



## Encroachments Procedures

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

### Agency Contact

Navigable Waterways Program Manager, Boise Staff Office

## Encroachments Procedures

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## Documents Referenced in Procedures

ENC-001	Memorandum of Understanding between IDL and IDWR, November 7, 2007
ENC-002	Memorandum of Understanding between IDL and IDWR, September 10, 1979
ENC-003	Dock Nomenclature
ENC-004	Joint Application 404 <ul style="list-style-type: none"><li>• Instruction Guide</li><li>• Information and Sample Drawings</li></ul>
ENC-005	Single or Two-Family Encroachment Application

ENC-006	Commercial or Community Nonnavigational Encroachment Application
ENC-007	Encroachment Permit Fee Schedule
ENC-008	Sample – Incomplete Application
ENC-009	Idaho Department of Water Resources Basin Map
ENC-010	Sample – Adjacent Littoral Owner Notification (10a for 1305 / 10b for 1306)
ENC-011	Office of Administrative Hearings Transmittal Sheet
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ENC-014	Sample – Legal Ad – Application
ENC-015	Sample – Legal Ad – Hearing
ENC-016	Encroachment Permit Template
ENC-017	Encroachment Permit Terms
ENC-018	Request for Assignment of Encroachment Permit (18A – Multiple Applicants)
ENC-019	Anatomy of a Notice of Noncompliance
ENC-020	Sample – Notice of Noncompliance
ENC-021	Sample – Request for Additional Information
ENC-022	Sample – Notice of Resolution
ENC-023	Sample – Compliance Action Memo
ENC-024	Sample – Notice of Proposed Permit Revocation
ENC-025	Sample – Stop Work Order
ENC-026	Sample – Cease and Desist Order
ENC-027	Letter of Intent (Prize Logs)

## Section 5 – Legal Authorities

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### I. Authorities and Statutes

- [Idaho Admission Act of July 3, 1890](#)
- [Idaho Constitution, Article 9, Sections 7 and 8](#)
- [Idaho Code § 58-13, Navigational Encroachments](#)
- [Idaho Code § 47-7, Mineral Rights in State Lands](#)
- [Idaho Code, §§ 67-4301, Preservation of Certain Lakes](#)
- [Idaho Code § 42-38 , Alteration of Channels of Streams](#)
- [Idaho Code § 58-12, Public Trust Doctrine](#)
- [Idaho Code § 73-116, Common Law in Force](#)
- [Idaho Code § 58-104, State Land Board - Powers and Duties](#)
- [Idaho Code § 58-132, Extension and Declaration of Powers and Duties of State Board of Land Commissioners](#)
- [Idaho Code § 58-601, Rights of Way for Ditches and Reservoirs](#)
- [Idaho Code § 36-1601, Public Waters – Highways for Recreation](#)
- [Idaho Code § 55-27, Floating Homes Residency Act](#)
- [IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho](#)
- [IDAPA 20.03.17, Rules Governing Leases on State-Owned Navigable Waterways](#)
- [IDAPA 20.03.09, Rules for Easements on State-Owned Navigable Waterways](#)

### II. Case Law

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

### **III. Interagency Agreements**

Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands, November 7, 2007 (**ENC-001**).

Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands, September 10, 1979 (**ENC-002**).

# Section 10 – Program Administration and Definitions

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## I. Area Responsibilities

### A. Processing

Areas will process:

- 1. all Encroachment Permit requests, and
- 2. all applications within the Area boundaries.

Area staff may bring encroachment-related questions to the Program Manager as needed, and should include their supervisor or Area Manager in communications. If further escalation is needed, questions or concerns can be brought to executive-level staff via the appropriate chain of command.

Regarding submerged land leases and encroachment permitting, Area staff responsibilities include:

- Lease renewal inspections.
- Answering encroachment-related questions from Bureau staff.
- Lease set-up sheets and affiliated documents such as maps, Secretary of State documents, and Insurance paperwork.
- Noting in Landfolio Lite if the encroachment requires a lease.

More information on leases can be found in the Submerged Land Lease Procedures.

### B. Signatures

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

### C. Inspections

Areas will perform:

- 1. site visits
- 2. compliance inspections.

Area staff may invite Bureau or other Department staff to perform inspections as requested. Other IDL-related personnel may attend as needed.

#### **D. File Retention**

The Areas will retain the hard copy of a complete encroachment permit file. The Boise staff office will retain a digital copy of the completed encroachment permit for Land Records maintenance.

#### **E. Document Distribution**

Originals or first generation copies of all encroachment permits, associated applications, and receipts shall be forwarded to the fiscal staff for processing, including digital receipts.

#### **F. Policy Changes**

Area personnel will submit comments concerning recommendations for policy and procedure changes to the Program Manager and Area Manager.

## **II. Bureau Responsibilities**

#### **A. Support to Areas**

The Bureau will provide information and guidance to the Areas to ensure consistency and completeness. This may include assistance in drafting decision documents, letters, and other materials. Many templates for commonly sent letters are included as reference documents in these procedures.

#### **B. Office of Record**

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

#### **C. Procedures**

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

## **III. Definitions**

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

**Approach** – A component of a dock or pier system that provides access from the upland area or ramp to the moorage area of the structure. An approach can be floating or a pier with a recommended maximum width of six (6) feet (**Dock Nomenclature, ENC-003**)

**Bank Barb** – Rock or wood structures keyed into bank and angled towards the upstream current or long shore drift to re-direct flow direction to reduce water forces on a particular stressed bank. The bank barb tapers both horizontally and vertically as it projects into the water with the tip or nose also keyed into bed of stream or lake. Re-directed flow will be 90° off of the downstream face of the

bank barb. Deposition will normally occur on the downstream side against the shoreline. Bank barbs are nonnavigational encroachments and are processed under Idaho Code 58-1306.

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

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

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

**Deck** – The surface area of the dock.

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

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

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

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

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

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

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

**Navigability for Title** means a finding of navigability for State ownership purposes is based upon the federal “navigability in fact” test. This test states that a lake or stream must have been susceptible to being used in its ordinary and natural condition as a highway for commerce on the date a state is

admitted into the Union. If a lake or stream was navigable in fact at the time of statehood, the state holds the title to the beds and banks below the ordinary high water mark. A historical factual inquiry is usually necessary to determine whether, or not a stream was navigable in fact at the time of statehood. Only the State Land Board and the courts have the authority to determine whether a body of water is navigable for Title.

**Pier** – A navigational encroachment that most often has two (2) or more components, is a stationary structure extending into water, is used as a mooring area, and is limited in size (**Dock Nomenclature, ENC-003**).

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

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

**Ramp** – A passage from the uplands or a pier to the moorage area of a dock. The recommended maximum width is three (3) feet. Ramps are navigational encroachments (**Dock Nomenclature, ENC-003**).

# Section 15 – Application Acceptance and Review

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## I. Process Determination

### A. Prior to January 1, 1975

Encroachments constructed prior to January 1, 1975, and not subsequently modified may be permitted if the applicant can provide substantive proof of construction prior to January 1, 1975. Proof of construction shall include dated aerial photographs, tax records, or other historical information deemed reliable by the Board. Persons providing such documentation shall receive an encroachment permit and shall not be required to pay the application and publication fees (Idaho Code 58-1312). The phrase "has not been modified" means that the overall footprint of the encroachment on the lakebed has not been expanded in dimension or height or changed in orientation or location.

Permits issued for encroachments built prior to 1975 should still include the footprint, dimensions, orientation, and distance to littoral right lines. The permit should include a phrase indicating that the encroachment is grandfathered in, such as "pre-1975".

### B. 58-1305 or 58-1306

Examine the application to determine if the proposed encroachment is:

- navigational or nonnavigational; and
- commercial or noncommercial.

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

Applications that require processing under both Idaho Code 58-1305 and Idaho Code 58-1306 may be processed simultaneously if the 60-day approval deadline is met. Otherwise, they shall be processed separately to meet the corresponding requirements and separate permits may be issued. The second permit may have the same base permit number with a higher extension (A, B, C, etc.)

In cases where applications are unclear or for unusual encroachments, Area staff may ask the Program Manager for further clarification, including the Area Manager in communications.

### **C. Existing Permits**

All encroachment applications shall be examined to determine if there is an existing encroachment and file for the proposed encroachment location. Applicants are encouraged to provide existing permits with their application, and Area staff should check IDL records for any additional permits that may exist. Previously permitted encroachments should be checked to make sure that they:

1. Exist and were built by the sunset period of the application approval, and
2. Ensure that the current encroachments match the existing permit. Previously permitted encroachments that no longer match the permit must either be permitted anew or brought back to their permitted design to match their existing permit.

## **II. Application Components**

### **A. Receipt of Applications**

Applications sent to the Area, whether by mail or electronically, shall be date stamped when the mail is opened by the Area personnel. For emails, it is when the IDL staff can open and review the application. If an application is received during an office or site visit, the application shall be date stamped upon receipt.

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

### **B. Forms and Attachments**

Encroachment applications will include:

- **Joint Application for Permits, ENC-004;**
- **IDL Single or Two-Family Application, ENC-005 or Commercial/Community/Nonnavigational Application, ENC-006;**
- Required drawings; and
- **Encroachment Permit Fee Schedule, ENC-007.**

## **III. Application Completeness**

### **A. Application Completeness**

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

Complete applications shall contain the following (IDAPA 20.03.04.020.07):

1. Lakebed profile (5 or 10 foot intervals) indicating OHWM (or AHW), low water levels, and encroachment length;

2. Copy of most recent county survey or plat (covering at least applicant's lot and the two adjacent littoral lots);
3. Proof of ownership or control of littoral property (e.g., copy of deed, property tax record, lease);
4. General vicinity map, including roads, water bodies and project location;
5. Scaled maps or aerial photographs of proposed encroachment(s) and adjacent encroachments with lengths of encroachments and distances between encroachments and littoral right lines (setbacks).
6. Dimensions and total square footage of proposed docks;
7. Names and mailing address of adjacent littoral owners; and
8. Completed adjacent landowner consent form (required if setbacks are less than those required for different encroachments in Section 25 of these procedures, Section E).

#### **B. Signatures**

The application must be signed or approved by the littoral owner(s) (IDAPA 20.03.04.020.02). In situations where there are multiple owners or multiple signers, the Area staff may verify that the signers are correct for that property. For businesses, please check the Idaho Secretary of State website to verify the current members. To verify the correct signatories for different entities, please see the Identification Signature Acknowledgment.

#### **C. Incomplete Applications**

If an application is deemed incomplete, Area staff will submit a letter or email of incompleteness, identifying the deficiencies and establishing a 30-day response deadline (**Sample – Letter, Incomplete Application, ENC-008**). The original application fee will remain valid for that 30-day period. The Department may extend the deadline with written correspondence documented in the file (IDAPA 20.03.04.020.07.j).

### **IV. Processing Fees**

#### **A. Fee Schedule**

Fees associated with the Navigable Waterways Programs are established by Idaho Code and Rules (Idaho Code 58-1307 and IDAPA 20.03.04.020.05). Refer to the **Encroachment Permit Fee Schedule, ENC-007**.

#### **B. Fee Exemptions**

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

#### **C. Depositing Fees**

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



#### **D. Non-Refundable Fees**

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

#### **E. Fees for Multiple Applications**

The **Encroachment Permit Fee Schedule, ENC-007** has a list of scenarios that reflect the fees to be collected for multiple encroachments. Contact the Bureau for questions regarding fee collection for circumstances that are unclear or not described below.

#### **F. Publication Fees**

Area staff shall collect nonrefundable publication fees from the applicant, as necessary. The Area shall typically collect \$75.00 for the newspaper publication. The Area has the discretion to adjust this base deposit depending on local newspaper costs. The fee is collected to compensate the Department for the actual publication costs incurred. These fees shall only be refunded to the applicant if the publication expenses are not actually incurred (IDAPA 20.03.04.020.07.e and f).

### **V. Application Log In**

#### **A. Application Date**

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

#### **B. Log-in Landfolio Lite**

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

#### **C. Existing Permit Number**

If it is determined that an encroachment permit already exists, the existing encroachment number shall be retained, with a letter added to the end to signify the amendment to the original permit.

#### **D. New Encroachment Numbers**

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

#### **E. Numbering System**

The Idaho Department of Water Resources drainage numbering system, (see **IDWR Basin Map, ENC-009**) will be the control number for the encroachment numbering system. For example, in the number L01SXXXX the drainage number is 01.

## VI. Application Time Clocks

### A. 58-1305 Applications

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

### B. 60-day Time Clock

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

- All information received on January 3<sup>rd</sup>. Reviewed by staff on January 10<sup>th</sup> and determined to be complete.  
**Time clock: 60-days from January 3<sup>rd</sup>**
- First information received on January 3<sup>rd</sup>. Reviewed by staff on January 10<sup>th</sup> and determined to be incomplete and notification sent to applicant. Additional information received on January 20<sup>th</sup>. Reviewed by staff on January 23<sup>rd</sup> and determined to be complete  
**Time clock: 60-days from January 20<sup>th</sup>**
- First information received on January 3<sup>rd</sup>. Reviewed by staff on January 10<sup>th</sup> and determined to be incomplete and notification sent to applicant. Additional information received on January 20<sup>th</sup>. Reviewed by staff on January 23<sup>rd</sup> and determined to be incomplete and notification sent to applicant. Additional information never received.  
**Time clock: never starts**

### C. 58-1306 Applications

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

## Section 20 – Notifications and Hearings

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### I. Relevant Statutes

#### **Idaho Code § 58-1305(b) – Noncommercial Navigational Encroachments**

If the plans of the proposed encroachment indicate such infringement will or may occur, the Board shall require that the applicant secure the consent of such adjacent owner or that he be given notice of the application by personal service or by certified or registered mail, return receipt requested, directed to him at his usual place of address, which, if not otherwise known, shall be the address shown on the records of the county treasurer or assessor, and such adjacent owner shall have ten (10) days from the date of personal service or receipt of certified or registered mail to file objection with the Board. The application itself shall be deemed sufficient notice if the adjacent owner is the state of Idaho.

### II. Relevant Rules

#### **A. IDAPA 20.03.04.025.02 – Notification of Adjacent Littoral Owners**

The department will provide a copy of the application to the littoral owners immediately adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the department shall notify the owner of the next adjacent lot. If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the department will provide notice of the application by certified mail, return receipt requested; otherwise, the notice will be sent by regular mail. Notification will be mailed to the adjacent littoral owners' usual place of address, which, if not known, will be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures, consenting to the proposed encroachment, in lieu of the department's notification

#### **B. IDAPA 20.03.04.025.03 – Written Objections**

1. If an adjacent littoral owner files written objections to the application with the department within ten (10) days from the date of service or receipt of notice of the completed application, the department shall fix a time and a place for a hearing. In computing the time to object, the day of service or receipt of notice of the

application shall not be counted. Objections must be received within the ten (10) day period by mail or hand delivery in the local department office or the Director's office in Boise. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object shall run until the end of the first business day thereafter.

2. The applicant and any objectors may agree to changes in the permit that result in the objections being withdrawn. Department employees may facilitate any such agreement. Participation by department personnel in this informal mediation shall not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain:
  - i. Signatures of the applicant and the objecting party;
  - ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the department.

#### **C. IDAPA 20.03.04.025.04 – Unusual Circumstances**

Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, if the Director deems it advisable because of the existence of unusual circumstances, he may require a hearing.

### **III. Notifications for Idaho Code 58-1305 Permits (Generally Single-family and two-family docks within the line of navigation)**

#### **A. Adjacent Littoral Owners**

Unless written consent from the adjacent littoral owners is provided by the applicant, IDL will provide notice of the application to the adjacent littoral owners. If the encroachment may infringe on the ten (10) foot setback from the common littoral right line IDL will notify the adjacent littoral owners by certified mail. If the applicant owns more than one lot, the owner of the next adjacent lot shall be notified (IDAPA 20.03.04.025.02). **Sample - Adjacent Littoral Owner Notification, ENC-010** provides a sample letter and review sheet.

There are two versions of ENC-010, please pick the one specific to your application type:

- a) 58-1305 – Noncommercial Navigational Encroachments (Single and two-family docks)
- b) 58-1306 – Nonnavigational or Commercial Navigational or Community Navigational Encroachments

#### **B. Notification Timeframe**

Once an application is deemed complete and ready to process, IDL staff should mail adjacent littoral owner notifications within ten (10) calendar days. If it appears that the encroachment will not be within ten (10) feet of either adjacent littoral right line, the notifications may be sent by regular mail. If it appears that the encroachment may, or will, be within ten (10) feet of either adjacent littoral right line, the notifications must be sent via certified mail. Send all notifications with a copy of the application and all supporting documentation for review.

Upon receipt of notice, the adjacent littoral owner must submit written consent or objection to IDL within ten (10) calendar days. If IDL does not receive a response within the time allowed, the response is deemed to be consent and the application should be processed. (IDAPA 20.03.04.025.03.a. and 58-1305(g)).

Best practice tip: always allow up to three extra business days when computing deadlines for notifications sent and received by mail. Encourage responses by email for easier tracking and speed.

### **C. Responses, Objections and Mediation**

If IDL receives consent or no response within the allowed timeframe, no further notifications to adjacent neighbors are necessary and IDL may continue processing the application.

If IDL receives an objection and request for hearing within the prescribed timeframe, staff should proceed with setting the matter for a hearing.

If it appears that the adjacent neighbor's objection is not unreasonably complex or could be resolved with little conflict, Department staff may engage in informal mediation to resolve the objection or dispute between neighbors. Although this process is encouraged and frequently results in successful resolution between the parties, staff should use their best judgment as to whether the process would help or hinder the outcome. Although it is assumed that all parties engage in such negotiations with good faith, some situations and neighborly relations are beyond repair and bitterly opposed.

If successful, a mediated agreement may result in changes to the permit application and the withdrawal of objections. If a neighbor is willing to withdraw an objection, a written agreement should be submitted to the Department and include the signatures of the applicant and objector and an outline or summary of the acceptable changes made to the original application (IDAPA 20.03.04.025.04.b). The withdrawal of objections must be received within thirty (30) days of the application date or a hearing will be scheduled.

### **D. Objections and Hearings**

Regardless of where staff are in helping the parties work towards an agreement that would result in the objection being withdrawn, Area staff shall proceed with the hearing process established in Idaho Code 58-1305 and IDAPA 20.03.04.025.05.

Within five (5) days of receiving the objection, Area staff will send the complete application, notifications, objection, and other information to the Navigable Waterways Program Manager. This information is needed for completion of the **Office of Administrative Hearings (OAH) Transmittal Sheet, ENC-011**. If a specific time or location is needed for the hearing, such as an evening time for a public hearing, then that must be included on the Transmittal Sheet in the "Short Statement of the Nature of the Case" section.

Information Needed for Transmittal Sheet:

1. Date Application Complete
2. Deadline for hearing

3. City and general time desired for hearing
4. Applicant Name
5. Applicant Contact Info (email and phone)
6. Applicant Mailing Address
7. Applicant Lawyer Name (If applicable)
8. Applicant Lawyer Contact Info (email and phone)
9. Applicant Lawyer Mailing Address
10. Objector Name
11. Objector Contact Info (email and phone)
12. Objector Address

All IDL correspondence with the assigned OAH Hearing Officer will include the Workflow Coordinator, designated Area staff, and IDL's assigned legal counsel.

Within five (5) days of receiving the objection, Area staff will send the required information to the Program Manager, who will complete the Transmittal Sheet and email it to OAH with the application, neighbor notification, the objection, and any other relevant documents. This email will be copied to the relevant Area staff, the Workflow Coordinator, and IDL's assigned legal counsel. The Workflow Coordinator will then place the Transmittal Sheet, application, notifications, and objection on the Navigable Waterways SharePoint site and the hearing folders on the M: Drive. All of these documents will become an important part of the official Hearing Record.

#### **E. Hearing Officer**

All hearings must be sent to and reviewed by OAH. OAH will determine if they will take on the hearing and assign a Hearing Officer. The appearance of neutrality is important in selecting a Hearing Officer.

#### **F. Hearing Schedule**

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

#### **G. Hearing Attendees**

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

#### **H. Informal Disposition**

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

## **I. No Publication**

No published notice of the hearing is necessary.

## **J. Pre-Hearing Requirements**

In preparation for the hearing, the Program Manager will have already submitted the Official Record materials to OAH with the Transmittal Sheet. Anything that has not been submitted is kept as an unofficial record in the hearing folder on the M: Drive. These documents can be submitted later as exhibits if need be.

As soon as OAH issues a Notice of Appointment of Hearing Officer, the Workflow Coordinator will request a Docket Sheet and copy of the Official Record from OAH. The organization and file names of hearing materials obtained from OAH will not be changed. The same documents will then be put on SharePoint and saved to the hearing folder on the M: Drive unless the documents are already present in those locations to be captured for future internal reference. As documents are submitted to OAH, the Workflow Coordinator will request the Docket Sheet and additions to the Official Record from OAH.

## **K. Hearing Record**

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

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

## **L. Hearing Decision Preparation**

The Hearing Officer will develop and submit a Recommended Order to the Director.

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

## **M. Reconsideration Hearings**

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

## **IV. Idaho Code 58-1306 Permits (Generally commercial and community docks, and nonnavigational encroachments)**

### **A. Adjacent Littoral Owners**

Unless written consent from the adjacent littoral owners is provided by the applicant, IDL will provide notice of the application to the adjacent littoral owners. If the encroachment may infringe on the twenty-five (25) foot setback from the common littoral right line, IDL will notify the adjacent littoral owners by certified mail. If the applicant owns more than one lot, the owner of the next adjacent lot shall be notified (IDAPA 20.03.04.025.02). **Sample - Adjacent Littoral Owner Notification, ENC-010** provides a sample letter and review sheet.

There are two versions of ENC-010, please pick the one specific to your application type:

- a) 58-1305 – Noncommercial Navigational Encroachments (Single and two-family docks)
- b) 58-1306 – Nonnavigational or Commercial Navigational or Community Navigational Encroachments

### **B. Agency/Neighbor Notification**

Copies of the application shall be submitted to federal (e.g., U.S. Army Corps of Engineers), state (e.g., Departments of Fish and Game, Environmental Quality, and Water Resources), and local agencies (e.g., County Marine Deputy, Planning and Zoning authority, County Parks Department, Health District, Lake Commission) (IDAPA 20.03.04.030.03). Adjacent property owners should also be notified. The **Notification List, ENC-012**, has a list of the parties that are notified in each area. Areas with multiple and non-overlapping jurisdictions have parties that are notified when an application is within each party's jurisdiction.

The Agency Review and Notification of Application, (**Sample - Agency Littoral Neighbor Notification, ENC-013**) shall be sent within ten calendar (10) days of accepting a complete encroachment application. Agencies shall have thirty (30) calendar days from the first date of publication of the Notice of Application to respond (IDAPA 20.03.04.030.04).

### **C. Publication Requirements**

An application notice shall be sent to the local newspaper for a legal advertisement within ten (10) calendar days of accepting a complete application for processing. The publication shall run once a week for two (2) consecutive weeks (IDAPA 20.03.04.030.01). The Notice of Application (**Sample – Legal Ad for Application, ENC-014**) comment period shall be thirty (30) calendar days from the date of first publication (IDAPA 20.03.04.030.04).

### **D. Publication Exemptions**

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

### **E. Hearing Initiated by IDL**

IDL may order a hearing on an application within ten (10) calendar days of accepting a complete encroachment application (IDAPA 20.03.04.030.01). IDL may order a hearing in cases where it is requested by the applicant, when unusual circumstances exist, or when obvious public interest



will likely result in a hearing. If this occurs, the area shall publish a combined Notice of Application (**Sample – Legal Ad for Application, ENC-014**) and Notice of Hearing (**Sample – Legal Ad for Hearing, ENC-015**) The hearing should be scheduled to fall on or after the thirty (30) day comment period. Publication and hearing details are given below.

