

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 CLOSING STATEMENT

Rivelle, LLC, an affiliate of StanCraft Companies (“Rivelle” or “Applicant”) affirms its Pre-Hearing Statement and incorporates the Idaho Department of Lands (“IDL”) Pre-Hearing Statement and the testimony provided by Mr. Mike Ahmer, IDL’s regional manager. The Application submitted along with evidence submitted by Rivelle and IDL meet the required criteria for application approval as defined by the Lake Protection Act in the Idaho Code and the Idaho administrative Procedures Act (“IDPA”).

I. STATEMENT OF PROCEDURAL COMPLIANCE

Rivelle, LLC requests the approval of Encroachment Permit Application Number L95S6015A. The encroachment permit application request is made up of approval of six (6) separate actions: 1. construction of a boat launch, 2. placement or installation of riprap/seawall, 3.

dredging/excavation, 4. approval of a commercial work dock, 5. approval of a year-round work zone, and 6. placement of a Connex box on the commercial work dock in the work zone.

Rivelle is the owner of parcel adjacent to Lake Coeur d'Alene, known as Kootenai County parcel number 50N04W157675, commonly known as 1742 W Blackwell Mill Road. Rivelle is the littoral rights holder.

A. Authority.

1. The Lake Protection Act (LPA) vests in Idaho Department of Lands (IDL) authority to “regulate, control and [] permit encroachments in aid of navigation or not in aid of navigation on, in or above the beds or waters of navigable lakes.” I.C. § 58-1303. IDL exercised that authority and promulgated a set of rules, including standards by which to approve encroachment permits. IDAPA 20.03.04 et seq, IDAPA 20.03.04.015. The LPA defines beds of navigable lakes as the lands lying under or below the natural or ordinary high-water (OHWM) mark of a navigable lake. I.C. § 58-1302(b); IDAPA 20.03.04.010.04. All encroachment permits in this matter relate to the lands above the beds or waters of Coeur d'Alene Lake, a navigable lake; and are below the OHWM. Public comment, written or oral, referencing impacts on land or restrictions to the use the of property landward of the OHWM are not applicable or appropriate for consideration by the hearing examiner.

a. Public Trust Doctrine. The underlying rule guiding the Board of Commissioners in approval of an encroachment permit is the Public Trust Doctrine found at I.C. § 58-1201 et. seq. The Public Trust Doctrine places the beds of navigable waters of the state in the state's control with the right to dispose of the beds of navigable waters in a way it deems proper subject only to the paramount right of navigation and commerce. I.C. § 58-1201(1). The state may authorize private use, encumbrances or alienation of title to navigational waters held in public

trust for such purposes as navigation, commerce, recreation, agriculture mining, forestry or **other uses**, “if in the judgment of the state board of land commissioners, the grant for such use is made in accordance with the statutes...of the state of Idaho”. I.C. § 58-1203(3) *emphasis added*. Rivelle seeks uses of the beds of navigable waters for a commercial use that will benefit the public and is in compliance with the statutes of the state of Idaho.

b. Burden of Proof. Customarily in administrative hearings, it is the moving party that has the burden of proof and persuasion. *Intermountain HealthCare, Inc. v Bd of County Comm’rs of Blain County*, 107 Idaho 248, 251 688 P.2d 260, 263 (Ct. App. 1984) *rev’d on other grounds* 109 Idaho 299, 707 P.2d 410 (1984). That burden was met.

c. The standard of proof in administrative hearings in Idaho is the preponderance of the evidence standard *N. Frontiers, Inc v. State ex rel. Cade* 129 Idaho 437, 439, 926 P.2d 213, 215 (Ct. App. 1996). Preponderance of the evidence means when weighing the applicable evidence, the evidence on which the finder of fact relies is more probably true than not. *Oxley v Medicine Rock Specialties, Inc.*, 139 Idaho 476, 481, 80 P.3d 1077, 1082 (2003). Rivelle, through its application, the testimony of IDL, the testimony of other government agencies, the lack of objection by other state agencies, and the presentment of evidence satisfies the standard of proof required to grant the encroachment permits requested.

B. Concurrence Littoral Lines and Line of Navigability

1. Rivelle concurs with IDL that, it has complied with the LPA and general rules of IDAPA. Rivelle is the littoral rights owner of the subject parcel and there are no other parcels between Rivelle’s land and the waterfront. Rivelle has sufficient waterfront for the application submitted. The encroachment permit sought requests both navigational and non-navigational aids.

