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Subject: Legal Memorandum in Case No. PH-2022-NAV-10-002
Date: Thursday, December 15, 2022 06:00:31 PM
Attachments: [Legal Memorandum in support of Denial of Wilson's Application for Pre-LPA Encroachment L-97-S-108C.pdf](#)

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Please find attached the Objector's Legal Memorandum in Opposition to Wilson's Pre-LPA Encroachment Application No. L-97-S-1081C.

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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-1081C

Gregory M. and Debra B. Wilson,
Applicant.

Case No. PH-2022-NAV-10-001

**LEGAL MEMORANDUM
SUPPORTING DENIAL OF
WILSON'S PRE-LPA
ENCROACHMENT PERMIT
APPLICATION AND REQUIRING
REMOVAL OF THE UNPERMITTED
ENCROACHMENT**

Objector, William B. Faloon, submits the following Legal Memorandum of points and authorities seeking **DENIAL** of *Wilson's Pre-LPA Encroachment Permit Application No. L-97-S-1081C (log crib)* and seeking an Order requiring **REMOVAL** of Wilson's unpermitted encroachment.

Factual and legal grounds exist for denial of the requested Pre-LPA Encroachment Permit and removal of the unpermitted encroachment. Denial and removal are legally warranted pursuant to Idaho Code § 58-1301; I.C. § 58-1302(h) and (i); Idaho Code § 58-1312; IDAPA 20.03.04.012, and I.C. § 58-1309. Denial and removal are factually warranted based upon the

LEGAL MEMORANDUM SUPPORTING DENIAL OF WILSON'S APPLICATION FOR A
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photographic exhibits depicting Wilson's actions and documented evidentiary history of intentionally placing rocks, logs, sandbags, tarps, fill material, a submerged boat ramp, and other unpermitted encroachments on or in the beds or waters of the State of Idaho without a permit. *See Faloon Photographic Exhibits in Case No. PH-2020-PUB-0-001, Application L-97-S-1081B, Wilson's previous Rock Jetty Claim (Faloon Objection Statement Figures 1 through Figures 5); Case No. PH-2022-NAV-10-001, Application L-97-S-1081C, Wilson's Pre-LPA Exemption Log Crib Claim (Faloon Exhibits F-1 through F-81); and Case No. PH-2022-NAV-10-002, Application L-97-S-1081D Wilson's Rock Jetty Claim (Faloon Exhibits F-1 through F-19).*

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. Wilson owns Diamond Park Lots 16A and 17A. Faloon owns the adjacent lot to the south, Diamond Park Lot 18.

Sometime after 2004, Wilson constructed and modified the log encroachment at issue in this case. The picture submitted by Applicant Wilson as **Exhibit A**¹, clearly demonstrates that no log encroachment existed in the subject location as of 2004. By his own evidence, **Exhibit A**, Wilson's Pre-LPA claim fails. Wilson's evidence shows that no log encroachment existed as of 2004. This log encroachment was later constructed and repeatedly modified by Wilson without a permit. *See Faloon PowerPoint slides, Exhibits F-10 through F-18; PowerPoint slides Exhibits F-20 through F-28; PowerPoint slides Exhibits F-30 through F-38; PowerPoint slides Exhibit F-*

¹ The Applicant's photograph, Exhibit A, dated 2004 is labeled and described as "Photograph of Concrete Pier (monolith).

40; PowerPoint slides Exhibits F-44 through F-66; and PowerPoint slides Exhibits F-68 through F-81.

As extensively documented in Case No. PH-2020-PUB-10-001 Application Nos. 1081B; Case No. PH-2022-NAV-10-001 Application No. 1081C; and Case No. PH-2022-NAV-10-002, Application 1081D, since approximately 2018, Applicant has intermittently and repeatedly constructed rock jetties, bank barbs, log, submerged boat ramps, tarps, and sandbag encroachments, along his property, extending beyond the OHWM and resting on the beds and waters of a navigable lake in the State of Idaho. The photographic evidence in the record indicates without contradiction that Wilson has modified the purported log crib encroachment extending from his shoreline and entering Priest Lake beyond the OHWM (the “Encroachment” herein). Objector Faloon has monitored and taken pictures of Wilson’s modification and construction of this unpermitted Encroachment. *See Faloon Objection Statement and Faloon PowerPoint Exhibits in Case No. PH-2022-NAV-10-002, Encroachment Application L-97-S-1081C depicted as Exhibits F-1 through F-81.*

II. LEGAL STANDARD

A. The Idaho Board of Land Commissioners has jurisdiction over protection of 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 (OHWM) and the artificial high water mark (AHWM) 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. Faloon as the Objector is Legally Entitled to Object to Wilson’s Application pursuant to I.C. § 58-1306(c).

As a matter of procedural due process law, 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 herein, Dr. Faloon, is an owner of real property adjacent to the subject Encroachment at issue in this matter. The
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Objector timely filed extensive written objections to the Application, and the Objector is legally and procedurally entitled to appear at the contested hearing and to oppose the Application for the Encroachment.

C. The Applicant carries the burden of proof.

The Applicant herein, Wilson, is seeking a determination that he is exempt from the LPA Encroachment permit requirements, because his log crib Encroachment pre-dated the LPA and has not been “constructed, replaced, or modified” since 1974. I.C. § 58-1312(1) and (2). The specific statutory authority states as follows:

58-1312. PERMITTING OF EXISTING ENCROACHMENTS.

(1) Unless otherwise prohibited, every person seeking a permit for a navigational or nonnavigational encroachment constructed prior to January 1, 1975, shall provide the board with substantive documentation of the age of the encroachment and documentation **that the encroachment has not been modified since 1974.** Persons providing such documentation shall receive an encroachment permit and shall not be required to pay the application and publication fees established in this chapter. Such substantive documentation shall include dated aerial photographs, tax records, or other historical information deemed reliable by the board.

(2) Every person seeking a permit for a navigational or nonnavigational encroachment constructed, replaced or modified on or after January 1, 1975, shall submit a permit application and enter the same permitting process as required for new encroachments.

I.C. § 58-1312 (Emphasis added).

As the Applicant, Wilson bears the burden of proof of presenting “substantive documentation” in this administrative proceeding. Specific examples of the mandatorily required “substantive documentation” include, “dated aerial photographs, tax records, or other historical information deemed reliable by the board.” *I.C. § 58-1312(1).* “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).

III.LEGAL ARGUMENT

A. IDL should process the Wilson's 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. This Encroachment was not constructed primarily for use in aid of navigation and does not provide a demonstrated public benefit. Instead, the Applicant's Encroachment is designed to prevent sand from migrating under his dock and to reduce erosion. As was the case with Wilson's previous jetty or bank barb, lawfully denied in Application L-97-S-1081B², these

² After the Final Order, denying his previous rock jetty/bank barb encroachment application in Case No. PH-2020-PUB-10-001, Wilson filed a Petition for Judicial Review, Kootenai County First Judicial District Case No. CV09-21-0140. Wilson later voluntarily dismissed, waived, and withdrew his claims for judicial review of the Final Order. On May 19, 2021, Judge Lamont Berecz entered the Order of Dismissal. All such claims from IDL's Final Order are now time barred.

logs and rocks, where they currently extend beyond the OHWM, physically block and trap sand on the north side of the rocky outcropping.

The Applicant's encroachment is nonnavigational and the IDL must process the encroachment application at issue under the public hearing and due process requirements of IDAPA. 20.03.04.030.02. 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.

The Encroachment at issue is an erosion barrier currently made of rocks, logs, sandbags, and occasionally, a plastic tarp and a submerged boat/jet ski trailer. No evidence or claim of record contends or demonstrates that these Encroachments were constructed for use in aid of navigation. Instead, this Encroachment was constructed, replaced and modified, to interfere with the movement of sand below the OHWM and to trap sand along Wilson's jetty/bank bark,

thereby enhancing the sandy beach on his property. The photographic evidence indicates

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Wilson's plan worked extremely well - the sand is depositing on Wilson's shoreline and eroding from Faloon's shoreline. *See Faloon Exhibits F-78 through F-81.*

B. Wilson, as the Applicant, has completely failed to meet his burden of proof.

The Applicant, Wilson, has completely failed to meet the burden of proof incumbent upon him. Contrary to the specific examples of the mandatorily required "substantive documentation" necessary for a Pre-LPA determination, as set out and described in Idaho Code § 58-1312(1), Wilson has failed to produce or submit any "dated aerial photographs, tax records, or other historical information deemed reliable by the board." Instead, Wilson has submitted photographic evidence that actually contradicts his Pre-LPA claim and instead shows that the subject Encroachment did NOT exist prior to 1975 and did not exist as recently as 2005. *See Wilson Declaration Exhibit A, photograph dated 2004, depicting the lack of log crib or other encroachment.* Additionally, Faloon's un rebutted evidence proves that the Wilson's purported Pre-LPA encroachment has been significantly and repeatedly modified after 1975 - all in violation of I.C. § 58-1312(2). *See Faloon Objection Hearing Statement and Faloon PowerPoint slides, Exhibits F-10 through F-18; PowerPoint slides Exhibits F-20 through F-28; PowerPoint slides Exhibits F-30 through F-38; PowerPoint slides Exhibit F-40; PowerPoint slides Exhibits F-44 through F-66; and PowerPoint slides Exhibits F-68 through F-81 .*

C. The Hearing Coordinator should deny this Encroachment Permit Application because the Record demonstrates this Encroachment did not exist prior to January 1, 1975, and because the Encroachment has been constructed, modified and replaced on or after January 1, 1975.

The Applicant has not provided substantive evidence of a Pre-LPA Encroachment. As a result, his claim fails. The IDL Director previously and correctly issued a ruling of denial, and the Hearing Coordinator should also deny the Applicant's Application.

D. Following denial, the Hearing Coordinator and IDL should require the Applicant to pay penalties for his violations and to restore the lake and mitigate the damage caused or resulting from the Encroachment.

The LPA authorizes an order requiring 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 Faloon requests that IDL order the Applicant to remove the unpermitted log, rock, sandbag, tarp, submerged boat/jet ski ramp Encroachment as the property line with Faloon, and to “restore the lake to as near its condition immediately prior to the unauthorized encroachment as possible...” I.C. § 58-1309. If the Applicant fails to comply within thirty (30) days, then Idaho Code § 58-1308 authorizes financial penalties and injunctive relief for the violations. Objector Faloon requests that the Hearing Coordinator and the IDL Director impose the statutory financial penalties and injunctive relief as set out in I.C. § 58-1308 against Wilson for the longstanding violations occurring with this Encroachment since 2020.

CONCLUSION

Based on the foregoing, Objector respectfully requests that the Hearing Coordinator:

- 1) deny the Pre-LPA Encroachment Permit Application;
- 2) order Applicant to remove the Encroachment;
- 3) order the Applicant to mitigate the damage caused or resulting from the Encroachment;
- 4) order the Applicant to pay financial penalties for the longstanding violations since the voluntary dismissal of his judicial claims in 2020; and

4) order injunctive relief be initiated against the Applicant for the longstanding violations, occurring since 2020.

DATED this 15th day of December 2022.

FULGHAM LAW, PLLC

A handwritten signature in blue ink, appearing to read 'Michelle R. Fulgham', written over a horizontal line.

By

MISCHELLE R. FULGHAM

Attorney for Objector – Dr. William Faloon

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of DECEMBER, 2022, 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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Coolin, ID 83821

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☒ Email: greg@wilsonlaw.us

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To: [Kourtney Romine](#); hearing.officer@ag.idaho.gov; [Angela Kaufmann](#); greg@wilsonlaw.us; [billofspok](#); [Mischelle Fulgham](#)
Subject: Faloon Objection to Pre LPA-Encroachment and Hearing Statement, L-97-S-1081C
Date: Thursday, December 15, 2022 03:24:27 PM

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Ms. Romine:

Please find attached a pdf document with Faloon's Objection to be filed in Case No. PH-2022-NAV-10-001, Opposition to Wilson's Pre-LPA Encroachment Application, 1081C (log crib).

Because this pdf file is so large, I will be submitting it separately from the Powerpoint slides and the Legal Memorandum in 1081C

Please let me know if you have any trouble opening this pdf. Thank you in advance.



2. Faloon opposition1081-C (updated) to Wilson'...

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WILSONS BARRIER AT OUR PROPERTY LINE; CASE/CLAIM 1081-C
Faloon objection

Dear Idaho Department of Lands,

This report documents that:

1. The purpose of the Wilson's barrier on the shore at the southern border of their property (our property line) is to enhance their beach by increasing the accumulation of sand on their beach. Because of the natural flow of Priest Lake, their barrier has, and will continue to, cause erosion of Faloon's beach, while enhancing theirs.
2. The Wilson's original proposal (in 2020) was inaccurate and factually unsubstantiated. Specifically:
 - A. Records from the USGS document that the elevation of Priest Lake is not elevated 18-24 inches each spring or cause annual erosion of their property.
 - B. The descriptions and diagrams in the Wilsons permit application, including those created by Steve Syrcle, P.E. of Tri-State Consulting Engineers, and approved by the Wilsons, were inaccurate and many of the written descriptions are not consistent with each other or the diagrams.
3. There is no legal documentation that the Wilsons barrier at their southern border (at our property line) pre-existed before 1975.

The Wilsons 2020 permit application for their barrier at the southern border of their property (at our property line) was denied by IDL in January, 2021. However, it has not been removed. It continues to be detrimental to Faloon's beach and adversely impacts the aesthetics of Faloon's property, the recreational use of his beach and the property value.

The Wilson's appeal for their permit should be denied.

SEE DOCUMENTATION BELOW

Below is a timeline with supporting pictures, diagrams and documents beginning in 2002. It documents the erosion of Faloon's beach due to the Wilsons barrier at the southern border of their property.

In 2002, Faloon purchased their Priest Lake cabin/property. Pictures 1A and 1B (below) were taken in 2002. Faloon owns the red boat house, dock, cabin and

property that has 75' of lake front. The Wilson's lake home and property are to the left of Faloon's boat house and are not seen in these pictures.

When Faloon purchased the property and cabin, the dock was in poor condition and needed to be replaced (see pictures 1A and 1B). There were 2 cement blocks near the shore of the dock that were part of the approach to the dock. (Greg Wilson refers to them as the "monolith".) The boat house is approximately 12'-13' wide and is located close to the northern border of Faloon's property (near the southern border of the Wilson's property). The sand on the beach in front of Faloon's boat house was good and there is no erosion. However, as is seen in picture 1A, Faloon's beach to the right (to the south) of the "monolith" (approach) and dock was eroded relative to the beach in front of the boat house.

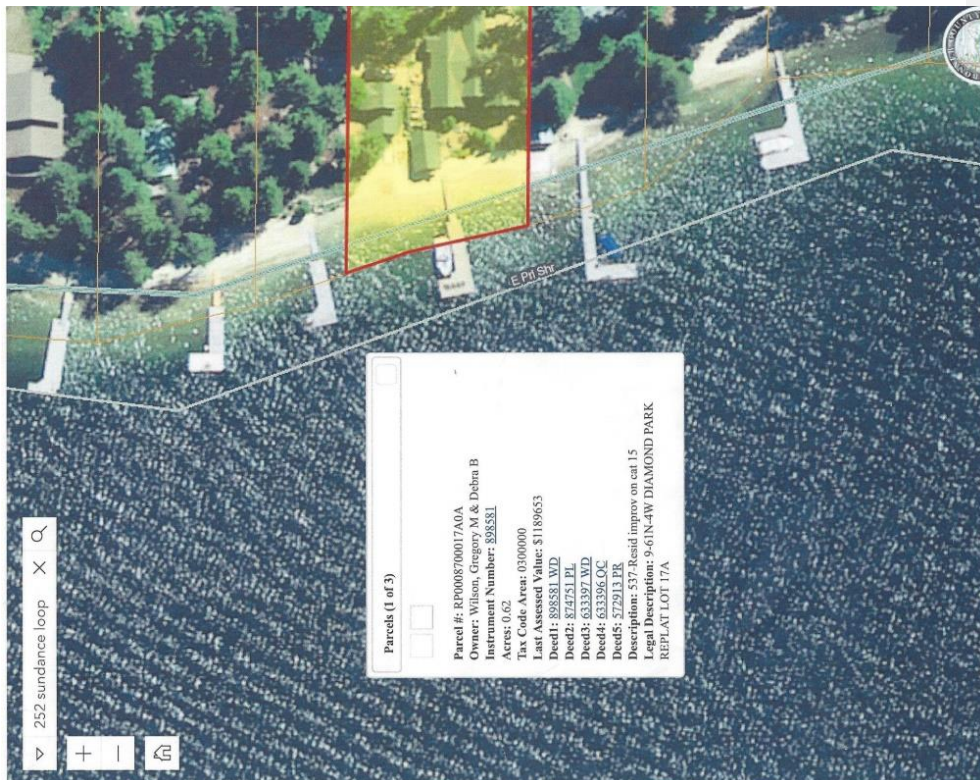


Picture 1A



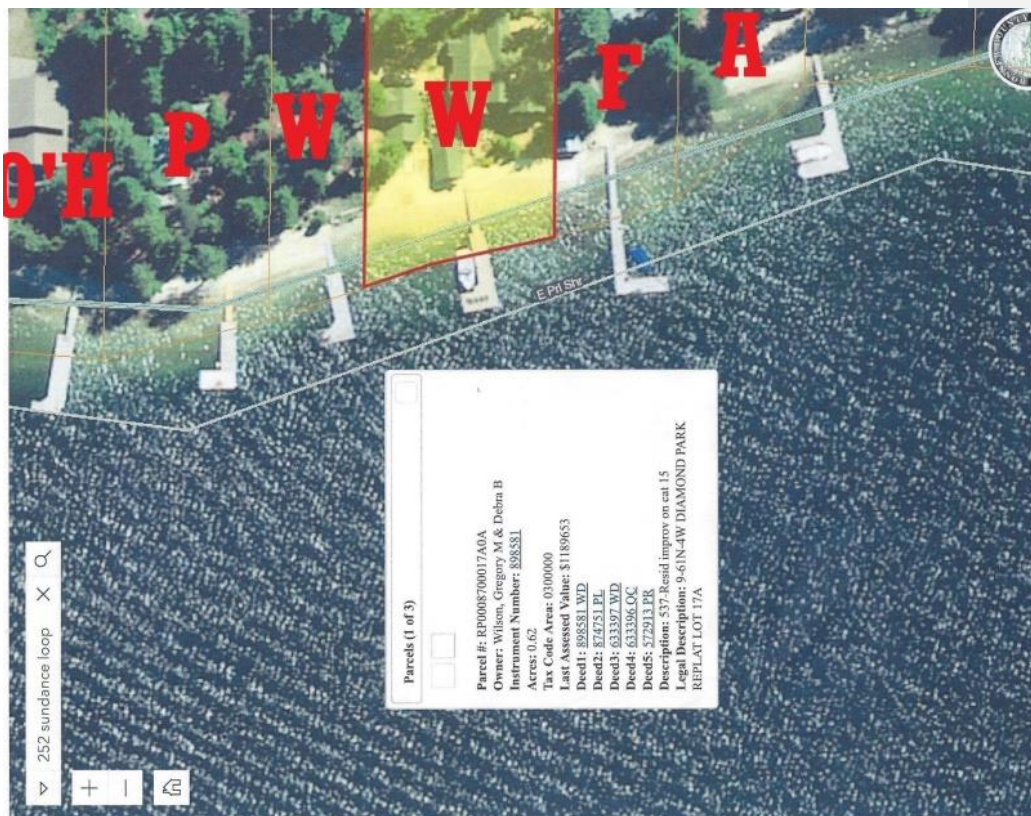
Picture 1B.

In retrospect, the erosion of Faloon's beach was also delineated in the aerial pictures that Greg Wilson provided in his 2020 permit application for rip-rap at our property line. Picture 2A is an aerial picture of the cabins, properties and shorelines in the neighborhood where our cabins are located. It was taken between 2006 or 2007 and 2018. It shows the Wilsons new cabin that was built in approximately 2006 or 2007 and the "monolith" on our beach that Faloon removed in 2018.



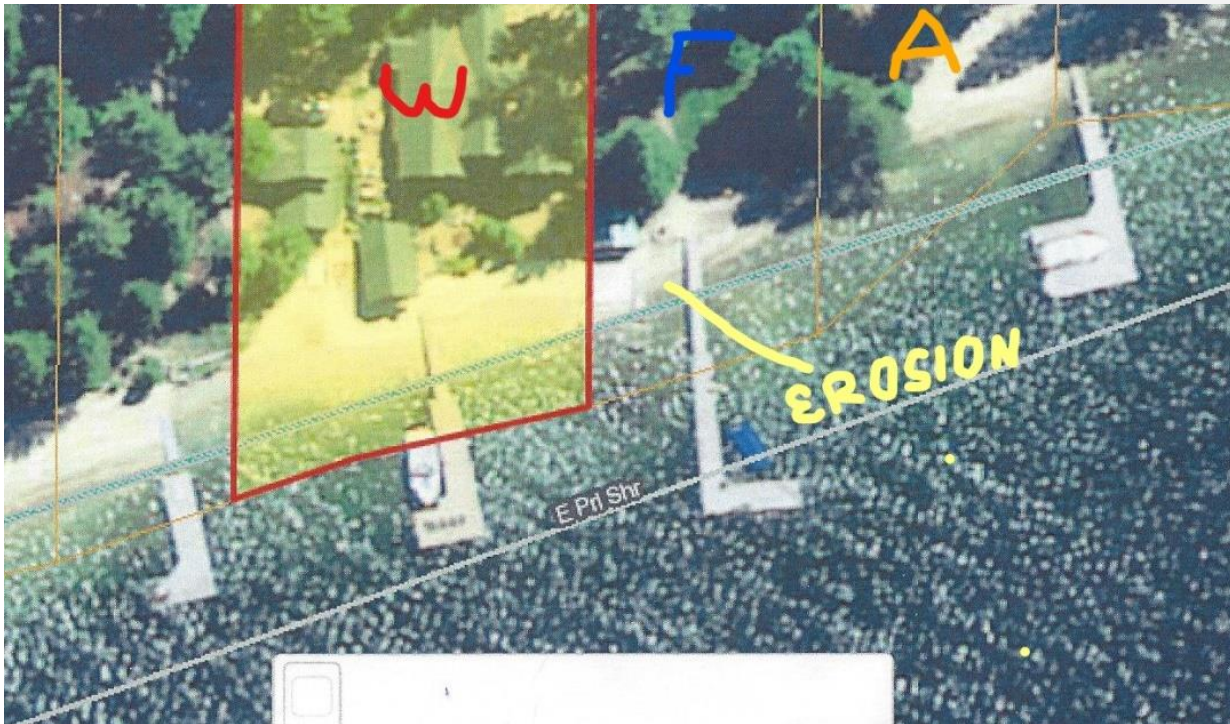
Picture 2A: Provided by Greg Wilson. Taken between 2006 – 2018

Picture 2B is the same picture as picture 2A. However, the properties are marked with the property owner's initials: O'H = O'Halloran, P = Phillips, W = Wilson, F = Faloon and A = Aspen.



Picture 2B: Provided by Greg Wilson. Taken between 2006 – 2018
 O'H: O'Halloran, P: Phillips, W: Wilson, F: Faloon, A: Aspen

Picture 2C is a magnified picture of part of Picture 2A. It includes the Wilson's, Faloon's and Aspen's properties and shorelines. It shows no erosion of the Wilson's beach. However, there is erosion of Faloon's and Aspen's beach that are to the south of the barrier ("monolith"). The "monolith" was built by the Fievez's before 1975 and was "grandfathered". The Fievez family were the previous owners of Faloon's cabin and property.



Picture 2C: Taken between 2006 – 2018. W: Wilson, F: Faloon, A: Aspen

In 2003, Faloon’s old dock and approach were replaced. The new dock and approach were placed approximately 15’- 20’ south of the old dock/approach. (See picture 3.) The 2 cement blocks (“monolith”) remained in place. However, it was nonfunctional, an impediment to the Faloons using all of their beach and an “eyesore”. In retrospect, it caused erosion of the remainder of Faloon’s beach (to the south).

In addition, there was no barrier at the Wilsons southern property line. (See pictures 3 and 4) Also, notice the Wilson’s “old” rock retaining wall that is to the left of Faloon’s red boat house. It is on their bank and runs approximately parallel to their shoreline.



Picture 3: Faloon's new dock and approach. The "monolith" is "lakeward" of Faloon's boathouse. It is nonfunctional. The Wilson do not have a barrier at our property line.

In 2003, the Wilson's purchased their property/cabin from the Ellingsons.

Picture 4 (below) was taken in 2005. It shows the Wilson's prior (green) cabin, beach, retaining wall that runs approximately parallel to their beach and their green boathouse. There is no barrier at the property line between the Wilson's property and Faloon's property.



Picture 4: Taken in 2005. This shows the Wilson's prior (green) cabin, beachfront, retaining wall that runs approximately parallel to their beach and their green boathouse. There is no barrier on the beach at the property line between the Wilson's property and Faloon's.

In anticipation of replacing their original cabin, on 04/18/2006, the Wilson's were granted encroachment permit L-97-S 1081A (see document 1- below). This was to replace and re-positioning their domestic water line.

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STATE BOARD OF LAND COMMISSIONERS
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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.

Document 1: Wilson's permit for a new water line for their current cabin. Their permit was granted on 04/18/2006. Their water line was placed (located) very close to their southern property line (next to Faloon's property)

In the permit application for their new water line, the Wilson included a diagram in their encroachment permit (see diagram 1 below). As is shown in their diagram, there is no documentation of a barrier or logs at the southern border of the Wilsons property (at the property line with Faloon). See the "large red circle" in diagram 1. This documents that the Wilson's new water line was placed very close to their property line with Faloon. No barrier is documented there.

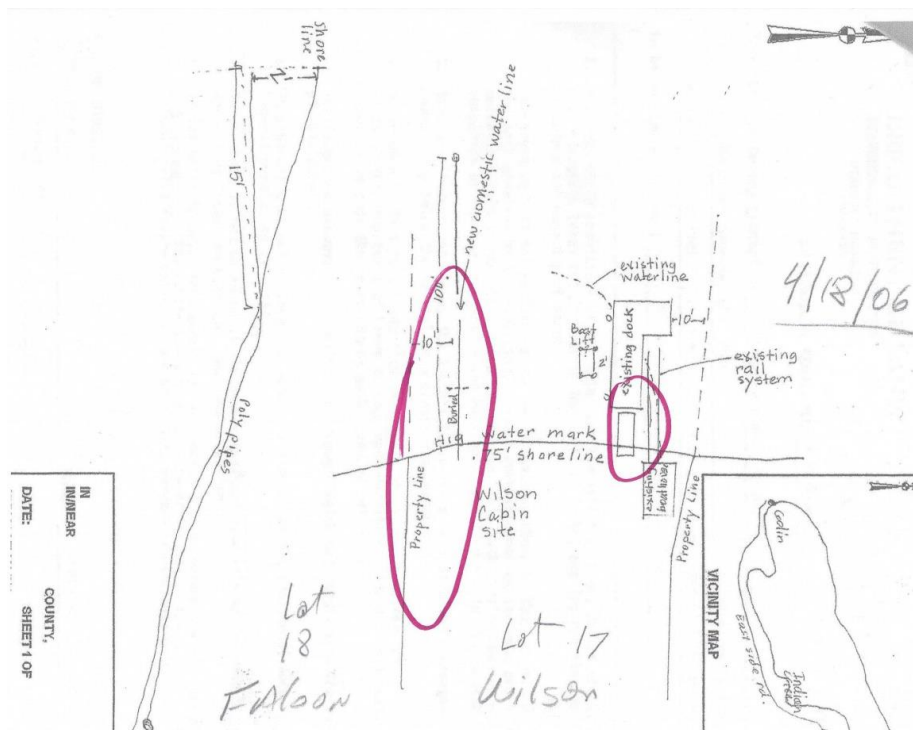


Diagram 1: From the Wilson's encroachment permit dated 4/18/06. The Wilsons were granted a permit for their water line near their southern property line (next to the property line that borders with Faloon's property). No barrier is documented at their southern border (at our property line).

In contrast, in 2021 the Wilsons were required to apply for an "after-the-fact" permit for an existing boat launch rail system on the north side of their property. On 5/10/21, Faloon received a notification about the Wilsons rail system from IDL that was dated 5/5/21. The Wilsons were required to submit a detailed diagram of their property. See diagram 2. In Diagram 2 the Wilsons drew the rock barrier (jetty) near the southern border of their property (near our property line) (**large red circle**). The logs that extend into the lake near our property line were not included. In addition, they drew in the rock barrier (jetty) under the approach to their dock (**small red circle**). This is in contrast to diagram 1 that they provided in 2006 when the barriers were not documented and did not exist.

them. IDL told Faloon that a permit or permission was not needed to remove them.

On October 27, 2018 Faloon broke up and later removed the 2 concrete blocks ("Monolith"). See Picture 5 (below). Please note the rock and log barrier that the Wilsons had placed at the property line before Faloon broke up the 2 cement blocks. Also notice the distance between the log on the Wilson's beach and their retaining wall; approximately 15 – 20 feet.



Picture 5: Taken on October 27, 2018. Faloon broke up and later removed the 2 concrete blocks ("monolith"). The Wilsons had placed rocks and a log barrier at the property line. Also notice the distance between the end of the log on their beach and their retaining wall, approximately 15 – 20 feet.

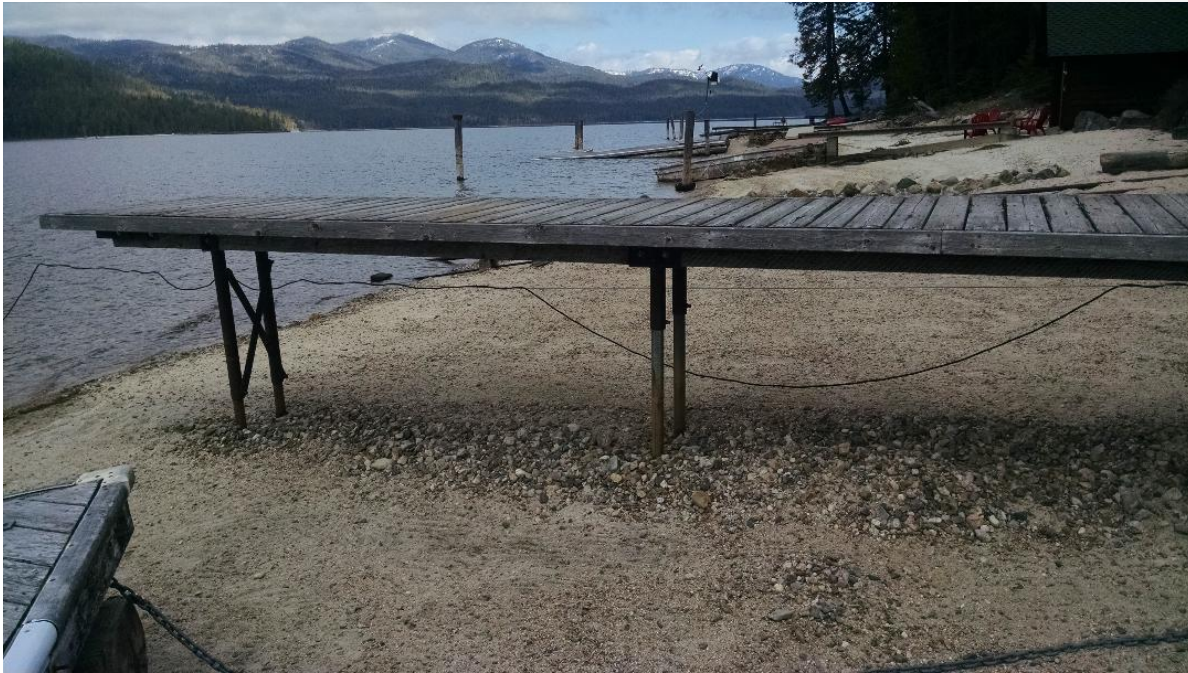


Picture 6: The cement blocks ('Monolith') were removed. Notice the Wilsons barrier at our property line.

During 2019, in order to try to improve their beach, Shelley (Faloon's partner) and Faloon spent many hours raking, shoveling and filtering rocks and sand on the beach. This was Greg Wilson's recommendation. Faloon, along with hired workers, removed rocks from his beach and took them to the dump. Simultaneously, the Wilsons enhanced the barrier at their southern (at our property line). Sand never accumulated on Faloon's beach. (See pictures 7 and 8)



Picture 7: Taken 4/19/20. Wilsons had enhanced their barrier. Faloon's beach was raked.

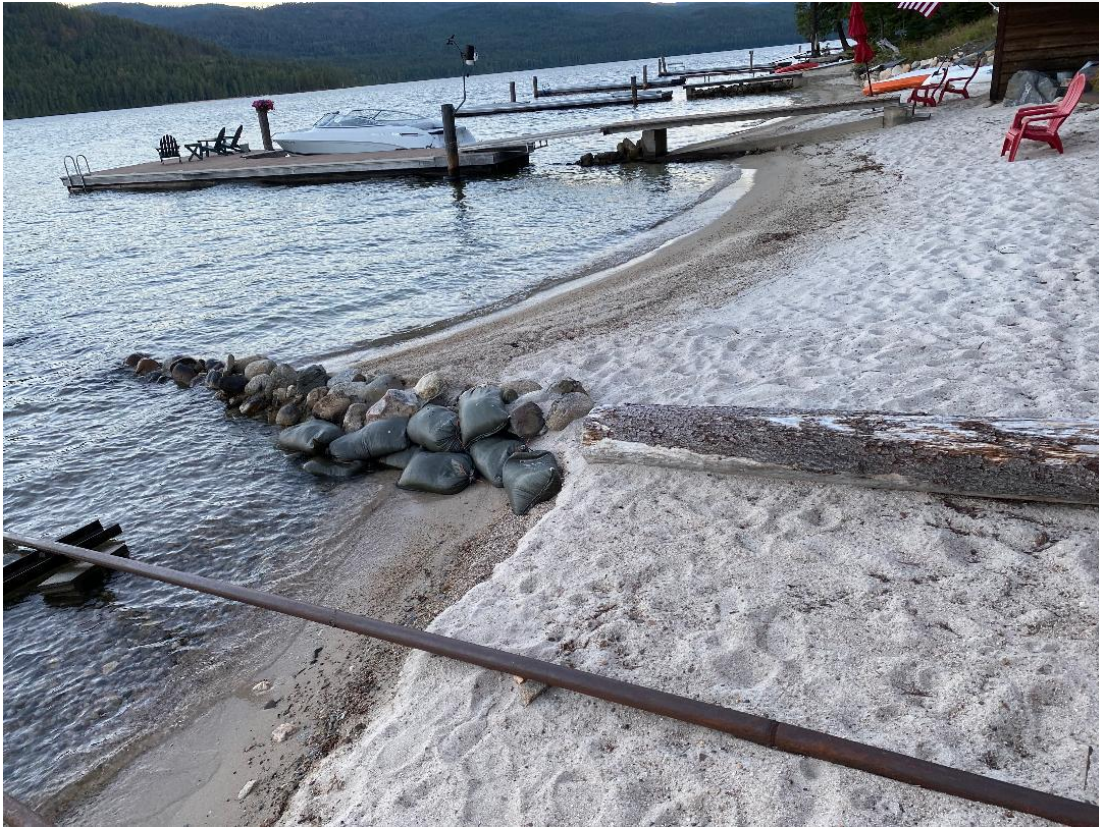


Picture 8: Taken 4/19/20. Wilsons had enhanced their barrier. Faloon had raked his beach.

In 2020, Faloon's beach continued to erode. The Wilson's had enhanced their barrier at our property line by adding sand bags and more rocks. This can be seen in pictures 9 – 13 (below). These pictures were taken on August 23, 2020 and document significant erosion to Faloon's beach.



