

**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: November 14, 2024

FROM: Idaho Department of Lands (Referring Agency/Board)

AGENCY CASE/PROCEEDING NO.: PH-2024-NAV-22-004

***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: Scott and Sheryl Scofield
Address: 11927 W. Span Way Rd, Post Falls, ID 83854
Email: Sherichic91@gmail.com
Phone Number: (208)964-4037

PARTY/ATTORNEY:

Name: Mitch Alhadeh
Firm: 414 PF Hospitality LLC
Address: 6710 E Camelback Rd, Scottsdale, AZ 85251
Email: mitch@bridgerlp.com
Phone Number: (480)315-9595

SHORT STATEMENT OF THE NATURE OF THIS CASE (e.g., "Suspension of license based on following grounds: ..."):

414 PF Hospitality LLC has applied with IDL to permit the expansion of a commercial marina having some private moorage, reconfigure existing fuel lines (2 dispensaries), and build a new ship store on Spokane River. Neighbors accross from the marina have called for a public hearing to discuss lighting and additional boat slips. Ideally, the hearing will take place in Coeur d'Alene after 4:00p.m.

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: December 25, 2024

Deadline for decision: 30 Days after the hearing

Statute(s)/Rule(s) citation: Idaho Code 58-1306 and IDAPA 20.03.04.030

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: Idaho Code 58-1306 and IDAPA 20.03.04.030

- 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.

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 (8 1/2"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:		By: <u> </u>		Date Returned:			
				<input type="checkbox"/> Incomplete Application Returned					
Idaho Department of Water Resources No.		Date Received:		<input type="checkbox"/> Fee Received DATE:		Receipt No.:			
Idaho Department of Lands No. <u>L95S3036N</u>		Date Received: <u>9/13/24</u>		<input checked="" type="checkbox"/> Fee Received DATE: <u>8/27/24</u>		Receipt No.: <u>Total = \$4,075⁰⁰</u>			
INCOMPLETE APPLICATIONS MAY NOT BE PROCESSED									
1. CONTACT INFORMATION - APPLICANT Required:					2. CONTACT INFORMATION - AGENT:				
Name: Mitch Alhadeff					Name: Keaton Brown				
Company: 414 PF Hospitality LLC					Company: Stancraft				
Mailing Address: 6710 E Camelback rd.					Mailing Address: 2936 W Dakota Ave				
City: Scottsdale		State: AZ	Zip Code: 85251		City: Hayden		State: Idaho	Zip Code: 83835	
Phone Number (include area code): 480-315-9595		E-mail: mitch@bridgerlp.com			Phone Number (include area code): 208-415-2180		E-mail: keaton.b@stancraft.com		
3. PROJECT NAME or TITLE: Marina 33					4. PROJECT STREET ADDRESS: 414 E 1st Ave				
5. PROJECT COUNTY: Kootenai		6. PROJECT CITY: Post Falls		7. PROJECT ZIP CODE: 83854		8. NEAREST WATERWAY/WATERBODY: Spokane river			
9. TAX PARCEL ID#: AIN: 135604 & 109323		10. LATITUDE: 47°42'20.1"N LONGITUDE: 116°56'41.0"W		11a. 1/4:	11b. 1/4:	11c. SECTION: 03	11d. TOWNSHIP: 50	11e. RANGE: 5	
12a. ESTIMATED START DATE: December 1st 2024		12b. ESTIMATED END DATE: December 1st 2027		13a. IS PROJECT LOCATED WITHIN ESTABLISHED TRIBAL RESERVATION BOUNDARIES? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES Tribe:					
13b. IS PROJECT LOCATED IN LISTED ESA AREA? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES					13c. IS PROJECT LOCATED ON/NEAR HISTORICAL SITE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES				
14. DIRECTIONS TO PROJECT SITE: Include vicinity map with legible crossroads, street numbers, names, landmarks. From Spokane St. Take E 1st Ave. It is the large Hotel development south of the street.									
15. PURPOSE and NEED: <input checked="" 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. Update and replace existing docks that have exceeded their usefull life. We will be replacing old decrepid docks and rearranging the marina to provide more moorage to the community. The scope of the project stays within the original enroachment permit boundaries. Swim area to the east and logboom/piling southwest of the marina. This will be a mix of public and private slips as shown in the diagram attached.									

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.:

Combination of concrete, polyfloat, steel frame, and composite decking will make up the marina. Docks will be fabbed inland and barged/ craned into the water to be transported to the location. Upland will have a boardwalk integrated into the riverbank for the dock fingers to attach to. We will be using some of the existing infrastructure to mitigate cost and impact. Boardwalk will have Side ties. Current parking satisfies county requirements. No additional parking spaces are needed.

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

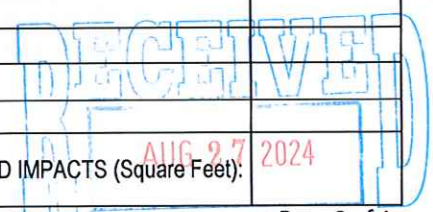
TOTAL: _____ cubic yards

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? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES If yes, describe ALL work that has occurred including dates.				
22. LIST ALL PREVIOUSLY ISSUED PERMIT AUTHORIZATIONS: NO. L-95-S-3036L The Idaho Department of Lands hereby assigns subject encroachment permit issued to RL Post Falls, LLC on February 18, 2015				
23. <input type="checkbox"/> 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? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES If yes, contact the floodplain administrator in the local government jurisdiction 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. <u>See Instruction Guide for further clarification and all contact information.</u> The following information is requested by IDEQ and/or EPA concerning the proposed impacts to water quality and anti-degradation: <input type="checkbox"/> NO <input type="checkbox"/> YES Is applicant willing to assume that the affected waterbody is high quality? <input type="checkbox"/> NO <input type="checkbox"/> YES Does applicant have water quality data relevant to determining whether the affected waterbody is high quality or not? <input type="checkbox"/> NO <input type="checkbox"/> YES Is the applicant willing to collect the data needed to determine whether the affected waterbody is high quality or not?				
26b. BEST MANAGEMENT PRACTICES (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 (include area code): E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>
<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>
<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>
<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>	<p>Name:</p> <p>Mailing Address:</p> <p>City: State: Zip Code:</p> <p>Phone Number (include area code): E-mail:</p>

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

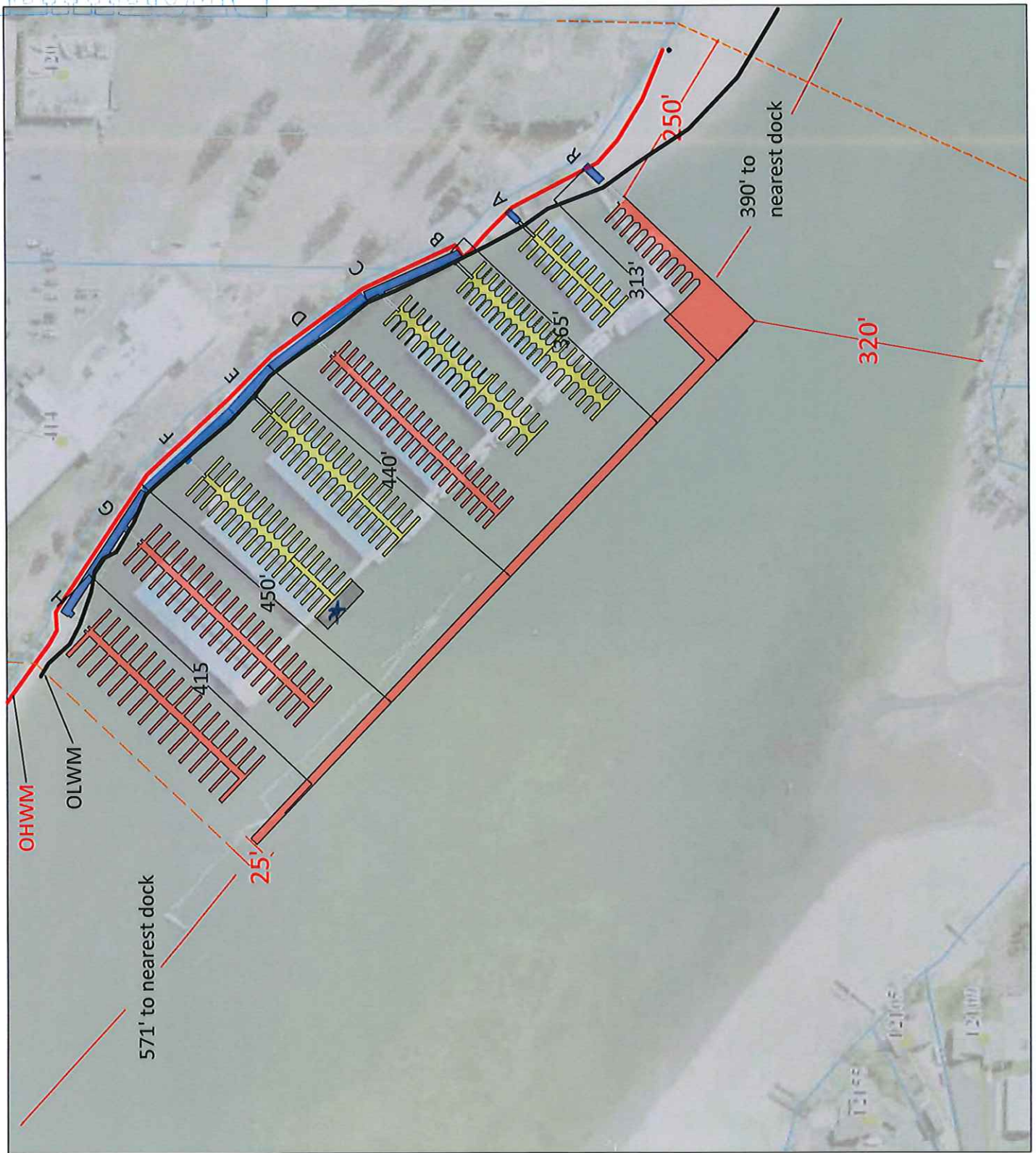
Application is hereby made for permit, or permits, to authorize the work described in this application and all supporting documentation. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein; 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: 07/31/2024

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".

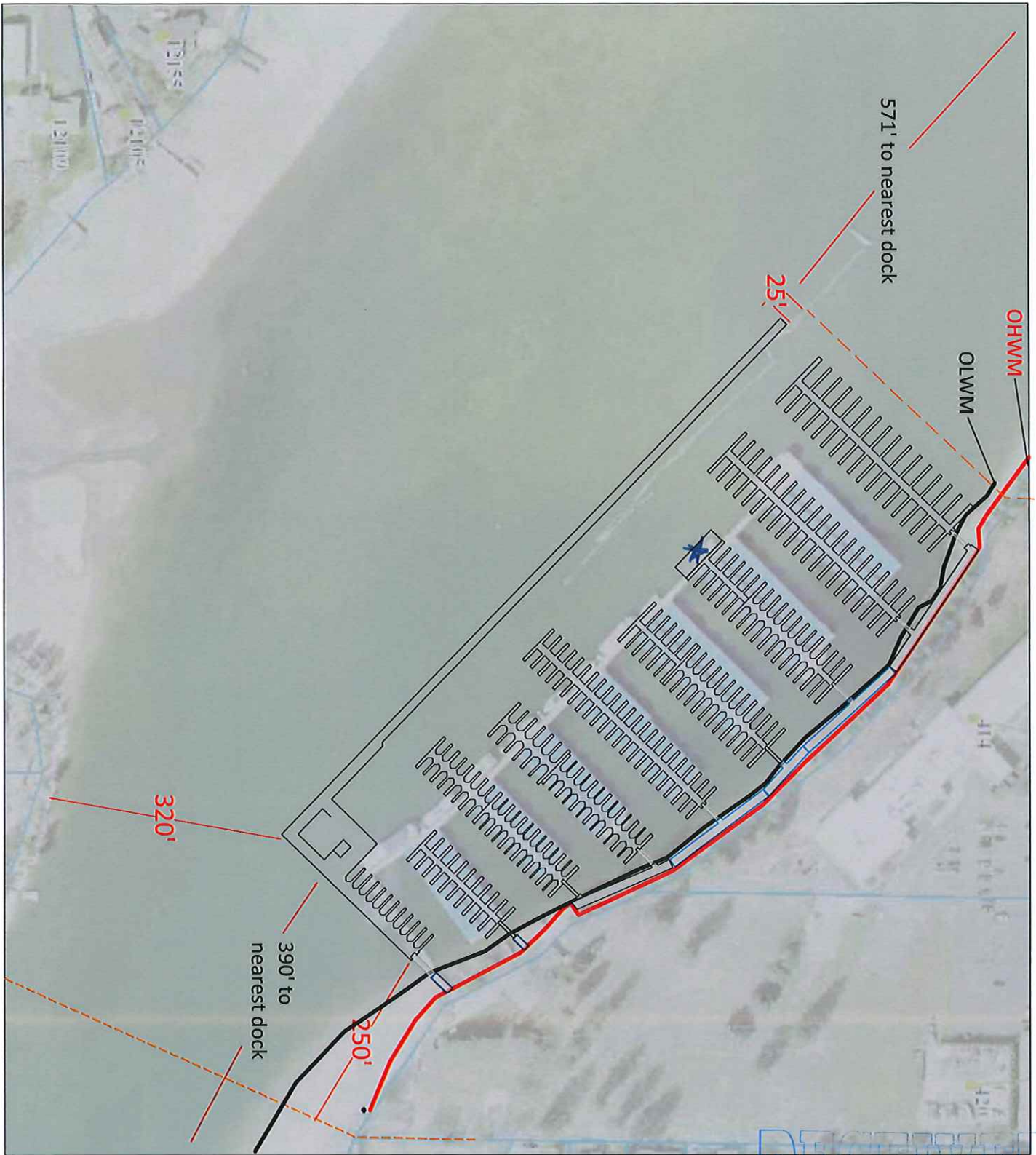
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*sheriff boat Garage

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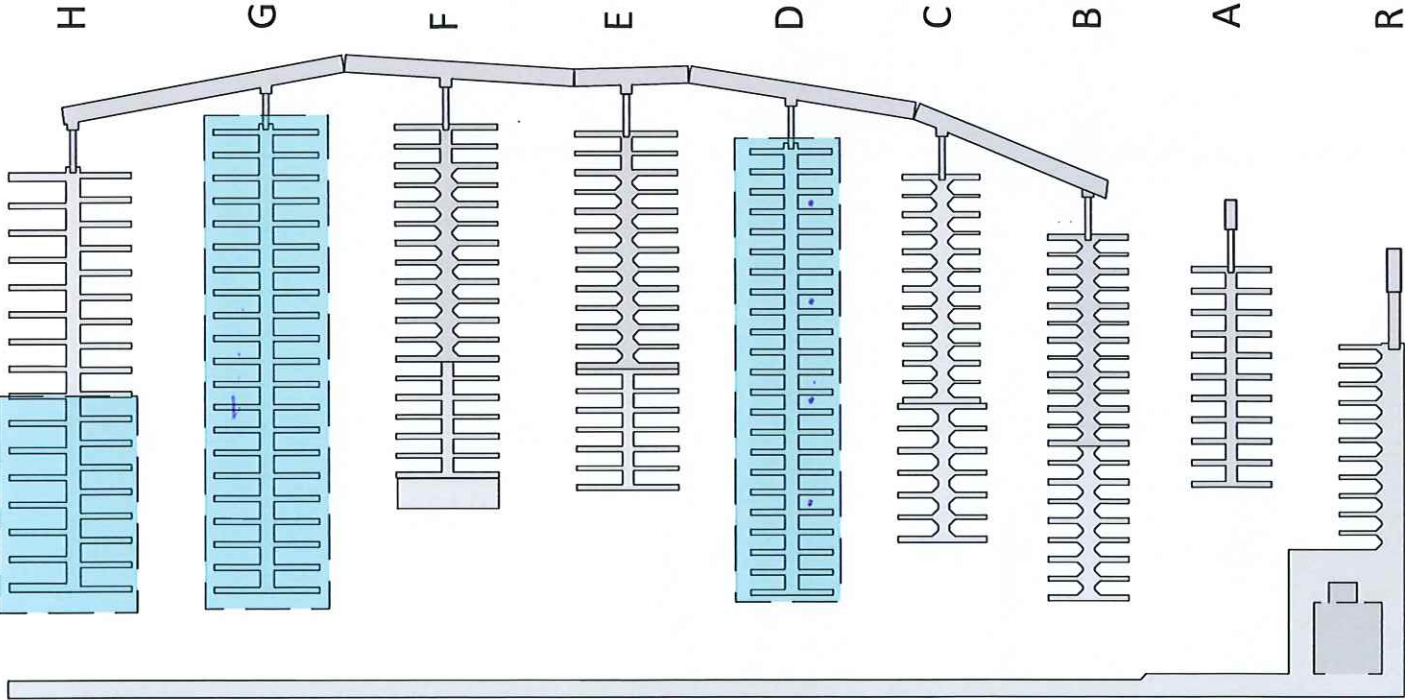
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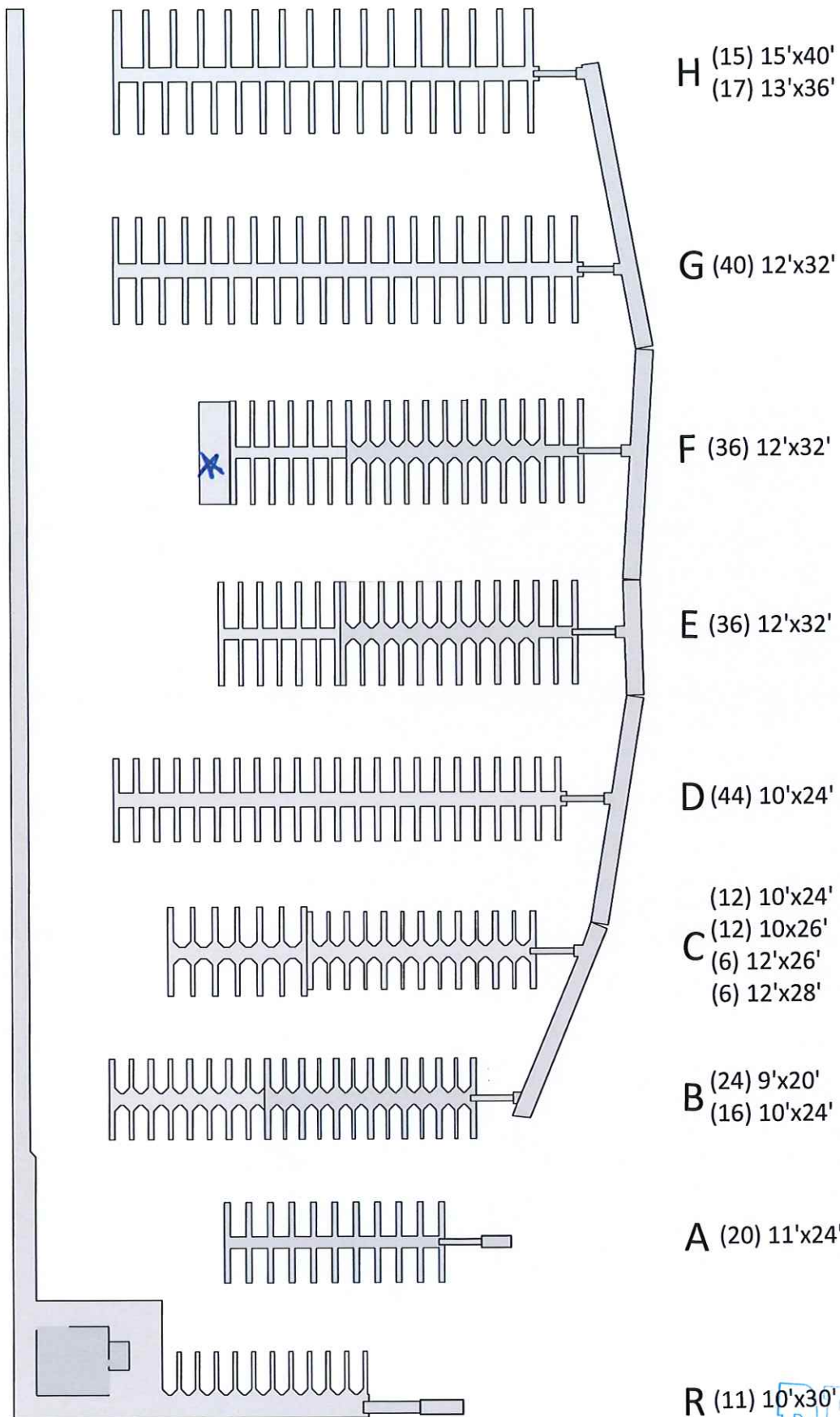
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By: _____

