.com"](#); ["billofspok@aol.com"](#)
Cc: [Mike Ahmer](#); [Trevor Anderson](#); [Wills, Rebecca](#)
Subject: Case No. PH-2020-PUB-10-001
Date: Monday, November 30, 2020 05:55:11 PM
Attachments: [IDL Notice of Filing with Exhibit.pdf](#)

Dear Ms. Romine and Parties:

Attached is the Idaho Department of Lands' Notice of Service, to which IDL's exhibit for the above-captioned hearing is attached. Please let me know if you have any difficulty opening the attachment.

Sincerely,

Angela Schaer Kaufmann

Angela Schaer Kaufmann
Lead Deputy Attorney General
Office of the Attorney General
Natural Resources Division
P.O. Box 83720
Boise, ID 83720-0010
Phone: (208) 334-4120
Fax: (208) 854-8072

CONFIDENTIALITY STATEMENT: This electronic message contains information from the State of Idaho, Office of the Attorney General, and is confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you have received this e-mail in error, please notify us immediately by telephone at (208) 334-4120 or by email reply and then immediately delete this message. Thank you.

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:)	
	)	Case No. PH-2020-PUB-10-001
Encroachment Permit Application)	
No. L-97-S-1081B	)	NOTICE OF FILING AND
	)	SERVICE
Gregory M. and Debra B. Wilson,)	
Applicants.)	

The Idaho Department of Lands (“IDL”), by and through its counsel Angela Schaer Kaufmann, Deputy Attorney General, and in accordance with the Notice of Appointment of Hearing Coordinator and Public Hearing (“Notice of Appointment”) hereby files the following Exhibit for the hearing in this matter, set for December 3, 2020:

- IDL-1: Idaho Department of Lands Hearing Statement

Also pursuant to the Notice of Appointment, IDL has served a copy of the above-referenced documents on the parties hereto.

DATED this 30th day of November, 2020.

/s/ Angela Schaer Kaufmann
ANGELA SCHAER KAUFMANN
Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November 2020, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Gregory M. and Debra B. Wilson
32 Blackcap Ln
Coolin, ID 83821

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: greg@wilsonlaw.us

Tri-State Consulting Engineers, Inc
Steven W. Syrcle, P.E.
1859 N. Lakewood Dr, Suite 103
Coeur d'Alene, ID 83814

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: ssyrcle@tristateid.com

William Faloon
6618 South Tomaker Lane
Spokane, WA 99223

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: billofspok@aol.com

Kourtney Romine *on behalf of*
Andrew Smyth, Hearing Coordinator

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: kromine@idl.idaho.gov

/s/ Angela Schaer Kaufmann

Angela Schaer Kaufmann
Deputy Attorney General

IDAHO DEPARTMENT OF LANDS

HEARING STATEMENT

CASE NO. PH-2020-PUB-10-001-Greg and Debra Wilson

ENCROACHMENT PERMIT APPLICATION L-97-S-1081B

Good afternoon, my name is Mike Ahmer, and I am the Lands Resource Supervisor for the Public Trust program at the Idaho Department of Lands (“IDL”). My purpose in being here today is to provide you with information regarding IDL’s assessment of Application for Encroachment Permit No. L-97-S-1081B, filed by Gregory & Debra Wilson (the “Wilsons”).

I. BACKGROUND

A. Application

The Wilsons are seeking an encroachment permit to place between 3 and 8 feet of rip-rap along their shoreline at their mutual property corner/line shared with Mr. Bill Faloon on Priest Lake.

B. Timeline

- 08/24/2020 – Bill Faloon sends IDL an email in which he complains that his adjacent neighbor, Greg Wilson, has an unpermitted rock “barb” which extends 20-30 feet into the lake, and that Mr. Wilson has unpermitted rip-rap on his shoreline.
- As a result of this complaint, shortly after 08/24/2020, IDL contacted Mr. Wilson by phone to discuss the unpermitted rock barb and rip-rap. IDL informed Mr. Wilson during this conversation that IDL did not have any record of a rock barb or rip-rap being permitted for his waterfront (under his existing Encroachment Permit No. L-97-S-1081).
- 10/01/2020 -- Greg and Debra Wilson (the “Wilsons”) submit an encroachment permit application to rip-rap their shoreline (“Application”).
- 10/02/2020 – IDL sends notification of the Application via mail to the Wilsons’ adjacent neighbors and to certain state and county resource agencies and community organizations. In the notification, those individuals and entities are notified about the 30-day review/comment period regarding the Application.
- 10/06/2020 – 10/13/2020 Bonner County Daily Bee runs public notices regarding the Application.
- 10/26/2020 – Mr. Faloon submits his objection letter to IDL.
- 11/09/2020 -- Mr. Faloon submits additional information in support of his objection letter.
- 11/10/2020 -- The public hearing is scheduled for 12/3/2020.
- 11/13/2020 through 11/20/2020 -- Bonner County Daily Bee runs public notices regarding the public hearing.

II. APPLICABLE LEGAL PRINCIPLES

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

1. I.C. § 58-1301 (*see also* IDAPA 20.03.04.012):

The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefor has been given as provided in this act.

2. I.C. § 58-1302:

(f) "Riparian or littoral rights" means only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake. (*See also* IDAPA 20.03.04.010.32)

(i) "Encroachments not in aid of navigation" means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments." (*See also* IDAPA 20.03.04.010.16)

B. Applicable Provisions of IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho.

1. IDAPA 20.03.04.010 DEFINITIONS

- **33. Riparian or Littoral Owner.** The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant.

2. IDAPA 20.03.04.015. ENCROACHMENT STANDARDS

- **08. Riprap.**
 - 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 must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer which consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ordinary or artificial high water mark, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design

that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho.

b. 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 Department's discretion.

- **13. General Encroachment Standards. . .**

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, . . . that commercial navigational encroachments, community docks or nonnavigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse affects [sic].

3. IDAPA 20.03.04.020. APPLICATIONS.

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

C. Idaho Department of Lands Procedures - ENC-Section 25: Encroachment Standards & Requirements

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 overlies 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.

...

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.

III.

IDL's ANALYSIS OF THE APPLICATION'S COMPLIANCE WITH THE LAKE PROTECTION ACT AND RULES

Greg and Debra Wilson are littoral owners and their property has approximately 75 feet of waterfront, making them eligible to submit an application for encroachment.

The Wilsons' encroachment application is unique, in that they are requesting to rip-rap a small section of their shoreline, specifically the corner of their waterfront property, at a width of 3-feet. Most rip-rap applications that IDL receives are from applicants seeking to protect their entire shoreline, or where erosion is taking place and property is being lost. IDL's procedures for rip-rap recommend that rip-rap "be placed along the present contour of the shoreline" to prevent erosion. The Wilsons' application does not comply with that standard.

Given the location and orientation of the requested encroachment, it is IDL's opinion that the Wilsons' encroachment application more closely resembles an application to permit a "bank barb." As IDL's procedures state, "Jetties and bank barbs shall generally not be permitted as a method of controlling erosion on lakes."

The photos submitted to IDL from Mr. Faloon show that the Wilsons' shoreline is not steep, there is not a bank to protect from erosive forces, no property is in jeopardy, and that the existing bank barb is already causing inconsistent sedimentation issues between the Faloon and Wilson properties.

IDL recently permitted a bank barb at Priest Lake at the beginning of 2020 and required that the applicant hire a geomorphologist to conduct a study on the effects that a bank barb would have on the waterfront, specifically the bank barb's effect on sedimentation. If the Hearing Officer's decision is to grant the Application, IDL would recommend that the same requirement be placed upon the Wilsons as a condition of their encroachment permit.

From: [Kaufmann, Angela](#)
To: ["mfugham@lukins.com"](#); ["hkitz@lukins.com"](#)
Cc: [Kourtney Romine](#); ["Gregory M. Wilson"](#); ["ssyrcl@tristateid.com"](#); ["billofspok@aol.com"](#); [Wills, Rebecca](#)
Subject: FW: Case No. PH-2020-PUB-10-001
Date: Tuesday, December 01, 2020 07:21:22 AM
Attachments: [IDL Notice of Filing with Exhibit.pdf](#)

Dear Ms. Fulgham and Ms. Kitz:

Yesterday, I served IDL's Hearing Exhibit for the referenced encroachment permit proceeding. At that time, I had not yet opened the link you provided and was not aware that you are representing Mr. Faloon. However, I am now forwarding the cover email, IDL's Notice of Filing, and IDL's hearing exhibit to you.

Please let me know if you have any questions.

Sincerely,

Angela Schaer Kaufmann
Deputy Attorney General

From: Kaufmann, Angela
Sent: Monday, November 30, 2020 5:55 PM
To: 'Kourtney Romine' <kromine@idl.idaho.gov>; 'Gregory M. Wilson' <greg@wilsonlaw.us>; 'ssyrcl@tristateid.com' <ssyrcl@tristateid.com>; 'billofspok@aol.com' <billofspok@aol.com>
Cc: Mike Ahmer <mahmer@idl.idaho.gov>; 'Trevor Anderson' <tranderson@idl.idaho.gov>; Wills, Rebecca <Rebecca.Wills@ag.idaho.gov>
Subject: Case No. PH-2020-PUB-10-001

Dear Ms. Romine and Parties:

Attached is the Idaho Department of Lands' Notice of Service, to which IDL's exhibit for the above-captioned hearing is attached. Please let me know if you have any difficulty opening the attachment.

Sincerely,

Angela Schaer Kaufmann

Angela Schaer Kaufmann
 Lead Deputy Attorney General
 Office of the Attorney General
 Natural Resources Division
 P.O. Box 83720
 Boise, ID 83720-0010
 Phone: (208) 334-4120
 Fax: (208) 854-8072

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BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:)	
	)	Case No. PH-2020-PUB-10-001
Encroachment Permit Application)	
No. L-97-S-1081B	)	NOTICE OF FILING AND
	)	SERVICE
Gregory M. and Debra B. Wilson,)	
Applicants.)	
<hr/>		

The Idaho Department of Lands (“IDL”), by and through its counsel Angela Schaer Kaufmann, Deputy Attorney General, and in accordance with the Notice of Appointment of Hearing Coordinator and Public Hearing (“Notice of Appointment”) hereby files the following Exhibit for the hearing in this matter, set for December 3, 2020:

- IDL-1: Idaho Department of Lands Hearing Statement

Also pursuant to the Notice of Appointment, IDL has served a copy of the above-referenced documents on the parties hereto.

DATED this 30th day of November, 2020.

/s/ Angela Schaer Kaufmann
ANGELA SCHAER KAUFMANN
Deputy Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of November 2020, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Gregory M. and Debra B. Wilson
32 Blackcap Ln
Coolin, ID 83821

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: greg@wilsonlaw.us

Tri-State Consulting Engineers, Inc
Steven W. Syrcle, P.E.
1859 N. Lakewood Dr, Suite 103
Coeur d'Alene, ID 83814

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: ssyrcle@tristateid.com

William Faloon
6618 South Tomaker Lane
Spokane, WA 99223

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: billofspok@aol.com

Kourtney Romine *on behalf of*
Andrew Smyth, Hearing Coordinator

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: kromine@idl.idaho.gov

/s/ Angela Schaer Kaufmann

Angela Schaer Kaufmann
Deputy Attorney General

IDAHO DEPARTMENT OF LANDS

HEARING STATEMENT

CASE NO. PH-2020-PUB-10-001-Greg and Debra Wilson

ENCROACHMENT PERMIT APPLICATION L-97-S-1081B

Good afternoon, my name is Mike Ahmer, and I am the Lands Resource Supervisor for the Public Trust program at the Idaho Department of Lands (“IDL”). My purpose in being here today is to provide you with information regarding IDL’s assessment of Application for Encroachment Permit No. L-97-S-1081B, filed by Gregory & Debra Wilson (the “Wilsons”).

I. BACKGROUND

A. Application

The Wilsons are seeking an encroachment permit to place between 3 and 8 feet of rip-rap along their shoreline at their mutual property corner/line shared with Mr. Bill Faloon on Priest Lake.

B. Timeline

- 08/24/2020 – Bill Faloon sends IDL an email in which he complains that his adjacent neighbor, Greg Wilson, has an unpermitted rock “barb” which extends 20-30 feet into the lake, and that Mr. Wilson has unpermitted rip-rap on his shoreline.
- As a result of this complaint, shortly after 08/24/2020, IDL contacted Mr. Wilson by phone to discuss the unpermitted rock barb and rip-rap. IDL informed Mr. Wilson during this conversation that IDL did not have any record of a rock barb or rip-rap being permitted for his waterfront (under his existing Encroachment Permit No. L-97-S-1081).
- 10/01/2020 -- Greg and Debra Wilson (the “Wilsons”) submit an encroachment permit application to rip-rap their shoreline (“Application”).
- 10/02/2020 – IDL sends notification of the Application via mail to the Wilsons’ adjacent neighbors and to certain state and county resource agencies and community organizations. In the notification, those individuals and entities are notified about the 30-day review/comment period regarding the Application.
- 10/06/2020 – 10/13/2020 Bonner County Daily Bee runs public notices regarding the Application.
- 10/26/2020 – Mr. Faloon submits his objection letter to IDL.
- 11/09/2020 -- Mr. Faloon submits additional information in support of his objection letter.
- 11/10/2020 -- The public hearing is scheduled for 12/3/2020.
- 11/13/2020 through 11/20/2020 -- Bonner County Daily Bee runs public notices regarding the public hearing.

II. APPLICABLE LEGAL PRINCIPLES

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

1. I.C. § 58-1301 (*see also* IDAPA 20.03.04.012):

The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefor has been given as provided in this act.

2. I.C. § 58-1302:

(f) "Riparian or littoral rights" means only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake. (*See also* IDAPA 20.03.04.010.32)

(i) "Encroachments not in aid of navigation" means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments." (*See also* IDAPA 20.03.04.010.16)

B. Applicable Provisions of IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho.

1. IDAPA 20.03.04.010 DEFINITIONS

- **33. Riparian or Littoral Owner.** The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant.

2. IDAPA 20.03.04.015. ENCROACHMENT STANDARDS

- **08. Riprap.**
 - 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 must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer which consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ordinary or artificial high water mark, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design

that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho.

b. 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 Department's discretion.

- **13. General Encroachment Standards. . .**

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, . . . that commercial navigational encroachments, community docks or nonnavigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse affects [sic].

3. IDAPA 20.03.04.020. APPLICATIONS.

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

C. Idaho Department of Lands Procedures - ENC-Section 25: Encroachment Standards & Requirements

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.