Picture 9: Taken on 8/23/20. Shows the erosion of Faloon's beach. Also, the Wilsons had enhanced their barrier with sand bags, more rocks and moved the log on their beach much closer to their retaining wall.



Picture 10: Taken on 8/23/20. Shows the erosion of Faloon's beach. Also, the Wilsons had enhanced their barrier with sand bags, more rocks and moved the log on their beach much closer to their retaining wall.



Picture 11: Taken on 8/23/20. Shows the erosion of Faloon's beach. Also, the Wilsons had enhanced their barrier with sand bags, more rocks and moved the log on their beach much closer to their retaining wall.



Picture 12: Taken on 8/23/20. Shows the erosion of Faloon's beach.



Picture 13: Taken on 8/23/20. Shows the erosion of Faloon's beach. Also, the Wilsons had enhanced their barrier with sand bags, more rocks and moved the log on their beach much closer to their retaining wall.

The summer of 2020, Faloon continued to study and assess the erosion of his beach.

On 8/24/20, Faloon spoke with Trevor Anderson (Priest Lake IDL) about their beach erosion.

On 8/24/20, Faloon emailed Trevor:

Aug 24, 2020 11:26 am

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.

Sincerely, Bill Faloon

The following is documented by IDL in the "Notice of Filing and Service" notification from Angela Kaufmann (IDL), dated 11/30/20.

- Page 1: Sometime after Faloon's email to Trevor Anderson on 8/24/20, IDL contacted Wilson by phone and discussed their unpermitted rock barb + riprap. IDL informed Wilson 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)

9/1/20:

Faloon emailed Greg Wilson

Faloon asked Wilson to remove their barrier at our property line.

See email below:

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.

Commented [O1]: This statement is not correct. Faloon did not initially understand the flow of the lake.

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.

Commented [O2]: This is not correct. Faloon did not initially understand the flow of the lake.

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

The Wilsons later described this email (above) as being “abrasive”.

9/2/20, Faloon emailed Trevor Anderson:

Dear Trevor,

You and I talked last week about my concern about the beach erosion at my property in Diamond Park Addition. This is due to the barrier that my neighbor created.

Yesterday, 9/1/20, I sent my neighbor, Greg Wilson, an e-mail. I told him about my concern and requested that he remove the barrier of large rocks and sand bags that he put in the lake and on shore at our property lines. Hopefully this situation will be resolved amicably. If not, I will contact you and discuss what needs to be done to resolve the situation.

Thank you for your consideration.

Bill Faloon

9/4/20 or 9/5/20 (weekend):

Debra Wilson and Shelley talked over the weekend.

Debra said that it would be better if I communicate with her instead of Greg.

9/7/20 (Labor Day):

Faloon spoke with Mike + Nancy Brophy on the telephone about their property at Priest Lake. The Brophy's were the previous owners of the Wilson's northern lot (lot 16).

They did not have any pictures of the Wilson's beach or property

9/10/20:

Faloon e-mailed Greg Wilson + Debra Wilson:

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

9/11/20:

Faloon spoke w/ Zebbie Ellingson (the previous owner of the Wilson's property – Lot 17)

- Zebbie said that she did not have pictures of their cabin when they owned it.
- Zebbie did not know where her ex-husband, Chris, was. The last that she heard, Chris was in Costa Rica.

9/12/20:

Faloon and Debra Wilson spoke.

- Debra said that they thought that my email to them was “abrasive”.
- Debra said that she had pictures from 60 years ago that documented that a barrier was there and had family pictures that were taken “when the kids were young” that showed that the barrier was there.

9/15/20:

Faloon and Trevor Anderson (IDL) spoke at 9:57 AM PST.

- Faloon was working in Hawaii.
- Trevor told Faloon that Greg Wilson was going to file for a permit for a barrier.
- Trevor was going to e-mail Faloon information about shoreline stabilization and “rip-rap”.

Faloon told Trevor that he was working in Hawaii and would be in Spokane the following week and they could meet then.

9/15/20

Faloon emailed Debra Wilson:

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

Sep 16, 2020 3:54 pm

Debra Wilson emailed Faloon:

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

Debra Wilson emailed Faloon pictures that she said were from “60 years ago”. However, they were taken after 2006 or 2007. They show the Wilsons current lake home that was built in 2006 or 2007 (see Pictures 14 and 15 (below)): Pictures 14 +15 show the Wilsons new retaining wall made of large boulders. It is on their bank and runs approximately parallel to their beach. It prevents erosion of their property. Picture 14, shows the beach in front of my red boat house (in the distance). There are a few rocks at the waterline and on shore. This is the beginning of the Wilson’s barrier. There is still no beach erosion.



Picture 14: Provided by Debra Wilson.

Picture 15 (Below) 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.

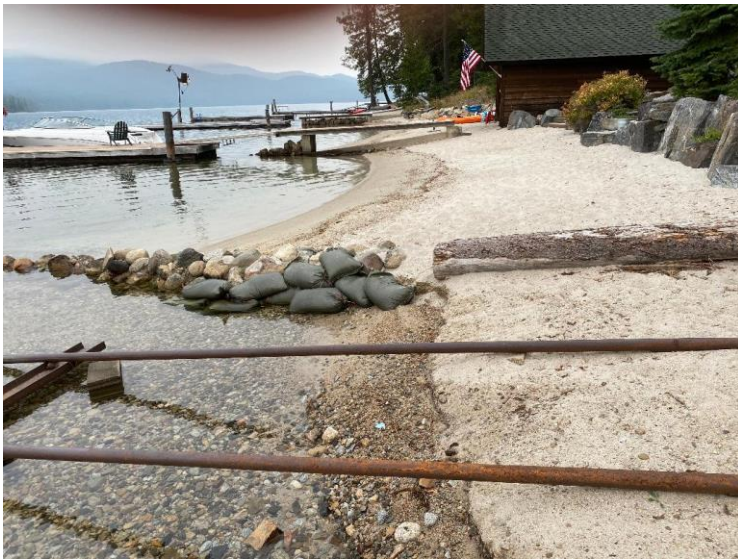


Picture 15: Provided by Debra Wilson

On 9/12/20, Faloon took pictures 16 and 17 (below) of their beach:



Picture16: Taken on 9/12/20



Picture 17: Taken on 9/12/20

During the weekend of September 27- 28, 2020, Faloon noticed that the Wilsons had added an additional sandbag to their barrier. It was in the lake. Faloon initially did not know why the sandbag was placed there. However he later realized that the Wilsons had placed it there to prevent sand from coming over from their side of the barrier to Faloon's side. Pictures 18 - 20 document this.

Picture 18 documents the additional sandbag that was put in the middle of the Wilsons barrier.



Picture 18:

Additional sandbag put in the Wilson's barrier.

Picture 19 (below) is a “close up” (magnified) picture of the sandbag in the middle of the Wilson’s barrier.



Picture 19:

Close up (magnified) photograph of the additional sandbag.

Picture 20 (below): It documents that sand had filtered through the Wilsons barrier. The Wilsons had placed the additional sandbag there to prevent more sand from going from their side of their barrier to Faloon’s side of the barrier.



Picture 20: The additional sandbag was used to prevent sand from filtering through the Wilson's barrier from the Wilson's side to Faloon's side.

Faloon realizes that he previously misunderstood the direction that the lake flows. In fact, the natural flow of the lake is from approximately north to south. Sand (and other sediment) accumulate to the north of barriers and is eroded to the south of barriers. The Wilson's barriers prevented sand from flowing to Faloon's beach and caused erosion of his shore. However, it enhanced sand accumulation on Wilson's beach.

Compare pictures 18-20 with picture 21 (below). Picture 21 was taken on August 29, 2020, approximately 1 month before pictures 18-20 were taken. Picture 21 shows that there was no additional (11th) sandbag present on August 29, 2020. In addition, at that time there was no sand on Faloon's side of the barrier.



Picture 21: Taken on 8/29/20. There is no additional sand bag and no sand coming onto Faloon's side of the barrier.

The purpose of the Wilson's barriers is to enhance the sand on their beach, not to stabilize their shoreline.

As discussed previously, and shown in picture 22 that was taken in October, 2020, the Wilsons have a large, well-constructed retaining wall made of large boulder. It runs approximately parallel to their shoreline. It stabilizes their bank and property. There is no need for an additional barrier (i.e. rip-rap) to stabilize their bank.



Picture 22: Photo taken in October, 2020. It documents the Wilson's large, well-constructed retaining wall made of large boulders runs approximately parallel to their shoreline.

On October 1, 2020, the Wilsons permit application for rip-rap was received by IDL (see below):

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 CCT 01 2020	<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	Mailing Address: 1859 N. Lakewood Dr., Suite 103		
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:					
5. PROJECT COUNTY: Bonner		6. PROJECT CITY: Coolin		7. PROJECT ZIP CODE: 83821	
8. NEAREST WATERWAY/WATERBODY: Priest Lake					
9. TAX PARCEL ID#: RPO008700017A0A	10. LATITUDE: 48.6560	11a. 1/4: SE	11b. 1/4: NE	11c. SECTION: 9	11d. TOWNSHIP: 61N
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 2009
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 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
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 REQUIREMENT: Provide contact information of ALL adjacent property owners below.

Name: William Faloon Mailing Address: S. 6518 Tomaker Ln. City: Spokane State: WA Zip Code: 99223 Phone Number (include area code): 509-869-8652 E-mail: billofispok@aol.com	Name: Phillips Keystone Inheritance Trust c/o Mary Ann Sugai, Trustee Mailing Address: 2292 Tanglewood Lane City: Emmett State: ID Zip Code: 83617 Phone Number (include area code): 208-369-0483 E-mail: lmhaun8@msn.com
Name: Mailing Address: City: State: Zip Code: Phone Number (include area code): E-mail:	Name: Mailing Address: City: State: Zip Code: Phone Number (include area code): E-mail:
Name: Mailing Address: City: State: Zip Code: Phone Number (include area code): E-mail:	Name: Mailing Address: City: State: Zip Code: Phone Number (include area code): E-mail:
Name: Mailing Address: City: State: Zip Code: Phone Number (include area code): E-mail:	Name: Mailing Address: City: State: Zip Code: Phone Number (include area code): E-mail:

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

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:

Chris Wilson

Date: 9-21-20

Signature of Agent:

Steve Syb

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
PRESTI LANE BONNER COUNTY



ENGINEERS
PLANNERS

William J. Stickle, P.E.
William J. Stickle, P.E.
11/05/03-11/05/10
11/05/03-11/05/10

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

ps://cloudgisapps.bonnercountyd.gov/public/

Powered by Esri

1/1

On 10/25/20, Faloon objected to the Wilson's permit application via email and regular mail to Trevor Anderson:

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.

(Letter continues with previously documented evidence)

December 2, 2020:

The Wilsons submitted their position statement (in response to objector's memorandum). It was supposed to be filed no later than 5:00PM PST on November 30, 2020.

On December 3, 2020: IDL hearing was held remotely via zoom

Attending the hearing was:

- IDL representatives: Andrew Smythe (Hearing coordinator), Mike Ahmer, Trevor Anderson
- Greg Wilson and his representatives (Tyler Wilson and Steve Syrcle, P.E.)
- Faloon and his representative (Mischelle Fulgham, Esq., Hannah Kitz, Esq.)

The Wilsons claimed in their permit application:

1. The purpose of their barrier included:
 - A. A brief description of the overall project
 - B. **Continue to block 18** to detail each work activity and overall project.
2. That **"each spring the lake floods between 18"- 36" above the 2,438 foot elevation (Summer pool/OHWM).** This seasonal flooding can be erosive to upland beaches." **The 3-foot rise** in the plan is designed to mitigate seasonal flooding and upland erosion."
3. A **description of how the barrier would be installed:** "the installation methodology will use manual labor carrying and hand placing rip rap stones following Priest Lakes 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.No mechanized machinery will be used during the course of construction."
"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 in the spring. The plan will minimize the potential impacts to the Waters of the United States and is in compliance of this application."
4. An **engineered plan by Steve Syrcle** that included descriptions and diagrams.

THE WILSON'S PROPOSAL FOR THE RIP-RAP INSTALLATION HAD MANY INACCURACIES, WAS NOT ACCURATE OR TRUTHFUL:

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. Faloon owns 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.

Facts:

A. From 2000 – 2020 (21 years) the lake level has been higher than 18” above the OHMW In only 2 years (2006 and 2018).

A total of 19 days over 21 years.

B. The maximum elevation it has gotten is 24” above the OHWM (for 1 day in the past 21 years)

C. I have summarized the USGS information for each year below.

The summer pool is normally at 3-3.5 feet.

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) (Below)

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.

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 4.5 feet 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. Some of the statements and descriptions of the size of the proposed barrier is not consistent with the diagrams in the proposal.

Specifically, 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 of the barrier 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 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

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 (wide) x 1 ft.(high). It is 1 ft high throughout its entire length). However, in the diagram (see Diagram 3 below) the barrier is 3 feet 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 feet long x 3 feet wide x either 3 feet or 1 feet 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 3 below) for the proposed barrier the dimensions are not consistent with the written description: Specifically, in the picture segment B to C is wider than the segment from points C to D.

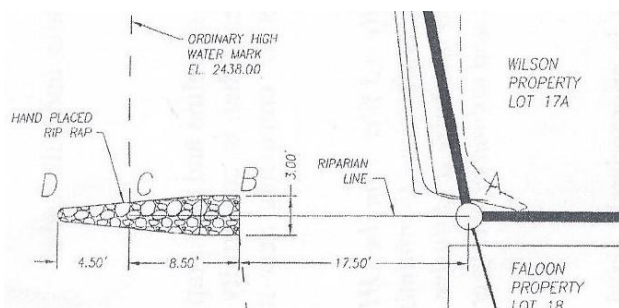


Diagram 3 (above)

Also, the other diagram (see Diagram 4 - below) in the Wilson's proposal is not consistent with the written proposal. In the written proposal, the segment from point B to point C is to be 1 foot in height throughout. However, in diagram 4 this segment gets progressively higher (taller) from point B to point C.

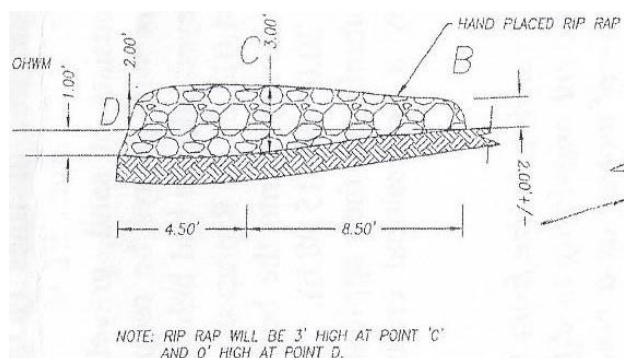


Diagram 4 (above)

In order to understand the magnitude of the Wilson's proposed barrier, Faloon built full scale models of the Wilson's proposed barrier. He then placed the models on the shore at the proposed places (as per Mr. Syrcle's descriptions) at our property line. Faloon then took pictures of it.

- One model is the size of the proposed segment B to C. It is 8.5 feet long x 1 foot wide x 1 foot high.
- The other model is the size of the proposed segment C to D. It is 4.5 feet long x 3 feet wide x 3 feet high.
- Faloon went to his beach and measured and marked the proposed placement of the barrier.

Please see the pictures and descriptions below.

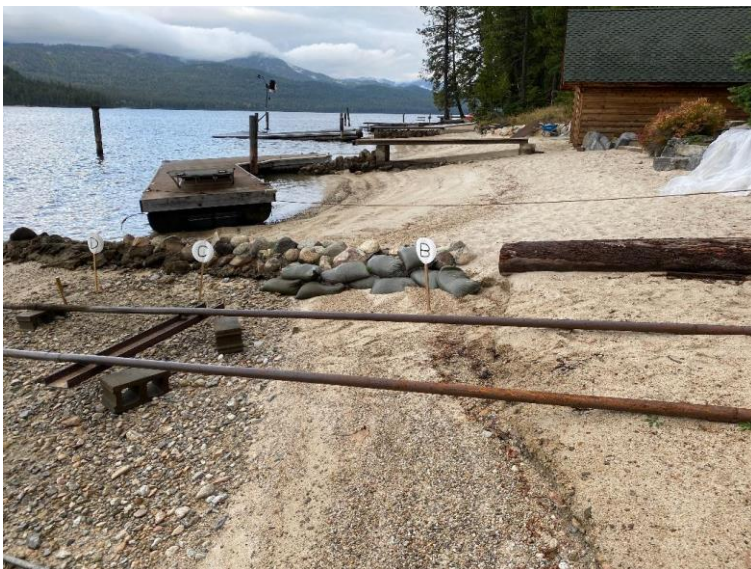
Pccture 23: Point A is at the SW corner of the property.



Picture 23: Point A: SW corner of property

Picture 24 documents that:

- Point B is 17.5' west of the SW corner
- Point C is 8.5' west of Point B
- Point D is 4.5' west of point C



Picture 24

Faloon then put the models in place:

- From Point B to Point C, the model is 8.5' long x 1' wide x 1' high.
- From point C to Point D, the model that is 4.5' long x 3' wide x 3' high.

Please see pictures 25 - 28 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 Faloon's model because his beach has eroded and the model is resting at a lower level.



Picture 25



Picture 26



Picture 27



Picture 28

The Wilson's proposed barrier will, in fact, be larger and create more erosion to Faloon's beach than the current barrier that does not have a permit. It will require frequent monitoring by Faloon and the IDL. This may possibly require Faloon and IDL to have frequent and recurrent discussions, meetings and possibly legal assistance involving the Wilsons.

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 Wilson's 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. Any seasonal elevation of Priest Lake does not selectively adversely affect the Wilson's beach. It affects the entire shore of Priest Lake which is 72 miles long.
2. The Wilsons already have a large, well-constructed retaining wall that is made of large boulders on their bank that protects their property.
3. The engineering plan for the Wilsons proposed barrier is flawed and had numerous inconsistencies and inaccuracies.
4. The Wilsons proposed barrier would be larger than what they have already created, which does not have a permit.

5. The only reason that the Wilsons built 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 Faloon's beach.
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 rocks, sand bags and logs that does not have a permit. This is according to Trevor Anderson and the Idaho Dept. of Lands regulations. Trevor Anderson told them to remove it.

Faloon requested that the Wilsons remove the barriers at our property line and under the approach and ramp to their dock on Lot 17 to allow the natural flow of the lake to be restored.

After Faloon and his representatives completed their presentation, Mr. Wilson made the following comments:

- Greg Wilson said : (this is verbatim from the hearing transcript:
 - **Wilson said:** "Bonner County actually assesses an additional property value for sandy beaches. And if you owned property on Priest Lake, you'll easily see that sandy beaches command a huge premium."
 - 7/19/21: Faloon spoke w/ Cory Gabel of Bonner County Assessor's Office (208-265-1433). Faloon and Gabel discussed tax assessment at Diamond Park Addition (DPA), where Faloon's cabin is located. Gabel is responsible for assessing properties in DPA. The beaches of DPA properties are assessed using "mass appraisals of the beach" from the O'Hallaron's property (to the north) to the Aspen's property (to the south). They do not provide individual property appraisals. The Wilson's do not pay higher tax rates for their shoreline than Faloon, or anyone else in DPA, on a per foot of beach basis!!
 - **Wilson said:** "What's happening to me is I'm losing a beautiful sandy beach that's been there long before I bought it. And I just don't want it to erode south and go away, because it will just eat up a big piece of real estate. I mean, it is my deeded real property. And I don't want IDL to say, you know, "Wilson, tear this down. You don't need it." You know, this is like a taking. I mean, I have a very valuable asset that's been there, and I want to preserve that."
 - **Wilson said:** "There was an aerial photograph before 2000 that will tell you anything. I've reached out to the Rouse family that owned

this in '58 and '60. The Rouses, they're -- a lot of these people are gone, and their grandkids didn't have anything, so I had some trouble. I mean, I don't want to have to hire private investigators and go to NASA and get photographs to try and prove this."

- **Wilson said:** "I have no problem bringing this into compliance, but I really need something to protect this new southern boundary, which I believe is solely the result of the removal of the monolith."
- **Mischelle Fulgham said:** "Mr. Wilson has fully admitted the reason he wants this encroachment is because his sand is going away and his tax assessed value is impacted due to sand or lack of sand on his property. That valuation, that sand-going-away concern, does not meet the IDAPA standards 20.03.04.030.03. The sand going away does not protect navigation, fish wildlife habitat, any of those standards that are set out in the administrative code."
- **Mischelle Fulgham said:** "There's no legal authority for his assertion that the Faloon's cement blocks have caused the need for his encroachment, rocky jetty."
- **Mischelle Fulgham said:** "In order to receive a permit for a rocky jetty, the applicant must prove that the installation benefits the public."
- **Mischelle Fulgham said:** "Any grandfathered status has been grossly exceeded, altered, and expanded. So we're not dealing -- that's not part of the application. That's not part of their claim. But the pictures clearly show that what they're doing now exceeds the scope of anything that existed previously, particularly back in 2003."
- **Mike Ahmer said:** "I would just like to note to the hearing officer that in order for it to be considered grandfathered, it would have to remain unmodified since January, 1975."
- **Mike Ahmer said:** "Bank barbs are generally not allowed as they have the potential to disrupt natural sand flow along the lake or river shoreline and can result in sedimentation for some properties where rocks can become unusable without dredging activities or scouring for other properties where they lose their beach sand and gravels."

- **Wilson said:** “So let's just say, you know, you deny my application. You want me to take it out. What's going to happen to my lot? My lot corner is going to look like Faloon's. It's going to erode away. And I think that's wrong.”
- **Wilson said:** “This erosion resulted from the removal of the monolith. And he and I both need to have ripraps to protect what remaining beach we have. He needs to do it, too, to preserve that beautiful sandy beach that he has 10 feet in front of his boathouse.”
- **Wilson said:** “You know, and it also has an economic value, because if you own property on Priest Lake, as I've said before, that sandy beach has value. It's taxed. And personally, for me, it's the most valuable piece of deeded real estate I own, is my sandy beach. And if I'm not permitted to protect it from this wave action that's resulting from Bill's removal of the monolith, then I really think you'd do a disservice to me in denying me the right to protect my property.”
- **Wilson said:** “All those pictures of rocks with the low lake level, those used to be above the ordinary high water mark. They didn't require permission, but now they do, because in the last two years I have a new southern boundary that's being hammered by wave action. Now I need protection and Bill needs protection.”
- **Wilson said:** “And the impact of me putting 4 and a half feet into the lake far outweighs me having 15 feet under the water. I don't think that does me any good. And it's a lot of work to get it out. And maybe those cedar logs that Fieves talked about, maybe those are the -are the ones that are installed in the lake bed. I don't know. A lot of these people are gone.”
- **Wilson said:** “I mean, so all I can say is I need help. And I'm willing to walk away from any claims that there's anything grandfathered and fix it. But if you make me remove this completely I'd lose -- I will lose a significant piece of value. My beach will erode to gravel, you know, like Bill's is eroding to gravel. All that sand on top there that you see in front of his garage, that's from -- that's from high water erosion off my lot, 6, 8 inches, you know.”

- **Wilson said:** “You know, I’m really sorry he has eroded, but he needs to do something now. Because I guarantee you next spring he’s going to lose 3 feet of that. And he can have my sandbags that are under that tarp to throw out there to get temporary protection until he gets a permit. But I just need help. I need a solution.”
- **Wilson said:** “You know, I went to IDL looking for a solution. I want this resolved quickly so I don’t have to waste the emotional energy on this. I don’t want to be angry at Bill. I don’t want to be bitter.”
- **Wilson said:** “I don’t want to think that he (Bill) caused me all these problems finding these little issues, I mean, and we’ve played tit-tat here, you know. But he’s doing it to me by complaining about, under my dock there’s a little protrusion which wasn’t there.”
- **Wilson said:** “You’re right. It’s not. I’ll permit it , if that’s what it takes. But it’s so small and makes no difference in the greater picture of life on the lake. But if you guys want me to pull this thing out, just give me some place to put it, because I’m not hauling it up the hill. And I will spend untold sums of money to defend it if I have to go the grandfather route, because that property is valued at two and a half million dollars.”

Dec. 23, 2020:

- IDL denied Wilson’s permit application.

2021

1/4/21:

Faloon received the Final Order that Wilson’s permit application was denied.

1/5/21:

Faloon spoke with Trevor Anderson (IDL)

- Faloon spoke with Trevor about the original determination was for the Wilsons to remove the barrier but this was being referred to the IDL Public Trust Program for further investigation.
- Trevor said that Mike Ahmer was in charge of the Priest lake region. Trevor said to “wait and see” if the Wilsons file an appeal.

1/9/21

Faloon emailed Greg + Debra Wilson, (Copy sent to: Trevor Anderson (IDL) and Mike Ahmer (IDL):

Dear Greg and Debra,

I hope that you had a nice holiday season, are well and healthy. I hope that you are enjoying your new home in Spokane.

I received and reviewed the Final Order concerning your encroachment permit.

As I said from the beginning of this process, it is not my desire to be confrontational. I would like to resolve this amicably, remain friends and enjoy being at the lake. I think all of us have a common goal and desire; to enjoy the lake, including our beaches and being friends.

Since we have not communicated recently I do not know what your current thoughts or plans are.

After I reviewed the Final Order notice, I spoke with Trevor Anderson. We discussed a proposal that I have to possibly help minimize any changes to your beach when the barrier is removed. Trevor recommended that I document my proposal and send it to you, him and Mike Ahmer. If you are receptive to it, he and Mr. Ahmer may consider, and possibly approve, it.

The goal of my proposal is to remove the barrier but to minimize changes to your shoreline so that all of us can enjoy our beaches/shorelines. It is not my desire to create a permanent barrier on my property.

The proposal would need approval from the Idaho Dept. of Lands or other supervising governmental agency.

Proposal:

1. It would be my responsibility to remove the barrier at our property line. However, to minimize changes to your shoreline, the barrier would temporarily be moved progressively southward (discussed below).
2. Initially, before the water level of the lake is raised this year, I would remove the current barrier and use some of the rocks to create a temporary barrier approximately 15 - 20 feet south and parallel to our property line. It would probably be smaller than the current barrier but may have to be modified as needed. The goal of this temporary barrier would be to minimize changes to your beach/shoreline by allowing sand to accumulate to the north of the barrier. The rocks and other materials that are not used to build the temporary barrier would be put on the open area on my property between our cabins or somewhere else that is mutually acceptable.
 - A. This temporary barrier would be in place for approximately 1 year.

- B. I would document the barrier with pictures and communicate with members of the Idaho Dept. of Lands or other supervising governmental agency.
3. Approximately one year later, I would be responsible to move the temporary barrier another, approximately 15 - 20 feet southward. Therefore it would be approximately 30 - 40 feet south of our property line and approximately parallel to it. Again, it would probably be smaller than the current barrier but may have to be modified as needed. The goal of this temporary barrier would be to minimize changes to your beach/shoreline by allowing sand to accumulate to the north of the barrier.
- A. This temporary barrier would be in place for approximately 1 year.
- B. I would document it with pictures and communicate with members of the Idaho Dept. of Lands or other supervising governmental agency.
4. Approximately one year later, (2 years into the process) I would be responsible to move the temporary barrier another, approximately 15 - 20 feet southward. Therefore, it would be approximately 45 - 60 feet from our property line. Again, the goal of this temporary barrier would be to minimize changes to your beach/shoreline by allowing sand to accumulate to the north of the barrier.
- A. This temporary barrier would be in place for approximately 1 year.
- B. I would document it with pictures and communicate with members of the Idaho Dept. of Lands or other supervising governmental agency.
5. Approximately one year later, (3 years into the process) I would be responsible to move the temporary barrier another, approximately 15 -20 feet southward. Therefore it would be approximately 60 feet from our property line. Since the length of my shoreline is approximately 75 feet, if the barrier is too close to my southern property line (with my neighbors, the Aspens) it would be removed completely. I do not want to adversely affect the Aspen's shoreline/beach.
- A. If built, the temporary barrier would be in place for approximately 1 year.
- B. I would document it with pictures and communicate with members of the Idaho Dept. of Lands or other supervising governmental agency.
6. By no later than 4 years after this process begins, no barrier is allowed.
- The goals and possible benefits of this proposal are:
1. To minimize change to the Wilson's shoreline and allow the natural shoreline to gradually be restored.
 2. Faloon is responsible for doing the work, sparing the Wilson's from the time, effort and possible financial burden of removing the barrier.
 3. No cost to the Wilsons.

4. Faloon is responsible for moving the barrier each year, documenting it and communicating with the Idaho Dept. of Lands or other governmental agency as deemed necessary.
5. Ultimately, barriers are not allowed on our beaches/shorelines as delineated by the regulations of the Idaho Department of Lands or other approved governmental agency.
6. Not to be detrimental to the shoreline of my neighbors to the south, the Aspens.
7. To be amicable neighbors.

I hope that you will consider this proposal.

Thank you.

Sincerely,
Bill Faloon

1/10/21: Debra Wilson emailed Faloon,
Hi Bill!

Thank you for reaching out and continuing to seek resolution. We appreciate the effort you put into your proposal. We will include your proposal among our options to consider.

We continue to work on our fixer upper and hope to have it livable sometime in February. It will be nice to have a comfortable place to stay when we come in from the lake, and a house suitable for our retirement years.

I hope you are enjoying your time in Hawaii. I'm happy that Shelley will be able join you for a much needed break after her long quarantine over Christmas!

Debra

1/27/21: Faloon emailed Trevor Anderson

- Faloon asked that he be updated if the Wilsons file an appeal to the final order decision.

1/27/21: Trevor Anderson emailed Faloon:

- Trevor said that he would notify Faloon if he hears that the Wilsons filed an appeal to the final order.

February 2, 2021: **WILSONS FILED APPEAL #1**

- Wilsons filed an appeal (via Magnuson Esq.) for the IDL hearing decision on Dec. 23, 2021.
- John Magnuson Esq., filed a "Petition for Judicial Review" of the Final Order for the Wilsons (see below)

JOHN F. MAGNUSON
Attorney at Law
P.O. Box 2350
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Coeur d'Alene, ID 83814
Phone: (208) 667-0100
Fax: (208) 667-0500
ISB #04270

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GREGORY M. and DEBRA B.)	
WILSON,)	
)	Case No. _____
Petitioner,)	
)	PETITION FOR JUDICIAL REVIEW
IDAHO STATE BOARD OF LAND)	
COMMISSIONERS; IDAHO)	FEE CATEGORY: L.3.
DEPARTMENT OF LANDS; WILLIAM)	
FALOON)	FEE: \$221
)	
Respondents.)	
_____)	

COME NOW, the Petitioners named above (hereinafter referred to as "Petitioners"), by and through their attorney of record, John F. Magnuson, and hereby petition the Court for judicial review of a Final Order of the State of Idaho, through the State Land Board Commissioners and the Idaho Department of Lands (collectively, "IDL"). This Petition for Judicial Review is made pursuant to the Idaho Administrative Procedures Act (I.C. § 67-5201, et seq.); the Lake Protection Act (I.C. §58-1301, et seq.); IRCP 84, and other applicable law. This Petition for Judicial Review

PETITION FOR JUDICIAL REVIEW - Page 1 of 9

is made from a Final Order dated January 4, 2021. The subject Order denied an encroachment permit application (assigned IDL No. L-97-S-1081B), under which Petitioners sought authorization to permit riprap on Priest Lake.

I. PARTIES.

1. Petitioners own littoral property in Bonner County, Idaho on Priest Lake. The property owned by Petitioners is the subject of the application for an encroachment permit No. L-97-S-1081B (the "Requested Permit").

2. Respondent William Faloon ("Faloon") owns property in Bonner County, Idaho which is adjacent to Petitioners' property.

3. Respondent State of Idaho and the Idaho State Board of Land Commissioners have authority, pursuant to the Lake Protection Act (I.C. §58-1301, et seq.) and the regulations adopted thereunder, for the administration of permits related to encroachments on navigable waters in the State of Idaho. Priest Lake is a navigable waterway.

4. Respondent Idaho Department of Lands ("IDL") has the delegated responsibility for administering the provisions of the Lake Protection Act, and the regulations adopted thereunder, regarding the issuance of encroachment permits on navigable waters in the State of Idaho.

5. On or about October 1, 2020, Petitioners filed an encroachment permit application with IDL seeking authorization to permit riprap on Priest Lake. Respondent Faloon ("Respondent") objected to the application filed by Petitioners.

6. On December 3, 2020, a contested case hearing was held regarding Petitioners' application.

II. JURISDICTION AND VENUE.

7. On January 4, 2021, Respondent State of Idaho, Idaho State Land Commissioners, and the Idaho Department of Lands (collectively, "IDL") issued the subject order, which is a final order for purposes of judicial review.

8. Jurisdiction and venue are proper for this Petition for Judicial Review pursuant to the Lake Protection Act (I.C. §58-1306, et seq.) and the Idaho Administrative Procedures Act (including, but not limited to the Idaho Code §67-5270(2)).

III. FACTUAL ALLEGATIONS.

9. Petitioners own littoral property in Bonner County, Idaho on the shore of Priest Lake.

10. On or about September 10, 2020, Petitioners met with IDL Staff at the Cavanaugh Bay office seeking assistance with an encroachment permit application. The IDL staff provided a copy of their Bank Stabilization brochure.

11. Petitioners engaged Tri-State Consulting Engineers, professional engineers, to design a bank stabilization plan utilizing shoreline riprap rock near Petitioners' south lakefront boundary.

12. On or about September 21, 2020, Petitioners filed an application with IDL seeking authorization to build in conformity with the bank stabilization plan utilizing riprap. That application was noticed to Respondent Faloon, who objected to the application as Petitioners' adjacent littoral property owner on Priest Lake.

13. A true and correct copy of Petitioners' application is attached hereto as Exhibit A.

14. Respondent alleged that Petitioners' bank stabilization plan adversely affected his littoral property. Respondent requested that the Petitioners' application be denied.

15. On November 10, 2020, Dustin T. Miller, Director of IDL, issued a "Notice of Appointment of Hearing Coordinator and Public Hearing" ("Notice"). A true and correct copy of the notice is attached hereto as Exhibit B.

16. Pursuant to the "Notice", the Director appointed Andrew Smyth to be the Hearing Coordinator and scheduled the hearing on December 3, 2020.

17. On December 3, 2020, the parties appeared before Hearing Officer Smyth as scheduled. Petitioner Gregory Wilson submitted evidence and argument. Steven Syrcle, Petitioners' professional engineer, presented evidence and argument. Respondent Faloon appeared by and through legal counsel Mischelle Fulgham and submitted evidence and oral argument.

18. At the December 3, 2020 hearing, IDL submitted argument and evidence. IDL staff, who had previously advised Petitioners to file for a riprap permit, reversed their earlier position arguing that Petitioners' proposed riprap was not a riprap but rather a bank barb which is disfavored by IDL.

19. On December 23, 2020, pursuant to the authority delegated under the "Notice", Hearing Officer Smyth, issued a Preliminary Order.

20. On January 4, 2021, the Director of the IDL issued the Final Order. A true and correct copy of the Final Order, including the Preliminary Order, is attached hereto as Exhibit C. Petitioners' application was denied.