## **F. Objections and Hearings**

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

Within five (5) days of receiving the objection, Area staff will email the complete application, notifications, objection, and other information to the Navigable Waterways Program Manager. This information is needed for completion of the **Office of Administrative Hearings (OAH) Transmittal Sheet, ENC-011**. If a specific time or location is needed for the hearing, such as an evening time for a public hearing, then that must be included on the Transmittal Sheet in the “Short Statement of the Nature of the Case” section.

Information Needed for Transmittal Sheet:

1. Date Application Complete
2. Deadline for hearing
3. City and general time desired for hearing
4. Dates Advertisement Ran in Paper
5. Applicant Name
6. Applicant Contact Info (email and phone)
7. Applicant Mailing Address
8. Applicant Lawyer Name (If applicable)
9. Applicant Lawyer Contact Info (email and phone)
10. Applicant Lawyer Mailing Address
11. Objector Name
12. Objector Contact Info (email and phone)
13. Objector Address

All IDL correspondence with the assigned OAH Hearing Officer will include the Workflow Coordinator, designated Area staff, and IDL’s assigned legal counsel.

All IDL correspondence with the assigned OAH Hearing Officer will include the Workflow Coordinator, designated Area staff, and IDL’s assigned legal counsel.

Within five (5) days of receiving the objection, Area staff will send the required information to the Program Manager, who will complete the Transmittal Sheet and email it to OAH with the application, neighbor notification, the objection, and any other relevant documents. This email

will be copied to the relevant Area staff, the Workflow Coordinator, and IDL's assigned legal counsel. The Workflow Coordinator will then place the Transmittal Sheet, application, notifications, and objection on the Navigable Waterways SharePoint site and the hearing folders on the M: Drive. All of these documents will become an important part of the official Hearing Record.

#### **G. Publication**

If the Department receives a request for hearing, a time and place of the public hearing shall be published once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is to be located (**Sample – Legal Ad for Hearing, ENC-015**). (IDAPA 20.03.04.030.05).

#### **H. Hearing Schedule**

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

#### **I. Public Comment Period**

The public comment period shall extend until the close of the hearing or thirty (30) days from the first date of publication of the Notice of Application, whichever is later. The Hearing Officer may extend the public comment period beyond that date, as necessary. All public comments should be sent to [navigablewaterways@idl.idaho.gov](mailto:navigablewaterways@idl.idaho.gov). This email account will be monitored by the Workflow Coordinator, with the Program Manager and Program Specialist as backups.

Public comments are public records and cannot be redacted from PRRs. All public comments will be sent to OAH and distributed to all parties.

#### **J. Hearing Attendees**

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

#### **K. Hearing Officers**

All hearings must be sent to and reviewed by OAH. OAH will determine if they will take on the hearing and assign a Hearing Officer. The appearance of neutrality is important in selecting a Hearing Officer.

#### **L. Pre-Hearing Requirements**

In preparation for the hearing, the Program Manager will have already submitted the Official Record materials to OAH with the Transmittal Sheet. Anything that has not been submitted is kept as an unofficial record in the hearing folder on the M: Drive. These documents can be submitted later as exhibits if need be.

#### **M. Hearing Record**

The Hearing Record is the information gathered by the department for the Hearing Officer to base their decision on. This is the information that would be given to a District Judge for review if the decision is appealed. As a result, the Hearing Record is critical for the Department to

defend the Director's Final Order. The Hearing Record should only consist of the following documents:

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

#### **N. Hearing Decision Preparation**

The Hearing Officer shall develop and submit a Recommended Order to the Director.

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

#### **O. Judicial Review**

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

#### **P. Reconsideration Hearings**

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

Area staff shall contact the Program Manager to request a Hearing Officer as soon as possible.

#### **Q. Reconsideration Hearing Officer**

OAH will assign a Reconsideration Hearing Officer. The Reconsideration Hearing Officer may be a Deputy Attorney General, or a contracted third party. The appearance of neutrality is important in selecting a Reconsideration Hearing Officer.

#### **R. Pre-Reconsideration Hearing Requirements**

In preparation for the hearing, the Program Manager will submit the documents for the Reconsideration Hearing Record to OAH. The Reconsideration Hearing Record consists of:

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

#### **S. Reconsideration Hearing Attendees**

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

#### **T. Reconsideration Hearing Record**

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

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

#### **U. Reconsideration Hearing Decision Preparation**

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

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

#### **V. Judicial Review**

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

# Section 25 – Encroachment Standards & Requirements

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## I. Nonnavigational Encroachments

### A. Restricted Approval

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

## II. Littoral Right Lines

### A. Chord Method

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

IDL staff have the express authority to determine littoral right lines as per the cases of *Lovitt v. Robideaux* and *Driesbach v. Lynch*.

### B. Plat Map

Area Staff will apply the Chord Method (described below) upon processing each encroachment permit application using a current county plat map with parcel boundaries (provided by the applicant or their agent). It is not always necessary to fully document the use of the Chord Method in each encroachment, but if there is any question about the littoral right lines or infringement on neighboring littoral rights, then there should be some documentation in the file.

### **C. Concave or Convex**

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

### **D. Unusual Circumstances/Results**

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

### **E. Changes in Riparian Right Lines**

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

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

### **F. Binding Decisions/Agreements**

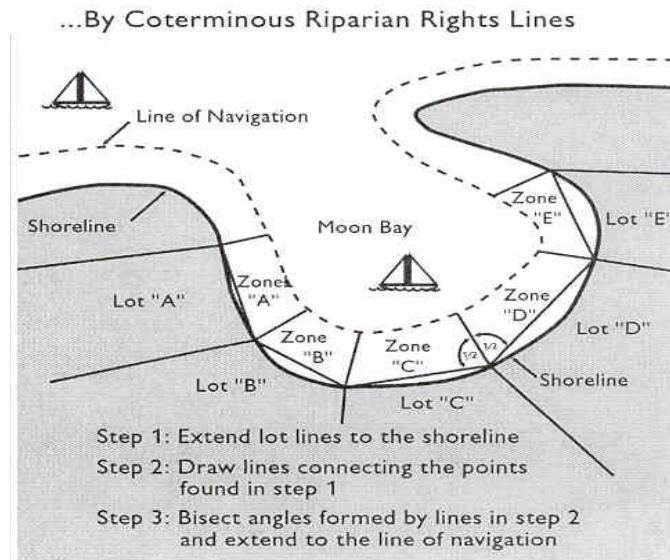
In addition, legal property line determinations, including littoral lines, are binding through written property owner agreements or court determinations.

### **G. Artificial High Water Marks**

The Department recognizes that an encroachment may be legally permitted (satisfying the riparian buffers established in IDAPA 20.03.04) on a water body with an artificial high water mark that is actually located over a submerged portion of an adjoining waterfront property.

### **H. Methodology**

The Chord Method is described in *Wisconsin Water Law – A Guide to Water Rights and Regulations* - G3622 (Kent and Dudiak, 2001). The Chord Method locates riparian right lines by identifying the points of intersection with the parcel boundaries and the artificial or ordinary high water mark (whichever is applicable). These points are connected by chords. The riparian right lines fall along the bisector of the angles created by the chords. The riparian right lines then extend to the line of navigability (see Figure 5-2 below).



**Figure 5-2**

### III. Length of Navigational Encroachments

#### A. Historically Established Line of Navigability

The Department will recognize the historically established line of navigation in the area of a new navigational encroachment application (IDAPA 20.03.04.010.20). This can be done by comparing the length of the encroachments on adjacent parcels, or looking at more encroachments further along a shoreline. Fluctuations in water depth along a shore may impact the length of neighboring encroachments. When the line of navigability is determined by existing permitted encroachments, applicants may apply for a navigational encroachment that extends out to the established line of navigability. This length will be permitted, unless site specific conditions warrant a reduction or extension in length.

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

When processing applications for commercial marinas and community docks, the line of navigability is typically not considered, as these facilities may extend beyond the line of navigability.

## **B. Establishing a New Line of Navigability**

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

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

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

# **IV. Length of Nonnavigational Encroachments**

## **A. Case by Case**

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

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

# **V. Encroachment Standards**

## **A. Design and Sustainability**

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

In general, the recommendation for floating or non-permanent pier docks is removal during the winter months, if possible, to prevent damage from lowered lake levels, ice build-up, and the effects of wind or water currents. In some areas, marine contractors may offer a service to collect docks in the fall, tow them to a sheltered bay, and store them for the winter. In the spring the docks are towed back and reinstalled. These operations are rare, but when they do occur, they need an encroachment permit and lease for their operation.



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

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

### **1. Eligible Applicants**

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

### **2. Structure Width**

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

### **3. Ramp, Pier and Approach Width**

In order to minimize impacts on the near shore area, ramps are recommended to be no wider than three (3) feet, and piers and approaches are recommended to be six (6) feet in width, although this is a choice for the littoral owner. Site specific conditions may require wider structures. All ramps, piers, and approaches should be included in the total square footage calculation for the encroachment beyond the OHWM or AHWL.

### **4. Square Footage**

Total decked surface area waterward of the OHWM or AHWL must not exceed seven hundred (700) square feet, including piers, ramps, decked triangles used to support fingers as shown to the right, and approaches for a single-family encroachment and must not exceed one thousand one hundred (1,100) square feet, including piers, ramps, approaches for a two-family encroachment (IDAPA 20.03.04.015.01.b). A variance to these standards can be granted when justified by site-specific conditions such as distance to the line of navigability (IDAPA 20.03.04.015.01.d).

The application and permit should state the total square footage of the encroachment that extends beyond the ordinary or artificial high water mark.



### **5. Dock Length**

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

## **6. Orientation**

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

## **7. Front Footage and Setback - Single-Family**

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

## **8. Front Footage and Setback - Two-Family**

Two adjoining owners must have a minimum of fifty (50) feet of combined riparian ownership to permit a two-family dock (IDAPA 20.03.04.010.39). The encroachment should be located on the common littoral right line, but ultimately, it must be located at least ten (10) feet from non-common littoral right lines, unless approved by the adjacent littoral owner (IDAPA 20.03.04.015.13.e). There may be cases where the two-family dock is not located on the littoral right line. These applications should be examined closely and there should be some explanation in writing as to why the dock is not on the common littoral right line. This explanation should be noted in the encroachment file.

## **9. Dimensions**

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

## **10. Piling Limitation**

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

# **C. Boat and Jet Ski Lifts, Ports and Ramps Standards and Requirements**

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

## **1. Single-Family Docks**

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

## **2. Two-Family Docks**

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

## **3. Single and Two-Family Lift Permit Exemption**

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

## **4. Community Docks**

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

## **5. Community Dock and Commercial Marina Abbreviated Lift Permitting**

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

## **6. Setbacks**

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

## **7. Location**

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

## **D. Commercial Navigational Encroachment Standards and Requirements**

The following standards and requirements apply for commercial navigational encroachments:

### **1. Definition**

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

### **2. Submerged Lands Leases**

A submerged lands lease is required for all commercial navigational encroachments located above public trust lands (IDAPA 20.03.17.020). On lakes with an artificial high water mark, the lease is only required for those encroachments below the ordinary high water mark.

### **3. Fairways**

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

### **4. Setbacks**

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

### **5. Ramp Size**

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

### **6. Orientation**

Commercial navigational encroachments should typically be oriented perpendicular to the generalized shoreline (IDAPA 20.03.04.015.13.c).

### **7. Parking**

Vehicle parking requirements may be adopted by City or County governments and should apply accordingly, even if they are less restrictive (IDAPA 20.03.04.015.03.c). Commercial marinas should provide one (1) vehicle parking space per two (2) watercraft or float home moorages. If private moorage is tied to specific parking spaces or designated parking areas, then one (1) vehicle parking space per private watercraft or float home moorage must be provided. Approved parking plans should be included by

the applicant as part of the application documents. Side ties will not be included in the total slip count for parking requirements unless they are used for moorage beyond day use.

#### **8. Side Ties**

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

#### **9. Dimensions**

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

#### **10. Petroleum and Spills**

Petroleum boom and spill kits should be present at all commercial navigational encroachments with gas pumps. Marine fueling stations must adhere to the International Fire Code, which is adopted by IDAPA 18.08.01 – Adoption of the International Fire Code.

### **E. Private Moorage within Commercial Marinas**

#### **1. Creation of Private Moorage**

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

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

#### **2. Eligible Applicants**

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

#### **3. Public and Private Use**

Applications for commercial marinas with private moorage must designate which moorage will be available for private or public use. Private moorage is limited to a maximum of 50% of the total moorage. One private float home moorage is equivalent to

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

#### **4. Comparable Moorage**

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

#### **5. Access**

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

#### **6. Parking**

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

### **F. Conversions Involving Private Moorage – Permit Required**

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

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

## **G. Community Docks Standards and Requirements**

The following standards and requirements apply for community docks:

### **1. Processing**

Community dock applications will be processed as a commercial navigational encroachment (Idaho Code 58-1306 and IDAPA 20.03.04.030).

### **2. Submerge Lands Leases**

A submerged lands lease is required for all community docks that have more than 1,100 square feet over public trust lands. On lakes with an artificial high water mark, the lease is only required for those encroachments below the ordinary high water mark.

### **3. Eligible Applicants**

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

### **4. Width of Structures**

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

### **5. Width of Fairways**

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

### **6. Setbacks**

The encroachment must be located at least twenty-five (25) feet from the property and/or riparian or littoral right lines. A community dock located closer than twenty-five (25) feet to adjacent riparian property lines will be presumed to have an adverse effect on adjacent riparian property. Consent of the adjacent riparian owner/owners will automatically rebut the presumption and is required prior to approval (IDAPA 20.03.04.015.13.e).

### **7. Ramps, Piers and Approaches**

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

## **8. Littoral Property**

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

## **9. Square Footage**

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

## **10. Breakwater**

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

## **11. Side Ties**

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

## **12. Dimensions**

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

## **13. Orientation**

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



## **H. Buoy Standards and Requirements**

The following standards and requirements apply for mooring buoys:

### **1. Number**

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

### **2. Setback**

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

### **3. Markings**

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

### **4. Regulatory Buoys**

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

## **I. Breakwater Standards and Requirements**

The following standards and requirements apply for breakwaters:

### **1. Public Use**

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

### **2. Setback**

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

### **3. Function**

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

#### **4. Community and Commercial**

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

### **J. Float Home Standards and Requirements**

The following standards and requirements apply for float homes:

#### **1. No new facilities**

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

#### **2. Setbacks**

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

#### **3. No Enlargement**

Applications to enlarge float homes beyond their current permitted square feet will not be accepted (IDAPA 20.03.04.015.05.b and 20.03.04.015.10.a). The footprint is the area the encroachment covers, measured in square feet. In order to ensure the footprint of a float home is not expanded, the following must be identified in the application and permit:

- i. Float home footprint: Area enclosed by the walls and roof.
- ii. Float footprint: Area covered by the float(s) supporting the float home.

#### **4. Square Footage Calculation**

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

#### **5. Remodeling**

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

#### **6. Replacement/Vertical Expansion**

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

float home can add as many floors as they choose, but are limited by the requirement for engineered drawings. An engineer would not allow a float home to have more levels than it could reasonably have within that footprint and still be buoyant.

## **7. Relocation**

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

## **8. Plumbing and Electrical**

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

## **9. Sewage Disposal**

All float homes that are hooked to upland sewer or septic systems must meet the standards in IDAPA 20.03.04.015.10.e Permittees or their designees are responsible for providing this documentation to the department. Float homes must be inspected prior to this date by a professional plumber licensed in the State of Idaho. A report to IDL from the plumber will document whether the float home meets the standards in IDAPA 20.03.04.015.10.e (IDAPA 20.03.04.015.10.f).

A permittee may request an extension but is at Department discretion.

## **10. Inspection**

An on-site inspection is required as part of processing an application to rebuild or relocate an existing permitted float home prior to relocation, demolition, and/or construction. The inspector compares the size and footprint of the existing float home with the figures identified in the permit and provided in the application. The inspector should include the master float dimensions, structure dimensions, and total square footage. It should also include the number of floors in the float home.

# **K. Boat Garage Standards and Requirements**

## **1. Applications**

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

## **2. Footprint**

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

- i. Boat garage footprint: Area enclosed by the walls and roof.
- ii. Float footprint: Area covered by the float(s) supporting the boat garage.

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

## **3. Height**

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

## **4. Residential Area**

A boat garage may not have a temporary or permanent residential area (Rule 010.06). Residential areas do not aid in navigation.

## **5. Littoral Rights**

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

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

## **6. Weather Conditions**

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

## **7. Flotation Devices**

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

## 8. Inspection

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

## 9. Permit Description

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

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

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

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

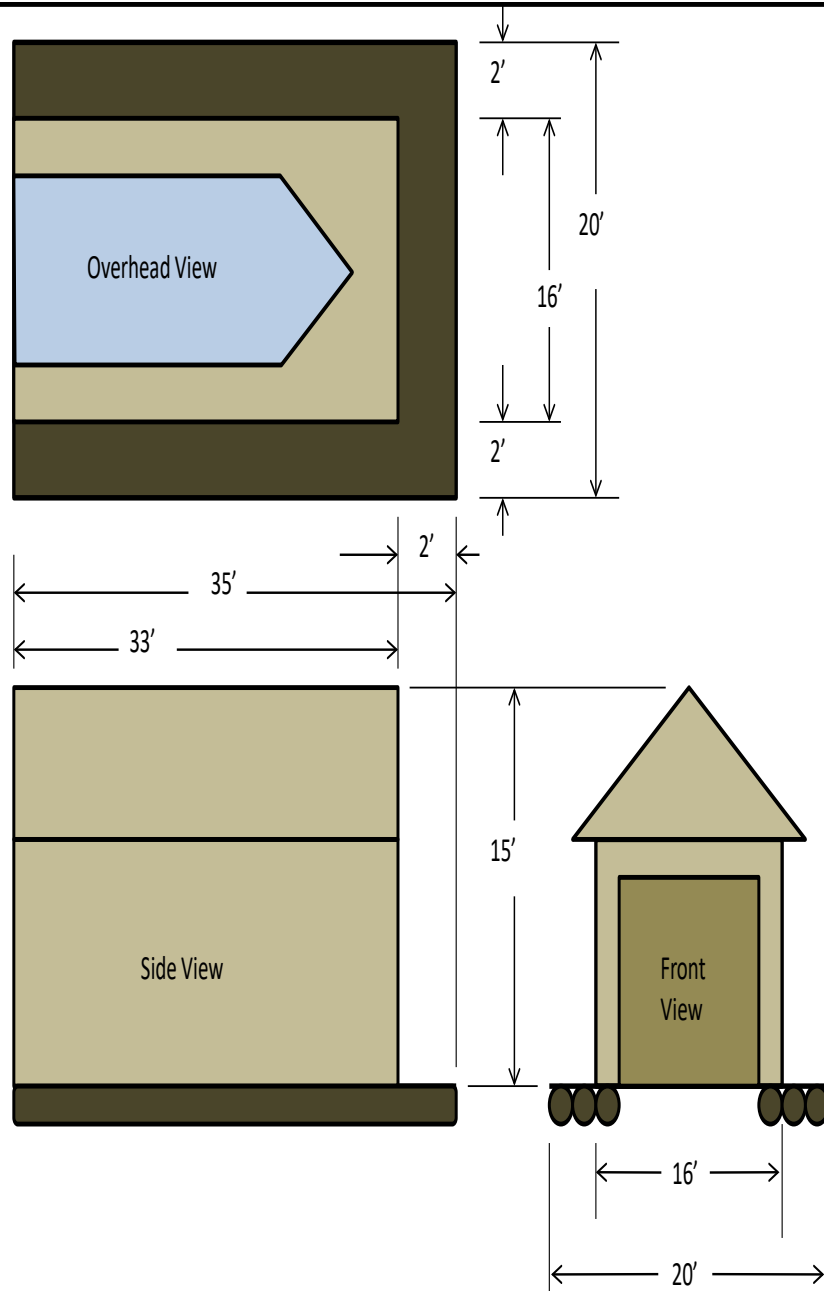
When entering this information into Landfolio, it should follow the general formatting of:

Condition Type: Boat Garage

Condition Value: 528-square foot

Condition Description: 35'x20' master float, 33'x16'x15' single-slip structure

**Figure 1: Sample Boat Garage Drawing**



## **L. Excavated or Dredged Channels/Basins Standards and Requirements**

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

### **1. High Standard for Approval**

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

### **2. Removal and Disposal**

An application for dredging must include the volume of lake or riverbed material to be removed and the location of the spoils disposal area. If there are any spoils of value, they would need to be processed under IDAPA 20.03.05 – Rules for Navigable Waterway Mineral Leasing.

### **3. Social Benefit**

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

### **4. No Creation of Littoral Property**

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

### **5. Fill**

Filling in a basin would be considered fill, and that material would need to be consistent with lakebed materials native to the surrounding area. See Section P for fill requirements and standards.

## **M. Boat Ramps and Launch Rail Systems Standards and Requirements**

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

### **1. Primarily Public Use**

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

## **2. Easements**

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

## **3. Unimproved Ramps**

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

## **4. Construction Standards**

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

## **5. Setbacks**

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

## **6. Removal or Replacement**

- a) Removal or replacement of a boat ramp or launch must include plans to mitigate any potential disturbance to the lakebed materials. It will be important to send any application that involves the removal or replacement of a boat ramp to the Army Corps of Engineers and other agencies that regulate activities with lakebed



materials to them for comments. Removal should include plans to regrade the lake shore if the launch will not be replaced.

## **N. Riprap, Seawall, and Bulkheads Standards and Requirements**

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

### **1. Near Shore Construction**

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

### **2. Construction Standards**

- a) Riprap used to stabilize shorelines will consist of rock that is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock should 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.
- b) For guidance on riprap, please look at the riprap used at neighboring properties, look through IDAPA 37.03.07.057, or ask for engineering plans from the applicant.
- c) The riprap should 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 should 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).
- d) Riprap should be placed on a slope no steeper than 1.5H:1V to aid in wave energy dissipation. Where possible, cutbanks should be sloped landward and rip rap placed on this slope to minimize encroachment onto the lakebed or riverbed.
- e) Permits to repair or replace existing unpermitted seawalls, bulkheads or other vertical walls will 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.
- f) Seawalls, bulkheads and other vertical walls will 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, typically require an easement or lease.

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

### **3. Jetties and Barbs**

Jetties and bank barbs will generally not be permitted as a method of controlling erosion on lakes and slack waters of reservoirs administered by the Department for trust purposes. These types of encroachments can have adverse impacts to navigation and recreation. Jetties or barbs may be allowed if applied for by a local public agency, or in specific circumstances where other encroachments (such as breakwaters, rip rap, docks) would be infeasible. A jetty should serve more than one single person or entity, or provide a public service.

## **O. Water Intake Systems and Utility Line Standards and Requirements**

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

### **1. Permitting**

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

### **2. Setbacks**

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

### **3. Heat Pumps**

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

### **4. Screen Diameter**

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

**5. Line Anchoring**

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

**6. Orientation**

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

**7. Easements**

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

**P. Fill Standards and Requirements**

The following standards and requirements apply for fill:

**1. High Standard for Approval**

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

**2. Permits, Leases and Easements**

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

**3. Volume and Type of Fill**

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

**4. Removal of Fill**

Removal of fill would be considered excavation or dredging. Standards for this can be found in Section L.