...

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.

III.

IDL's ANALYSIS OF THE APPLICATION'S COMPLIANCE WITH THE LAKE PROTECTION ACT AND RULES

Greg and Debra Wilson are littoral owners and their property has approximately 75 feet of waterfront, making them eligible to submit an application for encroachment.

The Wilsons' encroachment application is unique, in that they are requesting to rip-rap a small section of their shoreline, specifically the corner of their waterfront property, at a width of 3-feet. Most rip-rap applications that IDL receives are from applicants seeking to protect their entire shoreline, or where erosion is taking place and property is being lost. IDL's procedures for rip-rap recommend that rip-rap "be placed along the present contour of the shoreline" to prevent erosion. The Wilsons' application does not comply with that standard.

Given the location and orientation of the requested encroachment, it is IDL's opinion that the Wilsons' encroachment application more closely resembles an application to permit a "bank barb." As IDL's procedures state, "Jetties and bank barbs shall generally not be permitted as a method of controlling erosion on lakes."

The photos submitted to IDL from Mr. Faloon show that the Wilsons' shoreline is not steep, there is not a bank to protect from erosive forces, no property is in jeopardy, and that the existing bank barb is already causing inconsistent sedimentation issues between the Faloon and Wilson properties.

IDL recently permitted a bank barb at Priest Lake at the beginning of 2020 and required that the applicant hire a geomorphologist to conduct a study on the effects that a bank barb would have on the waterfront, specifically the bank barb's effect on sedimentation. If the Hearing Officer's decision is to grant the Application, IDL would recommend that the same requirement be placed upon the Wilsons as a condition of their encroachment permit.

From: greg@wilsonlaw.us
To: Steve.Syrde; mfugham@lukins.com; billlofspok@aol.com; angela.kaufmann@ag.idaho.gov; Kourtney.Romine; merritt.horsmon@idfg.idaho.gov; chantilly.higbee@deg.idaho.gov
Subject: Encroachment Permit Application: L-97-S-1081B Applicant Gregory M. and Debra B. Wilson
Date: Wednesday, December 02, 2020 11:36:38 AM
Attachments: [Wilson Position Statement 12.02.20.pdf](#)
[Affidavit of Gregory M. Wilson \(1\).docx.pdf](#)
[CERTIFICATE OF SERVICE.pdf](#)

Please find attached Applicant's Response to Objector's Memorandum.

Sincerely,

Gregory M. Wilson, Attorney at Law

Mailing Address:

P.O. Box 494

Spokane Valley, WA 99016

Tel. (509) 991-8575

Email: greg@wilsonlaw.us

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**BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO**

In the Matter of:)	
	)	Case No. PH-2020-PUB-10-001
Encroachment Permit Application)	
No. L-97-S-1081B	)	APPLICANTS' POSITION STATEMENT
	)	IN RESPONSE TO OBJECTOR'S
Gregory M. and Debra B. Wilson	)	MEMORANDUM
Applicants.)	
_____)	

The Applicants Gregory M. and Debra B. Wilson set forth their position statement in response to Objector Faloon's written objections and Memorandum to Wilson's Encroachment Permit Application L-97-S-1081B.

A. The Encroachment Application.

Following Applicant's receipt of the Faloon September 1, 2020 demand email, Applicant visited the IDL Cavanaugh Bay office and spoke with Trevor Anderson, IDL employee, about the Faloon demand. Applicant desired to avoid an adversarial conflict with Faloon, his friendly neighbor of 17 years. Applicant had two choices: (1) develop a case for Lake Protection Act exemption under the "grandfather" provisions for Riprap, or (2) seek to permit a portion of the existing Riprap. Applicants chose to apply for a Riprap encroachment permit seeking a speedy resolution to the matter. Applicants engaged their friend and professional engineer, Steve

Syrcele, for design assistance and filed the application. IDL staff processed the Application and indicated that the permit would issue on November 4, 2020, unless an objection was filed.

Faloon objected. A contested hearing was scheduled. Applicants will be represented at the hearing by Steve Syrcle, P.E., as set forth in their Application. Mr. Syrcle will appear on their behalf pursuant to Rule 202. (IDAPA 20.01.01.202)

B. Background.

The Riprap located near the southern boundary of Applicant's Lot 17A predated Applicant's purchase of the property in 2003. Applicant believes the riprap is a grandfathered legacy structure constructed in the 1960's prior to the adoption of the Lake Protection Act.



Photo A - 2003 Photo of Wilson Beach and Legacy Riprap

Photo A depicts the pre-existing cobblestone Riprap on the beach and under the water. It is located near the Lot 17 southern boundary just north of Faloon's boat rail encroachment.

Since 2003 Applicants have enjoyed a pleasant friendship with Faloon. At no time between 2003 and August 31, 2020 have the Wilson's and Faloon discussed Wilson's Riprap as problematic. Faloon has struggled with his shoreline and beach erosion for many years. He had an upland seawall running along his property which had been severely undercut by Spring high water erosion. It was deemed unrepairable so he removed it.

In addition to the seawall, his lot had a 20 foot by 3 foot by 3 foot concrete Monolithic dock approach structure which extended from his upland beach into the lake. It was composed of two parts: (1) a 15 foot long, 3 feet wide and 3 feet high Monolith, and (2) a 2 foot long and 3 foot wide Monolithic block (collectively the "Monolith"). The two monoliths were connected by concrete cinder blocks below the waterline to prevent sand from eroding south. He had abandoned this dock approach favoring to build a different dock approach and dock south of the Monolith. The Monolith suffered from extreme undercutting erosion on its south face. In the Fall of 2018, Faloon removed the concrete Monolith.



Photo B- Faloon Monolith demolition 2018

In Photo B above please take notice of Monolith's location. It is about 20 feet south of Wilson's southern boundary line. Notice on the north side of Faloon's Monolith there is sandy shoreline and beach. Notice on the south side of the Monolith the beach is rocky. This northerly location is the situs of Faloon's 2019 and 2020 shoreline erosion. The facts are clear. Prior to 2018, Faloon had no erosion in this location. Subsequent to the Monolith's removal, Faloon suffered significant shoreline and beach erosion in this area. Wilson's Riprap is not responsible for Faloon's erosion.

The removal of this Monolith is the direct and proximate cause of his shoreline erosion. He was warned by Mr. Wilson that the demolition and removal of the Monolith would be followed by shoreline erosion. He freely chose to remove it. Now he suffers the consequences of shoreline erosion.

Faloon's erosion solution is to permit and install a shoreline riprap to mitigate his self-inflicted erosion problem.



Photo C – View of Faloon's Monolith prior to demolition 2010

Photo C above was taken in the Summer of 2010. Notice that Faloon had a sandy beach and shoreline between the Wilson Riprap and the Monolith. The Monolith and Faloon's dock dissipated the erosive wave energy. When the Monolith was removed the Faloon and Wilson beaches were subject to significant erosive wave actions. Wilson's riprap has generally protected his deeded beach frontage. However, during the Summers of 2019 and 2020, many of the cobbles which were formerly above the OHWM were undercut by wave action requiring the temporary placement of sandbags. A sandy beach is a very valuable lakefront asset. The Bonner County Assessor is keen to tax this property feature. A sandy beach is deeded real property. Faloon exposed his beach to erosive wave action and now blames Wilson's Riprap as the single cause preferring to ignore the enormously erosive effect of removing his Monolithic structure. The photos tell the story. There was no shoreline erosion between Faloon and Wilson during the years 2003-2018. There was huge shoreline erosion during the years 2019 and 2020. Wilson's riprap application seeks to defend his deeded property, its shoreline and beachfront from Faloon's recent erosive actions.

C. Shoreline and Beachfront Erosion is a Seasonal Event.

Each Spring, depending on the snowpack and temperatures, the water level at Priest Lake usually rises above summer pool (OHWM) levels. Erosion can occur at all levels. High spring flood waters coupled with wave action adversely impact shorelines producing erosion. It is a fact of lake life. Regardless of whether the high water is 6 inches, 36 inches or beyond, varying degrees of shoreline erosion will occur. Scores of lakefront property owners throughout Idaho have enjoyed the protection afforded by IDL's Riprap program. (Exhibit A) Hundreds more have innocently cleared their beaches of cobbles, windrowing them on their boundaries for lake swimming access. These are all arguably *defacto* Riprap structures and likely unpermitted.

Faloon's lakefront lot had an approximately 50-foot long 3 foot high concrete seawall upland of the OHWM. During successive Spring flood events the foundation of the seawall was completely destroyed by wave erosion. It only stood because steel rebar had been pounded into the ground as a sort of foundation. Imagine a 50-foot long concrete wall standing precariously on a few sticks of steel rebar. He subsequently removed the seawall. I mention this fact because Faloon has chosen to ignore the historic extreme power of high water wave erosion on his lot. His lot has a steep beach which does not favor sand accretion. It faces directly southwest taking the brunt of wave action. This current beach erosion matter is not his first experience with the power of Priest Lake wave erosion.

D. Riprap Facilitates Navigation

Objector argues that IDL should treat the Wilson Riprap as a non-navigational aid and apply a stricter standard of review with a view to defeat Wilson's application. Objector errs. Objector fails to recall that Wilson's Riprap and sandy beach have been used to launch all manner of lake vessels. Without protection the combination of a Riprap and sandy shoreline would lose its navigational aid function.

Sandy beaches are required to safely launch Personal Watercraft (PWC), small sailboats, canoes, kayaks and stand up paddleboards (SUP) all of which are launched from Applicants' sandy beaches. These are personal navigation vessels. A Riprap which protects a sandy beach is a navigational aid. In fact, Wilson's have over the years graciously permitted Faloon and his extended family use their Riprap/sandy beach location as a launch point for Faloon's SUP's and kayaks. Faloon has enjoyed the navigational aid of Wilson's Riprap.

E. Objector Errs Describing the Wilson Encroachment.

The great majority of the Wilson Riprap has been incorrectly described as an unpermitted encroachment. Objector's Powerpoint Exhibit 3 depicts "a fortified encroachment". Most of the cobbles and the log identified in the Exhibit were upland of the Ordinary High Water Mark (OHWM) prior to the erosive actions taken by Faloon's removal of the Monolith in 2018. The photo was taken after drawdown in the Fall and fails to depict the OHWM so it is of relatively little value defining a lake encroachment. Cobblestones above the OHWM do not encroach into the lake and therefore do not require permitting. Applicants' Photos A and C clearly show cobblestones upland of the Wilson OHWM shoreline. The upland cobbles in Photo C were added from time to time as a defense against Spring flood high water erosion. They remained above the OHWM until Faloon's actions eroded their southern exposure to Summer wave action and created a new shoreline under IDL jurisdiction. The drift log lying on the upland beach does not require permitting.

F. Faloon Has Violated the Clean Hands Doctrine

Faloon has placed a log Riprap in the lake at his south boundary for the purpose collecting migrating sand. He hopes that his present objection will defeat Wilson's Riprap application and result in Wilson's beach sand eroding south onto his beach. This is the singular purpose of Faloon's objection. Faloon has "unclean hands". He seeks to defeat Wilson's Riprap application while at the same time he has covertly created his own unpermitted Riprap on his south boundary. See Photo D below for a Summer 2020 photograph taken in the lake showing Faloon's unpermitted log Riprap buttressed with concrete blocks situated below the OHWM. His Riprap has successfully begun to collect sand. Faloon has acted in bad faith making his objection to Wilson's Riprap application while secretly benefiting from his own undisclosed and unpermitted Riprap.



Photo D– Faloon South Boundary Unpermitted Log Riprap Encroachment

F. Idaho Lake Protection Act.

IDL promotes the use of Riprap to protect shorelines and stabilize banks from erosion. Ripraps protect private property rights. IDL has published a brochure marketing Riprap as a solution for private property owners who suffer shoreline erosion. (See Exhibit A). It appears that IDL’s public policy is to encourage the application and permitting of Riprap as a means to protect private property shorelines. It seems unlikely that IDL would consider a Riprap subject to the higher standards of a non-navigational encroachment given their promotion of Riprap as a

solution to a very common lake problem. The Wilson's are suffering shoreline erosion caused by Faloon's actions and seek to defend their shoreline and their beachfront property rights with a permitted Riprap.

G. Conclusion

Wilson's Riprap application seeks to permit a portion of a grandfathered Riprap structure. Wilson wants to avoid adversarial conflict with Faloon and preserve their 17-year friendship. Applicants believe the Riprap is the best solution. IDL believes it is the appropriate solution too. IDL processed Wilson's application and approved it, subject to objection. The Applicant has complied with the Riprap construction standards set forth in Section 25 of the Navigable Waters Procedures Manual. Applicant's engineered Riprap drawing has the stamp of an Idaho licensed Professional Engineer. Applicant respectfully requests that the Application for Riprap be granted.

Dated this 2nd day of December 2020.

A handwritten signature in black ink, appearing to read 'M. Wilson', written in a cursive style.

Gregory M. Wilson, Pro Se

Permitting Process

1. Applicant completes and submits an application packet to the local IDL area office, which includes:
 - Joint Application Form*
 - IDL Application Form*
 - Supporting documents such as drawings, maps, etc.*
 - \$550 application fee
 - \$75 publication deposit
2. IDL reviews application. IDL will notify applicants if additional information is needed to process the application.
3. IDL publishes a notice of application in the local newspaper and shares the application with neighbors and other agencies. IDL considers all comments and will hold a public hearing, if requested.
4. If the encroachment meets all standards, IDL issues a permit.
5. Permittee records the permit with the county recorder's office.
6. Permittee constructs the encroachment.
7. Permittee files work completion report.
8. IDL inspects the encroachment to verify compliance with the permit terms and standards.