21. The Hearing Officer characterized Petitioners' application as seeking a jetty rather than riprap because the plan called for extending riprap on Petitioners' southern lakefront riprap lakeward 4.5 feet. This 4.5 feet was an attempt to perform work on a portion of a pre-existing rock/log crib that predated the Lake Protection Act. The Hearing Officer made an incorrect factual finding regarding the 8.5 feet of cobblestone riprap along 100% of Petitioners' new southern

PETITION FOR JUDICIAL REVIEW - Page 4 of 9

beachfront. The Hearing Officer stated that the 8.5 ft section of proposed riprap follows the previous owner's pre-existing crib. The previous owner's rock crib lays under the proposed 4.5 ft section, not the 8.5 ft section of proposed riprap. Petitioners testified that cobblestones on this 8.5 ft section were placed at a time when they were upland of the AHWL and formerly set upon Petitioners' upland beach. Since 2019, after the OHWL was established some 129 years earlier, the upland beach has eroded this 8.5 foot section thereby exposing the formerly upland cobblestones to erosive wave action. The sandbags were added in response to the 2019-2020 shoreline erosion caused by Respondent Faloon's removal of a concrete pier off of his property. The historic shoreline was influenced and altered by Respondent Faloon's removal of man-made works. Additionally, the Hearing Officer concluded that Petitioners' primary purpose of the proposed encroachment "is to retain accumulated sand rather than aid in navigation." as stated in the application. At no place in the application did Petitioners state the primary purpose of the proposed encroachment was to retain accumulated sand but rather to mitigate erosion of Petitioners' beachfront. The photographic evidence from 2002 and 2003 presented by Respondent Faloon shows no visible change in Petitioners' or Respondent's beach sand until the 2019-2020 summer erosion. IDL recognizes that riprap is a preferred method of mitigating shoreline erosion. Petitioners' application sought to prevent additional shoreline erosion precipitated by Respondent Faloon's 2018 removal of a concrete pier which caused conditions that destabilized and eroded Petitioners' beach.

22. The Hearing Officer stated that "the record plainly shows that as the Applicant (Wilson) built up the jetty, the erosion to the south of the jetty began and increased." There is no record of this alleged fact. To the contrary, Petitioner Greg Wilson and Respondent Faloon both testified

that there was no erosion along their common lakefront boundary (4.5 foot jetty/riprap) prior to Faloon's removal of the concrete pier in 2018. The record shows no erosion prior to 2018.

23. The Hearing Officer stated that Petitioners' "attempt to blame Dr. Faloon's removal of the concrete pier as being the sole cause of the erosion of [Petitioners'] shoreline is misplaced." The record states otherwise. Dr. Faloon stated, "Greg is correct the monolith [concrete pier] whatever, did protect the beach." The record shows there was no shoreline erosion prior to Faloon's removal of the concrete pier. Neither Petitioners nor Respondent testified as to any beach erosion due to the 4.5 foot jetty prior to 2019.

24. The Hearing Officer stated that the Petitioners' application "does not request permission to place riprap material along the shoreline" and that "the record does not contain evidence that erosion is occurring at the Applicant's shoreline." The Application states, in paragraph 15, the riprap's purpose was to "reduce shoreline erosion." The engineered stabilization plan drawing depicts an 8.5 foot section of "new southern shoreline" caused by erosion. The record contains several visual representations of shoreline erosion along this 8.5 foot section which the Officer has mistakenly termed "pre-existing rock crib" when referring to the 8.5 foot section. Prior to 2019, this 8.5 foot section was previously located on Petitioners' historic upland sandy beach lying above the Priest Lake summer pool elevation of 2,437.64 msl.

25. The Hearing Officer stated that the OHWM depicted in Petitioners' Application does not contain the true representation of the Priest Lake OHWM due to man-made works. The OHWM of Priest Lake was influenced by a dam constructed in 1950 at Outlet Bay. The subsequent altered summer elevation of Priest Lake is more accurately termed the Artificial High Water Mark (AHWM) (I.C. 58-1302(d)). The AHWM shown on Petitioners' application is a representation of the summer pool elevation 2,438 feet above sea level. The State of Idaho has defined the ordinary

high water line of Priest Lake as elevation 2437.64 (I.C. 70-507). The Petitioners' application does contain a true representation of the Priest Lake AHWL as depicted on Petitioners' Engineer's Bank Stabilization Plan.

26. The Hearing Officer concluded that Petitioners had not shown, by a preponderance of the evidence, that Petitioners' 4.5 foot jetty did not adversely impact Respondent's littoral rights thereby completely ignoring the Respondent's direct and proximate cause of the erosive actions by his 2018 removal of the concrete pier. This conclusion placing all the blame on Respondents' contradicted substantial evidence and expert testimony. Hearing Officer Smyth's conclusion was unsupported by the evidence and in error as a matter of law.

IV. REQUEST FOR RELIEF.

27. Petitioners incorporate herein as though set forth in the full allegations contained in Paragraphs 1 through 26 above.

28. Pursuant to the Lake Protection Act and the Idaho Administrative Procedure Act, including, but not limited to I.C. §67-5270(2) et seq., Petitioners have the right to seek judicial review of a final agency action in the form of IDL's Order.

29. IDL's decision, purporting to find that Petitioners did not establish erosion in the proposed riprap area justifying its usage, and was contrary to facts and law for each of the following non-exhaustive reasons:

- IDL's decision was not supported by substantial evidence on the record.
- IDL's decision was arbitrary, capricious and an abuse of discretion.
- IDL's decision was contrary to law, in the form of IDL regulations and Idaho Supreme Court precedent.

30. Petitioners are entitled to an award of reasonable attorney's fees and costs as incurred herein and as provided by Idaho law (including, but not limited to I.C. §12-117).

31. Petitioners have exhausted all administrative remedies.

32. Venue is appropriate in accordance with the terms of I.C. §67-5272 and §58-1305.

33. The filing of this Petition is timely under I.C. §67-5270 and I.C. §58-1305.

V. REQUEST FOR PREPARATION OF AGENCY RECORD.

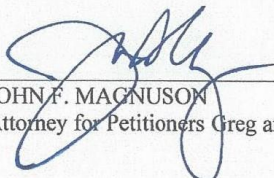
34. Petitioners request that the Idaho Department of Lands proceed to prepare the Agency Record for judicial review in a timely manner as required by I.C. §67-5275.

VI. PRAYER FOR RELIEF.

WHEREFORE, Petitioners pray for relief as follows:

1. For entry of an order vacating and reversing IDL's decision, and remanding the matter for further consistent proceedings,
2. For an award of reasonable attorney fees and costs incurred herein, pursuant to Idaho law, including, but not limited to I.C. §12-117; and
3. For such other and further relief as the Court deems just and equitable.

DATED this 2nd day of February, 2021.



JOHN F. MAGNUSON
Attorney for Petitioners Greg and Debra Wilson

February, 2021

- **Faloon filed an opposition to the petition for judicial review.**

2/23/21: William W. Faloon Jr.'s Response to the Wilson's Petition for Judicial Review concerning their permit for riprap on Priest Lake.

Faloon's responses to each of the numbered paragraphs contained in Greg and Debra Wilson's Petition is below.

21. The Hearing Officer characterized Petitioners' application as seeking a jetty rather than riprap because the plan called for extending riprap on Petitioners' southern lakefront rip-rap lakeward 4.5 feet. This 4.5 feet was an attempt to perform work on a portion of a pre-existing rock/log crib that predated the Lake Protection Act. The Hearing Officer made an incorrect factual finding regarding the 8.5 feet of cobblestone riprap along 100% of Petitioners' new southern beachfront. The Hearing Officer stated that the 8.5 ft section of proposed riprap follows the previous owner's pre-existing crib. The previous owner's rock crib lays under the proposed 4.5 ft section, not the 8.5 ft section of proposed riprap. Petitioners testified that cobblestones on this 8.5 ft section were placed at a time when they were upland of the AHWL and formerly set upon Petitioners' upland beach. Since 2019, after the OHWL was established some 129 years earlier, the upland beach has eroded this 8.5 foot section thereby exposing the formerly upland cobblestones to erosive wave action. The sandbags were added in response to the 2019-2020 shoreline erosion caused by Respondent Faloon's removal of a concrete pier off of his property. The historic shoreline was influenced and altered by Respondent Faloon's removal of man-made works. Additionally, the Hearing Officer concluded that Petitioners' primary purpose of the proposed encroachment "is to retain accumulated sand rather than aid in navigation." as stated in the application. At no place in the application did Petitioners state the primary purpose of the proposed encroachment was to retain accumulated sand but rather to mitigate erosion of Petitioners' beachfront. The photographic evidence from 2002 and 2003 presented by Respondent Faloon shows no visible change in Petitioners' or Respondent's beach sand until the 2019-2020 summer erosion. IDL recognizes that riprap is a preferred method of mitigating shoreline erosion. Petitioners' application sought to prevent additional shoreline erosion precipitated by Respondent Faloon's 2018 removal of a concrete pier which caused conditions that destabilized and eroded Petitioners' beach.

Faloon's Response: *I disagree with the explanation above.*

Please review the Wilson's original proposal which includes the engineering proposal by Steve Syrcle P.E. (Exhibit A in the Wilson's appeal, dated February 2, 2021.)

The petitioners (Wilson's) have never provided any documentation or evidence that a "rock/log crib" or cobblestones existed at our property line that pre-dated the Lake Protection Act. Petitioner (Greg Wilson) began describing a "wooden or rock crib" during the hearing on 12/3/20. Prior to the hearing on 12/3/20, including in the Wilson's encroachment permit application dated October 1, 2020,

the Wilson's never provided any discussion or documentation of a pre-existing crib or cobblestones.

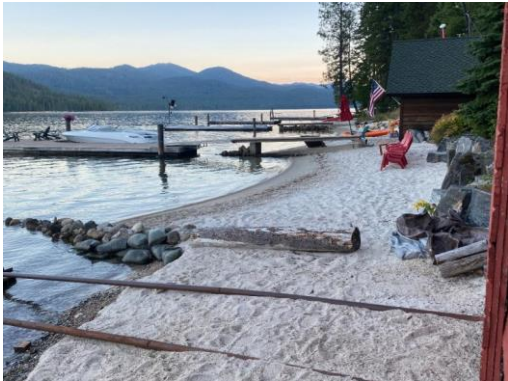
On Sep. 12, 2020, Debra Wilson told me that the Wilsons had pictures from 60 years ago that showed that there was a barrier at our property line. However, the Wilson's never provided documentation of it. As is documented in e-mails that I sent to Greg and Debra Wilson on 9/10/20, 9/15/20 and 9/19/20 (see attached documents) I requested that they send me the pictures that Debra told me about. However, they never sent me any pictures or other documentation of a pre-existing barrier. In addition, at the hearing on 12/3/20, Greg Wilson never presented proof or documentation of a pre-existed crib. He simply talked about it.

At the hearing on 12/3/20, I presented written documentation from the previously owner of my cabin and property, Gary Fievez. The Fievez family owned my property and cabin from 1965 until 2002, when I purchased it. Gary stated that there was no rock barrier at the property line when they owned the property.

I also have phone records that document that I spoke with the previous owner of the Wilson's property, Zebbie Ellingson, as well as Michael Brophy, the previous owner of the Wilson's other lot (Lot 16). Both Zebbie and Mike had no pictures or other documentation of a barrier being at our property line.

In addition, I also tried to contact family members of Mr. Red Rouse. Mr. Rouse owned the Wilson's property before the Ellingsons. He has passed away. However, just as Greg Wilson said at the hearing on December 3, 2020, relatives of the Rouses were not able to be located.

In this paragraph (2.1 above) and at the hearing on Dec. 3, 2020, Greg Wilson described a "new southern border" on his property. However, "a new southern border" on the Wilson's shore does NOT exist. The accumulation of sand at our property line is due to the barrier that the Wilsons created. Please see picture 1 (below) which was taken in 2020. To get oriented, the picture is looking north. The shore is on the east. The southern end of the Wilson's shore transitions to become the northern end of my shore. As seen in picture 1, there is no "new southern border" other than what was created by the Wilson's barrier.



Picture 1 – This picture is looking north, the shore is on the east. No “new southern beach” exists except what developed because of the Wilsons barrier.

Also, Article 2.1 (above) states that the Wilson’s wanted to create the proposed encroachment to “mitigate erosion of their beachfront and not to retain accumulated sand”. This is not correct. The Wilson’s already have a well-constructed retaining wall that consists of large boulders that runs approximately parallel to their beach (see picture 2 - below). It provides excellent protection against erosion of their property. Since they purchased their property (in approximately 2003), they have never had any property or beachfront erosion. The hearing officer was correct. The only purpose of the Wilson’s barrier at our property line is for sand to accumulate on their beach. That is why the Wilson’s have built a second rock barrier under the approach to their dock (see picture 3 – below) on lot 17. Again, the sole purpose of these barriers is for sand to accumulate on their beaches. Neither of these barriers have permits from the IDL.



Picture 2 – Wilson’s well-constructed rock retaining wall runs approximately parallel to their beach.



Picture 3: Showing the rock barrier underneath the end of the Wilson's approach to their dock on lot 17.

22. The Hearing Officer stated that "the record plainly shows that as the Applicant (Wilson) built up the jetty, the erosion to the south of the jetty began and increased." There is no record of this alleged fact. To the contrary, Petitioner Greg Wilson and Respondent Faloon both testified that there was no erosion along their common lakefront boundary (4.5 foot jetty/riprap) prior to Faloon's removal of the concrete pier in 2018. The record shows no erosion prior to 2018.

Faloon's Response: *This is not correct.*

Fact: *Where our properties are located on Priest Lake, a solid barrier that is perpendicular to the shoreline and extends into the lake can cause sand to accumulate to the north of the barrier while sand to the south of the barrier erodes.*

This is apparent on the Wilsons property. They have 3 barriers:

- 1. The barrier at our property line.*
 - 2. A barrier under the approach to their dock on the lot where their cabin is located (lot 17).*
 - 3. A barrier under the approach to their other dock that is on their lot (lot 16) to the north of their cabin. This barrier is the only barrier that has a permit from the IDL. It was obtained by the previous owner, Michael Brophy.*
- The concrete blocks on my shore caused sand to accumulate to the north. This is in front of my boathouse and on the Wilson's shore. However, the sand on my beach to the south of the concrete blocks had eroded. This is documented in the Arial pictures (see pictures 4 and 5- below) of our properties that were provided by the Wilsons.*

The concrete blocks were constructed by the Fievez's family, the previous owner of my cabin and lot. Gary Fievez is not sure when they were built. It is assumed that they were built before 1978 since they do not have a permit and were "grand fathered".

I removed the concrete blocks in October, 2018 because they were non-functional, an eye sore and limited use and access to my entire 75 feet of lakefront. This includes the beach in front of my boat house and the rest of my beach.

There is no law or restriction that prohibits a property owner, including me, from removing a barrier on their shore or beach.

After I removed the concrete blocks the Wilsons enhanced their barrier at our property line. This included adding more rocks and sandbags. This is apparent if you compare picture 7 (below), that was taken on October 29, 2018, with picture 8, which was taken approx. 2 years later, on August 9, 2020. Picture 7 was taken after the majority of my concrete blocks had been removed. Note the size of the Wilson's barrier and that the end of the log on shore is approximately 10-12 feet away from their retaining wall. No "wooden or rock crib" is present.

In Picture 8, that was taken approximately 2 years later, the log on the Wilson's beach has been moved closer to their retaining wall. The end of the log is approximately 2-3 feet away from their retaining wall (while on October 29, 2018 it was approximately 10-12 feet away). Additional rocks and sand bags have been added to enlarge and reinforce the Wilson's barrier.

Picture 9 was taken on October 10, 2020, after the lake level had been lowered. It documents that the Wilson's barrier has been enlarged and reinforced with rocks and sand bags compared to on October 29, 2018 (Picture 7). By enlarging their barrier, the Wilsons enhanced the sand on their beach and caused erosion of my beach.



Picture 7:

Taken on October 29, 2018. Note the size of the Wilson's barrier. The end of the log on shore is approximately 10-12 feet away from their retaining wall. No prior "wooden or rock crib" is present.



Picture 8: Taken on

August 9, 2020. The log on the Wilson's beach has been moved closer to their retaining wall. The end of the log is now only approximately 3 feet away from their retaining wall. Additional rocks and sand bags have been placed to enlarge and reinforce the Wilson's barrier.



Picture 9:

Taken on October 10, 2020. This show the Wilson's barrier when the lake level has been lowered. The Wilsons have enlarged and reinforced their barrier with rocks and sand bags. This is apparent when comparing this picture with picture 7 that was taken 2 years previously, on October 29, 2018. The barrier of rocks and sandbags is approx. 23 -25 feet long. The log is approx. 7-8 feet long. The entire length of the barrier is approx. 30-33 feet.

23. The Hearing Officer stated that Petitioners' "attempt to blame Dr. Faloon's removal of the concrete pier as being the sole cause of the erosion of [Petitioners'] shoreline is misplaced." The record states otherwise. Dr. Faloon stated, "Greg is correct the monolith [concrete pier] whatever, did protect the beach." The record shows there was no shoreline erosion prior to Faloon's removal of the concrete pier. Neither Petitioners nor Respondent testified as to any beach erosion due to the 4.5 foot jetty prior to 2019.

Faloon's Response: *The 4.5 foot jetty is not correct. See picture 9. The Wilson's barrier at the property line is approximately 30-33 feet long. This includes the 23-25 foot barrier made of rocks and sand bags and the log on shore which is approximately 7-8 feet long.*

As discussed previously the concrete blocks caused sand to accumulate on the beach to the north, including my beach near my boat house and on the Wilson's Beach. However, there was erosion of my beach to the south of the concrete blocks.

Since removing the concrete blocks the Wilson's have enhanced their barrier that has caused erosion of my beach.

Debra Wilson, in trying to be a good neighbor, prevent conflict and, in her words, prevent Greg from being "an attorney", volunteered to help me build a barrier on my property similar to their barrier so that sand would accumulate on my beach. This included filling sand bags like those that they used at their barrier. This is documented in my e-mail to Greg and Debra on 9/10/20 (see attached). At the hearing on 12/3/20, Greg also said that he was going to work on my beach to prevent erosion.... This documents that both of them knew that the cause of my beach erosion was from their barrier.

24. The Hearing Officer stated that the Petitioners' application "does not request permission to place riprap material along the shoreline" and that "the record does not contain evidence that erosion is occurring at the Applicant's shoreline." The Application states, in paragraph 15, the riprap's purpose was to "reduce shoreline erosion." The engineered stabilization plan drawing depicts an 8.5 foot section of "new southern shoreline" caused by erosion. The record contains several visual representations of shoreline erosion along this 8.5 foot section which the Officer has mistakenly termed "pre-existing rock crib" when referring to the 8.5 foot section. Prior to 2019, this 8.5 foot section was previously located on Petitioners' historic upland sandy beach lying above the Priest Lake summer pool elevation of 2,437.64 msl.

Faloon's Response:

As documented previously, there is no "new southern shoreline" other than from the barrier that the Wilsons created. Please see picture 1. It documents that no "new southern shoreline" exists or was caused by beach erosion.

The Wilson's have not provided any documentation of a prior barrier including an 8.5 foot section.

There is no documentation of a pre-existing 8.5 foot section of rock crib.

The Priest Lake summer pool level did not change from before 2019 until now.

25. The Hearing Officer stated that the OHWM depicted in Petitioners' Application does not contain the true representation of the Priest Lake OHWM due to man-made works. The OHWM of Priest Lake was influenced by a dam constructed in 1950 at Outlet Bay. The subsequent altered summer elevation of Priest Lake is more accurately termed the Artificial High Water Mark (AHWM) (I.C. 58-1302(d)). The AHWM shown on Petitioners' application is a representation of the summer pool elevation 2,438 feet above sea level. The State of Idaho has defined the ordinary high water line of Priest Lake as elevation 2437.64 (LC. 70-507). The Petitioners' application does contain a true representation of the Priest Lake AHWM as depicted on Petitioners' Engineer's Bank Stabilization Plan.

Faloon's Response: *The OHWM is defined by the state of Idaho. The engineers bank stabilization plan developed by Steve Syrcle has many flaws, inaccuracies and contradicts itself. The OHWM is defined by the state of Idaho, not by an individual property owner or engineer. The Wilson's engineer is not correct in his representation of the OHWM.*

26. The Hearing Officer concluded that Petitioners had not shown, by a preponderance of the evidence, that Petitioners' 4.5 foot jetty did not adversely impact Respondent's littoral rights thereby completely ignoring the Respondent's direct and proximate cause of the erosive actions by his 2018 removal of the concrete pier. This conclusion placing all the blame on Respondents' contradicted substantial evidence and expert testimony. Hearing Officer Smyth's conclusion was unsupported by the evidence and in error as a matter of law.

Faloon's Response: *Disagree*

3/9/21:

Faloon emailed Mike Ahmer (IDL) and Trevor Anderson (IDL)

- Faloon reviewed:
 - Wilson's barrier was denied
 - Faloon's proposal to the Wilsons – Remove their barrier and gradually move it south over several years to minimize damage to their beach.
 - The Wilsons did not accept Faloon's proposal.
- Since the Wilsons permit was denied by IDL, Faloon requested that the Wilsons barrier be removed by May 15, 2021 (to prevent further erosion of Faloon's beach).
- Faloon offered to assist the Wilsons in removing the barrier or remove it himself.

Dear Mr. Anderson and Mr. Ahmer,

I hope that both of you are well and healthy.

I am writing to you concerning the barrier that the Wilson's have created at our property line. As you may know, after the hearing on Dec 3, 2020, the IDL denied the Wilson's permit to build a riprap barrier or jetty at our property line. After the decision I emailed both of you a copy of an email that I sent to Debra and Greg Wilson. I proposed to them what I thought was a reasonable solution to the problem, pending your approval. My proposal was for me to remove the Wilson's barrier and build a temporary barrier on my shore about 15-20 south of our property line. I would move the temporary barrier south approximately 15 feet each year for about 4-5 years. After that it would be removed completely. My goal was to minimize the change to the Wilson's beach. However, the Wilson's did not accept my proposal and have filed an appeal to the IDL's decision.

I have responded in opposition to their appeal. However, the process of making a final decision on this matter may take many months. Since the Wilson's existing barrier has not been permitted, I am requesting that they remove it, preferably by May 15, 2021. Currently, since the lake level is low, the Wilson's barrier is not causing any damage to my shore. However, when the lake level is raised in the spring, further erosion to my beach is likely to occur. To prevent this, I am requesting that the Wilson's non-permitted barrier be removed before the lake level rises. I am happy to assist the Wilson's in removing it or, if given legal permission, to remove it by myself without their help. Another option is for the Wilson's to accept my proposal, as outlined above, and I will do all of the work in moving the barrier south (pending your approval).

Feel free to contact me if you have any questions, concerns or suggestions.

Thank you for your consideration and assistance.

Sincerely, Bill Faloon

3/9/21:

Trevor Anderson (IDL) emailed Faloon:

- Trevor said that since the Wilsons filed a "Petition for Judicial Review", it was premature for IDL to order the Wilsons to remove their barrier.

This is to the detriment of Faloon's beach even though IDL ruled that the Wilson's barrier was not permitted.

Apr 22, 2021 at 3:21 PM

Magnuson emailed Kaufmann and Fulgham

Subject: Wilson v. IDL/Faloon

To: Kaufmann, Angela

Angela and Mischelle,

My clients have determined to withdraw their pending petition for review. Enclosed is a stipulation and order for dismissal. Unless you believe the stipulation needs any changes, please sign the same and return to me. I will file the stipulation and lodge the order. Thank you.

John Magnuson

JOHN F. MAGNUSON
Attorney at Law
P.O. Box 2350
1250 Northwood Center Court, Suite A
Coeur d'Alene, ID 83814
Phone: (208) 667-0100
Fax: (208) 667-0500
ISB #04270

Attorney for Petitioner

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GREGORY M. and DEBRA B.)	
WILSON,)	
)	Case No. CV09-21-0140
Petitioner,)	
)	STIPULATION RE: ORDER OF
IDAHO STATE BOARD OF LAND)	DISMISSAL
COMMISSIONERS; IDAHO)	
DEPARTMENT OF LANDS; WILLIAM)	
FALON,)	
)	
Respondents.)	
_____)	

Petitioners Wilson, by and through their attorney of record, John F. Magnuson; Respondent William B. Faloon, by and through his attorney of record, Mischelle R. Fulgham; and Respondents State Board of Land Commissioners and Idaho Department of Lands, by and through their attorney of record, Angela Schaer Kaufmann, hereby stipulate as follows:

STIPULATION RE: ORDER OF DISMISSAL- Page 1 of 3

1. On January 4, 2021, the Idaho Department of Lands, through Director Dustin T. Miller, entered a Final Order. A copy of the Final Order is attached as Exhibit C to the Petition for Judicial Review filed in this matter on February 2, 2021.
2. On February 2, 2021, Petitioners Wilson filed a "Petition for Judicial Review," initiating this proceeding.
3. All Respondents have since appeared through their respective attorneys of record.
4. On March 24, 2021, the Court entered its "Notice of Briefing Schedule."
5. The parties stipulate to entry of an "Order of Dismissal," in the form attached hereto as Exhibit A.

THE PARTIES SO STIPULATE.

DATED this ____ day of April, 2021.

JOHN F. MAGNUSON
Attorney for Petitioners Greg and Debra Wilson

DATED this ____ day of April, 2021.

MISCHELLE R. FULGHAM
Attorney for Respondent Faloon

STIPULATION RE: ORDER OF DISMISSAL- Page 2 of 3

DATED this ____ day of April, 2021.

ANGELA SCHAER KAUFMANN
Deputy Attorney General
Attorney for Respondents Idaho State Board of
Land Commissioners and Idaho Department of
Lands

Apr 26, 2021

Fulgham emailed Magnuson and Kaufmann

Subject: Re: Stipulation

To: Kaufmann, Angela

Cc: John Magnuson < Wills, Rebecca < Vega, Joy <

John and Angela,

I will follow up with my client and get back to you later this week.

Is Mr. Wilson going to remove the unpermitted encroachment now?

Mischelle R. Fulgham, Attorney

5/19/21:

- **Wilsons (via Magnuson) Stipulation RE: Order of Dismissal. Signed by Lamont Berecz (District Judge) and all parties.**

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GREGORY M. and DEBRA B. WILSON,
Petitioner,

Case No. CV09—21-0140

IDAHO STATE BOARD OF LAND
COMMISSIONERS;
IDAHO DEPARTMENT OF LANDS;
WILLIAM FALON,
Respondents.

ORDER OF DISMISSAL

The Court, being fully advised in the premises, and based upon the parties' Stipulation, hereby orders that Petitioners' "Petition for Judicial Review," filed February 2, 2021, shall be, and the same hereby is, dismissed with prejudice and without an award of fees or costs to any party.

IT IS SO ORDERED.

DATED; **5/19/2021 9:51:12 AM**

LAMONT BERECZ, District Judge

4/28/21:

Faloon emailed Greg + Debra Wilson:

Dear Greg + Debra,

I hope that you are well.

As per your attorney, John Magnuson, you entered an order of dismissal for your legal action for your barrier that is on the shore at our property line. The legal action was against the 3 respondents; Idaho Dept. of Lands, Idaho State Board of Land Commissioners and me, William Faloon. However, it is not documented in your entry and Mr. Magnuson has not legally stated if you will be removing the barrier. Also, it is not documented when you will remove it.

Last year, when we began the discussion about your barrier on the shore at our property line, Debra told Shelley that both of you were going to do "what Trevor Anderson (from the IDL) decided and that she would not let Greg "be an attorney voice" ". Greg, you told Shelley that you "were a Christian and would do the right thing." Since then Mr. Anderson, the Idaho Department of Lands and the Idaho State Board have ruled that the barrier is not permitted.

Please answer the following questions so that we can hopefully move forward to resolve this issue. Since the beginning of our discussion (mostly via e-mails) it has been my desire to remain friends and amicable neighbors.

1. Are you going to remove your barrier on the shore at our property line? Yes or No

2. Please tell me your time-line on when you plan on removing it.

I am willing and able to help you remove it if it is done in a timely fashion.

I previously offered a suggestion to help minimize shoreline erosion. However, you have not expressed interest in my proposal. As I explained, I would have to get approval from the IDL and/or Trevor Anderson. Please respond by May 1, 2021.

Thank you. It is my desire to have a mutually enjoyable summer, relationship and remain friends.

**Sincerely,
Bill Faloon**

4/29/21:

Greg Wilson emailed Faloon

- (In response to Faloon's e-mail to the Wilsons on 4/28/21 - the previous day):**

Bill:

John Magnuson filed a motion with the Court to dismiss the appeal. Prior to that, he had submitted a Stipulation (agreement) to Dismiss our appeal with IDL's Angela Kaufmann and your attorney. Angela signed the stipulation. Apparently, you refused through your attorney. Your attorney filed your response brief instead apparently preferring to continue the case. This brief was filed even though there was no brief to respond to because of the motion to dismiss. Now a hearing must be scheduled and argued, sometime in May, for the dismissal. Just more attorney's fees.

Until the case appeal is dismissed, I will refrain from any side discussions. Once the Dismissal Order is entered, I will personally meet with you and openly discuss the matter. No more hiding behind email, okay?

I will meet with you at the lake on Saturday May 1 or later, if you will agree to the Stipulation. The decision is yours alone.

Greg

P.S You said, "Greg, you told Shelley that you "were a Christian and would do the right thing." I am pleased to comment on this sentence. You define Christianity as "doing the right thing". For me, in the context of the IDL Order, as a follower of Jesus, that means following 1 Peter 2:13 which states: "Therefore submit yourselves to every ordinance of man for the Lord's sake, whether to the king as supreme, or to governors." Even before the proposal to dismiss the appeal, we submitted ourselves to IDL and its Order in the Spirit of Reconciliation. Deb and I met with Trevor Anderson and Mike Ahmer today via Zoom in the interest of establishing and maintaining the peace between us. One of them will call you. I hope their proposal is acceptable to you. We began removing the southern boundary stones earlier this month and will continue to do so again this weekend.

4/29/21:

Mike Ahmer and Trevor Anderson had a zoom meeting with the Wilson's. The Wilson's said that they would start removing the rock/fill material from the barrier the following weekend (5/1-5/2). However, they requested to have until Dec 1, 2021 to complete the work due to rising lake levels + having a hard time finding help/labor to do the work.

4/30/21:

Mike Ahmer, Trevor Anderson and Jennifer Baker met with the Wilson's at their property. The fill material had already been removed all the way down to the existing logs that were part of the pre-existing crib that was allowed to remain. Mr. Wilson agreed to move the sand bags + rocks further up shore in the event that they are still located below the OHWM once the lake reaches the summer pool elevation.

IDL determined that the Wilson's complied with the final order.

April 30.2021:

- Ahmer filed a "Public Trust Project Inspection Report" that said that the Wilsons had removed some of the barrier at the property line. However, they had until December 1, 2021 to remove it.



Public Trust Program Inspection Report

Inspection Data	Inspection Time (hrs)	Related instrument(s) (include instrument type & number)
Body of water: Priest Lake	Preparation: .25	
Inspection date: 04/30/2021	Travel: 1.75	L97S1081B
Type: <input checked="" type="checkbox"/> Quality Assurance	Inspection: .25	PH-2020-PUB-10-001
<input checked="" type="checkbox"/> Complaint	Report: .5	
<input checked="" type="checkbox"/> Application Review, #:	Total: 2.75 hr	

Name of Instrument Holder/Responsible Party:

Gregory and Debra Wilson

Location of Inspection:

32 Black Cap Lane
RP0008700017A0A

On-site representative(s):

Name: Greg and Debra Wilson

Name:

Title:

Title:

Phone:

Phone:

Email:

Email:

Narrative (Describe who, what, when, where, why, and how):

Mike Ahmer (Resource Supervisor), Trevor Anderson (Resource Specialist, Sr – Priest Lake) and Jennifer Barker (Resource Specialist - Mica) visited the site on April 30, 2021 to perform an inspection to review the fill material the Wilson's were required to remove following the Final Order for PH-2020-PUB-10-001.

On October 1, 2020, IDL received an application from Gregory and Debra Wilson for riprap on their property. Both an adjacent neighbor and IDL objected to the application and a Public Hearing was held on December 3, 2020. During the hearing IDL stated the riprap more closely resembled a bank barb or jetty as it was protruding perpendicular to shore as opposed to along the shoreline like typical riprap projects. The Final Order on the Public Hearing was for the application to be denied, to remove all fill, whether natural or man-made that has been placed on top of the lakebed (with the exception of the pre-existing crib as it existed before 1975).

On April 29, 2021, Mike and Trevor had a Zoom meeting with the Wilson's to discuss the Final Order. The Wilson's indicated they would start removing the existing rock/fill material the following weekend (5/1+5/2), but requested to have until December 1, 2021 to complete the work due to rising lake levels and having a hard time finding help/labor for the work. A meeting was set for April 30, 2021 for both IDL and the Wilsons to meet on site and be on the same page as it related to the material that needed to be removed in order to comply with the Final Order.

On April 30, 2021, Mike, Trevor and Jennifer met Greg and Debra Wilson at the Wilson property. When IDL arrived the fill material had already been removed all the way down to the existing logs that were part of the pre-existing crib that was allowed to remain. Sand bags and rocks appeared to have been moved above the ordinary high water mark (OHWM) on the Wilson property. Mr. Wilson has agreed to move the sand bags and rocks further upshore in the event that they are still located below the OHWM once the lake reaches its summer pool elevation. IDL has determined that the Wilson's complied with the Final Order.



Public Trust Program Inspection Report

Summary of Findings:

- ☒ No issues of concern identified.
☐ The following issue(s) of concern were identified (include citation and brief description):

Attachments:

Photos

Final Order PH-2020-PUB-10-001

Inspector's Signature:

Mike Ahmer 5.6.21

Name:

Mike Ahmer

Title/Office:

Resource Supervisor

Date:

05/06/2021

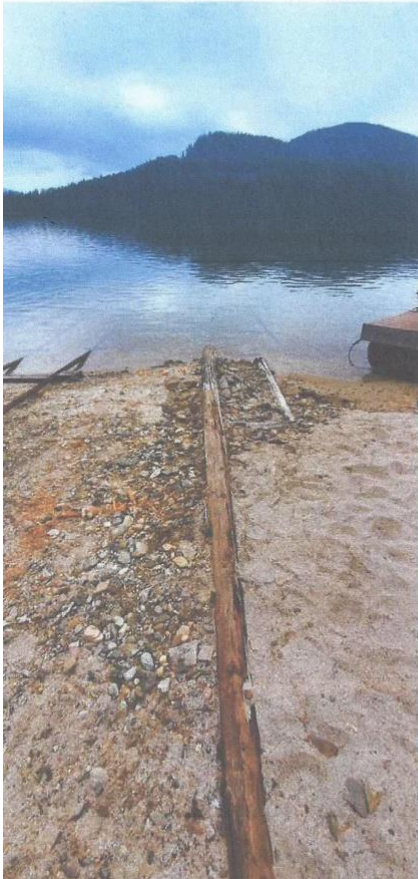


Public Trust Program Inspection Report





Public Trust Program Inspection Report



5/3/21: Faloon emailed the Wilsons

Dear Greg and Debra,

Thank you for your e-mail.

Shelley and I were in Hawaii last week. I was working and did not have time to respond to your email.

Mischelle Fulghum forwarded the stipulation to dismiss your appeal to me last week. It did not state that you were going to remove the barrier. Mischelle contacted your attorney, John Magnuson, twice. She specifically asked him if the barrier was going to be removed. Mr. Magnuson never informed the courts or answered Mischelle that it was going to be

removed. Therefore, I agreed with her that we should not sign the stipulation until we receive written documentation from you or Mr. Magnuson that the barrier was going to be removed with a defined time line. I emailed you and Debra on 4/28/21 to clarify your plans.

During our court hearing in December, 2020 Greg said several times that he would "spend any amount of money" concerning this issue. Greg and Mr. Magnuson are versed in the legal rights at Priest Lake. Greg has legally represented clients in Diamond Park with shoreline property disputes. In 2017, Mr. Magnuson represented Mr. Phil Hudson in a very similar case at Priest Lake in front of the Idaho Supreme Court (State of Idaho, Idaho State Board of Land Commissioners and IDL vs Hudson). The Idaho Supreme Court ruled against Mr. Magnuson and Mr. Hudson and in favor of the other parties. Trevor Anderson previously said that the barrier was not permitted. The IDL and the Idaho State Board of Land Commissioners agreed with him. You decided to appeal the decision anyways.

As I said from the beginning, I wanted to resolve this amicably. I offered options to resolve it but you elected to pursue other options. I never wanted legal proceedings.

