

PEND OREILLE
SUPERVISORY AREA
2550 Highway 2 West
Sandpoint ID 83864
Phone (208) 263-5104
Fax: Area (208) 263-0724
Fax: District (208) 265-7263



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS

Brad Little, Governor
Phil McGrane, Secretary of State
Raul Labrador, Attorney General
Brandon Woolf, State Controller
Debbie Critchfield, Sup't of Public Instruction

August 1, 2024

U.S. Army Corps of Engineers
Albeni Falls Dam
2376 E. Highway 2
Oldtown, ID 83822

Kalispel Indian Community of The Kalispel Reservation
Ray Entz
PO Box 38
Usk, WA 99180

Re: Notification of Application for Encroachment L96S2798A, Valiant Idaho, LLC / Valiant Idaho II, LLC

To Whom it May Concern:

This letter is to inform you as a courtesy that your adjacent neighbors **Valiant Idaho, LLC, and Valiant Idaho II, LLC**, have applied for a permit with Idaho Department of Lands to **permit a commercial marina, to install riprap, to install a pedestrian bridge and to dredge** on Lake Pend Oreille. The application is posted on our website at: <https://www.idl.idaho.gov/lakes-rivers/administrative-hearings/idaho-club-trestle-creek-project/> and shows the location, dimensions, and distances to your mutual littoral right line. IDL has reviewed the application and is calling for a public hearing. Please check the website for the hearing information which will be posted when available.

Because you are immediately adjacent to the proposed project, you are asked to provide your consent or objection by filling out and returning the enclosed forms to IDL withing the timelines stated in 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(es) indicating your consent, initial, and return.

If you **object** to the proposed commercial marina, riprap, pedestrian bridge, and/or dredging application please complete and return the attached form(s) to IDL, and you will be named as an objecting party. State law IDAPA 20.03.04.030.04 requires you submit your written objection(s) (specifically asking for a public 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 **September 3, 2024**. Objections should be based on the standards for commercial, riprap, and 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.

No response will be considered consent. If you have any questions, please reach out to me directly.

Best,

A handwritten signature in blue ink, appearing to read "Gwen Victorson", is written over a horizontal line.

Gwen Victorson
Lands Resource Specialist, Sr. - Navigable Waters
GVictorson@idl.idaho.gov
208-263-5104 ext. 5117

Enclosures

**STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT
COMMERCIAL MARINA REQUIREMENTS AND SETBACKS**

General requirements are as follows:

- 1) Commercial marinas must have a minimum of fifty percent (50%) of their moorage available for use by the general public on either a first come, first served basis for free or rent, or a rent or lease agreement for a period of time up to one (1) year. Moorage contracts may be renewed annually, so long as a renewal term does not exceed one (1) year. Moorage for use by the general public may not include conditions that result in a transfer of ownership of moorage or real property, or require membership in a club or organization.
- 2) If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas must provide a minimum of upland vehicle parking equivalent to one (1) parking space per two (2) public watercraft or float home moorages. If private moorage is tied to specific parking spaces or designated parking areas, then one (1) parking space per one (1) private watercraft or float home moorage must be provided. In the event of conflict, the local ordinances prevail.
- 3) If a commercial marina can be accessed from a road, marina customers must be allowed access via that road.
- 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, 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 affects.

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. 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
NAVIGABLEWATERWAYS@IDL.IDAHO.GOV AS SOON AS POSSIBLE.**

Date

Name

Address

City

State

Zip

Phone Number

Email Address

STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT

RIPRAP REQUIREMENTS

General requirements are as follows:

- 1) Riprap used to stabilize shorelines will consist of rock that is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer which consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ordinary or artificial high water mark as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. IDAPA 20.03.04.015.08a
- 2) Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the Department's discretion. IDAPA 20.03.04.015.08b

Please check one and initial:

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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. I UNDERSTAND THAT I AM REQUIRED TO SUBMIT MY CONTACT INFORMATION (NAME, PHONE NUMBER, EMAIL ADDRESS) IN ORDER TO SET A HEARING DATE.
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**STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT**

NONNAVIGATIONAL AND BRIDGE REQUIREMENTS

General requirements are as follows:

- 1) Encroachments Not in Aid of Navigation. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation, such as float homes and boat garages. The term "encroachments not in aid of navigation" is used interchangeably with the term "nonnavigational encroachments."

Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values. (3-18-22)

- 2) Presumed Adverse Effect. 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 are subject to the above presumptions of adverse effects.
- 3) Factors in Decision. In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, if present, the Department will consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the natural or ordinary high water mark. If no objections have been filed to the application and no public hearing has been requested or ordered by the Director, or, if upon reconsideration of a decision disallowing a permit, or following a public hearing, the Department determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, the permit will be granted.
- 4) Overhead clearance between the natural or ordinary high water mark or the artificial high water mark, if there be one, and the structure or wires must be sufficient to pass the largest vessel that may reasonably be anticipated to use the subject waters in the vicinity of the encroachment. In no case will the clearance be required to exceed thirty (30) feet unless the Department determines after public hearing that it is in the overall public interest that the clearance be in excess of thirty (30) feet. Irrespective of height above the water, approval of structures or wires presenting a hazard for boating or other water related activities may be conditioned upon adequate safety marking to show clearance and otherwise to warn the public of the hazard. The Department will specify in the permit the amount of overhead clearance and markings required. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.h., the Department will

consider the applicable requirements of the United States Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local regulations. (3-18-22)

Please check one and initial:

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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. I UNDERSTAND THAT I AM REQUIRED TO SUBMIT MY CONTACT INFORMATION (NAME, PHONE NUMBER, EMAIL ADDRESS) IN ORDER TO SET A HEARING DATE.
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**STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT**

DREDGING REQUIREMENTS

General requirements are as follows:

- 1) An excavated or dredged channel or basin to provide access to navigable waters must have a clear environmental, economic, or social benefit to the people of the state, and must not result in any appreciable environmental degradation. A channel or basin will not be approved if the cumulative effects of these features in the same navigable lake would be adverse to fisheries or water quality.
- 2) Whenever practical, such channels or basins must be located to serve more than one (1) littoral owners or commercial marina; provided, however, that no basin or channel will be approved that will provide access for watercraft to nonlittoral owners.
- 3) Redredging a channel or basin shall be considered a new encroachment and a permit is required unless redredging is specifically authorized by the outstanding permit. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permits.

Please check one and initial:

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