*Forms and samples may be downloaded at <http://www.idl.idaho.gov/lakes-rivers/index.html>



Idaho Department of Lands

300 N. 6th Street, Suite 103
Boise, ID 83702
(208) 334-0200
www.idl.idaho.gov

Contact an IDL Area Office for more information:

Priest Lake Area

4053 Cavanaugh Bay Rd.
Coolin, ID 83821
(208) 443-2516

Payette Lakes Area

555 Deinhard Ln.
McCall, ID 83638
(208) 634-7125

Pend Oreille Area

2550 Highway 2 West
Sandpoint, ID 83864-7305
(208) 263-5104

Southwest Area

8355 W. State St.
Boise, ID 83714
(208) 334-3488

Mica Area

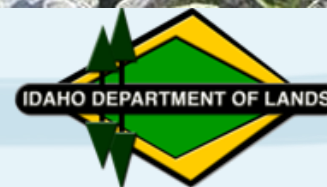
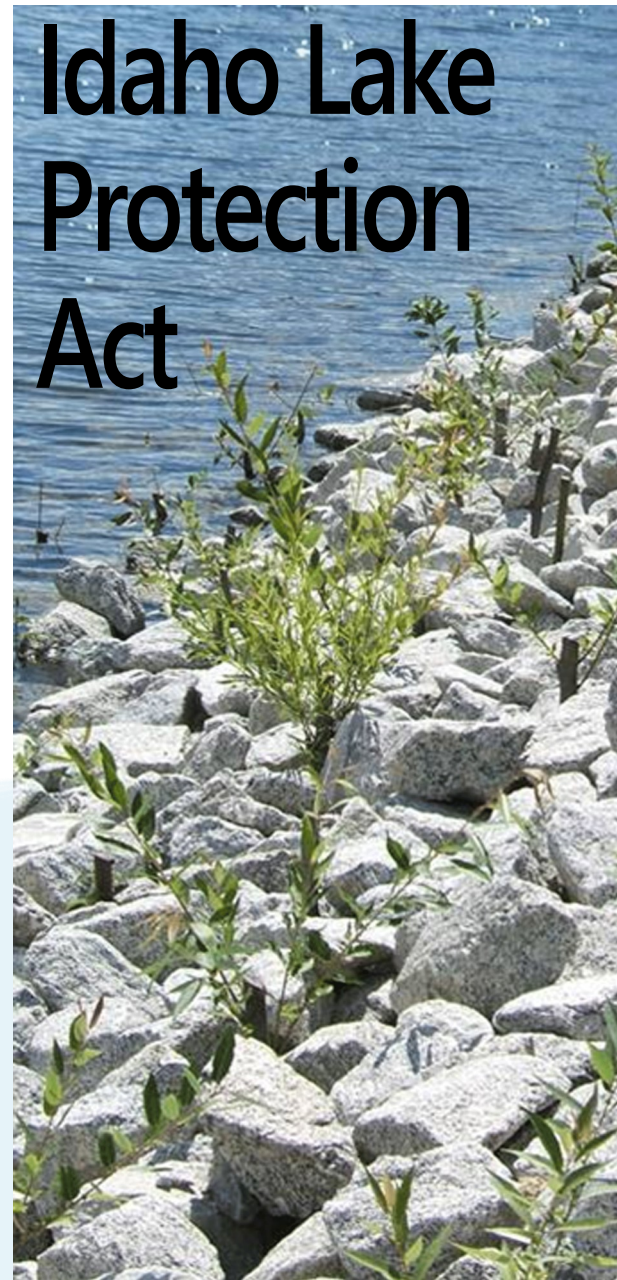
3258 W. Industrial Loop
Coeur d'Alene, ID 83815
(208) 769-1577

Eastern Area

3563 Ririe Highway
Idaho Falls, ID 83401
(208) 525-7167

Many of the lakes considered navigable by the State are also jurisdictional waters for the US Army Corps of Engineers (Corps). Bank stabilization activities also require permits from the Corps under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. For additional information regarding the Corps permit requirements, please visit the Walla Walla District webpage at <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/>. For information on the terms and conditions of the Corps' Nationwide Permit No. 13 for Bank Stabilization please visit the Walla Walla District webpage at <http://www.nww.usace.army.mil/Business-With-Us/Regulatory-Division/Nationwide-Permits/>

Idaho Lake Protection Act



Bank Stabilization

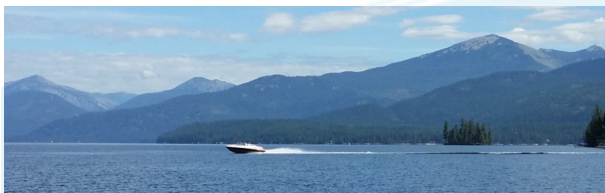


Erosion is the process by which land is worn away by water, wind, and ice. Erosion is a natural process that can be accelerated by human activities such as boaters creating large wakes near shore and waterfront owners replacing deep-rooted native vegetation with shallow-rooted turf grass. Erosion can affect natural resources, water quality, ecosystems, and property.



There are multiple ways to **protect** your shoreline from erosion. When comparing alternatives, it is important to select the right method, or combination of methods, for your specific location.

The Idaho Department of Lands (IDL) encourages planting **native vegetation** to control erosion, enhance aesthetic beauty, and improve water quality, but in some cases structural control may be necessary.



An **encroachment permit** from IDL is required for all encroachments such as riprap located on navigable lakes under the Lake Protection Act (Title 58, Chapter 13, Idaho Code). Riprap and other bank stabilization standards are found in IDAPA 20.03.04 and outlined herein.

Riprap Standards

1. Riprap must consist of rock that is **sound, dense, durable, angular, resistant to weathering, free of fines**, and **appropriately sized** to resist movement from anticipated wave heights or tractive forces of the water flow.



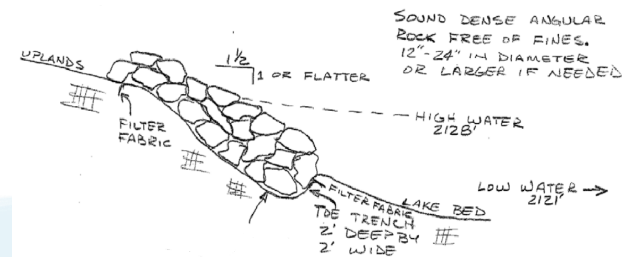
2. Riprap shall be placed along the **present contour** of the shoreline; however, riprap shall not be placed on a slope steeper than 1.5H:1V.



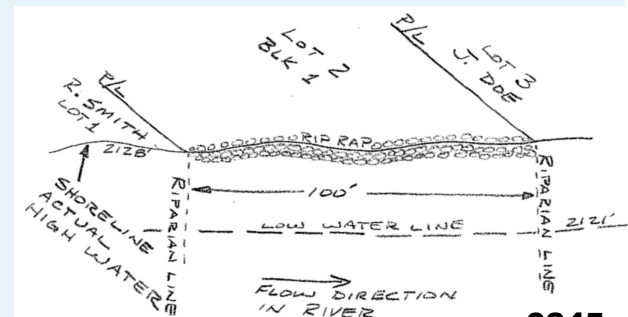
3. Riprap must overlie a distinct **filter layer** which consists of sand, gravel, or nonwoven geotextile fabric (e.g. road fabric).



4. The riprap and filter layer must be **keyed** into the bed below the high water mark.



If an applicant wishes to install riprap with different standards, a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho must be submitted.



**BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO**

In the Matter of:)	
	)	Case No. PH-2020-PUB-10-001
Encroachment Permit Application)	
No. L-97-S-1081B	)	AFFIDAVIT OF GREGORY M. WILSON
)	
Gregory M. and Debra B. Wilson)	
Applicants.)	
_____)	

STATE OF IDAHO)	
	)	ss:
County of Kootenai)	

Gregory M. Wilson, being first duly sworn on oath deposes and says:

1. I, together with my spouse, Debra B. Wilson, ("Applicants") own lots 16A and 17A of the Diamond Park Subdivision in Bonner County, Idaho.
2. I have firsthand knowledge of the facts surrounding the Wilson and Faloon shoreline and beachfront facts set forth in the Applicant's Position Statement. I have lived year round in my lake home since June 2015. Since 2003 Applicants have enjoyed a pleasant friendship with Faloon.
3. Applicants purchased Lot 17 of the Diamond Park Subdivision in 2003.
4. At the time of the purchase there was a structure near the southern boundary of Lot 17 which had been constructed in a wooden crib which held cobbles and other stones which I believe acted as a wave action diffuser (Riprap).

5. We have experienced various levels of Spring flooding upland of the Ordinary High Water Mark (OHWM). Over time it became apparent that upland beach needed to be protected from wave action erosion. Additional cobbles were added above the OHWM near our south boundary in order to diffuse high water wave energy. This has been a relatively effective means at reducing, but not eliminating, erosion.
6. Faloon's lot contained an approximately 50-foot long seawall upland of the OHWM. I witnessed extreme erosion on the wall where it stood precariously balanced on several sticks of $\frac{3}{4}$ inch rebar.
7. Faloon's lot contained two aligned concrete monoliths: (1) a 15 foot long, 3 feet wide and 3 feet high monolith, and (2) a 2 foot long and 3 foot wide monolithic block (collectively the "Monolith"). The Monoliths were joined by loosely placed concrete blocks. This had formerly been the dock approach for an old dock. The Monolith suffered from extreme undercutting erosion on its south face. During successive Spring flood events the foundation of the seawall was completely destroyed by wave erosion.
8. Apparently Faloon had abandoned this concrete dock approach favoring to build a different dock approach and dock south of the Monolith.
9. Faloon has struggled with his shoreline and beach erosion for many years. He had an upland seawall running along his property which had been severely undercut by Spring high water erosion. In the years prior to 2018 Faloon had mentioned that he was going to remove the Monolith. I cautioned him that his lot would experience significant shoreline erosion if it were removed. His lot has a steep beach which does not favor sand accretion. It faces directly southwest taking the brunt of wave action.

10. During the years 2003 through 2018 there was no significant erosion between my south boundary and Faloon's Monolith. There was huge shoreline erosion during the years 2019 and 2020.

11. Prior to September 1, 2020 Faloon never spoke about my Riprap, nor did he ever allege that it was a cause of erosion.

12. Faloon's September 1, 2020 demand letter was completely unexpected and quite bewildering.

13. Photo B in our Position Statement shows the location of Faloon's monolith. Following Faloon's removal of the Monolith I observed wave energy erosion on the site of Faloon's former Monolith extending to my upland beach shoreline. At that time, my upland cobblestones which were above the OHWM began to take a beating from waves which had formerly been significantly blocked by the Monolith. In the Fall of 2019, I added additional cobblestones to the upland beach above the OHWM with a view to prepare for the Spring 2020 high water and the Summer boating season. These additional cobbles were insufficient. Traditionally, I had used sandbags as temporary and seasonally means minimizing erosion of my shoreline.

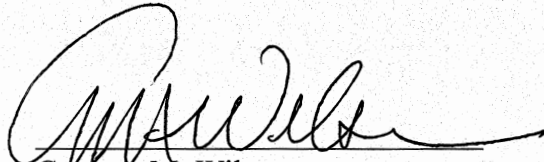
14. During the Summer of 2020, there was significant wave action from storms which pounded our shorelines. Additionally, there was significant boat traffic particularly from Wake Surfing boats which produce huge waves. Significant cobblestone undercutting occurred and my formerly upland cobblestones became a new shoreline on their southern sides subjecting them to IDL jurisdiction.

15. This erosive action formed a new OHWM along my southern boundary where there had been none before.

16. Much of the Summer wave action had a very negative impact on Faloon's beach and ours essentially creating a new shoreline extending the OHWM upland.

17. Photo C was taken in front of our home in the Summer of 2010. Photo D is a photograph taken of the south boundary of the Faloon lot while the photographer was standing in the lake on IDL lakebed in the Summer 2020.

18. Our Riprap and beach have facilitated personal watercraft navigation onto Priest Lake. We can launch Waverunners, sailboats, SUP's and kayaks from this Riprap protected lake frontage. Faloon's family members have launched their kayaks and paddle boards from our Riprap protected beach.


Gregory M. Wilson

SUBSCRIBED AND SWORN to before me this 2nd day of December 2020.



Scott A Carpenter

NOTARY PUBLIC in and for the State of
Idaho, residing at 620 N Baugh Way,

My commission expires: 8-28-2025

Post Box:
IDAHO
83854

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of December, 2020, I caused to be served a true and correct copy of Applicants' Position Statement in Response to Objectors Memorandum and the Affidavit of Gregory M. Wilson by email to the following:

Tn-State Consulting Engineers, Inc
Steven W. Syrcle, P.E.
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Kourtney Romine on behalf of
Andrew Smyth, Hearing Coordinator

Email: kromine@idl.idaho.gov

Idaho Department of Fish & Game
c/o Merritt Horsmon

Email: merritt.horsmon@idfg.idaho.gov

Idaho Department of Environmental Quality
c/o Chantilly Higbee

Email: Chantilly.higbee@deq.idaho.gov

Applicant



Gregory M. Wilson, Pro Se

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To: [Kourtney Romine](#)
Cc: [greg@wilsonlaw.us](#); [ssyrde@tristateid.com](#); [billofspok@aol.com](#); [angela.kaufmann@ag.idaho.gov](#); [meritt.horsmon@idfg.idaho.gov](#); [chantilly.higbee@deq.idaho.gov](#); [Mischelle R. Fulgham](#); [Hannah G. Kitz](#)
Subject: In the Matter of: Encroachment Permit App. No. L-97-S-1081B/Gregory & Debra Wilson - Case No. PH-2020-PUB-10-001
Date: Wednesday, December 02, 2020 02:57:13 PM
Attachments: [Motion to Strike - Untimely Response \(02320507x9F871\).pdf](#)

Attached please find Objector's Motion to Strike Applicants' Position Statement Untimely Response to Objector's Memorandum and Affidavit of Gregory M. Wilson.

Disclaimer

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Thank You!

MISCHELLE R. FULGHAM
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ISB# 11352

Attorneys for Objector, William Faloon

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of:

Encroachment Permit Application
No. L-97-S-1081B

Gregory M. and Debra B. Wilson,
Applicant.

Case No. PH-2020-PUB-10-001

**MOTION TO STRIKE APPLICANTS'
POSITION STATEMENT
UNTIMELY RESPONSE TO
OBJECTOR'S MEMORANDUM AND
AFFIDAVIT OF GREGORY M.
WILSON**

Objector, William B. Faloon, by and through his attorneys, Lukins & Annis, P.S., hereby moves to strike the untimely Response filed by Applicant.

Objector moves the Hearing Commissioner for an order striking the untimely response filed by Applicant on December 2, 2020. This response was not filed pursuant to the deadlines set forth by the Hearing Commissioner. IDAPA 20.01.01.600. As a result, it should not be considered by the Hearing Commissioner and should be stricken.

MOTION TO STRIKE APPLICANTS' POSITION STATEMENT UNTIMELY RESPONSE
TO OBJECTOR'S MEMORANDUM AND AFFIDAVIT OF GREGORY M. WILSON —
Page 1

DATED this 2nd day of December, 2020.

LUKINS & ANNIS, P.S.