**Q. Other Encroachments Standards and Requirements**

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

## Section 30 – Permit Issuance

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### I. Permit Template and Signatures

Encroachment permits will be prepared by Area staff on a Department template that is generated out of Landfolio Lite and edited in Word for consistency (**See ENC-016-Encroachment Permit Template**). The Area Manager or designee will sign one (1) original encroachment permit.

### II. Contents

The permit must state the encroachment number; the permittee’s name and address; the site’s county; legal description and address (if different); the type of encroachment (single-family, community dock, nonnavigational, etc.); a description of the activity or activities being permitted; and the name of the water body. The permit must also state the sunset date for authorized activities, which are to be completed within three (3) years of the issuance date (IDAPA 20.03.04.060.04).

### III. Terms and Conditions

All permits must have appropriate provisions and conditions for the activity permitted. The first ten (10) terms and conditions of all permits must be the same (See **Encroachment Permit Terms, ENC-017**). Additional provisions and conditions may be applied. Most conditions or stipulations have been identified and are included in the **Encroachment Permit Terms, ENC-017**. It may be necessary to create a new provision or condition. New conditions or provisions must be discussed with the Program Manager and reviewed by an attorney at the Program Manager’s discretion prior to issuing a permit. Granted variances and specifications outside those normally allowed should be specifically described in the encroachment permit, and the reason for granting the variance should be described.

## **IV. Pre-existing Permits**

If the permit will replace a pre-existing permit, then the following term must be included: “This permit replaces all previous permits, which are hereby null and void.” The replacement permit number will typically have an alpha character added to the end to denote that the permit for that parcel has been changed. For example, L96S0001 will be changed to L96S0001A.

## **V. Permit Expiration**

All activities authorized within the scope of an encroachment permit must be completed within three (3) years of the issuance date. If the activities authorized are not completed within three (3) years, the permit will expire, unless previously revoked or extended by the Department (IDAPA 20.03.04.060.04). The department may issue a permit with an initial sunset clause that exceeds three (3) years, if the need is demonstrated by the applicant. See Section 35 – Assignment, Amendment, or Extension for more information.

## **VI. Notary Public**

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

## **VII. Document Distribution**

Upon completion of the permit process, the Area must:

- A. Forward to the permittee the original permit, a copy of the encroachment application package, and attachments; and
- B. Forward to LMR Document Exchange an electronic (scanned) copy of the permit, the application package, and a copy of any significant correspondence and receipt of required fees. Blank work completion reports and assignment forms will not be included in the electronic submittal. Files too large for email can be placed in the following location on the Boise8 pool drive: P:\NavWaters\Encroachment Permits, with an email to the Program Specialist alerting them of the permit. The Bureau should not receive any of this information prior to permit issuance unless a hearing is being held or other circumstances require it. Copies of permits can be sent to other agencies or other interested parties, at the Area’s discretion.
- C. Email an electronic (scanned) copy of the permit to the Idaho Department of Water Resources’ State Floodplain Coordinator.
- D. Permits are not valid until they have been recorded by the permittee in the respective county.

# Section 35 – Assignments, Amendments & Extensions

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## I. Assignments of Encroachment Permits

### A. Forms

All requests for assignment will be completed on the Department of Lands **Request for Assignment of Encroachment Permit form, ENC-018** (IDAPA 20.03.04.065.01).

### B. Signatures

The request for assignment will include the signatures of the new property owner and the notarized signature of the prior owner (IDAPA 20.03.04.065.01). In the event that the assignor on the permit is not the same as the most recent prior owner of the property, the assignee should perform a title chain search to show ownership back to the assignor to include in the permit record. Then the most recent prior owner can sign off on the assignment. If there are multiple signors, the owners may use **ENC-018A: Attachment A – Multiple Applicants**.

### C. Fees

All requests for an assignment will require the current processing fee. If there is a submerged land lease associated with this permit, it will require a separate assignment form and fee (IDAPA 20.03.04.065.02).

### D. File Review

A review of the file is necessary to complete the assignment. It is important to review the encroachment permit file, and compare the current encroachment using Google Earth, county assessor maps/data, and any other documents provided by the applicant. All noncompliance must be addressed before an assignment can be completed (IDAPA 20.03.04.065.04). If potential noncompliance is identified during the file review, the Area staff will send a notice to the assignee notifying them of the noncompliances associated with their permit. A site inspection may be necessary to gather more information about the noncompliance(s). If possible, a noncompliance inspection should be completed within one year that the noncompliance is identified. A noncompliant permit may be assigned if the assignee submits written consent to bring the encroachment into compliance (IDAPA 20.03.04.065.04.b).

### E. Site Inspections

It is recommended that Area staff conduct site inspections for encroachment assignments, when possible, with an emphasis on completing inspections with encroachment permits older than 15

years. Approval of the assignment may be delayed until weather conditions allow an inspection. Site inspections should include a completed inspection report. Upon completing the site visit, it may be necessary to either request an encroachment application for an unpermitted portion of the encroachment or request removal of unpermitted structures. For more information on inspections, please see Section 44 – Inspection Procedures.

The purpose of an assignment is to make sure all encroachments are in the name of the current parcel owner. If there are noncompliant encroachments, those should be addressed via the noncompliance process. The best method to expedite the assignment process in cases of noncompliance are for the assignee to either: submit written consent to bring the encroachment into compliance, or to submit an application for a new permit to correct the noncompliance (IDAPA 20.03.04.065.04.a &b.). However, an application should **not** be submitted in cases where the noncompliance cannot be approved per IDL standards.

#### **F. File Update**

A request for an assignment will be entered into Landfolio, indicating the encroachment activity. A new file label is assigned in the process and the electronic file is updated with the new encroachment information.

#### **G. Document Distribution**

The original assignment form and related paperwork are held in the physical file at the Area office after the assignment is completed. The assignee gets a copy for their files, and the Area staff should update the new owner in Landfolio under that encroachment permit number. The Area staff should also send an electronic copy to the Bureau to update the statewide system.

#### **H. Endowment Real Estate adjacent to Navigable Waterways**

Encroachment permits associated with an endowment lease on the adjacent littoral property will not be assigned until the endowment lease is assigned and will require a separate assignment form and fee.

## **II. Amendments to Encroachment Permits**

#### **A. Community Docks and Commercial Marinas**

Changes to the interior of these facilities may qualify as a reconfiguration or rearrangement as per IDAPA 20.03.04.020.05.b. This can be interpreted as reconfiguring slips within the marina's original footprint. However, any change to the facilities should be reflected in the encroachment permit, and possibly the corresponding lease. Expansion outside of the original footprint will require a new permit application. See Section 40 of these Procedures for more information.

#### **B. Single/Two-Family Docks**

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

### **C. Forms**

A request to amend an existing encroachment permit must be submitted on an encroachment application (**Joint Application for Permits, ENC-004** with **Commercial/Community/Nonnavigational Application, ENC-006**) and processed as a new permit with the required application fee (IDAPA 20.03.04.020.04).

### **D. Permit Number**

No changes to the permit number are needed.

### **E. File Update**

The Area staff will include the amendment to the electronic permit file, and if needed, note any changes in Landfolio Lite.

## **III. Extensions of Encroachment Permits**

### **A. Sunset Clause**

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

### **B. Request for Extension**

IDL will only consider a request to extend an encroachment permit's sunset period if the request is received prior to the end of the sunset period, and it must be submitted in writing.

### **C. Granting Extensions**

Extensions are normally granted for one (1) year intervals, but can be issued for up to three years if there is justification, i.e. anything outside of the permittee's control. The extensions are granted by department communication. The letter will state the extension is being granted and the termination date of the extension. The new sunset date must be entered into Landfolio Lite.

### **D. Denying Extensions**

Denying an extension is done by department communication and must state:

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



- b. May apply for an after-the-fact encroachment permit if the encroachment is partially complete and meets current standards
- c. Remove all unauthorized encroachments

## Section 40 – Repair & Replacement

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### I. Clean, Maintain, Repair

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

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

### II. Replacement

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

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

- The existing encroachment is covered by a valid permit in good standing;
- The existing encroachment meets the current requirements for new encroachments;
- The location and orientation of the replacement do not change from the existing encroachment;
- The replacement will be the exact same size or smaller and the same shape as the existing encroachment; and
- The replacement will not be located closer to adjacent littoral right lines than the existing encroachment.

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

### **III. Changing Type of Encroachment**

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

### **IV. Enlarging, Relocating, Extending**

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

### **V. Re-dredging**

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

### **VI. Modifications of a “Grandfathered” Encroachment**

Modification of an encroachment constructed prior to January 1, 1975, will require the owner to submit a permit application and enter the same permitting process as required for new encroachments (Idaho Code 58-1312). Exceptions to this are that the encroachment has not been modified 1974, meaning the overall footprint of the encroachment on the lakebed has not been expanded in dimension or height or changed in orientation or location. The current encroachment standards must also be applied to the entire structure. This applies to all encroachments for a parcel owner.

### **VII. Reconfiguration/Rearrangement**

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

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

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

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

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

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

## Section 44 – Inspection Procedures

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### I. Purpose

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

### II. Preparation

- A. Thorough preparation is the key to a successful inspection. Prior to an inspection, the inspector should carefully review the following documents, as applicable, to become as familiar as possible with the inspection site, statutes, and rules applicable to the inspection:
  - 1. The documented complaint/renewal/assignment
  - 2. Application and supporting documents
  - 3. Related instruments

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

### **III. Entry**

- A. Upon arriving on-site to conduct an inspection, the inspectors must:
1. Visit at a reasonable hour.
  2. Enter through the primary entrance.
  3. Locate the responsible party.
  4. Identify themselves to responsible party, even if not requested.
  5. Explain the legal basis for the inspection.
  6. Explain the scope of the inspection.
  7. If applicable, present necessary written notices.
- B. Only after completing these seven requirements may the inspector determine whether he or she has been denied entry. An inspector is denied entry when the responsible party at the inspection site says so or when conditions are placed on activities that prevent the inspector from fully carrying out and/or documenting the intended purpose of the inspection. Do not allow behavior or emotional reactions to prevent a fair and professional assessment. If there is an imminent danger to the public or environment, the inspector must use best judgment to leave or clearly and calmly identify potential consequences of entry being denied, which may

include other agencies being notified, injunctive relief, and potential civil penalties. If denial is clear and nonnegotiable, leave immediately. The inspector should not risk his or her personal safety. All events surrounding the refused entry should be fully documented as soon as possible.

## **IV. Opening Meeting**

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

## **V. Interviewing**

- A. The interview is one of the inspector's most useful tools for gathering information. While preparing for the inspection, plan the questions that will be asked and how to ask them. During the inspection, establish rapport by being open and friendly.
- B. How a question is posed is often more important than the question itself. This requires adaptation to the environment, circumstances, and personalities involved. Poor questions get poor answers. The following are tips to help ask good questions:
  - 1. Simply ask the inspected party to tell you what they know and then sit back and listen with only occasional comments or questions to fill in vital information as it is revealed.
  - 2. Begin by asking questions to get general information, and then focus questions to get specific details.

3. Avoid questions that may be answered with a simple yes or no.
  4. Avoid leading questions.
  5. Keep questions clear and uncomplicated by asking one question at a time and avoiding compound questions.
  6. Use simple acknowledgments and pauses to motivate the subject to continue their narrative.
  7. Ask follow-up questions to verify assertions. ("Why do you say that? How do you know that?")
  8. Repeat or rephrase information to verify that you have understood accurately and completely.
  9. Show concern for the subject's comfort and situation.
  10. Avoid negative or accusatory statements.
  11. Listen carefully.
  12. Maintain control.
  13. It is not uncommon to be asked during an inspection what your conclusions are. If you are uncertain or if full and complete rationale to support decisions has not yet been formulated, it is perfectly acceptable (and usually accepted) to state that you are currently just gathering information. A decision will be made at a later time after a complete review of all pertinent information.
- C. Be sure to document interviews by noting who you were talking to, what you asked, and how they responded.

## **VI. Financial Audits**

- A. Records to be reviewed in the field are generally those related to submerged land leases, riverbed mineral leases, and land use permits. The inspector should have a general idea of the records he or she will need to review during an inspection. The inspector should make the determination during the opening meeting when to review the records based on priorities of the inspection, availability of records/staff, or environmental factors such as weather.
- B. In addition to identifying which records to review, the inspector should determine the method of reviewing records:
1. Random (or shotgun) sampling.
  2. Best judgment call by inspector (activities may dramatically increase in the summer months so the inspector may focus on those months).
  3. Complete audit of all related records (usually this is done when there are not many records to review).
- C. When possible, the inspector should review primary records. At a minimum the inspector should perform the following, as applicable:
1. Cross check summary reports with the original data whenever possible.
  2. Check for completeness and accuracy of required records and reports.
  3. Determine if records are kept for the required length of time and reporting periods.



4. Compare information contained in the records and databases with firsthand observations.
- D. When documenting records reviewed in the inspection report, include the name of the record, where it was kept, and who is responsible for the record. In addition, the inspector should note the method of reviewing documents and a brief explanation why that method was chosen. Copies should be taken of documents relevant to potential noncompliances and may be provided by the inspected party or obtained by using a camera. Please see **Anatomy of a Notice of Noncompliance, ENC-019**, and **Sample – Notice of Noncompliance, ENC-020** for Notice of Compliance examples. Any questions regarding the confidentiality of documents should be brought to the attention of the Program Manager.

## VII. Inspecting the Site

- A. The inspector directs the inspection. The pathway may be directed by geographic criteria, processes, and/or any other parameter the inspector decides are important. Be sure to follow the site map to ensure that important areas are not missed. Take notes, photographs, conduct interviews, and make diagrams as you tour the location. Record each site or event with more than one method of documentation and remember that redundancy is important for all critical compliance issues.
- B. Try to maintain a methodical pace and demeanor throughout the inspection so that you do not over emphasize noncompliance issues. However, it is also important to obtain concurrence and confirm critical aspects of your observations with site representatives.

## VIII. Evidence

- A. The inspector should prepare to conduct and document his or her investigations thoroughly enough to withstand hearing officer or judicial review. The inspector should have the mindset that every inspection will go to court.
- B. Solid evidence, that is admissible in court, is documentation (photos, notes, reports, statements, samples, and records) that meet the three primary cornerstones of credibility:
  1. **Foundation:** the argument that one piece of information leads to the next in a logical sequence. It may be thought of as a pyramid of information with one piece building upon the other.
  2. **Authenticity:** the evidence demonstrates to be what it is claimed to be. If there is a perception (or reality) that the information “could have been compromised,” the information will not be accepted into evidence.
  3. **Relevance:** the evidence pertains to the fact in question. Relevant evidence tends to make the existence of the fact either more or less probable than would be the case without the evidence.
- C. There is good documentation and poor documentation, but there is seldom too much documentation. It is better to document something from more than one approach. The quantity

and quality of documentation brought forward by the inspector will be compared with that of the defendant. The cornerstone to quality assurance and quality control is to do the right thing correctly.

- D. Remember that you are telling a story or painting a picture for people who have never been to the site in question.
- E. When an error is identified; clearly identify it, evaluate its potential effects on the objectives, and, if possible, correct the mistake. Do not cover it up. Document every step in making the correction.

## **IX. Photographs**

- A. While solid technical data is often critical to documenting or proving a noncompliance issue, photographic evidence can have a real influence on a case because of its ability to tie things together and add perspective. The test for entering photographs into evidence: “Is this a fair and accurate representation of what you saw?” Photo documentation should tell a story using three basic kinds of photographs:
  - 1. The establishing shot(s) shows a wide area that includes the subject and a fixed landmark to establish location and help the viewer understand where the subject is located.
  - 2. The subject shot(s) shows the entire object or special area of an event that the photographer wants to emphasize to the viewer.
  - 3. The close-up shot(s) shows unique details of the object or event that makes it unique and different from other similar objects that may be in the same area.
- B. Be sure the camera is set up to display the time and date on the photograph.
- C. Take photographs in approximately the same location and angle (viewpoint) as any previous photos that may have been taken.
- D. Photographs must be described in the inspection report and include date, time, photo number, direction taken, and other comments to give meaning to the photograph.
- E. Original digital images must be saved to the network as soon as practicable after image capture following the standard naming convention (See Endowment Leasing Administrative Procedure A7 Using the Document Exchange Document Naming Convention). Never edit the original. Any enhancements needed should only be made to a copy.
- F. In addition to the original photographs, copies of photographs may be pasted into a document and annotated.

## **X. Closing Meeting**

- A. The purpose of the closing meeting is to confirm your observations and review your preliminary findings with the inspected party. Prior to conducting the closing meeting, take a few minutes to

review the inspection notes to identify points that need clarification and areas of concern. The closing meeting must be held with the inspected party and/or an authorized representative.

- B. The closing meeting is your chance to go over and verify all of your significant observations with the inspected party and to request clarification or further documentation. The fact that you made this request during the inspection may be important if new material is provided by the inspected party at a later time and they claim that you never requested the relevant information.
- C. During the closing meeting, review any issues of concern identified during the inspection. Use customer service skills to ensure the inspected party understands these issues.
- D. Outline the next steps in the process. Indicate that the inspection report will be finalized and reviewed, and that the inspected party will receive a copy of the final report. If IDL identifies a noncompliance, the inspected party will be notified. Often, the inspected party or their representatives will seek advice on improvements or actions they must take to come into compliance. Simple, straightforward advice is usually fine, but the inspector's role may become jeopardized if he or she acts as a consultant.

## **XI. Inspection Report**

- A. Inspection reports must be submitted to the supervisor as soon as practicable after completing the inspection. As more time passes following the inspection, memories fade and credibility may be brought into question during legal proceedings.
- B. The primary objective in generating the inspection report is to organize and coordinate all documentation and potential evidence in a comprehensive, understandable, and usable manner. A good report should not need additional explanation. The narrative and supporting documentation must be:
  - 1. Accurate. All information must be factual and based upon verifiable observations.
  - 2. Relevant. Information in the report should be pertinent to the subject and objectives of the inspection. Information that is not material to the objective should be omitted.
  - 3. Comprehensive. Include everything which would contribute to an accurate determination of the facts or support the objective of the inspection. It is better to have too much good evidence than not enough.
  - 4. Organized. Your report should be well organized and flow in logical sequences. Readers with less technical experience or knowledge should be able to reach rational conclusions based upon the narrative and supporting evidence.
  - 5. Objective. Factual information should be presented objectively without drawing conclusions. Let the narrative and logical presentation of information lead the reader to draw his/her own conclusions.
  - 6. Clear. The report should be written at a level for its intended audience. It should be succinct and to the point.

7. Professional appearance. This is a permanent record that could be used to support or refute any future agency actions. Use acceptable grammar, spelling, and punctuation. Make the document legible, neat in appearance, and organized for easy use.

C. Writing techniques:

1. Write in the first person.
2. Write in the active voice.
3. Write in logical order.
4. Provide supporting verifiable data for any calculations or summaries included in the report.
5. Avoid using “absolute” words such as “all”, “never”, and “always”.

D. Outline of inspection report:

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

8. Attachments: Number each attachment and provide the electronic file name.
9. Inspector's signature, name, title/office, and date: Sign, legibly print name, include the position title and the name of home office, and the date of the signature. This should be the date the report is submitted to the supervisor for review.

## **XII. Safety**

Inspections are potentially dangerous. These dangers can be minimized through adequate knowledge and planning. The ultimate responsibility for safety rests with the inspector. It is important to remain alert and attentive to surroundings for hazards. Use all of the available clues to help recognize hazards and prepare for them. The following clues will help you to recognize many hazards:

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

## Section 45 – Compliance Procedures

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### I. Purpose

This procedure is followed when any attempt to resolve a noncompliance through conference is unsuccessful. Examples of an unsuccessful conference would include a breakdown in communication between IDL and the responsible party, the responsible party becoming unreachable, or more commonly, when IDL staff feel that no agreement can be reached.

This document outlines the process IDL employees follow to respond to noncompliance under the Lake Protection Act. It is intended to be a tool. It is not intended to replace good judgment, nor does it alter or amend the applicable statutes and rules. If there are questions or concerns regarding the correct way to handle a noncompliance, please consult the Program Manager. Any deviation from these procedures must be documented and defensible.

### II. Policy

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

### III. Procedure

#### A. Verify Noncompliance

1. A noncompliance is any action or inaction that violates any applicable statute, rule and/or permit provision.
2. Noncompliances are investigated and verified by IDL staff through site inspections and file reviews. File reviews consist of reviewing the current and/or previous encroachment permit(s), comparing the current encroachment using Google Earth, county assessor maps/data, aerial photos, and any other documents provided by the applicant.
3. The time and cost of the compliance process must be documented by individual staff throughout the process, beginning with the inspection or file review. This information is used to justify recovery of expenses as provided for in Idaho Code § 58-1308(3).
  - a. Time cost should be kept on a personal log or spreadsheet. Examples of time spent on a noncompliance would include time traveled to and spent on site inspections,

time in meetings with the permittee, internal review meetings with other IDL staff, or other formal time spent on a file.

## **B. Assess Noncompliance**

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

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

## **C. Issue Notice**

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

### **1. Notice of Noncompliance**

- a) *Issued when:* A low risk noncompliance is identified.
- b) *Issued by:* Someone other than the individual who verified the noncompliance (typically the Area Manager or Resource Supervisor).
- c) *Issued via:* Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail.
- d) A Notice of Noncompliance must include:
  - i. The authority under which the notice is sent.
  - ii. The statute, rule, and/or permit provision that was violated.
  - iii. The facts upon which the notification is based.
  - iv. The steps needed to come into compliance.
  - v. The date by which the recipient must respond to the notice or submit supporting documentation of each corrective action. The deadline may not be less than 30 days from the date of the letter unless immediate action is needed to prevent substantial or irreparable harm.
  - vi. The potential consequence(s) for not responding to the notice.
- e) See **Anatomy of a Notice of Noncompliance, ENC-019**, and **Sample – Notice of Noncompliance, ENC-020** for examples.

### **2. Request for Additional Information**

- a) *Issued when:* The responsible party submits an incomplete response to a notice. If the responsible party submits an incomplete response to a Request for Additional

Information, use discretion to determine whether to issue a subsequent Request for Additional Information or proceed in the next step in the compliance process.

- b) *Issued by:* The same person who issued the Notice of Noncompliance.
- c) *Issued via:* Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail. See **Sample – Request for Additional Information, ENC-021** for an example.

### 3. Notice of Resolution

- a) *Issued when:* IDL has verified that all actions necessary for compliance have been completed.
- b) *Issued by:* The same person who issued the Notice of Noncompliance.
- c) *Issued via:* Regular U.S. mail. See **Sample – Notice of Resolution, ENC-022** for an example.

### 4. Combined Notice of Noncompliance and Proposed Permit Revocation and/or Injunctive Relief

- a) *Issued when:* A high risk noncompliance is identified. Prior to issuance, obtain legal review by submitting a Compliance Action Memo to the assigned IDL counsel. See **Sample – Compliance Action Memo, ENC-023** for an example.
- b) *Issued by:* Someone other than the individual who verified the noncompliance, with review by the Program Manager, assigned IDL counsel, and Resource Supervisor/Area Manager.
- c) *Issued via:* Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail.

### 5. Notice of Proposed Permit Revocation

- a) *Issued when:* The responsible party fails to rebut or correct the noncompliance(s) within the time period identified in a Notice of Noncompliance. Prior to issuance, the following two steps must be completed:
  - i. Verify that the Notice of Noncompliance was received by confirming the signature and date on the Certified Mail Receipt or online at <https://www.usps.com/> by looking up the Certified Mail Receipt number.
  - ii. Obtain legal review by submitting a Compliance Action Memo to the assigned IDL counsel. See **Sample – Compliance Action Memo, ENC-023** for an example.
- b) *Issued by:* The same person who issued the Notice of Noncompliance, with review by the Program Manager, assigned IDL counsel, and Resource Supervisor/Area Manager.
- c) *Issued via:* Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail. See **Sample – Notice of Proposed Permit Revocation, ENC-024** for an example.