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AUG 27 2024
By: _____

Slip Size (ft)	Private	Public	Total
20		24	24
24	44	28	72
24		20	20
26		12	12
26		6	6
28		6	6
32	40	72	112
36	8	9	17
40	7	8	15
Total	99	185	284

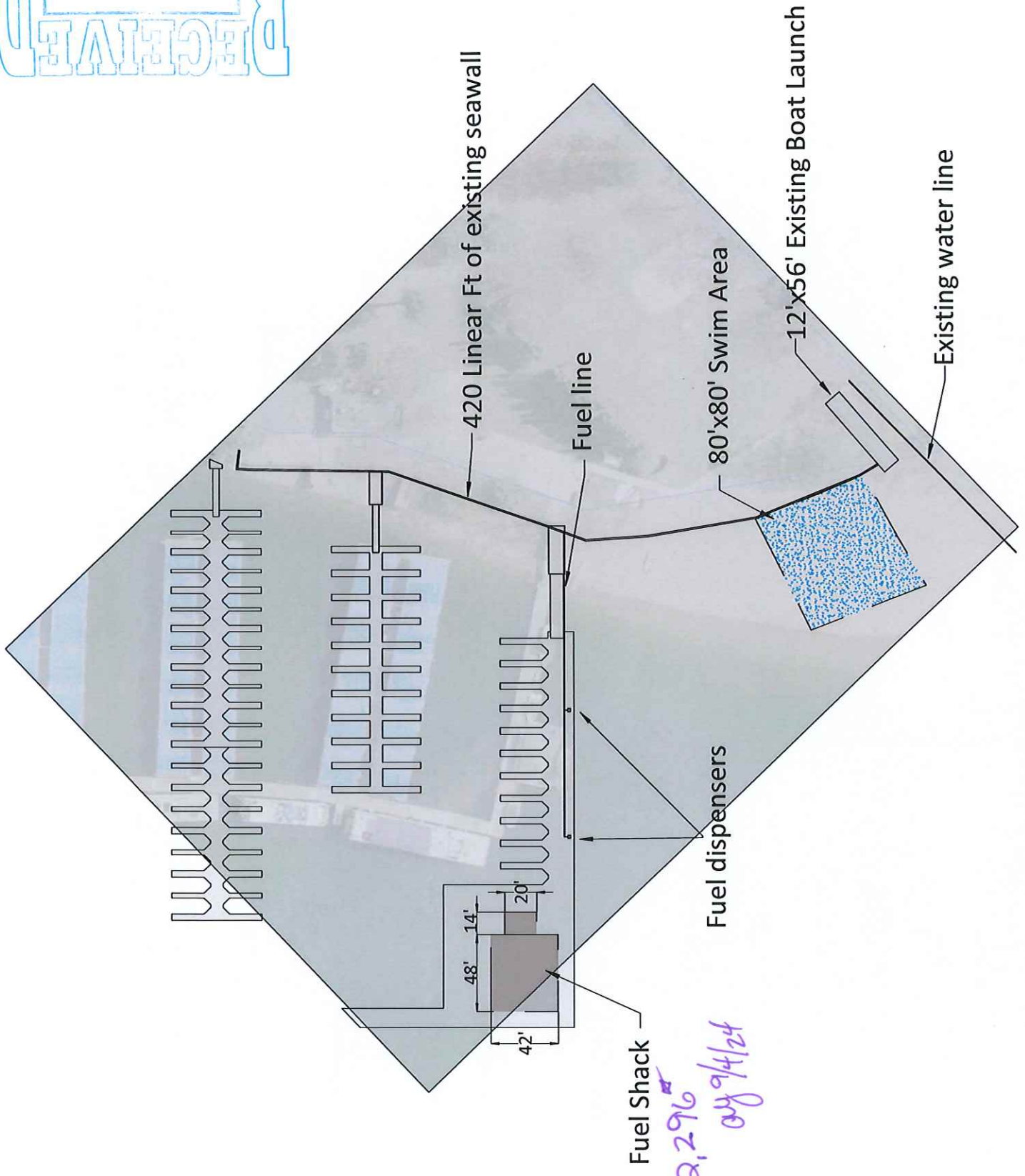


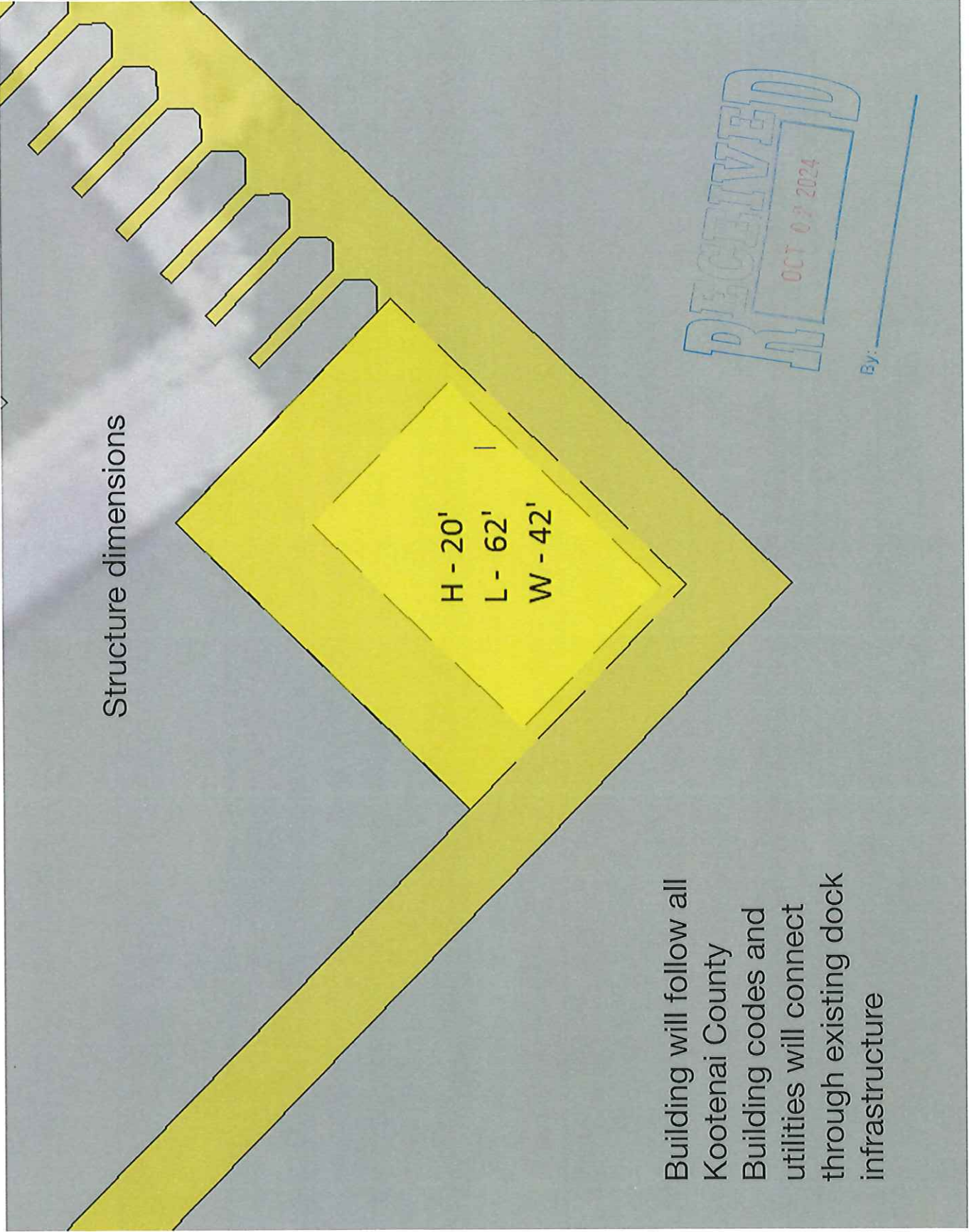


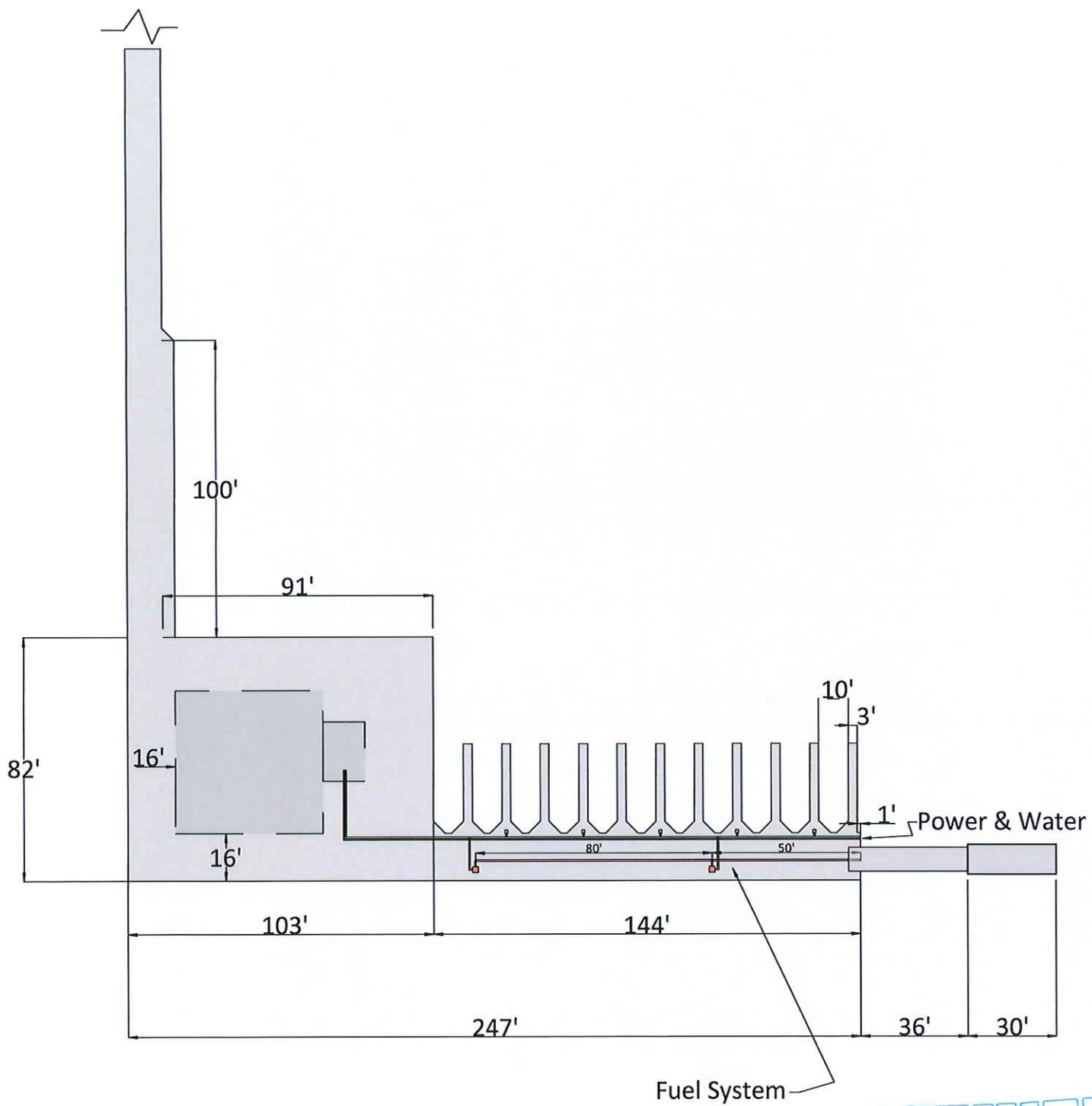
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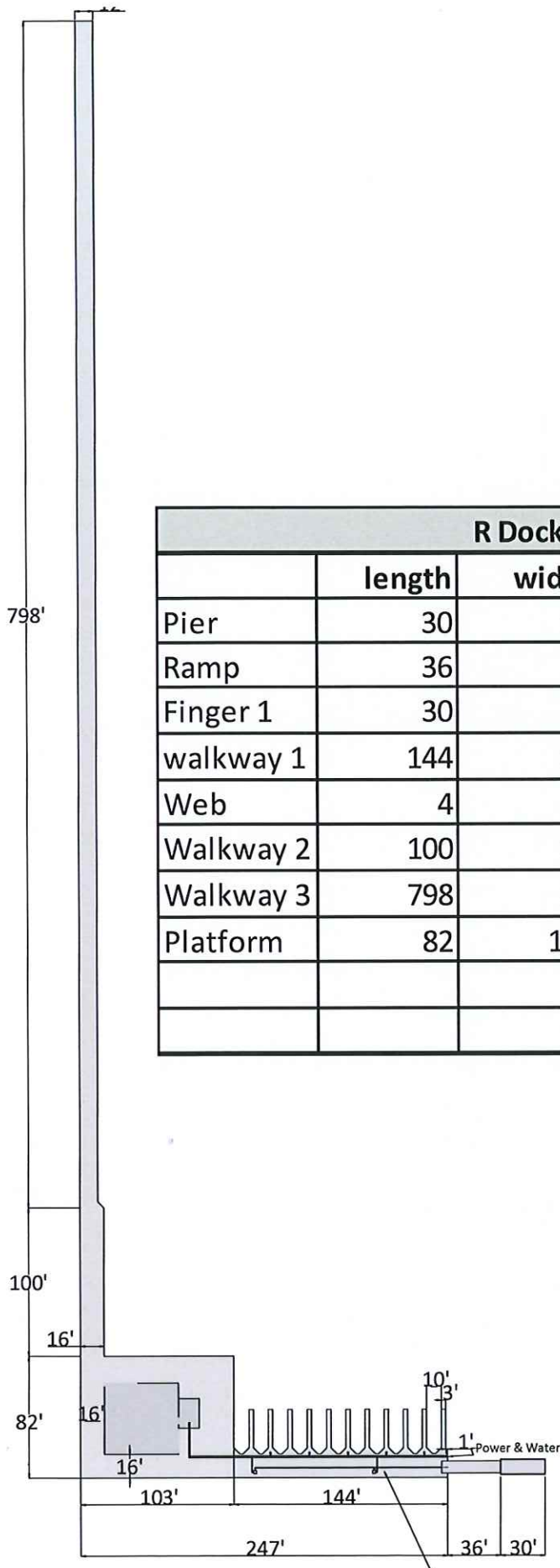
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AUG 27 2024



R Dock				
	length	width	quantity	total
Pier	30	10	1	300
Ramp	36	8	1	288
Finger 1	30	3	11	990
walkway 1	144	16	1	2304
Web	4	4	11.5	184
Walkway 2	100	16	1	1600
Walkway 3	798	12	1	9576
Platform	82	103	1	8446
				23688

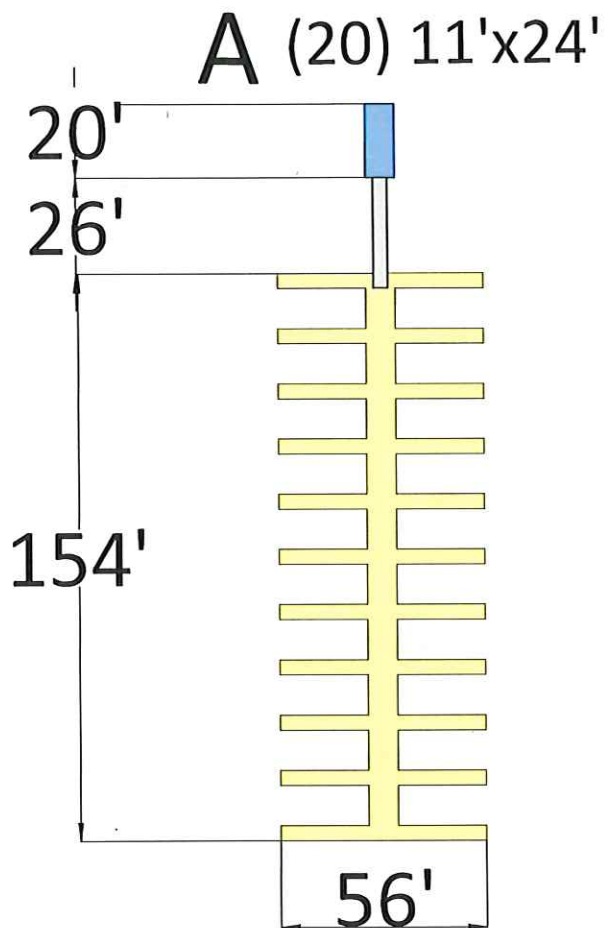
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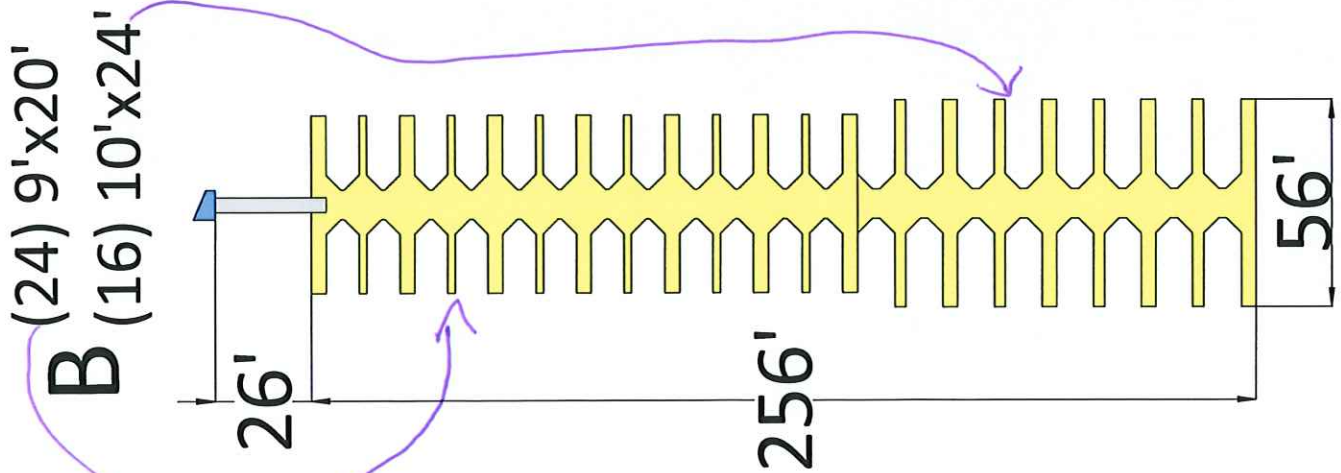
A Dock				
	length	width	quant	total
Pier	20	8	1	160
Ramp	26	4	1	104
Finger 1	24	4	22	2112
Finger 2	154	8	1	1232
				3608