The littoral lines are accurately portrayed in the application. The encroachments sought do not interfere with the Line of Navigability (LON) for the subject area.

2. Littoral lines in the Application. During public comment, a neighbor provided information that the littoral lines prevent the approval of the permit as submitted. In exhibit IDL-002 at 5 and 6, littoral lines for the subject property are depicted in red. In IDL's review of the application, it did not challenge the location of the littoral line as stated by Rivelle. IDL's silence on the littoral line statement of location can only mean it concurs with Rivelle and the littoral lines are accurately placed and represented in the application. The burden of proof and standard have been met by Rivelle.

3. Rivelle's commercial dock and commercial work dock are in conformance with and in harmony with the LON. During public comment, a neighbor alleged that the commercial work dock and commercial work area interfered with the LON and therefore could not be approved. IDL states the LON is set by length of the permitted encroachments in the area, but a long commercial dock does not set the LON. IDL Pre-Hearing Statement at 10 and 11. IDL goes on to say that it is typical for commercial encroachments to go beyond the LON. *Id.* The littoral lines for the residential lots neighboring Rivelle's property extend only to the LON, which IDL believes Rivelle accurately depicts in its application at IDL-002 at 6. *Id.* IDL stated that due to the historically commercial nature of the subject bay and the existing encroachments, that the LON may even be closer to shore than Rivelle depicts in its application. IDL Pre-Hearing Statement at 11. The L-portion of Rivelle's commercial dock and the work area are outside the neighbor's littoral respective areas, do not interfere and provide more than the statutorily required distance and buffers from the LON and the littoral areas. IDL Pre-Hearing Statement at 11.

II. RIVELLE SATISFIED THE BURDEN OF PROOF FOR EACH ENCROACHMENT REQUESTED

IDAPA 20.03.04.015 provides the encroachment standards, general and specific, for the encroachments requested by Rivelle in its application. IDAPA 20.03.04.030.10 layer on and directs a balance test between private property rights whereby when, as in this case, the benefits, public and/or private, derived from allowing the applied for encroachments exceed the detrimental effects, the permit will be granted.

Rivelle's application is in conformance with the Public Trust Doctrine, satisfies the standards set out in IDAPA 20.03.04.015.07, .08, .11, .13, and IDAPA 20.03.04.030.02 overcoming the preponderance of the evidence, burden of proof and persuasion of the balance test in IDAPA 20.03.04.030.10 through its application, testimony and evidence in the record, both generally as a packaged application and specifically for each encroachment requested.

A. As a completed permit application, Rivelle's application and evidence showed it is mindful of the Public Trust Doctrine, environmentally conscientious, socially attentive and economically beneficial to the people of the state of Idaho. Rivelle actively opened dialogue with IDL and the neighbors prior to making application and intentionally sought common ground and solutions to others' concerns. IDL-002 at 20 – 22, 26, 32, 33-36, 37-38. The response and letter of support, styled Memorandum of Understanding (CBSCS MOU) from Cougar Bay Sailing and Chowder Society, LLC, (CBSCS) comprising of nine (9) boat owners, clearly and poignantly shows the intent, desire energy and willingness of Rivelle to work in the interests of the neighbors and the navigation of the waterway in and around the commercial work dock and work area. CBSCS shared the risk of damage to their vessels and the debris that accumulates in Cougar Bay and around the unpermitted log raft in front of their community dock. IDL-002 at 37. On page

two of the CBSCS MOU, CBSCS points out the significant benefit, they and others using the waterway would receive if Rivelle is permitted to have a commercial dock and work zone, namely the removal of the dangerous dead heads, unsightly log raft and commercially reasonable maintenance of the area through which they must sail through to gain access to the greater lake. IDL-002 at 38.

a. Rivelle actively planned for environmental protections and consideration for the project as a whole. All of the plans the Applicant proposes are sensitive to the responsibility to care for the environment. The removal of the log raft, decaying lake debris and dead heads cleans up the lake and removes debris that could harm other boaters and the general public enjoying the waterways. As part of the overall plan, Rivelle made plans to mitigate negative impact on the environment.

b. Economically, the use of the commercial site in the way the Applicant proposes allows for the clean-up of the historically commercial area at minimal cost to the public. The conduct of marine services activity generates economic growth in the region, provides jobs for local citizens, and serves the public that has property on the waterfront on Lake Coeur d'Alene. The use of the site allows for more efficiency, therefore decreasing the cost to conduct business and benefitting customers.

c. Rivelle entered a Memorandum of Understanding (MOU) with Kootenai County to affirm their commitment to the social benefit to the public by using the property to provide services to Kootenai County for its emergency service needs. IDL-002 at 33-36. Rivelle is committed to assist the sheriff with emergency needs, services upon which the Sheriff places great value. IDL-002 at 31. There are several elements of the proposal that allow the Applicant to fulfill the duties outlined in the MOU and serve to benefit the health and safety of the public.