By 
MISCHILLE R. FULGHAM
Attorney for Objector – William Faloon

By 
HANNAH G. KITZ
Attorney for Objector – William Faloon

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of December, 2020, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to all counsel of record as follows:

Gregory M. and Debra B. Wilson
32 Blackcap Ln
Coolin, ID 83821

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: greg@wilsonlaw.us

Tn-State Consulting Engineers, Inc
Steven W. Syrcle, P.E.
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Coeur d'Alene, ID 83814

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☒ Email: ssyrcle@tristateid.com

William Faloon
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Spokane, WA 99223

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Kourtney Romine on behalf of
Andrew Smyth, Hearing Coordinator

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Idaho Department of Fish & Game
c/o Merritt Horsmon

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Idaho Department of Environmental Quality
c/o Chantilly Higbee

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☒ Email: Chantilly.higbee@deq.idaho.gov



MISCHELLE R. FULGHAM

From: [Hannah G. Kitz](#)
To: [Kourtney Romine](#)
Cc: [greg@wilsonlaw.us](#); [ssyrcl@tristateid.com](#); [billofspok@aol.com](#); [angela.kaufmann@ag.idaho.gov](#); [merritt.horsmon@idfg.idaho.gov](#); [chantilly.higbee@deq.idaho.gov](#); [Mischelle R. Fulgham](#); [Debbie K. Evenoff](#)
Subject: In the Matter of: Encroachment Permit App. No. L-97-S-1081B/Gregory & Debra Wilson - Case No. PH-2020-PUB-10-001
Date: Thursday, December 03, 2020 02:52:53 PM
Attachments: [Ltr. from Gary Fievez \(02320946x9F871\).pdf](#)

Please see the attached letter from Gary Fievez, to be entered into the record as Objector's Exhibit 4.

Thank you,

Hannah G. Kitz
Attorney for Objector, William Faloon

Lukins & Annis, P.S.

717 W. Sprague Avenue, Suite 1600
Spokane, WA 99201
P: (509) 455-9555
Direct: (509) 623-2005
E: hkitz@lukins.com
www.lukins.com

Disclaimer

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Thank You!

11/24/20

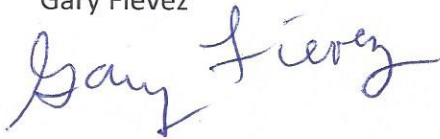
To: Idaho Dept. of Lands

From: Gary Fievez

My family purchased lot 18 in Diamond Park Addition on Priest Lake in June, 1965. We sold our cabin and lot to Bill Faloon in 2002.

When we owned the lot and the cabin that we built, Lot 17 and the cabin on it were owned by Red Rouse and later by the Ellingsons. During some of this time, two cedar logs that were approximately 4-6 inches in diameter and 20 feet long were placed on the beach at the property line by the Rouses. However, there was no rock barrier or rock structure that extended from the beach into the lake. In addition, there was no erosion of our beach.

Gary Fievez



**PRIEST LAKE
SUPERVISORY AREA**
4053 Cavanaugh Bay Rd
Coolin ID 83821
Phone (208) 443-2516
Fax (208) 443-2162



STATE BOARD OF LAND COMMISSIONERS
Dirk Kempthorne, Governor
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Keith L. Johnson, State Controller
Marilyn Howard, Sup't of Public Instruction

ENCROACHMENT PERMIT L-97-S-1081A

Permission is hereby granted to Gregory M. Wilson of 18610 E. 32nd Ave Greenacres, WA 99016 to construct and maintain a domestic water intake line along with an existing 4' x 20' fixed pier, 4' x 7' ramp, 8' x 45' with a 10' x 12' extension off the side, floating dock, two piling, boat lift and a boat rail system

located as follows, Priest Lake Parcel number RP 000870000170 A Lot 17 Diamond Park Sec 9 T61N R4W B.M. Bonner County.

All applicable provisions of the Rules for Regulation of Beds, Waters and Airspace over Navigable Lakes and Streams in the State of Idaho, are incorporated herein by reference and made a part thereof.

1. Construction will follow details and specifications shown on the approved drawings and data provided by the applicant. Should such information and data 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.
2. This permit does not convey the State's title to, or jurisdiction or management of lands lying below the natural or ordinary high water mark.
3. Acceptance of this permit constitutes permission by the Permittee for representatives of the Idaho Department of Lands to come upon Permittee's lands at all reasonable times to inspect the encroachment authorized by this permit.
4. The Permittee shall indemnify and hold harmless and free from liability the Permitter for any injuries to persons or damage to property occurring as a result of the use authorized under this permit.
5. **Idaho Code 58-1306(e)** requires recordation of this permit in the records of the Bonner County Recording Office as a condition of this permit (215 South 1st, Sandpoint, Id. 83864). The original permit must be submitted and there is a fee. Call (208) 265-1490 for specific instructions. Proof of recordation in the form of a copy of the page containing the recorders stamp shall be furnished to this office by the Permittee or the permit is not valid.

Encroachment Permit No. L-97-S-1081A

Page 2

6. This permit is not valid until the number assigned is displayed in letters not less than 3 inches in size.
7. Upon transfer of this real property, you are required to notify this office of the subsequent name change.
8. If the activity authorized herein is not completed on or before the 18 day of April, 2009 (3 years from the date of issuance), this permit shall automatically expire unless it was previously revoked or otherwise extended.
9. White bead 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.
10. The use of arsenic-treated, creosote-treated, or Penta-treated lumber in or over the surface waters of the Priest Lake watershed shall be prohibited, per the Priest Lake Management Plan, Idaho Code 29-105(3) (p), Idaho Code.
11. All construction material related to maintenance must be stockpiled landward of the ordinary/artificial high water mark.
12. This permit supersedes and voids any permit previously issued for this property.
13. This permit is contingent upon removing all abandoned portions of the existing structure(s) from the lake or river.
14. The permittee or operator shall have a copy of this permit on the project site and available for inspection at all times during construction.
15. Permanent dock covers will not be permitted. Seasonal dock covers for single-family and joint two-family encroachments are permitted. Fabric which blends in with the surrounding environment is acceptable. Approved colors include shades of browns, greens and blues. Any other colors would require separate written approval from the Department of Lands. A minimum of two foot of open space clearance between the bottom of the cover and top of the dock decking will be maintained. In order to avoid a building-like appearance, no portion of the fabric roof line can extend beyond the fabric wall profile (no eaves).


Encroachment Permit No. L-97-S-1081A

Page 3

16. The Permittee shall maintain the structure or work authorized herein in a good and safe condition and in accordance with the plans and drawings attached hereto.
17. This permit does not relieve the Permittee from obtaining additional local or federal permits as required.
18. All Water Resource laws shall be complied with. Any approved water intake line shall be anchored to the bed of the lake with a nontoxic type of weight. No water shall be diverted by the system until a valid water or appropriation permit is obtained from the Department of Water Resources.
19. Operation of excavation equipment will be held to a minimum below the ordinary high water mark. Equipment may be operated only on dry land above the present level of the lake. Construction machinery may not be operated in the water.
20. As current EPA requirements dictate that disinfecting and filtration systems be used for minimum treatment by surface water purveyors, the department recommends that small, domestic surface water users do likewise.
21. All construction shall be completed in accordance with descriptions and methods provided unless otherwise specified. Any changes shall be approved in writing by the department prior to construction.
22. All wood chips and other construction waste shall be removed from the lake upon completion of project.

FOR THE DIRECTOR

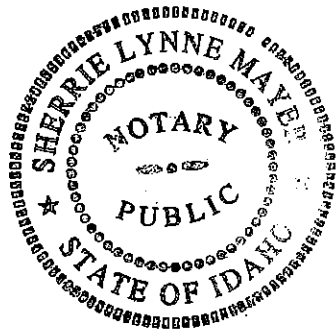
By:


Mick Schanilec
Area Supervisor, Priest Lake

STATE OF IDAHO)

COUNTY OF BONNER) SS

Subscribed and sworn to before me this 18 day of April, 2006.




Notary Public for Idaho

Residing at Coolin, Id.

Commission expires: 7-18-06

JOINT APPLICATION FOR PERMITS
U.S. ARMY CORPS OF ENGINEERS
IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO DEPARTMENT OF LANDS

**DO NOT START WORK UNTIL YOU
RECEIVE PERMITS FROM BOTH THE
CORPS AND THE STATE.**

This application may be used to apply for both a Department of the Army permit from the U.S. Army Corps of Engineers (Corps) and for State of Idaho permits. Department of the Army permits are required by Section 10 of the Rivers and Harbors Act of 1899 for any structures or work in or affecting navigable waters of the United States and by Section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States, including their adjacent wetlands. State permits are required under the State of Idaho, Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) and the Idaho Lake Protection Act, Section 58-142 et. seq., Idaho Code. Routine Uses: Information provided on this form will be used in evaluating the application. Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can permits be issued. Applicants should send this completed application, along with one set of good reproducible drawings showing the location and character of the proposed project, to both the Corps of Engineers and the State of Idaho. PLEASE NOTE: DRAWINGS NO LARGER THAN 8-1/2 X 11 INCHES IN SIZE. The Applicant information pamphlet provides instructions and a checklist for completing the drawings.

1. Corps of Engineers # _____ Date Received _____	2a. Department of Water Resources # _____ Date Received _____ Fee Rec'd By: _____ Receipt # _____	2b. Department of Lands # <u>L-97-S-1081A</u> Date Received _____ Fee Rec'd By: _____ Receipt # _____
--	---	---

PLEASE TYPE OR PRINT	
3. Applicant <u>Gregory M. Wilson</u> Mailing Address <u>18610 E. 32nd Ave</u> <u>Greenacres, WA 99016</u> Work Phone (Area <u>509</u>) <u>891-8373</u> Home (Area <u>509</u>) <u>922-8452</u> Fax Number <u>509-891-8382</u> Email Address <u>gwilson@dirccway.com</u>	4. Authorized Agent <u>none</u> Mailing Address _____ Work Phone (Area) _____ Home (Area) _____ Fax Number _____ Email Address _____
5. Location where proposed activity exists or will occur.	
Waterway <u>Priest Lake, ID</u> <u>N 15 mi. Coolin, ID, Bonner, ID</u> Distance/Direction from nearest city or town County/State <u>89021 Coolin, ID</u> Zip Code Local jurisdiction (city or county) Directions to the site <u>N. on Eastside Rd, to ¹² mile marker, left Diamond Pk Rd to Black Cap Ln.</u>	Tax Assessor's Description <u>RP 0687 0000 170 A</u> <u>Lot 17</u> <u>Diamond Pk</u> <u>9</u> <u>61 N</u> <u>4 W B M</u> 1/4 1/4 Section Township Range UTM Coordinate Grid _____ Zone _____ Northing _____ Easting _____

6. Describe Project (Work below the ordinary high water mark or in wetlands).

Replace existing domestic water line poly pipe to cabin

Construction methods and equipment: hand dig line to cover up new domestic water supply poly pipe below high water mark

Length of project along the stream or extension into lake or reservoir: n/a

COMPLETE THE FOLLOWING FOR DISCHARGES OF DREDGED OR FILL MATERIAL

Volume dredged or fill material to be placed waterward of ordinary high water mark (BOTH TEMPORARY AND PERMANENT)? _____ (cubic yards)	
Will fill be placed in wetlands? _____	If yes, area: _____ (acres) Type of fill material: _____ (i.e. sand, rock, clay, concrete, etc.)
Will dredging be required waterward of the ordinary high water mark or in wetlands? _____ (cubic yards)	If yes, volume _____
Type of dredged material _____	
Disposal site for dredged material: _____ Method of dredging: _____	
Method to control turbidity and sedimentation: _____	
Is project located in a mapped floodway? _____ If yes, complete the Engineering "No-Rise" certification form.	

7. Purpose and intended use: Commercial _____ Public _____ Private ☒ Other _____ Describe _____
Reason for project replace existing domestic poly pipe water supply to cabin
8. Proposed Starting Date April 2006 Estimated Duration 4 hrs.
9. List portions of the project that are complete with month and year of completion poly pipe buried above high water
Label this work on your drawings. need approval to bury below high water
10. Names, addresses, and telephone numbers of adjoining property owners, lessees, etc., whose property also adjoins the waterway.
W. Falloon 5.6618 Tomaker Ln, Spokane, WA 99223 509-838-2531
M. Brophy P.O. Box 30850, Spokane, WA 99223 509-448-4331



Check here if the alteration is located on endowment lands administered by the Idaho Department of Lands

11. LEGAL OWNER IF OTHER THAN APPLICANT

Name n/a Phone Work () _____
Mailing Address _____ Home () _____
City, State, Zip Code _____

12. List applications, approvals, or certifications from other Federal, state, or local agencies for work described in this application.

Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval

13. Has any agency denied approval for the proposed activity? Yes _____ No ☒ (If "Yes" explain)

14. Other comments/information:

15. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to come upon the above-described location to inspect the proposed or completed work.

G. Wilson Signature of Applicant (ORIGINAL SIGNATURE REQUIRED) Printed Name

2-28-06 Date

16. If you wish to designate an authorized agent, complete item 4 and the following information.

I hereby designate _____ to act as my agent in matters related to this permit application. I understand that if a Federal permit is issued, I must sign the permit.