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BY:

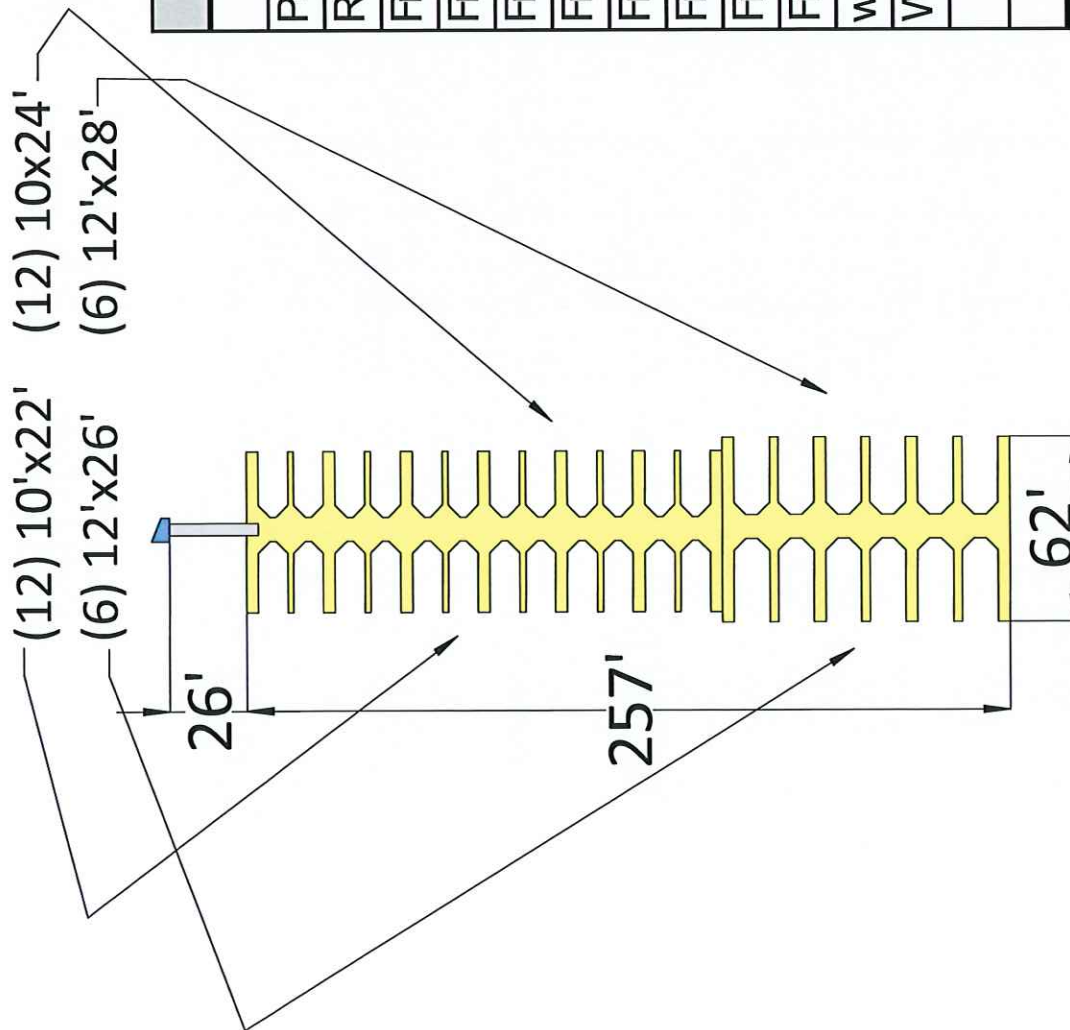


BDock				
	length	width	quant	total
Pier	6	8	0.71	34
Ramp	26	4	1	104
Finger 1a	20	4	14	1120
Finger 1b	20	2	12	480
Finger 2a	24	4	8	768
Finger 2b	24	2	8	384
walkway	256	8	1	2048
Web	4	4	40	640
				5578

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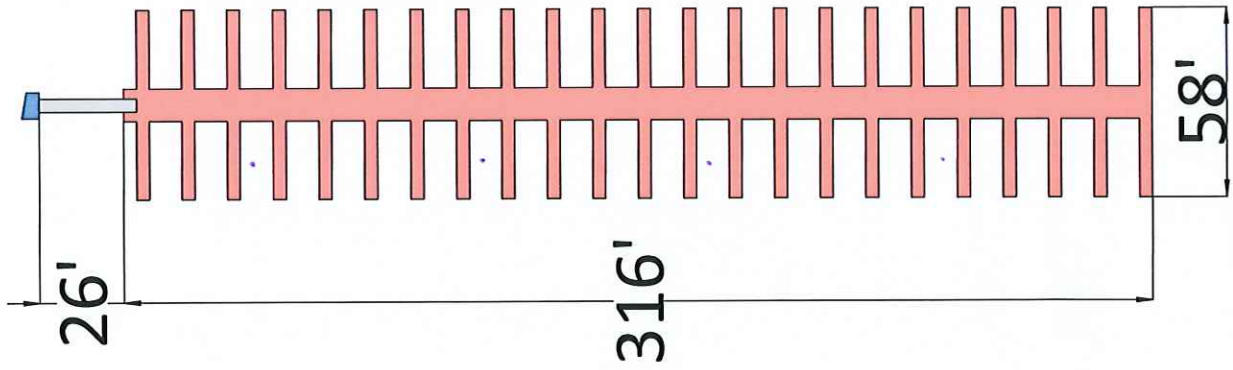
C



C Dock				
	length	width	quant	total
Pier	6	8	0.73	35
Ramp	26	4	1	104
Finger 1a	22	4	7	616
Finger 1b	22	2	6	264
Finger 2a	24	4	7	672
Finger 2b	24	2	6	288
Finger 3a	26	4	4	416
Finger 3b	26	2	3	156
Finger 4a	28	4	4	448
Finger 4b	28	2	3	168
walkway	257	8	1	2056
Web	4	4	36	576
				5799

Aug 9/4/24

D (42) 10'x24'

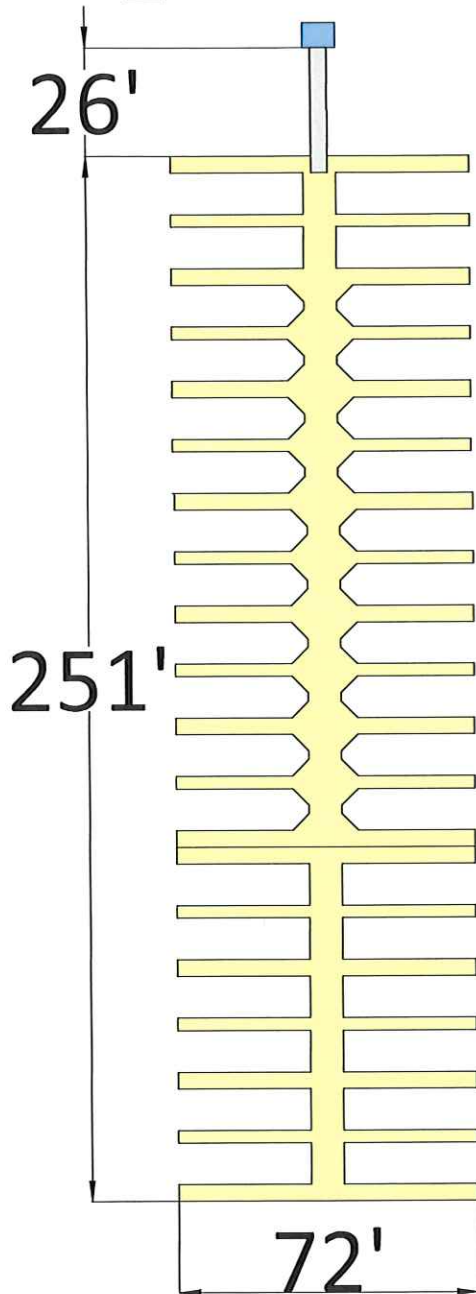


D Dock				
	length	width	quant	total
Pier	6	8	0.75	36
Ramp	26	4	1	104
Finger 1	24	4	46	4416
walkway	316	10	1	3160
				7716

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By:

E (36) 12'x32'



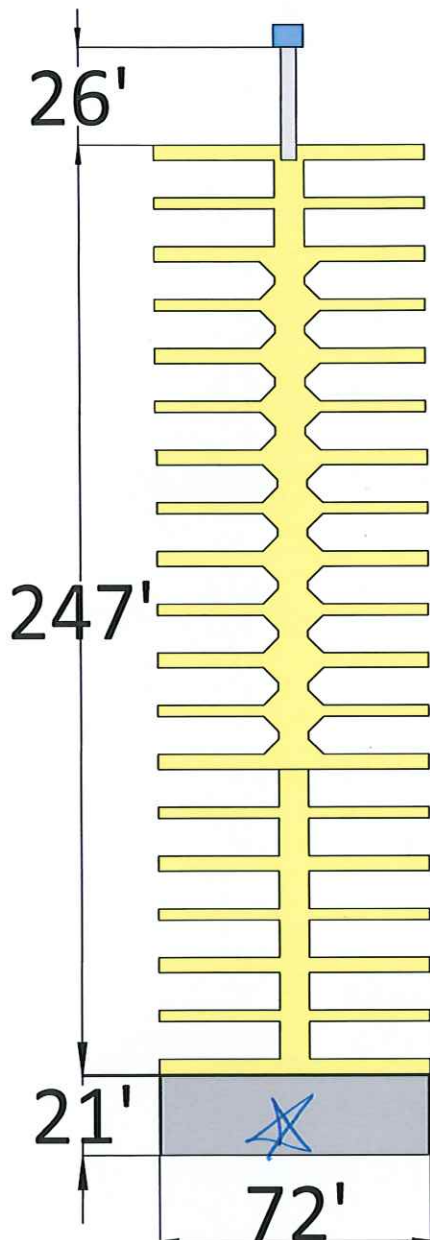
E Dock				
	length	width	quant	total
Pier	6	8	1	48
Ramp	26	4	1	104
Finger 1a	32	4	22	2816
Finger 2a	32	3	18	1728
walkway	251	8	1	2008
Web	4	4	20	320
				7024

ay
9/17/24



By: _____

F (36) 12'x32'



F Dock				
	length	width	quant	total
Pier	6	8	1	48
Ramp	26	4	1	104
Finger 1a	32	4	20	2560
Finger 2a	32	3	18	1728
walkway	247	8	1	1976
Web	4	4	20	320
				6736

Sheriff's Boat Garage
L-95-S-5320

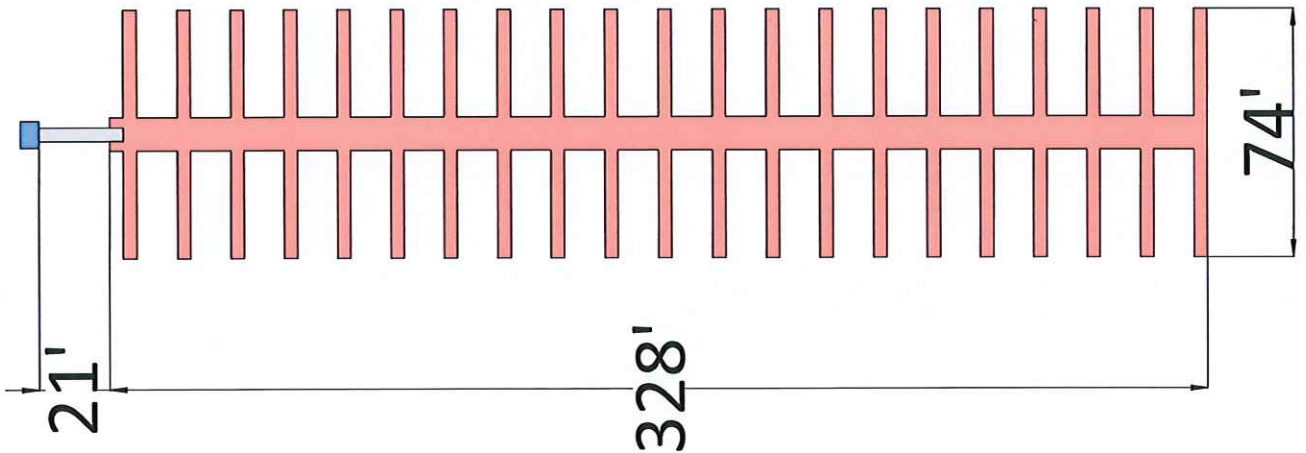


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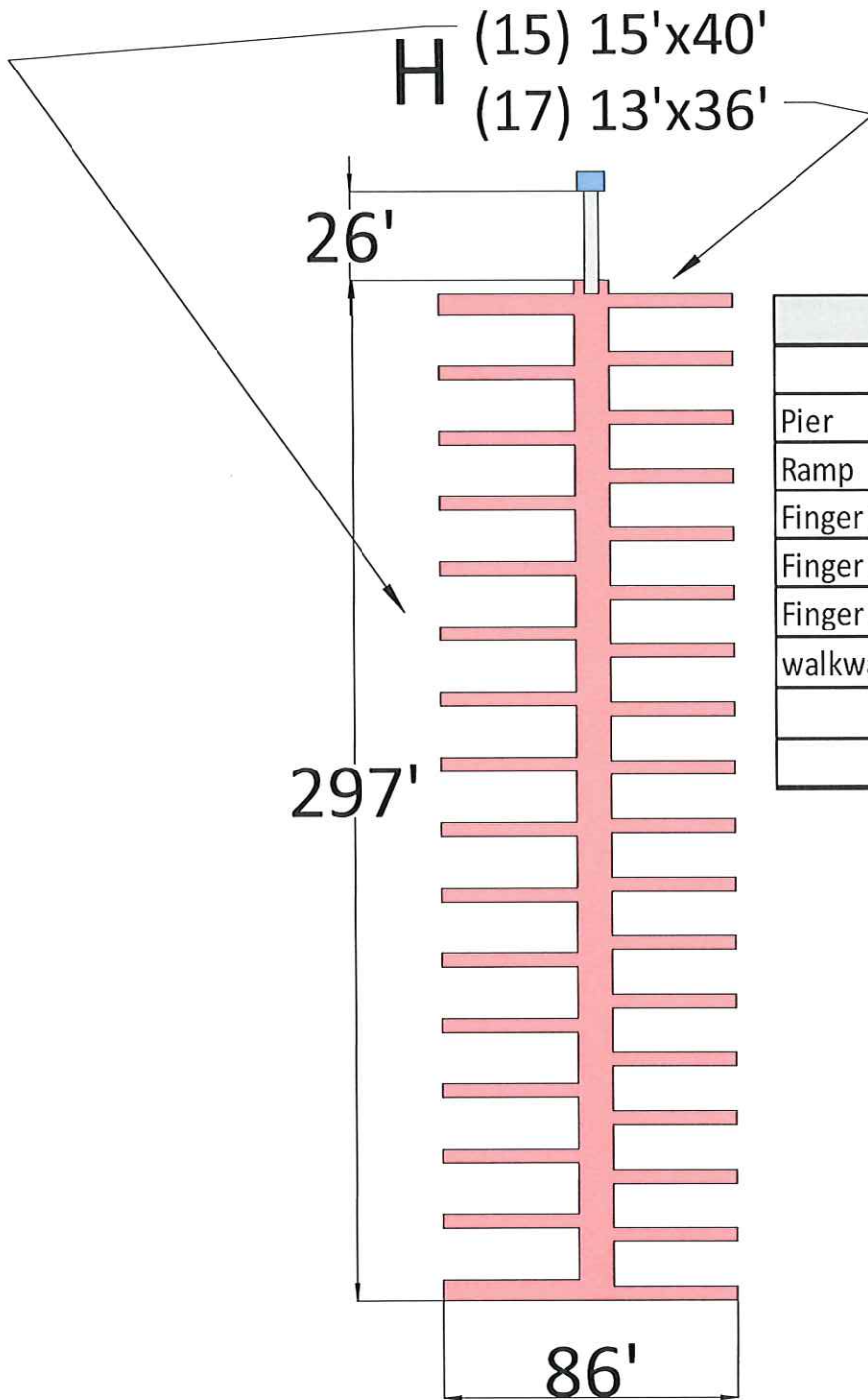
By: _____

G (42) 12'x32'



G Dock					
	length	width	quant		total
Pier	6	8	0.8		38
Ramp	21	4	1		84
Finger 1	32	4	42		5376
walkway	328	10	1		3280
					8778

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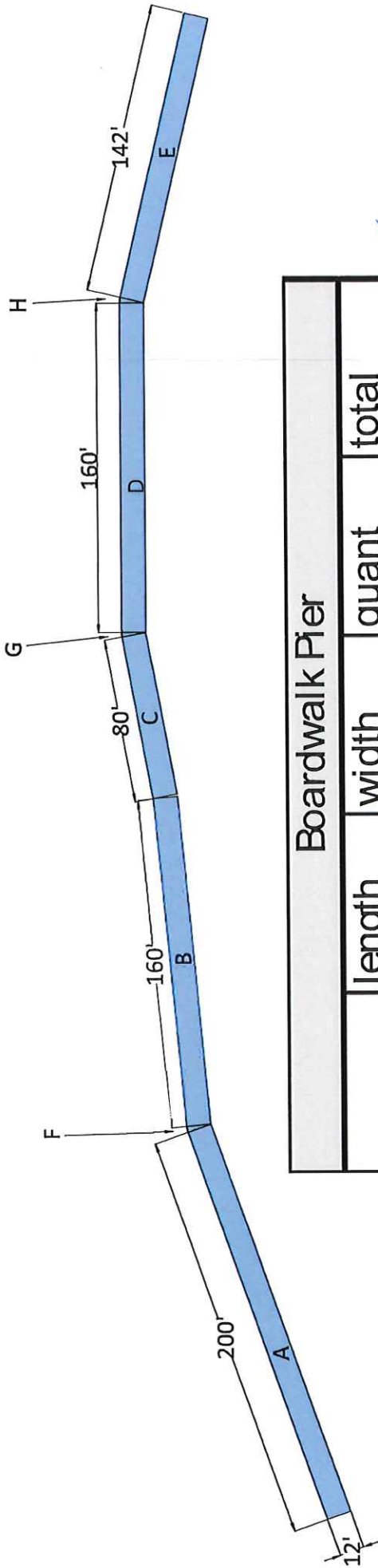