The benefits achieved by the public in the approval of Rivelle's encroachment permit substantially outweigh the detriments, and the burden of proof regarding the Public Trust Doctrine is met.

B. Rivelle met its burden of proof for the standards required for each of the six (6) aspects of the encroachment permit.

1. Boat Ramp/Launch. IDL has no specific standards in IDAPA 20.03.04 that apply to a private boat launch. IDL Pre-Hearing Statement at 13. Generally, "boat ramps should only be issued to city, county, state or federal agencies with parks recreational facilities, except in the most unusual of circumstances." IDL Pre-Hearing Statement at 13. Boat ramps are not typically granted for personal or residential use. *Id.* However, IDL has historically permitted boat ramps for commercial facilities as evidenced by four neighboring boat ramps issued to the marinas and marine construction businesses adjacent to the Rivelle's property. *Id.* Looking at the general standards requirement of IDAPA 20.03.04.015.13, Rivelle has shown by a preponderance of the evidence that the launch would provide access to the water at a depth that is appropriate for the launching of boats (when accompanied with the issuance of a dredging permit). IDL-002 at 11-14. The encroachment will not exceed the or extend beyond the LON. IDL-002 at 6. There are many ways the public would benefit from a boat ramp located at the Applicant's facility.

a. A boat ramp provides the ability to transition boats and other vessels from land into the water. Rivelle will use the boat ramp to launch their company-related boats and equipment used to serve customers around Lake Coeur d'Alene and conduct their marine services business. The use of a boat ramp at the Rivelle's work site supports the service of thousands of waterfront homes, commercial businesses and government agencies around Lake Coeur d'Alene. The Applicant will use the ramp to deliver materials to and from work sites with this closer access to customers and their work area. This boat ramp reduces the need to transport vessels and material

across the lake from a public boat ramp to the private work area, reducing on-lake transportation activity.

b. The Applicant's use of a private boat ramp will significantly reduce traffic to public boat ramps on Lake Coeur d'Alene that are crowded and busy in the summer months, allowing the public to fully utilize the public resource their tax dollars fund. The proposed boat ramp is a proactive approach by Rivelle to reduce the burden on public resources to conduct their business.

c. There are four neighboring boat ramps used by private, commercial businesses in Cougar Bay that were permitted by IDL (IDL Pre-Hearing Statement at 13). Those boat ramps are used to launch private vessels in the water and conduct business. The request for a ramp by the Applicant is consistent with these boat ramps that were historically permitted by IDL. Id.

d. The Applicant entered into a Memorandum of Understanding with Kootenai County to "provide waterborne transportation services to the general public, special populations, volunteers and support personnel who are providing emergency services to designated populations affected by an emergency, disaster or public health emergency" (IDL-002 at 33). The boat ramp allows for emergency access and quick response times for Kootenai County service providers. Kootenai County Sheriff and Kootenai County Parks and Waterways issued resounding support for the proposal (IDL-002 at 31 and IDL-002 at 32). The use of the private boat launch allows for the service of Kootenai County residents and guests by offering an alternative option for emergency service providers to quickly launch boats, vessels and emergency equipment into the water. Additionally, the boat ramp is used for the removal of debris, wreckage and emergency

equipment. The Applicant has specialized equipment to be able to remove large items like wreckage from the water.

e. The public benefits from the decreased traffic at public boat ramps, the more efficient offerings of a marine services provider and improved response times for emergency service providers. IDL's request for more information to weigh the benefits of the boat ramp have been met.

