

Wm. Scott Hislop  
Legal Counsel  
Rivelle, LLC  
2936 W Dakota Ave.  
Hayden, ID 83835  
(208)457-8000  
Scott.h@stancraft.com

**BEFORE THE IDAHO DEPARTMENT OF LANDS**

In the Matter of,

Agency Case No. PH-2024-NAV-22-002

Encroachment Permit Application No.  
L95S6105A

OAH Case No. 24-320-06

Rivelle, LLC  
Applicant

**APPLICANT PRE-HEARING STATEMENT**

This Pre-Hearing Statement of Applicant is being provided by William Scott Hislop, Legal Counsel for Rivelle, LLC.

**STATEMENT IN RESPONSE TO IDL PRE-HEARING STATEMENT**

Applicant carefully designed the submitted plans to meet the required criteria for an encroachment permit, as defined by Idaho Department of Lands (IDL), and as acknowledged by IDL in its Pre-Hearing Statement dated October 28, 2024 (IDL Pre-Hearing Statement). Throughout its application process, Applicant has acknowledged and embraced the responsibility to protect the interests of adjacent owners and the community, as well as comply with all applicable laws that regulate a commercial permit. After receipt of feedback from adjacent owners, Applicant adjusted the design to include a wave attenuation section to protect the shore from waves and debris which was of paramount importance to adjacent owners.

Applicant fully embraces the responsibility of owning and developing a commercial property on Lake Coeur d’Alene given the proximity to private properties. All plans submitted recognize the responsibility to adhere to the IDL Rules for the Regulation of Beds, Waters, and Airspace over

Navigable Lakes in the State of Idaho (IDAPA 20.03.04) and reduce any adverse impacts of the renovation and modification of the property.

Applicant submitted an application for an Encroachment Permit on August 19, 2024, which was received by IDL the same day. Below are Applicant's direct responses to the IDL Pre-Hearing Statement dated October 28, 2024.

**I. Factual Background:** Applicant acknowledges and agrees that the Factual Background outlined by IDL is an accurate summary of the history and proposed project scope.

**II. Legal Background:** Applicant acknowledges and agrees that the Legal Background outlined by IDL is an accurate summary of relevant Idaho law that governs the proposed project.

**III. IDL's Analysis of Compliance with LPA and Rules - General:** Applicant's responses to each of the subsections of Section III are as follows:

**A. Littoral Ownership and Signature Requirement:** Applicant concurs that IDL's requirement that approval from the relevant littoral owners be obtained has been met.

**B. Types of Encroachments:** Applicant concurs that its application seeks encroachment permits to install both Navigational Encroachments (commercial work dock, dredging/excavation, and boat launch) and Non-Navigational Encroachments (riprap/seawall, container on work dock and year-round construction work area).

**C. Shoreline Length:** Applicant concurs in the approximate waterfront footage – 140 feet.

**D. Line of Navigability:** Applicant concurs that the boat launch, dredging/excavation work, and the riprap seawall will not extend beyond the Line of Navigability (LON) and that the modification to the existing commercial work dock and year-round work area would exceed the LON. Since the 1950s, the Cougar Bay has served as a commercial work area, holding and storing logs for numerous sawmills, and this site in particular, and the existing Navigational Encroachment has

been used for commercial purposes for decades. Applicant concurs that community docks and commercial facilities extend further into the water than residential docks, and that community docks and commercial facilities do not set the LON. Here, the LON may be closer to shore than depicted on IDL-002 at 6; but even at the location provided by Applicant, the L-portion of the work dock and a majority of the work area is outside of the landward littoral owners' respective littoral areas and provides more than a 25-foot buffer from the LON.

**E. Distance from Littoral Lines:** Applicant concurs that, with the exception of the riprap and seawall which are erosion control measures and will be installed consistent with IDAPA 20.03.04 and will not adversely impact the adjacent littoral rights of the neighbors, IDL's minimum distance requirement from the adjacent littoral rights lines has been met or exceeded.

**F. Signature Requirement.** Rivelle, LLC is the littoral owner for the subject property. Wood Boat Builders, LLC abn StanCraft Marine Construction (StanCraft) will, under lease agreement, conduct business on the site utilizing the Navigational and Nonnavigational Encroachments upon their approval and construction.