H Dock				
	length	width	quant	total
Pier	6	8	0.8	38
Ramp	26	4	1	104
Finger 1	40	4	14	2240
Finger 1a	40	6	2	480
Finger 2	36	4	18	2592
walkway	297	10	1	2970
				8424

avg
9/12/24

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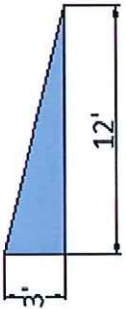


Boardwalk Pier				
	length	width	quant	total
A	200	12	1	2400
B	160	12	1	1920
C	80	12	1	960
D	160	12	1	1920
E	142	12	1	1704
F	12	3	0.5	18
G	12	2	0.5	12
H	12	3	0.5	18
				8952

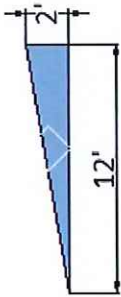
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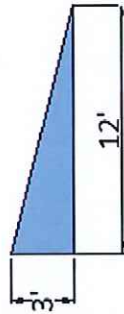
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F



G



H

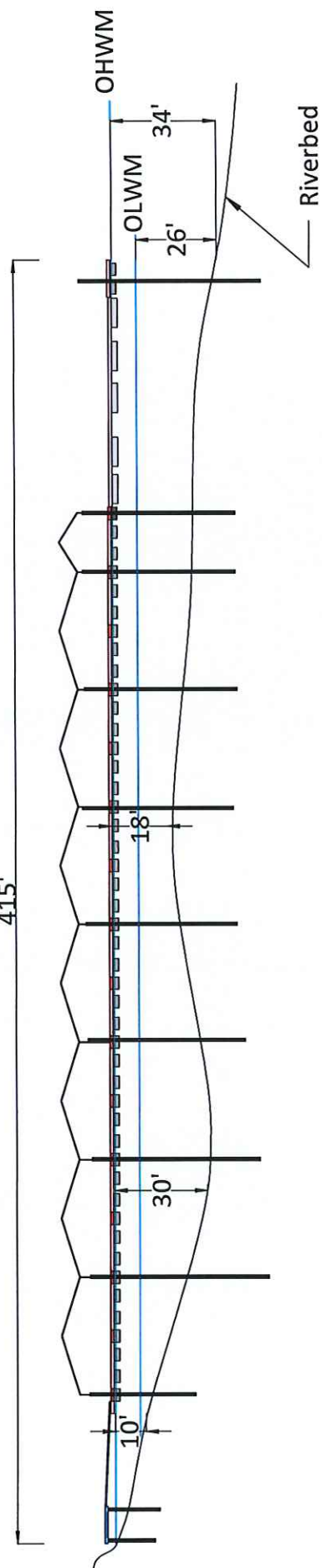
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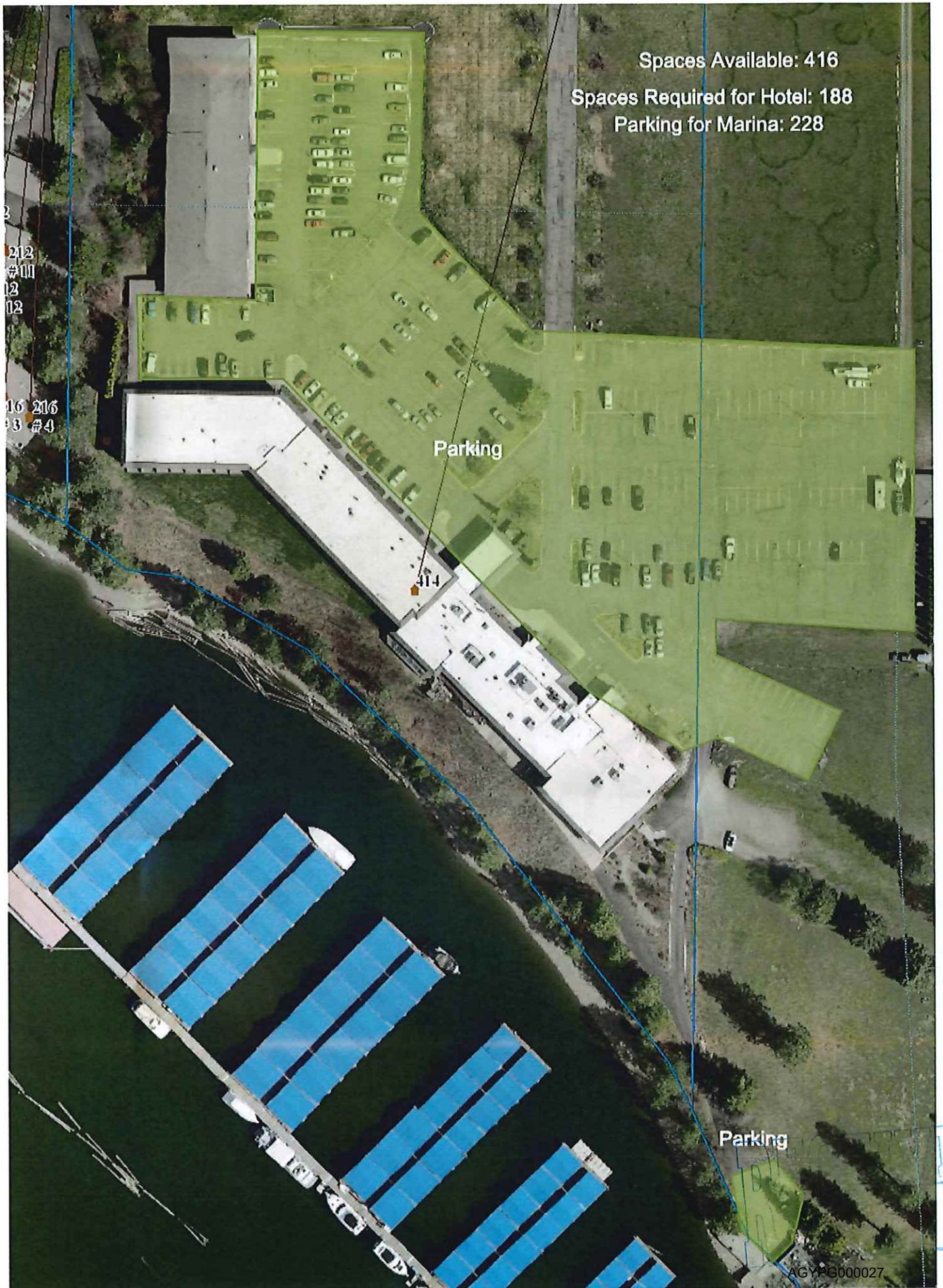
East Facing

415'



IDL-002

AGYPG000026



18.24.070: PARKING:

The following standards are applicable to and required for off street parking for newly established or substantially modified land *Uses* subject to this Code. Parking provisions do not apply to any existing building or *Structure*, or *Use*, unless there is a change of *Use* or expansion requiring additional parking. Whenever a building or *Structure* existing prior to the adoption of this Code, is enlarged in floor area, such addition must comply with current parking requirements and site improvements, without diminishing the usefulness of existing site improvements. Parking requirements and configuration must be reviewed and approved in the site plan review process. The following are general requirements that apply to off street parking in all zoning districts:

A. **Uses Not Listed:** Where a proposed *Use* is not listed in this section the *Zoning Administrator* will determine parking needs based on the information provided by the applicant or Staff. Appeal of the *Zoning Administrator's* determination may be applied for in accordance with provisions of this title.

B. **Lighting:** Lighting used to illuminate a parking lot must be arranged to direct light and glare away from adjoining property or public *Right-of-Way*.

C. **Paving:** The required number of parking and loading spaces as set forth in this section, together with driveways, aisles, and other circulation areas, must be surfaced with asphalt or concrete.

D. **Drainage:** All parking and loading areas must provide for proper drainage of surface water to approved drainage areas or *Structures*. Surface drainage must be retained on site to the extent that site runoff not exceed runoff from the site in its undeveloped condition.

E. **Striping:** Parking lots must be permanently striped to delineate parking spaces and circulation patterns in accordance with the adopted Building Code and related standards.

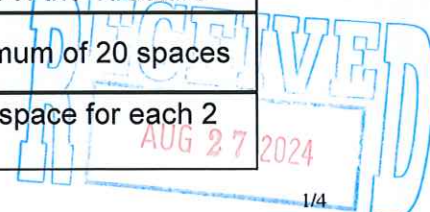
F. **Accessible Parking Standards:** Accessible parking must be provided in accordance with ICC/ANSI accessibility standards.

G. **Residential Off Street Parking Requirements:**

Type Of Residence	Parking Spaces
Single-family or two-family dwelling	2 for each unit (spaces within garages/carports are calculated in the overall requirement)
Multi-family (3 units or greater):	
1 bedroom unit	1.5 for each dwelling unit
2 or more bedroom units	2.0 for each dwelling unit
Senior housing (55 years and older) (includes senior mobile home parks)	1 for each dwelling unit
Mobile home park	2 for each unit

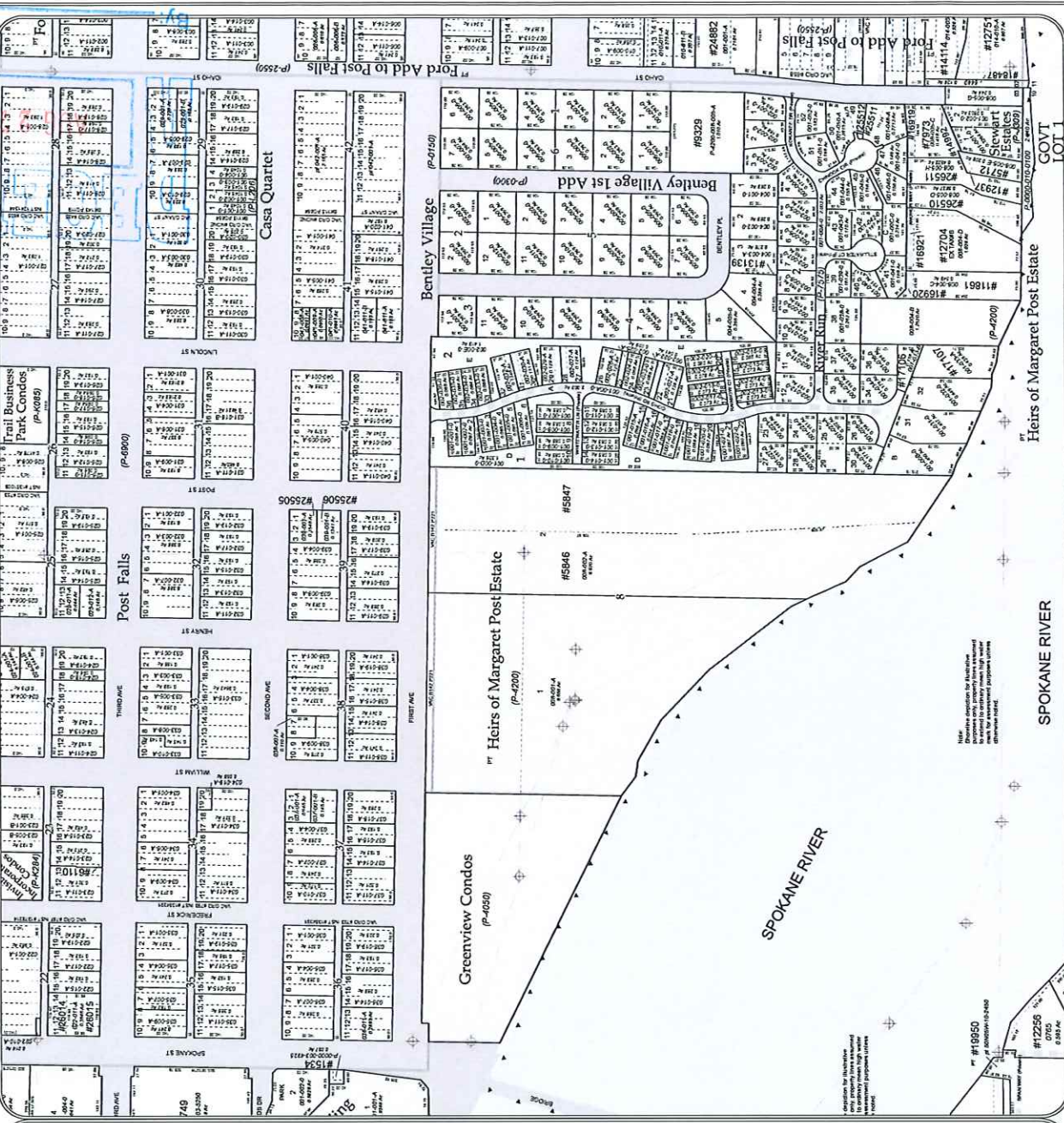
H. **Commercial, Office, Industrial, Technology, and Institutional Parking Requirements:** Generally, nonresidential *Uses* should provide one (1) space for each two hundred fifty (250) square feet of gross floor area. For any nonresidential *Use* an absolute minimum of two (2) spaces is required.

Type Of Use	Parking Spaces
Type Of Use	Parking Spaces
Commercial, office, and industrial parking:	
Auction business	1 space for every 100 square feet of the structure
Auction business, permanent outdoor location	10 parking spaces per acre, minimum of 20 spaces
Hotels/motels	1 per each sleeping room, plus 1 space for each 2 employees





2024



Kootenai County, Idaho



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
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THIS DRAWING IS TO BE USED FOR REFERENCE PURPOSES ONLY. THE COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES CONTAINED HEREIN.

Map Revisions

- 002909 - ET
P-9375-001-001-A combined w/ 002-C (new-A) (10)
- 102913 - ET
P-9375-001-001-A combined w/ 002-C (new-A) (14)
- 100715 - VAW
P-9375-001-001-A combined w/ 011-A (16)
- 121477 - TH
P-9375-001-001-A combined w/ 011-A (16)
- 031478 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031479 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031480 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031481 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031482 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031483 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031484 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031485 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031486 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031487 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031488 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031489 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031490 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031491 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031492 - JP
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- 031498 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031499 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031500 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)

Notes

- 002909 - ET
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- 031495 - JP
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- 031496 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
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- 031499 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)
- 031500 - JP
P-9375-001-001-A combined w/ 005-A (new-A) (16)

Legend

- (C-5357) Sub-code
- 001-001-A Parcel ID# (PIN)
- Private Roads
- City Limits
- Legal Areas
- Plat Boundaries
- GCDB Corners
- Road RW
- Railroad
- GCDB Lines

Maptile: 50N05W03SE

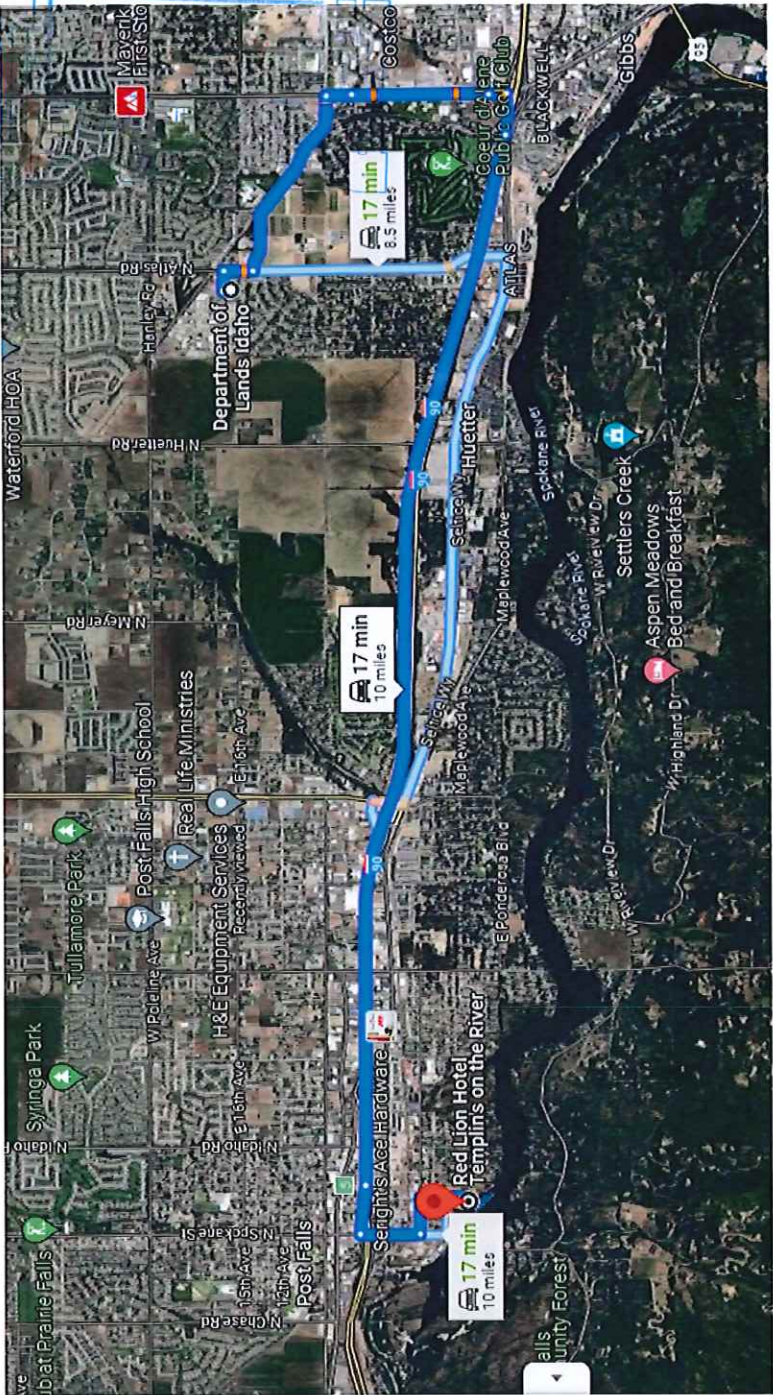
AGYPG000030

17 min (10.0 miles)
via I-90 W
Fastest route, the usual traffic

Department of Lands Idaho
3284 Industrial Loop, Coeur d'Alene, ID 83815

- > Get on I-90 W from W Greenwich Rd/w Kathleen Ave and N Ramsey Rd
8 min (2.7 mi)
- > Follow I-90 W to I-90BL/N Spokane St in Post Falls. Take exit 5 from I-90 W
6 min (6.4 mi)
- > Continue on N Spokane St to your destination
4 min (0.6 mi)