## 6. Cease and Desist Order

- a) *Issued when:* A violation of the rules is occurring due to either the ongoing construction of an unauthorized encroachment or an ongoing unauthorized modification of a permitted encroachment. A **Stop Work Order, ENC-025** may be posted on-site prior to the issuance of a Cease and Desist Order. Please ask for assistance from the Program Manager and Legal Staff to issue a Stop Work Order. The Cease and Desist Order is used to maintain the status quo pending formal proceedings by IDL to rectify the violation. A written Cease and Desist Order consists of a short and plain statement of what the violation is, the pertinent legal authority, and how the violation may be rectified (IDAPA 20.03.04.080.01).
- b) *Issued by:* The Area Manager or executive staff, after the Order has been reviewed by the Program Manager, Legal Staff, and the Resource Specialist.
- c) *Issued via:* Both U.S. Postal certified mail, which provides a signed and dated return receipt, and regular U.S. mail. See **Sample – Cease and Desist Order, ENC-026** for an example.

### D. Log and File Notice

1. Copies of all notices must be saved in the appropriate file. If the noncompliance is related to an existing IDL instrument, it is saved in the corresponding instrument's file. Otherwise, a new file is created.
2. Notices issues that need legal review shall be added to the legal tracker.

### E. Assess Response & Issue Subsequent Notice

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

## IV. Compliance Actions

IDL may seek administrative and judicial actions for violations. Although administrative and judicial actions are sought separately, they may be sought simultaneously. Area staff shall involve the Area Manager and the Program Manager in decisions to pursue administrative or judicial actions.

### A. Administrative Actions

1. Types of Administrative Actions
  - a) Cease and Desist Order (IDAPA 20.03.04.080.01)
  - b) Encroachment permit revocation (IDAPA 20.03.04.080.07)
  - c) Civil penalty (I.C. §58-1308(1), IDAPA 20.03.17.060.05.a)
  - d) Cost recovery (I.C. § 58-1308(3))

2. Procedure

- a) If the responsible party fails to adequately respond to a Notice of Proposed Revocation within the timeframe identified in the notice, receipt of the notice is verified by confirming the signature and date on the Certified Mail Receipt or online at <https://www.usps.com/> by looking up the Certified Mail Receipt number.
- b) Any additional documents created or received since the issuance of the Notice will be forwarded to the assigned IDL counsel by the Resource Specialist, and copying the Program Manager and Area Manager. Other staff may need to be copied as well depending on the severity of the situation.
- c) IDL counsel will file a complaint with the Director of the Department of Lands to initiate a hearing for an administrative action.
- d) Upon receipt of a complaint, the Director will order a hearing. (See Section 20 – Notifications and Hearings)

**B. Judicial Actions**

1. Types of Judicial Actions:

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

2. Procedure

- a) If the responsible party fails to adequately respond to a Notice of Proposed Revocation within the timeframe identified in the notice, receipt of the notice is verified by confirming the signature and date on the Certified Mail Receipt or online at <https://www.usps.com/> by looking up the Certified Mail Receipt number.
  - b) Any additional documents created or received since the issuance of the Notice will be forwarded to the assigned IDL counsel by the Resource Specialist, and copying the Program Manager and Area Manager.
3. IDL counsel will file a complaint to the district court in and for the county where the violation occurred.
4. The Resource Specialist will make a note in the Landfolio Lite file indicating judicial action was taken.

# Section 55 – Stream Channel Alteration Permits

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## I. Department Roles

### A. IDWR and IDL

The Idaho Department of Water Resources (IDWR) is responsible for permitting all stream channel alteration activities located in, on, or over waters of the state, including navigable rivers (Idaho Code 42-38). The Idaho Department of Lands (IDL) is responsible for permitting all encroachment activities located in, on, or over navigable lakes and slack waters of non-federal dam projects (Idaho Code 58-13). **The Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands, September 10, 1979 (ENC-002)** describes the limits of IDL’s authority on dammed rivers.

### B. Application Filing

Applications are originally filed with the IDWR. In accordance with the **Memorandum of Understanding, Idaho Department of Water Resources and Idaho Department of Lands, November 7, 2007 (ENC-001)**, IDWR will forward a copy of each application to the appropriate Area for review and comment. The Supervisory Area must review the applications in a timely manner and provide a written response to IDWR.

## II. Application Review

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

### A. Identify Area

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

### B. Review Timeframe

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

### C. Applicability of Application

If the proposed activity does not affect endowment lands, is not administered under IDL’s regulatory requirements, and is not in, on, or over a navigable waterway, then a letter will be sent to IDWR’s regional office stating that our Department’s review is complete and no further

action is required by IDL. These applications and IDL's response shall be recorded in a logbook or in an electronic spreadsheet. The Supervisory Area shall retain the application and the response letter for one (1) year.

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

#### **D. Boat Ramps**

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

#### **E. Easements**

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

#### **F. Submerged Lands Leases**

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

#### **G. Riverbed Mineral Leases**

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

#### **H. Document Retention**

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

#### **I. Numbering Convention**

Stream Channel Alteration Applications are numbered by IDWR, utilizing drainage units. Attached is a map of the drainage units (**IDWR Basin Map, ENC-009**).

## Section 60 – Prize Logs

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### I. Definition of Prize Log

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

### II. Applications Required To Remove Prize Logs

#### A. IDL Jurisdiction

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

#### B. Type of Permits Used

While encroachment permits may not be the most appropriate type of permit to be used for prize log removal, IDL regularly issues Land Use Permits for activities on state lands. These permits shall be used for prize log removal due to the potential adverse effects on fish habitat, water quality, aesthetics, navigation, and other public trust values of the lake. The permit will be similar to an encroachment permit, but will contain several special terms specific to prize log removal. These special terms may include, but are not limited to:

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

### C. Prize Log Permit Application

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

1. A 404 Joint Application for Permit signed by the applicant (**ENC-004**).
2. A description and map of where the prize logs will be removed from the lakebed.
3. A description of how the prize logs will be removed from the lakebed and what equipment will be used.
4. A description and map of where the prize logs will be transferred from a barge or boat to the uplands.
5. A list of littoral owners adjacent to the littoral property where logs will be transferred to the uplands. If logs are proposed to be removed from the lakebed within the line of navigability, then a list of the littoral owners adjacent to that area must also be provided.
6. Written permission from the owner of littoral property allowing access for the removal and transfer of prize logs from a barge or boat to the uplands.
7. A nonrefundable application fee of \$1,000.00.
8. Other information determined to be necessary by IDL personnel.

## III. Application Processing

### A. Application Processing

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

Area staff shall follow Subsection 20.B of these procedures in regards to publication, notification, and hearings. IDL will also send letters to the adjacent littoral neighbors, as described in Subsection B above, informing them of the proposal and requesting comment.

Comments received from other agencies, littoral neighbors, and the general public must be addressed by the applicant to the satisfaction of IDL.

### B. Letter of Intent to Approve

If a permit is issued, the Area Office will send a **Letter of Intent, ENC-027** to the applicant. The letter shall state that IDL will send them a permit for signature following the applicant's successful bid in a prize log auction. The letter will also list any specific conditions that will be included in the permit beyond the standard conditions. Applications may be approved either as submitted or with specific conditions or modifications.

### C. Application Approval

After an applicant has successfully bid on a prize log auction, the Area Office will issue a Land Use Permit similar to an encroachment permit with terms specific to the individual application.

One of those conditions will be to obtain a purchase agreement for the logs from the Idaho Board of Scaling Practices (IBSP). The permit should not exceed three years.

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

#### **D. Application Denial**

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

### **IV. Prize Log Auction and Purchase Agreement**

#### **A. Prize Log Auction**

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

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

#### **B. Purchase Agreement**

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

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

#### **C. Process Time**

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

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

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

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

**I. PURPOSE:**

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

**II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:**

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

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

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



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

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

**III. INTER-AGENCY PROCEDURES:**

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

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

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

**IV. OPERATIONS ON ENDOWMENT OR PUBLIC TRUST LANDS:**

***IDAHO DEPARTMENT OF WATER RESOURCES SHALL:***

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

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

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

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

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

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

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

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

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

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

***IDAHO DEPARTMENT OF LANDS SHALL:***

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Provide maps to IDWR Regional Stream Channel Coordinator at the annual meetings. These maps will identify predetermined areas, including stream name and legal description, where IDL activities may have an effect on stream channels. Such activities may include, but are not limited to, proposed timber sales, mining operations, roads, culverts, bridge construction, maintenance projects, stream channel restoration projects and fishery habitat improvement projects.

c. Provide a Joint Application for Permit (IDWR form No. 3804B) to IDWR for activities not covered under either the IDAPA 37.03.07.055 or .064 proposed to be

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carried out in protected reaches of streams designated in an IWRB adopted comprehensive river plan. For example, stream channel relocation and reconstruction activities require filing a Joint Application for Permit.

d. Notify, in writing, IDWR Regional Stream Channel Specialist or Regional Manager of activities that develop subsequent to the annual meeting that are located in or will likely affect a perennial stream channel, including applications for lease or easements in navigable waters or endowment lands.

e. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

f. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

g. Prepare permits, lease easements as required by Land Board policy, include on each permit issued a statement indicating that a permit from IDWR may be required and provide copies to IDWR when stream channel alterations are proposed.

h. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

**V. OPERATIONS ON PRIVATE LANDS:**

***IDAHO DEPARTMENT OF WATER RESOURCES SHALL:***

a. Consider a completed Notification of Forest Practices and completed Supplemental Notification Form for private timber harvest activities as a stream channel alteration permit, provided all activities meet the requirements of the Forest Practices Act and the Stream Channel Protection Act and IDAPA 37.03.07. Projects not installed or maintained to meet these criteria must be removed.

Projects qualifying for approval under the Notification of Forest Practices and completed Supplemental Notification Form are:

- Installation of round, squash culverts, open arch or open box culverts, forty (40) square feet open end area or less.
- Installation of culverts, less than sixty (60) feet in length, constructed in non-fish-bearing, perennial streams.

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- Construction of bridges on nonpublic roads, seventy-five (75) feet or less in length, that do not require placement of piers within the mean high water marks; cause an encroachment of the stream channel with fill material, or cause wetlands to be filled.
- Construction or reconstruction of fords less than seventy-five (75) feet in overall length and twenty-five (25) feet in width.
- Removal of perennial stream crossing culverts (40 square feet open ended area or less). Removal of culverts must be done during low flows and if practical, during dry stream conditions created by temporary diversion or dewatering. All fill over the culvert, perched material, and fill encroaching on the channel must be removed using machinery equipped with a bucket and placed in stable locations, above the high water mark, seeded and mulched. Once the culvert is removed, the banks need to be sloped back to a stable configuration, seeded and mulched.

Applicants must provide a description of the project, the location by stream name, quarter/quarter, section, township and range. Applicants must also verify that the project is exclusively for forest practices activities and will be installed and maintained in accordance with applicable regulations of the Stream Channel Protection Act and Forest Practices Act.

All new or reconstructed stream crossing structures in any stream supporting a fishery must provide for fish passage.

b. Process Stream Channel Alteration Permits for projects involving Forest Practices and other projects that do not meet the criteria under item V.a. above. When the banks must be armored, when in-channel structures are required to ensure stream stability in conjunction with installation or removal of stream crossings, when using machinery equipped with a blade or operating machinery within the stream channel for stabilization, improved fish passage or placement of woody debris for fish habitat and anytime state water quality standards cannot be met, a Stream Channel Alteration Permit and a Section 404 permit is required.

c. Investigate and enforce any violation of the Stream Channel Protection Act that cannot be resolved under the Forest Practices Act or as requested by IDL. IDWR reserves the right to undertake a separate enforcement action any time it is determined necessary for protection of fish and wildlife habitat and water quality as required by law.

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

e. Include a statement on permits indicating whether the permit also constitutes approval from IDL, that an additional authorization is necessary from IDL, or that a permit is not required, as requested by IDL.

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***THE IDAHO DEPARTMENT OF LANDS SHALL:***

a. Meet or exceed the procedural requirement of IDWR Stream Channel Alteration Rules and Regulations and Minimum Standards (Rules), adopted by the Idaho Water Resource Board (IWRB), to protect stream channels on State of Idaho Lands and on other lands administered by IDL.

b. Review and comment on IDWR annual Recreational Suction Dredging Permit and Attachments and consider it as an activity jointly authorized, review and comment on other Joint Applications submitted and accept an application to IDWR to alter a stream channel as an application to IDL to occupy or alter the bed of a navigable stream or river, including approval as joint review for projects not requiring IDL lease agreements or easements. Indicate whether or not permits from IDL are required, or whether IDL approvals are to be part of IDWR approval.

c. Ensure that the completed Notification of Forest Practices and Supplemental Notification Form meet stream channel alteration permit criteria for forest practices and stream channel crossing projects. IDL will furnish IDWR's Stream Channel Specialist and other interested parties a copy of all completed Supplemental Notifications.

d. Consider failure to follow requirements of the Forest Practices Act a violation of permit conditions and report to IDWR related NOV's pertaining to stream crossings and stream channel alterations. Work not in compliance with the Notice of Forest Practices and Supplemental Notification Form will be considered a violation of the Stream Channel Protection Act.

e. Coordinate oversight and enforcement with IDWR when violations do not fall under the Forest Practices Act. Violations of the Forest Practices Rules require corrective action and potential mitigation. Normally accepted restoration and mitigation practices for violations of the Forest Practices Act pertaining to stream crossings and stream channel alterations are:

- The removal of materials placed within a stream channel as a result of a silviculture violation.
- Stabilization and re-vegetation of all areas disturbed as a result of a silviculture violation.
- IDL or Idaho Department of Fish and Game fishery enhancement projects permitted by IDWR for the installation or removal of large woody debris from impacted stream channels. Placement of material in a stream channel for activities other than culverts and bridges, and not directed under a Notice of Violation issued by IDWR or IDL, may require filing of an application under Section 42-3803, Idaho Code.

f. Refer applicants not covered by a Forest Practices Notification, and desiring to alter a stream channel to IDWR.

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g. Furnish to IDWR and other interested parties where applicable copies of all applications for dredge and placer mining permits, surface mine reclamation plans, riverbed mineral leases, easements, logging operations or any proposal to alter or occupy the bed of any stream or river.

h. Consider an approved Stream Channel Alteration Permit for the removal of gravel bar or bed material from non-navigable rivers by a flood control district for flood control purposes as final state approval for this activity. IDL has determined that the requirements of the Dredge and Placer Mining Act, Title 47, Chapter 13, or the Surface Mining Act, Title 47, Chapter 15, do not apply, regardless of the disposition or sale of the material removed for this purpose. The operator is not mining materials from a placer deposit and the activity is not a surface mining operation.

i. Inform IDWR of law, rule and policy changes established by the Board of Land Commissioners relating to navigable streams, to dredge and surface mining and the Forest Practices Act. IDL will provide training for IDWR staff as necessary.

j. Deny permits, leases or easements upon request of IDWR if IDWR determines that the project would damage a stream channel.

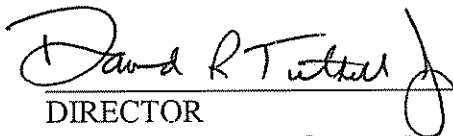
**VI. MAINTENANCE AND REVISION PROCEDURES:**

The Idaho Department of Lands and Idaho Department of Water Resources will hold a state level meeting in Boise, whenever mutually agreed to be necessary, to discuss a broad policy, standards and procedures of mutual interest and to consider the adequacy of the terms of this memorandum. This Memorandum of Understanding may be amended by mutual consent of the parties hereto as often as necessary to maintain the stated objectives and may be terminated by either party by providing written notice thirty (30) days prior to the termination date.

  
\_\_\_\_\_  
DIRECTOR

Idaho Department of Lands

11-7-07  
Date

  
\_\_\_\_\_  
DIRECTOR  
Idaho Department of Water Resources

Oct 25, 2007  
Date



State of Idaho

# DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS  
Governor

C. STEPHEN ALLRED  
Director

RECEIVED

SEP 14 1979

Department of Water Resources  
Northern District Office

MEMORANDUM

Mailing address:  
Statehouse  
Boise, Idaho 83720  
(208) 384-2215

TO: File

September 10, 1979

FROM: L. Glen Saxton

Re: Memorandum of Understanding  
Water Resources/Department of Lands - Annual Meeting

Pursuant to the above agreement, the annual meeting was held with the following persons in attendance:

Norman Young, Administrator - Resource Administration - IDWR  
L. Glen Saxton, Chief, Bureau of Operations - IDWR  
Ken Foit, Supervisor - Stream Channel - IDWR  
Bill Scribner - Department of Lands

At the 1979 meeting Water Resources began review of a listing of reservoirs on the streams of Idaho. The list clarifies portions of streams exempt under the Stream Channel Protection Act but included in the language of the Lake Protection Act. Water Resources concurs in the list which will clarify the jurisdictions of the two agencies. The listing is attached.

We reported that we were drafting Rules and Regulations for Tailings Pond Dams and that the Department of Health and Welfare is drafting related rules for water quality under Section 208 of the F.W.P.C.

We described we have difficulty insuring that tailings ponds will be safe or rehabilitated after abandonment. We agreed to send all new settling and tailings pond plans to Lands to determine if Lands can get involved to insure safety after abandonment. We asked for clarification as to where Department of Lands authority ends under the Surface Mining Act as regards to tailings ponds.

Water Resources expressed a need for close coordination between Lands, Water Resources, Fish and Game and Health and Welfare on private logging jobs and stream channel work. We asked that copies of the preliminary inspection and the permit be sent to our regional office.

We asked that file or I.D. numbers be assigned to Reclamation Plans before the plans are "walked" around for emergency approvals. A further request was made to Lands to be sure that a true emergency exists before trying to speed up the review process.

We reported that the C.O.E. is going beyond its authority in studying the impact of water withdrawals by new irrigation pump installations. We feel the Corps has responsibility only for regulating the installation, not how much water will be used.

We urged that Lands should expedite a review of water used on State Land to meet the June 30, 1983 deadline for claiming existing use rights.



CLARK FORK RIVER SYSTEM<sup>1/</sup>

STRUCTURE	RIVER MILE	POOL ELEVATION	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elev.	River Mile			
Albeni Falls Dam Pend Oreille River	90.1	2062	2062	119.0	Sec. 26, Twp. 57 North, Rge. 2 West, B-N Bridge	Priest River/Sagle	29.1 miles
Priest River	0.0	2062	2062	2.2	C/L Sec. 13, T56N, R5W	Priest River	2.2 miles
Clark Fork River	139.0	2062	2062	145.8	Sec. 24, T55N, R2East	Clark Fork	6.8 miles
Pack River	0.0	2062	2062	8.0	Sec. 6, Twp. 57 North, Rge. 1 East, US-10 Bridge	Elmira	8.0 miles
Cabinet Gorge Dam	149.9	2175	2175	150.5	Sec. 26, Twp. 55 North, Rge. 3 East, State Line	Clark Fork	0.6 miles

<sup>1/</sup> Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

SPOKANE RIVER SYSTEM<sup>1/</sup>

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Falls Dam Spokane River	102.1	2128	2128	111.1	Sec. 14, Twp. 50 N., Rge. 4 W. Dudley Bridge	Coeur d'Alene	9.0 miles
Coeur d'Alene River	131.3	2128	2128	156.31	Sec. 2, Twp. 48 N., Rge. 1 W. St. Joe Bridge	Kingston	25.0 miles
St. Joe River	0.0	2128	2128	31.1	Sec. 21, Twp. 46 N., Rge. 1 E. Section Line 4/9	St. Joe	31.1 miles
St. Maries River	0.0	2128	2128	7.6	Township 45 North, Rge. 2 W.	St. Maries	7.6 miles

<sup>1/</sup>

Minor tributaries to Lake Coeur d'Alene and major streams will be considered to end at the ordinary highwater mark (2128 W.W.P) as indicated by the perennial vegetation line on the major stream.