2. Riprap/Seawall. The proposed seawall will be placed on the upland portion of the parcel above the Ordinary High-Water Mark (OHWM) and is therefore outside of IDL's jurisdiction. The riprap permit consists of three (3) components: (a) 39 cubic yards for support of the boat launch, (b) 1 cubic yard for erosion protection and (c) 8 cubic yards to support the pier section of the commercial dock.

a. Rivelle's requested riprap permit involves riprap that will be used to stabilize the boat ramp and protect the shoreline from erosion. Thirty-nine (39) cubic yards of riprap in Rivelle's proposal was designed by engineers to secure, support and stabilize the boat ramp. IDL-002 at 10. IDL finds that the standard is met with relationship to the thirty-nine (39) cubic yards of riprap for the boat launch. IDL Pre-Hearing Statement at 14. The burden of proof for the standard is met.

b. Rivelle's requested riprap permit involves riprap that will be used to stabilize the shoreline west of the commercial work. One (1) cubic yard of riprap in Rivelle's proposal was designed by engineers to stabilize the shoreline west of the commercial work dock. IDL-002 at 10. IDL finds that the standard is met with relationship to the one (1) cubic yard of riprap for the shoreline. IDL Pre-Hearing Statement at 14. The burden of proof for the standard is met.

c. The third area of Rivelle's application and engineered drawings calls for riprap is to stabilize and support the fixed pier section of the commercial dock. IDL-002 at 10. Riprap is not only an added expense to Rivelle in the construction of the new commercial dock but also an investment in the stability of the pier section and protection of the shoreline. The riprap protects the integrity of the shoreline. The proposed riprap is within historical IDL standards. IDL Pre-Hearing Statement at 14. The 8 cy of proposed clean rock is an engineered solution designed to stabilize the boat ramp according to the design provided by the contracted engineer, James A. Sewell and Associates, LLC and submitted with the Application (IDL-002 at 10). After alternates were considered, the clean rock was deemed the most advantageous way to secure the boat ramp for the benefit of public safety. IDL-002 at 22.

This use of clean rock to secure the structure is a non-navigational encroachment is only allowed "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" (IDAPA 20.03.04.030.02). The Applicant's proposed clean rock is needed to support the ramp and pier system that provides better stability for the use of the pier without needing large cranes or other site obstructions. A clear social benefit to the neighbors is the ability to conduct usual business and use the commercial dock reducing the use cranes and large equipment from shore. The secured ramp provides the Applicant the ability to move materials efficiently onto the commercial dock and efficiently support customer needs.

The use of 8 cy of clean rock for stabilization of the ramp and pier system is consistent with the shared vision of the Applicant and IDL to maintain the integrity of the land.

3. Dredging/Excavation. Dredging or excavation requires a clear environmental, economic, or social benefit to the people of the state, and must not result in any appreciable environmental degradation, according to IDAPA 20.03.04.015.11.b. In preparation of this application, the Applicant carefully planned a mitigation process for dredging the proposed area to protect the integrity of the natural resources. IDL requested comment from impacted agencies and Panhandle Health District commented they are “pleased to see the plans to include measures to handle any contaminated sediments they may encounter” (IDL-003). The Department of Environmental Quality (DEQ) approved of the plan and process proposed by Rivelle when it issued a 401 Water Quality Certification that is required for the permit through the U.S. Army Corps of Engineers to dredge. The practices that mitigate any long-term impacts to the water quality and use of the lake are outlined in a letter from DEQ (IDL-012) and Rivelle intends to follow those practices as well as follow the practices outlined in the Application (IDL-002 at 26).

Dredging at this site is required to utilize the existing commercial dock for its intended purpose. The proposed dredged site has been dredged in the past but requires a new permit (IDAPA 20.03.04020.06). The sediment buildup has reached a level that requires the site to be dredged again for continued efficient use. The proposed dredging allows access to the boat ramp and the full use of the Applicant’s existing commercial dock with depth that instead of disturbing the lake bottom, preserves it.

As a social benefit, the dredging will positively impact the business of the adjacent commercial property to the east. The neighboring property uses the dredged site to access marina slips through an easement on the property (IDL-013 at 18). Dredging this site allows for the use of the adjacent commercial dock and marina traffic without disturbing the bottom of the lake as a result of the dredging, Rivelle can use the commercial dock to dock boats and tugs on the eastern

side of the dock, in line with the seawall and away from residential neighbors. This was an intentional design element minimizing the impact on the lake, and both neighbors. IDL-002 at 10.

The ability to use large machinery throughout the dredged portion gives the Applicant the ability to provide specialized marine services for their customers and the Kootenai County agencies that require them. The dredged portion allows the Applicant to fulfill the MOU with Kootenai County (IDL-002 at 33). Nick Snyder, Director of Parks and Waterways states that “marine contractors are critical in order for Kootenai County to provide safe and accessible recreation facilities to our area waterways” (IDL-002 at 32).

Navigating throughout the Applicant’s site, loading or off loading, without disturbing the bottom of the lake is a clear environmental benefit.