Mike Ahmer called me after the zoom meeting that he had with both of you and Trevor Anderson last week. I was unaware of this meeting until Mr. Ahmer contacted me. He reviewed what was discussed and that you had agreed to remove the barrier. He and I talked about many aspects of the barrier including my previous proposals to both of you. He said that you were looking into hiring a crew to begin removing the barrier. I told him, just as I told you several times, that I was willing to help remove it. He was going to call you after our conversation and reiterate this.

Mr. Ahmer plans to email me a copy of the documents from the zoom meeting. I will review them ASAP.

Mischelle Fulghum and I plan to sign the stipulation once the barrier is removed. I am undecided about how to handle the legal expenses that I have incurred due to your decisions about your barrier. Mischelle and I are in discussion. These do not take into consideration the many hours of my personal time. All of this is oversand! Crazy and ridiculous!!

Greg, since this issue began you have not responded to any of my emails, nor have we talked. At Debra's recommendation, I communicated with her. I thought that it was important that I correspond with you also. I am happy to talk with Debra and my friend and neighbor, Greg Wilson. However, in dealing with Greg Wilson, the attorney, over any legal issues including the barrier, I feel more comfortable and will continue to correspond via emails or other written formats.

It is time to resolve this issue and move on. Life is too short.

Sincerely,
Bill Faloon

5/5/21:

IDL sent Faloon a “Courtesy Notification of Application for Encroachment” for Wilsons “after the fact” permit for an **existing rail system** (WWF....This was the Brophy’s prior rail system).

- Greg Wilson signed the application on 4/29/21 (the date that the Wilsons, Mike Ahmer and Trevor Anderson had a Zoom meeting)
- Faloon (as the adjacent riparian or littoral property owner) signed the consent for the Wilsons application on 5/10/21
- The application was only for the existing rail system. Nothing else.

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

05/05/21

William Faloon
S. 6618 Tomaker Ln.
Spokane, WA 99223

Re: Courtesy Notification of Application for Encroachment

Dear Mr. Faloon:

This letter is to inform you as a courtesy that Greg and Debra Wilson have applied for an "after-the-fact" permit to permit an existing boat launch rail system on Priest Lake. The enclosed site diagram shows location and indicates dimensions and distances to your mutual property boundary.

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

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

Sincerely,

Trevor Anderson, IDL Resource Specialist Senior

Enclosures

Page 1

Idaho Department of Lands
4053 Cavanaugh Bay Rd
Coolin ID 83821

ENCROACHMENT NO. L-97-S-1081B
APPLICANT Wilson

STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT

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

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

DOCK REQUIREMENTS AND SET BACKS

General requirements are as follows:

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

CONSENT OF ADJACENT RIPARIAN OR LITTORAL PROPERTY OWNERS

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

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

Date: 5/10/21

Name: William K. Faloon

Address: 6615 South Thompson Lane
Spartan, UT 84223

Page 2

IDAHO DEPARTMENT OF LANDS
Received

JOINT APPLICATION FOR PERMITS

MAY 04 2021

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:		<input type="checkbox"/> Incomplete Application Returned		Date Returned:				
Idaho Department of Water Resources No.	Date Received:		<input type="checkbox"/> Fee Received DATE:		Receipt No.:				
Idaho Department of Lands No.	Date Received:		<input type="checkbox"/> Fee Received DATE:		Receipt No.:				
INCOMPLETE APPLICATIONS MAY NOT BE PROCESSED									
1. CONTACT INFORMATION - APPLICANT Required:					2. CONTACT INFORMATION - AGENT:				
Name: Gregory M. Wilson					Name:				
Company:					Company:				
Mailing Address: P.O. Box 494					Mailing Address:				
City: Greenacres		State: WA	Zip Code: 99016		City:		State:	Zip Code:	
Phone Number (include area code): 509-991-8575		E-mail: greg@wilsonlaw.us			Phone Number (include area code):		E-mail:		
3. PROJECT NAME or TITLE: Launch Rail					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: -116.8321				11d. TOWNSHIP: 61N		11e. RANGE: 4W	
12a. ESTIMATED START DATE: May 2021		12b. ESTIMATED END DATE: May 1, 2022			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. The proposed project has two components: In 2007, Wilson's purchased the Brophy Lot 16 in 2007. Later, Wilson's adjusted their Lot boundary line adding a portion of the Brophy lot to their Lot 17. This boundary line adjustment included the Brophy boat launch rail system which Wilson's recently learned was did not in the Brophy Encroachment Permit. This Amendment proposes to add the boat launch encroachment to their Permit.									

NWW Form 1145-1/IDWR 3804-B

Page 1 of 4

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.

Applicant believes the rail system was installed in 1994 in connection with the construction of a boat/auto garage near the southern boundary of Lot 16. The rail system is comprised of two railroad track style rails which extend west into the lake approximately 43 feet from the shoreline.

Wish Department of Lands
Received

MAY 04 2021

Print Date
Administrative Area

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.

Rail system: There will be no water quality impact relating to the rail system which has been in place for 27 years.

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.

We do not believe a mitigation plan is needed.

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

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

TOTAL: _____ cubic yards

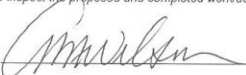
20. TYPE and QUANTITY of impacts to waters of the United States, including wetlands:

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

TOTALS: _____ acres _____ sq ft _____ cubic yards

29. ADJACENT PROPERTY OWNERS NOTIFICATION REQUIRE: Provide contact information of ALL adjacent property owners below.			
Name: William Faloon Mailing Address: S. 6618 Tomaker Ln. City: _____ State: _____ Zip Code: _____ Spokane WA 99223 Phone Number (include area code): _____ E-mail: _____ 509-869-8652 billofspok@aol.com		Name: Phillips Keystone Inheritance Trust Mailing Address: 2292 Tanglewood Lane City: _____ State: _____ Zip Code: _____ Emmett ID 83617 Phone Number (include area code): _____ E-mail: _____ 208-369-0483 lmhaun8@msn.com	
Name: _____ Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Phone Number (include area code): _____ E-mail: _____		Name: _____ Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Phone Number (include area code): _____ E-mail: _____	
Name: _____ Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Phone Number (include area code): _____ E-mail: _____		Name: _____ Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Phone Number (include area code): _____ E-mail: _____	
Name: _____ Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Phone Number (include area code): _____ E-mail: _____		Name: _____ Mailing Address: _____ City: _____ State: _____ Zip Code: _____ Phone Number (include area code): _____ E-mail: _____	

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

Signature of Applicant:  Date: 4-29-21

Signature of Agent: _____ Date: _____

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

21. HAVE ANY WORK ACTIVITIES STARTED ON THIS PROJECT? ☒ NO ☐ YES If yes, describe ALL work that has occurred including dates.

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:
 L-97-S-1081A Wilson Encroachment Permit
 L-97-S-56A Brophy Encroachment Permit-Brophy lot purchased in 2007.

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 (BMPs): 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.

We believe that there will be no impact on water quality.

Idaho Department of Lands
 Received
 MAY 04 2021
 Fresh Lake
 State Agency Area

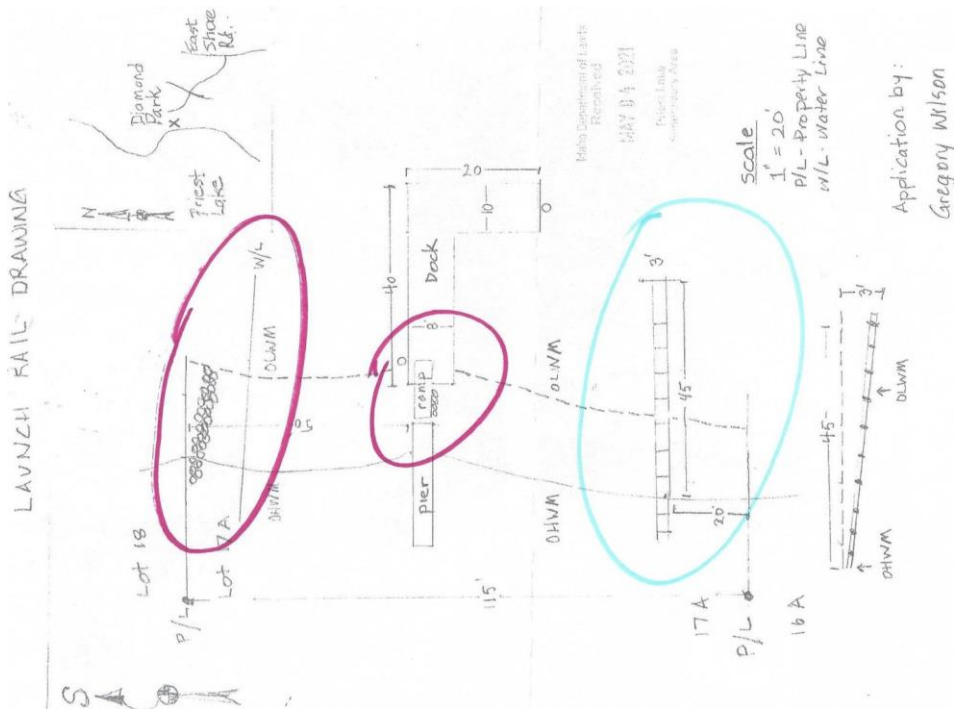
Through the 401 Certification process, water quality certification will stipulate minimum management practices needed to prevent degradation.

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
N/A				
TOTAL STREAM IMPACTS (Linear Feet):				

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

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



5/6/21: Mike Ahmer (IDL) emailed Faloon (and Greg and Debra Wilson)

[L97S1081-InspectionReport-2021...pdf \(255 KB\)](#)

Hello Everyone,

Please see the attached inspection report IDL created following our site visit on April 30, 2021. Please let me know if you have any questions.

Thanks, Mike Ahmer

Last paragraph on page 1 of 4 of the Inspection report states:

"On April 30, 2021, Mike, Trevor and Jennifer met Greg and Debra Wilson at the Wilson property. When IDL arrived the fill material had already been removed all the way down to the existing logs that were part of the pre-existing crib that was allowed to remain. Sand bags and rocks appeared to have been moved above the ordinary high water mark (OHWM) on the Wilson property. Mr. Wilson has agreed to move the sand bags and rocks further upshore in the event that they are still

located below the OHWM once the lake reaches its summer pool elevation. IDL has determined that the Wilson's complied with the Final Order."

The Wilson's did not comply with this ruling. In fact, they did not remove any of their barrier and then put the hobie cat and jet skis and lifts on shore to act as an impediment to the natural flow of the lake.

5/7/21:

Faloon emailed Mike Ahmer (IDL)

Dear Mr. Ahmer,

Thank you for your e-mail and helping to resolve this issue.

However the Wilson's never documented that a "pre-existing crib" at our property line ever existed. It was not mentioned, discussed or described in the Wilson's original application for rip-rap that was later determined by the IDL to be more consistent with a jetty or bank barb. It was also not described in the engineering proposal by Steve Syrcle, dated 9/21/20, in the Wilson's original application.

The first time that Greg Wilson ever mentioned the "pre-existing crib" was at the Dec. 3, 2020 hearing. However the Wilson's never provided documentation that it ever existed. In fact, I showed pictures at the December 3, 2020 hearing that I took in 2004 that showed our property lines. A "pre-existing crib" was not there. I have also attached the picture that you took on 4/30/21 for comparison. At the December 3, 2020 hearing, I presented a letter written by the previous owner of my property, Gary Fievez. It stated that no barrier was present at the property lines. His family owned my property from 1965 until 2002, when I purchased it.

I appreciate the Wilson's removing most of their barrier on 4/29/21. However, I request that they also remove the log and the remaining rocks sand bags as you discussed in your letter of 5/6/21.

Mr. Ahmer, thank you very much for your help in resolving this issue.

Sincerely, Bill Faloon

5/19/21:

Lamont C. Berecz, District Judge, signed the "Judgement Dismissing the Case" with prejudice + without an award of fees or costs to any party.

5/19/21:

- Wilsons (via Magnuson) **Stipulation RE: Order of Dismissal.** Signed by Lamont Berecz (District Judge) and all parties.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GREGORY M. and DEBRA B. WILSON,
Petitioner,

Case No. CV09—21-0140

IDAHO STATE BOARD OF LAND
COMMISSIONERS;
IDAHO DEPARTMENT OF LANDS;
WILLIAM FALOON,
Respondents.

ORDER OF DISMISSAL

The Court, being fully advised in the premises, and based upon the parties' Stipulation, hereby orders that Petitioners' "Petition for Judicial Review," filed February 2, 2021, shall be, and the same hereby is, dismissed with prejudice and without an award of fees or costs to any party.

IT IS SO ORDERED.

DATED; **5/19/2021 9:51:12 AM**
LAMONT BEREZ, District Judge

On 5/31/21, Faloon took the following pictures of the Wilson's barrier:



Picture 1: Taken on 5/31/21



Picture 2: Taken on 5/31/21



Picture 3: Taken on 5/31/21



Picture 4: Taken on 5/31/21

6/1/21:

Faloon emailed Mike Ahmer (IDL), Dustin Miller (Supervisor of the IDL) and Angela Kaufmann Esq

Dear Mr. Ahmer,

Thank you for calling me last week. I am sorry that we played "phone tag" while I was working in Hawaii.

This past weekend (Memorial Day weekend), we went up to Priest Lake for the 1st time this season.

The Wilson's barrier persists. It is approximately 17' long, 2' - 2.5' high and 2'-3' wide. In addition, they have placed a plastic barrier on their side of the barrier. The log that extends into the lake remains. Please see the attached pictures that I took this weekend.

Hopefully we will be able to talk about this today.

Thank you for your consideration.

Bill Faloon

(SEE PICTURES DATED 5/31/21 – ABOVE)

6/3/21:

Mike Ahmer (IDL) and Faloon spoke on the telephone:

- They spoke for about 30 minutes concerning the Wilsons saying that there was a pre-existing barrier.
- Faloon explained his evidence that there was no proof of a pre-existing barrier.

- Faloon wants to explain his documented proof that the Wilsons had no evidence of a pre-existing barrier.

June 15, 2021: **APPLICATION #2: LOG STRUCTURE AT PROPERTY LINE**

Greg Wilson signed an application, along with supplemental letters (from Pat Phillips), to permit a (presumed) existing log structure at their southern property boundary

- Greg Wilson signed the “Application for Permit” for the log structure near our property line on 6/15/21.
- Questions:
 - What day did the Wilsons send or email their permit application to IDL?
 - What day was the Wilson’s application received by IDL (Mike Ahmer)? (Just because Greg Wilson signed it on 6/15/21 does not document the day that it was actually received by IDL.)

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:	<input type="checkbox"/> Incomplete Application Returned		Date Returned:	
Idaho Department of Water Resources No.	Date Received:	<input type="checkbox"/> Fee Received DATE:		Receipt No.:	
Idaho Department of Lands No.	Date Received:	<input type="checkbox"/> Fee Received DATE:		Receipt No.:	
INCOMPLETE APPLICATIONS MAY NOT BE PROCESSED					
1. CONTACT INFORMATION - APPLICANT Required:			2. CONTACT INFORMATION - AGENT:		
Name: Gregory M. Wilson			Name:		
Company:			Company:		
Mailing Address: P.O. Box 494			Mailing Address:		
City: Greenacres		State: WA	Zip Code: 99016	City: State: Zip Code:	
Phone Number (include area code): 509-991-8575		E-mail: greg@wilsonlaw.us		Phone Number (include area code): E-mail:	
3. PROJECT NAME or TITLE: Submerged Log structure			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	
12a. ESTIMATED START DATE: June 2021		12b. ESTIMATED END DATE: August 1, 2022		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. To permit a pre-Lake Protection Act ("LPA") submerged log structure located near the southern boundary of applicant's Lot 17A. Applicant submits two letters as supporting evidence of the pre-LPA log structure. Exhibits attached are: (1) Gary Fievez letter dated 11/20/20, and (2) Pat Phillips letter dated June 15, 2021.					

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.:

Applicant believes the submerged log structure was constructed by the original Lot 17 owner, Herman "Red" Rouse in the early 1960's. The log structure is approximately 20 feet long composed of two 20 feet, 6 inch diameter cedar logs and some buried supporting dimensional lumber joining the logs by steel spikes.

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.

No work will be performed since this permit seeks to permit a Pre-LPA structure.

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.

We do not believe a mitigation plan is needed.

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

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

TOTAL: _____ cubic yards

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

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

TOTALS: _____ acres _____ sq ft. _____ cubic yards

21. HAVE ANY WORK ACTIVITIES STARTED ON THIS PROJECT? ☒ NO ☐ YES If yes, describe ALL work that has occurred including dates.

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:
L-97-S-1081B Wilson 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

We believe that there will be no impact on water quality.

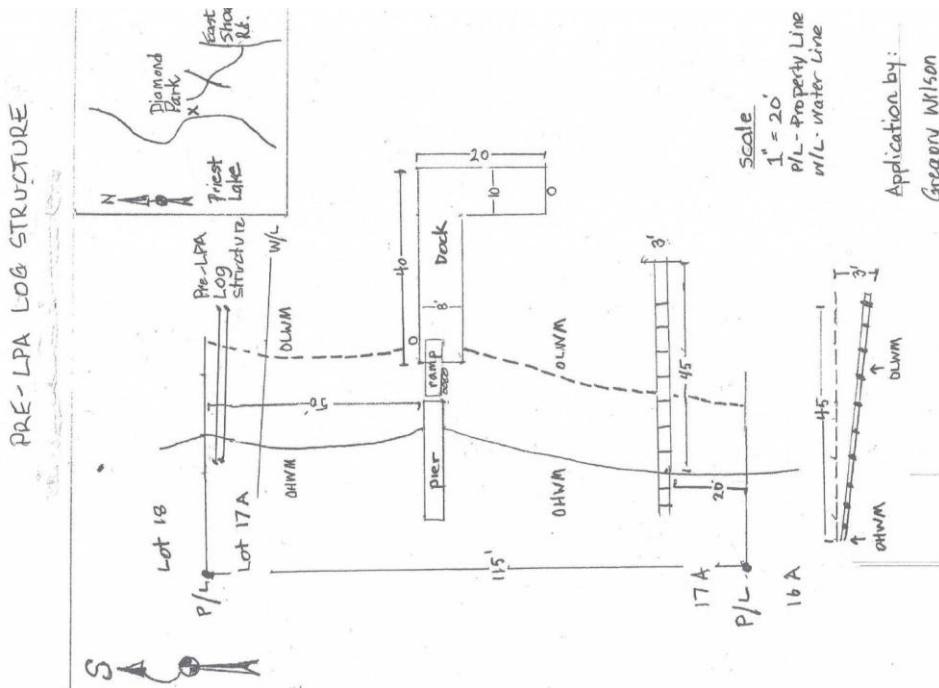
Through the 401 Certification process, water quality certification will stipulate minimum management practices needed to prevent degradation.

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

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

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

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



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

Gary Fievez

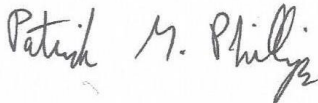
June 15, 2021

• To: Idaho Department of Lands
From: Pat Phillips

My family purchased Lot 15 in the Diamond Park subdivision in the early 1960's. Our family, through a family trust, continues to own Lot 15 adjacent to Greg and Debra Wilson's two lots. Recently, Greg Wilson asked me if I had any recollection of the two cedar logs which had been placed near the south boundary of his Lot 17. I recently walked over and looked at the exposed logs.

My dad and I built our lake cabin in 1966. Then as a teenager, I recall walking the beach front from our cabin to a small creek where I would catch frogs. I recall stepping over logs on the "Red" Rouse lot 17 beach. I believe that Red may have tied up his fishing dingy to the logs.

Pat Phillips



6/16/21:

Faloon emailed Mike Ahmer (IDL).

Dear Mr. Ahmer,

Thank you for talking with me previously.

Have you been in communication recently with the Wilson's concerning the log and barrier at our property line?

Have the Wilson's applied for a permit concerning the log and barrier? As we discussed, I do not know of any documentation that the log/barrier was pre-existing before 1978.

Do they have to apply for a permit for the jetty underneath the approach to their dock?

Thank you for your consideration.

Sincerely,
Bill Faloon

6/22/21:

Mike Ahmer (IDL) emailed Faloon

Hello Mr. Faloon,

I have not spoken with the Wilson's recently. I was out all last week on jury duty and had over 200 emails to go through. I am starting at the top and working my way down. Right now I still have 139 to go through. I will follow up with them when I am caught up, if they did not reach out to me via email already (and are in the mix of 139 unread emails).

Thanks, Mike

7/2/21:

Faloon emailed Ahmer

Dear Mr. Ahmer,

I hope that you have been able to catch up on your workload after being on jury duty.

Please update me on the status of the Wilson's permit for the log at our property line.

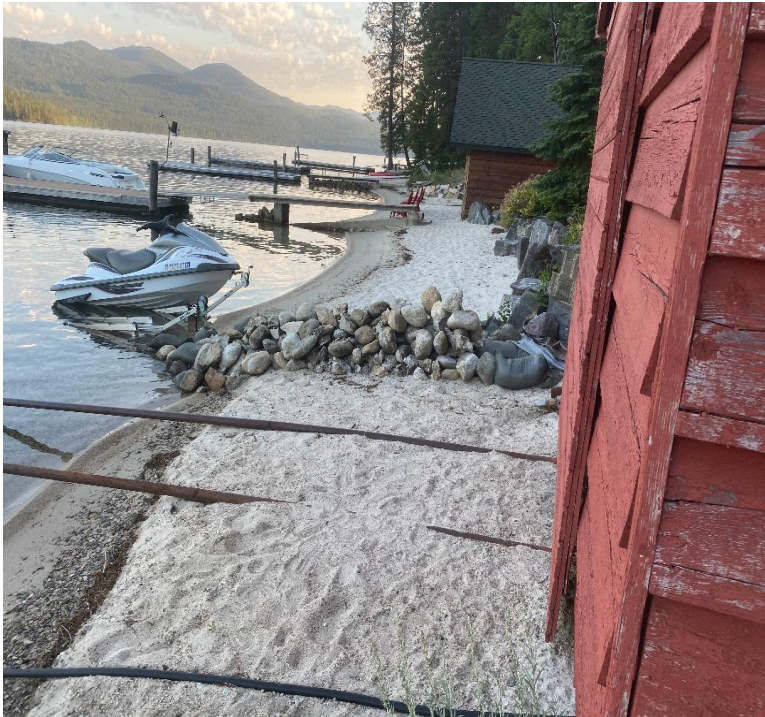
Thank you for your consideration.

Bill Faloon

7/4/21:

The Wilsons had put their jet skis and lifts very close to their southern property line (property line bordering Faloon's property).

Faloon took the following pictures on 7/4/21:



Picture: Taken on 7/4/21:

Jet skis + lifts were moved next to property line. The sand erosion is apparent and the rocks of the barrier had been replaced.



Picture: Taken on 7/4/21:

Jet skis + lifts were moved next to property line. The sand erosion is apparent and the rocks of the barrier had been replaced

7/4/21:

The Wilsons and Faloon spoke at our property line.

Some comments made:

- **Both Greg + Debra were offended by my original email (dated 9/1/20). They described it as being “abrasive”.**
- **Greg Wilson said that he “put the jet skis and lifts next to our property line just to see how long it would take him to get a response from me” (Faloon)**
- **Greg Wilson asked Faloon: How much I paid in attorney fees. I told him “over \$15,000”. Greg said: “I would have removed the barrier for half that amount”. Did he expect me to pay him to remove the barrier that he created to the benefit of his property and the detriment of my shoreline?**
- **Greg Wilson said that he put the barrier up because I (Faloon) had “won 3 times previously”.**
 1. **When the Wilsons purchased their property/cabin in 2003 they asked Faloon (and Brophy – the Wilson’s neighbor to the north) to pay for half of the cost of having their property surveyed. Faloon declined.**

2. Faloon's (pre-existing) plumbing to his "old" secondary cabin crossed over our property line and was under the Wilsons property and was discovered when the Wilson's had their upper cabin built.
 3. Moving their holding tank for their sewer system off of my property and onto their property when they build their new cabin in 2006.
 - A. However, when Faloon replaced his secondary cabin in 2002. Wilson asked him to remove his sewer lines that crossed under Wilson's property and replace them with new sewer lines that were on Faloon's property. Faloon agreed to, and did this, without any concerns!
 4. The Wilson's permit for their jetty was denied by the IDL.
- The Wilsons said that they were "too busy" to remove the barrier. (However they had time to replace the rocks on the barrier when the barrier settled and rocks fell onto my property.) Faloon volunteered to remove the barrier for them. However, the Wilsons then said that they "wanted to do it themselves."
 - Greg Wilson said that "I would have to sign a release form" so I would not sue him" if I get hurt lifting the rocks.
 - Wilson said that "Faloon is a surgeon, you do surgery + you fix the problem that day. For him, as an attorney, it is not uncommon for a case to take 5 years"

7/8/21:

Faloon emailed Greg + Debra Wilson

Dear Greg and Debra,

Thank you for discussing your barrier at our property line on Sunday (July 4th). Unfortunately we did not resolve anything and only agreed on one item: Trying to be amicable with each other this summer.

As I have said numerous times throughout this controversy, it has always been my desire and intention to resolve this issue amicably. This matter should never have escalated and should have been resolved many months ago.

As per our discussion, some of the Idaho rules concerning navigable lakes include:

IDAPA 20 - IDAHO DEPT OF LANDS Resource Protection and Assistance Bureau 20.03.04 - Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho.

On Sunday you said that you placed your jet skis and lifts next to our property line just "to see how long it would take you to get a response from me (about them)". I hope that you have moved them as is required under Idaho rules and you said that you would do.

Thank you. Bill Faloon.

On 7/8/21: Faloon took these (3) pictures, documenting the erosion of his beach:



Picture taken on 7/8/21 – documents erosion of Faloon's beach



Picture taken on 7/8/21 – documents erosion of Faloon's beach.



Picture taken on 7/8/21 – documents erosion of Faloon's beach

7/8/21:

Faloon emailed Mike Ahmer (IDL)

Dear Mr. Ahmer

Below is a copy of an email that I sent to the Wilsons earlier today. I have also attached pictures of the Wilson's jet skis and lifts that I refer to in my email to them.

Mr. Ahmer, to be honest, this issue has gone on for too long. I would like it resolved ASAP. I will be emailing additional information to you soon. What the Wilson's have done is not allowed under Idaho Rules and Laws. Yet nothing is being done to the detriment to my property. This is ethically, morally and legally not right. It is time to hold them accountable and resolve this issue.

Thank you for your consideration and anticipated cooperation.

Bill Faloon

William W. Faloon Jr., M.D.

7/10/21:

On 7/9/21, the Wilsons moved their jet skis + lifts away from the property line.

However, they replaced them with a hobie cat (put it next to the property line).

See pictures below:



Picture taken on 7/10/21



Picture taken on 7/10/21

The Wilsons placed the jet skis and lifts very low, at the level of the sand and hobie cat for the sole purpose of impeding the flow of the lake so that sand would accumulate on their shore, to the detriment of ours. In the past 19 years the Wilson never had a hobie cat at our property line.

NOTE: The Hobie cat is not licensed or registered in Idaho – no sticker on it.

See note 12/7/21: "All sailboats, including Hobie cats, are required to be registered in Idaho."

7/16/21:

Meeting: Faloon and Mike Ahmer (IDL) had a meeting at Ahmer's office in CDA.

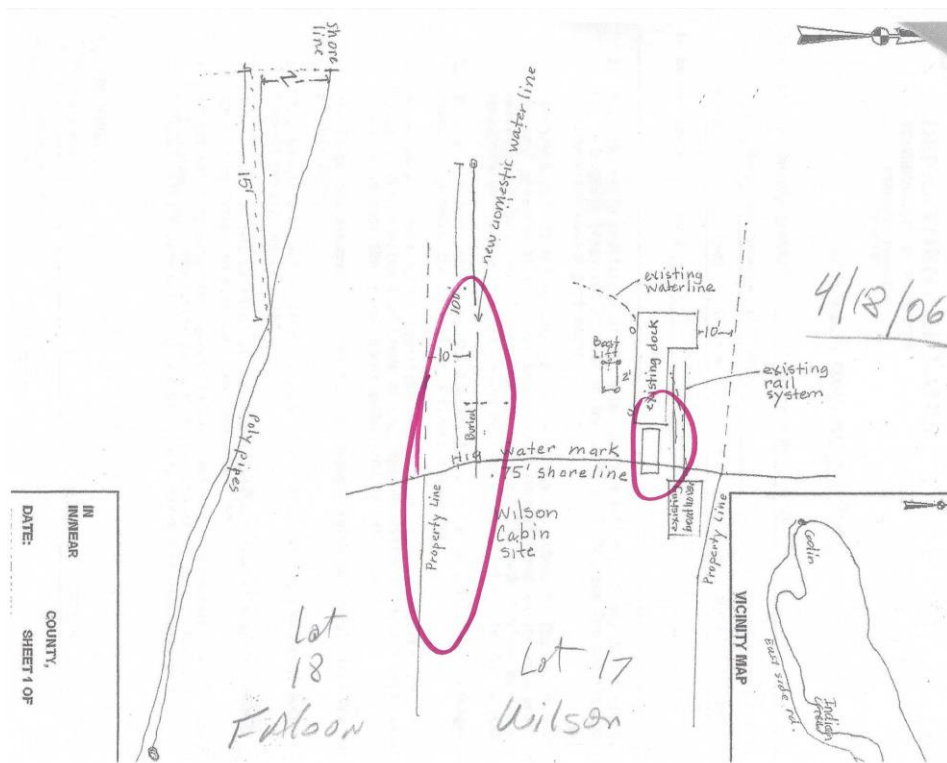
- Faloon showed Ahmer many pictures documenting his beach erosion
- Faloon told Ahmer:
 - About Faloon's original letter to the Wilsons (9/1/20). They were "offended" by my original letter of 9/1/20 (when I asked them to remove the barrier.) They described it as being "very abrasive".
 - Wilson said that Faloon won "3 times" before
 1. My old plumbing to my 2ndary cabin crossed onto their property.
 2. Move their holding tank for their sewer system off of my property onto their property when they built their new cabin.
 3. The Wilson's permit for their jetty was denied by the IDL.
 - Wilson said that they placed the jet skis + lifts by the property line "just to see how long it would take for me to respond to them."
 - Wilson asked Faloon how much he paid in legal fees. Faloon said "over \$15,000". Wilson said that "he would have removed the barrier for half that amount."
 - Wilsons said they were "too busy to remove the barrier". Yet they had time to put the rocks back in place when their barrier collapsed and their rocks fell onto, or near my property. I volunteered to remove the barrier but they said that they "wanted to do it themselves". Greg said that "I would have to sign a release form" so I would not "sue him" if I get hurt lifting the rocks.
 - Faloon told Ahmer that the Wilsons had moved their jet skis and lifts away from the property line. However, on July 10th they moved a hobie cat next to the property line instead. In the past 19 years the Wilson never had a hobie cat at our property line.
 - Wilson said that "Faloon is a surgeon, you do surgery + you fix the problem that day. For him, as an attorney, it is not uncommon for a case to take 5 years"
 - That the Wilsons never provided any documentation of the barrier pre-existing before 1975. The log in the water at our property line: The Wilson's have provided no documentation of it being pre-existing before 1975.

- Ahmer gave Faloon a copy of the Wilson's "Joint Application for Permits" for the "Submerged log structure" that Wilsons "believed was constructed by the original owner of lot 17, Herman "Red" Rouse in the early 1960's.
 - Greg Wilson had signed the permit application on 6/15/21. **This was 30 days before Ahmer gave a copy of the Wilsons permit application to Faloon!!!**
 - Faloon was never sent a copy of the Wilson's permit previously!!!) **(This was the 1st time Faloon received a copy of the Wilsons permit application.)**
- Ahmer said that the log "looked old" and therefore thought that it was pre-existing before 1975. During their conversation it was Faloon's impression that Ahmer believed the Wilson's that the log was pre-existing even though there was no proof of it being pre-existing.

Please note: Faloon's question: Has Mike Ahmer had any special education or training in determining how long a log, or any piece of wood, has been lying on the ground or in water? Can he tell by looking at a log whether it has been there since 1970, 1975, 1990 or any other specific date?

It is Faloon's opinion that Ahmer had no way of determining the age of the log on Wilson's shore.

- Important Note: Look at the large red circle in the diagram below that is dated 4/18/06. It was drawn by the Wilsons and was included in their application for a new water line when they were planning to build their new lake cabin. No barrier, log structure or "pre-existing crib is at their property line (even though their new water line was placed very close to our property line.



In my opinion, Mr. Ahmer seemed to defend the Wilsons. Specifically:

1. He seemed to believe the Wilsons that "the log" was pre-existing even though there is no documentation of it. Please see the attached letter written by Pat Phillips. Her family owns the adjacent lot to the north of the Wilson's second lot. In my opinion, it provides no documentation of a pre-existing log.
2. The Wilsons have filed an application for a permit for the log. However, Mr. Ahmer has been busy and has not reviewed it. He gave me a copy of their permit application. I reviewed it and object to it. However, Mr. Ahmer said that he may just go ahead and approve the permit without my consent since he thinks that the log was pre-existing based on discussions with Mr. Wilson and the 2 letters (Gary Fievez letter, that I provided, and the letter from Pat Phillips). I am frustrated with this and told him that I do not think the log was pre-existing. He then said that he may have to defer the decision about the log dispute to someone "above him"
3. When I discussed with Mr. Ahmer that if any of the Wilsons barrier is on my property, I would have the right to remove it. He "hedged" and said that the beach is "a gray zone" and he was not sure if I could remove the rocks/sand bags etc. even if they were on my property.

4. He believes the Wilson's definition of the OHWM. The Wilsons and Mr. Ahmer define the OHWM as being "3 feet above summer pool". I explained to him that this is not correct, but for reasons unknown to me, he thinks the OHWM and the 3 feet above the summer pool are synonymous. I requested that the OHMW be determined at our property line.
At the end of our meeting Mike Ahmer said that he would contact the Wilson's to remove a portion of their barrier.

7/19/21: Faloon spoke w/ Cory Gabel of Bonner County Assessor's Office (208-265-1433)

- Faloon and Gabel discussed tax assessment at Diamond Park Addition (DPA), where Faloon's cabin is located. Gabel is responsible for assessing properties in DPA. The beaches of DPA properties are assessed using "mass appraisals of the beach" and not individual property appraisals from the O'Hallaron's property (to the north) to the Aspen's property (to the south).
- **The Wilson's do not pay higher tax rates for their shoreline than Faloon, or anyone else in DPA, on a per foot of beach basis!!**

7/20/21:

Faloon emailed Mike Ahmer (IDL)

Faloon objected to the Wilson's permit application

Dear Mr. Ahmer,

Thank you for meeting with me on Friday 7/16/21. I appreciate our input.

I reviewed the application that the Wilson's submitted for the log at our property line that you gave me. Since there is no evidence that it was pre-existing before 1975, **I object to their permit application.**

As we discussed, I would like to resolve this dispute as soon as possible.

Thank you for your consideration.

Sincerely,
Bill Faloon

During the entire summer of 2021:

Wilson's Hobie Cat that was un-registered in Idaho and the 2 jet skis and lifts that were positioned very low, at the level of the sand and very close to our property line, remained on their beach. The sole purpose of them was to impede the natural flow of the lake so that sand would accumulate on their shore, to the detriment of our beach.

7/28/21:

Faloon emailed Mike Ahmer.

Dear Mike,

Thank you for meeting with me on July 16, 2021.

I hope that you are well.

In follow up to our meeting, have you contacted the Wilsons to have them remove the portion of their barrier that is at or below the OHWM?

Thank you for your consideration.

Bill Faloon

7/28/21:

Mike Ahmer emailed Faloon

Hi Bill,

I have spoken with my team about the application and we are going to have our legal team weigh in on if the burden of proof has been provided.