**IV. IDL's Analysis of Compliance with LPA and Rules - Specific:** Applicant's responses to each of the subsections of Section IV are as follows:

**A. Boat Launch or Ramp:** Consistent with the engineered drawings attached to the application, the Applicant proposes to construct a twenty (20') foot wide concrete panel boat launch extending eighty (80') feet past the Ordinary High-Water Mark (OHWM). IDL – 002 at 12. This application is for a commercial facility, and Applicant concurs that the approval of and construction of this boat launch or ramp will provide social public benefit, by taking pressure off the public boat ramps when StanCraft launches its work boat and dock components. It should also be noted that there are additional public benefits to the construction of the requested boat launch or ramp.

1. IDL points out that the two commercial properties to the east have and are using boat launches or ramps for commercial purposes. One is a private marina and the other a commercial dock builder. Granting the Encroachment Not in Aid of Navigation, boat launch or ramp,

will foster competition among marine construction companies benefiting the public and users of the waters of Coeur d'Alene Lake. IDL 002 at 21.

2. The approval of the boat launch or ramp, its construction and use by StanCraft will decrease its marine construction transportation of material by barge or tug due to the location of its current storage location and central lake location; and it is in the proximate of existing commercial activity. IDL-002 at 28.

3. Approval of the boat launch or ramp, its construction and use by StanCraft will further benefit the public by providing a rapid response site from which StanCraft could respond to needs on the water. Coeur d'Alene Lake is receiving increasingly more use and public events like triathlons and parades which can cause delay in access to the water from existing public launch sites. IDL-002 at 31.

4. Marine Contractors are equipped to provide specialized services on the water and access to the water from their site is beneficial to the public. An example of such activity and access was a fatal plane crash in 2020, where North Idaho Maritime (the predecessor to StanCraft) was called to retrieve the two aircraft and assist in the recovery of the deceased. IDL-002 at 32. Access to water from a commercial launch is a public benefit in emergency situations.

5. Additional boat launch or ramp public benefit is and can be found in StanCraft's Memorandum of Understanding for the provision of emergency services with Kootenai County. Kootenai County and StanCraft entered a memorandum of understanding whereby StanCraft agrees to provide certain services that will assist and help the people of Kootenai County. Such services include but are not limited to: 1. The provision of waterborne transportation services, and 2. Debris removal services, which will consist of working in areas designated by the County where debris poses a threat to water safety or cause property or infrastructure damage. This includes the removal of such debris. Having a boat launch with access central to the lake, will limit the transportation costs and potential damage to the lake as the debris is removed. IDL-002 at 33.

**B. Riprap/Seawall:** Applicant concurs that the 1 cy of gravel, rock, or stone will

be used to stabilize the shoreline to the west of the commercial work dock, and the 39 cy of gravel, rock or stone will be used to stabilize the boat launch. IDL – 002 at 10. The 8 cy of gravel, rock, or stone fill is called for by the engineer to create a safe and stable commercial dock ramp connection/transition between the boat launch and the fixed pier concrete ramp and dock. IDL-002 at 10, 11, and 12. Use of the concrete pier dock may include vehicle/truck traffic upon which material will be loaded onto barges or taken off barges as appropriate, limiting the carry and span for vessels to seawall by use of a crane. It is foreseeable that such material will be part of the ordinary course of business for a marine construction company. It is also foreseeable that such material and use will be required in furtherance of the memorandum of understanding between Kootenai County and StanCraft Marine Construction. IDL - 002 at 33-36. Use such as identified and required in the ordinary course of business falls within the authority provided by the Public Trust Doctrine for purposes of “commerce... other uses”. I.C. 58-1203(3).