1/  
SNAKE RIVER SYSTEM

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Hells Canyon	247	1688'	1688'	270	Sec. 21, Twp. 19 N., Rge. 4 W.	Cooperfield	23 miles
Ox Bow <i>not on map 1957 quad map</i>	273	1805'	1805'	281.5	Sec. 30, Twp. 18 N., Rge. 4 W.	Cooperfield	8.5 miles
Brownlee Dam <i>Brownlee Dam is on Cooperfield &amp; Mores Hollow Quad</i>	285	2077'	2077' <i>OK</i>	345.3	Sec. 32, Twp. 11 N., Rge. 6 W.	Cooperfield Mores Hollow	60.3 miles
Swan Falls	456	2314'	2314'	457.8	Sec. 30, Twp. 2 S., Rge. 1 E.	Sinker Butte	1.8 miles
C.J. Strike	494	2455'	2455'	520	Sections 3 and 34, Twp. 5 & 6 N., Rge. 7 E.	Indian Cove	26.0 miles
Bliss	560.3	2655'	2655'	565.6	Sec. 12, Twp. 6 S., Rge. 12 E.	Bliss	5.3 miles
Lower Salmon Falls	753	2798'	2798'	579.6	Sec. 2, Twp. 7 S., Rge. 13 E.	Hagerman	6.6 miles
Upper - Unit A Salmon Falls	580.8	2878'	2878'	581.4	Sec. 2, Twp. 8 S., Rge. 13 E.	Hagerman	1.4 miles
Upper - Unit B Salmon Falls	581.4	2888'	2888'	591.6	Sec. 2, Twp. 8 S., Rge. 13 E.	Hagerman	10.2 miles
Shoshone Falls	614.7	3362'	3362'	616.8	Sec. 32, Twp. 9 S., Rge. 18 E.	Kimberly	2.1 miles
Twin Falls reservoir	617.4	3512'	3512'	618.9	Sec. 10, Twp. 10 S., Rge. 18 E.	Kimberly	1.5 miles
Milner Diversion	639.1	4135'	4135'	672.4	Sec. 3, Twp. 9 South, Rge. 25 E.	Acequia	33.3 miles
Minidoka	674.5	4195'	4195'	707.2	Sec. 29, Twp. 5 South, Rge. 30 E.	Neeley	22.7 miles
American Falls	714.7	4354'	4354'	736.1	Secs. 1 & 36, T. 5 S., Rge. 32 E.	Springfield	21.4 miles
Idaho Falls Lower	796.5	4672'	4672'	797.7	Sec. 26, Twp. 2 N., Rge. 37 E.	Idaho Falls South	1.2 miles
Idaho Falls Upper	798.1	4672'	4672'	800.2	Sec. 24, Twp. 2 N., Rge. 37 E.	Idaho Falls South	2.1 miles

CONTINUED

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Porter Canal Diversion	802.4	4705'	4705'	803.0	Sec. 1, Twp. 2 N., Rge. 37 E.	North Idaho Falls	.6 miles
Idaho Falls Power Co.	804.5	4736'	4736'	808.4	Sec. 12, Twp. 3 N., Rge. 37 E.	Idaho Falls North	4.1 miles
Idaho Canal Diversion Dam	811.2	4755'	4755'	813.5	Sec. 23, Twp. 4 N., Rge. 37 E.	Lewisville	2.3 miles
Palisades Dam	901.6	5620'	5620'	918.6	Sec. 22, 15, 10, 3, Twp. 3 S., Rge. 46 E., State Line	Alpine	17.0 miles

1/ Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

1/  
HENRY'S FORK RIVER

DAM	RIVER MILE	SPILLWAY ELEVATION	END OF FLOWAGE ELEV. R.MILE	LOCATION OF END OF FLOWAGE	QUAD MAP REFERENCE SERIES	LENGTH OF FLOOD POOL
Consolidated Farmers Diversion	29.5	4910'	4910' 29.8	T.7N, R.40E, Sec. 10	St. Anthony	.3 Miles
Salem Union Canal	33.8	4980'	4980' 34.2	T.8N, R.41E, Sec. 32	St. Anthony	.4 Miles
St. Anthony Canal Dam	35.1	4996'	4996' 35.4	T.8N, R.4E, Sec. 33	St. Anthony	.3 Miles
Last Chance Canal Dam	38.5	5040'	5040' 39.0	T8N, R.4E, Sec. 14	Lemon Lake	.5 Miles
Ashton Dam	45.0	5157'	5157' 49.5	T.9N, R.42E, Sec. 13	Ashton	4.5 Miles
Island Park Dam	91.7	6302'	6302' 99.0	T.13N, R.42E, Sec. 8	Island Park	7.3 Miles

1/ Minor tributaries to the reservirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

PAYETTE RIVER SYSTEM<sup>1/</sup>

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Black Canyon Dam	37.8	2498	2498	47.2	Sec. 21, Twp. 7 N., Rge. 1 E. Montour Bridge	Montour	9.4
North Fork Payette Cascade Dam	40.2	4828	4828	52.9	Sec. 33, Twp. 17 N., Rge. 3 E.	Lake Fork	12.9
North Fork Payette Outlet Payette Lake	75.4	4989.29	4989.29	83.0	East Shore Bridge Sec. 2, Twp. 19 N., Rge. 3 E.	Granite Lake	7.6

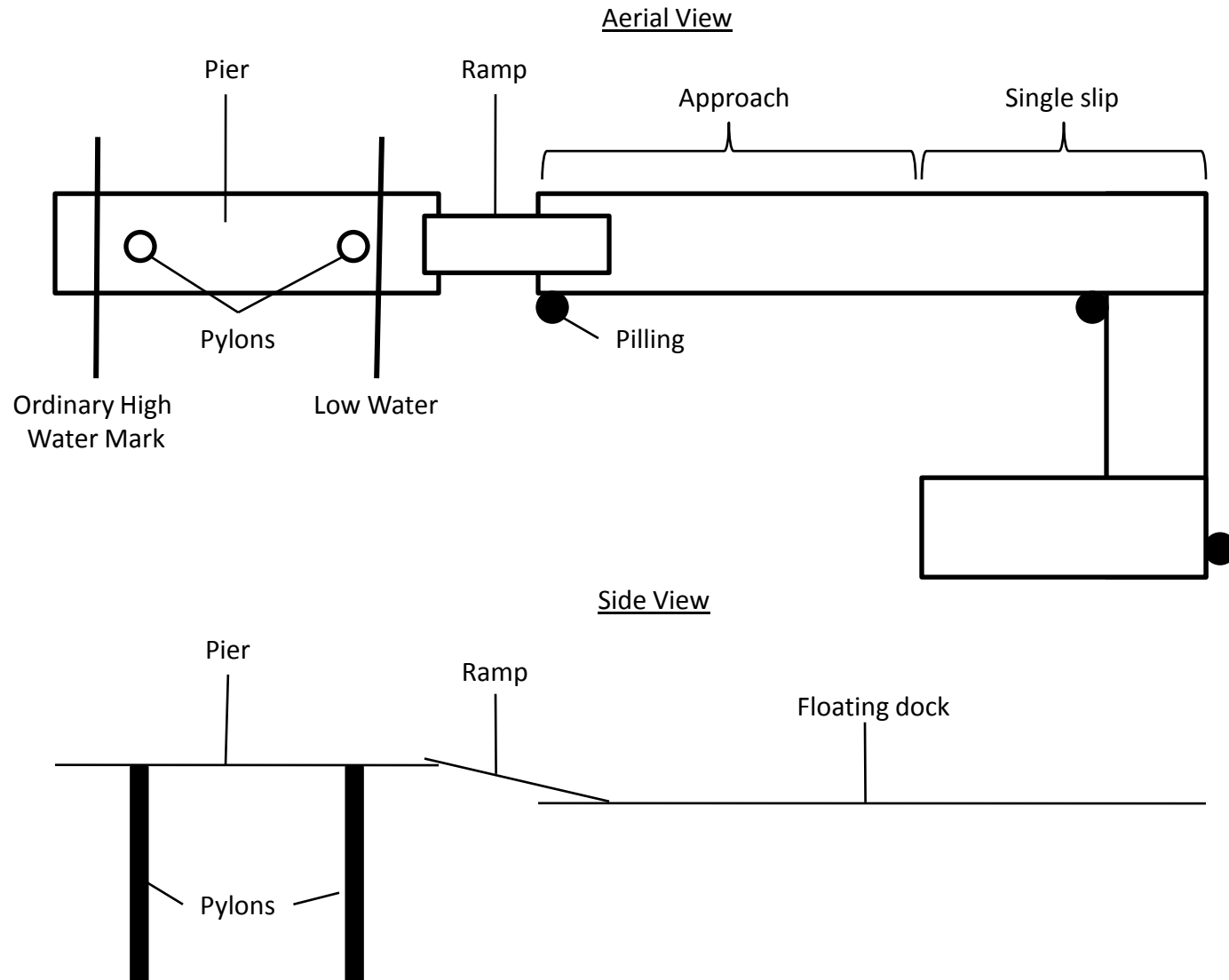
<sup>1/</sup> Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

1/  
BOISE RIVER SYSTEM

STRUCTURE	RIVER MILE	POOL ELEV.	FLOWAGE LIMIT		LOCATION FLOWAGE LIMIT	QUAD MAP REFERENCE	LENGTH OF POOL
			Elevation	River Mile			
Barber Dam	58.8	2767	2767	60.5	Sec. 33, Twp. 3 N., Rge. 3 E. South S/L	Lucky Peak	1.7 miles
Barber Division New York Canal	61.4	2818	2767	63.9	Sec. 11, Twp. 2 N., Rge. 3 E. Lucky Peak Dam	Lucky Peak	2.5 miles
Lucky Peak Dam	61.0	3060	3060	74.0	Sec. 13, Twp. 3 N., Rge. 4 E. Arrow Rock Dam	Lucky Peak Arrow Rock	10.0 miles
Arrow Rock Dam	74.0	3216	3216	87.3	Sec. 33, Twp. 4 N., Rge. 6 E. Willow Creek Camp	Arrow Rock	13.3 miles
South Fork Boise Arrow Rock	0.0	3216	3216	9.8	Sec. 39, Twp. 3 N., Rge. 6 E.	Grape Mtn. Long Gulch	9.8 miles
Anderson Ranch	43.5	4196	4196	57.5	Sec. 30, Twp. 2 N., Rge. 10 E. Bridge @ Pine	Anderson Ranch Pine	14.0 miles

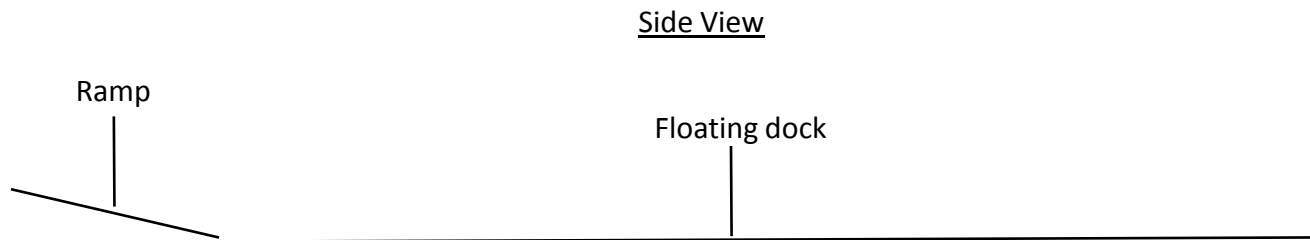
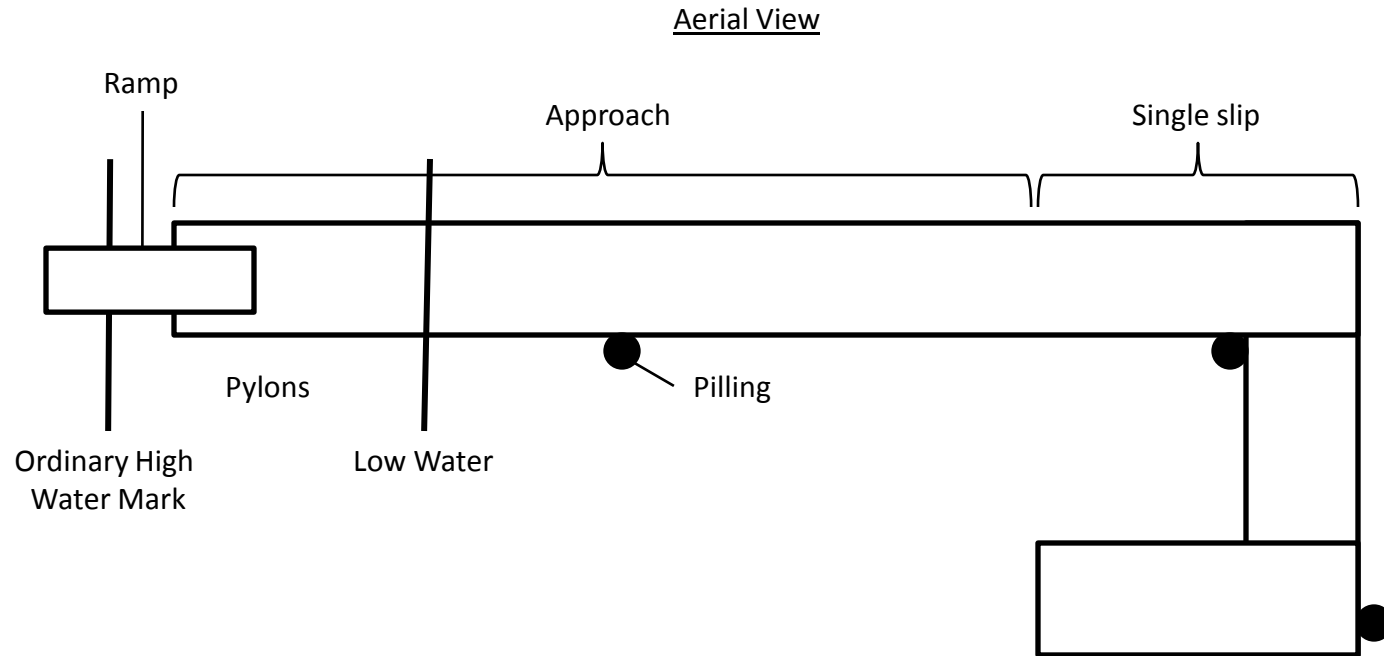
1/  
Minor tributaries to the reservoirs will be considered to end at the ordinary highwater mark as indicated by the perennial vegetation line of the reservoir.

# Dock Nomenclature – Pier/Ramp/Approach





## Dock Nomenclature – Ramp/Approach



# JOINT APPLICATION FOR PERMITS

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

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

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

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

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

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

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

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

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

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

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

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

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

21. HAVE ANY WORK ACTIVITIES STARTED ON THIS PROJECT?

☐ NO
☐ YES

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

22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS:

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

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

25. IS PROJECT LOCATED IN A MAPPED FLOODWAY?

☐ NO
☐ YES

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

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

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

☐ NO
☐ YES

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

☐ NO
☐ YES

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

☐ NO
☐ YES

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

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

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

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

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

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

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

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

<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>
<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>
<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>
<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number <i>(include area code)</i>: E-mail:</p>

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

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

*Signature of Applicant:* \_\_\_\_\_ *Date:* \_\_\_\_\_

*Signature of Agent:* \_\_\_\_\_ *Date:* \_\_\_\_\_

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

# STATE OF IDAHO

## INSTRUCTION GUIDE: JOINT APPLICATION FOR PERMIT

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

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

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

Content information can be found on the following pages:

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

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

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

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

### PERMIT FEES

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

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

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

There is no charge for a 401 water quality certification.

### WATER QUALITY CERTIFICATION

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

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

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

### SUBMITTING A JOINT APPLICATION FOR PERMIT

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

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

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

## APPLICATION INSTRUCTIONS

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

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

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

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

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

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

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

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

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

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

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

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

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



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Idaho Department of Water Resource

Idaho Department of Lands

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

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

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

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

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

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

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

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

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

**EXAMPLE Overall project description:** *Construct a road crossing of Two Pines Creek, using a 40”long x 48” diameter arch culvert pipe and the discharge of approximately 20 yds<sup>3</sup> of three quarter minus gravel, to facilitate the construction of a three acre housing development, located 250 feet from the high water mark of Two Pines Creek.*

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

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

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

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

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

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

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

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

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

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

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

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

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

**Calculation for Cubic Yards (yd<sup>3</sup>):** LENGTH (ft) multiplied by WIDTH (ft) multiplied by DEPTH (ft); divide by 27

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

**Calculation for Square Feet (ft<sup>2</sup>):** LENGTH (ft) multiplied by WIDTH (ft)

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

**Calculation for Cubic Yards (yd<sup>3</sup>):** LENGTH (ft) multiplied by WIDTH (ft) multiplied by DEPTH (ft); divide by 27

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

**Calculation for Square Feet (ft<sup>2</sup>):** LENGTH (ft) multiplied by WIDTH (ft)

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

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

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

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

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

Design flows shall be based on the following minimum criteria:

<u>DRAINAGE AREA</u>	<u>DESIGN FLOW FREQUENCY</u>
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50 square miles or less.....	25 years
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Over 50 square miles.....	50 years or greatest flow of record, whichever is greater
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IDWR and the Corps strongly encourage the use of bottomless arch culverts and free-span bridge structures for stream and river crossings. Installation of bottomless arch culverts and free span bridge structures:

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

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

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

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

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

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

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

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

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

## Contact Information

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

Water Quality Certification, Agency Information:

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

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

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

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

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

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

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

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

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

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

USEPA, 401 Guidance: [http://water.epa.gov/lawsregs/guidance/cwa/waterquality\\_index.cfm](http://water.epa.gov/lawsregs/guidance/cwa/waterquality_index.cfm)

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

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

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

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

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

**Calculation for Square Feet (ft<sup>2</sup>):** LENGTH in feet, multiplied by WIDTH in feet

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

**EXAMPLE:**

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

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

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

**Calculation for Square Feet (ft<sup>2</sup>):** LENGTH in feet, multiplied by WIDTH in feet

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

**EXAMPLE:**

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



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

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

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

## DRAWING & SUPPLEMENTAL INFORMATION

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

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

## INSTRUCTION GUIDE JOINT APPLICATION FOR PERMIT

U.S. Army Corps of Engineers

Idaho Department of Water Resource

Idaho Department of Lands

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

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

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

## CONTACT INFORMATION

### U.S. Army Corps of Engineers

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

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

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

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

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

## CONTACT INFORMATION

### State of Idaho Department of Water Resources

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

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

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

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

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

## CONTACT INFORMATION

### State of Idaho Department of Lands

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

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





## ENCROACHMENT PERMIT APPLICATION

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

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

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

### Idaho State Single Family Dock Specifications:

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

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

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

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

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

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

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

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

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

Thank you for your cooperation.

IDAHO LAKE PROTECTION ACT ADMINISTRATION

N



N



VICINITY MAP

IN  
IN/NEAR

COUNTY,

DATE: SHEET 1 OF  
APPLICATION BY:

N

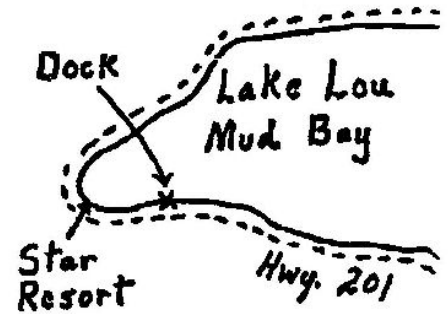


# SAMPLE ENCROACHMENT DRAWING(Dock - Piles)

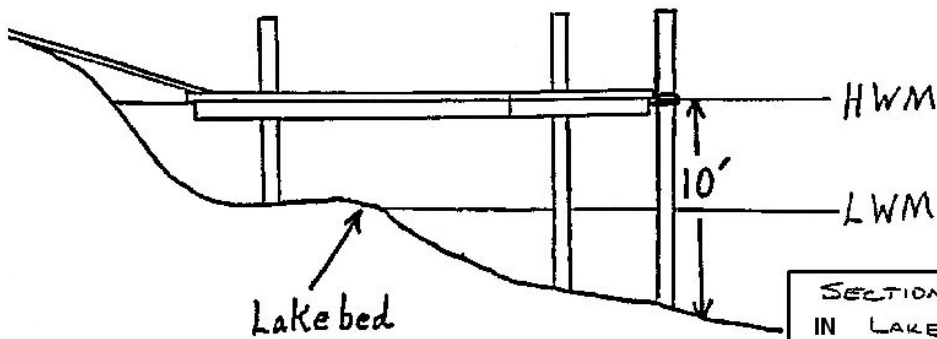
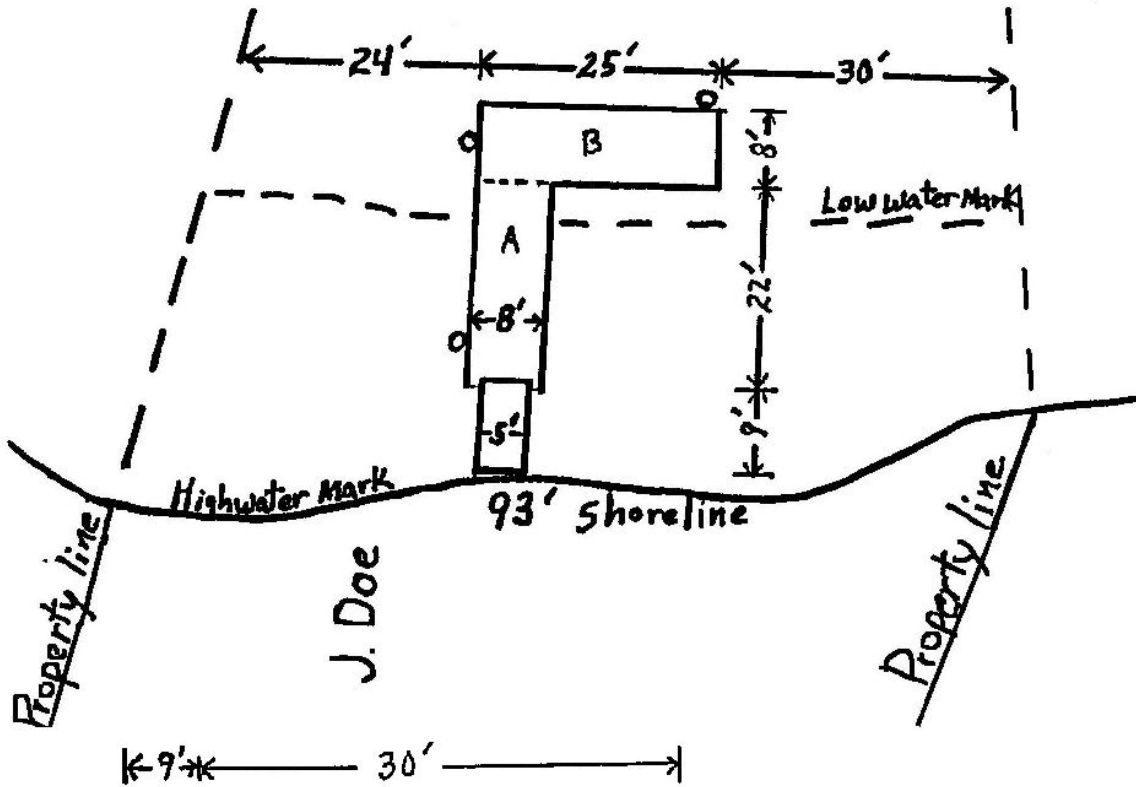
## Square Footage

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

N



VICINITY MAP

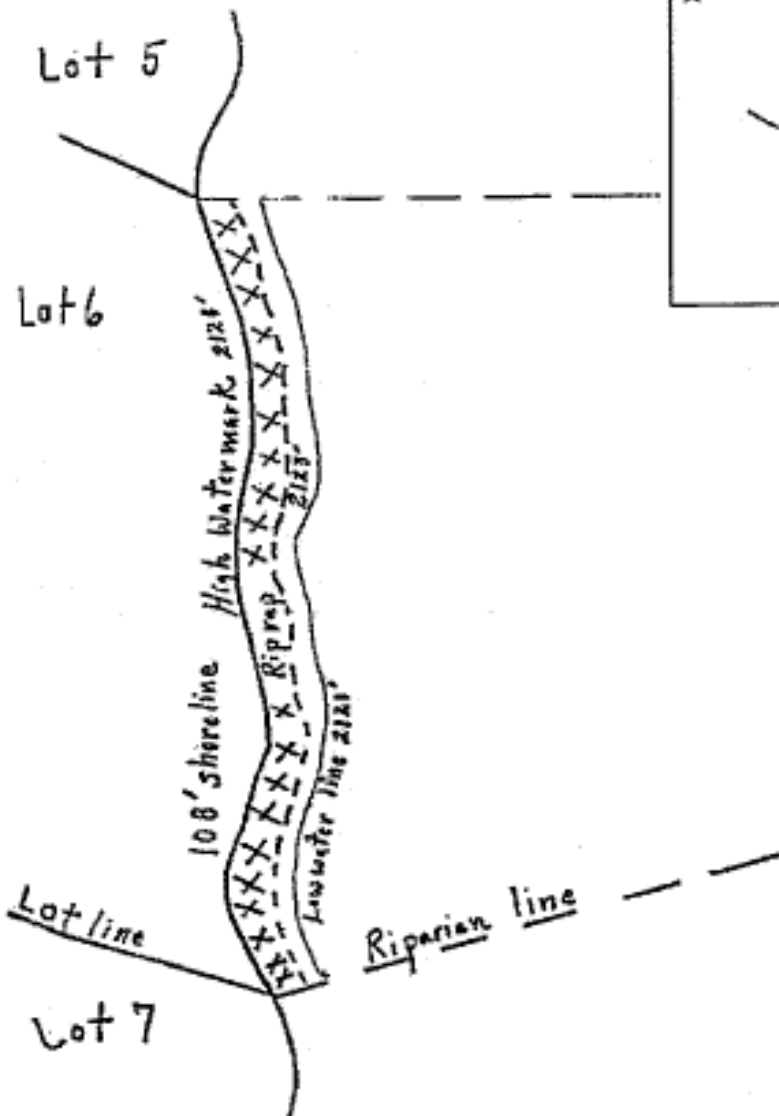


SECTION 37 T43N R2E B.M.  
 IN LAKE CDA  
 IN/NEAR CDA  
 Bucolic COUNTY,  
 DATE: 1/2/00 SHEET 1 OF  
 APPLICATION BY: J. Doe