Economically, the dredged site allows for the commercial use of the work dock and boat ramp to conduct a marine services business that provides jobs and supports the local economy while minimizing the impact on the environment. The Applicant will use the dredged area to serve thousands waterfront homes, businesses, agency properties around Lake Coeur d’Alene.

The benefits outlined meet the requirement to show an environmental, economic, or social benefit to the public for the proposed dredging. the preponderance burden is met.

4. Shed or Conex Structures

The use of a shed or Conex structure on a work dock is a non-navigational encroachment (IDAPA 20.03.04.010.16), requiring a major environmental, economic, or social benefit to the general public (IDAPA 20.03.04.030.02). The proposed shed will be used to organize and store tools used to conduct marine services activities.

1. The social benefit provided by the shed is in the use of the sheds to store emergency response material related to the MOU with Kootenai County to provide specialized marine services to the county and its residents. The ability for emergency services and marine services equipment to be stored in an organized fashion near to the water and work vessels allows for the quick deployment of emergency services. Alternatives were reviewed and are less desirable. One such option is to store the equipment, tools, materials and equipment, including some sensitive electronic equipment on the work dock. They equipment would be subject to and exposed to weather harming the equipment. Stacking or soring equipment on the work dock may lead to unsightly appearance in the eyes of others, although it may be strategically organized. Placing the equipment ins work boats or vessels at the work zone is also an alternative that is not desirable. All the equipment will need to be removed from the vessel on a daily basis. And during times of emergency, storing equipment in or on a vessel will lead to slower response times. Placing the equipment in and organized covered location is the best alternative.

2. Environmentally, the weather-proof shed structure provides protection of the lake from the environmental impact of the tools and equipment. Should there be a leak, the shed will contain the contaminants versus leaving the tools exposed to impact the environment. In addition, storing the tools on vessels wastes gas due to increased weight on the vessels.

3. Economically, storing tools and equipment in the shed structures is a central, safe, weather-proof location for valuable items needed to conduct marine services. The shed storage is a proactive approach for internal operational success allowing the Applicant's marine services teams to efficiently and effectively conduct their work. The shed is able to lock, therefore protecting tools from theft and vandalism. The storage of the tools and equipment protects the

items from the weather, preventing equipment degradation and extending their lifespan. The shed is an economically responsible measure for the Applicant to conduct business.

The benefits outlined meet the requirement to show a major environmental, economic, or social benefit to the public for the proposed shed or Conex structure. The preponderance burden has been met.

5. Commercial Work Dock

The proposed site for a commercial work dock contains an existing commercial encroachment #L9S6105. A commercial work dock is considered navigational encroachment. There are no additional requirements for a commercial work dock beyond the requirements for all commercial navigational encroachments (IDAPA 20.03.04.030.01). The Applicant asserts the environmental, economic and social benefit to the public is substantial with a permit for the proposed commercial work dock in this location. The greatest impact to the public economically, socially and environmentally is the removal of the unpermitted log raft that is a significant safety hazard.

The proposed commercial work dock will replace the current unpermitted log raft in front of the Applicant's property. The Applicant will remove the unpermitted log raft with the grant of the permit to construct a commercial work dock to replace the wave attenuation and promote safety in the area. The economic benefit of the removal of the unpermitted log raft is significant. The Applicant will fund the removal of the log raft that requires a location to remove the logs, a processing site, a crane, a barge, and a uniquely equipped team to remove the log raft. The state, the neighboring property owners and the taxpayers will not have to pay the significant cost of removing the hazardous log raft.

In public testimony, neighboring property owners who testified against the proposed encroachment permit also testified they have personally added logs to the unpermitted log raft. As a social benefit to the neighboring property owners, the Applicant will remove, at the Applicant's expense, the hazardous unpermitted log raft. Members of CBSCS expressed in their letter of support the enormous impact removal of the log raft and deadheads from the Cougar Bay area will have on their ability to safely navigate the waters of Cougar Bay (IDL-002 at 27).

Additional benefits of the commercial work dock include the wave attenuation feature of the work dock that will protect the shoreline from wave action (IDL 002 at 14) that provides a significant environmental benefit, preserving the shoreline as well as protecting the area from lake debris and deadheads.

The economic benefit, in addition to the removal of the unpermitted log raft at no cost to the public, is the ability to provide jobs for marine construction employees with the ability to use the work dock for commercial activity. By using this commercial work dock, the Applicant can service the thousands of waterfront homeowners, commercial businesses and public agencies with efficient services.