**C. Dredging/Excavation:** Applicant concurs that the adverse impacts of the proposed dredging to provide access to navigable waters does not impact fisheries or water quality. The Applicant has clearly outlined a mitigation plan in the application that was commented on by Panhandle Health District, indicating their approval, including the removal of potential hot material in a sealed truck and the use of a silt curtain for the small portion of the project that is under water. IDL-003. The proposed plan follows IDEQ guidelines. See IDAPA20.03.04.015.11b. The proposed dredging and excavation providing access to the navigable waters provides a clear environmental, economic, and social benefit to the people of the state. The benefits are linked to the use of the commercial dock and boat launch. The benefit to the people of the state include:

1. The commercial property to the east operates a marine construction business as well as a private commercial marina. IDL-013 at 1. The owner of the property is the dominate estate holder of an easement whereby the grantee has the right and privilege in the ordinary course of their business to have unimpeded boat access across the channel directly in front of the Applicant’s property next to the proposed seawall. IDL–013 at 3. The canal was dredged to allow boat access to the commercial marina. Granting the Encroachment in Aid of Navigation, dredging the area next to the boat launch or

ramp will allow the Applicant to operate its business and preserve the property rights of the property owner to the east.

2. Approving the Encroachment in Aid of Navigation, dredging the area next to the boat launch or ramp in front of the seawall will allow access to and from the seawall and the navigable body of water, fostering competition among marine construction companies, benefiting the public and users of the waters of Coeur d'Alene Lake. IDL 002 at 21.

3. Approval of the dredging encroachment, its construction and use by StanCraft will further benefit the public by providing a rapid response site from which StanCraft could respond to needs on the water. Coeur d'Alene Lake is receiving increasingly more use and public events like triathlons and parades which can cause delay in access to the water from existing public launch sites. IDL-002 at 31.

4. Marine Contractors are equipped to provide specialized services on the water and access to the water from their site is beneficial to the public. An example of such activity and access was a fatal plane crash in 2020, where North Idaho Maritime (the predecessor to StanCraft) was called to retrieve the two aircraft and assist in the recovery of the deceased. IDL-002 at 32. Access to water using a canal dredged to a proper depth is a public benefit in emergency situations.

5. Additional public benefit from a canal dredged to a proper depth is and can be found in StanCraft's ability to fulfill the Memorandum of Understanding for the provision of emergency services with Kootenai County. Kootenai County and StanCraft entered a memorandum of understanding whereby StanCraft agrees to provide certain services that will assist and help the people of Kootenai County. Such services include but are not limited to 1. The provision of waterborne transportation services, and 2. Debris removal services, which will consist of working in areas designated by the County where debris poses a threat to water safety or cause property or infrastructure damage. This includes the removal of such debris. Having access to the navigable body of water for barges and vessels is an important part of the memorandum of understanding and will limit the transportation costs and potential damage to the lake as the debris is removed. IDL-002 at 33.

**D. Shed or Conex Structures on the Commercial Work Dock:** Applicant concurs with the requirements to approve a non-navigational encroachment are found in IDAPA 20.03.04.030.02. the major environmental, economic and social benefit provided by the approval of the shed or Conex Box is found in the economic benefit to the company ordinary course of business and fair competition, weather impacts on equipment and the consequential impact on the environment, and economic benefit to the public.

1. Use of a Conex Box on the commercial work dock, in the ordinary course of business and for competition is demonstrated in that the neighbor to the east has non-navigation encumbrances on its work zone dock. Prohibiting the Applicant from having a spot on the work dock to store and protect equipment from the elements or forcing them to carry all tools landward daily is a competitive disadvantage to the Applicant to other existing marine construction companies.

2. Leaving tools and equipment exposed on the work dock does not contemplate good stewardship of the tools or the natural resources, the lake. With rain, wind, snow and wildlife having full access to tools and other business equipment, the Applicant should take reasonable actions to protect the lake or the animals. The tools also will have a shorter lifespan. Having a secure place protected from weather to store tools and machinery is of major environmental benefit.

3. Utilization of a Conex Box will benefit the people of Coeur d'Alene and the state of Idaho. Storing equipment and material in a closed and secure space is more efficient resulting in lower costs for the end user, the people of Coeur d'Alene. Having ready access to equipment, materials, and tools will enable StanCraft Marine Construction to more quickly respond to needs of the emergency services of Kootenai County. IDL- 002 at 31-36.