N



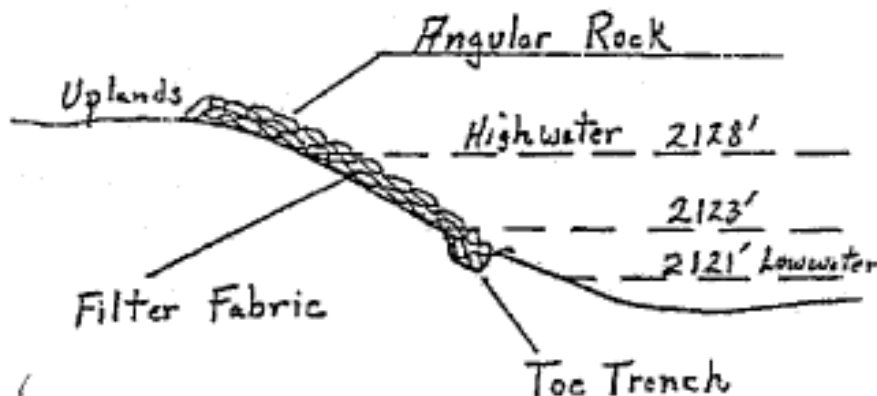
# SAMPLE ENCROACHMENT DRAWING (Rip Rap - Lake



N



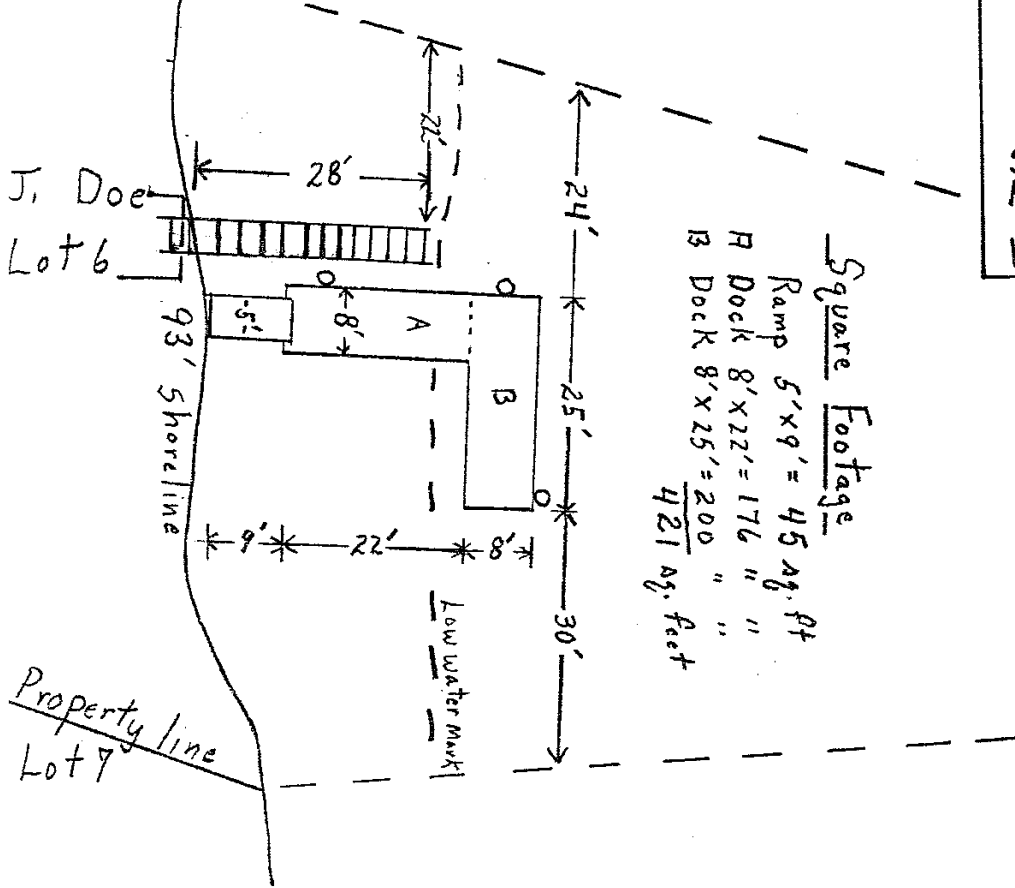
VICINITY MAP



SECTION 37 T43N R2E BM.  
IN LAKE CDA  
IN/NEAR CDA

Butte COUNTY,  
DATE: 1/2/00 SHEET 1 OF  
APPLICATION BY: J. Doe

# Sample Encroachment Drawing



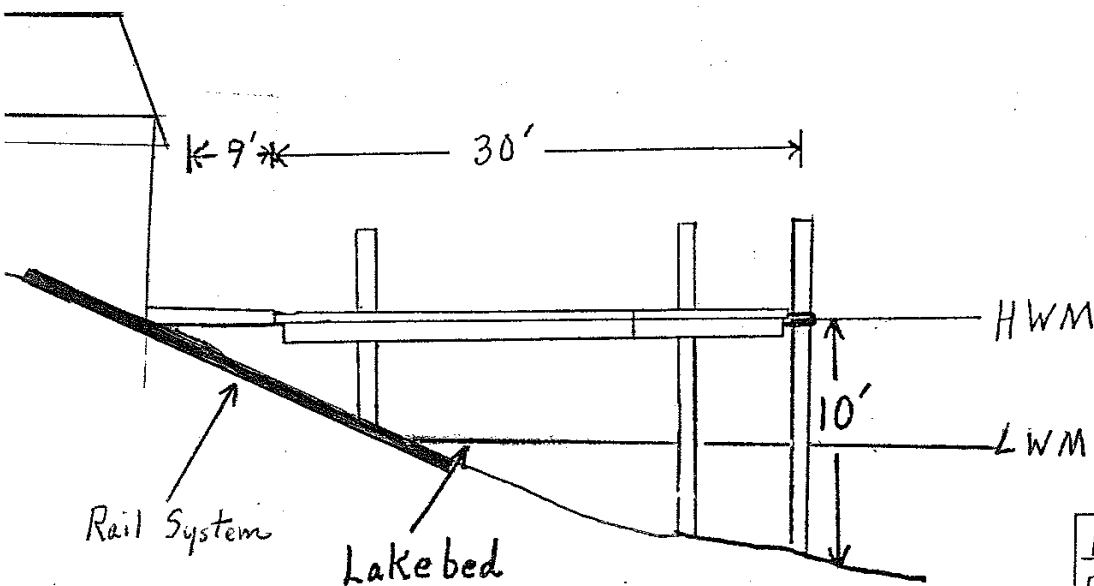
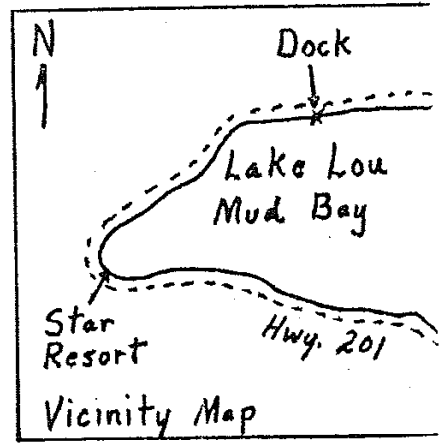
Square Footage

Ramp 5' x 9' = 45 sq. ft

Dock 8' x 22' = 176 " "

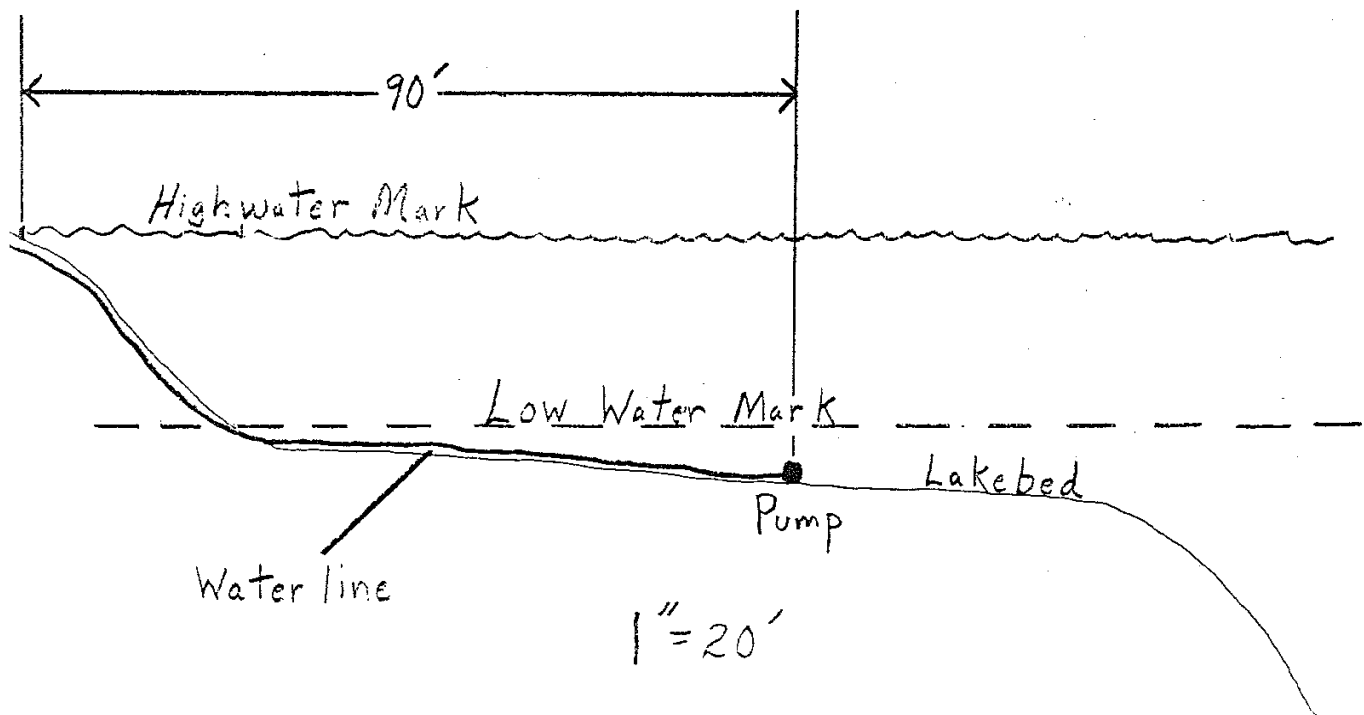
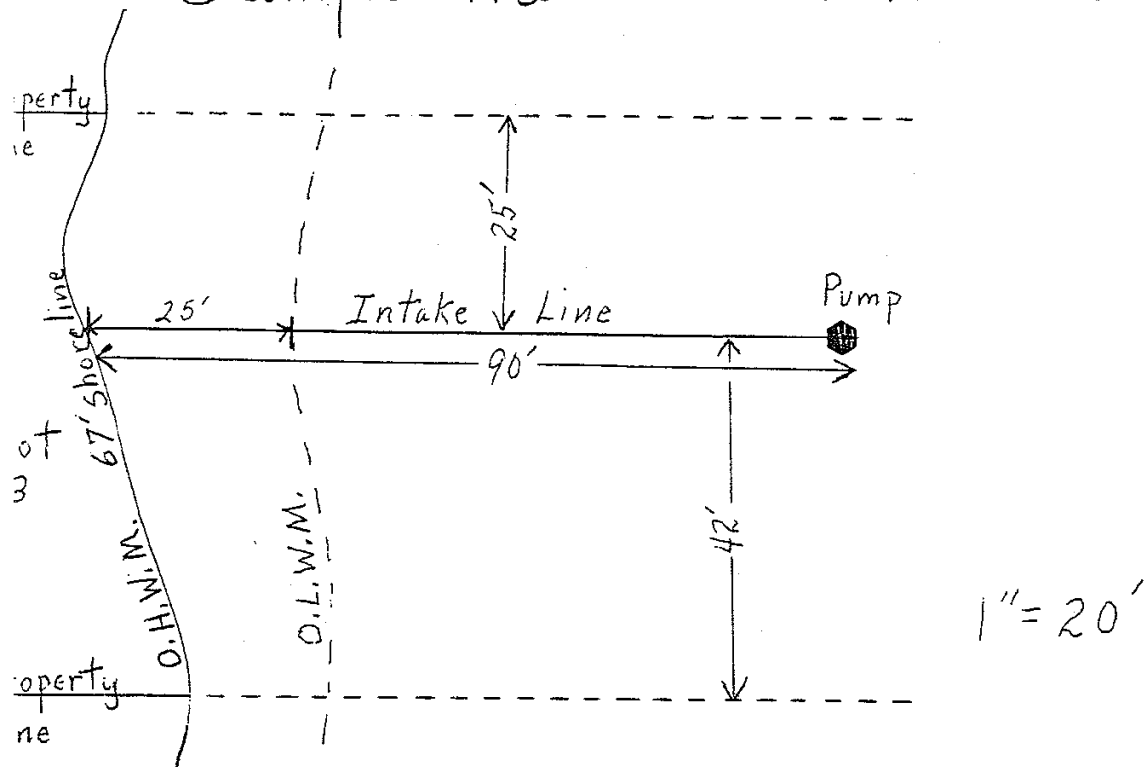
Dock 8' x 25' = 200 " "

421 sq. feet

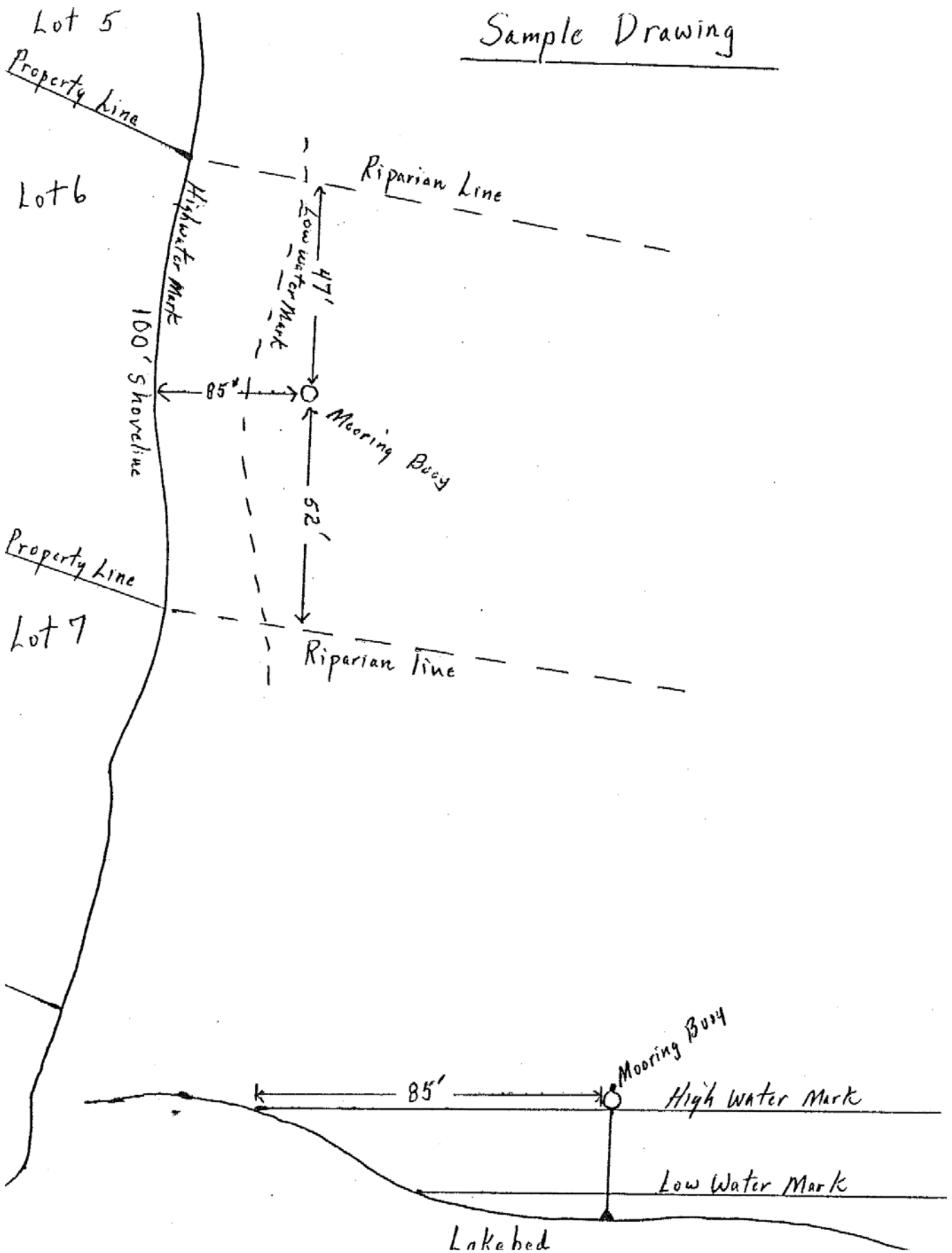


Proposed Dock  
By: J. Doe  
In: Lake Lou

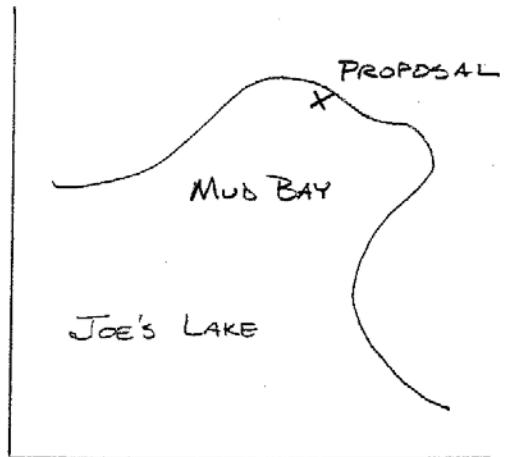
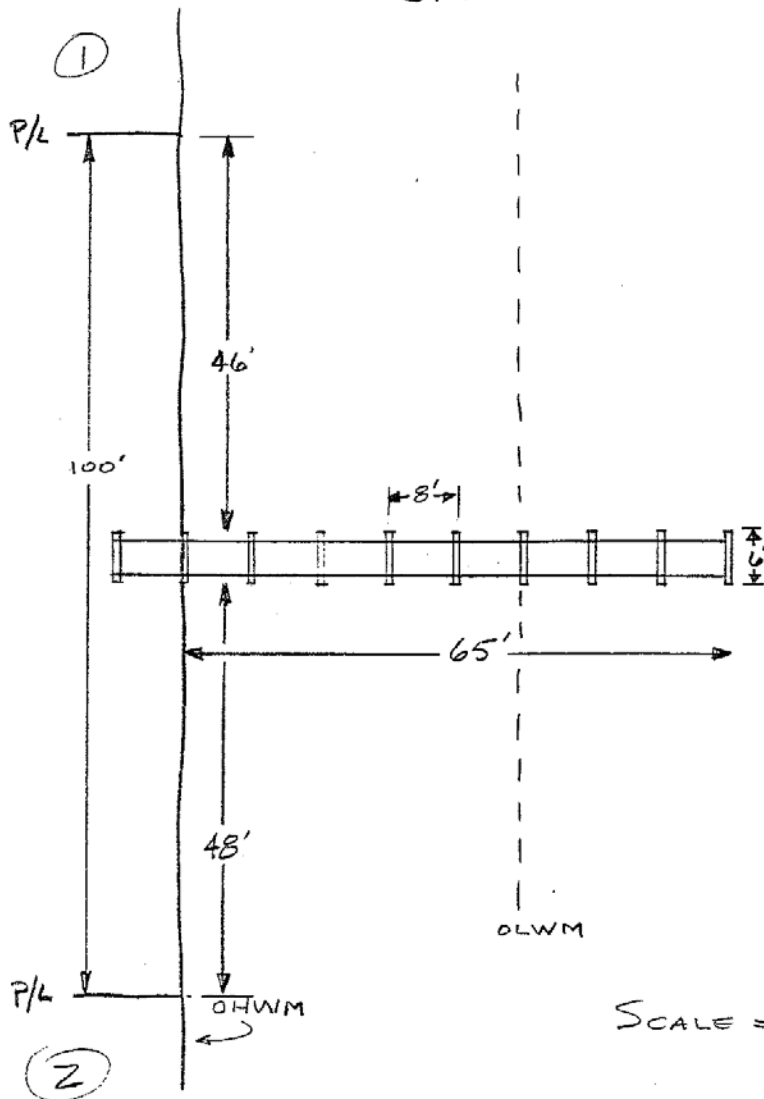
# Sample: Waterline Encroachment



# Sample Drawing



# SAMPLE LAUNCH RAIL DRAWING



SECTION 37 T99N R01W B.M.  
MUD COUNTY

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

SCALE = 1" = 20'



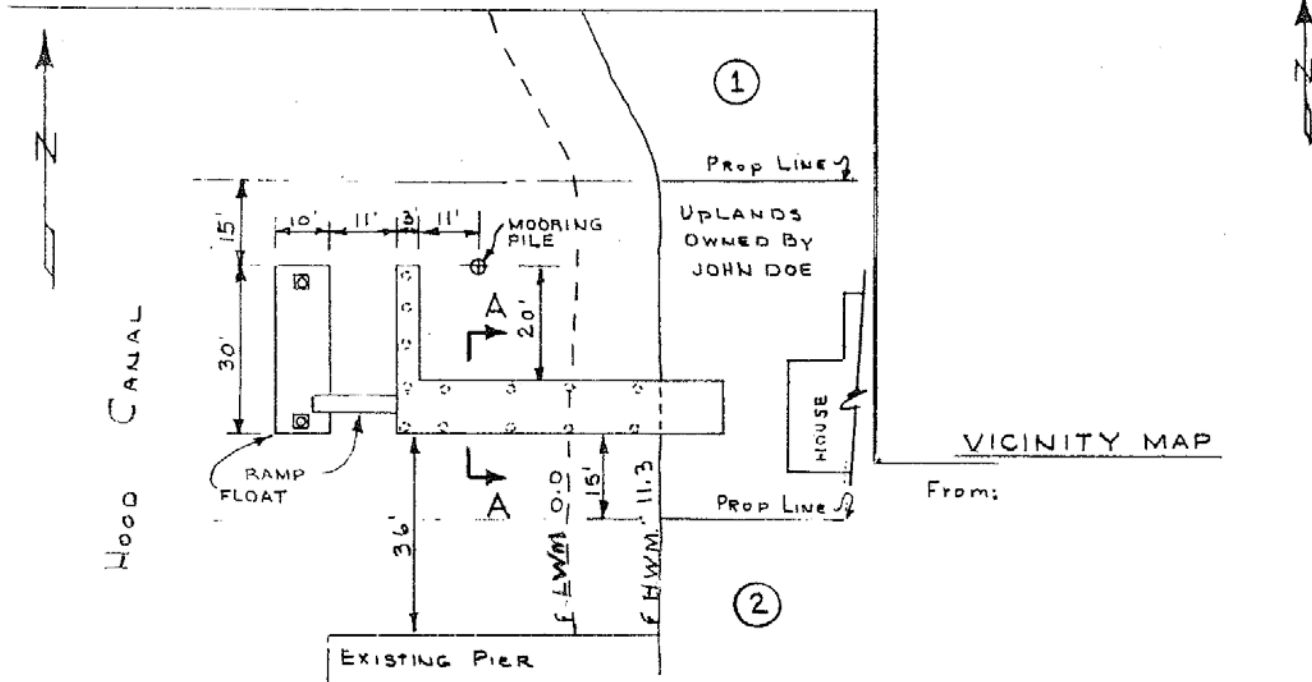
ADJACENT NEIGHBORS

(1) \_\_\_\_\_  
(2) \_\_\_\_\_

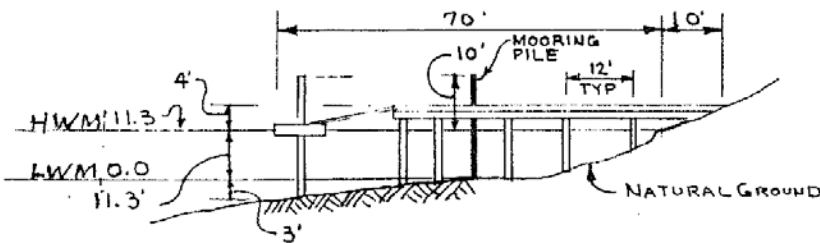
APPLICATION BY: \_\_\_\_\_



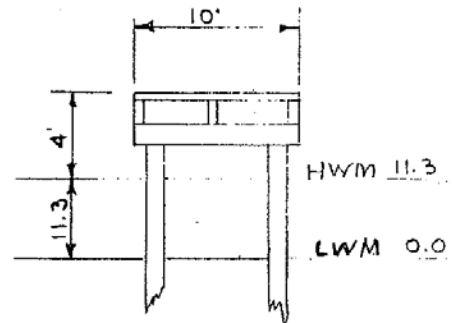
# PIER SAMPLE DRAWING



**PLAN**  
SCALE: 1" = 30'



**ELEVATION**  
SCALE: 1" = 30'



**SECTION A-A**  
SCALE: 1" = 10'

1. PURPOSE:

2. DATUM:

3. SOUNDINGS ARE IN FATHOMS/FEET

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

5. NAME AND ADDRESS OF ADJACENT PROPERTY OWNERS

①

②

PROPOSED PIER, FLOAT  
AND MOORING PILE.