The general requirements for encroachments of navigational encroachments (IDAPA 20.03.04.015.13) have been met by a preponderance of the evidence. The benefits outlined meet the requirement to show an economic, social or environmental benefit to the public for the proposed work dock. There are no other requirements to be met.

6. Year-Round Work Area

There are no specific IDAPA standards for a year-round work area beyond the general requirements for encroachments not in aid of navigation. The only IDAPA rule that applies is the

Presumed Adverse Effect (IDAPA.20.03.04.015.13(e)) requiring a twenty-five-foot (25') buffer to be provided to the adjacent littoral right lines. Due to the location of the proposed work area, there is a sixty-two-foot (62') buffer from the eastern edge of the work area to the littoral line on the eastern side of the property, therefore the Presumed Adverse Effect does not apply (see IDL Pre-Hearing Statement at 17).

The year-round work area is considered an encroachment not in aid of navigation and “will be considered only in cases involving major environmental, economic, or social benefits to the general public” (IDAPA 20.03.04.030.02). The location of the work area, at the end of the Applicant’s commercial dock is near to the Applicant’s existing state-issued permit for dock storage in Cougar Bay (Permit Number: B220168). There are several benefits for this location of the proposed year-round work area in the already historically commercial area of Lake Coeur d’Alene. The proposed work area is consistent with the neighboring business as there is another commercial work area within 100’ to the East of the proposed work area.

The use of the proposed work area will significantly reduce the commercial traffic across Lake Coeur d’Alene to service customers’ properties and conduct work on the docks stored nearby. To the residents and guests enjoying Lake Coeur d’Alene, this is a significant benefit to have reduced across-lake commercial traffic, freeing up their navigability and freedom of use of the lake. The environmental impact will be significantly reduced due to the decrease in commercial traffic across the lake. The commercial work required to store, maintain, construct and repair docks will be conducted in the same, historically commercial area of the lake, and in close proximity to Rivelle’s property and dock storage areas. Due to deadheads and the No Wake Zone in Cougar Bay, there is limited recreational use of the use of the proposed work zone, limiting the adverse

effect on any recreational users. The navigability of the area is limited by the areas historical use and natural water flow from the south leading to the mouth of the Spokane River.

The proposed work area directly leads to job creation for marine construction workers in the area with the ability to conduct work in Coeur d'Alene. There is economic benefit to the public in the Applicant's ability to provide services to waterfront property owners around the lake from the work conducted in the proposed work area. The State of Idaho will also receive additional revenue from the encroachment permit and submerged land lease for the work area.

The proposed work area's location in Cougar Bay is the most reasonable solution for the Applicant's work area on the lake. Another location away from Cougar Bay and the Applicant's existing dock storage area is detrimental to the lake, navigability and community.

The benefits outlined meet demonstrate a by a preponderance of the evidence a major environmental, economic, and social benefit to the public for the proposed work area. although all three, environmental, economic and social are proven, only one is necessary to approve the application.

III. PUBLIC COMMENT

The participation of the public, through public testimony, is important to understand the potential impact of a project. The Applicant is grateful of the public's care for the area and their feedback. The Applicant reminds the Hearing Examiner that the scope of authority for IDL is important when weighing the public's testimony. A few items were brought up in public comment or testimony that can be considered.

The public is very concerned about the weeds they found on their properties this summer and the impact that the Applicant's permit will have on the weeds on their properties in the future.

The Applicant addresses this potential issue in two ways: 1) the proposed dredging will allow larger vessels to travel around the commercial work dock without disturbing the bottom of the lake and preventing any weeds from being caught and pulled up from the bottom of the lake and 2) the line of navigability, traffic patterns will prevent the stagnate waters of the area creating flow and movement. In public testimony, IDL testified that they had visited the neighboring property many years ago to address the same weed issue, noting that weeds are a natural part of lake living and their growth is cyclical. Also noting that the last time they responded to complaints over weeds Rivelle was not conducting any operations in the area. The use of the property by Rivelle is not a contributor to additional weeds.

IV. CONCLUSION

Rivelle respectfully requests the approval of encroachment permit number L95S6105A; and a finding that Rivelle proved by a preponderance of the evidence that all navigational encroachments and encroachments not in aid of navigation are more beneficial than detrimental to the people of the state of Idaho, for the reasons articulated above.

DATED this 19th of November, 2024.

APPLICANT

RIVELLE, LLC




Wm. Scott Hislop
Legal Counsel

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of November, 2024, I caused the foregoing to be served upon the following via the delivery method noted below:

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


Mikinzie Ridgewell, On Behalf of Applicant