Red Lion Hotel Templin's on the River
414 E 1st Ave, Post Falls, ID 83854



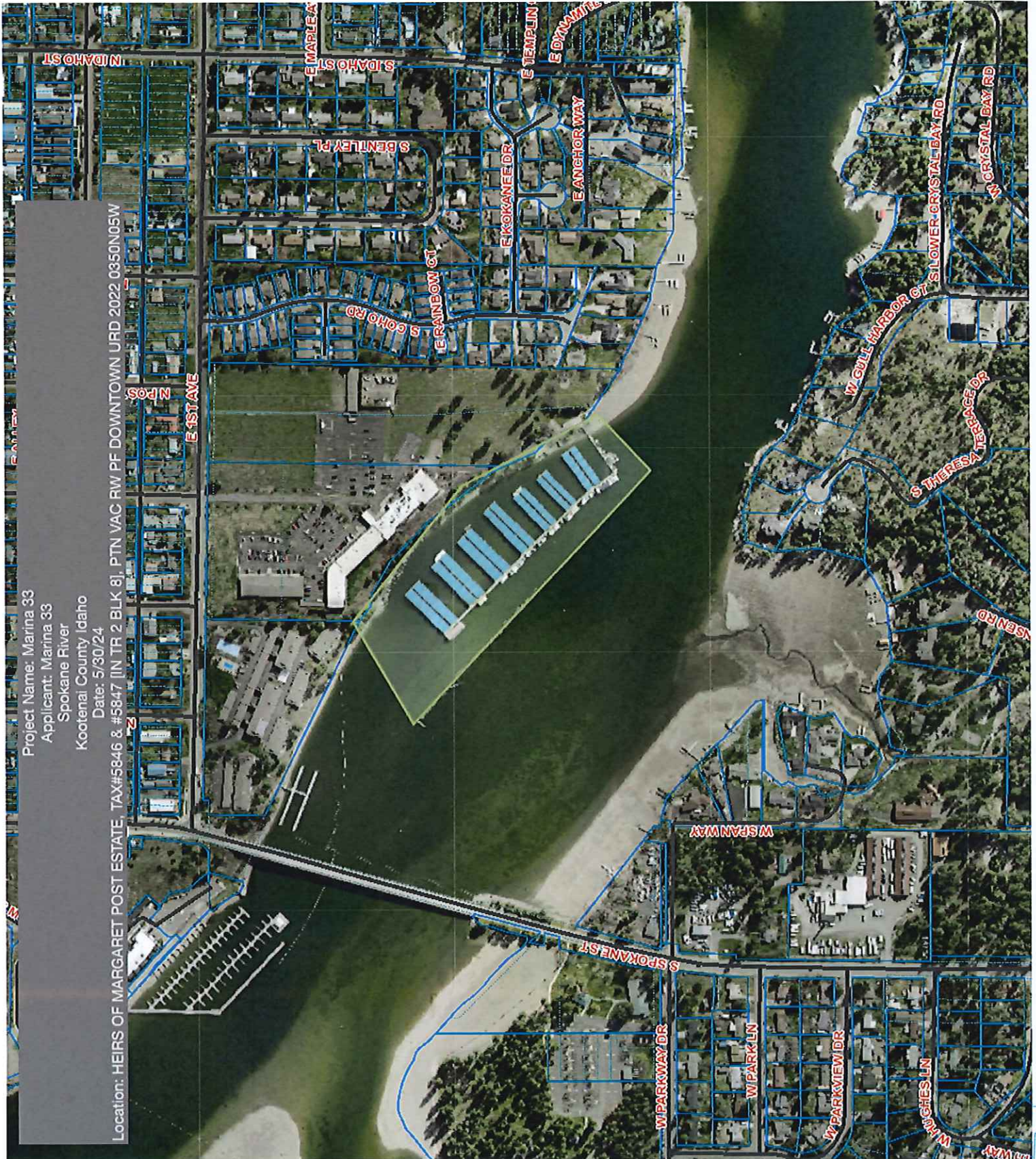
RECEIVED
AUG 27 2024

By:

Project Name: Marina 33
Applicant: Marina 33
Spokane River
Kootenai County Idaho

Date: 5/30/24

Location: HEIRS OF MARGARET POST ESTATE, TAX#5846 & #5847 [IN TR 2 BLK 8] PTN VAC RW PF DOWNTOWN URD 2022 0350N05W



AUG 27 2024

AGYPG000032

IDL-002

Ryr

PIN: P4200008002A

Owner: 414 PF HOSPITALITY LLC

AIN: 135604

TAG: 011036

Mailing Address:

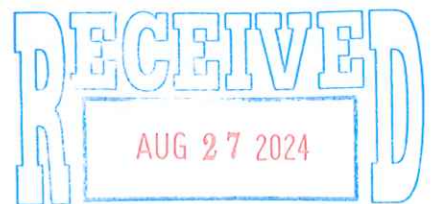
555 Bryant St #601 Palo Alto Ca 94301

Tax Roll: Real Property

Lender: None.

Legal Descr.:

HEIRS OF MARGARET POST ESTATE,
TAX#5846 & #5847 [IN TR 2 BLK 8], PTN VAC
RW PF DOWNTOWN URD 2022 0350N05W



AGYPG000033

IDL-002

By: _____



Application Number _____

COMMERCIAL/COMMUNITY/NON-NAVIGATIONAL ENCROACHMENT PERMIT APPLICATION

This information sheet and checklist must be completed when submitting an encroachment permit application. Incomplete applications will be returned without processing.

ENCROACHMENT TYPE: (Check all that apply)

<input type="checkbox"/> - Community dock	<input type="checkbox"/> - Float home
<input checked="" type="checkbox"/> - Commercial marina	<input type="checkbox"/> - Boat garage
<input type="checkbox"/> - Bank stabilization	<input type="checkbox"/> - Mooring buoy(s)
<input type="checkbox"/> - Other – describe: _____	

Applicant's Littoral Rights Are:

<input checked="" type="checkbox"/> - Signature of littoral rights owner is obtained if applicant is not the owner of the riparian/littoral rights	<input checked="" type="checkbox"/> - Owned, fee simple title holder
	<input type="checkbox"/> - Leased
	<input type="checkbox"/> - Other – describe: _____

Provide a Black/White 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 # L-95-S-3036L 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? 400 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.
- ☒ 415 feet and not located near any other docks or other encroachments.

For Community Docks, Does the Proposed Dock Exceed the Maximum Square Footage of 7 ft² per Littoral Front Foot?

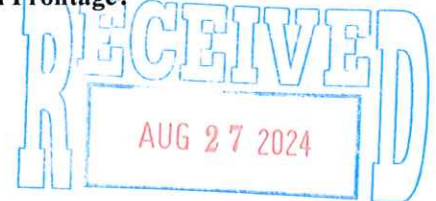
☐ - No Total square footage: _____ ft²

☐ - Yes

For Community Docks, Does the Property Have at Least 50 Feet of Littoral Frontage?

☐ - Yes Total front footage: _____ feet

☐ - No



By: _____ AGYPG000034

Will the Proposed Encroachment Exceed the Maximum Width of 10 Feet?

☐ - No

☒ - Yes

If yes, explain why: Due to expected high volume of foot traffic with dock carts

Will the Proposed Encroachment 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? _____ feet

☐ - Consent of affected neighbor was obtained

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.

Printed Name

Date

Signature of Applicant or Agent





Office of the Mayor

Mike Ahmer
Resource Supervisor – Navigable Waters
Idaho Department of Lands
3258 Industrial Loop
Coeur d' Alene, ID 83815

Via Email: mahmer@idl.idaho.gov

RE: 414 PF Hospitality Permit Application

Dear Mr. Ahmer,

I am writing to you today to indicate my support for the above permit application. As you are aware, for many years, Templin's Marina has maintained a marina in Post Falls allowing city residents to access, and recreate, on the Spokane River. The City of Post Falls provides many parks to provide recreational opportunities for our residents, but we do not have a marina. Templin's has helped to fill this gap and provide this needed amenity for our residents. I have reviewed the applicant's plans to reinvigorate the marina by providing additional slips and a publicly accessible boardwalk and believe that these improvements will benefit the residents of Post Falls by increasing public access to the river, which is part of what makes living in North Idaho so desirable.

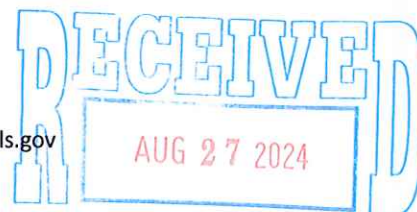
Thanks for considering my input. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Jacobson", written in a cursive style.

Ronald G. Jacobson
Mayor of Post Falls

408 N. Spokane Street, Post Falls, ID 83854 • tel (208)773-3511 • www.postfalls.gov



By: AGYPG000036

IDL-002

Memorandum of Understanding

StanCraft Marine Construction, Emergency Services

This **MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as the "MOU") is hereby entered into by and between KOOTENAI COUNTY (hereinafter referred to as "the County"), and STANCRAFT MARINE CONSTRUCTION (hereinafter referred to as "SCMC").

THE PARTIES AGREE AS FOLLOWS:

I. PURPOSE.

The purpose of this MOU is to:

- a) provide waterborne transportation services for 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; and
- b) provide debris-removal services to minimize risk to watercraft, enhance safety, and prevent damage to property and waterfront infrastructure.

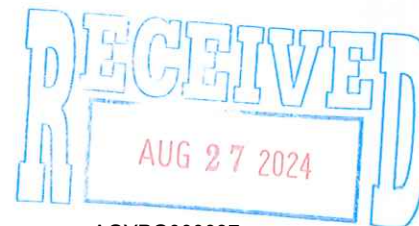
II. **STATEMENT OF BACKGROUND INFORMATION.** Continued growth in Kootenai County requires ongoing contingency planning for the transportation of citizens and emergency personnel along regional waterways in the event of a natural disaster or terrorist event, as well as the need for planning to remove debris from County waterways in an effort to enhance water safety and to prevent property damage.

III. **STATEMENT OF MUTUAL BENEFIT AND INTEREST.** The County and SCMC hereby agree to work together to provide planned waterborne transportation for citizens of Kootenai County and emergency personnel and in the removal of hazardous debris from County waterways affected by natural or human-caused emergencies or disasters as follows:

IV. KOOTENAI COUNTY SHALL

- a) Notify the emergency contact at SCMC when use of SCMC waterborne transportation capabilities and watercraft are needed during an emergency.
- b) Provide SCMC with required directions, routes, and frequencies of transports to pre-designated locations upon notification that a disaster or emergency has been declared.
- c) Provide SCMC with directions identifying areas requiring debris-removal services.

MOU with StanCraft Marine Construction 1



AGYPG000037

IDL-002

By: _____

Memorandum of Understanding

StanCraft Marine Construction, Emergency Services

- d) Provide SCMC with a designated drop-off location where removed debris is to be deposited.
- e) Be responsible for disposal of materials and land transportation of debris once SCMC has deposited debris at the location designated by the County.
- f) Reimburse SCMC for the cost of actual fuel used during emergency transportation and/or debris-removal operations.
- g) Reimburse SCMC for the actual amount of gross salary paid to operators and crew employed during emergency transportation and/or debris-removal operations; gross salary is to include the employer portion of FICA, FUT A, and retirement benefits.

V. SCMC SHALL:

- a) Provide waterborne transportation services, qualified boat operators and crew, seaworthy watercraft with all appropriate safety equipment, including life jackets for each person on board and support functions as necessary and available, within 24 hours of notification from Kootenai County.
- b) Provide debris-removal services to the extent that SCMC's equipment will safely allow. Debris-removal will consist of working within areas designated by the County where debris poses a threat to water safety and/or may cause property or infrastructure damage. Debris will be deposited in a pre-designated area for disposal by the County.
- c) Be solely responsible for the supervision of their employees, as well as the operations, maintenance, and insurance liability of the requested transportation equipment.

VI. REIMBURSEMENT: Where SCMC's waterborne transportation and/or debris-removal services are provided pursuant to declaration of a local disaster emergency by the County, compensation to SCMC shall be in accordance with Title 46, Chapter 10, Idaho Code. Pursuant to Idaho Code §67-2808, upon making the declaration of emergency, any sum required to reimburse SCMC may be expended without compliance with formal bidding procedures. The County will assist SCMC by coordinating requests for compensation.

VII. AVAILABILITY: It is understood by all parties to this MOU that these services will be requested only when a major disaster or emergency exists in which emergency waterborne transportation and/or debris removal services are necessary.

MOU with StanCraft Marine Construction 2



AGYPG000038

By: _____

IDL-002

Memorandum of Understanding

StanCraft Marine Construction, Emergency Services

VIII. PRINCIPAL CONTACTS:

	KOOTENAI COUNTY	NORTH IDAHO MARITIME
KEY CONTACT:	Tiffany Westbrook, Director	Zach Johnson General Manager
AGENCY NAME:	Kootenai County Office of Emergency Management	Stancraft Marine Construction
STREET ADDRESS:	1662 W. Wyoming Ave.	2936 W. Dakota Ave.
CITY/STATE:	Hayden, ID 83835	Hayden, ID 83835
PHONE NUMBER:	208-446-1775	208-457-8000 x 178
ALTERNATE NUMBER:	208-661-0640	208-755-7540
FAX NUMBER:	208-446-1780	
EMAIL ADDRESS:	twestbrook@kcgov.us	zach@stancraftboats.com

- IX. **COMMENCEMENT/EXPIRATION DATE.** This MOU shall be deemed executed as of the date of last signature below, and shall be effective for five (5) years thereafter, at which time it shall expire unless extended by mutual written agreement.
- X. **EARLY TERMINATION.** Either party may terminate this MOU with thirty (30) days' written notice to the other party.
- XI. **MODIFICATION.** Modifications of this MOU shall be made by mutual consent of the parties by the issuance of a written modification, signed and dated by both parties.
- XII. **INDEMNIFICATION.** Each Party to this MOU shall indemnify, hold harmless, and defend the other from and against any damage, cost or liability, including reasonable attorney's fees, due to any or all injuries to persons or property or claims for money damages arising from negligent and/or willful acts or omissions of its employees, agents, elected officials or assigns.
- XIII. **PARTICIPATION IN SIMILAR ACTIVITIES.** This MOU shall in no way restrict either party from participating in similar activities with other public or private agencies, organizations, and/or individuals.

The persons executing this MOU on behalf of their respective entities hereby represent and warrant that they have the right, power, and legal capacity, and appropriate authority to enter into this MOU on behalf of the entity for which they sign.

MOU with StanCraft Marine Construction 3



AGYPG000039

By: _____

IDL-002

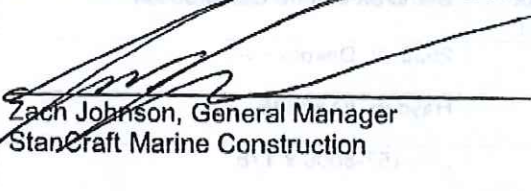
Memorandum of Understanding

StanCraft Marine Construction, Emergency Services

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the last date written below.

DATED this 2/22 day of _____, 2023

STANCRAFT MARINE CONSTRUCTION



Zach Johnson, General Manager
StanCraft Marine Construction

DATED this 10th day of January, 2023

**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**



Leslie Duncan, Commissioner - Signed 1/11/2023



Bill Brooks, Commissioner - Signed 1/11/2023



Bruce E. Mattare, Commissioner - Signed 1/10/2023

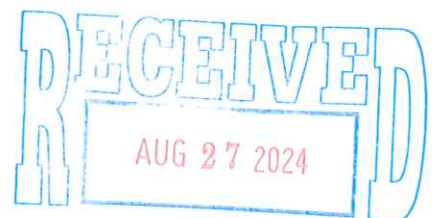
**ATTEST:
JIM BRANNON, CLERK**



Teri Johnston, Deputy Clerk - Signed 1/11/2023



MOU with StanCraft Marine Construction 4



By: _____ AGYPG000040

IDL-002

Coeur d'Alene Press
PO BOX 7000
COEUR D ALENE, ID 83816
(208) 664-8176

Ad Number	0000028340
Customer	IDAHO DEPARTMENT OF LANDS - NAV. WATERS
Account Number	6368
Billing Date	09/27/2024 to 10/04/2024
Description	CDA#13231 Legal Notice of Application-L95S3036N

ADVERTISING SINGLE ORDER INVOICE

IDAHO DEPARTMENT OF LANDS - NAV. WA
NAV. WATERS
3258 W. INDUSTRIAL LOOP
COEUR D ALENE, ID 83815

BILLING DATE
09/27/2024
BILLED ACCOUNT NUMBER
6368
ADVERTISER NUMBER
6368

REMITTANCE ADDRESS
Coeur d'Alene Press PO BOX 7000 COEUR D ALENE, ID 83816

MAKE CHECKS PAYABLE TO: Coeur d'Alene Press

PLEASE DETACH AND RETURN UPPER PORTION WITH YOUR REMITTANCE

Coeur d'Alene Press

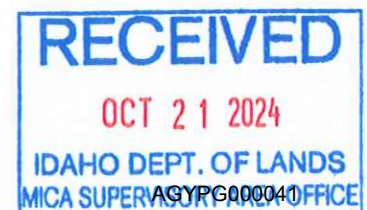
Ad Number	Start Date	End Date	Days Billed	Copy Line	Size	Total Price
0000028340	09/27/2024	10/04/2024	2	CDA#13231 Legal Notice of Application-L95S3036N	1 x 4.691" (41 lines)	\$67.04
Total Amount Due						\$67.04

Advertiser Information

* Past due accounts are subject to finance charges of 1-1/2% per month, which is an annual percentage of 18%, applied to the previous balance.

10/15/2024 10:06:42

IDL-003



Order Confirmation

<u>Ad Order Number</u>	<u>Customer</u>	<u>Payor Customer</u>	<u>PO Number</u>
0000028340	IDAHO DEPARTMENT OF LANDS	IDAHO DEPARTMENT OF LANDS	
<u>Sales Rep</u>	<u>Customer Account</u>	<u>Payor Account</u>	<u>Ordered By</u>
kpacker+cdahouse@ha...	6368	6368	rlindstrom@cdapress.com
<u>Order Taker</u>	<u>Customer Address</u>	<u>Payor Address</u>	<u>Customer Fax</u>
rlindstrom@cdapress.com	3258 W. INDUSTRIAL LOOP COEUR D ALENE, ID 83815	3258 W. INDUSTRIAL LOOP COEUR D ALENE, ID 83815	
<u>Order Source</u>	<u>Customer Phone</u>	<u>Payor Phone</u>	<u>Special Pricing</u>
	2087691577	2087691577	

<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>	<u>Blind Box</u>	<u>Promo Type</u>	<u>Materials</u>
0	0	1	0	0	0

Invoice Text

CDA#13231 Legal Notice of Application-L95S3036N

Ad Order Notes

Run dates September 27 & October 4, 2024

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
67.04	\$0.00	67.04	Invoice	\$0.00	67.04



09/25/2024 12:39 PM

IDL-003

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss.
County of Kootenai)

RikkiJade Lindstrom, being first duly sworn upon oath, deposes and states:

1. I am now and at all times hereinafter mentioned was a citizen of the United States, resident of the State of Idaho, over the age of twenty-one years and not a party of the above entitled action.