Our legal team is dealing with numerous issues right now (including a big case with Bonner County and the Outlet Bay HOA), we had 2 Public Meetings on dock storage yesterday and last night (I was at the office from 8am-7:30pm), we have another Public Meeting on dock storage tonight at 6pm, and we have 2 Contested Case Hearings on single-family docks on Lake CDA next week.

We will get a decision on the Wilson matter as soon as possible.

Thanks, Mike

8/4/21:

Faloon emailed Mike Ahmer

Dear Mike,

I hope that you are well.

Below is a copy of an email that I sent to Greg and Debra Wilson this AM.

Mike, I assume that you and other members of the IDL are inundated with work due to the fires. These take precedent over the conflict the Wilson's and I are having concerning our shore. Once the fires resolve, maybe we can have a hearing/meeting or, if needed, court hearing, to completely resolve this issue.

Thank you. Bill Faloon

8/4/21 7:20 AM:

Faloon emailed Greg + Debra Wilson

Dear Greg and Debra,

I hope that you are having a nice summer. The smoke is making the summers at Priest Lake less pleasant.

I would appreciate it if you would move your white Hobie cat to the opposite side of your jet skis. If you need help moving it, I am happy to assist or can move it for you.

Also, some of the rocks and sandbags of your barrier at the shore are falling lakeward of the ordinary high water mark (OHWM). I am happy to help you move them above the OHWM. If, for whatever reason, you are unable to move them, I am happy to move them for you. The OHWM is at least at the level where the sand is being eroded on my beach.

Thank you for your anticipated consideration.

Sincerely,

Bill Faloon

8/4/21 7:32 AM:

Greg Wilson emailed Faloon (12 minutes after Faloon's email to the Wilson's)

Bill:

The Hobie cat will be moved at the end of the season.

Greg

8/4/21:

Mike Ahmer emailed Faloon –

Thanks Bill, sounds like a good plan.

Mike

9/3/21:

Jeremy Russell (of JUB engineers) emailed Faloon

- Russell explained the OHWM – it is designated at 2437.64 after the dam was built at the southern end of Priest Lake in 1950, which is actually an Artificial High Water Mark (AHWM). In 2017 the Idaho Supreme Court ruled that the State of Idaho has regulatory authority up to this AHWM (Idaho Land Board vs Hudson).
- Therefore 2,437.64 is the high water mark up to which IDL has jurisdiction.

9/10/21:

Faloon e-mailed Mike Ahmer

Dear Mike,

I hope that you are well. Hopefully the wildfires and smoke will resolve soon.

Since we communicated previously the status of the Wilson's barrier has not changed. They have not changed the barrier, the placement of their Hobie cat or the 2 jet skis by the property line. All of which are to the detriment of my shore. I have pictures that document this.

In a prior email to me, you said that this situation was going to be referred to your legal team. I would like to resolve this issue. Therefore, I would like to pursue this and, if needed, have another hearing. If you would refer this to your legal team and tell them that I would like to pursue resolving this issue it would be greatly appreciated.

Thank you for your anticipated consideration and assistance.

Sincerely, Bill Faloon

FALOON NEVER HEARD FROM AHMER OR THE LEGAL TEAM.

9/29/21:

Survey done at Faloon's property by J-U-B Engineers (Jeremy Russell's firm)

- Greg Wilson saw the 2 men doing the survey on his CAM camera and began texting me. He wanted to talk with me. I told him that we should

communicate via emails or text. I did not want to talk with him on the phone.

10/1/21:

Faloon e-mailed Mike Ahmer (IDL)

Dear Mike,

I hope that you are well and life is less hectic now that most of the wildfires are under control.

As you said in a prior email, the claim between the Wilsons and me concerning shoreline erosion was referred to the IDL legal department. It is very important that both the Wilsons and I are heard so that this situation can be resolved. Please forward this email and all necessary information to your legal department and have them contact me and the Wilsons. Also, please provide their contact information to me.

Thank you very much for your anticipated assistance and consideration.
Bill Faloon

FALOON DID NOT RECEIVE A RESPONSE FROM AHMER OR THE LEGAL TEAM.

10/22/21:

Faloon e-mailed Mike Ahmer (IDL)

Dear Mike,

I hope that you are well.

As you know, the dispute with the Wilsons concerning their barrier on the beach at our property line has not been resolved. This summer they placed a hobie cat and 2 jet skies with lifts that are positioned very low to the ground that negatively impact my beach (see attached pictures). In addition, they have a rock jetty under the approach to their dock that is not permitted. It also adversely affects my beach by impeding the natural flow of the lake and sand.

You stated in a prior email that this issue was going to be referred to the IDL Legal Department. I have not received a response from you or anyone else concerning this issue including the emails that I sent to you on September 10, 2021 and October 1, 2021.

The Wilson's have not provided credible documentation for the log barrier at our property line that extends into the lake pre-existed before 1975.

In a telephone conversation that we had earlier this year, you said that the Wilson's have until December 1, 2021 to remove their barrier. What will happen if they do not comply with this decision?

As I said in a prior e-mail, both the Wilsons and I should be allowed to provide our opinions and documentation concerning these disputes so they are resolved.

Please respond to this email by Nov 1, 2021 so that we can move forward to resolve these issues.

Thank you.
Bill Faloon

FALOON DID NOT RECEIVE A RESPONSE FROM AHMER OR THE LEGAL TEAM.

11/3/21:

Faloon emailed **Dustin Miller (Supervisor of the IDL)**

Dear Mr. Miller,

As you may remember, my neighbors at Priest Lake, Greg and Debra Wilson, and I are in conflict concerning the barriers that they created on their property. The barrier at our property line has caused extensive erosion to my beach. In December, 2020 we had a hearing with IDL and they ruled in my favor. The Wilson's were to remove the barrier.

Unfortunately, the Wilson's have not complied with the order and the barrier is still there and erosion to my beach persists. In addition, they placed a Hobie cat and 2 jet skis with lifts by the property line to further enhance their beach while negatively impacting mine. They also have a rock jetty underneath the approach to their dock that does not have a permit. This also negatively impacts my beach and the natural flow of the lake. **Please see the attached pictures.**

I have sent Mike Ahmer 3 emails concerning the status of the Wilson's removing the barrier; on September 10, 2021, October 1, 2021 and on October 22, 2021. He has not responded to any of them.

On May 16, 2021 I received an email from Mike Ahmer. He said that this matter was going to be referred to the IDL legal department. However, I have not heard from the legal department either.

Therefore, I am contacting you. I would like to resolve this issue. If necessary I will show you, and/or a legal body, the evidence that I have to support my concerns. The Wilson's actions are not allowed or permitted under Idaho Laws and Rules.

Thank you for your anticipated assistance, consideration and attention to this issue.

Bill Faloon

DUSTIN MILLER NEVER RESPONDED TO FALOON'S EMAIL

12/1/21:

Faloon went to his Priest Lake cabin.

THE WILSON'S BARRIER WAS TO BE REMOVED BY DECEMBER 1, 2021 (as documented previously)

- Faloon took pictures (see below) that documents that the Wilsons have not removed their barrier and the erosion of his beach.



Picture 1: Taken on 12/1/21



Picture 2: Taken on 12/1/21



Picture 3: Taken on 12/1/21



Picture 4: Taken on

12/1/21



Picture 5: Taken

on 12/1/21

Chronologic timeline of pictures taken by Faloon in 2021 that document erosion of their beach:



Picture: Taken on 7/4/21. Wilson's put their low positioned jet skis and lifts next to the property line.



Picture: Taken on 7/10/21. Wilsons placed a Hobie cat next to the property line and moved their low lying jet skis and lifts slightly north.



Picture: Another picture taken on 7/10/21. Shows how close the Hobie cat was next to the property line.



Picture : Taken on 7/18/21. Hobie cat next to property line. It is not registered in Idaho.



2nd picture taken on 7/18/21. Hobie cat by the property line.



3rd picture taken 7/18/21 of hobie cat next to the property line. It is not registered in Idaho. Sand is accumulating around the Wilsons jet skis and lifts.



Picture: Taken on 7/24/21. Sand accumulating on top of the Wilsons sand bags. No sand is on Faloon's side of the log/barrier.



Picture: Taken 8/8/21. Hobie cat, sandbags and rocks impede the natural flow of the lake, causing sand to accumulate on the Wilsons side of the barrier to the detriment of Faloon's shore.



Picture: Taken on 8/21/21. Sand accumulating north of, and around, the jet skis/lifts + hobie cat.



Picture 1: Taken on 9/4/21. Wilson's barrier settling/collapsing onto Faloon's property



2nd picture taken on 9/4/21. Sand continues to accumulate around the Wilson's low positioned jet skis and lifts.



3rd picture taken: 9/4/21. Sand continues to accumulate on the Wilson's side of the barrier to the detriment of Faloon's shore



Picture : Taken 9/29/21. Wilsons removed their low positioned jet skis. Some sand accumulated on Faloon's shore



2nd picture taken 9/29/21. Increased sand accumulation is between the Hobie cat and the barrier. Now the most lakeward placed sandbag is completely covered with sand. Only a small amount of sand is present on Faloon's side of the barrier.



3rd picture taken 9/29/21. Close up picture that shows the increased sand accumulation between the Hobie cat and the log/barrier. The most lakeward

placed sandbag is completely covered with sand. Only a small amount of sand is present on Faloon's side of the barrier.



Picture: Taken on 10/3/21. More sand accumulating between the hobie cat and the log/barrier.

BETWEEN 10/3/21 AND 10/16/21 THE LEVEL OF PRIEST LAKE WAS LOWERED FOR THE WINTER:



Picture: Taken 10/16/21. The lake level has been lowered. The hobie cat remains at the property line. This shows the difference in sand accumulation on the Wilsons beach vs on Faloons beach



Picture taken on 12/1/21. The Wilsons were to remove any barrier that was lakeward of the high water mark by 12/1/21. This picture shows that the barrier remains and the difference in sand accumulation on the Wilsons shore vs Faloons shore.



2nd picture taken on 12/1/21. Shows the difference in sand accumulation on the Wilson's vs Faloon's side of the barrier/log. This is due to the Wilson's barrier. The Hobie cat was moved.



3rd picture taken on 12/1/21. Shows the difference in sand accumulation on the Wilson's vs Faloon's side of the barrier/log. This is due to the Wilson's barrier. The Hobie cat was moved.

COMPARISON OF WILSON'S VS FALOON'S SHORES:



Picture: Taken on 7/18/21. Wilson's beach: Sand is plentiful. Compare this with Faloon's beach (below) which has minimal to no sand.



Picture: Taken on 7/24/21. Faloon's beach has minimal to no sand. Compare this to the Wilsons beach (picture above)

12/7/21:

Faloon called Idaho Dept. of Parks and Recreation twice (208-769-1511 (in CDA), 800-247-6332 (Boise)).

- Faloon was told: All sailboats, including Hobie cats, are required to be registered in Idaho.
- Documents: Idaho Statutes: Title 67 State Government and State Affairs, Chapter 70, Idaho Safe Boating Act

12/20/21:

Faloon emailed Greg + Debra Wilson:

Dear Greg and Debra,

I hope that you are well.

On July 5th, 2021, the last time that we talked about your barrier at our property line, Greg said that he put the jet skis and lifts by our property line "to see how long it would take me to say something about them." You later moved them a short distance from the property line but replaced them with the Hobie Cat.

On September 30th, 2021, when a survey was being done on my property, Greg and I communicated briefly via text messages. Greg asked me to

talk and "be a neighbor". I told him that I preferred to communicate via email rather than talking or via text messages.

Greg told me that the reason that you put the barriers at our property line was because "I won 3 times previously". You placed the Hobie Cat and 2 jet skis with lifts near our property line to impede the natural flow of the lake in order to enhance the sand on your beach to the detriment of mine. Please see the attached picture.

Please answer the following questions:

1. Are you going to remove the barrier made of rocks and sandbags at our property line by May 1, 2022?
2. Are you going to remove the log barrier at our property line by May 1, 2022?
3. This fall, after the lake level was lowered, you moved the Hobie cat away from our property line. Are you going to move the Hobie cat back onto your beach next to our property line in 2022 and in the future?
4. Are you going to remove, or move, the jetski lifts and jet skis on your beach away from our property line in 2022 and in the future?
5. Will you be placing other items on your beach to continue to impede the natural flow of the lake and cause erosion of my beach while enhancing your beach?

Thank you for your anticipated consideration and correspondence.

Have a nice holiday season.

Bill Faloon

Faloon asked the Wilsons to "Please answer the following questions:"

The Wilsons never responded to Faloon's email of 12/20/21.

2022:

2/3/22:

Mike Ahmer e-mailed Faloon.

Hello Bill,

Just wanted to touch base with you and let you know I have not forgotten about the Wilson situation and I will be trying to resolve the matter later this week and early next week.

I am sorry it has taken so long, we are like the one doctor on a Civil War battlefield trying to get to as many wounded soldiers as we can.

Please let me know if you have any questions, maybe we can set up a meeting next week to discuss this further and check on the status?

Thanks, Mike Ahmer

2/9/22:

Faloon called Mike Ahmer

Ahmer told Faloon that the Wilsons application for the log at the property line (and the jetty under the approach to their dock) was denied by IDL. The Wilsons had not provided legal evidence that the log and jetty at our property line pre-existed before 1975.

Ahmer said that Wilsons have to remove:

1. The logs in the water at the property line (they were not deemed to be pre-existing)
2. The rock + sandbag barrier at the property line lakeward of the OHWM
3. Move the jet skis and lifts to next to their dock
4. Remove the jetty underneath the approach to their dock (or apply for a permit for it. It will likely not be approved)
5. The place where they park their Hobie cat cannot be controlled by IDL

Ahmer suggested that I email him on Friday (2/11/22) and ask him for an update on the correspondence that he had with the Wilson's this week (If I want information about prior correspondence with the Wilson's I will have to request it in an additional email).

2/11/22:

Faloon emailed Ahmer

Dear Mike,

Thank you for talking on Wednesday, 2/9/22. I appreciate your input concerning the Wilson's various barriers on their shore.

Please update me on the discussions that you had with Greg and/or Debra Wilson this week (2/7/22 - 2/11/22).

Also, I have 2 additional questions:

1. By what date are the Wilson's required to remove the following (see my concern/recommendation below):

- A. The logs in the water at our property line.
- B. The rocks and sand bags of the jetty at our property line that is lakeward of the OHWM.
- C. The jetty under the approach to their dock.
- D. Either completely remove their jet skis and lifts from their beach or move them next to their dock.

The Wilson's un-permitted barriers are negatively affecting my shore/property. According to the prior ruling, the Wilsons were to remove the barrier at our property line by December 1, 2021. They are tardy in complying with the rules.

I request that all of their barriers (see above) be removed no later than April 1, 2022.

The Wilsons prior lack of following rules should not continue to be detrimental to my property. I have not done anything to their detriment and have been completely in compliance with Idaho and Bonner County rules and regulations. I expect the Wilson's to do the same.

2. If the Wilsons do not comply with the IDL's regulations, what penalties will be imposed on them?

Mike, as you may remember, at the hearing in December, 2020, Greg Wilson said "But if you guys want me to pull this thing out (referring to the logs in the lake and the barrier at our property line), just give me some place to put it, because I'm not hauling it up the hill. And I will spend untold sums of money to defend it if I have to go the grandfather route, because that property is valued at \$2.5 million."

Mike, I am concerned that the Wilsons may continue to not comply with the rules and possibly pay minimal fines. This would continue to be detrimental of my beach/property. It is my recommendation that if they do not comply with the rules, they should be subjected to very high financial penalties, possible legal actions and allowing me or hiring a 3rd party to remove their barriers at the Wilson's expense, so they are forced to comply.

I hope my concern does not come to fruition and our conflict is resolved.

Thank you for your consideration.

Bill Faloon

2/17/22:

Ahmer left Faloon a voice message stating that Greg Wilson was "discouraged" about the IDL's ruling. Mr. Wilson was going to investigate getting letters about the log and barrier at our property line pre-existing before 1975. He was also going to apply for a permit for the jet skis and lifts.

IDL was going to enforce that the Wilsons remove the jetty underneath their approach.

2/28/22:

Faloon went to Ahmer's office (3284 West Industrial Loop CDA):

Faloon and Ahmer talked about the Wilsons barrier

3/14/22:

Faloon emailed Ahmer (see below)

Dear Mike,

I hope that you are well.

Thank you for meeting with me on Monday, 2/28/22, and discussing the Wilson's barriers. Please update me on your communication with the Wilson's and the progress that has been made. As we discussed, the Wilson's are required to abide by Idaho Laws and Rules, including removing their barriers. Over the past 2 years they have not provided any documentation that the log or barriers pre-existed 1975. I have spoken with the prior owners of the Wilson's cabin, the prior owner of the Wilson's northern lot, the prior owner of my cabin and lot, and the owners of the cabin and lot to the south of my property. No one has documentation that the barriers were pre-existing.

If you have not communicated with the Wilson's yet, please contact them by this Wednesday, March 16, 2022. Please notify me about your discussions.

The situation with the Wilson's has been ongoing for too long. After the IDL hearing in December, 2020, it was ruled that this situation was to be resolved by December 1, 2021.

If it is not resolved by Thursday, March 17, 2022, I will pursue other options to resolve this situation which could be more time consuming and expensive for everyone, including the IDL.

Thank you.

Bill Faloon

3/31/22

Faloon emailed Angela Kaufmann:

Angela Schaer Kaufmann, Esq.
Office of the Attorney General
P.O. Box 83720
Boise, ID 83720

Case No. PH-2020-PUB-10-00

Dear Ms. Kaufmann,

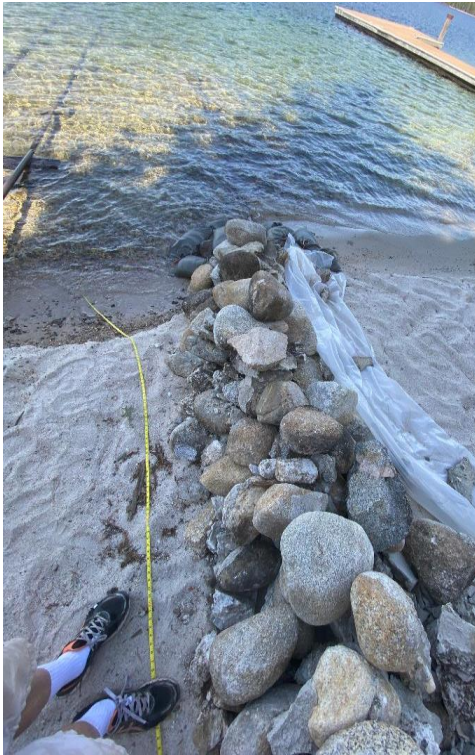
In December, 2020, we were involved in an IDL hearing. My neighbors at Priest Lake, Gregory and Debra Wilson, had applied for an Encroachment Permit (Application No. L-97-S-1081B, Case #: PH-2020-PUB-10-00) at our property line. I objected to their permit. In January, 2021, (the month after the hearing) the IDL denied the Wilson's permit for a jetty at our property line. The Wilson's were required to remove it by December 1, 2021.

I am emailing you because, after attempting to resolve this situation, including calling and emailing Mike Ahmer multiple times and emailing Dustin Miller, the IDL has failed to enforce the January, 2021 decision. In fact, in 2021 the Wilsons continue to add more barriers on their shore to the detriment of our shore, property and property value.

The Wilson's have not abided by the January, 2021 ruling. In addition they do not follow Idaho Laws, regulations and rules. The barrier (jetty) and log at our property line is not permitted and persists. (See pictures 1 and 2)



Picture 1: Taken on 5/31/21



Picture 2: Taken on 5/31/21

In addition, in June, 2021 the Wilsons illegally placed 2 jet skis and lifts next to our property line. The lifts were lowered so that the jet skis were at the level of the sand. Their sole purpose was to act as an impediment to the natural flow of the lake and sand (see pictures 3 and 4). This caused further erosion of our beach.



**Picture 3: Taken on 7/8/21
Notice the erosion of Faloon's beach
(on the left side of the rock barrier,
log and jet skis).**



**Picture 4: Taken on 7/8/21.
Notice that the jet skis and lifts are low, instead of elevated above water level as they are normally intended to be used.**

On July 4, 2021, Greg and Debra Wilson and I spoke about their barriers. They said the following:

- **They were offended by my original email that I sent to them on 9/1/20, when I requested that they remove the barrier. They described it as being abrasive. Please read the attached copy of my e-mail to them and determine for yourself if you think that it is abrasive.**
- **Mr. Wilson said that he “put the jet skis and lifts next to our property line just to see how long it would take him to get a response from me.”**
- **Mr. Wilson asked me how much I paid in attorney fees. I told him “over \$15,000”. Mr. Wilson responded: “I would have removed the barrier for half that amount”. Did he expect me to pay him to remove their barrier that is not permitted that they created to benefit their property and is detrimental to mine?**
- **Mr. Wilson said that he put the barrier up because I had “won 3 times previously”. (I can describe these situations to you as needed.)**
- **The Wilsons said that they were “too busy” to remove the barrier.**

On July 10, 2021 the Wilson’s moved their 2 jet skis and lifts a short distance from our property line and replaced them with a Hobie cat (sailboat) at the property line (see pictures 5 + 6).



Picture 5: Taken on 7/10/21



Picture 6: Taken on 7/10/21

The Hobie cat is not registered for use on Idaho lakes. The sole purpose of placing it on their shore at our property line was to impede the natural flow of the lake and sand, to the detriment of our shore.

The Hobie cat as well as the low positioned jet skis and lifts remained on the Wilson's beach for the remainder of the summer, causing further erosion of our beach.

In addition, the Wilsons created a jetty that is underneath the approach to their dock that is not permitted (see picture 7).



Picture 7: Taken on 10/7/21. The Wilsons jetty under the approach to their dock is not permitted.

The sole purpose of the Wilson's jetty underneath their approach is to enhance their beach to the north of the jetty. Because of the natural flow of the lake, this is detrimental to our beach, property and property values.

The pictures below document the erosion of our beach and the enhancement of the Wilson's beach due to their barriers that are not permitted.

Picture 8 was taken on 9/4/21. Please note the placement of the Wilson's jet skis and Hobie cat and the accumulation of sand around their jet skis.

Picture 9 was taken on 9/24/21. Please note the accumulation of sand on the Wilson's side of the barrier and log and the erosion of sand on our beach.



Picture 8: Taken on 9/4/21



Picture 9: Taken on 9/24/21

FALON OBJECTION AND HEARING STATEMENT PRE LPA ENCROACHMENT 1081C

According to the IDL's decision in January, 2021, the Wilsons were to remove the barrier at our property line by December 1, 2021. Please see pictures 10, 11 and 12 that were taken on December 1, 2021. They document that the Wilson's did not honor the ruling. The barrier and log persist and the erosion of sand on our beach is grossly apparent.



Picture 10: Taken on 12/1/21



Picture 11: Taken on 12/1/21



Picture 12: Taken on 12/1/21

As stated previously, I have called and emailed Mr. Mike Ahmer of the IDL multiple times concerning the erosion of my shore due to the Wilson's barriers. I also emailed Dustin Miller. Unfortunately throughout 2021 neither of them responded to my emails or phone calls.

On 2/3/22, Mike Ahmer e-mailed me to discuss the Wilson situation.

On 2/9/22, Mike Ahmer and I had a telephone conversation. He said that the IDL legal department had determined that the Wilsons had not provided legal evidence that the log and jetty at our property line pre-existed before 1975. They were required to remove them. In addition, the Wilsons were required to remove the jetty underneath the approach to their dock and move their jet skis and lifts next to their dock. Mr. Ahmer said that he was going to discuss this with Mr. Wilson that week.

On 2/17/22, Mike Ahmer left me a voice message after talking with Mr. Wilson. He said that Mr. Wilson was "discouraged" with the IDL's ruling. Mr. Wilson was going to investigate getting letters about the log and barrier at our property line pre-existing before 1975. He was also going to apply for a permit for the jet skis and lifts.

On 2/28/22, Mike Ahmer and I had a meeting in Mr. Ahmer's office. We discussed the "Wilson situation". It was apparent that Mr. Ahmer was kowtowing to the Wilsons and not upholding my legal rights or the IDL's decision to have the Wilsons remove their barriers and follow Idaho rules and laws. There was no time limit placed on Mr. Wilson in getting documentation of the barrier and log pre-existing 1975. Mr. Ahmer said that he could not enforce any actions as decided by IDL in January, 2021 or any other Idaho rules or laws against the Wilsons.

Ms. Kaufman, I have done extensive research into the Wilson's barrier and log at our property line. I have spoken with the previous owners of the Wilson's two Priest lake properties (Zebbie Ellingson and Michael Brophy), the previous owner of my property (Gary Fievez), and my neighbors to the south (the Aspens) as well as with Greg Wilson's wife, Debra Wilson. None of them have documentation of the log or barrier pre-existing before 1975. The owner of the property to the north of the Wilson's, Wade Phillips, passed away several years ago.

It has been over 15 months since the IDL hearing. In addition, as per Mike Ahmer, the IDL legal department has determined that:

- The Wilson's log and barrier at our property line is not permitted and has to be removed.
- The jetty under the Wilsons approach to their dock is not permitted and has to be removed. (I have pictures that document that this jetty was put there after the Wilson's purchased their property in approximately 2003.)
- The Wilson's do not have a permit for their 2 jet skis and lifts.

In addition, the Wilsons had placed a Hobie cat by our property line that is not registered to be used in Idaho.

Unfortunately, IDL has failed to take action against, or discipline, the Wilsons. I am a law abiding citizen that has followed Idaho rules and laws and have done nothing wrong. I have had to spend over \$20,000 in legal fees to defend my legal

rights and property. In addition, under Idaho law, “spite fences” are not allowed. The Wilsons barrier, in my opinion, falls under this ruling.

The Wilsons are not compliant with the IDL’s decision and do not follow Idaho rules and laws. Our beach continues to be eroded and our ability to use it is adversely impacted. Our property value is negatively impacted by the Wilsons illegal actions. I pay the same property taxes as the Wilsons on a per foot of shoreline basis.

I am requesting that the IDL immediately demand that the Wilsons remove their barriers and log by May 1, 2022 and follow Idaho rules and laws. Our beach continues to be eroded. It is unjustified for this to continue this coming summer when the lake level is elevated.

If IDL fails to take action I will assume that the rule of law in Idaho is not valid and upheld. That law abiding citizens, such as I am, are not protected from the illegal actions of citizens like the Wilsons. Therefore, I have the same liberties to remedy this situation.

Thank you for your anticipated consideration and actions.

Feel free to contact me.

William W. Faloon Jr, M.D.

3/31/22:

Angela Kaufman Esq. responded to Faloon’s email.

She stated:

Dear Dr. Faloon

I have received your correspondence. The Office of the Attorney General does not have independent enforcement authority regarding the Lake Protection Act, but I will discuss your letter with the Idaho Department of Lands and ensure that you receive a prompt response.

Sincerely,

Angela

4/13/22:

Faloon emailed Angela Kaufmann Esq.

Dear Ms. Kaufmann,

I appreciate your email correspondence on 3/31/22 concerning the Wilson’s shoreline barriers that are negatively impacting our property.

You stated that I should receive a prompt response from the IDL. However, I have not heard from them.

I would like to resolve this situation. The Wilsons were instructed to remove the barriers. Over the past 16 months they have not provided any legal documentation of the barriers pre-existing before 1975.

I was up at Priest Lake last Tuesday, 4/5/22, and the barriers are still there.

I would greatly appreciate the IDL contacting me and enforcing the decision that the Wilsons remove their barriers immediately.

Thank you for your consideration.

Sincerely,

Bill Faloon
William W. Faloon Jr., M.D.

4/14/22:

Angela Kaufman's response to Faloon's email:

Dr. Faloon –

I met with the Idaho Department of Lands last week to discuss the issues between yourself and the Wilsons. IDL has posed a legal question to me which will require some research on my part. I am making every attempt to conduct that research and provide an answer to IDL promptly, after which they will respond to you.

Thank you for following up with me.

**Sincerely,
Angela**

5/12/22:

Faloon emailed Angela Kaufmann Esq. (see below)

Dear Ms. Kaufmann,

I hope that you are well.

I went up to Priest Lake on 5/5/22. The Wilson's barriers persist. (See pictures below)







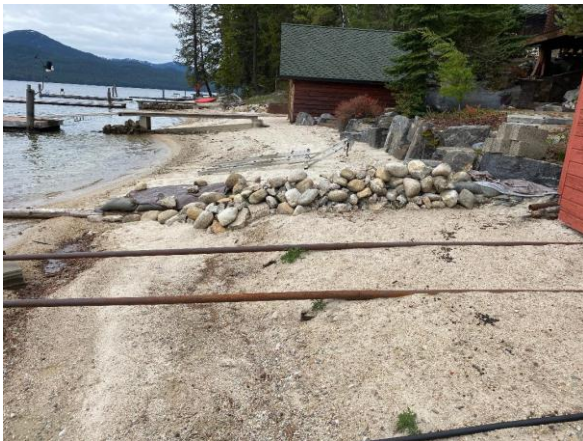


We do not want our beach to continue to erode when the lake level is raised soon. We would like it to be restored so that we can use it.

Is the IDL going to enforce Idaho rules and laws and their decision from the December, 2020 hearing? As you know, the Wilsons do not have a permit for the barriers at our property line or under the approach to their dock.

Thank you for your anticipated decision to resolve this situation.
Bill Faloon

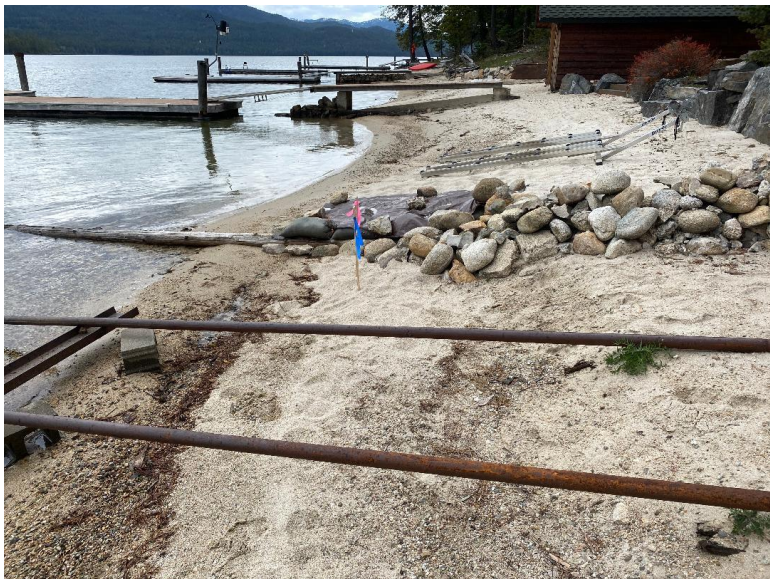
WILSONS PLACED A TARP ON THEIR PROPERTY BETWEEN 5/12/22 AND 5/19/22: PICTURES TAKEN ON MAY 19, 2022



Picture 1: Taken on 5/19/22. Wilsons had placed a tarp on their shore near the barrier and property line



2nd picture taken on 5/19/22. Shows the tarp that the Wilson's put on their shore.



3rd picture taken on 5/19/22. It shows the 2 flags on Faloon's beach that were put there when a survey was completed. Red flag: Property line. Blue flag: High water mark



4th picture taken on 5/19/22. Shows that part of the Wilson's tarp and barrier is lakeward of the HWM (Blue Flag). The function of the Wilson's tarp is to retain sand on their shore. The sand had accumulated previously (in 2021)

due the Wilsons barrier, Hobie cat and jet skis and lifts. Compare this to picture 5 (below) that was taken 2 weeks previously, on 5/5/22.



5th picture taken on 5/5/22.....Compare it with picture 4 (above) that was taken on 5/19/22. Notice how the Wilsons put the tarp to retain sand lakeward of the HWM



6th picture taken on 5/19/22.



Picture:: Taken on 5/28/22. Tarp on the Wilson's shore is reinforced with additional rocks and pieces of wood. Another tarp was placed on their rock wall.



2nd picture taken on 5/28/22. Close up picture of the Wilsons tarp on shore reinforced with additional rocks and wood. A 2nd tarp is placed on their rock wall.

5/24/22:

Faloon emailed Angela Kaufmann Esq. (see below)
Angela Schaer Kaufmann, Esq.
Office of the Attorney General
P.O. Box 83720
Boise, ID 8372

Case No. PH-2020-PUB-10-00

Dear Ms. Kaufmann,

As per my email to you dated 5/12/22, the Wilson's barriers remain. The level of Priest Lake is currently being raised and unless the Wilsons barriers are removed the erosion of our beach will resume.

Since I have not recently heard from you or anyone from the IDL, I assume that no action has been taken to require the Wilsons to remove their barriers.

As discussed several times, the Wilsons barriers (jetties) at our property line and under the approach to their dock did not pre-exist before 1975 (see pictures 1 and 2). Pictures 1 and 2 were taken in 2004 and 2005 respectfully.



Picture 1: Taken in 2004. No barrier at the property line.



Picture 2: Taken in 2005. No barrier at the property line.

In addition, last summer (2021) they placed 2 jet skis and lifts near our property line that were positioned very low; at the level of the sand. They also put a hobie cat next to our property line. It was not registered in Idaho (see pictures 3 and 4). The sole purpose of the jet skis/lifts and hobie cat was to impede the natural flow of the lake to retain sand on their beach to the detrimental to ours.



Picture 3: Hobie cat by property line + low positioned jet skis



Picture 4: Hobie cat by property line + low positioned jet skies

In approximately 2006, the Wilsons replaced their original Priest Lake cabin with their current cabin. They were required to apply for an encroachment permit for a new domestic water line to draw water from the lake. (The entire permit is attached in a separate document.) The application required that they provide a diagram of their property including where their existing and proposed water lines were located (see diagram 1). Their diagram was detailed, including documenting water lines that are approximately 2" in diameter. In addition, their new water line was placed very close to our property line, near their current barrier (jetty). Their diagram did not document a pre-existing barrier (jetty), including the rocks, sandbags and logs that extends into the lake at our property line (See the **large red circle** on diagram 1). In addition, there is no documentation of a barrier (jetty) under the approach to their dock. (See the **small red circle** in Diagram 1). This is consistent with pictures 1 and 2 which were taken in 2004 and 2005 respectively. They document that no barrier was present at our property line at that time. It is also consistent with picture 7 that was taken in approximately 2003 and shows that there was no barrier under the Wilsons approach to their dock.

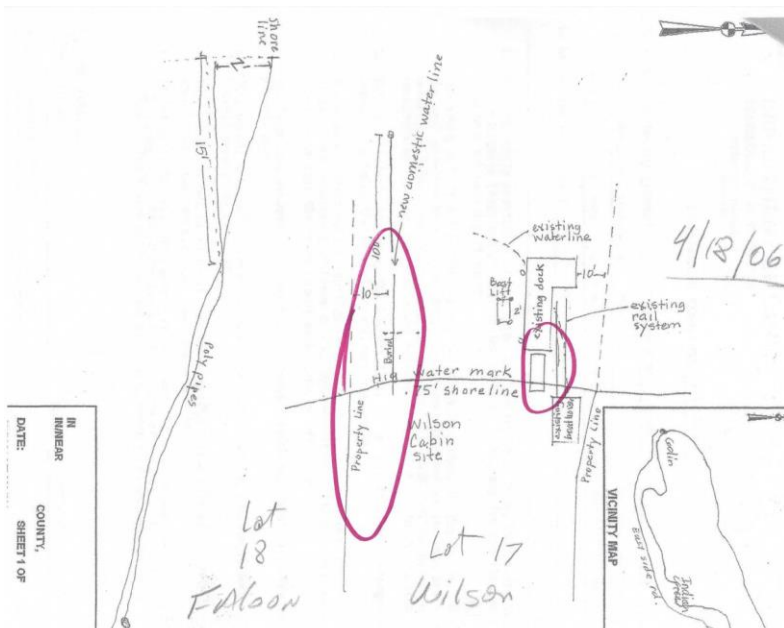


Diagram 1: Documents that there was no barrier (jetty) at The Wilson's southern property line in 2006 (**large red circle**) and under the approach to their dock (**small red circle**).