**E. Commercial Work Dock:** Applicant concurs that replacing the unpermitted log raft, with all of the log debris being moved off the lake would be a major public benefit as the current unpermitted log raft poses an impediment to the navigability and a hazard to general boating safety. The L-shaped work dock will contain wave attenuation components that will protect the shorelines to the west of the Applicant's property. The L-shaped dock was created in collaboration with some of the

neighbors. IDL-002 at 37-38.

**F. Year-Round Work Area:** Applicant concurs that the predecessor in interest of the construction company sought to have a year-round work area in Cougar Bay. The previous construction company owner did not own real property in Cougar Bay. Applicant is the owner of land in Cougar Bay. The requested year-round work area is much closer to the land owned by Applicant. Additionally, the property owner to the east has a year -round work area at the end of its marina dock, allowing the business to efficiently service its customers. Approval of the year-round work area will invite competition in the marine construction industry which will benefit the people of Coeur d'Alene Lake, Kootenai County and the state of Idaho. Additionally, having a year-round work area will better enable StanCraft to fulfill its obligations in the Kootenai County Emergency Services Memorandum of Understanding.

### **CONCLUSION**

Applicant's proposal complies with the applicable IDL encroachment standards and provides substantial benefit to the community. The additional information provided by the Applicant in this Pre-Hearing Statement provided facts that were included in the application and addressing questions posed by IDL, specifically regarding the fill to stabilize the concrete pier, dredging and excavation, Conex structures, and year-round work area. With the additional information provided, the Applicant has complied with the specific requirements and standards for the approval of the application for navigational and non-navigational encroachments. The public and private benefit outweigh the detrimental effects of the encroachments.

Because the record for this matter remains open, Applicant respectfully reserves the right to supplement, clarify, or modify its statements based on the availability of information.

Applicant respectfully requests the approval of all navigational and non-navigational aids requested under L95S6105A.



DATED this 4<sup>th</sup> of November, 2024.

APPLICANT

RIVELLE, LLC

A handwritten signature in blue ink, appearing to read "W. S. Hislop", with a long horizontal stroke extending to the right.

Wm. Scott Hislop  
Legal Counsel

## CERTIFICATE OF SERVICE

I hereby certify that on the 4<sup>th</sup> day of November, 2024, I caused the foregoing to be served upon the following via the delivery method noted below:

|   |   |
|---|---|
| Idaho Department of Lands<br>John Richards<br>300 N. 6th Street, Suite 103<br>Boise, ID 83702<br>(208) 334-2400<br>In-House Counsel for Idaho Department of Lands | <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email:<br><a href="mailto:jrichards@idl.idaho.gov">jrichards@idl.idaho.gov</a>           |
| Idaho Department of Lands<br>Marde Mensinger<br>IDL Program Manager for Navigable Waters<br>300 N. 6th Street<br>Boise, ID 83720<br>(208) 334-0248                | <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email:<br><a href="mailto:mmensinger@idl.idaho.gov">mmensinger@idl.idaho.gov</a>         |
| Idaho Department of Lands<br>Kourtney Romine<br>PO Box 83720<br>Boise, ID 83720-0050  | <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email:<br><a href="mailto:kromine@idl.idaho.gov">kromine@idl.idaho.gov</a>               |
| Merritt Dublin<br>Office of Administrative Hearings<br>P.O. Box 83720<br>Boise, ID 83720-0104<br>(208) 605-4300<br>Hearing Officer                                | <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email:<br><a href="mailto:merritt.dublin@oah.idaho.gov">merritt.dublin@oah.idaho.gov</a> |
| OAH<br>P.O. Box 83720, 816 W. Bannock St., Suite 203<br>Boise, ID 83720-0104<br>(208) 605-4300  | <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email:<br><a href="mailto:filings@oah.idaho.gov">filings@oah.idaho.gov</a>               |
| Nelson Erickson<br>Witness<br>2936 W Dakota Ave. Hayden, ID 83835   | <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email:<br>Nelson@stancraft.com   |



Mikinzie Ridgewell, On Behalf of Applicant

**APPLICANT PRE-HEARING STATEMENT**

**WITNESS LIST**

Nelson Erickson  
StanCraft Companies  
2936 W Dakota Avenue  
Hayden, ID 83835  
208-818-6584  
Agent for Applicant