2. I am now and at all times hereinafter mentioned was the printer (principal clerk) of the "Coeur d'Alene Press", a newspaper printed and published daily in Coeur d'Alene, Kootenai County, Idaho, and having a general circulation in said county.

3. The Legal Notice of which the annexed is a printed copy, was published in the regular Friday issue of said newspaper for 2 consecutive Weeks commencing on the 27 day of September, 2024, and ending on the 4 day of October, 2024, and such publication was made as often during said period as said daily newspaper was regularly issued.

4. That said newspaper has been continuously and uninterruptedly published in said Kootenai County, during a period of more than seventy-eight consecutive weeks immediately prior to the first publication of said notice.

R. Lindstrom
On this 4 day of October in the year of 2024 before me, a Notary Public, personally appeared RikkiJade Lindstrom, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she executed the same.



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 414 PF Hospitality LLC made application to expand commercial marina having some private moorage, reconfigure existing fuel lines with two new dispensaries, and build a new ship store on the Spokane River. Located adjacent to Tax # 5846, 5847, Heirs of Margaret Post Estate in TR 2 Blk 8, Post Falls; Sections 03, Township 50 North, Range 05 West; B.M., in Kootenai County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, 3258 W. Industrial Loop, Coeur d'Alene, ID 83815 within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Amidy Fuson, Lands Resource Specialist - Navigable Waters, at the above address or by calling (208) 769-1577.

/s/ Andrew Smyth,
Area Manager of Mica
Idaho Department of Lands
Legal#13231
AD#28340
Sept. 27 & Oct. 4, 2024



Angela Minehart
Notary Public for the State of Idaho
Residing in Coeur d'Alene, Idaho

My Commission Expires 03/20/2029

IDL-003

AGYPG000043

Order Confirmation

<u>Ad Order Number</u>	<u>Customer</u>	<u>Payor Customer</u>	<u>PO Number</u>
0000028340	IDAHO DEPARTMENT OF LANDS	IDAHO DEPARTMENT OF LANDS	
<u>Sales Rep</u>	<u>Customer Account</u>	<u>Payor Account</u>	<u>Ordered By</u>
kpacker+cdahouse@ha...	6368	6368	rlindstrom@cdapress.com
<u>Order Taker</u>	<u>Customer Address</u>	<u>Payor Address</u>	<u>Customer Fax</u>
rlindstrom@cdapress.com	3258 W. INDUSTRIAL LOOP COEUR D ALENE, ID 83815	3258 W. INDUSTRIAL LOOP COEUR D ALENE, ID 83815	
<u>Order Source</u>	<u>Customer Phone</u>	<u>Payor Phone</u>	<u>Special Pricing</u>
	2087691577	2087691577	

<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>	<u>Blind Box</u>	<u>Promo Type</u>	<u>Materials</u>
0	0	1	0	0	0

Invoice Text

CDA#13231 Legal Notice of Application-L95S3036N

Ad Order Notes

Run dates September 27 & October 4, 2024

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
67.04	\$0.00	67.04	Invoice	\$0.00	67.04

<u>Ad Number</u>	<u>Ad Type</u>	<u>Ad Size</u>
0000028340	ID-Metro	1 x 4.691" (41 lines)

<u>Run Date</u>	<u>Product</u>	<u>Placement</u>	<u>Position</u>	<u>Rate</u>	<u>Cost</u>
09/27/2024	ID-COEUR D'ALENE PRE	LEGALS	Any	\$0.77	\$39.57
10/04/2024	ID-COEUR D'ALENE PRE	LEGALS	Any	\$0.67	\$27.47

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 414 PF Hospitality LLC made application to expand commercial marina having some private moorage, reconfigure existing fuel lines with two new dispensaries, and build a new ship store on the Spokane River. Located adjacent to Tax # 5846, 5847, Heirs of Margaret Post Estate in TR 2 Blk 8, Post Falls; Sections 03, Township 50 North, Range 05 West; B.M., in Kootenai County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, 3258 W. Industrial Loop, Coeur d'Alene, ID 83815 within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Amidy Fuson, Lands Resource Specialist - Navigable Waters, at the above address or by calling (208) 769-1577.

/S/ Andrew Smyth,

Area Manager of Mica
Idaho Department of Lands

YPG0000461
Legal# 13201 **IDL-003**

AD#28340

Sept. 27 & Oct. 4, 2024

MICA
SUPERVISORY AREA
3258 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone (208) 769-1577



STATE BOARD OF LAND COMMISSIONERS

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

September 25, 2024

River Run Homeowners Association
1044 Northwest Blvd #B210
Coeur d'Alene ID 83814

Re: Courtesy Notification of Application for Encroachment L95S3036N

To Whom it Concerns:

This letter is to inform you as a courtesy that your adjacent neighbor **414 PF Hospitality LLC** has applied for a permit with Idaho Department of Lands to **expand existing commercial marina adding some private moorage, reconfigure existing fuel lines with two dispensaries, and building a new ship store on Spokane River**. The enclosed applications with site diagrams show the location and indicate dimensions and distances to your mutual property/riparian boundary.

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 **October 28, 2024**. 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.

Sincerely,

Amidy Fuson
Lands Resource Specialist-Navigable Waters
afuson@idl.idaho.gov

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 feet 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 AMIDY FUSON AFUSON@IDL.IDAHO.GOV AS SOON AS POSSIBLE.**

Date

Name

Address

City

State

Zip

Phone Number

Email Address

MICA
SUPERVISORY AREA
3258 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone (208) 769-1577



STATE BOARD OF LAND COMMISSIONERS
Brad Little, Governor
Phil McGrane, Secretary of State
Raúl R. Labrador, Attorney General
Brandon D Woolf, State Controller
Debbie Critchfield, Sup't of Public Instruction

September 25, 2024

Greenview Condominium Owners Inc
Attn: Jan Gera
1110 W Park Place, Suite 101
Coeur d'Alene ID 83814

Re: Courtesy Notification of Application for Encroachment L95S3036N

To Whom it Concerns:

This letter is to inform you as a courtesy that your adjacent neighbor **414 PF Hospitality LLC** has applied for a permit with Idaho Department of Lands to **expand existing commercial marina adding some private moorage, reconfigure existing fuel lines with two dispensaries, and building a new ship store on Spokane River.** The enclosed applications with site diagrams show the location and indicate dimensions and distances to your mutual property/riparian boundary.

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Sincerely,



Amidy Fuson
Lands Resource Specialist-Navigable Waters
afuson@idl.idaho.gov

Enclosures

STATE OF IDAHO
DEPARTMENT OF LANDS
ATTACHMENT FOR ENCROACHMENT

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***IF YOU HAVE ANY QUESTIONS PLEASE CONTACT AMIDY FUSON AFUSON@IDL.IDAHO.GOV AS SOON AS POSSIBLE.**

Date

Name

Address City State Zip

Phone Number Email Address

MICA
SUPERVISORY AREA
3258 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone (208) 769-1577



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
Brad Little, Governor
Phil McGrane, Secretary of State
Raúl R. Labrador, Attorney General
Brandon D Woolf, State Controller
Debbie Critchfield, Sup't of Public Instruction

MEMORANDUM

TO: Idaho Department of Fish and Game
Idaho Department of Environmental Quality
Idaho Department of Water Resources
Idaho Department of Transportation
US Army Corps of Engineers-CDA
Kootenai County Parks, Recreation/Waterways
Kootenai County Marine Division
Kootenai County Building & Planning & Zoning
Kootenai Environmental Alliance
Panhandle Health District 1-Kootenai County
Coeur d'Alene Tribe
Idaho Conservation League
Adjacent Neighbors

FROM: Amidy Fuson Resource Specialist Sr., Navigable Waters

DATE: **September 25, 2024**

SUBJECT: NOTICE OF APPLICATION L95S3036N – 414 PF Hospitality LLC

Enclosed is an application requesting permission to **permit expansion of commercial marina having some private moorage, reconfigure existing fuel lines (2 dispensaries), and build a new ship store on Spokane River.**

Please submit your comments, recommendations, or objections to IDL by **October 28, 2024**, regarding the likely effect of the proposed encroachment upon 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 questions concerning the application, we suggest you contact the applicant. If the applicant cannot answer your questions, please contact us.

Enclosures

MICA
SUPERVISORY AREA
3258 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone (208) 769-1577



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS
Brad Little, Governor
Phil McGrane, Secretary of State
Raúl R. Labrador, Attorney General
Brandon D Woolf, State Controller
Debbie Critchfield, Sup't of Public Instruction

September 25, 2024

The Coeur d'Alene Press
Attention: Legals
P.O. Box 7000
Coeur d'Alene, ID 83816

Re: Legal Notice of Application – L95S3036N

Enclosed is a notice of application. Please publish this as a legal advertisement for two consecutive weeks as soon as possible.

Upon completion, please provide a tear sheet for the 2nd publication, an affidavit of publication, and statement of cost.

Thank you. Your help in this matter is greatly appreciated.

Sincerely,

Amidy Fuson, Lands Resource Specialist Sr.,
Navigable Waterways

Enclosure

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 414 PF Hospitality LLC made application to expand commercial marina having some private moorage, reconfigure existing fuel lines with two new dispensaries, and build a new ship store on the Spokane River. Located adjacent to Tax # 5846, 5847, Heirs of Margaret Post Estate in TR 2 Blk 8, Post Falls; Sections 03, Township 50 North, Range 05 West; B.M., in Kootenai County.

Written objections to or requests for hearing in this matter must be on file with the Idaho Department of Lands, 3258 W. Industrial Loop, Coeur d'Alene, ID 83815 within thirty (30) days after the first appearance of this notice. Specific information regarding this application may be obtained from Amidy Fuson, Lands Resource Specialist - Navigable Waters, at the above address or by calling (208) 769-1577.

/S/

Andrew Smyth, Area Manager of Mica
Idaho Department of Lands

October 28, 2024

Idaho Dept of Lands
3258 W. Industrial Loop
Coeur d'Alene, ID 83815

10/28/24 2B/CB
PAID
\$75.
CH# 8188

Subject: Request for Public Hearing on Marina 33 Development/L95S3036N

To Whom It May Concern,

We are a group of concerned citizens residing directly across from the proposed Marina 33 project. Given our close proximity, we will be significantly impacted by the changes to the marina and surrounding property.

We are particularly concerned that the current project plans lack a detailed lighting plan for the hotel, dock system and waterfront improvements. Previous property owners installed bright white lights in the parking areas and along the docks, and additional unshielded lights have recently been added. This unmitigated light pollution affects neighboring properties and needs to be addressed. We have been told via conference call with Stancraft that they will work with us on this issue.

Additionally, we are concerned about the encroachment to add 100 additional new boat slips and the increased strain on the entire river due to the fact that we believe we have reached the maximum carrying capacity on the narrow Spokane River. With the number of boats already moored on the river, along with a great number of boats launched at local launches, 100 additional slips may pose a greater safety risk on an already over-saturated river. Human life and safety should take precedence over economic benefits. We believe this issue warrants public discussion to ensure the river's sustainability for all users before any permits are issued.

As per IDAPA 20 – Idaho Department of Lands (20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho), Section 015, dock surface area is limited in relation to linear feet of waterfront property. The current plans exceed these limitations.

We respectfully request a public hearing to present these concerns to the developer and the Idaho Department of Lands in a forum that allows for open dialogue and resolution with all citizens.

Thank you for your attention to this matter.

RECEIVED
OCT 28 2024
IDAHO DEPT. OF LANDS
MICA SUPERVISORY AREA OFFICE

pd \$75⁰⁰

Scott & Sheryl Scofield
11927 W. Span Way Rd
Post Falls, ID 83854
209-321-0975
208-964-4037

Jose Jara
325 Simonsen Rd
Post Falls, ID 83854
909-648-2435

Dick Teich
12155 W. Span Way Rd
Post Falls, ID 83854
208-651-4336

IDL-007

RECEIVED

AGYPG000055

MICA
SUPERVISORY AREA
3258 W. Industrial Loop
Coeur d'Alene, ID 83815
Phone (208) 769-1577



DUSTIN T. MILLER, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS

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

September 25, 2024

Greenview Condominium Owners Inc
Attn: Jan Gera
1110 W Park Place, Suite 101
Coeur d'Alene ID 83814

Re: Courtesy Notification of Application for Encroachment L95S3036N

To Whom it Concerns:

DEPT. OF LANDS
SUPERVISORY AREA
INDUSTRIAL LOOP
D'ALENE, ID 83815

Return
Sender

Return
to Sender

RECEIVED
OCT 10 2024
By: *[Signature]*

Return
to Sender

Not at
this
address

Greenview Condominium Owners INC
Attn: Jan Gera
1110 W Park Place, Suite 101
Coeur d'Alene, ID 83814

NIXTE 980 48 1 0110/07/24
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
RC: 83815602158 0127N281222-00399

By: _____

From: [Jon Kirsch](#)
To: [Nelson Erickson](#)
Cc: [Mike Ahmer](#); [Amidy Fuson](#)
Subject: Re: Marina 33- Encroachment L95S3036N
Date: Thursday, October 17, 2024 12:31:55 PM
Attachments: [image.png](#)

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Thank you! I'll definitely reach out. We're currently working with most of the folks in the bay across from your marina.

Do you have the lighting plan for the marina yet? We'd like to review it, as the lighting will have a significant impact on us. Last year, Marina 33 had some bright lights at the gas dock that were on motion sensors, but they activated frequently. Fortunately, the workers were able to adjust them, which helped reduce the issue.

Our goal is to ensure you have adequate lighting for the marina and boats while also properly shielding and limiting the lumens (equivalent to a 20-watt incandescent or 1-2 watt LED). I'm sure you're mindful of this, but we want to ensure it's part of your plans being submitted to the IDL, Kootenai County, and Post Falls.

Since we need to submit for the hearing, could we discuss this before next week?

Jon
480-243-0318

From: Nelson Erickson <Nelson@stancraft.com>
Sent: Tuesday, October 15, 2024 1:03 PM
To: jon_kirsch@hotmail.com <jon_kirsch@hotmail.com>
Cc: Mike Ahmer <mahmer@idl.idaho.gov>; Amidy Fuson <AFuson@idl.idaho.gov>
Subject: Marina 33- Encroachment L95S3036N

Hi Jon,

My name is Nelson Erickson and I am with Marina 33 and StanCraft Marina Construction. Our team has been working hard on cleaning up the facility across the river from you. Amidy Fuson (Idaho Department of Lands) reached out to me today about the email you sent regarding dock lighting. I can totally understand that concern and would love to talk through this with you. We are still working on some of those design details, so the timing is perfect. My Cell number is (208) 818-6584. Please feel free to reach out whenever. I can also contact you if you would be

IDL-009

PC-00001

AGYPG000057

willing to provide contact information.

Looking forward to speaking with you.

Nelson Erickson

Cell: 208.818.6584

Nelson@StanCraft.com



From: [Amidy Fuson](#)
To: [RICHARD PAULL](#)
Subject: RE: L95S3036N Expansion of private marina at Templins
Date: Wednesday, October 16, 2024 6:12:18 AM
Attachments: [image.png](#)

Good Morning Mr. Paull,

Thanks for reaching out to me and that is a great question. You are welcome to make comment and any alternate plans that you believe will be economically feasible around the project and that will go into record, but no hearing will take place. If you wish to take it to the next level, you may call for a hearing. Here is the code that we must follow for commercial facilities:

- IDAPA 20.03.04.030.04.Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner or lessee, or any resident of the state of Idaho may do one (1) of the following:
 - a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or
 - b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. The hearing must be specifically requested in writing. Any person or agency requesting a hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05.

Please submitted your comments or if you would like to call for a hearing the fee would need to be paid with a statement stating you would like to have a hearing.

Thanks,



Amidy Fuson
Lands Resource Specialist, Sr.
Navigable Waters
Monday – Thursday

Idaho Department of Lands
3258 Industrial Loop, Coeur d'Alene, ID 83815
Office: (208) 769-1577
Email: afuson@idl.idaho.gov
<https://www.idl.idaho.gov>

IDL-009

PC-00003

AGYPG000059

From: RICHARD PAULL <rpaul@comcast.net>

Sent: Tuesday, October 15, 2024 6:07 PM

To: Amidy Fuson <AFuson@idl.idaho.gov>; RICHARD PAULL <rpaul@comcast.net>

Subject: L95S3036N Expansion of private marina at Templins

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Is the only way for me to object to this project for me to pay \$75 and request a public hearing? This seems a bit odd to me to not be able to express my concerns about this expansion.

Please advise.

Rich Paull

rpaul@comcast.net

From: [sheri.scofield](#)
To: [Amidy Fuson](#)
Subject: Encroachment L95S3036N
Date: Friday, October 25, 2024 12:31:29 PM

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Hello Amidy,
Would you please call me at (208) 964-4037.
We are filling a request for hearing on the above referenced Encroachment.
How do we best submit this to IDL today since we have a deadline of 10/28/24?
Kind Regards,
Sheryl Scofield

From: [sheri scofield](#)
To: [Amidy Fuson](#)
Subject: Re: Encroachment L95S3036N
Date: Monday, October 28, 2024 1:11:40 PM

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Hi Amidy,
Thank you for your response.
We still have questions about the above captioned encroachment, so we would need to speak with you at your earliest opportunity.
We have a deadline of 5 PM as you stated.
Kindest Regards,
Sheri

> On Oct 28, 2024, at 8:05 AM, Amidy Fuson <AFuson@idl.idaho.gov> wrote:
>
> Good morning Ms. Scofield,
>
> It is my understanding that Mike Ahmer spoke with you already, but I wanted to make sure if you had further questions, I could give you a call.
>
> If you are wanting to get the objection in and call for a hearing, please have it here by the end of the working day today, 5pm. This can be done by coming into our office and dropping off your letter and fee or you can email me a letter with a receipt for the \$75 fee. Payments can be made to <https://otc.cdc.nicusa.com/Public2.aspx?portal=id&organization=Department%20of%20Lands> Which ever is easiest for you.
>
> Please let me know if you have questions or you would like to speak to me.
>
> Thanks,
>
>
>
>
>
>
> Amidy Fuson
> Lands Resource Specialist, Sr.
> Navigable Waters
> Monday - Thursday
> Idaho Department of Lands
> 3258 Industrial Loop, Coeur d'Alene, ID 83815
> Office: (208) 769-1577
> Email: afuson@idl.idaho.gov
> <https://www.idl.idaho.gov>
>
>
>
>
>
>

IDL-009

PC-00006

AGYPG000062

>
>
> -----Original Message-----
> From: sheri scofield <sherichic91@gmail.com>
> Sent: Friday, October 25, 2024 12:31 PM
> To: Amidy Fuson <AFuson@idl.idaho.gov>
> Subject: Encroachment L95S3036N
>
> CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.
>
> Hello Amidy,
> Would you please call me at (208) 964-4037.
> We are filling a request for hearing on the above referenced Encroachment.
> How do we best submit this to IDL today since we have a deadline of 10/28/24?
> Kind Regards,
> Sheryl Scofield
>
>
>

From: [Chantilly Higbee](#)
To: [Amidy Fuson](#)
Subject: RE: Commercial Marina, gas station, and buildings on Spokane River L95S3036N
Date: Thursday, October 24, 2024 8:30:31 AM
Attachments: [image.png](#)

DEQ's Surface Water section has reviewed the application and has no comment.