Original Signature of Authorized Agent

Date

Original Signature of Applicant

Date

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device 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 statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

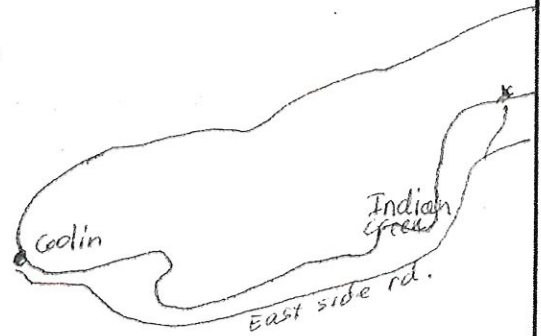
DO NOT SEND CORPS PROCESSING FEE WITH APPLICATION

SEND IDAHO DEPARTMENT OF WATER RESOURCES OR IDAHO DEPARTMENT OF LANDS FILING FEE WITH APPLICATION

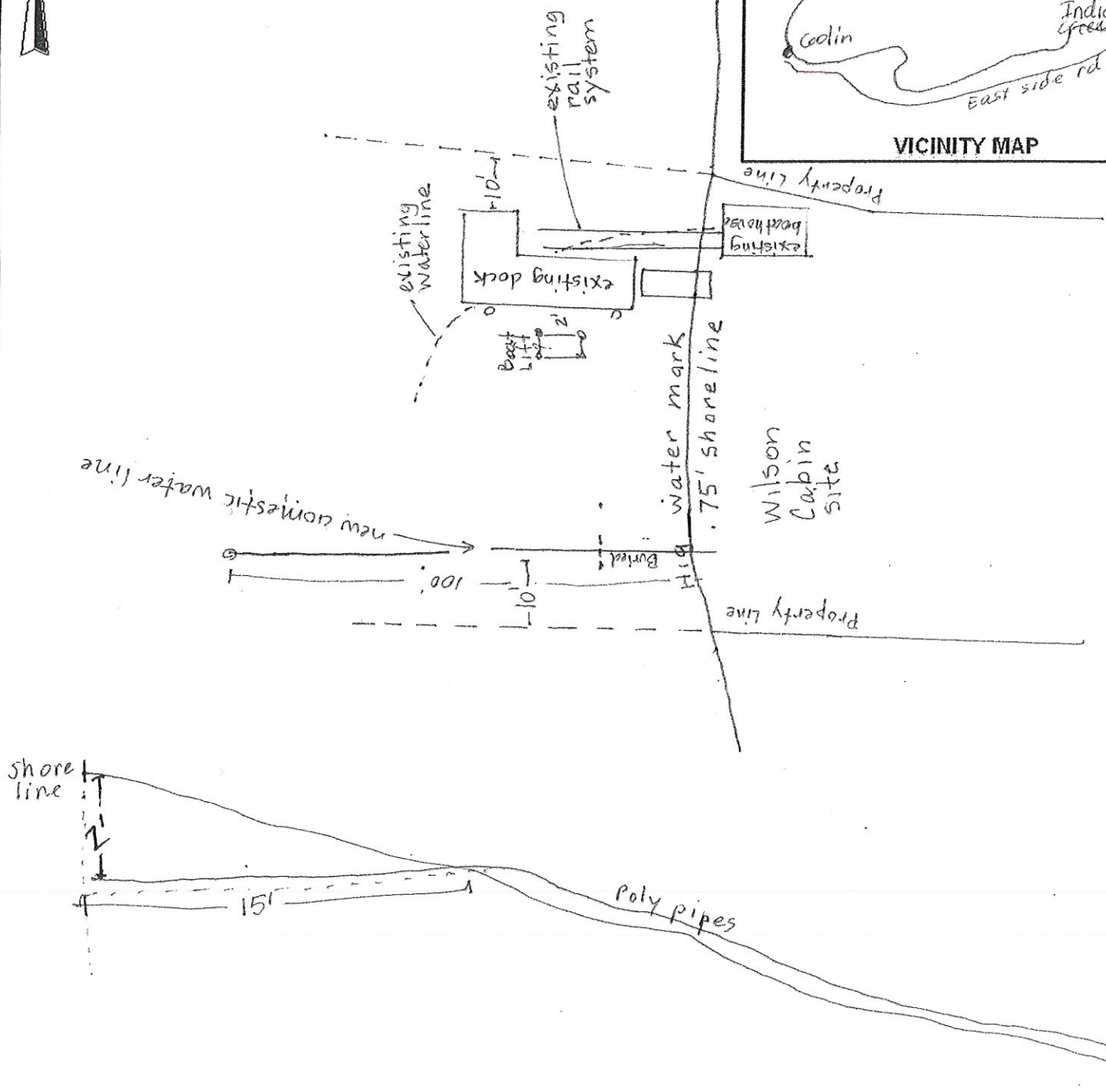
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VICINITY MAP



IN
IN/NEAR

COUNTY,

DATE:

SHEET 1 OF

APPLICATION BY:

0364

PRIEST LAKE

(S13.14'100"E)
S12.18'19"E
99.91'
(100.0')

(S19.09'00"E)
S18.16'41"E
99.99'
(100.0')

(S12.27'00"E)
S11.26'49"E
75.08'
(75.00')

(S89.31'00"E)
S89.31'00"E
272.36'
(259.4')

(S89.28'00"E)
S89.41'17"E
228.29'
(216.0')

(S89.36'00"E)
S89.22'05"E
320.84'
(307.7')

15

DIAMOND

Brophy

PARK

17

Wilson

18

Faloon

(N17.57'00"E)
N19.26'09"E
75.37'
(75.2')

(N20.25'00"E)
N21.54'09"E
78.18'
(78.00')

(N9.22'00"E)
N10.21'15"E
95.25'
(95.8')

(N2.39'00"W)
N0.47'02"W
96.97'
(97.4')

FND. 1" PIPE, S3
FROM COMPUTED

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of Encroachment Permit)	
Application No. L-97-S-1081B	)	Case No. PH-2020-PUB-10-001
)	
Gregory M. and Debra B. Wilson,	)	PRELIMINARY ORDER
)	
Applicant.)	
)	
)	

I. PROCEDURAL BACKGROUND

On or around October 1, 2020, the Idaho Department of Lands (“IDL”) received a complete encroachment permit application (“Application”) filed by Gregory M. and Debra B. Wilson (“Applicants”). Agency Record (“AR”) pp. Wilson 00001 – 00009.¹ IDL assigned application number L-97-S-1081B to the Application. In the Application, the Applicants seek authorization for “riprap”² on Priest Lake. AR, p. 1.

IDL processed the Application pursuant to Idaho Code § 58-1306 and IDAPA 20.03.04.030, which resulted in the following timeline of activities:

1. On October 2, 2020, IDL provided notice of the Application to various agencies as well as to Phillips Keystone Inheritance Trust and William Faloon. AR, pp. 10 – 17.
2. On October 6 and 13, 2020, a notice of the Application was published in the Bonner County Daily Bee, which has general circulation in Bonner County, Idaho. AR, pp. 19 – 21.

¹ All citations to the AR are hereinafter designated by using the Bates numbers only, not the preceding “Wilson 0000.”

² The nature of the encroachment is disputed between the Applicants and IDL. As discussed in the Conclusions of Law Section, below, placement of riprap is a defined activity. The Applicants’ proposal does not conform to the placement of riprap. The Applicants’ proposed activity is most similar to construction of a jetty, and will be referred to as a jetty in this order.

3. On October 7, 2020, IDL received an email regarding the Application from the Idaho Department of Environmental Quality stating, “DEQ has no comment on the proposed work.” AR, p. 18.

4. On October 25, 2020, IDL received an email from William Faloon (“Dr. Faloon” and “Objector”) objecting to the Application. AR, pp. 22 – 82.

5. On October 28, 2020, IDL received an email regarding the Application from the Idaho Department of Fish and Game stating, “The Idaho Department of Fish and Game does not have any comments to submit for this application.” AR, pp. 83 – 84.

6. On October 29, 2020, IDL received a written letter from Dr. Faloon objecting to the Application with a check for the publication deposit. AR, p. 85.

7. On November 9, 2020, IDL received an email from Dr. Faloon providing Priest Lake water level elevations from the USGS between 2000 and 2020. AR, pp. 86 – 103.

8. Pursuant to Idaho Code § 58-1306(c), IDL ordered a hearing in this matter. On November 10, 2020, Mr. Dustin T. Miller, IDL Director, issued a Notice of Appointment of Hearing Coordinator and Public Hearing (“Notice”) in which he appointed Mr. Andrew Smyth to be the Hearing Coordinator and scheduled the hearing to be at held at 1:00 p.m. Pacific Time on Thursday, December 3, 2020, via videoconference. AR, pp. 104 – 107.

9. On November 9, 2020, IDL received additional comments from Dr. Faloon. AR, pp. 108 – 121.

10. On November 30, 2020, Dr. Faloon submitted his comments, exhibit list and exhibits. AR, pp. 122 – 315.

11. On November 30, 2020, Ms. Kaufmann, legal counsel for IDL, submitted IDL’s hearing statement. AR, pp. 316 – 332.

12. On December 2, 2020, the Applicants submitted Applicants’ Position Statement. AR, pp. 333 – 351.

13. On December 2, 2020, the Objector filed a Motion to Strike Applicants’ Position Statement, on the grounds that the Position Statement was filed after the deadline stated in the Notice. AR, pp. 352 – 355.

14. During the hearing on December 3, 2020, the Objector submitted a letter from Gary Fievez as an additional exhibit. AR, pp. 356 – 357.

15. Pursuant to Idaho Code § 58-1306(c) and the Notice, a hearing regarding the Application was held on December 3, 2020. During the hearing, I took official notice of the Applicant’s current encroachment permit, L-97-S-1081A. AR, pp. 358 – 365; Hearing Recording (“Rec.”) 3:18.³

16. For the reasons stated on the record at the beginning of the hearing, the Objector’s Motion to Strike Applicants’ Position Paper was DENIED, and the Position Paper remained in the record. Rec. 3:33.

17. The participants appearing and offering testimony or argument at the hearing were: Mr. Gregory M. Wilson, Mr. Steven W. Syrcle, Mr. Tyler Wilson, Dr. William Faloon, Ms. Mischelle Fulgham as attorney for Dr. Faloon, Mr. Mike Ahmer, and Mr. Trevor Anderson.

II. FINDINGS OF FACT

1. The Applicants own Bonner County parcel RP00087000017A0A. AR, pp. 1 and 9.
2. The Applicants’ property is located adjacent to Priest Lake. AR pp. 1 and 5.
3. The Applicants purchased this property in 2003. Rec. 15:21 and 38:34.

³ The hearing was recorded pursuant to IDAPA 20.01.01.651. A hearing transcript has not been prepared. The agency or any party may have a transcript prepared at its own expense. All references to the hearing recording in this Preliminary Order will be described by reference to the minute(s) and second(s) location on that recording. For example: Rec, mm:ss.

4. When the Applicants purchased the property, a log crib with cobble extending from the southern property line, below the ordinary high water mark, and into the lakebed existed (“pre-existing crib”). AR, p. 335; Rec. 8:12, 17:35, 30:00 and 36:20.

5. Since purchasing the property, the Applicants have replaced cobble and enhanced the pre-existing encroachment, in part, by adding rocks on top of the crib and the lakebed, resulting in the existing jetty. AR, pp. 192, 194 – 196; Rec. 18:52 and 1:11:11.

6. If approved, the Applicants would be authorized to place 0.8 cubic yards of new material (cobble stones ranging in size from eight to twenty inches cemented together) within an area that is seventeen and a half (17.5) feet long, and three (3) feet wide on the landward end and narrowing down to one foot wide on the waterward end. AR, pp. 2 and 5; Rec. 29:15 and 1:42:26.

7. At this location, the prevailing winds and wave action come from the southwest. Rec. 13:13, 22:27 and 32:06.

8. Also, at this location, sand accumulates to the north of structures extending out into the lake and erodes to the south of such structures. AR, pp. 123, 127 – 131; Rec. 51:46, 56:45 and 1:43:20.

9. The proposed encroachment would be located about one (1) foot from the southern littoral right line (shared with Dr. Faloon) on the landward end, and two (2) to three (3) feet from the littoral right line on the waterward end. Rec. 31:39.

10. The Applicants’ property is located to the north of the littoral property owned by Dr. Faloon. AR, pp. 4, 5 and 25.

11. A primary point of Dr. Faloon’s objection to the Application is that he believes the Applicants’ addition of fill on top of the pre-existing crib has caused erosion of his shoreline and

beachfront, to the detriment of Dr. Faloon's property value and aesthetics. AR, pp. 12-13, 24-40, 79, 108-141, 191-208.

12. In 2018, after replacing his dock, Dr. Faloon removed a concrete pier that had been part of his previous dock. The concrete pier was located on the north side of his property within twenty (20) feet of the littoral right line shared with the Applicants. AR, pp. 126, 195 and 336-337; Rec. 10:54 and 49:30.

13. The Applicants argue that the removal of the concrete pier by Dr. Faloon is the cause of the increased erosion of Dr. Faloon's shoreline to the south of the Applicants' jetty. AR, pp. 127 – 131 and 337; Rec. 27:10, 51:16, 1:43:20.

III. CONCLUSIONS OF LAW

A. IDL Has Jurisdiction Over the Beds and Banks of Priest Lake.

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

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

3. The Hearing Coordinator is authorized by the Director to issue this Preliminary Order. AR, p. 104; I.C. § 67-5245. The hearing in this matter began at approximately 1:07 p.m. Pacific Time and concluded at approximately 2:53 p.m. Pacific Time on December 3, 2020. With all evidence submitted, the matter is fully before the Hearing Coordinator.

4. In accordance with Idaho Code § 67-5206 and the Lake Protection Act, Title 58, Chapter 13, Idaho Code ("LPA"), IDL has promulgated rules for encroachment permits on

navigable lakes – the Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho (“Rules”). IDAPA 20.03.04.000 *et seq.*

5. IDL has also developed an internal policy, Section 25 – Encroachment Standards and Requirements, Navigable Waters Procedures (“Section 25”); which, establishes the standards and requirements that apply to construction of riprap, jetties and barb. Section 25, pp. 19-21; *see also* AR, pp. 6-7.

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

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

I.C. § 58-1302(a); IDAPA 20.03.04.010.024. Priest Lake is a navigable lake under the LPA; and therefore, IDL has jurisdiction to regulate the proposed encroachment. *See State v. Hudson*, 162 Idaho 888, 407 P.3d 202 (2017).

B. The Applicants are Qualified to Make Application.

IDAPA 20.03.04.020.02 states, in part, that: “Only persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits.” I find that the Applicants, as owners of property adjacent to Priest Lake, are littoral owners, as defined in IDAPA 20.03.04.010.33, and are qualified to make application for an encroachment permit.

C. The Burden of Proof Is With the Applicants.

1. The Applicants generally bear the burden of proof in this matter. “The customary common law rule that the moving party has the burden of proof – including not only the burden of going forward but also the burden of persuasion – is generally observed in administrative hearings.”

Intermountain Health Care, Inc. v. Bd. of County Comm'rs of Blaine County, 107 Idaho 248, 251, 688 P.2d 260, 263 (Ct. App. 1984) *rev'd on other grounds* 109 Idaho 299, 707 P.2d 410 (1985).

2. Under Idaho law, “preponderance of the evidence” is generally the applicable standard for administrative proceedings, unless the Idaho Supreme Court or legislature has said otherwise. *N. Frontiers, Inc. v. State ex rel. Cade*, 129 Idaho 437, 439, 926 P.2d 213, 215 (Ct. App. 1996). “A preponderance of the evidence means that when weighing all of the evidence in the record, the evidence on which the finder of fact relies is more probably true than not.” *Oxley v. Medicine Rock Specialties, Inc.*, 139 Idaho 476, 481, 80 P.3d 1077, 1082 (2003).