In contrast, in 2021 the Wilsons were required to apply for an “after-the-fact” permit for an existing boat launch rail system on the north side of their property. Again, they were required to submit a detailed diagram of their property. Please see diagram 2. In diagram 2 the Wilsons document their rock barrier (jetty) near our property line (**large red circle**) and the rock barrier (jetty) under the approach to their dock (**small red circle**). It does not document the logs that extend into the lake near our property line.

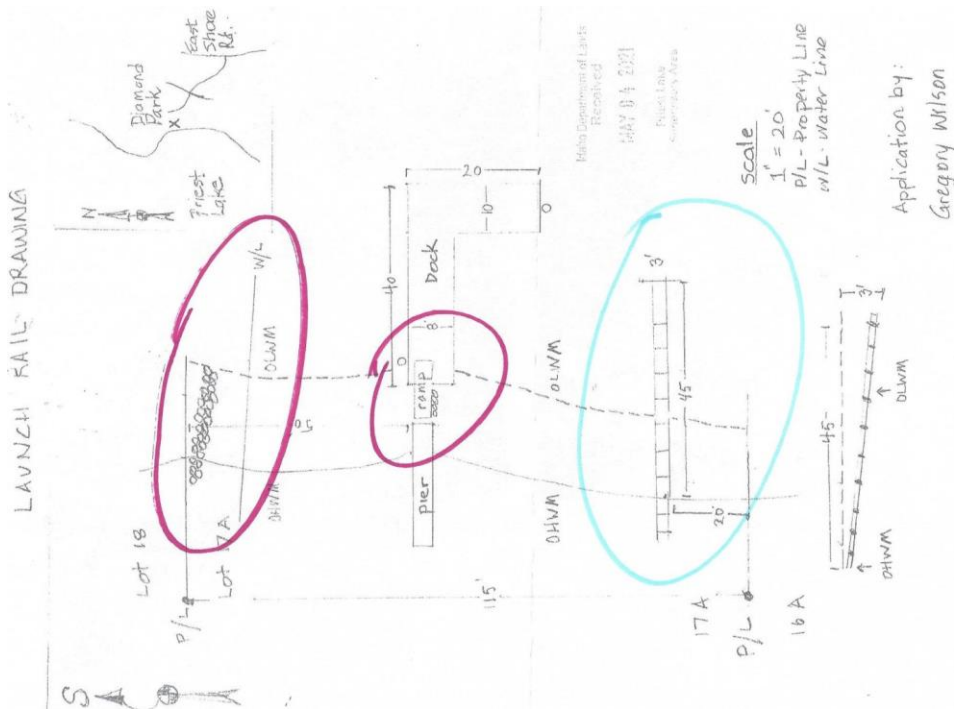
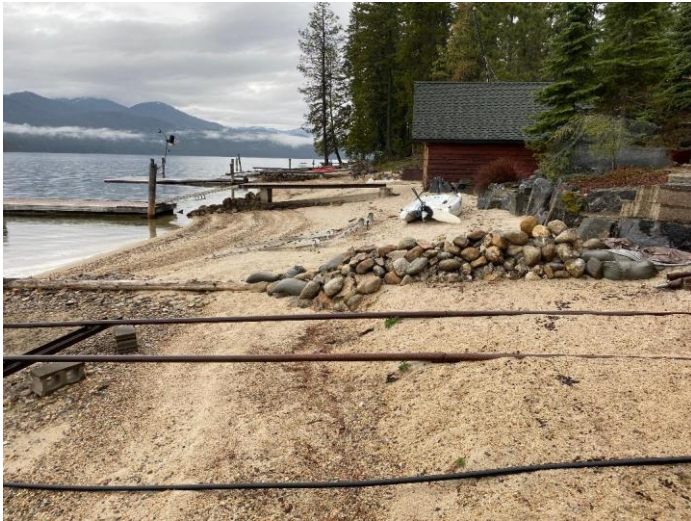


Diagram 2: The Wilsons diagram in their permit application for their rail system. It documents their “un-permitted” barriers (jetties) at their southern property line and under the approach to their dock. (These were not documented (and did not exist) in their 2006 diagram.)

Therefore, this is a change from their permit application for their new water line in 2006. This documents that both of the Wilsons barriers (jetties) were created between 2006 and 2021 and did not pre-exist in 1975. Neither barrier (jetty) has a permit.

To reiterate, the Wilsons have not provided any legal evidence that their barrier at our property line, including the logs, rocks and sand bags, pre-existed before 1975.

Please see pictures 5 and 6 which were taken on 5/5/22. These document the Wilson’s current barrier (jetty) at our property line and the damage that it has caused to our beach.



Picture 5: Taken on 5/5/22.



Picture 6: Taken on 5/5/22

As I documented previously, the Wilsons have also created a second barrier (jetty) under the approach to their dock. This did not pre-exist before 1975 and

they do not have a permit for it. Please see picture 7 which was taken in approximately 2003. It shows the Wilson's dock and approach. There was no barrier (jetty) under their approach. Compare this with picture 8 which documents their current barrier (jetty) under the approach to their dock.



Picture 7: Taken in approximately 2003. No barrier (jetty) was beneath the approach to the Wilson's dock.



Picture 8: Taken 5/5/22. An "un-permitted" barrier (Jetty) beneath the Wilson's approach

Both of these barriers (jetties) are adversely affecting our beach and will continue to cause erosion as long as they are there.

On 5/19/22 a survey was done of our property. It documents the artificial high water mark. Lake ward of this high water mark is under the jurisdiction of the State of Idaho. This is as per the State of Idaho Supreme Court Decision in the case of: The State of Idaho, Idaho State Board of Land Commissioners and Idaho Dept. of Lands vs Phillip Hudson in December, 2017.

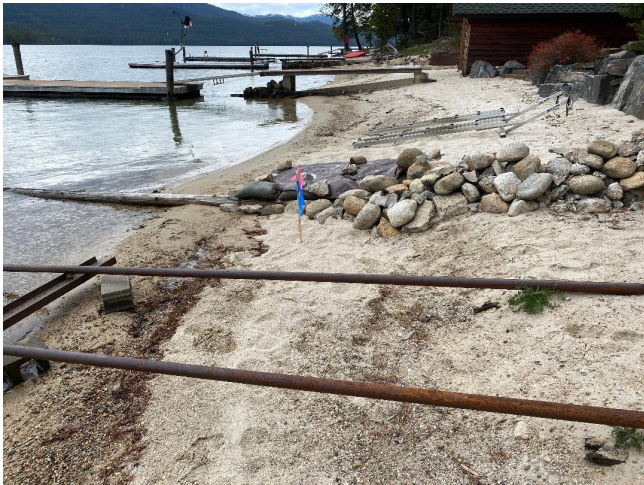
Please see pictures 9 -12 which were taken on 5/19/22. They document that the Wilson's jetty, including the logs and some of the rocks and sand bags, extend lake ward of the high water mark. This is not permitted. In addition they have now placed a tarp on their beach that is in the same place their Hobie cat was last summer (compare pictures 3 and 4 with pictures 10 and 11). Part of the tarp extends lake ward of the high water mark. Its sole purpose is to impede the natural flow of the lake and retain sand on their property to the detriment of our beach.



Picture 9: Taken on 5/19/22. Documents the property line and high water mark.



Picture 10: Taken on 5/19/22. Documents the property line and high water mark.



Picture 11: Taken on 5/19/22. Documents the Wilson's barrier (jetty), including the part that is lake ward of the high water mark.



Picture 12: Taken on 5/19/22. Documents the property line and high water mark and the Wilson's barriers, including the tarp they placed which is partially lake ward of the high water mark.

As documented in the IDL's ruling on 12/23/20, the IDL's position on encroachments is: "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 Wilson's barriers (jetties) are in violation of the IDL's rules and regulations. I have notified you, Trevor Anderson, Mike Ahmer and Dustin Miller via emails, phone calls and meetings many times over the past 2 years. On December 3, 2020 a hearing was held with Greg Wilson, me, Angela Kaufmann, IDL members and others. In late December, 2020, the IDL ruled that the Wilson's barrier (jetty) at our property line was not allowed. In addition, on 2/9/22, Mike Ahmer told me that the Wilson's barriers (jetties) at our property line lake ward of the high water mark and under the approach to their dock was not legally allowed by IDL and have to be removed. In addition they have to apply for a permit for their hobie cat lifts, which, as far as I know, has not been done. However, no action has been taken by the IDL. The Wilson's barriers, including their low

positioned jet ski lifts persist, to the detriment of our beach. The status of the hobie cat that they put next to our property line for the sole function of retaining sand on their beach is yet to be determined this year.

I request that the Wilsons be required to follow Idaho rules and regulations and remove their 2 barriers (jetties), move their tarp or Hobie cat above the high water mark and remove their jet ski lifts by June 4, 2022. Please respond to this e-mail by June 2, 2022. If not, I plan to pursue action against IDL and the Wilsons.

Thank you for your anticipated cooperation in resolving this issue. It is long overdue.

Bill Faloon William W. Faloon Jr., M.D.

May 27, 2022 8:39 am

Faloon emails the Wilsons

Dear Greg and Debra,

I hope that you are well.

A survey was recently completed on my property, including designating the high water mark at our property line.

Please remove your barrier at our property line at least lake ward of the level of the high water mark, including the logs, sandbags, rocks and tarp. In addition, please remove the barrier (jetty) underneath the approach to you dock and reposition and elevate your jet ski lifts. If you need help, please text me.

As per Martin Luther King, "Let's build bridges, not walls".

Thank you for your anticipated consideration.

Bill Faloon

May 27, 2022 8:58 am

Greg Wilson emailed Faloon

Bill:

Happy Spring! We are coming up today. I will take a look at your beach survey stakes. Would you please provide me with a copy of this boundary survey. I noticed two stakes. One appears to have a red flag, the other blue. What do they represent?

If any of the waste stones encroach on your property, we will move them this weekend. I spoke with Mike Ahmer about the jet ski lifts. If I use them this year, they will be placed within my dock boundaries.

Will we see you and Shelley this weekend?

Greg

May 27, 2022 12:18 pm

Faloon emailed the Wilsons:

Dear Greg and Debra,

Yes, we will be up at Priest Lake this weekend.

The red flag is on the property line, the blue flag is at the high water mark.

As you know, lake ward of the high water mark is under the jurisdiction of the State of Idaho and jetties are not allowed by IDL.

Please remove them. I am willing to help.

Thank you.

Bill Faloon

5/30/22:



Picture 1: Taken on 5/30/22. Lake water level has risen. Wilson's put barriers lakeward of the HWM.



Picture 2: Taken on 5/30/22. Lake water level has raised. Wilson's put barriers lakeward of the HWM.

6/21/22:

Faloon emailed Mike Ahmer (A copy of this letter was sent to Angela Kaufmann + Dustin Miller)

Dear Mr. Ahmer,

In May, 2022, (last month) a survey of my Priest Lake property was completed. It included placing a marker at the high water mark very close to the property line with the Wilsons. The high water mark is defined by the State of Idaho and the Idaho Supreme Court. Please see pictures 1 - 3 that were taken on 5/18/22. The blue flag defines the high water mark and the pink flag defines our north property line.



Picture 1: Taken on 5/18/22. Blue flag: High water mark. Pink flag: Property line



Picture 2: Taken on 5/18/22. Blue flag: High water mark. Pink flag: Property line



Picture 3: Taken on 5/18/22. Blue flag: High water mark. Pink flag: Property line

As documented in pictures 1 - 3, the Wilson's barrier/jetty extends lake ward of the high water mark. In addition they placed a tarp on their beach that extends lake ward of the high water mark. The sole purpose of their jetty and tarp is to impede the natural flow of the lake which adversely affects our beach/property.

As you are probably aware, the level of Priest Lake is currently high. The Wilsons have now enhanced their un-permitted jetty lake ward of the high water mark at our property line. Please see pictures 4 – 7, especially picture 7, that were taken on 6/19/22.



Picture 4: Taken 6/19/22.



Picture 5: Taken 6/19/22.



Picture 6: Taken 6/19/22.



Picture 7: Taken 6/19/22.

As documented in pictures 6 and 7, the Wilson's unpermitted logs/jetty that are lake ward of the high water mark persist. In addition, they have now illegally reinforced their un-permitted jetty with rocks and sandbags that they moved from the barrier on their beach and placed them lake ward of the high water mark. In addition, they placed a tarp on their beach, part of which is lake ward of the high water mark. As you know, their jetty was denied at the hearing in December, 2020. In addition, you previously personally told the Wilsons to remove their jetty (since it was not allowed).

As you told me previously, the IDL legal dept. has determined that The Wilsons have not provided any legal documentation that any barrier/jetty at our property line pre-existed before 1975. Also, I have documented in prior emails to Angela Kaufmann and you, the Wilsons jetty underneath the approach to their dock does not have a permit and was created after 2003.

Please enforce Idaho rules and regulations and require that the Wilsons immediately remove the barrier underneath the approach to their dock and their jetty lake ward of the high water mark at our property line. This includes the unpermitted logs, rocks, sandbags, tarp and any other barrier/barriers that impedes the natural flow of the lake which are not permitted under Idaho laws/regulations.

Thank you for your anticipated timely cooperation.

Sincerely,

Bill Faloon

William W. Faloon Jr., M.D.

Mike Ahmer did not respond to Faloon's email (above).

Jun 22, 2022 3:05 pm

Faloon emailed Mike Ahmer

Dear Mr. Ahmer,

This coming Saturday, June 25, a member, or members, of the IDL will be giving a presentation about Wildland Fire Management and Fire Shelter Deployment at the North of the Narrows Fire Department (NNFD). Our cabin/property is only a few miles south of the NNFD. Maybe the IDL member/s could come to our property to see the problem that I am having with the Wilsons at our property line and under the approach to their dock to hopefully resolve these issues.

Feel free to contact me via email or call me on my cell phone: 509-869-8652.

Thank you.

Bill Faloon

William W. Faloon Jr., M.D

6/27/22:

Faloon emailed Mike Ahmer

Dear Mr. Ahmer,

We went to Priest Lake this past weekend; June 24 – 26, 2022. The Wilson's jetty/barrier at our property line persist lakeward of the high water mark. This is documented in pictures 1 – 4 that were taken this past weekend. Their illegal barrier is most apparent in picture 4 and includes rocks, sandbags, the un-permitted logs and tarp that are lakeward of the high water mark. As I documented in my email to you on 6/21/22, the wooden stake with the blue flag on it is at the high water mark level as determined by IDL and the Idaho State Supreme Court.



Picture 1



Picture 2



Picture 3.



Picture 4

As per the meeting with IDL, Greg Wilson, me and our representatives in December, 2020, IDL denied the Wilson's jetty/ barrier at our property line. In addition, the Wilsons have not provided any legal documentation that a jetty/barrier pre-existed before 1975. In addition, as per my email to Angela Kaufmann, Esq. on 5/26/22, I have pictures that document that the Wilsons created the jetty/barrier under the approach to their dock after 2003. They do not have permits for their barriers at our property line or under the approach to their dock. As per my prior email to you on 6/21/22 (last week), IDL Rules and Regulations, as well as the Idaho Supreme Court, have determined that jetties/barriers are not allowed lake ward of the high water mark.

The conflict with the Wilson's has persisted for almost 2 years to the detriment of our property, specifically our water front. I have not done anything wrong and have followed Idaho laws, rules and regulations. All citizens, including the Wilson's, are to be held to the same standard.

It is IDL's job to enforce Idaho rules and regulations. Please have the Wilson's remove their illegal barriers lake ward of the well-marked high water mark this week, by Thursday, June 30, 2022. This includes the un-permitted log/logs,

sandbags, rocks and tarp at our property line as well as the barrier under the approach to their dock.

Please respond to this email.

Thank you for your anticipated cooperation.

Bill Faloon

William W. Faloon Jr., M.D.

Mike Ahmer did not respond to this email (above).

6/29/22:

Ryan Zandhuisen completed an inspection report on Wilson's property. Their barriers are not allowed. (See Public Trust Program Inspection Report, dated 6/29/22 - below)



Public Trust Program Inspection Report

Inspection Data	Inspection Time (hrs)	Related instrument(s) (include instrument type & number)
Body of water: Priest Lake	Preparation: .5	L-97-S-1081B
Inspection date: 06/29/2022	Travel: 1	
Type: Quality Assurance	Inspection: .5	
Complaint	Report: 1	
Application Review, #:	Total: 3	
Name of Instrument Holder/Responsible Party: Wilson, Gregory M & Debra B		
Location of Inspection: Legal: 9-61N-4W DIAMOND PARK REPLAT LOT 17A Parcel Number: RP0008700017A0A		
On-site representative(s):		
Name: None	Name:	
Title:	Title:	
Phone:	Phone:	
Email:	Email:	
Narrative (Describe who, what, when, where, why, and how): Ryan Zandhuisen, Lands Resource Specialist with the Priest Lake office, performed this inspection as a follow up to the Wilson application and complaint by Mr. Faloon. On 10:00am Wednesday the 29 th of June 2022 Ryan traveled to Diamond Park on the east side of Priest Lake to visit the Wilson residence. Upon inspection I found that there were a log with rocks and a tarp with rocks on it located below the Ordinary High Water Mark (OHWM) on the south end of their property. Rocks underneath the Wilson pier were also observed below the OHWM. The logs, the rocks and the tarp are unpermitted. Priest Lake depth gauge shows 3.6' on June 29, 2022 see Photo #14. On the attached photos, the pink stake is located at the property line and the blue stake is located at the Ordinary High Water Mark.		
Summary of Findings: <input type="checkbox"/> No issues of concern identified. <input checked="" type="checkbox"/> The following issue(s) of concern were identified (include citation and brief description): IDAPA 20.03.04.012.02. No Encroachments Without Permit. No encroachment on, in or above the beds or waters of any navigable lake in the state may be made unless approval has been given as provided in these rules. An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho.		
Attachments: Photos		
Inspector's Signature: 	Name: Ryan Zandhuisen	Title/Office: Lands Resource Specialist
		Date: 6/29/2022



Public Trust Program Inspection Report

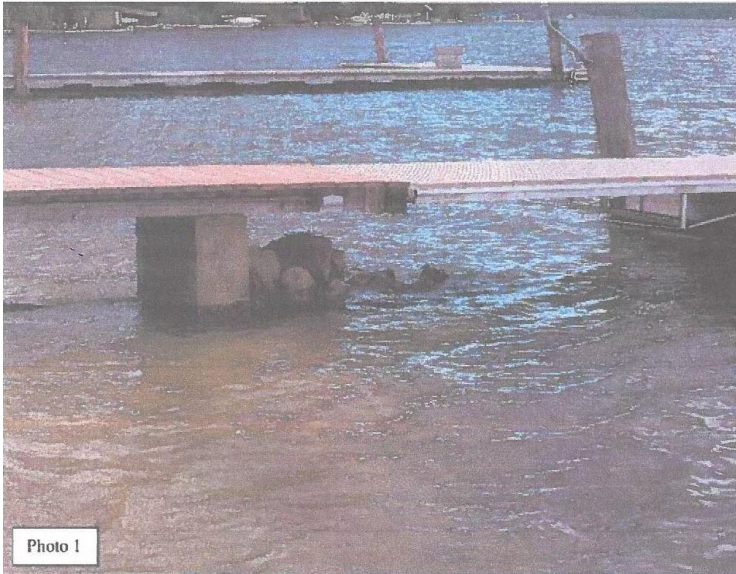


Photo 1



Photo 2



Public Trust Program Inspection Report



Photo 3



Photo 4



Public Trust Program Inspection Report



Photo 7



Photo 8



Public Trust Program Inspection Report



Photo 9

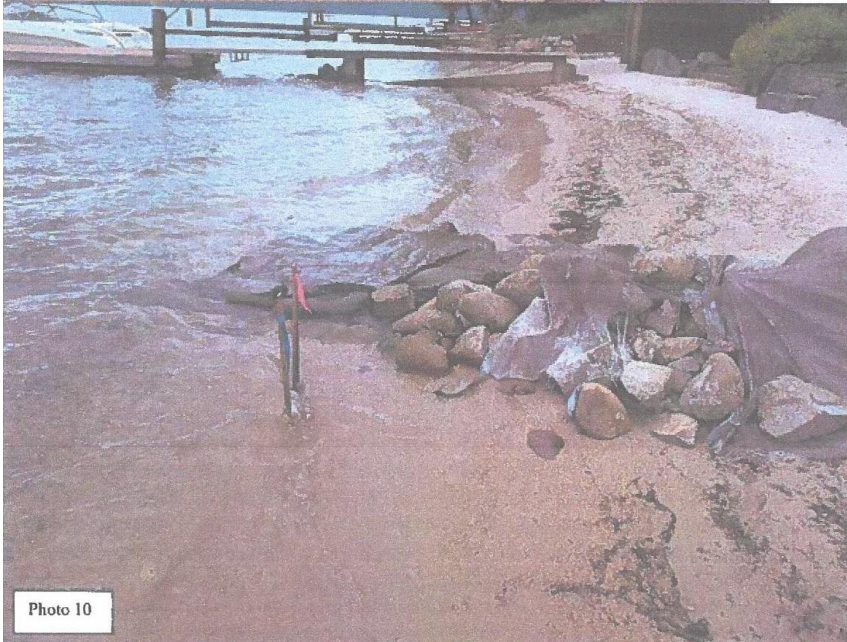


Photo 10



Public Trust Program Inspection Report

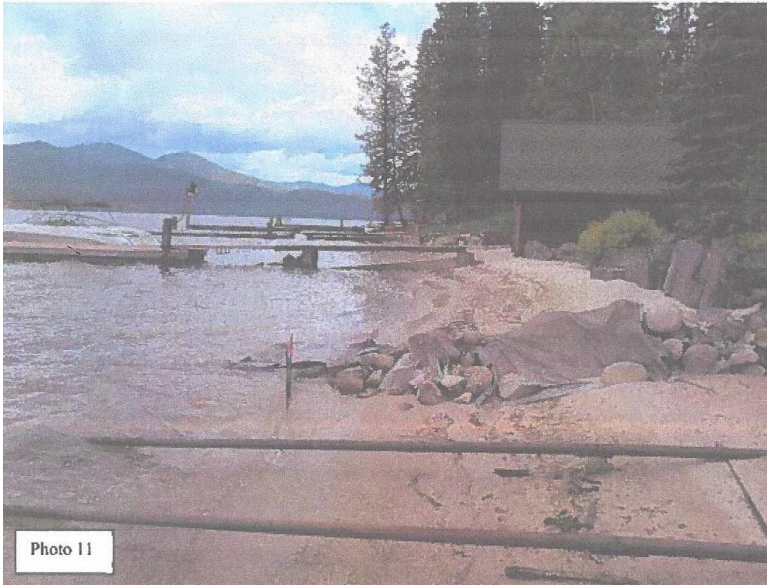


Photo 11



Public Trust Program Inspection Report

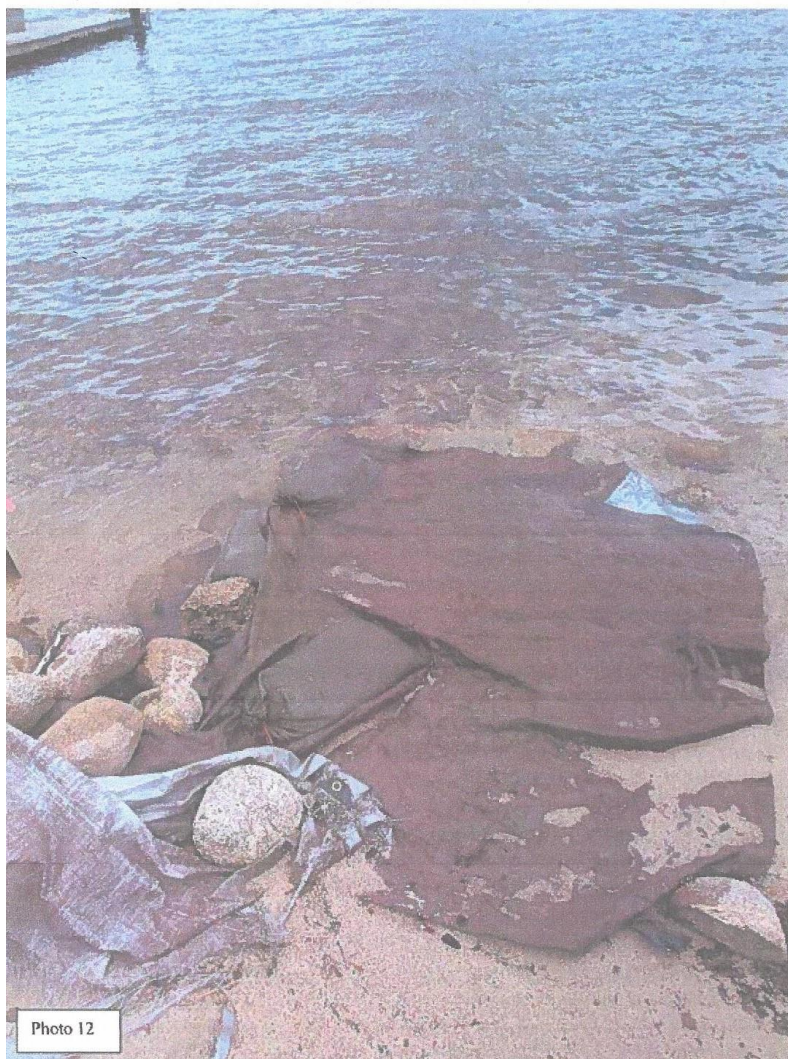


Photo 12



Public Trust Program Inspection Report

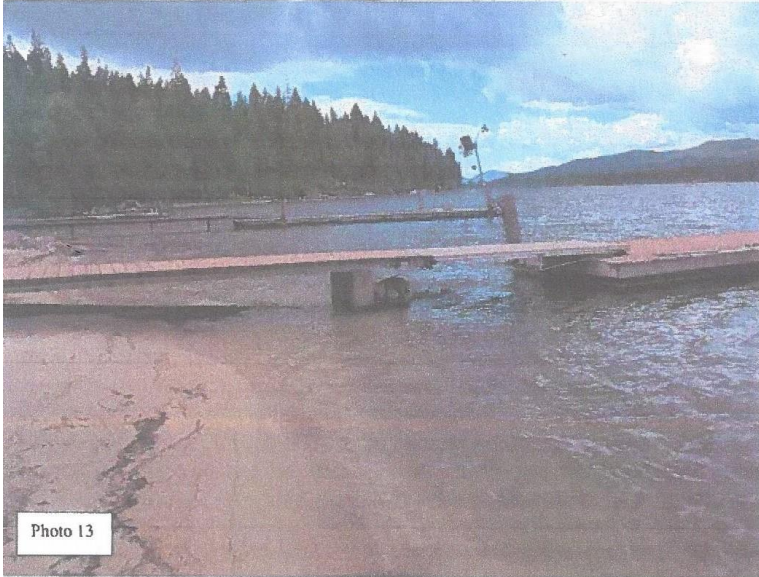


Photo 13

Gage height, feet

Most recent instantaneous value: 3.52 06-29-2022 13:30 PDT

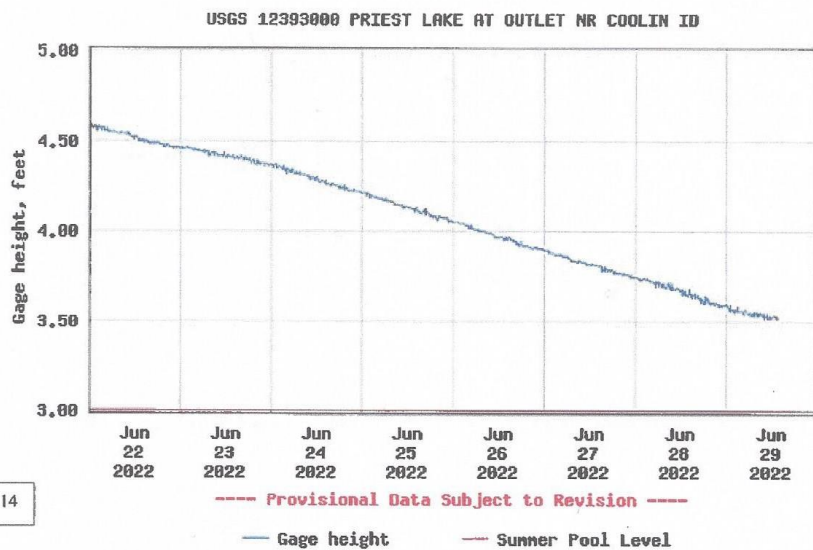


Photo 14

- Wilson's jetty/barrier at our property line and under the approach to their dock were denied.

7/6/22:

Faloon emailed Mike Ahmer

Dear Mr. Ahmer,

I hope that you had a nice July 4th holiday.

I assume that you received my emails to you concerning the Wilson's barriers/jetties dated 6/21/22 and 6/27/22. I have also emailed you and Angela Kaufmann many times previously. Unfortunately I have not heard from you, or anyone at IDL, recently.

The Wilson's barriers/jetties at our property line and underneath the approach to their dock are not permitted and persist. Last weekend, which was the July 4th weekend, the Wilson's were at their lake home. They did not remove their barriers/jetties that are lakeward of the high water mark which continue to be detrimental to our beach/lakefront.

As documented in pictures 1 and 2 (below) that were taken on 7/1/22, their barriers persist. Picture 1 show that their barrier at our property line and also underneath the approach to their dock persists.



Picture 1: Taken on 7/1/22, shows the Wilson's barrier/jetty at our property line and under the approach to their dock.

Picture 2 documents that the Wilsons barrier/jetty made of rocks, sandbags logs and tarp persisted lake ward of the high water mark (stake with blue flag).



Picture 2: Taken on 7/1/22. The Wilsons barrier/jetty made of rocks, sand bags, logs and tarp persisted lakeward of the high water mark (stake with blue flag).

Picture 3 documents the erosion of our beach due to the Wilson's 2 barriers. Please compare the Wilsons beach that is directly north of our property as well as their beach to the north of their dock and approach. As we have discussed several times previously, including at the IDL hearing in December, 2020, because of the natural flow of the lake, sand accumulates to the north of a barrier/jetty and is eroded to the south of the barrier. This is apparent in pictures 3 and 4.



Picture 3: Taken 7/2/22. Documents the erosion of Faloon's beach due to the barriers/jetties compared to the Wilsons beach.

On July 3rd, the Wilsons removed the tarp that they placed on their beach near our property line. It extended lake ward of the high water mark. I assume they removed it because the lake level had been lowered to summer pool level.

As documented in picture 3 and also in picture 4 (that was taken on July 4th), the Wilsons barriers/jetties continue to cause erosion of our beach.



Picture 4: Taken on July 4, 2022, documents the erosion to Faloon's beach due to the Wilsons barriers.

As documented in these pictures and I have documented many times previously, the Wilsons barriers/jetties are detrimental to our beach, do not have permits and are not allowed by Idaho rules and regulations. There is no documentation that they pre- existed before 1975. I have also provided pictures that document that their barrier/jetty under the approach to their dock was built after 2003.

This situation has persisted for almost 2 years to the detriment of our property. Please demand and taken action so that the Wilsons remove their barriers/jetties this week, by July 8, 2022.

Please respond to this email.

Thank you.

Bill Faloon

William W. Faloon Jr., M.D.

7/8/22:

Ahmer emailed Faloon.

The Wilson's barriers were not permitted and had to be removed.

Good Morning Mr. Faloon,

Please see the attached letter that was emailed and sent regular US Mail to Mr. Wilson today. We have determined that the application does not meet the requirements for a Pre-Lake Protection Act encroachment and are asking him to remove the rocks and logs below the ordinary high-water mark (OHWM) of Priest Lake.

As the letter states, and as we have discussed before, Idaho Department of Lands (IDL) has no jurisdiction above the OHWM of Priest Lake. Any rocks, tarps, logs, boats, jet skis, etc.... that are located above the OHWM cannot be regulated by IDL and IDL cannot take any action against.

If you have any questions please contact me. Please note I will be out of the office all next week and will return on Monday July 18, 2022.

Thank you,
Mike Ahmer

7/8/22:

Ahmer sent Greg Wilson a letter that their barriers are not permitted and have to be removed or appeal the decision. See below - "Encroachment Permit Application L97S1081B", dated July 8, 2022.

MICA SUPERVISORY

AREA

3258 West Industrial Loop
Coeur d'Alene ID 83815
Phone (208) 769-1577
Fax (208) 769-1597



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

July 8, 2022

Greg Wilson
PO Box 494
Greenacres, WA 99016

Re: Encroachment Permit Application L97S1081B

Dear Mr. Wilson:

Idaho Department of Lands (IDL) is in receipt of your application submitted on June 15, 2021 (attached), along with supplemental letters submitted on March 23, 2022 (attached) to permit an existing log structure located on your southern property boundary at and below the ordinary high-water mark (OHWM). IDL has determined that the information you have provided does not satisfy I.C. § 58-1312's requirement of substantive documentation of the age of the encroachment and documentation that the encroachment has not been modified since 1974. If you disagree or are dissatisfied with this determination, you may request a contested case hearing. If you do so, a hearing officer will be appointed and a hearing held in accordance with the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code.

As an alternative to requesting a Contested Case Hearing you could remove the portions of the log structure that are below the OHWM, in order to comply with all of IDL's rules and regulations. IDL does not have any jurisdiction over the lands located above the OHWM.

Please submit a request for a Contested Case Hearing or remove the portions of the log structure below the OHWM within 30 days of receipt of this letter, approximately August 12, 2022.

Additionally, rocks and presumably concrete have been added underneath your pier and approach ramp/dock. These rocks have not been permitted or applied for and would constitute a non-navigational encroachment that would need to provide a significant benefit to the public of Idaho via economic, social or environmental purposes. Please remove the rocks within 30 days of receipt of this letter, approximately August 12, 2022.

If you have any questions regarding this matter, please feel free to contact me at (208) 769-1577.

Thank you for your cooperation.

Sincerely,



MIKE AHMER, Resource Supervisor, Lands & Waterways
Mica Area

Enclosures: Joint 404 Application
Supplemental Letters

7/8/22:

- Greg Wilson called Faloon. No voice message left.
- Faloon texted Greg Wilson: "I am at CPR course at NNFD."
- Wilson texted Faloon: "OK. Left you a friendly VM. Let's talk. Please call me at your convenience."
- Wilson texted Faloon: "Do you want some rocks to build a fire pit?"
- Faloon texted Greg Wilson: Your voice message did not come through. I never received it. Thank you. However, we do not need any rocks.
(However, while taking the CPR course at the NNFD, I received a voice message from Coolin Marine about my 4 Winns boat summarization being complete. Therefore, did Greg Wilson actually leave a "friendly voice message"?)

7/11/22:

Faloon texted Greg Wilson. "I am out of town this week. If you want, I can help remove the Great Wall of Wilson at our property line + the jetty underneath the approach to your dock this coming weekend or possibly some days next week."

7/11/22:

Faloon emailed Mike Ahmer (and also emailed a copy to Dustin miller, Angela Kaufmann and Ryan Zandhuisan)
(see below)

Dear Mr. Ahmer,

Thank you for your email dated 7/8/22 concerning the Wilson's barriers/jetties.

I understand, and we have talked about several times previously, that IDL has jurisdiction of Priest Lake water-ward of the high water mark and not above the high water mark.

According to your letter to Mr. Wilson dated 7/8/22, the Wilson's are required to remove the barriers beneath the approach to their dock and the logs lake ward

of the high water mark at their southern property border. However, as I have documented many times previously, their barrier/jetty at their southern border also has rocks and bags of sand that are lakeward of the high water mark (see picture 1). I assume that the Wilson's are required to remove them also. However, I recommend that they be told this to minimize any confusion.