Thank you for the opportunity.

Chantilly
208-666-4605

From: Amidy Fuson <AFuson@idl.idaho.gov>
Sent: Wednesday, September 25, 2024 8:19 AM
To: Golart, Aaron <Aaron.Golart@idwr.idaho.gov>; Adam Knight <aknight@kcgov.us>; Bell, Chace <Chace.Bell@idwr.idaho.gov>; Chantilly Higbee <Chantilly.Higbee@deq.idaho.gov>; D1Permits <D1Permits@itd.idaho.gov>; Barnes, Emily <Emily.Barnes@idwr.idaho.gov>; Eric <eric@lakeshighwaydistrict.com>; Northern Info <northerninfo@idwr.idaho.gov>; Jason Brown <jbrown@cdatribe-nsn.gov>; Jason Kimberling <Jason.Kimberling@itd.idaho.gov>; Jason Peppin <Jpeppin@phd1.idaho.gov>; Jeremy Varley <Jeremy.Varley@isda.idaho.gov>; Marvin Fenn <Marvin.Fenn@itd.idaho.gov>; Mary Rehnborg <MRehnborg@phd1.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>; Nicholas Zurfluh <Nicholas.Zurfluh@ISDA.IDAHO.GOV>; Nick Snyder (nsnyder@kcgov.us) <nsnyder@kcgov.us>; Rebecca Stevens <rstevens@cdatribe-nsn.gov>; Sgt. Ryan Miller <rmiller@kcgov.us>; Shelley Austin <shelley@kealliance.org>; Stacy Simkins <Stacy.Simkins@itd.idaho.gov>; Symone Legg <Symone.Legg@itd.idaho.gov>; Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>; USACE <CENWW-RD-CDA@usace.army.mil>
Subject: Commercial Marina, gas station, and buildings on Spokane River L95S3036N

Good morning,

Please review the attached application to expand the commercial marina, adding private slips, move existing fuel lines, and build a building with the marina. Have all comments in by October 28, 2024.

Thanks,



Amidy Fuson
Lands Resource Specialist, Sr.
Navigable Waters
Monday – Thursday
Idaho Department of Lands
3258 Industrial Loop, Coeur d’Alene, ID 83815

IDL-010

IDL00001

AGYPG000064

From: [Horsmon, Merritt](#)
To: [Amidy Fuson](#)
Subject: RE: Commercial Marina, gas station, and buildings on Spokane River L95S3036N
Date: Thursday, October 17, 2024 1:31:06 PM
Attachments: [image002.png](#)
[image003.png](#)

Hi Amidy,

The Idaho Department of Fish and Game does not have any comments to submit for this application.

Thank you for the opportunity to review and comment,

Merritt Horsmon

Regional Technical Assistance Manager
Panhandle Region
2885 W. Kathleen Ave.
Coeur d'Alene, ID 83815
208.769.1414 office
208.251.4509 mobile
merritt.horsmon@idfg.idaho.gov



From: Amidy Fuson <AFuson@idl.idaho.gov>
Sent: Wednesday, September 25, 2024 8:19 AM
To: Golart, Aaron <Aaron.Golart@idwr.idaho.gov>; Adam Knight <aknight@kcgov.us>; Bell, Chace <Chace.Bell@idwr.idaho.gov>; Chantilly Higbee <Chantilly.Higbee@deq.idaho.gov>; D1Permits <D1Permits@itd.idaho.gov>; Barnes, Emily <Emily.Barnes@idwr.idaho.gov>; Eric <eric@lakeshighwaydistrict.com>; Northern Info <northerninfo@idwr.idaho.gov>; Jason Brown <jbrown@cdatribe-nsn.gov>; Jason Kimberling <Jason.Kimberling@itd.idaho.gov>; Jason Peppin <jpeppin@phd1.idaho.gov>; Jeremy Varley <Jeremy.Varley@isda.idaho.gov>; Marvin Fenn <Marvin.Fenn@itd.idaho.gov>; Mary Rehnborg <MRehnborg@phd1.idaho.gov>; Horsmon, Merritt <merritt.horsmon@idfg.idaho.gov>; Nicholas Zurfluh <Nicholas.Zurfluh@ISDA.IDAHO.GOV>; Nick Snyder (nsnyder@kcgov.us) <nsnyder@kcgov.us>; Rebecca Stevens <rstevens@cdatribe-nsn.gov>; Sgt. Ryan Miller <rmiller@kcgov.us>; Shelley Austin <shelley@kealliance.org>; Stacy Simkins <Stacy.Simkins@itd.idaho.gov>; Symone Legg <Symone.Legg@itd.idaho.gov>; Alleman, Tammy <Tammy.Alleman@idwr.idaho.gov>; USACE <CENWW-RD-CDA@usace.army.mil>
Subject: Commercial Marina, gas station, and buildings on Spokane River L95S3036N

IDL-011

IDL00002

AGYPG000065

Good morning,

Please review the attached application to expand the commercial marina, adding private slips, move existing fuel lines, and build a building with the marina. Have all comments in by October 28, 2024.

Thanks,



Amidy Fuson
Lands Resource Specialist, Sr.
Navigable Waters
Monday – Thursday

Idaho Department of Lands
3258 Industrial Loop, Coeur d'Alene, ID 83815
Office: (208) 769-1577
Email: afuson@idl.idaho.gov
<https://www.idl.idaho.gov>

IDL-011
IDL00003

AGYPG000066

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application to Permit the	)	AGCY. CASE NO. PH-2024-NAV-22-004
Expansion of a Commercial Marina,)	
Reconfigure Existing Fuel Lines, and Build	)	OAH Case No. 24-320-09
a New Ship Store on Spokane River,)	
	)	NOTICE OF APPOINTMENT OF
414 PF Hospitality, LLC.	)	HEARING OFFICER
)	
Applicant.)	
_____)	

TO ALL PARTIES AND COUNSEL OF RECORD:

The Chief Administrative Hearing Officer of the Office of Administrative Hearings, pursuant to their authority under Idaho Code § 67-5282(1)(d), hereby appoints the following administrative law judge as the duly authorized Hearing Officer in this matter:

Merritt Dublin
Office of Administrative Hearings
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300
merritt.dublin@oah.idaho.gov

This administrative law judge is appointed to conduct a hearing in this matter in accord with all governing statutes and rules, and make appropriate findings of fact, conclusions of law, and preliminary or recommended orders (as may be requested or mandated) to the Director of the Idaho Department of Lands. The administrative law judge is required to comply with the Office of Administrative Hearings' Code of Conduct.

AUTHORITY AS HEARING OFFICER

As Hearing Officer, the administrative law judge has the authority to:

1. Schedule and conduct motion hearings and enter the appropriate orders disposing of all pre-hearing motions, such as motions for notices of proposed default orders, motions on the admissibility of evidence, and motions for continuances.

2. Schedule and conduct any pre-hearing conference and enter the appropriate orders for any purpose recognized by IDAPA 62.01.01.402.

3. Perform other duties assigned by the Board and as authorized by the Idaho Administrative Procedure Act, promulgated at Idaho Code §§ 67-5201 *et seq.*, the Idaho Rules of Administrative Procedure promulgated at IDAPA 62.01.01 *et seq.*, and such other statutes and rules as may govern the proceedings.

4. The Hearing Officer may not engage in *ex parte* communications concerning the substance of this matter, except as provided in Idaho Code § 67-5253 and IDAPA 62.01.01.255.

FILING OF DOCUMENTS

All documents filed in this matter must be filed by email with the Office of Administrative Hearings at the following email address: filings@oah.idaho.gov

Additionally, all documents filed in this matter must also be served by email upon the Hearing Officer and all other parties to the proceeding at the email addresses listed in the Certificate of Service attached hereto, which list may be updated from time to time by the Hearing Officer.

Original and/or paper documents do not need to be filed with the Office of Administrative Hearings, except upon request by the Hearing Officer. If you are requested to submit original and/or paper documents by the Hearing Officer, submit those documents to the Office of Administrative Hearings at the following address:

Office of Administrative Hearings
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300

DATED: November 18, 2024.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Bryan A. Nickels
Bryan A. Nickels
Chief Administrative Hearing Officer

CERTIFICATE OF MAILING

I hereby certify that on this 18th day of November, 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

414 PF Hospitality, LLC
Mitch Alhadeff
6710 E. Camelback Rd.
Scottsdale, AZ 85251
(480) 315-9595
Applicant

☐ U.S. Mail, postage prepaid
☒ Email: mitch@bridgerlp.com

Stancraft
Keaton Brown
2936 W. Dakota Ave.
Hayden, ID 83835
(208) 415-2180
Applicant's Agent

☐ U.S. Mail, postage prepaid
☒ Email: keaton.b@stancraft.com

John Richards
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83720
(208) 334-0200
General Counsel for IDL

☐ U.S. Mail, postage prepaid
☒ Email: jrichards@idl.idaho.gov

Marde Messinger
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83720
(208) 334-0200
IDL Lands Program Manager

☐ U.S. Mail, postage prepaid
☒ Email: mmessinger@idl.idaho.gov

Kourtney Romine
Idaho Department of Lands
PO Box 83720
Boise ID 83720-0050
(208) 334-0200
IDL Workflow Coordinator

☐ U.S. Mail, postage prepaid
☒ Email: kromine@idl.idaho.gov

Merritt Dublin
Office of Administrative Hearings
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300
Hearing Officer

☐ U.S. Mail, postage prepaid
☒ Email: merritt.dublin@oah.idaho.gov

OAH
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
Located at: 350 N. 9th., Suite 300
(208) 605-4300

☐ U.S. Mail, postage prepaid
☒ Email: filings@oah.idaho.gov

Scott and Sheryl Scofield
11927 W. Span Way Rd.
Post Falls, ID 83854
Objectors

☐ U.S. Mail, postage prepaid
☒ Email: Sherichic91@gmail.com

Jose Jara
325 Simonsen Rd
Post Falls, ID 83854
909-648-4235
Objector

☒ U.S. Mail, postage prepaid
☐ Email:

Dick Teich
12155 W Span Way Rd
Post Falls, ID 83854
208-651-4336
Objector

☒ U.S. Mail, postage prepaid
☐ Email:

/s/ Bryan A. Nickels
Bryan A. Nickels, CAHO
Office of Administrative Hearings

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application to Permit the	)	AGCY. CASE NO. PH-2024-NAV-22-004
Expansion of a Commercial Marina,)	
Reconfigure Existing Fuel Lines, and Build	)	OAH Case No. 24-320-09
a New Ship Store on Spokane River,)	
	)	NOTICE OF SCHEDULING
414 PF Hospitality, LLC.	)	CONFERENCE
)	
Applicant.)	
_____)	

Please take notice that Administrative Law Judge (ALJ) Merritt Dublin, the designated Hearing Officer in the above-entitled action, will call this matter for a scheduling videoconference on **Thursday, November 21, 2024, at 3:00 Mountain Time**, or as soon thereafter as the parties may be heard. The parties will be sent a Zoom link for this conference contemporaneously with this notice.

The scheduling conference will be informal, and the purpose of the conference will be to:

1. Identify or simplify the issues in the case;
2. Determine if there are any areas of agreement between the parties;
3. Discuss the number and type of documents and witnesses each party intends to use and/or call if a hearing needs to be held;
4. Discuss any other procedural or evidentiary matters relevant to this case which may tend to expedite or clarify this case; and
5. Determine a hearing date, if necessary.

Should any party or counsel require special accommodations pursuant to the Americans with Disabilities Act, they must notify the Hearing Officer of such request on or before September 10, 2024.

Please take notice that pursuant to Idaho Rule of Administrative Procedure 425 (IDAPA 62.01.01.425) and Section 67-5242(4), Idaho Code, **DEFAULT MAY BE ENTERED AS FOLLOWS:**

If a party fails to attend any stage of a contested case, the presiding officer may serve upon all parties notice of a proposed default order. The notice shall include a statement of the grounds for the proposed order. Within seven (7) days after service of the proposed order, the party against whom it was issued may file a written petition requesting the proposed order to be vacated. The petition shall state the grounds relied upon. The presiding officer shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a petition. If the presiding officer issues a default order, the officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party.

DATED November 20, 2024.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Merritt Dublin

Merritt Dublin

Administrative Law Judge

CERTIFICATE OF MAILING

I hereby certify that on this 20th day of November, 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

414 PF Hospitality, LLC
Mitch Alhadeff
6710 E. Camelback Rd.
Scottsdale, AZ 85251
(480) 315-9595
Applicant

☐ U.S. Mail, postage prepaid
☒ Email: mitch@bridgerlp.com

Stancraft
Scott Hislop
Kinzie. Ridgewell
2936 W. Dakota Ave.
Hayden, ID 83835
(208) 415-2180
Applicant's Agents

☐ U.S. Mail, postage prepaid
☒ Email: scott.h@stancraft.com
kinzie.r@stancraft.com

John Richards
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83720
(208) 334-0200
General Counsel for IDL

☐ U.S. Mail, postage prepaid
☒ Email: jrichards@idl.idaho.gov

Marde Messinger
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83720
(208) 334-0200
IDL Lands Program Manager

☐ U.S. Mail, postage prepaid
☒ Email: mmessinger@idl.idaho.gov

Kourtney Romine
Idaho Department of Lands
PO Box 83720
Boise ID 83720-0050
(208) 334-0200
IDL Workflow Coordinator

☐ U.S. Mail, postage prepaid
☒ Email: kromine@idl.idaho.gov

Merritt Dublin
Office of Administrative Hearings
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300
Hearing Officer

☐ U.S. Mail, postage prepaid
☒ Email: merritt.dublin@oah.idaho.gov

NOTICE OF SCHEDULING CONFERENCE

AGCY. CASE NO.: PH-2024-NAV-22-004/OAH Case No. 24-320-09 - 3

OAH
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
Located at: 350 N. 9th., Suite 300
(208) 605-4300

☐ U.S. Mail, postage prepaid
☒ Email: filings@oah.idaho.gov

Scott and Sheryl Scofield
11927 W. Span Way Rd.
Post Falls, ID 83854
Objectors

☐ U.S. Mail, postage prepaid
☒ Email: Sherichic91@gmail.com

Jose Jara
325 Simonsen Rd
Post Falls, ID 83854
909-648-4235
Objector

☒ U.S. Mail, postage prepaid
☐ Email:

Dick Teich
12155 W Span Way Rd
Post Falls, ID 83854
208-651-4336
Objector

☒ U.S. Mail, postage prepaid
☐ Email:

/s/ Merritt Dublin
Merritt Dublin
Office of Administrative Hearings

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application to Permit the	)	AGCY. CASE NO. PH-2024-NAV-22-004
Expansion of a Commercial Marina,)	
Reconfigure Existing Fuel Lines, and Build	)	OAH Case No. 24-320-09
a New Ship Store on Spokane River,)	
	)	SCHEDULING ORDER
414 PF Hospitality, LLC.)	
)	
Applicant.)	
)	

Hearing Officer Merritt Dublin conducted a scheduling videoconference on November 21, 2024. Appearances were made by Scott Hislop, counsel for Stancraft Companies and acting agent for Applicant 414 PF Hospitality, LLC in this matter; Idaho Department of Lands (IDL) General Counsel John Richards; and IDL representatives, Mike Ahmer, Marde Messinger, and Rachel King. Appearances were also made by objectors Scott and Scheryl Scofield. During the scheduling conference, the parties agreed upon the date of December 18 for the public hearing. However, the facility chosen to accommodate the number of individuals suggested by the Scofields will attend the public hearing was not available on that date. The parties agreed to the alternative date of **December 19**. Based on the parties' agreements,

IT IS HEREBY ORDERED that the following deadlines and procedures will govern this matter going forward:

1. On or before **December 9, 2024**, the parties will file with the Hearing Officer and serve upon the opposing party:
 - a) A prehearing statement, the prehearing statement should summarize facts and law the parties intend to rely on at the hearing.
 - b) A disclosure of witnesses, by name, address, and telephone number, who will testify at the final hearing in this matter, including expert witnesses, along with a summary of the anticipated testimony of each witness; and

- c) An exhibit list of all documents, drawings, photographs, or other demonstrative evidence to be considered at the hearing; and
- d) A copy of its proposed exhibits with IDL's exhibits numbered as follows: "IDL-01," "IDL-02," "IDL-03," etc. and Applicant's exhibits numbered as follows: "414 PF-01," "414 PF-02," "414 PF-03," etc.

2. **A remote Prehearing Conference will be held via Zoom on December 13, 2024, 10:00 a.m. Pacific Time/9:00 a.m. Mountain Time.** The purpose of this conference is to discuss all prehearing matters, including objections, stipulations, narrowing of issues, burden of proof, and any other preliminary matters that need to be addressed prior to the hearing. A Zoom hearing link will be sent contemporaneously with this order and will be included by IDL in the public notice of hearing.

3. **A one-day, in-person evidentiary hearing is scheduled for Thursday, December 19, 2024, in the auditorium of Coeur d'Alene High School.** Coeur d'Alene High School is located at 5530 N. 4th Street, Coeur d'Alene, Idaho 83815. The evidentiary hearing will commence at 4:00 p.m. Pacific Time and conclude at 8:00 p.m. Pacific Time. A Zoom link will be available for remote viewing. Time limits for individual public comments may be set depending on the number of individuals who wish to testify.

4. A site visit, if necessary, will take place on **Friday, December 20, 2024, at 10:00 a.m. Pacific Time.**

5. The public may submit comment through the **close of business on Friday, December 27, 2024.**

6. To "file" and "serve" their documents, the parties may email them to all other parties at the addresses listed in the attached Certificate of Service before any deadline, with a copy to merritt.dublin@oah.idaho.gov and filings@oah.idaho.gov.

7. The Hearing Officer will arrange for a court reporter. The cost of the court reporter appearance fee will be borne by the Idaho Department of Lands. If any party or participant requests

a copy of the transcript, that party or participant will bear the cost of such transcript. If all parties request a copy of the transcript, the cost of a transcript will be borne equally by the parties. If the Hearing Officer requests a copy of the transcript, the cost of the transcript will be borne equally by the parties. In addition, the hearing will be recorded via Zoom or some other recording device.

8. Should any party or their counsel require special accommodations pursuant to the Americans with Disabilities Act, the Hearing Officer shall be notified of such request at or before the time of the prehearing conference.