D. The Application is Denied.

1. The Application Cannot Accurately Depict the OHWM Because the Bed of Priest Lake Adjacent to the Applicants’ Upland Property Has Been Materially Altered. Idaho Code § 58-1302(c) defines natural or ordinary high water mark (“OHWM”) as “the high water elevation in a lake over a period of years, **uninfluenced by man-made dams or works**, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.” (Emphasis added.) The OHWM depicted in the Application, labeled “[Elevation] 2438.00,” heads west from the Applicants’ southern property boundary for eight and a half (8.5) feet creating a south-facing beach and then turns northerly to the northern property boundary creating a west-facing beach (i.e. creating a miniature cove, or crescent shape, in the lake at the shoreline of the Applicants’ upland property). AR, p. 5. This depiction of the OHWM appears to be impacted by works performed by the previous owner of the Applicants’ property, the Applicants, the previous owner of the Objector’s property, and the Objector, specifically:

a. The previous owner of the Applicants' property placed a log crib with cobble at the south property line that caused sand and material to accumulate to the north of it. AR, pp.

122-315, 335 and 336; Rec. 8:12, 19:07, 24:07, 1:25:46 and 1:32:46.

b. The Applicants have altered and added to the pre-existing crib by replacing and adding cobble, and reinforcing it with sandbags and additional rocks on top of the lakebed, in an attempt to protect and increase the material that has accumulated to the north of the pre-existing crib. AR, pp. 25 – 26, 27, 108 – 109, 278, 279 and 319; Rec. 10:38, 17:37, 18:50, 18:57, 30:51, 1:16:28 and 1:41:21.

c. The previous owner of the Objector's property placed a large cement pier which caused sand to accumulate to the north of it. AR, pp. 25, 28 – 34 and 136 – 139; Rec. 34:44, 40:37, 46:09 and 51:17.

d. The Objector removed the concrete pier, leaving no structure to hold the accumulated sand or to cause additional accumulation of sand along the shoreline south of the Applicants' jetty. AR, pp. 27 – 34, 336 – 339, and 341; Rec. 9:47, 10:54, 21:19, 50:18, 1:27:35, 1:41:21, and 1:43:12.

e. The western facing portion of the OHWM depicted in the Application is relatively straight. AR, p. 5. Photos taken of the Applicants' shoreline in August 2003 and 2020, show how the shoreline makes two crescents - one between southern-boundary jetty and the rocks placed underneath the Applicants' pier, and another from the Applicants' pier north to the rocks placed under the next adjacent owner's pier to the north. AR, pp. 196 and 201. These crescent shapes along the shoreline follow the testimony that material accumulates to the north of man-made works that extend perpendicular to the general shoreline.⁴

⁴ Idaho law provides that: "A private person cannot obtain a prescriptive right against the state with respect to navigable waters." *West v. Smith*, 95 Idaho 550, 555, 511 P.2d 1326, 1331 (1973). Disposition of public trust

f. Based on the testimony and evidence in the record, I find that the OHWM depicted in the Application is based on the current shoreline which has been impacted by man-made works; and, therefore is not a true representation of the OHWM of Priest Lake at this location.⁵

2. The Application is Not for Riprap, It is for a Jetty. The Application depicts a stone wall following the southern property boundary line eight and a half (8.5) feet and then extending another four and a half (4.5) feet beyond the purported OHWM into the lake. AR, pp. 2 and 5.

a. Mr. Ahmer stated, “Given the location and orientation of the requested encroachment, it is IDL’s opinion that the Wilsons’ encroachment application more closely resembles an application to permit a ‘bank barb.’” AR, p. 322; Rec. 1:21:35.

b. Riprap, bank barb, and jetty are not terms that are defined in the LPA or the Rules. Merriam-Webster Dictionary defines riprap as, “a foundation or sustaining wall of stones or chunks of concrete thrown together without order (as in deep water);” and “a layer of this or similar material on an embankment slope to prevent erosion.” <https://www.merriam-webster.com/dictionary/riprap>. A jetty is defined by Merriam-Webster Dictionary as, “a structure extended into a sea, lake, or river to influence the current or tide or to protect a harbor.” <https://www.merriam-webster.com/dictionary/jetty>. Moreover, Section 25 provides that: “Riprap material shall be placed along the present contour of the shoreline and no riprap material shall be placed in excess of that

land, underlying navigable waters, can only be done by the Land Board. I.C. §§ 58-104(9)(a) and 58-1203(1); and Idaho Const. art. IX, § 7. A private person acting without the State’s authority cannot alter navigable waters in order to create more upland property, or attempt to adversely possess lands impressed with the public trust doctrine. *See* I.C. § 58-1203(1); *see also Idaho Forest Indus. v. Hayden Lake Watershed Imp. Dist.*, 112 Idaho 512, 520, 733 P.2d 733, 741 (1987) (Huntley, J., concurring). The scope of the State’s title in the beds of navigable lakes “extends to the natural high water mark as it existed at the time the state was admitted into the Union.” *Idaho Forest Indus., Inc. v. Hayden Lake Watershed Improvement Dist.*, 112 Idaho 512, 516, 733 P.2d 733, 737 (1987) (citations omitted); *see also* I.C. § 58-1302(b) (defining “beds of navigable lakes” as the lands lying under or below the natural or ordinary high water mark of a navigable lake).

⁵ *Id.*

necessary to stop erosion” Section 25, p. 19; AR, pp. 321-322. Finally, Section 25 states that: “Jetties and bank barbs shall generally not be permitted as a method of controlling erosion on lakes” Section 25, p. 21; AR, p. 322.

c. The Application does not request permission to place riprap material along the shoreline. AR, pp. 2 and 5. And, perhaps more importantly, the record does not contain evidence that erosion is occurring at the Applicants’ shoreline. While the Applicants complain that their shoreline has changed shape over the years, and is impacted by wave energy and high water in the Spring, none of those facts, and no visual depiction in the record, show erosion of the Applicants’ shoreline. I find that the four and a half (4.5) foot section of the proposed encroachment that extends beyond the purported OHWM into the lake is a jetty, as it does not follow the shoreline, but rather extends out perpendicular from the shore into the water. Moreover, the record shows that the proposed jetty is not intended to stop erosion, it is intended to hold the sand and sediment that has been artificially deposited north of the pre-existing crib and the unpermitted existing jetty. No part of the LPA, the Rules or Section 25 enable IDL to permit the proposed encroachment.

d. The remaining eight and a half (8.5) feet of proposed “riprap” would follow the current contour of the shoreline, but as discussed above, the shoreline here has been influenced by man-made works that have caused materials to accumulate to the north and erode to the south. *See* ¶ III.D.1. Specifically, this eight and a half (8.5) feet section of shoreline follows cobble and sandbags placed by the Applicants and where the previous owner placed the pre-existing crib. These encroachments are perpendicular to the general shoreline at this location, and therefore any fill placed at this section would be perpendicular to the shoreline as well. Therefore, I find that this section of the proposed encroachment is also a jetty. It is possible that when the unaffected

shoreline and true OHWM reach their natural locations, this apparent “upland” jetty may be at or close to the actual OHWM of the lake.⁶

3. The Application is For a Nonnavigational Encroachment. The stated purpose of the proposed encroachment is to reduce shoreline erosion and prevent sand from eroding away. AR, p. 1; Rec 27:09. In response to Dr. Faloon’s objections, the Applicants’ added a reason for the proposed encroachment as being an aid in launching vessels from the beach. AR, p. 340.

Regarding the proposed encroachment and the sand it would protect, Mr. Wilson stated, “In terms of navigability it helps protect that southern beach area for launching stand up paddle boards . . . It provides protection or safe harbor so to speak for people to launch stand up paddle boards, kayaks, canoes, sail boats, wave runners . . . There is a huge navigation function, but for personal watercraft as opposed to a dock which you might launch a boat.” Rec. 19:26. Mr. Wilson went on to state, “Bonner County actually assesses an additional property value for sandy beaches and if you own property on Priest Lake, you’ll easily see sandy beaches command a huge premium.” Rec. 20:25.

a. Navigational encroachments that IDL can issue a permit for do not include sand on a beach, whether the result of man-made works or natural processes. Navigational encroachments “means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and such other aids to navigability of the lake, on, in or above the beds or waters of a navigable lake.” I.C. § 58-102(h).

b. Whereas, a nonnavigational encroachment, or encroachments not in aid of navigation, is defined to mean and include, the following:

[A]ll other encroachments on, in or above the beds or waters of a navigable lake, **including landfills** or other structures not constructed **primarily** for use in aid of the navigability of the lake. The term ‘encroachments not in aid of navigation’ may be used

⁶ *Id.*

interchangeably herein with the term ‘nonnavigational encroachments.’

I.C. § 58-1302(i) (emphasis added). As stated in the Application, the primary purpose of the proposed encroachment is to retain accumulated sand rather than aid navigation. While there may be some navigational benefit from the unnatural accumulation of sand which the jetty seeks to protect, the primary purpose of the jetty itself is not to aid in navigation. Therefore, I find the proposed jetty to be an encroachment not in aid of navigation.

c. IDAPA 20.03.04.030.02. states, in part, that:

Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values.

There is no evidence in the record that the proposed nonnavigational encroachment would involve major environmental, economic, or social benefit to the general public. The Application does not satisfy IDAPA 20.03.04.030.02.

4. The Application Does Not Rebut the Presumption of Adverse Impact. IDAPA

20.03.04.015.13.e states, in applicable part, as follows:

It will be presumed, subject to rebuttal, that . . . nonnavigational encroachments will have [an] adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption.

No encroachment may be permitted “in a manner that infringes upon an adjacent landowners’ littoral right.” *Lovitt v. Robideaux*, 139 Idaho 322, 326, 78 P. 3d 389, 393 (2003). Here, the location of the upland property boundary line and the littoral right line between the Applicants’ property and Dr. Faloon’s property is not disputed. Mr. Wilson stated that the proposed

encroachment would be located about one (1) foot from the littoral right line on the upland side, and two (2) to three (3) feet from the littoral right line in the water. Rec. 31:39. Dr. Faloon has not consented to the requested nonnavigational encroachment being located less than twenty-five (25) feet from the shared littoral right line. Instead, Dr. Faloon has objected and presented evidence that the existing unpermitted additional fill has either caused, or at least contributed to, the adverse effect of shoreline erosion along Dr. Faloon's adjacent littoral property. AR, pp. 108-315; Rec. 52:17 and 1:12:00.

a. The evidence of record shows erosion of the shoreline south of the Applicants' jetty; which, has increased over time as the jetty was built-up on top of the pre-existing crib. This adverse effect is not surprising given that, in this location, the lake deposits sediment to the north of perpendicular structures. *See* ¶ III.D.1. However, the record also plainly shows that as the Applicants' built up the jetty, the erosion to the south of the jetty began and increased. AR, pp. 192-202 and 300. Both parties agree that erosion at this location has increased since Dr. Faloon removed the concrete pier in 2018. Rec. 21:21 and 51:18. However, the Applicants' attempt to blame Dr. Faloon's removal of the concrete pier as being the sole cause of the erosion of his shoreline is misplaced. The totality of the record supports the findings herein that perpendicular structures built west, into the lake, cause accumulation of sediment to the north of the structure – thereby prohibiting otherwise natural deposition of sediment south of the structure and, likely, contributing to erosion south of the structure.

b. It is the Applicants' burden to show that the proposed jetty would not have an adverse effect upon Dr. Faloon's littoral rights. The Applicants have not rebutted the presumption of adverse effect upon Dr. Faloon's adjacent littoral rights resulting from the proposed nonnavigational encroachment being located closer than twenty-five (25) feet to adjacent littoral

right line. Indeed, as discussed above, the record shows the impacts to the shoreline caused by encroachments like the existing jetty. I find that there is a presumed adverse impact to the Objector's littoral rights associated with the Applicants' proposed encroachments; which, in and of itself, is grounds for denial of the Application.

5. I conclude that based on legal requirements and administrative standards discussed, above, the Application must be denied.

6. The Applicants are not required to dig out or remove the pre-existing crib – as it existed prior to fill being added to and on top of the pre-existing crib. It is recommended that the Applicants submit a permit application for the pre-existing crib, which appears to be a pre-LPA encroachment pursuant to I.C. § 58-1312(1).

7. In addition, the Applicants must work with IDL staff on a timeline to remove all fill, whether natural or man-made, that they have placed on top of the lakebed. The removal is subject to inspection by and direction from IDL.

IV. ORDER

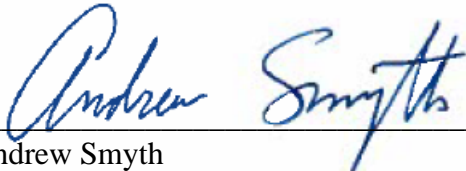
Based upon the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that Encroachment Permit Application No. L-97-S-1081B is DENIED, subject to any conditions imposed by the Director of the Department of Lands.

This order issued herein is a Preliminary Order, pursuant to Idaho Code §§ 58-1306(c), 67-5270 and 67-5272, and the Notice of Appointment of Hearing Officer issued on November 10, 2020, which states, “[i]n accordance with Idaho Code § 67-5245, the Hearing Coordinator shall submit a preliminary order to the Director of IDL, who shall then issue a Final Order no more than thirty (30) days after the conclusion of the hearing.” The Preliminary Order can and will become

final without further action of the agency if the Director does not issue a Final Order within thirty (30) days of the close of the hearing.

If this Preliminary Order becomes final, or if the Director issues a Final Order, pursuant to Idaho Code § 58-1306(c), any applicant or other aggrieved party has the right to have this decision reviewed by the district court in the county where the encroachment is proposed by filing notice of appeal within thirty (30) days from the date of the final decision. Idaho Code § 58-1306(c). The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. Idaho Code § 67-5274.

DATED this 23 day of December, 2020.



Andrew Smyth
Hearing Coordinator

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of Encroachment Permit Application No.	)	Case No. PH-2020-PUB-10-001
L-97-S-1081B)	
	)	FINAL ORDER
Gregory M. and Debra B. Wilson,)	
)	
Applicants.)	
_____)	

I. NATURE OF PROCEEDINGS

The Idaho Department of Lands (“IDL”), through the State Board of Land Commissioners, “shall regulate, control and may permit encroachments in aid of navigation or not in aid of navigation on, in or above the beds or waters of navigable lakes” as provided in the Lake Protection Act, title 58, chapter 13, Idaho Code. Idaho Code § 58-1303. The corresponding administrative rules promulgated by the State Board of Land Commissioners are IDAPA 20.03.04, “Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho.”