Picture 1: Taken on 7/8/22. The Wilson's barrier/jetty made of logs, rocks and bags of sand extends lake ward of the high water mark (stake with blue ribbon).

As documented in picture 2 that was taken on 7/10/22, the erosion to our beach is increasing due to the Wilson's barriers.



Picture 2: Taken 7/10/22. Erosion of Faloon's beach/property is increasing due the Wilson's barriers/jetties.

Additional question: As has been documented multiple times, the Wilson's barrier/jetty under the approach to their dock is not permitted. As stated in your July, 8, 2022 letter, they are required to remove it. However, it is not documented where the high water mark by their approach is located. It is my "guesstimate" that it is 1 -2 feet lake ward of the water's edge on their shore. (See picture 3). I assume that the Wilson's are required to remove the portion of the concrete block under the approach to their dock that is lakeward of the high water mark (as well as the rocks that are under their approach). Is this correct? If not, please explain why it would be allowed.



Picture 3: Taken 7/10/22. Wilson's beach, dock and approach.

Thank you for your email dated 7/8/22 and your anticipated consideration and response to this email.

I hope that you had a nice vacation.

Bill Faloon

William W. Faloon Jr., M.D.

Pictures taken on 7/16/22 and 7/17/22:

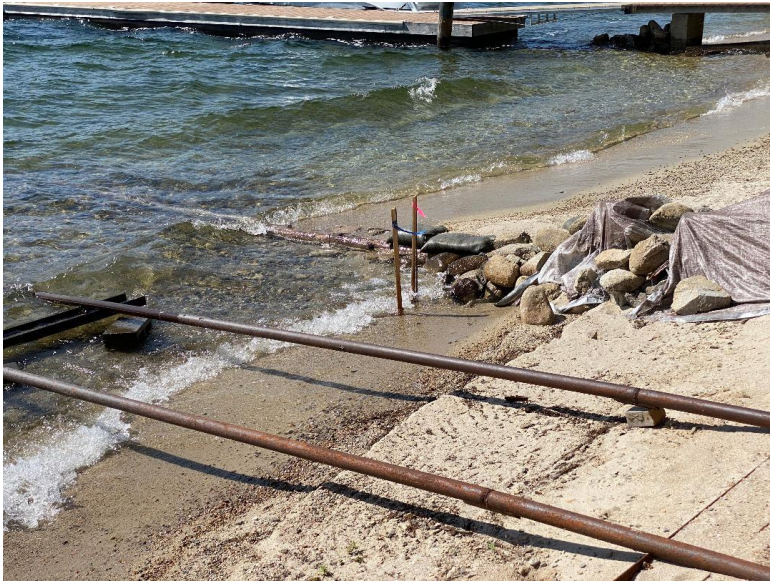


Picture 1: Taken on

7/16/22



Picture 2: Taken on 7/17/22



Picture 3: Taken on 7/17/22

7/18/2022

Mike Ahmer emailed Faloon

Hello Mr. Faloon,

Yes, everything below the OHWM will need to be removed or applied for. If applied for, IDL would likely recommend denial as there does not appear to be a significant public benefit.

Thank you, Mike Ahmer

7/23/22:

Faloon and Greg Wilson talked (at our property line)

Mr. Wilson and I spoke on 7/23/22. He said that he wanted to resolve our conflict concerning the jetties. I volunteered to remove their jetties. I later emailed him and again volunteered to remove them.

Greg Wilson did not respond to my email.

7/26/22:

Faloon emailed Wilson:

Subject: Removal of barriers at our property line

Dear Greg,

After our discussion on 7/23/22, hopefully our conflict concerning our beaches will be resolved soon. We may be able to start reconciling our relationship and move forward.

As I said, I will be responsible for removing the jetty and the Great Wall of Wilson at our property line. The jetty is the barrier lake ward of the high water mark that consists of logs, bags of sand and rocks. The Great Wall of Wilson is the barrier above, or to the mountain side, of the high water mark that consists of rocks, bags of sand, tarps and possibly other items. I would remove the jetty before the Great Wall of Wilson since it negatively impacts our beach most significantly.

You requested that my offer to remove the barriers be documented in writing. If you want to provide one to me I will review it. A simple letter/note is fine or you could simply acknowledge that you agree with this letter. I will remove the jetty and Great Wall of Wilson as soon as possible.

However, my offer of removing the jetty and the Great Wall of Wilson extends through August 9, 2022. After that my offer expires and you can take care of it. If you decide to proceed with your idea of digging a large hole in your beach and burying the rocks, I do not want any of the sand and dirt that is excavated.

As you know, the lake bed that is lake ward of the high water mark is under the jurisdiction of IDL. Lake front property owners do not own it. In addition, property owners can maintain their property, including at their property lines.

Thank you.

Bill Faloon

July 26, 2022

Faloon emailed Ahmer

Dear Mr. Ahmer,

Please review my email to Greg Wilson (above). I sent it to him this morning.

If I remove the rocks at our property line, would IDL allow me to dispose of them by throwing them in the lake? They have already been in the lake for several years. I could put them in a boat and dump them deep into the lake. If IDL does not allow the rocks to be placed in the lake, they will have to be taken to the dump.

I hope the conflict between the Wilson's and me is resolved soon.

Bill Faloon

William W. Faloon Jr., M.D.

8/8/22

Greg Wilson emailed Ahmer (IDL)

Mike Ahmer

Resource Supervisor

3258 W. Industrial Loop

Coeur d'Alene, ID 83815

Re: Contested Case Hearing Request

Mike:

I wish to appeal IDL's decision to deny my application for a Pre-LPA encroachment permit for the existing log crib structure (the "Structure") near the southern boundary of my Lot 17A.

My appeal will cover at least two matters:

1. My compliance with requirements of I.C. 58-1312 concerning substantive documentation of the structure.
and

2. IDL's demand that I remove the Structure within 30 days without a demolition permit as required IDAPA 20.03.04.020.01.

As I understand the procedural matters associated with this Pre-LPA application, the contest is between me, the Applicant, and IDL, the State agency. It is not a contest between the Applicant and William Faloon. Faloon does not have an interest in this Pre-LPA application and therefore no legal standing to be invited or intervene in this contested hearing. Faloon is not the Application's objecting party.

Sincerely,

Gregory M. Wilson

cc: Erik Kukuk, Esq.

Paine Hamblen, LLP

Case No. PH-2022-NAV-10-001

8/17/22

Faloon's emailed Ahmer (A copy was also sent to Ryan Zandhuisen, Dustin Miller and Angela Kaufmann)

Dear Mr. Ahmer and Mr. Zandhuisen,

I hope that you are well and have not been busy with the recent fires.

As per your notification to Greg and Debra Wilson dated July 8, 2022, the Wilson's barriers (jetties) on the beach at their southern border and under the approach to their dock are not permitted. According to your letter of July 8, 2022 to the Wilsons, they had until August 12, 2022 to either remove the jetties lakeward of the high water mark or file an appeal for them. If an appeal is filed, neighbors are to receive a copy. I have not received any notification that the Wilson's filing an appeal. If I had, I would have objected to it. The Wilson's deadline to file an appeal has expired.

Mr. Wilson and I spoke on 7/23/22. He said that he wanted to resolve our conflict concerning the jetties. I volunteered to remove their jetties. I later emailed him and again volunteered to remove them. However, he did not respond to my email.

As is documented in the pictures (below), that were taken on 8/14/22, their barriers/jetties lake ward of the high water mark at their southern border and under the approach to their dock persists. They continue to cause erosion of our beach and impede the natural flow of the lake.



Picture 1: Wilson's barrier at their southern border persists. Picture was taken on 8/14/22.



Picture 2: Taken on 8/14/22. Wilson's barrier at their southern border remains. Erosion of Faloon's beach persists.



Picture 3 taken on 8/14/22. Wilson's barrier at their southern border remains. Erosion of Faloon's beach persists.



Picture 4 taken on 8/14/22. Wilson's barrier/jetty under the approach to their dock persists and has not been removed.

Mr. Ahmer and Mr. Zandhuisen, I would like to resolve and finalize this conflict. However, the Wilson's have not taken any action to remove their barriers. They recently placed a camera (one of many cameras on their property) on a tree near the unpermitted jetty at their southern border. I would like to remove both of the Wilson's barriers that are lakeward of the high water mark. I will do the work but request that Mike Ahmer, Ryan Zandhuisen or someone else from the IDL oversees it so that the Wilson's do not pursue other means of dragging this conflict out any further.

I am a law abiding, tax paying citizen. My rights are not being honored by the Wilson's unpermitted acts. It is time to resolve this issue. Please respond by 8/19/22.

Thank you.

Bill Faloon

William W. Faloon Jr., M.D.

8/19/22, at approximately 10:00AM:

Faloon went to the Coolin IDL office and spoke with Ryan Zandhuisen concerning the Wilson's barriers/jetties. Ryan said that he would email Angela Kaufmann about the Wilson's barrier. Ryan said that Greg Wilson requested until the fall, when the lake level is lowered to remove the barriers. I objected to this since this

situation has been going on for at least 2 years and I could take care of it in a few hours. Ryan said that he had not able to enforce Idaho laws, rules or regulation concerning the Wilson's barriers/jetties. He does not have authorization to fine the Wilson's if they do not comply with removing their barriers. Angela Kaufman is the person that can fine the Wilsons. Ryan said that Greg Wilson may apply for a permit for the jetty underneath the approach to their dock. I told him that I would object to it.

8/31/22: Faloon got a phone call from IDL but could not answer it b/c I was at the dentist office. I later returned the call but no one answered.

Faloon went to the IDL office in CDA and met with Mike Ahmer. Faloon told Ahmer that the Wilson's barriers were not removed and according to the letter that Ahmer had sent to the Wilson's they were to either remove the barriers or file for an appeal as of August 12, 2022. Faloon had not received documentation of an appeal (or permit) and assumed that the Wilson's had not applied for either. Ahmer said that the Wilson's were appealing the barrier at the property line and filing for a permit for the barrier under the approach to their dock. He said that there was going to be a hearing at the end of September for the appeal for the barrier at the property line and there was going to be another hearing in October for their permit for the barrier under their approach.

9/6/22:

Faloon emailed Mike Ahmer:

Dear Mr. Ahmer,

Thank you for meeting with me on 8/31/22.

At our meeting you said that there may be an IDL meeting with the Wilson's during the last week of September concerning their barrier at our property line. I would like to attend the meeting and think that is important that I attend it either in person or via zoom. However, as we discussed, I will be working in Hawaii that week. Unfortunately, I will not be available any day that week, including on Thursday, September 29th. I will be available most days after October 11.

Please contact me ASAP about the date and time of any meeting so that appropriate arrangements can be made.

Thank you.

Bill Faloon

9/14/22:

Faloon emailed Mike Ahmer:

Dear Mr. Ahmer,

Please update me on when the IDL has scheduled the hearing for the Wilson's barriers at their southern border and underneath the approach to their dock. I would like to be present for, and possibly participate in, the hearings.

When we met on August 31, 2022 you said that the hearing for the Wilson's barrier at their southern border was going to possibly be held at the end of September while the hearing for the barrier under the Wilson's approach was going to be held at the end of October.

Thank you.

Bill Faloon

9/15/22:

- APPLICATION # 1 FOR BARRIER UNDER THE APPROACH TO WILSON'S DOCK
- APPEAL FOR THE JETTY/BARRIER AT OUR PROPERTY LINE.

Mike Ahmer responded to Faloon's email of 9/14/22- see below:

Good Morning Mr. Faloon,

Ryan confirmed he received a complete application from Mr. Wilson yesterday and that he would be sending out the adjacent neighbor notifications today. This application is for the rocks that are under his pier and ramp.

Now that we have the complete application we will be scheduling the hearings. We will need to have two (2) separate hearings for the two applications: one for the appeal of IDL's decision to deny Mr. Wilson a pre-LPA encroachment permit for the logs on the beach, and another one for the rocks under the pier/ramp portion of his dock. We would like to use the same Hearing Officer for both hearings for consistency and knowledge purposes, and we would like to try and schedule the hearings around the same time frame. You are welcome to attend the two (2) hearings in person, via Zoom, or by submitting a written statement prior to the hearing. As I mentioned to you before, during these hearings the Hearing Officers make a statement about how documents submitted as part of the record bear the same weight as testimony delivered at the hearing while making their final determination.

You will be contacted by IDL staff soon on scheduling the hearings.

Please let me know if you have any other questions.

Thanks,

Mike Ahmer

WWF note:

The Wilson's were directed to remove the barriers or file an appeal by August 12, 2022. However, the Wilson's did not complete an application for an appeal for the barrier at their southern border and another for the rocks under their pier that was received by Ryan (IDL) until 9/14/22, over 1 month after August 12, 2022 deadline.

9/23/22: Faloon received the "Courtesy Notification of Application for Encroachment" from IDL via standard mail. (under the Wilson's approach to their dock)

9/23/22

Faloon emailed Ahmer

Dear Mr. Ahmer,

Thank you for your email on 9/15/22. In your email you said that Ryan Zandhuisen received a permit application from the Wilsons the day previously, on 9/14/22, and that adjacent neighbors are to receive a copy of it. Currently, I have not received anything from IDL. Please send or email me a copy of the Wilson's permit application.

The Wilson's barrier (jetty) that is on the southern border of their beach (at our property line) was denied in January, 2021. Via Mr. Magnuson, Esq., the Wilsons filed as appeal in February, 2021. However, in April, 2021 an order of dismissal of the appeal was provided by Mr. Magnuson for the Wilsons. IDL ordered the Wilsons to remove their barrier (jetty) by December 2, 2021. However, they have not complied with these orders and IDL has not enforced their ruling.

Also, you sent the Wilsons another letter dated July 8, 2022. It documented that the Wilson's barrier at their southern border (at our property line) and the barrier under the approach to their dock were denied by IDL. Both barriers were to either be removed by August 12, 2022 or the Wilsons could file an appeal or for a permit by August 12, 2022. However, both barriers persist and, as documented in your email to me on 9/15/22, the Wilsons did not file for a permit until 9/14/22, more than 1 month after the deadline.

From what I understand, under Idaho law the Wilsons cannot file another appeal concerning their barrier at our property line that IDL has already finalized and denied. In addition, the Wilsons are late in filing for a permit for the barrier that is under the approach to their dock.

Both barriers (jetties) persist to the detriment of our property/shoreline.

Bill Faloon

William W. Faloon Jr., M.D.

Sep 24, 2022 12:24 pm

Faloon emails Ryan Zandhuisen

Wilsons permit application for...pdf (419 KB)

Dear Ryan,

I have attached a copy of my signed objection to the Wilsons proposed encroachment (for barrier under the Wilson approach and ramp). I am submitting a request for a contested case hearing.

I will also send you a copy via standard mail.

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

Thank you.
Bill Faloon
William W. Faloon Jr., M.D.

Sep 28, 2022 8:40 am
Ryan Zandhuisen emailed Faloon
Dear Mr.Faloon,
I have received your objection.
Thanks,
Ryan Zandhuisen

From: [Mischelle Fulgham](#)
To: [Kourtney Romine](#); hearing.officer@ag.idaho.gov; greg@wilsonlaw.us; [Angela Kaufmann](#); [billofspok](#); [Mischelle Fulgham](#)
Subject: Powerpoint slides for Faloon objection in Case No. PH-2022-NAV-10-001
Date: Thursday, December 15, 2022 03:40:34 PM
Attachments: [Powerpoint slides - Faloon Objection to Wilson's Pre LPA Application Case 1081C.pdf](#)

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Ms. Romine:

Again due to the size, I am submitting into the record the Powerpoint slides for Faloon's Objection to Application No. L-97-S-1081C (log crib) separately. Please let me know if you have any questions or concerns with the attached Powerpoint slides.

Thank you.

Mischelle R. Fulgham, Attorney
FULGHAM LAW, PLLC
C: 208-699-6339
Mischelle@fulghamlawpllc.com

Wilson's Barrier at their Southern Border (Property line with Faloon)

Case:1081-C

F-1: 2002-Faloon's old dock



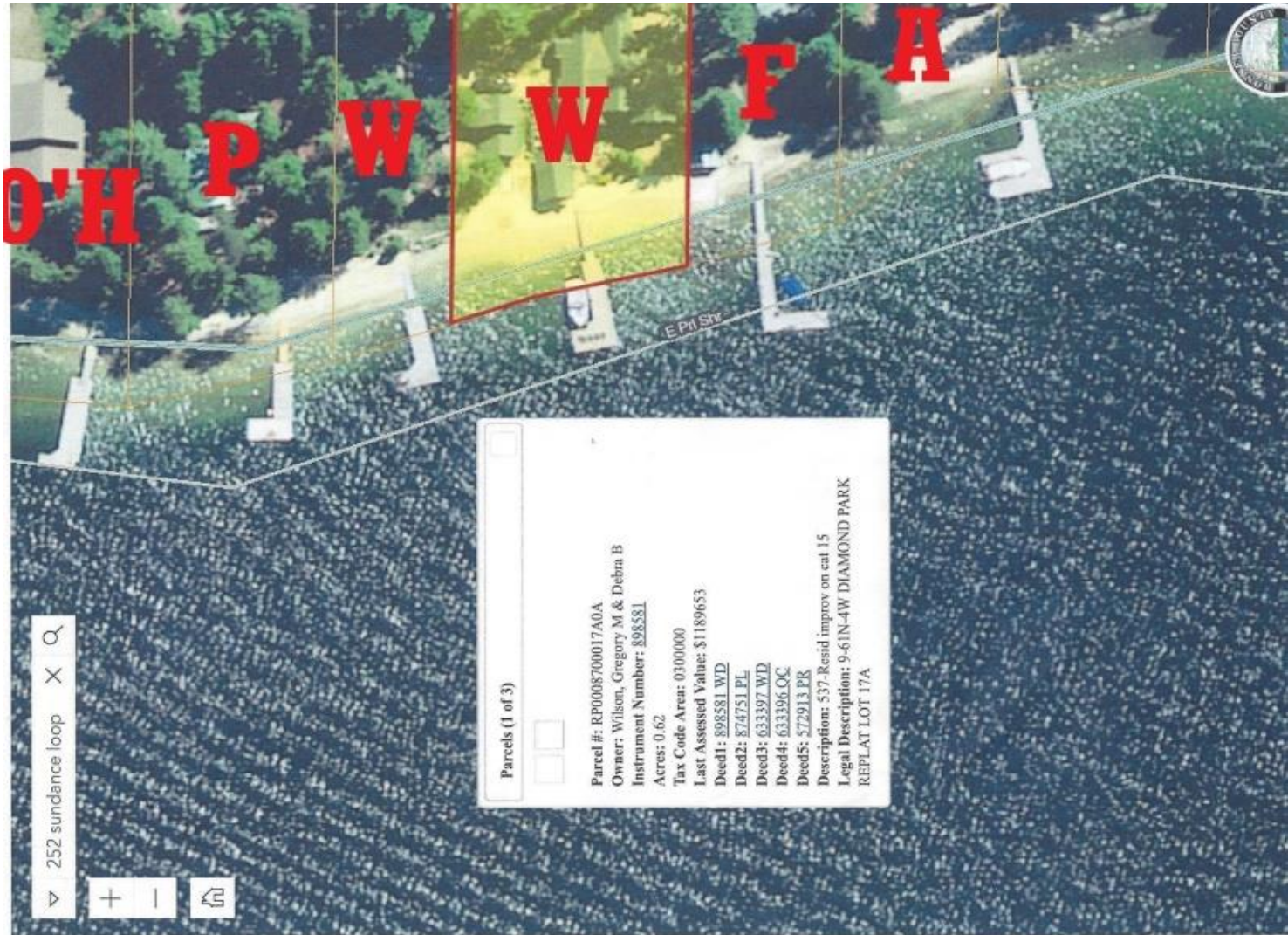
F-2: 2002 – Faloon's old dock



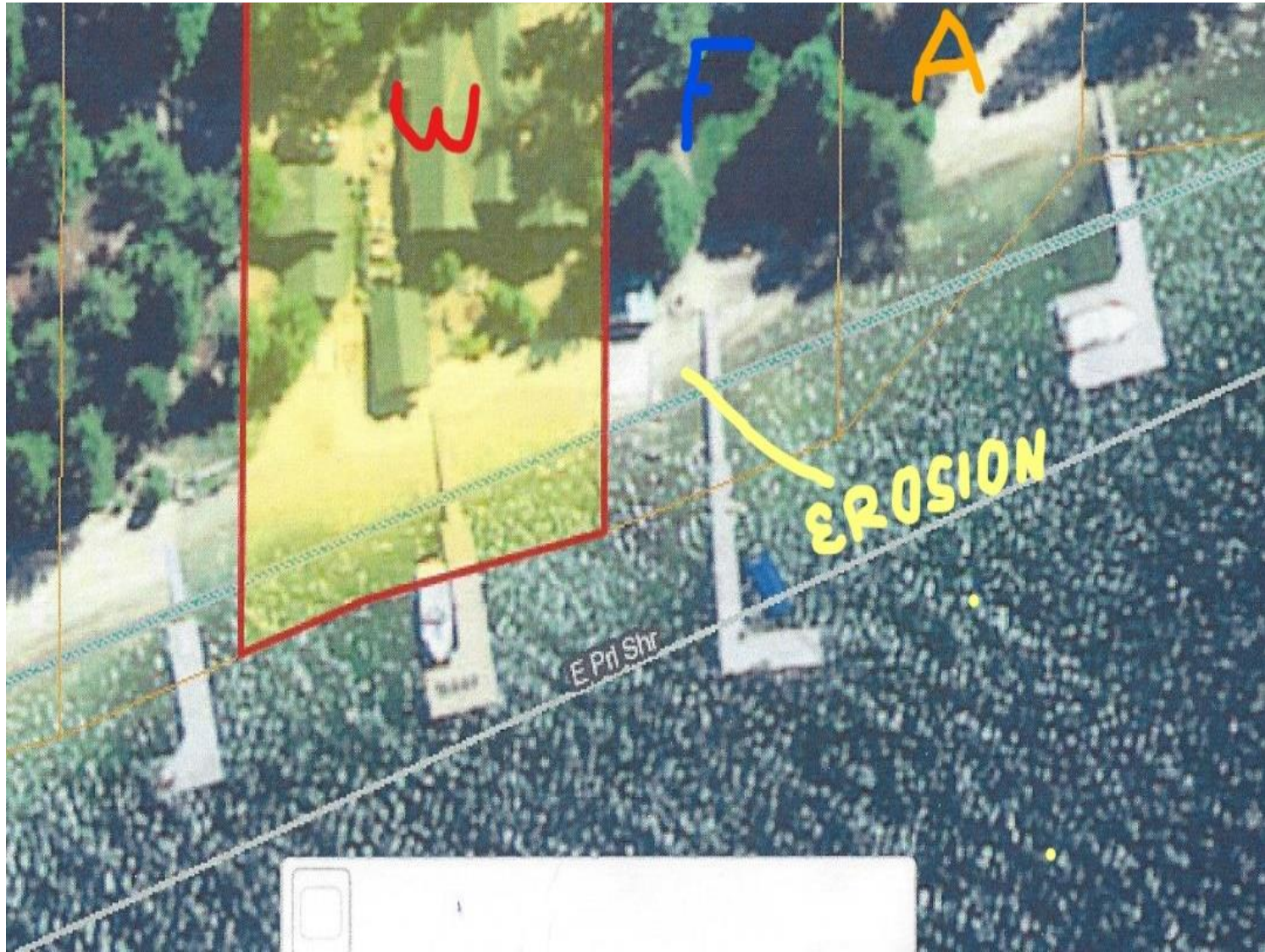
F-3: Aerial view of Diamond Park



F-4: Aerial view of Diamond Park



F-5: Magnified aerial view of D.P. Beach erosion



F-6: 2004: Faloon's new dock and approach



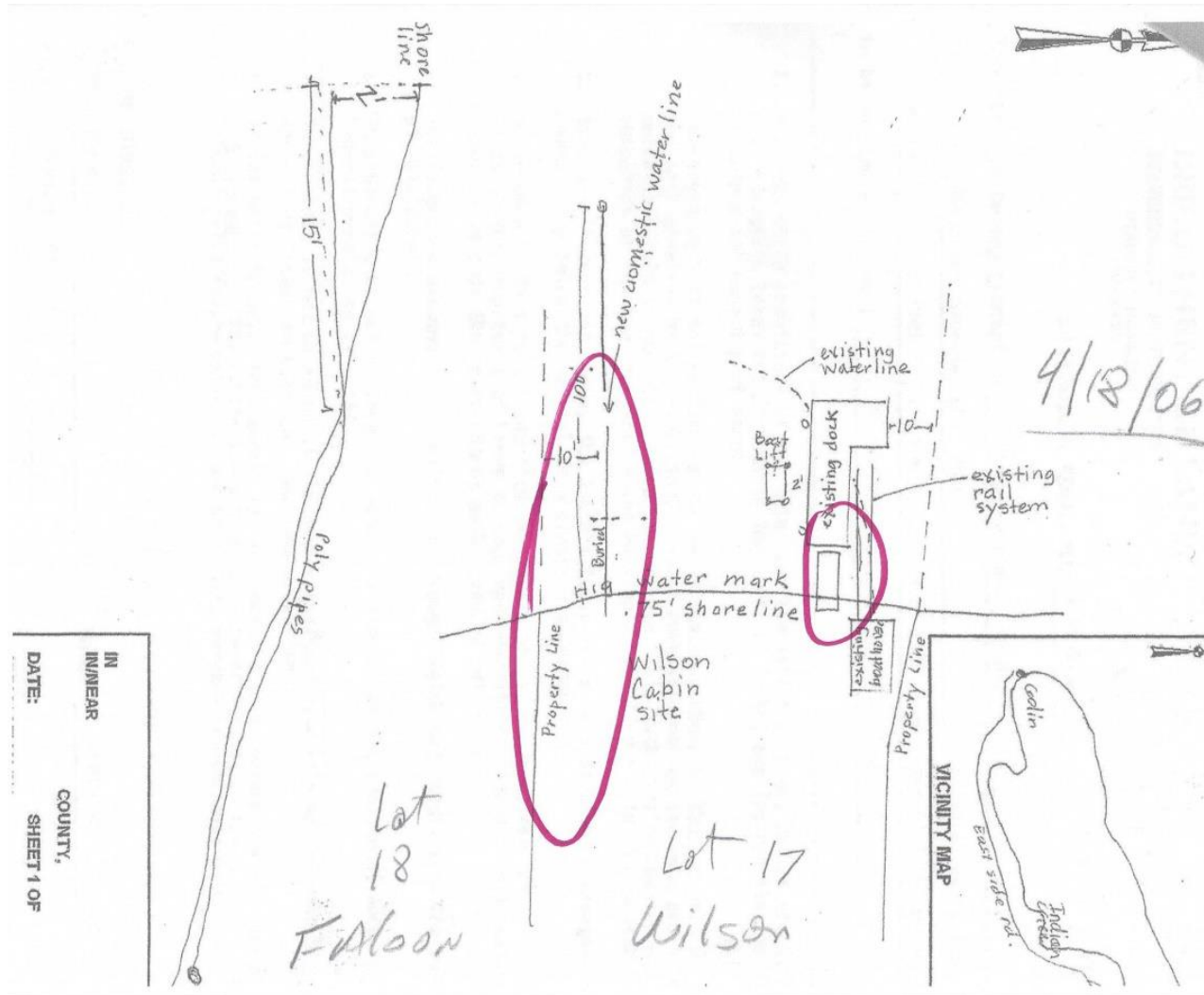
F-7: 2005

No barrier at property line



F-8: 4/18/2006

Wilson's diagram for new water line



F-10: 10/27/2018

Faloon demolished the “monolith”



F-11: 10/2018

Monolith removed



F-12: 4/19/20

Faloon's beach raked



F-13: 4/19/20
Faloon's beach raked



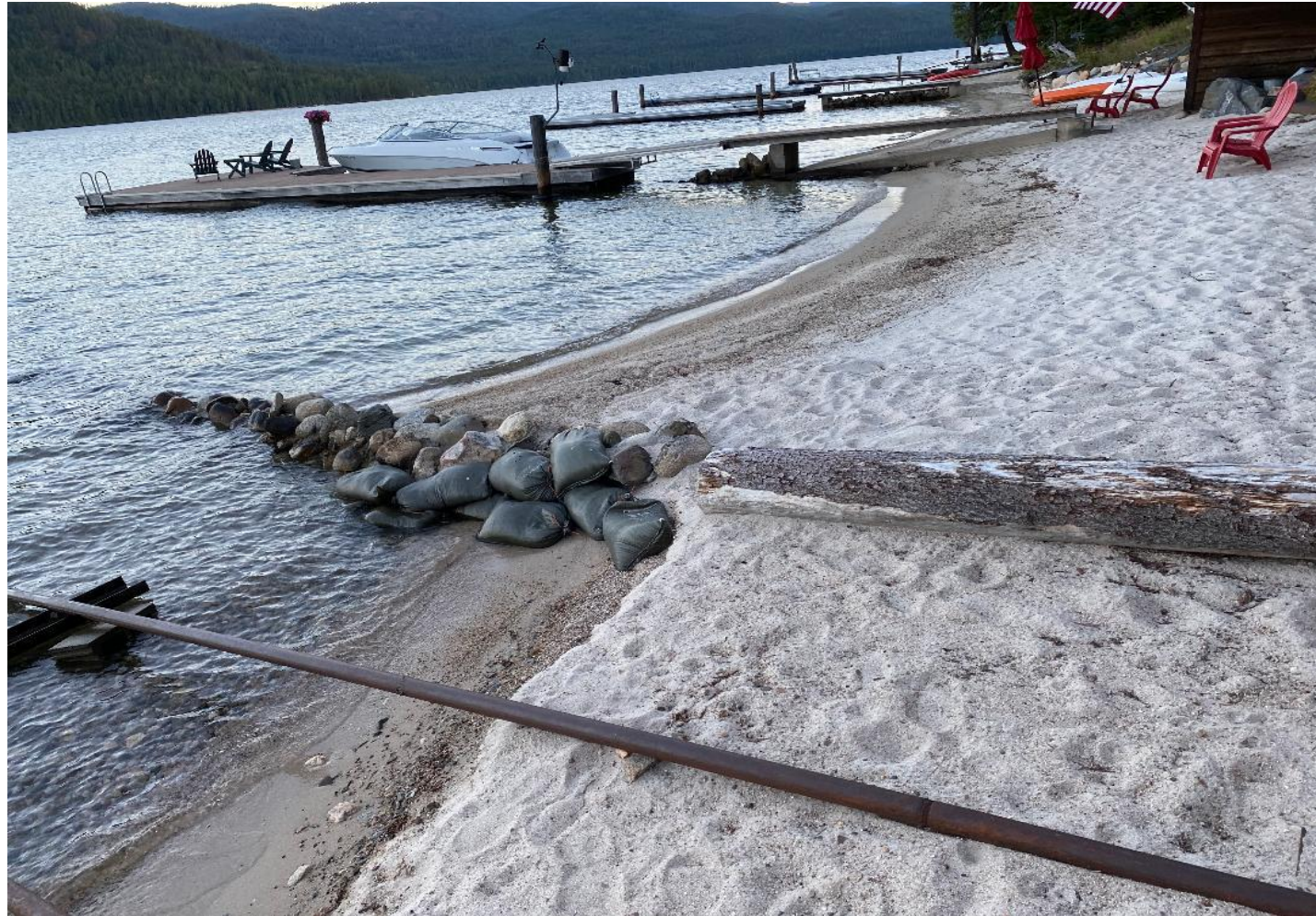
F-14: 8/23/20

Erosion of Faloon's beach



F-15: 8/23/20

Erosion of Faloon's beach



F-16: 8/23/20

Erosion of Faloon's beach



F-17: 8/23/20
Erosion of Faloon's beach



F-18: 8/23/20

Erosion of Faloon's beach



F-19: 9/1/20

Faloon's email to Wilson's. They described it as "abrasive".

- 9/1/20:
- Faloon emailed Greg Wilson
- Faloon asked Wilson to remove their barrier at our property line.
- See email below:
- 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
-

F-20: Photo given by Debra Wilson:
No pictures from “60 years ago”.



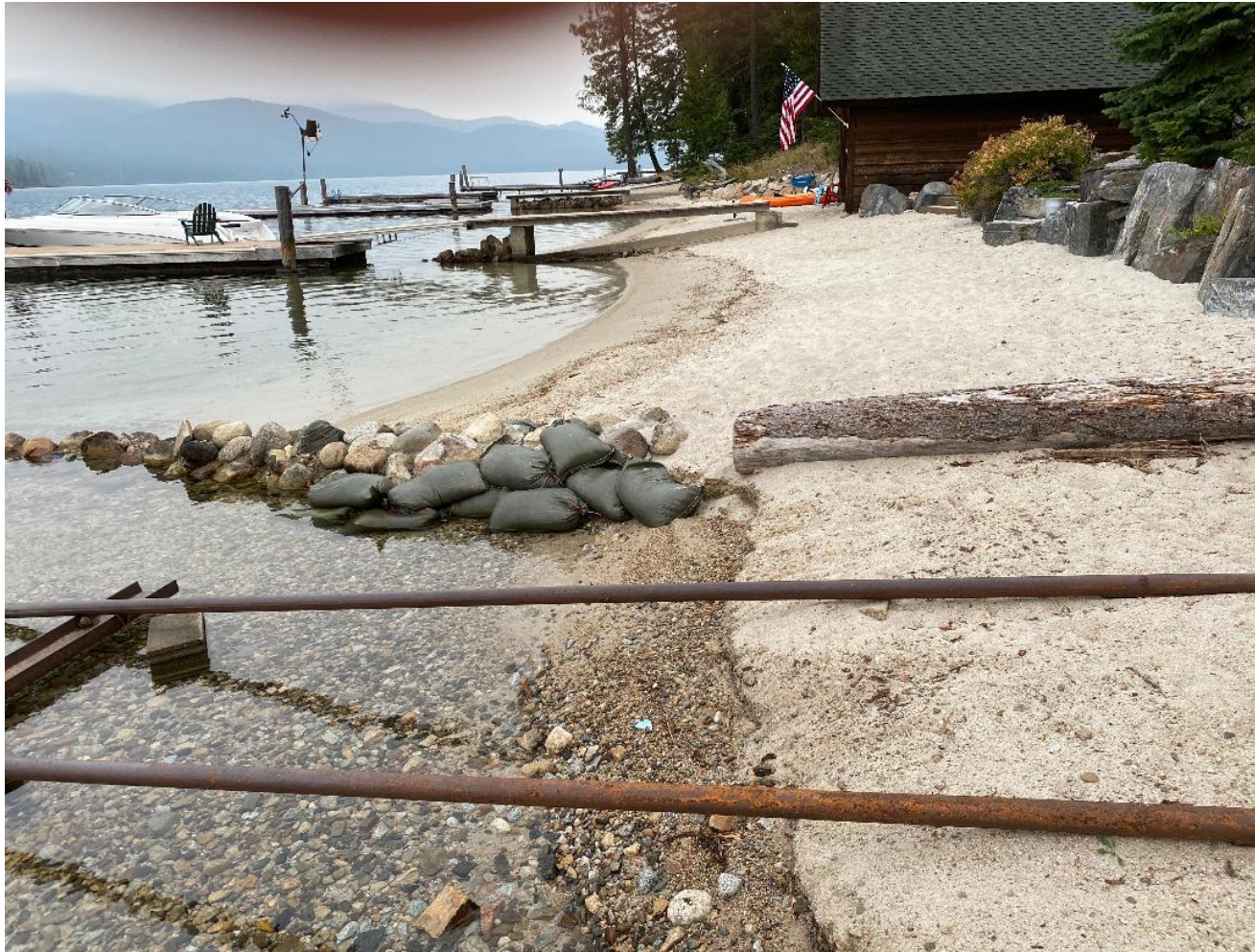
F-21: Photo given by Debra Wilson:
No pictures from “60 years ago”.