IN:

IN/NEAR

COUNTY OF

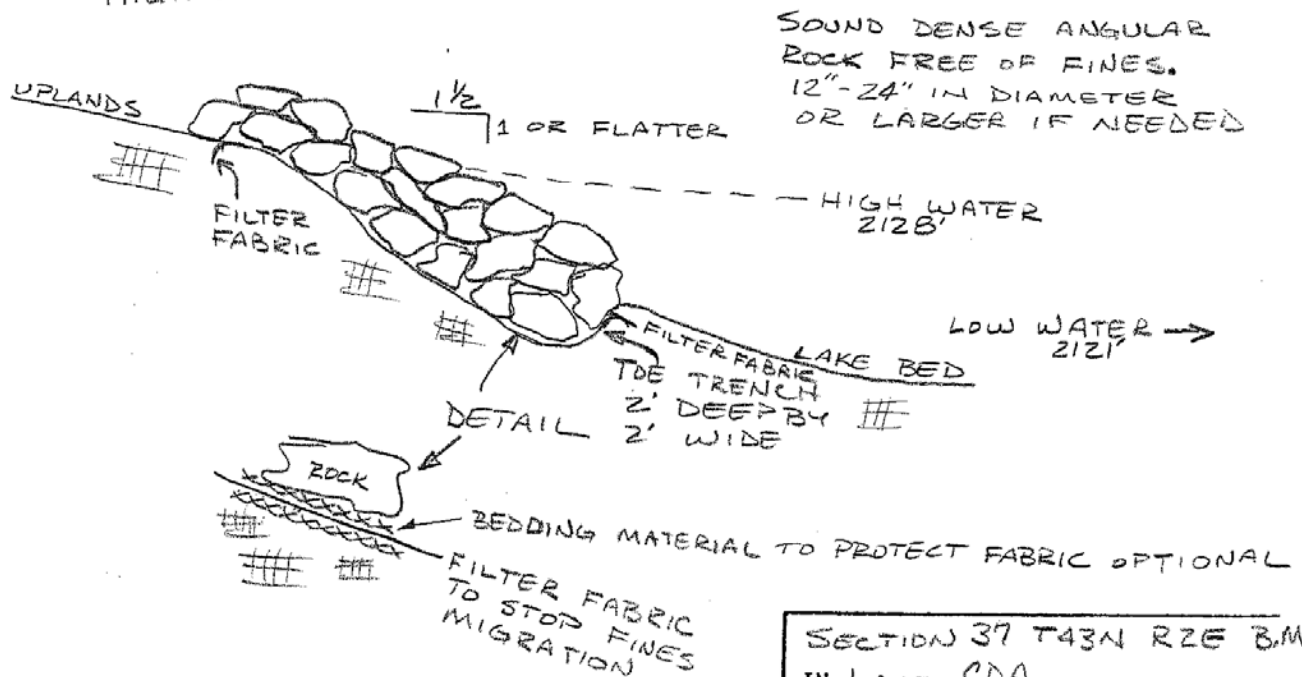
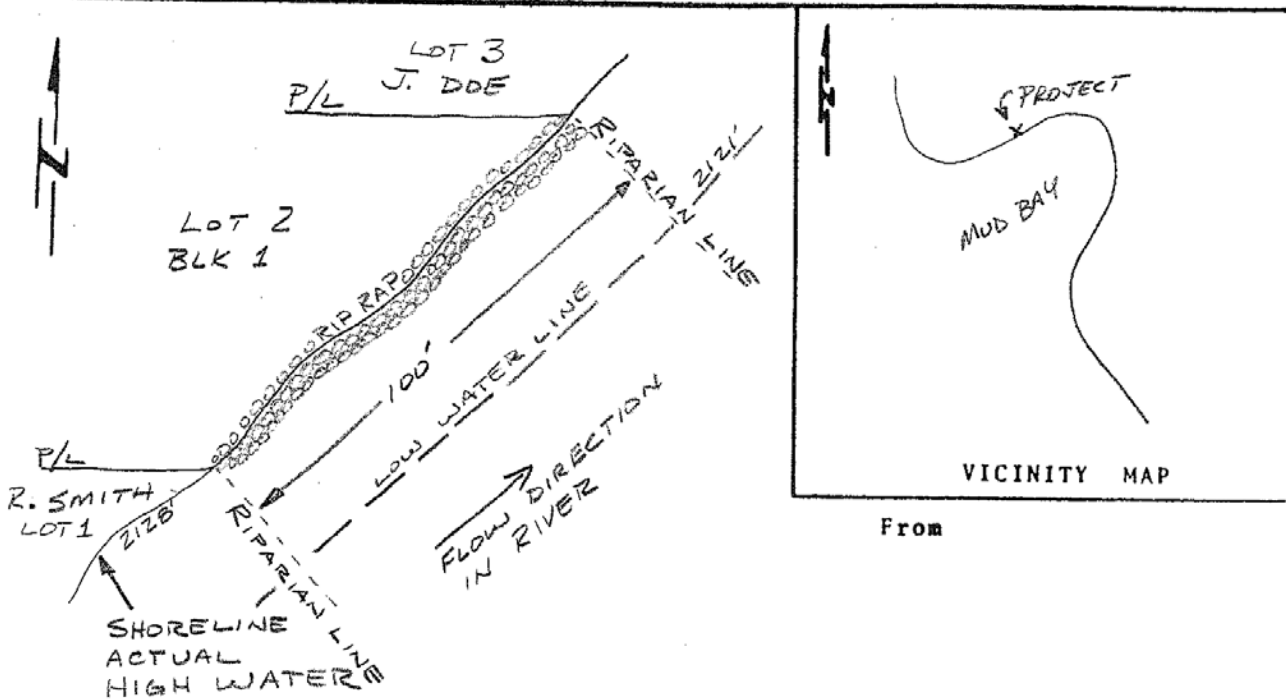
STATE

APPLICATION BY:

DATE:

SHEET of

# SAMPLE RIP RAP DRAWING



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

COUNTY,  
DATE: SHEET 1 OF  
APPLICATION BY:



Application Number:

## Single and Two Family Lot Encroachment Permit Application

This application and required documents must be completed when submitting an encroachment permit application. Incomplete applications will be returned without processing.

**ENCROACHMENT TYPE(S):** ☐ Single Family Dock ☐ Waterline  
(Check all that apply) ☐ Two Family Dock ☐ Bank stabilization or Rip Rap  
☐ Other – describe: ☐ Mooring buoy

**Applicant's Littoral Rights Are:**

- ☐ Owned, fee simple title holder  
☐ Leased  
☐ Signature of littoral rights owner is obtained if Applicant is not the owner of the riparian/littoral rights  
☐ Other – describe: \_\_\_\_\_

**Provide a Copy of Each Required Document on 8½"x14" or Smaller Paper:**

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

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

- ☐ No  
☐ Yes. Please attach a current photograph and a "to scale" drawing (see Document Requirements Above)

Permit # \_\_\_\_\_ Date of Construction: \_\_\_\_\_

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

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

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

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

**The Proposed Dock Length Is:**

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

**Does the Proposed Dock Exceed the Maximum Square Footage of 700 ft<sup>2</sup> for Single-Family Docks or 1,100 ft<sup>2</sup> for Two-Family Docks?**

- ☐ **No** Total square footage: \_\_\_\_\_ ft<sup>2</sup>  
☐ **Yes** \_\_\_\_\_ ft<sup>2</sup>

**Does the Property Have at Least 25 Feet of Littoral Frontage?**

- ☐ No  
☐ Yes **Total front footage:** \_\_\_\_\_ **feet**

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

- ☐ No  
☐ Yes If yes, explain why: \_\_\_\_\_

**Will the Proposed Encroachment (besides riprap) Be Located Closer Than 10 Feet to the Riparian/Littoral Right Lines Established with Your Neighbors?**

- ☐ No  
☐ Yes If yes, what are the proposed distances?  
Encroachment Type: \_\_\_\_\_ feet  
Encroachment Type: \_\_\_\_\_ feet  
Encroachment Type: \_\_\_\_\_ feet  
☐ Consent of affected neighbor was attained

**Determining Riparian/Littoral Right Lines**

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

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I hereby certify that I am the applicant or authorized representative of the applicant and that the information contained in this application is true and correct to the best of my knowledge and further acknowledge that falsification or misrepresentation of any information contained herein or provided herewith will be grounds for denial of the application.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Applicant Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Title (if applicable)

---

**Second Applicant (If applicable)**

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Applicant Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Title (if applicable)



Application Number: \_\_\_\_\_

## Commercial/Community/Non-navigational Encroachment Permit Application

This application and required documents must be completed when submitting an encroachment permit application. Incomplete applications will be returned without processing.

**ENCROACHMENT TYPE(S):**  
(Check all that apply)

- |  |                                       |
|--|---------------------------------------|
| <input type="checkbox"/> Community dock                | <input type="checkbox"/> Float home   |
| <input type="checkbox"/> Commercial marina             | <input type="checkbox"/> Boat garage  |
| <input type="checkbox"/> Bank stabilization or Rip Rap | <input type="checkbox"/> Mooring buoy |
| <input type="checkbox"/> Other – describe: _____       |                                       |

**Applicant's Littoral Rights Are:**

- ☐ Owned, fee simple title holder
- ☐ Leased
- ☐ Signature of littoral rights owner is obtained if Applicant is not the owner of the riparian/littoral rights
- ☐ Other – describe: \_\_\_\_\_

**Provide a Copy of Each Required Document on 8½"x14" or Smaller Paper:**

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

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

- ☐ No
- ☐ Yes. Please attach a current photograph and a "to scale" drawing (see Document Requirements Above)

Permit # \_\_\_\_\_ Date of Construction: \_\_\_\_\_

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

- ☐ Remain unchanged
- ☐ Complete removal
- ☐ Modification
- ☐ Other: \_\_\_\_\_

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

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

Encroachment Type: \_\_\_\_\_ feet

Encroachment Type: \_\_\_\_\_ feet

Encroachment Type: \_\_\_\_\_ feet

**The Proposed Dock Length Is:**

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

**How many frontage parcel lots does the applicant own?**

\_\_\_\_\_ parcels

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

☐ No

☐ Yes Total front footage: \_\_\_\_\_ feet

**For Community Docks, Does the Proposed Dock Exceed the Maximum Square Footage of 7 ft<sup>2</sup> per Littoral Front Foot?**

☐ No Total square footage: \_\_\_\_\_ ft<sup>2</sup>

☐ Yes \_\_\_\_\_ ft<sup>2</sup>

**Will any Proposed Docks Exceed the Maximum Width of 10 Feet?**

☐ No

☐ Yes If yes, explain why: \_\_\_\_\_

**Will the Proposed Encroachment (besides riprap) Be Located Closer Than 25 Feet to the Riparian/Littoral Right Lines Established with Your Neighbors?**

☐ No

☐ Yes If yes, what are the proposed distances?

Encroachment Type: \_\_\_\_\_ feet

Encroachment Type: \_\_\_\_\_ feet

Encroachment Type: \_\_\_\_\_ feet

☐ Consent of affected neighbor was attained

### **Determining Riparian/Littoral Right Lines**

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

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I hereby certify that I am the applicant or authorized representative of the applicant and that the information contained in this application is true and correct to the best of my knowledge and further acknowledge that falsification or misrepresentation of any information contained herein or provided herewith will be grounds for denial of the application.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Applicant Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Title (if applicable)

---

### **Second Applicant (If applicable)**

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Applicant Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant Title (if applicable)



# Encroachment Permit Fee Schedule

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

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

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

Navigational combined with non-navigational concurrently:

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

Only navigational encroachments permitted concurrently:

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

Only navigational encroachments permitted separately:

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

Only non-navigational encroachments permitted concurrently:

- Non-navigational project (\$1,000) + Non-navigational project (\$1,000) + \$75 publication fee  
= \$2,075

### **Payments**

Payments for encroachment applications will be accepted in the following ways:

- Cash or check submitted to the appropriate Area office
- Online credit card payments (includes a convenience fee) at <https://www.idl.idaho.gov/>



## Sample Letter for Incomplete Encroachment Application

Please copy and paste the template below into the respective Area letterhead.

Letterhead

Date

Applicant's Name

Address

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

Dear [Applicant](#),

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

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

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

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

Sincerely,

[Name](#)

[Title](#)

# Idaho Department of Lands Supervisory Area & IDWR Admin Basins

## Supervisory Area

	Clearwater		Pend Oreille Lake
	Eastern Idaho		Ponderosa
	Maggie Creek		Priest Lake
	Mica		Southwest
	Payette Lakes		St. Joe
			Administrative Basins

Supervisory area current as of map date

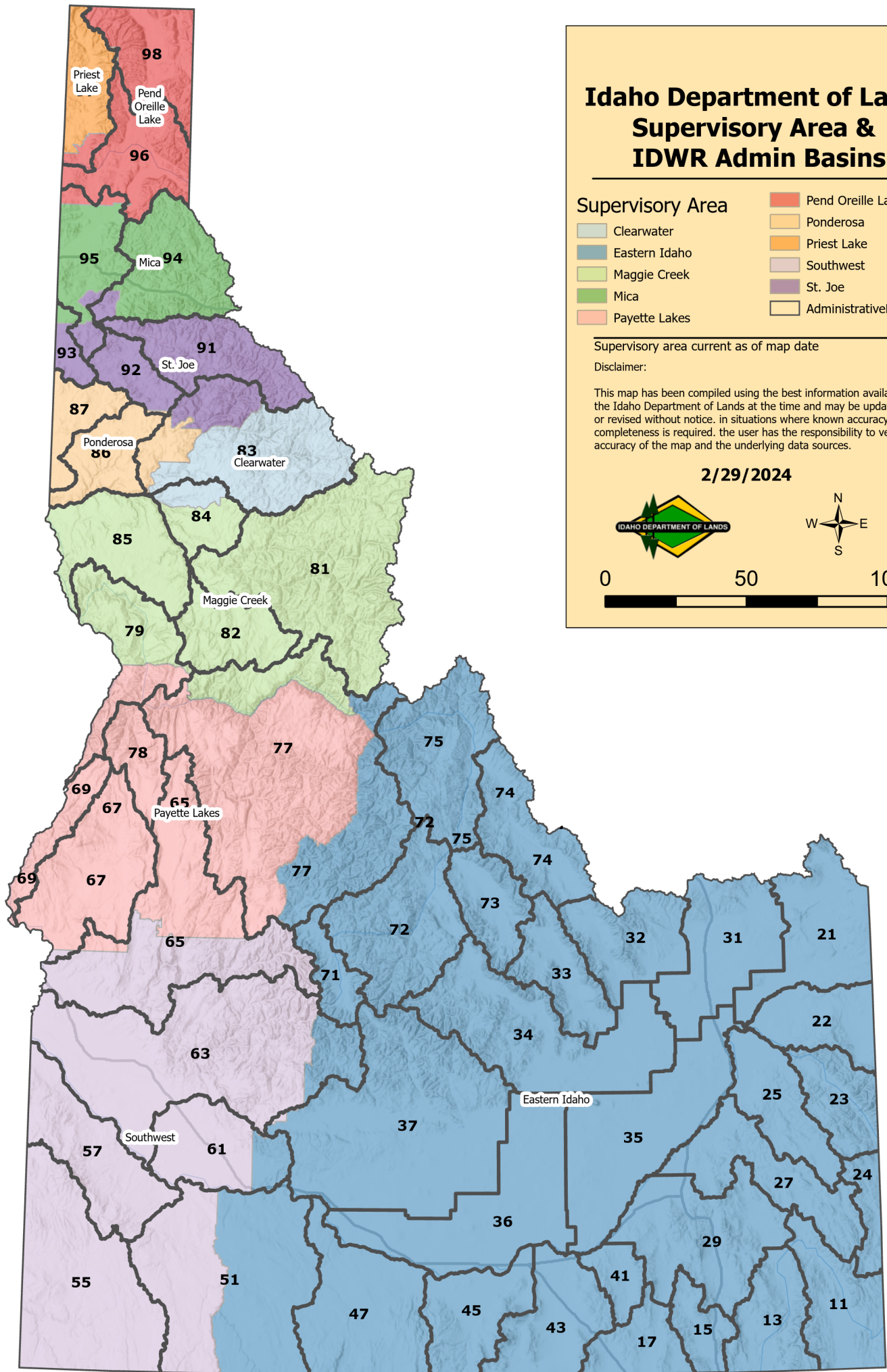
Disclaimer:

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

2/29/2024



0 50 100 Miles



Sample Letter for Neighbor Notification – 58-1305 Single/Two Family Dock  
Please copy and paste the template below into the respective Area letterhead.

[Date]

[Adjacent Littoral Neighbor Name]

[Street Address]

[City, State Zip]

*Sent via [certified/regular] mail*

Re: Notification of Application for Encroachment [Encroachment Permit Number]

To Whom it May Concern:

This letter is to inform you that your adjacent neighbor [Applicant Name] has applied for a permit with Idaho Department of Lands (IDL) to install a single-family dock on [Water Body]. The enclosed application shows the location, dimensions, and distances to your mutual littoral right line. IDL has reviewed the application and determined the proposed dock meets all of the standards and recommends approval. Because you are immediately adjacent to the proposed dock, you are asked to provide your consent or objection by filling out and returning the enclosed form to IDL within ten (10) days of receipt of this letter.

**Please review the application and all materials carefully.**

After reviewing the application, if you **do not** have an objection to the proposed project, please check the box indicating your consent, initial, and return.

If you **object** to the proposed application, please check the box indicating your objection and request to initiate a contested case hearing in which you will be named as the objecting party. Where indicated, provide your name and best contact phone number and/or email address and a short summary of your objection attached on a separate page. Objections should be based on the standards for single-family docks, which can be found here: <https://adminrules.idaho.gov/rules/current/20/200304.pdf>. Failure to provide contact information may result in dismissal of the objection due to strict timelines for hearings.

**Please complete and return the attached form to IDL via email or mail by [Due Date].**

**No response will be considered consent.**

If you have any questions, please reach out to me directly.

Sincerely,

[Resource Specialist Name]

Lands Resource Specialist-Navigable Waters

[email]

[phone number]

**STATE OF IDAHO DEPARTMENT OF LANDS  
ADJACENT NEIGHBOR ATTACHMENT FOR ENCROACHMENT****SINGLE FAMILY DOCK REQUIREMENTS AND SETBACKS**

General requirements are as follows:

- 1) Docks are typically installed perpendicular to the general shoreline. Where it is not feasible to place docks at right angles to the general shoreline, IDL will work with the applicant to review and revise, if necessary, the applicant's proposed configuration and location of the dock and the dock's angle from shore.
- 2) Dock may not extend beyond a depth necessary for customary navigation nor beyond the established line of navigability.
- 3) Dock may not exceed 700 square feet for single-family docks or 1100 square feet for two-family docks in size, nor exceed 10 feet in width, excluding a slip cutout.
- 4) It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines. Written consent of the adjacent littoral owner(s) automatically rebuts the presumption. All boat lifts and other structures attached to the dock are subject to the above presumptions of adverse effects.

**Please check one and initial:**

☐

I have reviewed the application, including the scope and location of the proposed encroachment as depicted. **I consent** to the application and do not wish to participate in a contested case hearing. \_\_\_\_\_ (initial)

☐

I have reviewed the application, including the scope and location of the proposed encroachment as depicted. **I object to the application and request a Contested Case Hearing** be set within 60 days of the application date in which I will be named as an objecting party. I have attached a summary of my objection to this form on a separate page. I UNDERSTAND THAT I AM REQUIRED TO SUBMIT MY CONTACT INFORMATION (NAME, PHONE NUMBER, EMAIL ADDRESS) IN ORDER TO SET A HEARING DATE. \_\_\_\_\_ (initial)

**\*IF YOU HAVE ANY QUESTIONS PLEASE CONTACT [Resource Specialist Name], RESOURCE SPECIALIST., AT [email] OR [phone number] AS SOON AS POSSIBLE.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

Sample Letter for Neighbor Notification – 58-1306  
Please copy and paste the template below into the respective Area letterhead.

[Date]

[Adjacent Littoral Neighbor]

[Street Address]

[City, State Zip]

Re: Notification of Application for Encroachment [Encroachment Permit Number]

To Whom it May Concern:

This letter is to inform you that your adjacent neighbor [Applicant Name] has applied for a permit with Idaho Department of Lands to **permit and add to a community dock on [Water Body]**. The enclosed application shows the location, dimensions, and distances to your mutual littoral right line. IDL has reviewed the application and determined the proposed **dock** meets all of the standards and recommends approval. Because you are immediately adjacent to the proposed **dock**, you are asked to provide your consent or objection by filling out and returning the enclosed form to IDL within ten (10) days of receipt of this letter. **Please review the application and all materials carefully.**

If you **do not** have concerns about the proposed project after reviewing the application packet, and you **do not** wish to object to the application, please complete the attached form (sign box 1) and return it to our office as quickly as possible.

If you **object** to the proposed application and would like to **request a public hearing**, in which you will be named as the objecting party, please complete and return the attached form to IDL. State law IDAPA 20.03.04.030.04 requires you submit your written objection (specifically asking for a public hearing) and a **\$75 fee** to cover the cost of publishing notice of hearing **within thirty (30) days of the first date of publication** (the first date it appears in the local newspaper advertising the application). Please ensure the Department receives this information by **[Due Date]**. Objections should be based on the standards for commercial, community, or nonnavigational encroachments, which can be found here: <https://adminrules.idaho.gov/rules/current/20/200304.pdf>. Failure to provide contact information may result in dismissal of the objection due to strict timelines for hearings.

**Please complete and return the attached form to IDL via email or mail by [Due Date].  
No response will be considered consent.**

Sincerely,

[Resource Specialist Name]

Lands Resource Specialist-Navigable Waters

[email address]

[Phone Number]

Enclosures



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

**COMMUNITY DOCK REQUIREMENTS AND SETBACKS**

General requirements are as follows:

- 1) No part of the structure waterward of the natural or ordinary high-water mark or artificial high-water mark shall exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the department.
- 2) A community dock shall not have less than fifty (50) feet combined shoreline frontage. Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock shall be limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal foot or a minimum of seven hundred (700) square feet. However, the Department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values.
- 3) If a breakwater will be incorporated into the structure of a dock, and a need for the breakwater can be demonstrated, the department may allow the surface decking area to exceed the size limitations.
- 4) Length of Community Docks and Commercial Navigational Encroachments. Docks, piers, or other works may extend to a length that will provide access to a water depth that will afford sufficient draft for watercraft customarily in use on the particular body of water, except that no structure may extend beyond the normal accepted line of navigability established through use unless additional length is authorized by permit or order of the director. If a normally accepted line of navigability has not been established through use, the director may from time to time as he deems necessary, designate a line of navigability for the purpose of effective administration of these rules.
- 5) It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments shall be subject to the above presumptions of adverse effects.