On or around October 1, 2020, IDL received an encroachment permit application filed by Gregory M. and Debra B. Wilson. A public hearing was held on December 3, 2020. Andrew Smyth served as duly appointed hearing coordinator. On December 23, 2020, the hearing coordinator issued his Preliminary Order, which contains a Procedural Background, Findings of Fact, and Conclusions of Law.

As Director of IDL, my responsibility is to render a decision pursuant to Idaho Code § 58-1306(c) and IDAPA 20.03.04.030 on behalf of the State Board of Land Commissioners and based on the record, which I have reviewed in the context of my personal expertise gained

through education, training, and experience. I relied on the record for this matter, including examining the hearing coordinator's Preliminary Order in light of the entire record in this matter.

II. FINDINGS OF FACT

I adopt the Preliminary Order's Procedural Background and Findings of Fact as my Findings of Fact, except that I make the following amendments:

- In the Procedural Background, I delete paragraph 9 on page 2 and replace it with the following new paragraph 9:

9. On November 20, 2020, IDL included in the record additional comments from Dr. Faloon, which were sent in an e-mail to IDL's Trevor Anderson on August 24, 2020.
- In the Findings of Fact, I delete paragraph 6 on page 4, and replace it with the following new paragraph 6:

6. If approved, the Applicants would be authorized to place 0.8 cubic yards of new material (cobble stones ranging in size from six to ten inches in diameter cemented together) within an area that is thirteen (13) feet long, and three (3) feet wide on the landward end and narrowing down to one foot wide on the waterward end. AR, pp. 2 and 5; Rec. 29:15 and 1:42:26.

III. CONCLUSIONS OF LAW

I adopt the Preliminary Order's Conclusions of Law as my Conclusions of Law, except for the following amendments:

- In Section A, I add the following sentence to the end of paragraph 5 on page 6:

Section 25 can be found on IDL's website within IDL's Encroachments Procedures policy document. *See Encroachments Procedures Agency Guidance Document at*

<https://www.idl.idaho.gov/wp-content/uploads/sites/116/2020/11/PublicTrustProgram-Encroachments-Procedures-111920.pdf> (Section 25 is at pp. 22-42; Riprap, Seawall, and Bulkheads Standards and Requirements is at pp. 38-39).

- In Section D, Paragraph 3.a on page 11, I amend the citation at the end of the paragraph from I.C. § 58-102(h) to I.C. § 58-1302(h).
- In Section D, I delete Paragraph 6 and 7 on page 14 and replace them with the following new paragraphs 6 and 7:

6. Testimony at hearing indicated that a wooden crib existed prior to fill being added to and on top of the pre-existing crib. The Application did not request a permit to authorize that wooden crib. Applicants are encouraged to submit a permit application for the pre-existing crib, which may be a pre-LPA encroachment pursuant to I.C. § 58-1312(1).

7. As to the existing fill in the area, whether natural or man-made, the matter is referred to the IDL Public Trust Program for further investigation into the status of the fill, its compliance with the LPA, and whether any additional compliance or other action is warranted.

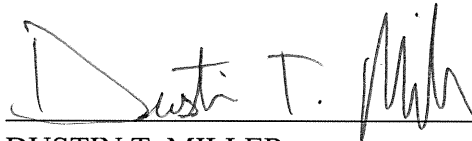
IV. ORDER

I conclude that the hearing coordinator's Preliminary Order is based on substantial evidence in the record, and I adopt the Preliminary Order's Procedural Background, Findings of Fact, and Conclusions of Law with the amendments set forth herein as my decision in this matter. I hereby incorporate by reference the Preliminary Order's Procedural Background, Findings of Fact, and Conclusions of Law into this Final Order except as specifically set forth herein. I have enclosed and served the Preliminary Order along with this Final Order.

Based on the adopted Findings of Fact and Conclusions of Law, I HEREBY ORDER that Encroachment Permit Application L-97-S-1081B is DENIED.

This is a final order of the agency. Pursuant to Idaho Code § 58-1306(c) and IDAPA 20.03.04.30.09, the Applicant or any aggrieved party who appeared at the hearing has a right to have the proceedings and Final Order reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final decision. The Applicant does not need to post a bond with the district court for an appeal. The filing of the petition for review to the district court does not itself stay the effectiveness or enforcement of the order under appeal. Idaho Code § 67-5274.

Dated this 4th day of January 2021.

A handwritten signature in black ink, appearing to read "Dustin T. Miller", is written over a horizontal line.

DUSTIN T. MILLER
Director, Idaho Department of Lands

CERTIFICATE OF MAILING

I hereby certify that on this 4th day of January 2021. I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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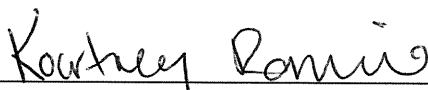
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Andrew Smyth, Hearing Coordinator

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Kourtney Romine, Workflow Coordinator

Copy sent via email and/or regular U.S. Mail, postage prepaid to Those Who Have Provided Comments.

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BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

In the Matter of Encroachment Permit)	
Application No. L-97-S-1081B	)	Case No. PH-2020-PUB-10-001
)	
Gregory M. and Debra B. Wilson,	)	PRELIMINARY ORDER
)	
Applicant.)	
)	
)	

I. PROCEDURAL BACKGROUND

On or around October 1, 2020, the Idaho Department of Lands (“IDL”) received a complete encroachment permit application (“Application”) filed by Gregory M. and Debra B. Wilson (“Applicants”). Agency Record (“AR”) pp. Wilson 00001 – 00009.¹ IDL assigned application number L-97-S-1081B to the Application. In the Application, the Applicants seek authorization for “riprap”² on Priest Lake. AR, p. 1.

IDL processed the Application pursuant to Idaho Code § 58-1306 and IDAPA 20.03.04.030, which resulted in the following timeline of activities:

1. On October 2, 2020, IDL provided notice of the Application to various agencies as well as to Phillips Keystone Inheritance Trust and William Faloon. AR, pp. 10 – 17.
2. On October 6 and 13, 2020, a notice of the Application was published in the Bonner County Daily Bee, which has general circulation in Bonner County, Idaho. AR, pp. 19 – 21.

¹ All citations to the AR are hereinafter designated by using the Bates numbers only, not the preceding “Wilson 0000.”

² The nature of the encroachment is disputed between the Applicants and IDL. As discussed in the Conclusions of Law Section, below, placement of riprap is a defined activity. The Applicants’ proposal does not conform to the placement of riprap. The Applicants’ proposed activity is most similar to construction of a jetty, and will be referred to as a jetty in this order.

3. On October 7, 2020, IDL received an email regarding the Application from the Idaho Department of Environmental Quality stating, “DEQ has no comment on the proposed work.” AR, p. 18.

4. On October 25, 2020, IDL received an email from William Faloon (“Dr. Faloon” and “Objector”) objecting to the Application. AR, pp. 22 – 82.

5. On October 28, 2020, IDL received an email regarding the Application from the Idaho Department of Fish and Game stating, “The Idaho Department of Fish and Game does not have any comments to submit for this application.” AR, pp. 83 – 84.

6. On October 29, 2020, IDL received a written letter from Dr. Faloon objecting to the Application with a check for the publication deposit. AR, p. 85.

7. On November 9, 2020, IDL received an email from Dr. Faloon providing Priest Lake water level elevations from the USGS between 2000 and 2020. AR, pp. 86 – 103.

8. Pursuant to Idaho Code § 58-1306(c), IDL ordered a hearing in this matter. On November 10, 2020, Mr. Dustin T. Miller, IDL Director, issued a Notice of Appointment of Hearing Coordinator and Public Hearing (“Notice”) in which he appointed Mr. Andrew Smyth to be the Hearing Coordinator and scheduled the hearing to be at held at 1:00 p.m. Pacific Time on Thursday, December 3, 2020, via videoconference. AR, pp. 104 – 107.

9. On November 9, 2020, IDL received additional comments from Dr. Faloon. AR, pp. 108 – 121.

10. On November 30, 2020, Dr. Faloon submitted his comments, exhibit list and exhibits. AR, pp. 122 – 315.

11. On November 30, 2020, Ms. Kaufmann, legal counsel for IDL, submitted IDL’s hearing statement. AR, pp. 316 – 332.

12. On December 2, 2020, the Applicants submitted Applicants' Position Statement. AR, pp. 333 – 351.

13. On December 2, 2020, the Objector filed a Motion to Strike Applicants' Position Statement, on the grounds that the Position Statement was filed after the deadline stated in the Notice. AR, pp. 352 – 355.

14. During the hearing on December 3, 2020, the Objector submitted a letter from Gary Fievez as an additional exhibit. AR, pp. 356 – 357.

15. Pursuant to Idaho Code § 58-1306(c) and the Notice, a hearing regarding the Application was held on December 3, 2020. During the hearing, I took official notice of the Applicant's current encroachment permit, L-97-S-1081A. AR, pp. 358 – 365; Hearing Recording ("Rec.") 3:18.³

16. For the reasons stated on the record at the beginning of the hearing, the Objector's Motion to Strike Applicants' Position Paper was DENIED, and the Position Paper remained in the record. Rec. 3:33.

17. The participants appearing and offering testimony or argument at the hearing were: Mr. Gregory M. Wilson, Mr. Steven W. Syrcle, Mr. Tyler Wilson, Dr. William Faloon, Ms. Mischelle Fulgham as attorney for Dr. Faloon, Mr. Mike Ahmer, and Mr. Trevor Anderson.

II. FINDINGS OF FACT

1. The Applicants own Bonner County parcel RP00087000017A0A. AR, pp. 1 and 9.
2. The Applicants' property is located adjacent to Priest Lake. AR pp. 1 and 5.
3. The Applicants purchased this property in 2003. Rec. 15:21 and 38:34.

³ The hearing was recorded pursuant to IDAPA 20.01.01.651. A hearing transcript has not been prepared. The agency or any party may have a transcript prepared at its own expense. All references to the hearing recording in this Preliminary Order will be described by reference to the minute(s) and second(s) location on that recording. For example: Rec, mm:ss.

4. When the Applicants purchased the property, a log crib with cobble extending from the southern property line, below the ordinary high water mark, and into the lakebed existed (“pre-existing crib”). AR, p. 335; Rec. 8:12, 17:35, 30:00 and 36:20.

5. Since purchasing the property, the Applicants have replaced cobble and enhanced the pre-existing encroachment, in part, by adding rocks on top of the crib and the lakebed, resulting in the existing jetty. AR, pp. 192, 194 – 196; Rec. 18:52 and 1:11:11.

6. If approved, the Applicants would be authorized to place 0.8 cubic yards of new material (cobble stones ranging in size from eight to twenty inches cemented together) within an area that is seventeen and a half (17.5) feet long, and three (3) feet wide on the landward end and narrowing down to one foot wide on the waterward end. AR, pp. 2 and 5; Rec. 29:15 and 1:42:26.

7. At this location, the prevailing winds and wave action come from the southwest. Rec. 13:13, 22:27 and 32:06.

8. Also, at this location, sand accumulates to the north of structures extending out into the lake and erodes to the south of such structures. AR, pp. 123, 127 – 131; Rec. 51:46, 56:45 and 1:43:20.

9. The proposed encroachment would be located about one (1) foot from the southern littoral right line (shared with Dr. Faloon) on the landward end, and two (2) to three (3) feet from the littoral right line on the waterward end. Rec. 31:39.

10. The Applicants’ property is located to the north of the littoral property owned by Dr. Faloon. AR, pp. 4, 5 and 25.

11. A primary point of Dr. Faloon’s objection to the Application is that he believes the Applicants’ addition of fill on top of the pre-existing crib has caused erosion of his shoreline and

beachfront, to the detriment of Dr. Faloon's property value and aesthetics. AR, pp. 12-13, 24-40, 79, 108-141, 191-208.

12. In 2018, after replacing his dock, Dr. Faloon removed a concrete pier that had been part of his previous dock. The concrete pier was located on the north side of his property within twenty (20) feet of the littoral right line shared with the Applicants. AR, pp. 126, 195 and 336-337; Rec. 10:54 and 49:30.

13. The Applicants argue that the removal of the concrete pier by Dr. Faloon is the cause of the increased erosion of Dr. Faloon's shoreline to the south of the Applicants' jetty. AR, pp. 127 – 131 and 337; Rec. 27:10, 51:16, 1:43:20.

III. CONCLUSIONS OF LAW

A. IDL Has Jurisdiction Over the Beds and Banks of Priest Lake.

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

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

3. The Hearing Coordinator is authorized by the Director to issue this Preliminary Order. AR, p. 104; I.C. § 67-5245. The hearing in this matter began at approximately 1:07 p.m. Pacific Time and concluded at approximately 2:53 p.m. Pacific Time on December 3, 2020. With all evidence submitted, the matter is fully before the Hearing Coordinator.

4. In accordance with Idaho Code § 67-5206 and the Lake Protection Act, Title 58, Chapter 13, Idaho Code ("LPA"), IDL has promulgated rules for encroachment permits on

navigable lakes – the Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho (“Rules”). IDAPA 20.03.04.000 *et seq.*

5. IDL has also developed an internal policy, Section 25 – Encroachment Standards and Requirements, Navigable Waters Procedures (“Section 25”); which, establishes the standards and requirements that apply to construction of riprap, jetties and barb. Section 25, pp. 19-21; *see also* AR, pp. 6-7.

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

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

I.C. § 58-1302(a); IDAPA 20.03.04.010.024. Priest Lake is a navigable lake under the LPA; and therefore, IDL has jurisdiction to regulate the proposed encroachment. *See State v. Hudson*, 162 Idaho 888, 407 P.3d 202 (2017).

B. The Applicants are Qualified to Make Application.

IDAPA 20.03.04.020.02 states, in part, that: “Only persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits.” I find that the Applicants, as owners of property adjacent to Priest Lake, are littoral owners, as defined in IDAPA 20.03.04.010.33, and are qualified to make application for an encroachment permit.

C. The Burden of Proof Is With the Applicants.

1. The Applicants generally bear the burden of proof in this matter. “The customary common law rule that the moving party has the burden of proof – including not only the burden of going forward but also the burden of persuasion – is generally observed in administrative hearings.”

Intermountain Health Care, Inc. v. Bd. of County Comm'rs of Blaine County, 107 Idaho 248, 251, 688 P.2d 260, 263 (Ct. App. 1984) *rev'd on other grounds* 109 Idaho 299, 707 P.2d 410 (1985).

