



October 7, 2024

Mike Ahmer, Resource Supervisor  
Department of Lands  
3258 Industrial Loop  
Coeur d'Alene, ID  
[Mahmer@idl.idaho.gov](mailto:Mahmer@idl.idaho.gov)

Subject: L96S2798A – Idaho Club Trestle Creek Project Application

Dear Mr. Ahmer:

The Idaho Department of Environmental Quality (DEQ) has reviewed your request for comment, received on August 1, 2024, regarding application L96S2798A. This application seeks approval from the Idaho Department of Lands (IDL) for the construction a commercial marina, riprap, pedestrian bridge, and dredging on Pend Oreille Lake. The applicant also proposes to redirect the North Branch of Trestle Creek back to its main channel of Trestle Creek.

On August 11, 2023, DEQ submitted comments to IDL regarding a previous proposal (L96S2798). Since then, the applicant has modified the project, and there have been changes at both the federal and state levels that affect DEQ's issuance of Clean Water Act (CWA) Section 401 Water Quality Certification decisions. Water quality certification will be required for the U.S. Army Corps of Engineers' permit for dredge and fill activities, which has not yet been issued. In light of these updates, our comments on the revised proposal focus on environmental concerns that will not be addressed in the water quality certification, due to the recent regulatory changes. Several of the concerns raised in our 2023 comments remain, particularly those related to risks to bull trout and water quality.

### **Water Quality Concerns**

The application and supporting documents lack sufficient detail explaining how the applicant plans to protect the water quality of Pend Oreille Lake and Trestle Creek throughout the marina's operation and the lifetime of the upland residential development. A proposed property owners association will be responsible for long-term maintenance, but there is uncertainty about how water quality commitments will be communicated and enforced over time. It is crucial that clear mechanisms be established to ensure that future parties maintain and implement necessary protections.

Our primary water quality concerns focus on pollution from stormwater, wastewater, and daily marina activities, which are minimally addressed in the supplemental Water Quality Management Plan. The plan is largely focused on construction-related impacts and immediate post-construction stabilization efforts with limited focus on long-term operations. Continuous

long-term monitoring and adaptive management, especially related to stormwater and wastewater management and marina operational impacts (e.g., boat traffic, invasive species), will be essential to ensure ongoing protection of water quality in the nearshore waters of Pend Oreille Lake and in Trestle Creek.

The nearshore area of Pend Oreille Lake is not supporting its cold water aquatic life and salmonid spawning beneficial uses due to excess total phosphorus. The EPA-approved Total Maximum Daily Load (TMDL) requires phosphorus load reductions to improve water quality. A separate TMDL requires temperature reductions in Trestle Creek.

### **Gaps in Long-Term Protections**

Most proposed water quality protections focus on the construction phase, with little assurance of protection during the marina's operation. Measures that extend beyond construction are largely reactive, not preventative. For example, the application details spill containment procedures after incidents occur but does not include preventative measures such as prohibiting fueling and maintenance activities within the marina. Proactive protective measures are necessary to prevent cumulative impacts over time.

Additionally, operating a commercial marina increases the risk of introducing aquatic invasive species, such as Eurasian Watermilfoil, Flowering Rush, and Curlyleaf Pondweed. Boat traffic significantly raises the likelihood of spreading these species, which would undermine the nutrient TMDL as the decomposition of these plants would reintroduce nutrients into the nearshore area. Managing invasive species may require the use of aquatic herbicides, which could lead to further environmental impacts if not applied carefully.

The proposed development also raises concerns related to wastewater disposal, stormwater runoff from impervious surfaces, and the intensified use of common areas by up to 88 families (based on the number of proposed boat slips). This increased usage will have a substantially higher environmental impact than a smaller-scale development with only five residential units.

### **Recommendations for Strengthening the WQMP**

To better protect water quality in the long term, the WQMP should include the following elements:

- **Long-Term Pollutant Management:** Develop a comprehensive plan for managing pollutants entering Pend Oreille Lake and Trestle Creek over time.
- **Aquatic Invasive Species Control:** Add detail to the proposed "clean boat policy," including enforcement mechanisms and responsible parties.
- **Property Owners Association Accountability:** Clarify the role and responsibility of the property owners association in maintaining stormwater and wastewater treatment systems. Clarify who will be responsible for marina water quality protections.
- **Permanent Erosion and Stormwater Control Measures:** Ensure permanent systems are in place to manage pollutants such as phosphorus, sediment, temperature, and contaminants from parking lots and other impervious surfaces, and that there is a monitoring and maintenance plan.

### **Additional Concerns**

A robust, long-term pollution management plan would complement the construction-focused stormwater management plans already included in the proposal.

Nuisance geese, often attracted to open recreational spaces near water, can negatively impact water quality, particularly through fecal contamination, which increases the risk of elevated *E. coli* levels and other waterborne health hazards.

Marina users often bring personal fuel cans to fill their motors without secondary containment or spill/drip mitigation. Other potential water quality impacts include the introduction of chemicals, wastewater, and debris (e.g., paint) into the lake from vessel cleaning.

### **Bull Trout**

DEQ is generally concerned with the project location with respect to Trestle Creek as a regionally significant waterway for a variety of fish species, most notably, bull trout. Trestle Creek is a high priority bull trout watershed and is among the most important spawning habitat for bull trout in the Pend Oreille System as described in the 1999 Lake Pend Oreille Bull Trout Conservation Plan (Plan). The 1991 Plan was developed by the Lake Pend Oreille Bull Trout Watershed Advisory Group to be used by private landowners, corporations, tribes, watershed groups and management agencies as a reference to conserve and restore bull trout throughout the basin and was authorized by the Governor of Idaho's Bull Trout Conservation Plan. DEQ is one of several agency members represented in the Plan.

Development at the mouth of Trestle Creek could have unintended and potentially irreversible consequences for water quality and the ecological health of the area, jeopardizing the recovery of the bull trout population. The 1999 Plan identifies "urbanization" as a threat to bull trout, noting the risk of nutrient pollution from septic tanks, drain fields, and stormwater runoff. The marina's operation could affect aquatic life directly through increased boat traffic, noise, sediment disturbance, chemical contamination, and predation and prey base alteration.

The 1999 Plan emphasizes the importance of protecting riparian and wetland areas along lower Trestle Creek. While realignment of Trestle Creek is proposed, the applicant applied for and received a variance for a 0' setback for wetlands where 40' is required for wetlands (a 75' setback is required for Trestle Creek). Additionally, the applicant applied for and received a variance for 70% impervious surface within the shoreline areas and lot coverage was permitted where 35% was allowed. Impervious surfaces do not allow for infiltration of stormwater and recharge of the water table. The removal of wetland and protective buffers limits opportunity for pollutant filtration and the ecologic services wetlands provide. These actions are not aligned with the TMDL or the 1999 Plan and do not support water quality protection in the nearshore areas of Pend Oreille Lake or protection of riparian, shoreline, and wetland ecosystems.

Protecting the habitat and water quality that this location offers is critical for the recovery and long-term survival of bull trout and cold water aquatic life in the Pend Oreille system.

Thank you for the opportunity to review the application and provide comments. Please feel free to reach out if you have any questions. I can be reached via email at [Chantilly.Higbee@deq.idaho.gov](mailto:Chantilly.Higbee@deq.idaho.gov) or by phone at 208-666-4605.

*/S/Chantilly Higbee*

Environmental Programs and Regulatory Specialist  
Idaho Department of Environmental Quality  
Coeur d'Alene Regional Office