F-22: Taken on 9/12/20



F-23: Taken on 9/12/20



F-24: (9/27-28/20)



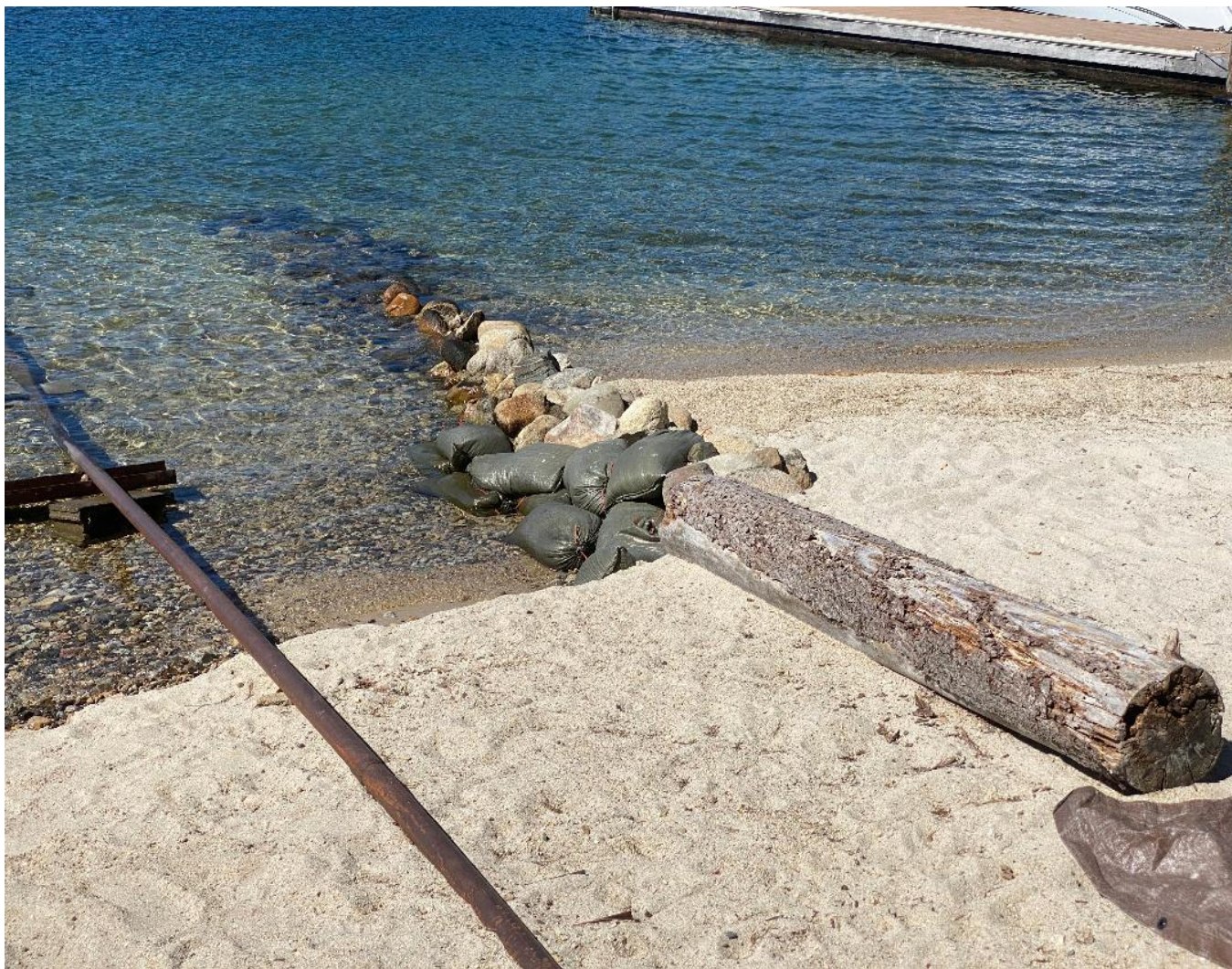
F-25: Close up picture of sandbag



F-26: Sand filtering thru Wilsons barrier



F-27: Taken on 8/28/20



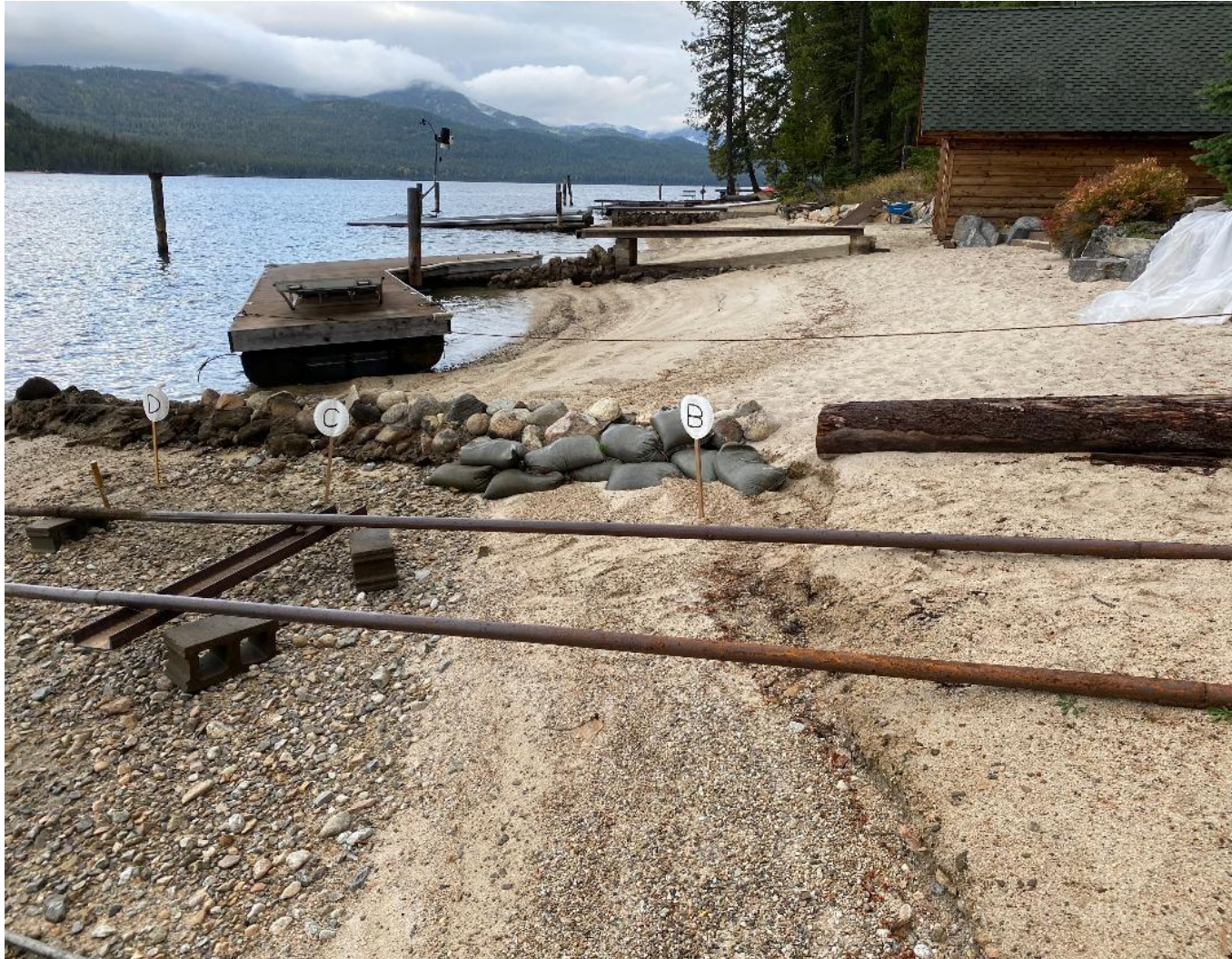
F-28: October 2020 Wilsons retaining wall made of large boulders



F-29: Point A: By SW corner of Wilson's property



F-30: Points B, C and D



F-31: Model of Wilson's proposed barrier



F- 32:



F-33:



F-34



F-35: 4/30/21 - Ahmer's picture #1



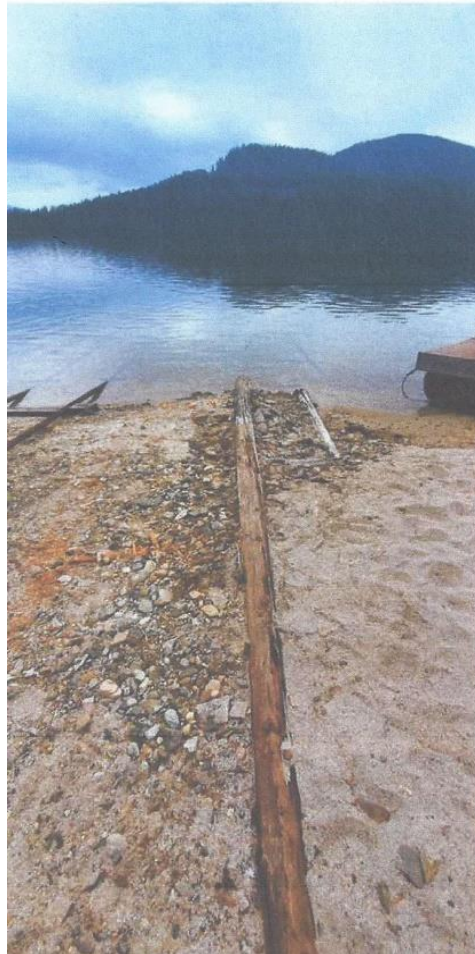
Public Trust Program Inspection Report



F-36: 4/30/21 - Ahmer's picture #2



Public Trust Program Inspection Report



F-37: 5/31/21



F-38: 5/31/21



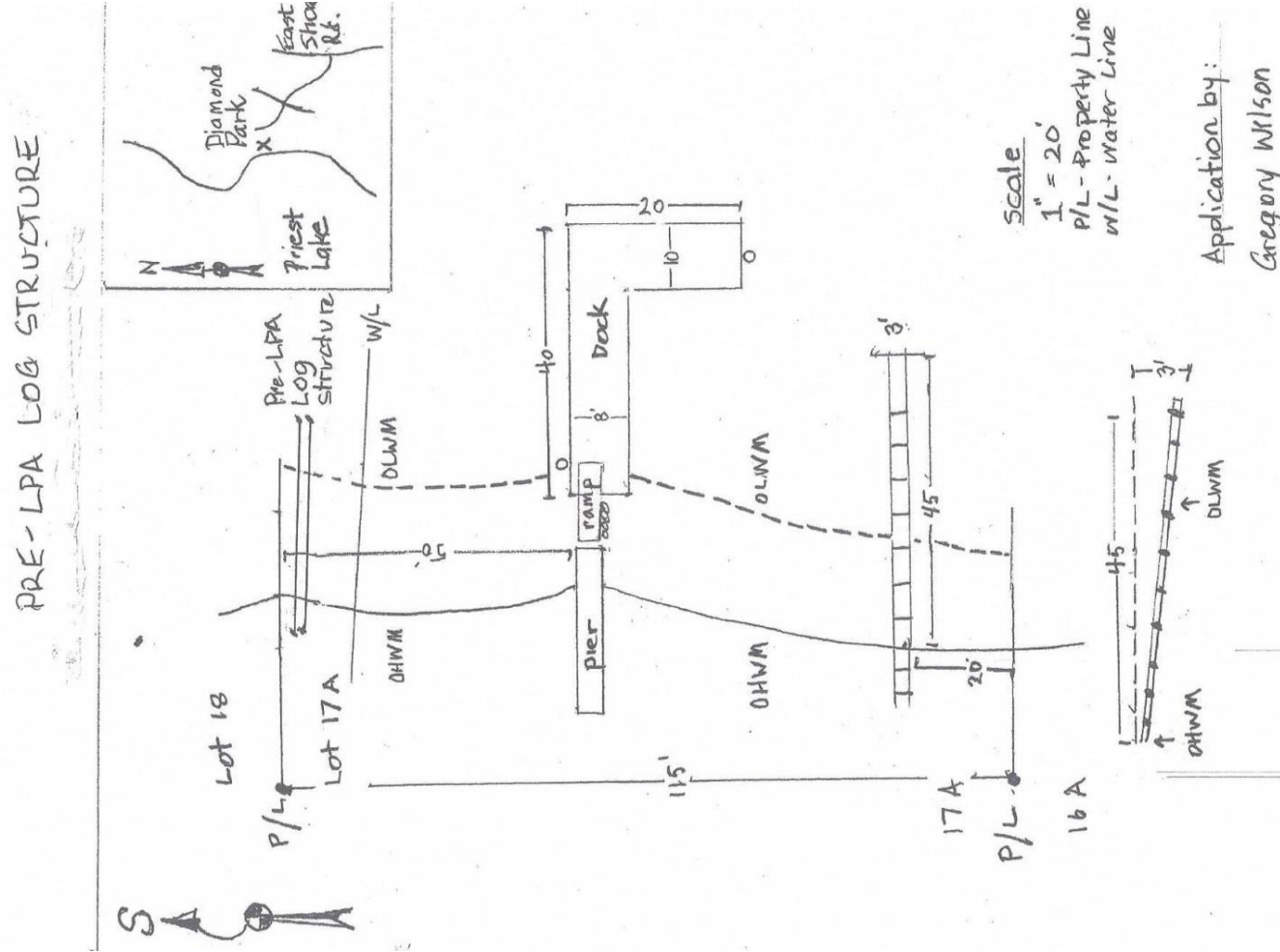
F-39: 5/31/21



F-40: 5/31/21



F-41: Diagram in Wilson's application for barrier at property line 6/15/21



F-42: Fievez letter 11/24/20

11/24/20

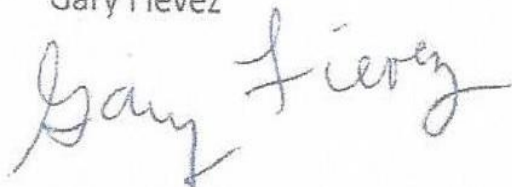
To: Idaho Dept. of Lands

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

A handwritten signature in blue ink that reads "Gary Fievez". The signature is written in a cursive style with a large, stylized "G" and "F".

F-43: Pat Phillip's letter #1

6/15/21

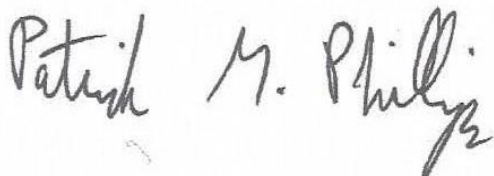
June 15, 2021

• To: Idaho Department of Lands
From: Pat Phillips

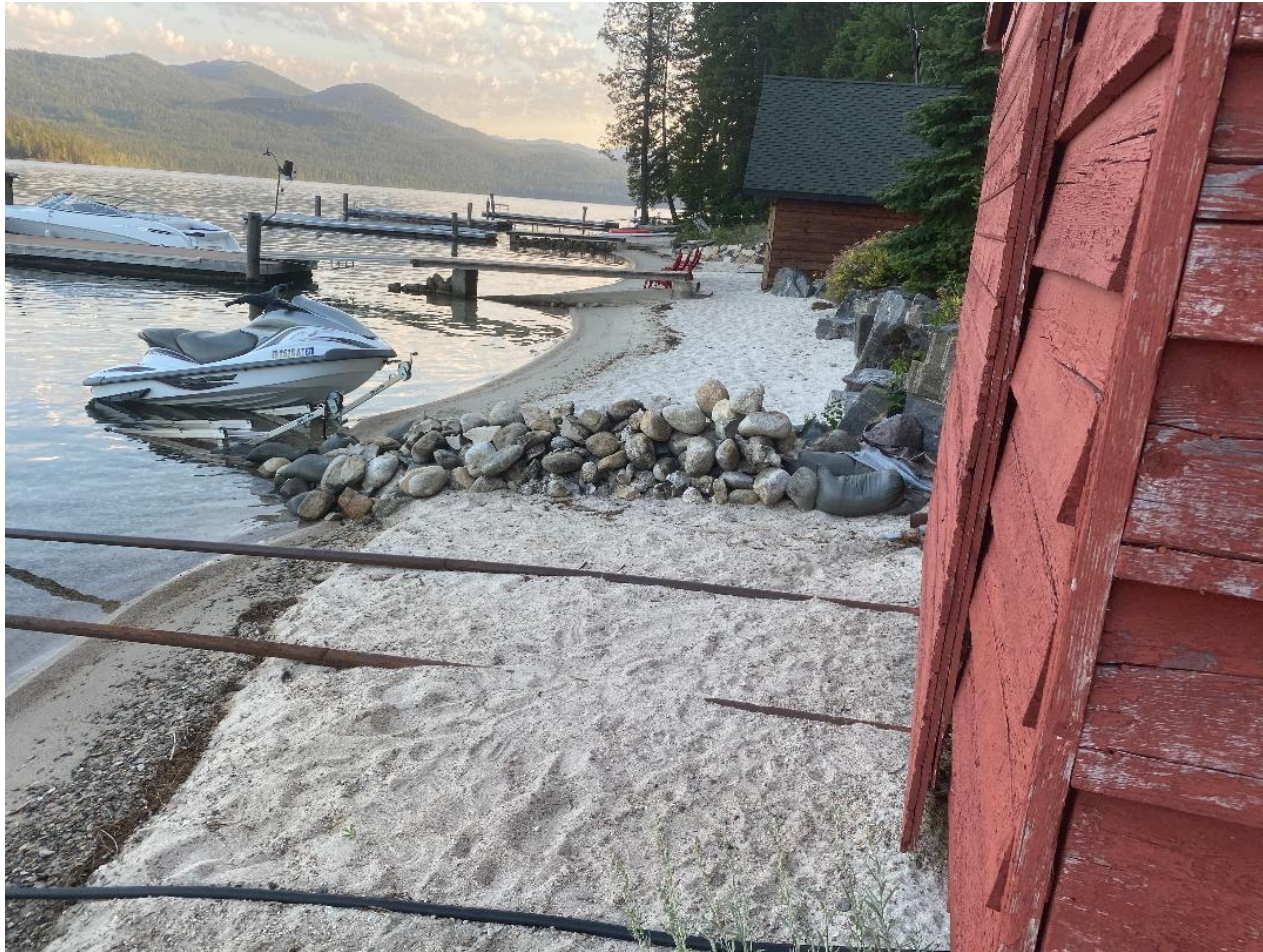
My family purchased Lot 15 in the Diamond Park subdivision in the early 1960's. Our family, through a family trust, continues to own Lot 15 adjacent to Greg and Debra Wilson's two lots. Recently, Greg Wilson asked me if I had any recollection of the two cedar logs which had been placed near the south boundary of his Lot 17. I recently walked over and looked at the exposed logs.

My dad and I built our lake cabin in 1966. Then as a teenager, I recall walking the beach front from our cabin to a small creek where I would catch frogs. I recall stepping over logs on the "Red" Rouse lot 17 beach. I believe that Red may have tied up his fishing dingy to the logs.

Pat Phillips

A handwritten signature in cursive script that reads "Patrick M. Phillips". The signature is written in dark ink and is positioned below the typed name "Pat Phillips".

F-44: 7/4/21



F-45:

7/4/21



F-46: 7/8/21



F-47: 7/8/21



F-48: 7/8/21



F-49: 7/10/21
Hobie cat- Unregistered in ID



F-50: 7/10/21
Hobie cat - Unregistered in ID



F-51: 7/18/21



F-52: 7/18/21

Sand accumulating by jet skis/lifts + Hobie Cat



F-53: 7/24/21

No Sand on Faloon's side of barrier



F-54: 8/8/21

Minimal/no sand on Faloon's side of barrier



F-55: 8/21/21

Sand continues to be impeded by jet skis + Hobie cat



F-56: 9/4/21

Wilson's barrier collapsing onto Faloon's property



F-57: 9/4/21

Sand impeded by barrier



F-58: 9/29/21
Jet skis removed



F-59: 9/29/21

Sand accumulating on Wilson's side of barrier, minimal
on Faloon's side



F-60: 9/29/21

Sand impeded by log barrier and Hobie cat



F-61: 10/16/21
Lake level lowered



F-62: 12/1/21

Date barrier was to be removed by

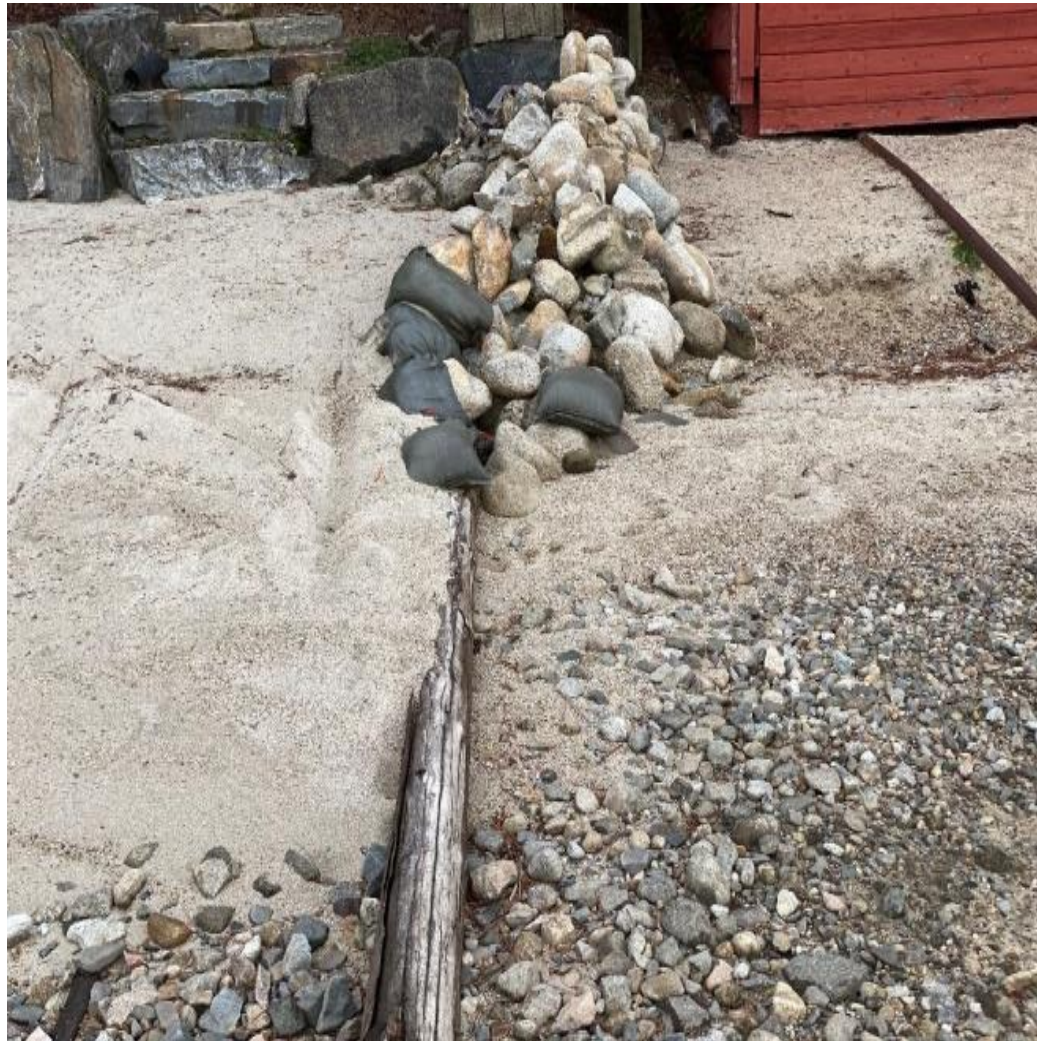


F-63: 12/1/21
Date barrier was to be removed by



F-64: 12/1/21

Date barrier was to be removed by



F-65: 12/1/21

Date the barrier was to be removed by



F-66:

12/1/21

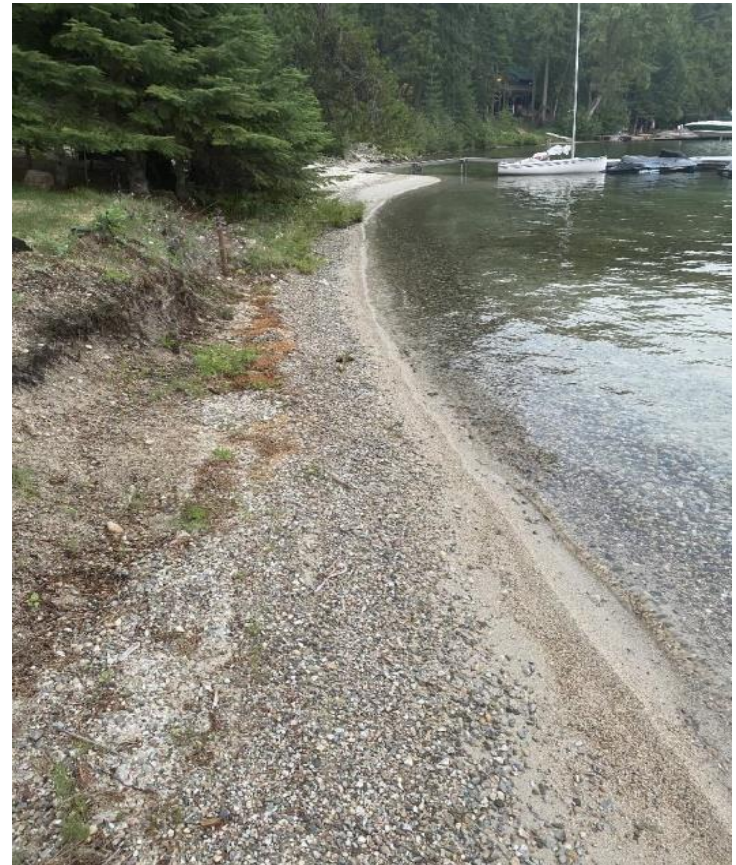


F- 67: Comparison of Wilson's vs Faloon's Beaches

Wilson's beach: 7/18/21



Faloon's beach: 7/24/21



F-68: 5/19/22

Wilsons had placed tarp on beach



F-69: 5/19/22

Wilson's tarp, Faloon's survey done



F-70:

Comparison: Where Wilson's put Tarp

5/19/22

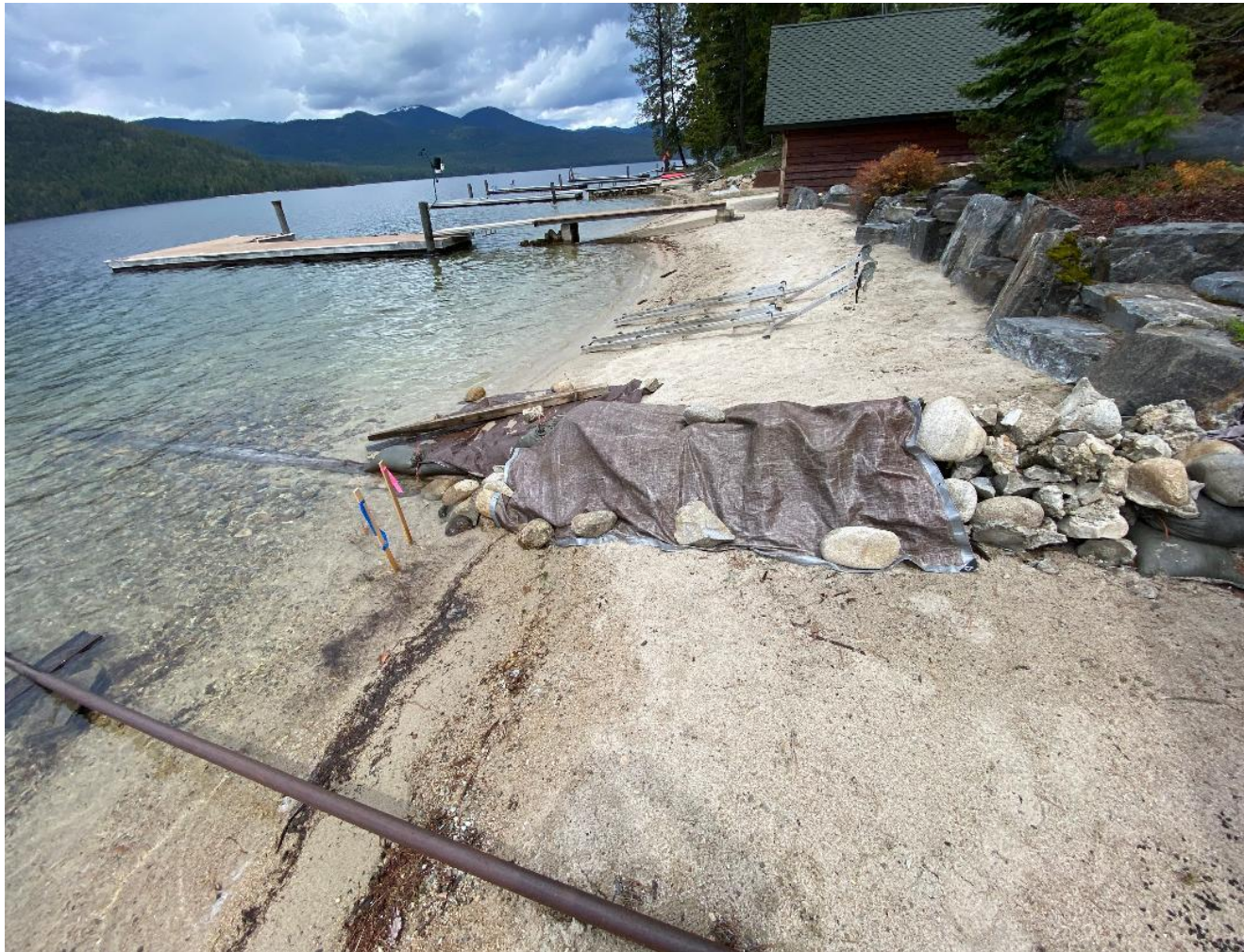


5/5/22: Taken 2 weeks before



F-71: 5/28/22

Wilsons put tarp on the wall, reinforced tarp



F-72: 5/28/22

Wilson's reinforced tarp , put tarp over their "wall"



F-73: 6/19/22
Lake level rose

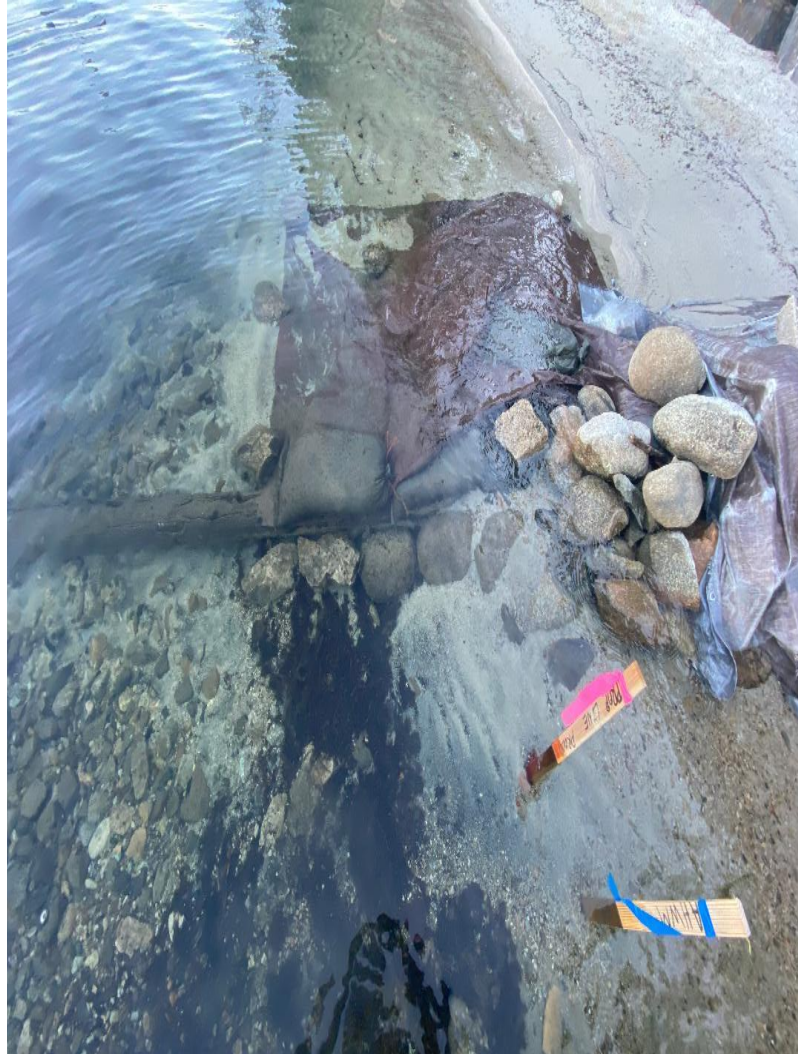


F-74: 6/19/22



F-75: 6/19/22

Wilson's barriers are below the H.W.M



F-76: 6/29/22

Ryan Zandhuisen inspected the Wilson's property



Public Trust Program
Inspection Report

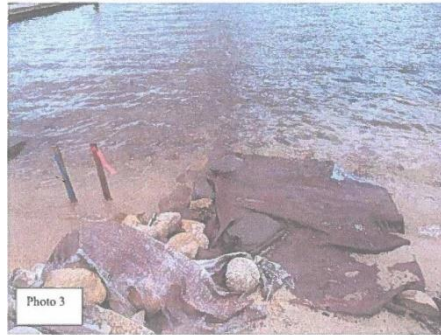


Photo 3

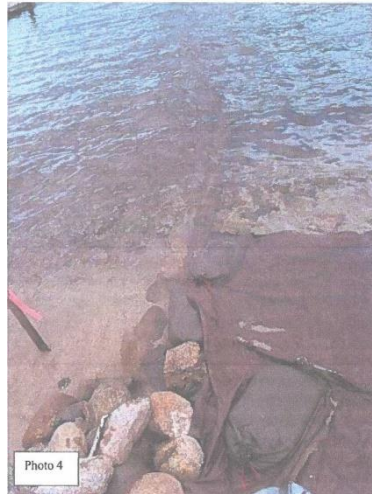


Photo 4

F-77: 6/29/22

Ryan Zandhuisen inspected the Wilson's property



Public Trust Program Inspection Report



Photo 9

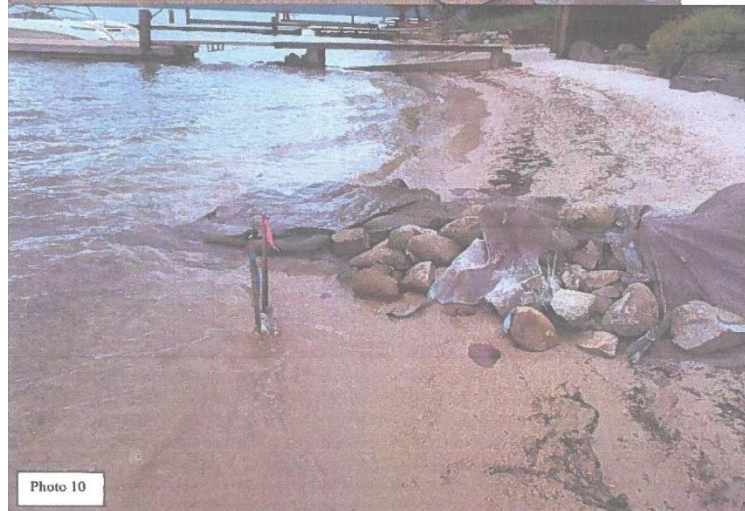


Photo 10

F-78: 7/2/22

Documenting beach erosion



F-79: 7/4/22

Erosion of Faloon's beach persists



F-80: 7/10/22

Erosion of Faloon's beach persists



F-81: 7/17/22

Priest Lake waves: Affect all beaches, not just the Wilson's