2. Under Idaho law, “preponderance of the evidence” is generally the applicable standard for administrative proceedings, unless the Idaho Supreme Court or legislature has said otherwise. *N. Frontiers, Inc. v. State ex rel. Cade*, 129 Idaho 437, 439, 926 P.2d 213, 215 (Ct. App. 1996). “A preponderance of the evidence means that when weighing all of the evidence in the record, the evidence on which the finder of fact relies is more probably true than not.” *Oxley v. Medicine Rock Specialties, Inc.*, 139 Idaho 476, 481, 80 P.3d 1077, 1082 (2003).

D. The Application is Denied.

1. The Application Cannot Accurately Depict the OHWM Because the Bed of Priest Lake Adjacent to the Applicants’ Upland Property Has Been Materially Altered. Idaho Code § 58-1302(c) defines natural or ordinary high water mark (“OHWM”) as “the high water elevation in a lake over a period of years, **uninfluenced by man-made dams or works**, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.” (Emphasis added.) The OHWM depicted in the Application, labeled “[Elevation] 2438.00,” heads west from the Applicants’ southern property boundary for eight and a half (8.5) feet creating a south-facing beach and then turns northerly to the northern property boundary creating a west-facing beach (i.e. creating a miniature cove, or crescent shape, in the lake at the shoreline of the Applicants’ upland property). AR, p. 5. This depiction of the OHWM appears to be impacted by works performed by the previous owner of the Applicants’ property, the Applicants, the previous owner of the Objector’s property, and the Objector, specifically:

a. The previous owner of the Applicants' property placed a log crib with cobble at the south property line that caused sand and material to accumulate to the north of it. AR, pp. 122-315, 335 and 336; Rec. 8:12, 19:07, 24:07, 1:25:46 and 1:32:46.

b. The Applicants have altered and added to the pre-existing crib by replacing and adding cobble, and reinforcing it with sandbags and additional rocks on top of the lakebed, in an attempt to protect and increase the material that has accumulated to the north of the pre-existing crib. AR, pp. 25 – 26, 27, 108 – 109, 278, 279 and 319; Rec. 10:38, 17:37, 18:50, 18:57, 30:51, 1:16:28 and 1:41:21.

c. The previous owner of the Objector's property placed a large cement pier which caused sand to accumulate to the north of it. AR, pp. 25, 28 – 34 and 136 – 139; Rec. 34:44, 40:37, 46:09 and 51:17.

d. The Objector removed the concrete pier, leaving no structure to hold the accumulated sand or to cause additional accumulation of sand along the shoreline south of the Applicants' jetty. AR, pp. 27 – 34, 336 – 339, and 341; Rec. 9:47, 10:54, 21:19, 50:18, 1:27:35, 1:41:21, and 1:43:12.

e. The western facing portion of the OHWM depicted in the Application is relatively straight. AR, p. 5. Photos taken of the Applicants' shoreline in August 2003 and 2020, show how the shoreline makes two crescents - one between southern-boundary jetty and the rocks placed underneath the Applicants' pier, and another from the Applicants' pier north to the rocks placed under the next adjacent owner's pier to the north. AR, pp. 196 and 201. These crescent shapes along the shoreline follow the testimony that material accumulates to the north of man-made works that extend perpendicular to the general shoreline.⁴

⁴ Idaho law provides that: "A private person cannot obtain a prescriptive right against the state with respect to navigable waters." *West v. Smith*, 95 Idaho 550, 555, 511 P.2d 1326, 1331 (1973). Disposition of public trust

f. Based on the testimony and evidence in the record, I find that the OHWM depicted in the Application is based on the current shoreline which has been impacted by man-made works; and, therefore is not a true representation of the OHWM of Priest Lake at this location.⁵

2. The Application is Not for Riprap, It is for a Jetty. The Application depicts a stone wall following the southern property boundary line eight and a half (8.5) feet and then extending another four and a half (4.5) feet beyond the purported OHWM into the lake. AR, pp. 2 and 5.

a. Mr. Ahmer stated, “Given the location and orientation of the requested encroachment, it is IDL’s opinion that the Wilsons’ encroachment application more closely resembles an application to permit a ‘bank barb.’” AR, p. 322; Rec. 1:21:35.

b. Riprap, bank barb, and jetty are not terms that are defined in the LPA or the Rules. Merriam-Webster Dictionary defines riprap as, “a foundation or sustaining wall of stones or chunks of concrete thrown together without order (as in deep water);” and “a layer of this or similar material on an embankment slope to prevent erosion.” <https://www.merriam-webster.com/dictionary/riprap>. A jetty is defined by Merriam-Webster Dictionary as, “a structure extended into a sea, lake, or river to influence the current or tide or to protect a harbor.” <https://www.merriam-webster.com/dictionary/jetty>. Moreover, Section 25 provides that: “Riprap material shall be placed along the present contour of the shoreline and no riprap material shall be placed in excess of that

land, underlying navigable waters, can only be done by the Land Board. I.C. §§ 58-104(9)(a) and 58-1203(1); and Idaho Const. art. IX, § 7. A private person acting without the State’s authority cannot alter navigable waters in order to create more upland property, or attempt to adversely possess lands impressed with the public trust doctrine. See I.C. § 58-1203(1); see also *Idaho Forest Indus. v. Hayden Lake Watershed Imp. Dist.*, 112 Idaho 512, 520, 733 P.2d 733, 741 (1987) (Huntley, J., concurring). The scope of the State’s title in the beds of navigable lakes “extends to the natural high water mark as it existed at the time the state was admitted into the Union.” *Idaho Forest Indus., Inc. v. Hayden Lake Watershed Improvement Dist.*, 112 Idaho 512, 516, 733 P.2d 733, 737 (1987) (citations omitted); see also I.C. § 58-1302(b) (defining “beds of navigable lakes” as the lands lying under or below the natural or ordinary high water mark of a navigable lake).

⁵ *Id.*

necessary to stop erosion ...” Section 25, p. 19; AR, pp. 321-322. Finally, Section 25 states that: “Jetties and bank barbs shall generally not be permitted as a method of controlling erosion on lakes ...” Section 25, p. 21; AR, p. 322.

c. The Application does not request permission to place riprap material along the shoreline. AR, pp. 2 and 5. And, perhaps more importantly, the record does not contain evidence that erosion is occurring at the Applicants’ shoreline. While the Applicants complain that their shoreline has changed shape over the years, and is impacted by wave energy and high water in the Spring, none of those facts, and no visual depiction in the record, show erosion of the Applicants’ shoreline. I find that the four and a half (4.5) foot section of the proposed encroachment that extends beyond the purported OHWM into the lake is a jetty, as it does not follow the shoreline, but rather extends out perpendicular from the shore into the water. Moreover, the record shows that the proposed jetty is not intended to stop erosion, it is intended to hold the sand and sediment that has been artificially deposited north of the pre-existing crib and the unpermitted existing jetty. No part of the LPA, the Rules or Section 25 enable IDL to permit the proposed encroachment.

d. The remaining eight and a half (8.5) feet of proposed “riprap” would follow the current contour of the shoreline, but as discussed above, the shoreline here has been influenced by man-made works that have caused materials to accumulate to the north and erode to the south. *See ¶ III.D.1.* Specifically, this eight and a half (8.5) feet section of shoreline follows cobble and sandbags placed by the Applicants and where the previous owner placed the pre-existing crib. These encroachments are perpendicular to the general shoreline at this location, and therefore any fill placed at this section would be perpendicular to the shoreline as well. Therefore, I find that this section of the proposed encroachment is also a jetty. It is possible that when the unaffected

shoreline and true OHWM reach their natural locations, this apparent “upland” jetty may be at or close to the actual OHWM of the lake.⁶

3. The Application is For a Nonnavigational Encroachment. The stated purpose of the proposed encroachment is to reduce shoreline erosion and prevent sand from eroding away. AR, p. 1; Rec 27:09. In response to Dr. Faloon’s objections, the Applicants’ added a reason for the proposed encroachment as being an aid in launching vessels from the beach. AR, p. 340. Regarding the proposed encroachment and the sand it would protect, Mr. Wilson stated, “In terms of navigability it helps protect that southern beach area for launching stand up paddle boards . . . It provides protection or safe harbor so to speak for people to launch stand up paddle boards, kayaks, canoes, sail boats, wave runners . . . There is a huge navigation function, but for personal watercraft as opposed to a dock which you might launch a boat.” Rec. 19:26. Mr. Wilson went on to state, “Bonner County actually assesses an additional property value for sandy beaches and if you own property on Priest Lake, you’ll easily see sandy beaches command a huge premium.” Rec. 20:25.

a. Navigational encroachments that IDL can issue a permit for do not include sand on a beach, whether the result of man-made works or natural processes. Navigational encroachments “means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and such other aids to navigability of the lake, on, in or above the beds or waters of a navigable lake.” I.C. § 58-102(h).

b. Whereas, a nonnavigational encroachment, or encroachments not in aid of navigation, is defined to mean and include, the following:

[A]ll other encroachments on, in or above the beds or waters of a navigable lake, **including landfills** or other structures not constructed **primarily** for use in aid of the navigability of the lake. The term ‘encroachments not in aid of navigation’ may be used

⁶ *Id.*

interchangeably herein with the term ‘nonnavigational encroachments.’

I.C. § 58-1302(i) (emphasis added). As stated in the Application, the primary purpose of the proposed encroachment is to retain accumulated sand rather than aid navigation. While there may be some navigational benefit from the unnatural accumulation of sand which the jetty seeks to protect, the primary purpose of the jetty itself is not to aid in navigation. Therefore, I find the proposed jetty to be an encroachment not in aid of navigation.

c. IDAPA 20.03.04.030.02. states, in part, that:

Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values.

There is no evidence in the record that the proposed nonnavigational encroachment would involve major environmental, economic, or social benefit to the general public. The Application does not satisfy IDAPA 20.03.04.030.02.

4. The Application Does Not Rebut the Presumption of Adverse Impact. IDAPA 20.03.04.015.13.e states, in applicable part, as follows:

It will be presumed, subject to rebuttal, that . . . nonnavigational encroachments will have [an] adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption.

No encroachment may be permitted “in a manner that infringes upon an adjacent landowners’ littoral right.” *Lovitt v. Robideaux*, 139 Idaho 322, 326, 78 P. 3d 389, 393 (2003). Here, the location of the upland property boundary line and the littoral right line between the Applicants’ property and Dr. Faloon’s property is not disputed. Mr. Wilson stated that the proposed

encroachment would be located about one (1) foot from the littoral right line on the upland side, and two (2) to three (3) feet from the littoral right line in the water. Rec. 31:39. Dr. Faloon has not consented to the requested nonnavigational encroachment being located less than twenty-five (25) feet from the shared littoral right line. Instead, Dr. Faloon has objected and presented evidence that the existing unpermitted additional fill has either caused, or at least contributed to, the adverse effect of shoreline erosion along Dr. Faloon's adjacent littoral property. AR, pp. 108-315; Rec. 52:17 and 1:12:00.

a. The evidence of record shows erosion of the shoreline south of the Applicants' jetty; which, has increased over time as the jetty was built-up on top of the pre-existing crib. This adverse effect is not surprising given that, in this location, the lake deposits sediment to the north of perpendicular structures. *See* ¶ III.D.1. However, the record also plainly shows that as the Applicants' built up the jetty, the erosion to the south of the jetty began and increased. AR, pp. 192-202 and 300. Both parties agree that erosion at this location has increased since Dr. Faloon removed the concrete pier in 2018. Rec. 21:21 and 51:18. However, the Applicants' attempt to blame Dr. Faloon's removal of the concrete pier as being the sole cause of the erosion of his shoreline is misplaced. The totality of the record supports the findings herein that perpendicular structures built west, into the lake, cause accumulation of sediment to the north of the structure – thereby prohibiting otherwise natural deposition of sediment south of the structure and, likely, contributing to erosion south of the structure.

b. It is the Applicants' burden to show that the proposed jetty would not have an adverse effect upon Dr. Faloon's littoral rights. The Applicants have not rebutted the presumption of adverse effect upon Dr. Faloon's adjacent littoral rights resulting from the proposed nonnavigational encroachment being located closer than twenty-five (25) feet to adjacent littoral

right line. Indeed, as discussed above, the record shows the impacts to the shoreline caused by encroachments like the existing jetty. I find that there is a presumed adverse impact to the Objector's littoral rights associated with the Applicants' proposed encroachments; which, in and of itself, is grounds for denial of the Application.

5. I conclude that based on legal requirements and administrative standards discussed, above, the Application must be denied.

6. The Applicants are not required to dig out or remove the pre-existing crib – as it existed prior to fill being added to and on top of the pre-existing crib. It is recommended that the Applicants submit a permit application for the pre-existing crib, which appears to be a pre-LPA encroachment pursuant to I.C. § 58-1312(1).

7. In addition, the Applicants must work with IDL staff on a timeline to remove all fill, whether natural or man-made, that they have placed on top of the lakebed. The removal is subject to inspection by and direction from IDL.

IV. ORDER

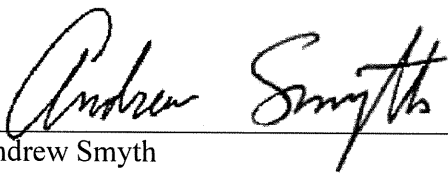
Based upon the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that Encroachment Permit Application No. L-97-S-1081B is DENIED, subject to any conditions imposed by the Director of the Department of Lands.

This order issued herein is a Preliminary Order, pursuant to Idaho Code §§ 58-1306(c), 67-5270 and 67-5272, and the Notice of Appointment of Hearing Officer issued on November 10, 2020, which states, “[i]n accordance with Idaho Code § 67-5245, the Hearing Coordinator shall submit a preliminary order to the Director of IDL, who shall then issue a Final Order no more than thirty (30) days after the conclusion of the hearing.” The Preliminary Order can and will become

final without further action of the agency if the Director does not issue a Final Order within thirty (30) days of the close of the hearing.

If this Preliminary Order becomes final, or if the Director issues a Final Order, pursuant to Idaho Code § 58-1306(c), any applicant or other aggrieved party has the right to have this decision reviewed by the district court in the county where the encroachment is proposed by filing notice of appeal within thirty (30) days from the date of the final decision. Idaho Code § 58-1306(c). The filing of an appeal to the district court does not itself stay the effectiveness or enforcement of the order under appeal. Idaho Code § 67-5274.

DATED this 23 day of December, 2020.



Andrew Smyth
Hearing Coordinator