**Please check one and initial:**

☐

I have reviewed the application, including the scope and location of the proposed encroachment as depicted. **I consent** to the application and do not wish to participate in a public hearing. \_\_\_\_\_ (initial)

☐

I have reviewed the application, including the scope and location of the proposed encroachment as depicted. **I object to the application and request a Public Hearing** in which I will be named as an objecting party. I have attached a summary of my objection to this form on a separate page **and a \$75 publication fee**. I UNDERSTAND THAT I AM REQUIRED TO SUBMIT MY CONTACT INFORMATION (NAME, PHONE NUMBER, EMAIL ADDRESS) IN ORDER TO SET A HEARING DATE. \_\_\_\_\_ (initial)

**\*IF YOU HAVE ANY QUESTIONS PLEASE CONTACT [Resource Specialist Name], RESOURCE SPECIALIST., AT [email] OR [phone number] AS SOON AS POSSIBLE.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

**OTHER CASE TRANSMITTAL SHEET – ADJUDICATION, ARBITRATION, or  
MEDIATION pursuant to I.C. § 67-5280(2)(b)**

State of Idaho - Office of Administrative Hearings

TO: **OFFICE OF ADMINISTRATIVE HEARINGS** (email: Bryan.Nickels@oah.idaho.gov)

DATE: \_\_\_\_\_

FROM: \_\_\_\_\_ (Referring Agency/Board)

AGENCY CASE/PROCEEDING NO.: \_\_\_\_\_

**\*Please attach a copy of:**

- **Petition/order/notice giving rise to the proceeding**
- **Order assigning this matter to the OAH (if applicable)**

**AGENCY REQUEST:**

☐

Adjudication

If adjudication, order requested: ☐ Preliminary ☐ Recommended

☐

Arbitration

☐

Mediation

☐

Other (Please explain below)

**PARTY/ATTORNEY:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**PARTY/ATTORNEY:**

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone Number: \_\_\_\_\_

SHORT STATEMENT OF THE NATURE OF THIS CASE (e.g., "Suspension of license based on following grounds: ..."):

ARE THERE SPECIFIC STATUTORY/REGULATORY RULES ON THE TIME FOR HEARING OR DECISION?

YES: ☐ NO: ☐

[OAH typically sets hearings based on parties' availability and agreement, with written decision no later than the end of the month following the month the hearing was held]

If yes:

Deadline for hearing: \_\_\_\_\_

Deadline for decision: \_\_\_\_\_

Statute(s)/Rule(s) citation: \_\_\_\_\_

DO ANY HEARING PROCEDURAL RULES, OTHER THAN THE IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL, APPLY TO THIS PROCEEDING?

YES: ☐ NO: ☐

If yes, statute(s)/rule(s) citation: \_\_\_\_\_

- OAH will confirm that the agency has a current MOU in place for the requested service(s); if not, OAH will contact the agency to set up the needed MOU.
- Unlike contested case proceedings arising from the appeal of an agency order, OAH's provision of mediation, arbitration, and adjudication services are subject to acceptance by OAH. If OAH is unable to accept a request for mediation, arbitration, or arbitration services in a matter, OAH will still endeavor to assist the agency in identifying an alternative service provider.



## Encroachment Application Notifications

IDL Area	Priest Lake	Pend Oreille	Mica	St. Joe	Payette Lakes	South Central	Eastern
Always notified	IDFG	IDFG	IDFG	IDFG	IDFG	IDFG	IDFG
	IDEQ	IDEQ	IDEQ	IDEQ	IDEQ	IDEQ	IDEQ
	IDWR	IDWR	IDWR	IDWR	IDWR	IDWR	IDWR
	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers	US Army Corps of Engineers
	Panhandle Health District	Panhandle Health District 1	Panhandle Health District 1	Benewah County Auditor	Central District Health		
	Clean Lake Coordinating Council	Tri-State Water Quality Council	Tri-State Water Quality Council	Adjacent littoral owners	Valley County Planning & Zoning		
	Lakes Commission	Lakes Commission	Lakes Commission		City of McCall		
	Bonner County Planning and Zoning	Adjacent littoral owners	Idaho Transportation Department		Payette Lakes WAG		
	Bonner County Public Works/Marine Division	US Fish & Wildlife Service	Lakes Highway District		Adjacent littoral owners		
	Priest Lake Ranger District (US Forest	Kalispel Tribe	Coeur d'Alene Tribe				
	Idaho Conservation League	Selkirk Conservation Alliance	Idaho State Department of Agriculture				

## Encroachment Application Notifications

Sometimes Notified		Bayview Chamber of Commerce	Kootenai County Parks, Recreation/Waterways	Panhandle Health District		Bureau of Reclamation	
		Bayview Water and Sewer	Kootenai County Marine Division	Coeur d'Alene Tribe		Big Wood Canal Co.	
		Bayview Community Council	Kootenai County Building & Planning & Zoning				
		Kootenai County Parks, Recreation/Waterways	Bonner County Planning Department				
		Kootenai County Marine Division	Bonner County Public Works				
		Kootenai County Building & Planning & Zoning	Bonner County Marine Division				
		Bonner County Planning & Zoning	Bonner County Parks, Recreation/Waterways				
		Bonner County Public Works	City of Coeur d'Alene				
		Bonner County Marine Division	City of Hayden				
		Kootenai Environmental Alliance	City of Post Falls				
		Idaho Conservation League	City of Hauser				
		City of Dover	City of Fernan				
		Idaho Office of Species Conservation	Kootenai Environmental Alliance				
		Idaho Transportation Department	Save Hayden Lake				
		Idaho State Department of Agriculture	Spokane River Homeowners Association				

Please copy and paste the template below into the respective Area letterhead.

## MEMORANDUM

**TO:** Idaho Department of Fish and Game  
Idaho Department of Environmental Quality  
Idaho Department of Water Resources  
US Army Corps of Engineers  
[County/City] County Planning & Zoning  
[County/City] Public Works  
[County] Marine Division  
[Health District]  
Idaho Conservation League  
Other interested agencies or parties  
Names of Littoral Neighbors

**FROM:** [Resource Specialist Name and Title]

**DATE:** [Date]

**SUBJECT:** NOTICE OF APPLICATION L-XX-X-XXXX, [Applicant Name]

Enclosed is an application and maps requesting permission to [encroachment description] on [Water Body].

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

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

If you do not submit a comment, IDL will assume you have no objections to the application. If you have additional questions regarding the encroachment application, please contact the Idaho Department of Lands at [Area Office Main Line Number].

enclosures

Please copy and paste the template below into the respective Area letterhead.

Date

Newspaper Name  
Street Address  
City, State Zip

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

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

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

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

Sincerely,

---

Name and Title

Enclosures

## NOTICE OF APPLICATION

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

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

/S/  
Name, Area Supervisor  
Idaho Department of Lands

Please copy and paste the template below into the respective Area letterhead.

Date

Newspaper Name  
Street Address  
City, State Zip

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

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

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

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

Sincerely,

---

Name and Title

Enclosures

## NOTICE OF PUBLIC HEARING

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

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

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

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

This space is reserved for recording purposes only



**ENCROACHMENT PERMIT NO. <<License|Code>>**

Permission is hereby granted to <<License|Permittee of Record|Full Name>> and <<License|Permittee|Full Name>> of <<License|Permittee of Record|Address|Single Line Address>> to install and maintain the following encroachment(s) subject to the terms and conditions of this Permit and the approved application, plans and drawings incorporated herein:

<<License Conditions List>>				
Encroachment	Description		Effective Date	Construction to be completed by
<<Type>>	<<Condition>>	<<Value Format: 0>> <<Unit>>	<<Start Date>>	<<End Date>>

Located on <<INSERT WATERBODY NAME HERE>> in <<License|County|Name>>, adjacent to:

Parcel Number	<<License County Parcel Number Code>>
Lot, Block, Subdivision	<<License Neighborhood Code>>

<<License Map Reference List Category:Section>>	
Section, Township, Range	<<Full Map Reference>>, Boise Meridian
Physical Addresses	<<License Address Physical Single Line Address>>
Tax/Serial Number	<<License Tax Number Code>>



## 1. General

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

## 2. Pre-construction

A preconstruction conference must be held on site between the contractor, IDL and Permittee (if Permittee desires to be present) to ensure that the contractor is familiar with the terms of this permit. The meeting must be held at

least one working day prior to the commencement of construction. The contractor or Permittee must contact IDL to arrange the date and time of the meeting.

### 3. Construction

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

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

#### 4. **Submerged Land Leases and Easements**

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

#### 5. **Single-family Docks**

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

#### 6. **Two-family Docks**

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

#### 7. **Mooring Buoy**

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

#### 8. **Riprap**

- A. No riprap shall be placed in excess of the minimum needed for erosion control.
- B. Riprap shall be placed along the present contour of the shoreline.
- C. BMPs must be implemented to prevent sediment or sediment laden water from reentering the lake. BMPs must remain in place until the risk of sediment reentering the lake has been fully mitigated. Sediment mitigation BMPs must be removed prior to or designed to withstand any rise in lake water level which might cause an unplanned release of trapped sediment.

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

9. **Dredging**

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

10. **Waterline**

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

11. **Pumpout Station**

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

12. **Lake Specific Terms**

A. **Lake Pend Oreille**

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

B. **Mid-Snake River Reserviors**

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

13. **Other**

**ON BEHALF OF THE DIRECTOR**

By:

<<License|Area Officer>>, <<License|Area Officer|Job Title>>  
Public Trust – <<License|Office Abbreviation>> Office

\_\_\_\_\_  
Date

STATE OF IDAHO )  
 ) ss  
<<License|County|Name>> )

On <<License|Date Granted|Format:MMMM dd, yyyy>> personally appeared before me <<License|Area Officer>>, whose identity is personally known to me and who by me duly affirmed that he/she is the <<License|Area Officer|Job Title>>, Public Trust <<License|Office Abbreviation>> Office of the Idaho Department of Lands, and acknowledged that the foregoing document was signed by him/her on behalf of said state agency by authority of a Resolution of the State Land Board.

\_\_\_\_\_  
Notary Public for Idaho Department of Lands  
My commission expires on \_\_\_\_ / \_\_\_\_ / \_\_\_\_

## Encroachment Permit Terms

### 1. General

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

## 2. Pre-construction

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

## 3. Construction

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

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

#### **4. Submerged Land Leases and Easements**

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

#### **5. Single-family Docks**

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

#### **6. Two-family Docks**

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

#### **7. Mooring Buoy**

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

#### **8. Riprap**

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



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

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

## **9. Dredging**

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

## **10. Waterline**

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

## **11. Pumpout Station**

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

## **12. Lake Specific Terms**

### **A. Lake Pend Oreille**

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

### **B. Mid-Snake River Reserviors**

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



# Request for Assignment of Encroachment Permit

**Encroachment Permit Assignment Instructions:** This form is used by persons seeking to assign the encroachments on Navigable Lakes pursuant to IDAPA 20.03.04. Please complete this form and submit it, along with the non-refundable filing fee of \$300 and required attachments to your local Idaho Department of Lands Supervisory Area Office.

1. In order to process an assignment, both the buyer (Assignee) and seller (Assignor) must submit this joint Assignment Form and nonrefundable \$300 processing fee to IDL.
2. If the last permit holder is not available to sign the form, a chain of title for the property showing all owners beginning with the permit holder to the new property owner must be provided.
3. Assignments can only be transferred to the owner of record on the parcel and must be executed as such.
4. Be sure all encroachments (docks, waterlines, shoreline stabilization, buoys, etc.) are accurately listed on the permit. Property owners should confirm sizes and locations. If the encroachments do not match the permit, the assignment cannot be completed.
5. Submit a copy of the property deed, and an Idaho Secretary of State Certificate of Existence (Only required if Assignee is a business), or Affidavit of Existence (Only required if Assignee is a trust or non-profit).

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

**Encroachment Number:** \_\_\_\_\_ **Body of Water:** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

**County:** \_\_\_\_\_ **Parcel/AIN Number:** \_\_\_\_\_

## ASSIGNOR(S) -- CURRENT PARCEL OWNER(S)

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

Assignor \_\_\_\_\_ Assignor \_\_\_\_\_

STATE OF \_\_\_\_\_)  
:ss

County of \_\_\_\_\_)

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

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

Notary Public: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**Continued on next page**

**ASSIGNEE(S) -- NEW PERMITEE(S)**

I/We accept and agree to comply with the terms and conditions of the permit as issued.  
*Please complete **Attachment A** for multiple new permittees.*

Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Assignee Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Request for Assignment of Encroachment Permit Attachment A – Multiple Permittees

### ASSIGNEE(S) -- NEW PERMITEE(S)

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

*Please complete **Attachment A** for multiple new permittees.*

Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Assignee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Assignee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Assignee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date

RECEIPT

Name  
Mailing Address

CERTIFIED RETURN

and REGULAR MAIL  
#####

If mailed via  
certified mail, list  
receipt number

SUBJECT: Notice of Noncompliance – Dock is Too Wide  
Encroachment Permit No.: L-95-S-9999Z  
Physical location of noncompliance

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

Dear XXX:

This Notice of Noncompliance is being sent as a result of the inspection of  
your dock conducted on July 24, 2024. The noncompliance is as follows:

**IDAPA 20.03.04.020.015.01.a Single-Family and Two-Family Docks.**

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

Introduction  
paragraph describes  
when the letter is  
Cite the applicable  
statute, rule, and/or  
instrument  
provision.

Describe the facts  
upon which the  
notification is based

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

Identify corrective  
actions and  
deadline.

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

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

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

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

List all documents to be sent  
accompanying the notice

Enclosure: IDAPA 20.03.04 (22 pages)

List people receiving copy of  
the notice

Cc: Name, Area Manager, Program Manager, other relevant IDL staff as  
needed

# Sample Notice of Noncompliance

July 28, 2024

CERTIFIED RETURN RECEIPT  
and REGULAR MAIL  
0123 4567 8910 1112 1314

George Washington  
PO Box 1776  
Mount Vernon, VA 22121

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

Dear Mr. Washington:

This Notice of Noncompliance is being sent pursuant to Rule 80.02 of *The Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*, IDAPA 20.03.04.000 *et seq.* ("Rules"), and is a result of the inspection of your dock conducted on July 24, 2024. The noncompliance is as follows:

**IDAPA 20.03.04.015.01.a Encroachment Standards.** This section provides, in pertinent part, "No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark shall exceed ten (10) feet in width, excluding the slip cut out." During the course of the inspection, Mr. George Frederick, Resource Specialist, documented that your single-family dock is fourteen (14) feet wide. The diagram of your dock submitted with your encroachment permit application on April 1, 2022, indicates that the dock will be ten (10) feet in width.

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

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

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

Sincerely,

*William Howe*

William Howe  
Resource Supervisor

AMI/rsi

Cc: Banastre Tarleton, Navigable Waterways Program Manager  
Area Manager

ENC-020  
(07/2024)

# Sample Request for Additional Information

August 31, 2024

CERTIFIED RETURN RECEIPT  
and REGULAR MAIL  
0123 4567 8910 1112 1315

George Washington  
PO Box 1776  
Mount Vernon, VA 22121

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

Dear Mr. Washington:

This letter is a request for additional information. This letter is being written as a result of the review of your response to the July 28, 2024, Notice of Noncompliance, received by this office on August 24, 2024.

The July 28, 2024, Notice of Noncompliance requested “a plan to modify your dock so that no part exceeds ten (10) feet in width. The plan must include the proposed dimensions of the dock and the date of modification. Modification must take place no later than 90 days from receipt of this notice.” In the plan received on August 24, 2024, the width of the proposed dock was not identified. In addition, the timeframe to modify the dock was not disclosed.

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

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

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

Sincerely,

*William Howe*

William Howe  
Resource Supervisor

AMI/rsi

Cc: Banastre Tarleton, Navigable Waterways Program Manager  
Area Manager

ENC-021  
(07/2024)

# Sample Notice of Resolution

October 15, 2024

George Washington  
PO Box 1776  
Mount Vernon, VA 22121

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

Dear Mr. Washington:

This letter is an official Notice of Resolution. On October 1, 2024, IDL staff conducted an on-site inspection of your dock and found that no portion of the dock exceeds ten feet in width. It appears you have adequately addressed the noncompliance identified in the Notice of Noncompliance issued on July 28, 2024. Thank you for your cooperation to resolve this matter in a timely manner. If you have any questions or concerns, please contact me at (208) 263-5104 or [whowe@idl.idaho.gov](mailto:whowe@idl.idaho.gov).

Sincerely,

*William Howe*

William Howe  
Resource Supervisor

AMI/rsi

Cc: Banastre Tarleton, Navigable Waterways Program Manager  
Area Manager



# Sample Compliance Action Memo

## MEMORANDUM

**TO:** Area Manager  
Program Manager

**FROM:** Resource Supervisor

**DATE:** September 3, 2024

**SUBJECT:** Failure to Correct Noncompliance IDAPA 20.03.04.015.01.a

### Background:

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

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

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

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

### Recommendation:

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

### Attachments:

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

# Sample Notice of Proposed Permit Revocation

September 3, 2024

CERTIFIED RETURN RECEIPT  
and REGULAR MAIL  
0123 4567 8910 1112 1315

George Washington  
PO Box 1776  
Mount Vernon, VA 22121

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

Dear Mr. Washington:

This letter is an official Notice of Proposed Permit Revocation pursuant to Rule 80.02 of the *Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho* IDAPA 20.03.04.000 *et. seq.* ("Rules"). This proposed permit revocation is based on the failure to respond to the Notice of Noncompliance issued on July 28, 2024. Our records indicate that you received the Notice of Noncompliance on August 3, 2024; however, to date, this office has not received a response. The reason for the proposed permit revocation is that you have failed to comply with the following:

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

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

1. Submit your plan by the close of business **October 8, 2024**, to modify your dock to ensure that no part exceeds ten (10) feet in width. The plan must include the date you will complete the modification, which must be within 90 days of receipt of this letter.
2. Submit a written request for an informal settlement meeting. This request must be received by the close of business **October 8, 2024**.
3. Submit a written request for a formal hearing. This request must be received by the close of business **October 8, 2024**.

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

Sincerely,

*Area Manager*

Guy Carleton  
Pend Oreille Area Manager

Cc: Navigable Waterways Program Manager  
Cc: Area Manager  
Cc: IDL Assigned Attorney

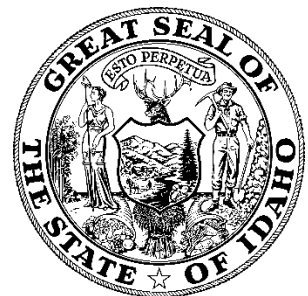
ENC-024  
(07/2024)

# STOP WORK ORDER

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NO WORK MAY BE DONE IN THIS AREA WHICH MIGHT AFFECT THE COURSE, LOCATION, OR CONDITION OF THIS WATERBODY WITHOUT AUTHORIZATION OF AN **IDAHO DEPARTMENT OF LANDS** ENCROACHMENT PERMIT. UNAUTHORIZED WORK IS A VIOLATION OF SECTIONS 58-104 AND 58-1301, ET SEQ., IDAHO CODE. PLACEMENT OF DREDGED OR FILL MATERIAL IN THIS WATERWAY WITHOUT FIRST OBTAINING AN IDAHO DEPARTMENT OF LANDS ENCROACHMENT PERMIT IS A VIOLATION OF STATE LAW.

PERSON(S) VIOLATING SAID LAW ARE SUBJECT TO CIVIL PROSECUTION AS DESCRIBED IN IDAHO CODE 58-1308. CONTACT \_\_\_\_\_, WITH THE IDAHO DEPARTMENT OF LANDS IMMEDIATELY, AT \_\_\_\_\_.



# Sample Cease and Desist Order

**BEFORE THE STATE BOARD OF LAND COMMISSIONERS STATE OF IDAHO**

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

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

**a. AUTHORITY**

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

**b. PERTINENT LEGAL PROVISIONS**

Idaho Code § 58-1301. No encroachment on, in or above the beds or waters of any navigable lake in the state shall hereafter be made unless approval therefor has been given as provided in this act.

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

**c. FACTS**

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

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

**d. CONCLUSION AND ORDER**

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

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JAMES MADISON  
Director, Idaho Department of Lands

Please copy and paste the template below into the respective Area letterhead.

[Date]

Re: Proposal, Extraction of Submerged Logs (Prize Logs)

Dear [Interested Party]:

The [Area] Area office has put together the following guide that outlines the requirements one would follow to move forward with a proposal for prize logs.

- Obtain verifiable permission that allows access for the removal and transfer of prize logs to the uplands from the owner of lakeside property.
- Submit a complete encroachment permit application to the area office that manages the waters from which the prize logs are located. The encroachment application will be signed by the prize log operator and include a sign-off by the landowner of the parcel where the logs will be landed. The commercial encroachment application fee is \$2,000.00 non-refundable with an additional \$75.00 for legal notices in the newspapers of record. The notices are for a 30-day public comment period.
- The application is mailed out to different agencies and they have 30-days in which to respond. At the same time, letters are sent out to the adjacent neighbors for their comments.
- Once all of the agency/public comments and concerns are addressed, the encroachment permit application can either be refused, approved as filed or modified/approved based on comments.
- If approved, a temporary encroachment permit can be issued. It is likely that such a permit would contain special terms. For example, there may times of the year of restricted operations due to fish issues, prohibited log extraction within 200 feet of the shoreline, requirements for a water quality and turbidity monitoring plan approved cooperatively through Idaho Department of Environmental Quality, limitations on the number of total operating days and requirements for special shoreline protection measures.
- Address a letter to the Idaho Board of Scaling Practices requesting a prize log sale and identifying location of interest (including section, township, range info). Include information regarding any necessary permits that have been obtained.
- If prize log sale is approved, the scaling board will place for 3 weeks, legal notices in the newspapers of record advertising the prize log auction. A prize log

sale prospectus will be made available to interested parties (provides an overview of sale requirements).

- The scaling board then conducts an open auction for sale of prize logs to the highest bidder. Bidders must post a \$500.00 bid deposit, returnable to any non-successful bidders. Bid deposit of successful bidder applies toward prize log purchase agreement (forfeited if successful bidder fails to enter purchase agreement).
- Within ten days of auction the successful bidder must execute purchase agreement with the scaling board, providing non-refundable down payment equal to the bid price on the first 50,000BF of prize logs (approximately \$4,000.00 minimum) and nonrefundable cost of legal publications (estimate \$150.00 - \$200.00). Additionally, \$1,500.00 for performance bond and proof of a \$1,000,000.00 approved liability insurance policy through an approved insurance provider is required.
- The scaling board's estimated time line for a prize log sale is 30-days.

At a minimum, it is estimated that issuance of a successful prize log sale and encroachment permit will take around 80+ days. Again, please be advised that there is no guarantee you will be successful in obtaining either the scaling board permit or the encroachment permit. With the exception of the performance bond, all fees are non-refundable.

Thank you for your cooperation. If you have any questions, please contact me at [resource specialist email] or (208) [phone number].

Sincerely,

[Name], Lands Resource Specialist  
Navigable Waters

Enclosure – Encroachment Application

cc: Area Manager, Program Manager