NOTICE AND REMINDER: The Hearing Officer shall not be contacted by either party *ex parte*. To schedule a status conference to address any case matters, the parties are directed to first confer about agreed-to dates and times, and then to contact Merritt Dublin at merritt.dublin@oah.idaho.gov with a copy to filings@oah.idaho.gov to schedule a status conference.

DATED: November 25, 2024.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Merritt Dublin

Merritt Dublin
Administrative Law Judge

CERTIFICATE OF MAILING

I hereby certify that on this 25th day of November, 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

414 PF Hospitality, LLC
Mitch Alhadeff
6710 E. Camelback Rd.
Scottsdale, AZ 85251
(480) 315-9595
Applicant

☐ U.S. Mail, postage prepaid
☒ Email: mitch@bridgerlp.com

Stancraft
Scott Hislop
Kenzie Ridgewell
2936 W. Dakota Ave.
Hayden, ID 83835
(208) 818-6584
Applicant's Agent

☐ U.S. Mail, postage prepaid
☒ Email: scott.h@stancraft.com
kinzie.r@stancraft.com

John Richards
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83720
(208) 334-0200
General Counsel for IDL

☐ U.S. Mail, postage prepaid
☒ Email: jrichards@idl.idaho.gov

Marde Messinger
Mike Ahmer
Rachel King
Idaho Department of Lands
300 N. 6th Street
Boise, ID 83720
(208) 334-0200
IDL

☐ U.S. Mail, postage prepaid
☒ Email: mmessinger@idl.idaho.gov
mahmer@idl.idaho.gov
rking@idl.idaho.gov

Kourtney Romine
Idaho Department of Lands
PO Box 83720
Boise ID 83720-0050
(208) 334-0200
IDL Workflow Coordinator

☐ U.S. Mail, postage prepaid
☒ Email: kromine@idl.idaho.gov

OAH
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
Located at: 350 N. 9th., Suite 300
(208) 605-4300

☐ U.S. Mail, postage prepaid
☒ Email: filings@oah.idaho.gov

///

Scott and Sheryl Scofield
11927 W. Span Way Rd.
Post Falls, ID 83854
Objectors

☐ U.S. Mail, postage prepaid
☒ Email: Sherichic91@gmail.com

Jose Jara
325 Simonsen Rd
Post Falls, ID 83854
909-648-4235
Objector

☒ U.S. Mail, postage prepaid
☐ Email:

Dick Tyke
12155 W Span Way Rd
Post Falls, ID 83854
208-651-4336
Objector

☒ U.S. Mail, postage prepaid
☒ Email: rttyke1200@yahoo.com

/s/ Merritt Dublin
Office of Administrative Hearings

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application to Permit the Expansion of a Commercial Marina, Reconfigure Existing Fuel Lines, and Build a New Ship Store on Spokane River,
414 PF Hospitality, LLC.
Applicant.

) AGCY. CASE NO. PH-2024-NAV-22-004
)
) OAH Case No. 24-320-09
)
) **AMENDED SCHEDULING ORDER**
)
)
)
)

Hearing Officer Merritt Dublin conducted a scheduling videoconference on November 21, 2024. Appearances were made by Scott Hislop, counsel for Stancraft Companies and acting agent for Applicant 414 PF Hospitality, LLC in this matter; Idaho Department of Lands (IDL) General Counsel John Richards; and IDL representatives, Mike Ahmer, Marde Messinger, and Rachel King. Appearances were also made by objectors Scott and Scheryl Scofield. During the scheduling conference, the parties agreed upon the date of December 18 for the public hearing. However, the facility chosen to accommodate the number of individuals suggested by the Scofields will attend the public hearing was not available on that date. The parties agreed to the alternative date of **December 19**. Based on the parties' agreements,

IT IS HEREBY ORDERED that the following deadlines and procedures will govern this matter going forward:

1. On or before **December 9, 2024**, the parties will file with the Hearing Officer and serve upon the opposing party:
 - a) A prehearing statement, the prehearing statement should summarize facts and law the parties intend to rely on at the hearing.
 - b) A disclosure of witnesses, by name, address, and telephone number, who will testify at the final hearing in this matter, including expert witnesses, along with a summary of the anticipated testimony of each witness; and

- c) An exhibit list of all documents, drawings, photographs, or other demonstrative evidence to be considered at the hearing; and
- d) A copy of its proposed exhibits with IDL's exhibits numbered as follows: "IDL-01," "IDL-02," "IDL-03," etc. and Applicant's exhibits numbered as follows: "414 PF-01," "414 PF-02," "414 PF-03," etc.

2. **A remote Prehearing Conference will be held via Zoom on December 13, 2024, 9:00 a.m. Pacific Time/10:00 a.m. Mountain Time.** The purpose of this conference is to discuss all prehearing matters, including objections, stipulations, narrowing of issues, burden of proof, and any other preliminary matters that need to be addressed prior to the hearing. A Zoom hearing link will be sent contemporaneously with this order and will be included by IDL in the public notice of hearing.

3. **A one-day, in-person evidentiary hearing is scheduled for Thursday, December 19, 2024, in the auditorium of Coeur d'Alene High School.** Coeur d'Alene High School is located at 5530 N. 4th Street, Coeur d'Alene, Idaho 83815. The evidentiary hearing will commence at 4:00 p.m. Pacific Time and conclude at 8:00 p.m. Pacific Time. A Zoom link will be available for remote viewing. Time limits for individual public comments may be set depending on the number of individuals who wish to testify.

4. A site visit, if necessary, will take place on **Friday, December 20, 2024, at 10:00 a.m. Pacific Time.**

5. The public may submit comment through the **close of business on Friday, December 27, 2024.**

6. To "file" and "serve" their documents, the parties may email them to all other parties at the addresses listed in the attached Certificate of Service before any deadline, with a copy to merritt.dublin@oah.idaho.gov and filings@oah.idaho.gov.

7. The Hearing Officer will arrange for a court reporter. The cost of the court reporter appearance fee will be borne by the Idaho Department of Lands. If any party or participant requests

a copy of the transcript, that party or participant will bear the cost of such transcript. If all parties request a copy of the transcript, the cost of a transcript will be borne equally by the parties. If the Hearing Officer requests a copy of the transcript, the cost of the transcript will be borne equally by the parties. In addition, the hearing will be recorded via Zoom or some other recording device.

8. Should any party or their counsel require special accommodations pursuant to the Americans with Disabilities Act, the Hearing Officer shall be notified of such request at or before the time of the prehearing conference.

NOTICE AND REMINDER: The Hearing Officer shall not be contacted by either party *ex parte*. To schedule a status conference to address any case matters, the parties are directed to first confer about agreed-to dates and times, and then to contact Merritt Dublin at merritt.dublin@oah.idaho.gov with a copy to filings@oah.idaho.gov to schedule a status conference.

DATED: November 25, 2024.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Merritt Dublin

Merritt Dublin
Administrative Law Judge

CERTIFICATE OF MAILING

I hereby certify that on this 25th day of November, 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

414 PF Hospitality, LLC
Mitch Alhadeff
6710 E. Camelback Rd.
Scottsdale, AZ 85251
(480) 315-9595
Applicant

☐ U.S. Mail, postage prepaid
☒ Email: mitch@bridgerlp.com

Stancraft
Scott Hislop
Kenzie Ridgewell
2936 W. Dakota Ave.
Hayden, ID 83835
(208) 818-6584
Applicant's Agent

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General Counsel for IDL

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Marde Messinger
Mike Ahmer
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Kourtney Romine
Idaho Department of Lands
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Boise ID 83720-0050
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IDL Workflow Coordinator

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OAH
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
Located at: 350 N. 9th., Suite 300
(208) 605-4300

☐ U.S. Mail, postage prepaid
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///

Scott and Sheryl Scofield
11927 W. Span Way Rd.
Post Falls, ID 83854
Objectors

☐ U.S. Mail, postage prepaid
☒ Email: Sherichic91@gmail.com

Jose Jara
325 Simonsen Rd
Post Falls, ID 83854
909-648-4235
Objector

☒ U.S. Mail, postage prepaid
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Dick Tyke
12155 W Span Way Rd
Post Falls, ID 83854
208-651-4336
Objector

☒ U.S. Mail, postage prepaid
☒ Email: rttyke1200@yahoo.com

/s/ Merritt Dublin
Office of Administrative Hearings

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application to Permit the	)	AGCY. CASE NO. PH-2024-NAV-22-004
Expansion of a Commercial Marina,)	
Reconfigure Existing Fuel Lines, and Build	)	OAH Case No. 24-320-09
a New Ship Store on Spokane River,)	
	)	ORDER RE: HEARING ASSISTANCE
414 PF Hospitality, LLC.)	
)	
Applicant.)	
)	

During the scheduling videoconference held on November 21, 2024, Objectors, Mr. and Mrs. Scofield, indicated expecting approximately 100 members of the public to participate in the public hearing set for November 18, 2024. Due to the expected volume of public participants,

IT IS HEREBY ORDERED that IDL shall provide at least one staff member to arrive at the hearing by 3:30 p.m. and assist with public sign-in and managing public testimony, and to provide the Hearing Officer with the name(s) of the staff member(s) who will provide the assistance at least two days prior to the hearing.

DATED: December 3, 2024.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Merritt Dublin

Merritt Dublin
Administrative Law Judge

ORDER RE: HEARING ASSISTANCE
AGCY. CASE NO.: PH-2024-NAV-22-004/OAH Case No. 24-320-09 - 1

CERTIFICATE OF MAILING

I hereby certify that on this 3rd day of December 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

414 PF Hospitality, LLC
Mitch Alhadeff
6710 E. Camelback Rd.
Scottsdale, AZ 85251
(480) 315-9595
Applicant

☐ U.S. Mail, postage prepaid
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General Counsel for IDL

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Marde Messinger
Mike Ahmer
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Kourtney Romine
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IDL Workflow Coordinator

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Boise, ID 83720-0104
Located at: 350 N. 9th., Suite 300
(208) 605-4300

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///

ORDER RE: HEARING ASSISTANCE
AGCY. CASE NO.: PH-2024-NAV-22-004/OAH Case No. 24-320-09 - 2

Scott and Sheryl Scofield
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Jose Jara
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Dick Teich
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Post Falls, ID 83854
208-651-4336
Objector

☒ U.S. Mail, postage prepaid
☐ Email:

/s/ Merritt Dublin
Office of Administrative Hearings

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of Application to Permit the	)	AGCY. CASE NO. PH-2024-NAV-22-004
Expansion of a Commercial Marina,)	
Reconfigure Existing Fuel Lines, and Build	)	OAH Case No. 24-320-09
a New Ship Store on Spokane River,)	
	)	AMENDED ORDER RE: HEARING
414 PF Hospitality, LLC.	)	ASSISTANCE
)	
Applicant.)	
_____)	

During the scheduling videoconference held on November 21, 2024, Objectors, Mr. and Mrs. Scofield, indicated expecting approximately 100 members of the public to participate in the public hearing set for December 19, 2024. Due to the expected volume of public participants,

IT IS HEREBY ORDERED that IDL shall provide at least one staff member to arrive at the hearing by 3:30 p.m. and assist with public sign-in and managing public testimony, and to provide the Hearing Officer with the name(s) of the staff member(s) who will provide the assistance at least two days prior to the hearing.

DATED: December 5, 2024.

OFFICE OF ADMINISTRATIVE HEARINGS

/s/ Merritt Dublin

Merritt Dublin
Administrative Law Judge

CERTIFICATE OF MAILING

I hereby certify that on this 5th day of December 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

414 PF Hospitality, LLC
Mitch Alhadeff
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Applicant

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P.O. Box 83720
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909-648-4235
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Dick Teich
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208-651-4336
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/s/ Merritt Dublin
Office of Administrative Hearings

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jrichards@idl.idaho.gov

Attorney for Idaho Department of Lands, Navigable Waterways Program

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

IN THE MATTER OF

Encroachment Permit Application No.
L95S3036N

414 PF Hospitality, LLC

Applicants.

Agcy Case No. PH-2024-NAV-22-004
OAH

OAH Case No. 24-320-09

**IDAHO DEPARTMENT OF LANDS’
PRE-HEARING STATEMENT**

The Idaho Department of Lands (IDL), by and through its counsel of record John Richards, and in accordance with the *Amended Scheduling Order* issued November 25, 2024, submits the following Pre-hearing Statement for the above-entitled matter, which has a public hearing set for December 19, 2024, at 4:00 p.m. PST. IDL also concurrently submits an Exhibit List and Witness List.

I. BACKGROUND

A. Application

414 PF Hospitality, LLC (Applicant) seeks an encroachment permit to enlarge an existing commercial marina with one hundred (100) additional slips, rebuild a fuel station ship store, relocate the Marine Sheriff’s boat garage, and to provide 99 private slips and 185 public slips on the Spokane River, just east of the Spokane Street bridge. IDL-002

B. Procedural Background

On September 23, 2024, IDL received a complete application from the Applicant. IDL-002. On September 25, 2024, IDL sent resource agency notice and contacted the CDA Press to publish public notice of the application and that a public hearing date would be forthcoming. IDL-003, 005. On September 25, 2024, IDL sent out notices to landowners immediately adjacent to the Applicant's parcel. IDL-004. On October 28, 2024, IDL received a formal objection, request for hearing, and necessary fee from landowners nearby the proposed project. IDL-007. In response to the request for hearing, IDL contacted the Office of Administrative Hearings for appointment of a Hearing Officer to oversee the hearing. On November 18, 2024, notice was received that a Hearing Officer had been appointed for this matter. IDL-012. A scheduling conference was held November 21, 2024 and a Scheduling Order and an Amended Scheduling Order were issued on November 25, 2024, setting the date public hearing for December 19, 2024 at Coeur d'Alene High School, and setting other associated deadlines. IDL-013-015. On November 30th and December 7th follow up public notices with the public hearing time, date, and location were published in the CDA Press.

C. Comments

To date, IDL has received agency responses from Idaho Department of Environmental Quality (IDEQ) and Idaho Department of Fish and Game (IDFG). IDL-010, 011. IDL has also received several comments from nearby landowners. IDL-007, 009. The application also includes a letter of support from the Post Falls Mayor. IDL-002 at 34. The public will have opportunity to provide comment at the December 19th hearing and written public comment for this matter is to remain open until December 27, 2024, so additional agency and public comments may be forthcoming. *See* IDL-015.

II. APPLICABLE LEGAL PROVISIONS

A. Lake Protection Act, Title 58, Chapter 13, Idaho Code

The Lake Protection Act (LPA), Title 58, Chapter 13, Idaho Code, governs encroachments upon Idaho's navigable lakes, and provides in pertinent part that "[n]o 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." I.C. § 58-1301. IDL, acting on behalf of the State of Idaho Board of Land Commissioners (Board) has the power 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 as provided herein." I.C. § 58-1303.

The following provisions of the Lake Protection Act, Title 58, Chapter 13, Idaho Code ("LPA") are applicable to the Application, and helpful to understanding IDL's analysis of the Application:

I.C. § 58-1301 – Legislative Intent (*see also* IDAPA 20.03.04.012):

The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. 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.

I.C. § 58-1302 - Definitions:

(b) "Beds of navigable lakes" means the lands lying under or below the "natural or ordinary high water mark" of a navigable lake and, for purposes of this act only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

(c) "Natural or ordinary high water mark" means the high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which

elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

(d) "Artificial high water mark" means the high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line.

(f) "Riparian or littoral rights" means only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake. (*See also* IDAPA 20.03.04.010.32).

(h) "Encroachments in aid of navigation" means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" may be used interchangeably herein with the term "navigational encroachments." (*See also* IDAPA 20.03.04.010.15).

(i) "Encroachments not in aid of navigation" means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments." (*See also* IDAPA 20.03.04.010.16).

(k) "Plans" means maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same

I.C. § 58-1306:

(a) Applications for construction, enlargement or replacement of a nonnavigational encroachment, a commercial navigational encroachment, a community navigational encroachment, or for a navigational encroachment extending beyond the line of navigability shall be submitted upon forms to be furnished by the board and accompanied by plans of the proposed encroachment containing information required by section [58-1302\(k\)](#), Idaho Code, and such other information as the board may by rule require in conformance with the intent and purpose of this chapter. Applications for nonnavigational, community navigational, or commercial navigational encroachments must be submitted or approved by the riparian or littoral owner.

(b) Within ten (10) days of receipt of an application submitted under subsection (a) of this section, the board shall cause to be published . . . a notice advising of the application and describing the proposed encroachment and general location thereof. Applications for installation of buried or submerged water intake lines and utility lines shall be exempt from the newspaper publication process. The board may also furnish copies of the application and

accompanying plans to other state agencies having an interest in the lake to determine the opinion of such state agencies as to the likely effect of the proposed encroachment upon adjacent property and lake value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty or water quality. Within thirty (30) days following receipt of such copy of the application and plans from the board, such other state agency shall notify the board of its opinion and recommendations, if any, for alternate plans determined by such agency to be economically feasible to accomplish the purpose of the proposed encroachment without adversely affecting unreasonably adjacent property or other lake value factors.

(e) In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, the board shall 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 a nonnavigational encroachment, a commercial navigational encroachment, or a community navigational encroachment not extending below the natural or ordinary high water mark. If . . . following a hearing, the board determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, it shall grant the permit.

B. Applicable IDAPA Rules Pertaining to Subject Application

The following provisions of the Rules For the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho, IDAPA 20.03.04 (“LPA Rules”) are applicable to this Application, and helpful in understanding IDL’s analysis of the Application.

IDAPA 20.03.04.010 DEFINITIONS

04. Beds of Navigable Lakes. The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

09. Commercial Marina. A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the general public.

10. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes

15. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” is used interchangeably with the term “navigational encroachments.”

16. 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.”

20. Line of Navigability. A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question

23. Natural or Ordinary High Water Mark. The high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

29. Public Hearing. The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who acts as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken by the Department by tape recorder. The hearing coordinator exercises such control at hearings as necessary to maintain order, decorum and common courtesy among the participants.

32. Riparian or Littoral Rights. The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.

40. Upland. The land bordering on navigable lakes, rivers, and streams.

IDAPA 20.03.04.012. POLICY.

01. Environmental Protection and Navigational or Economic Necessity. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the State Board of Land Commissioners to regulate and control the use or disposition of state-owned lake beds, so as to provide for their commercial, navigational, recreational or other public use.

02. No Encroachments Without Permit. No encroachment on, in or above the beds or waters of any navigable lake in the state may be made unless approval 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.

IDAPA 20.03.04.015. ENCROACHMENT STANDARDS.

003. Commercial Marina.

a. 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.

b. Commercial marinas that are converted to a community dock must conform to all the community dock standards, including frontage requirements and square footage restrictions. This change of use must be approved by the Department through a new encroachment permit prior to implementing the change.

c. 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.

d. If a commercial marina can be accessed from a road, marina customers must be allowed access via that road.

e. Moorage that is not available for public use as described in Paragraph 015.03.a. of these rules is private moorage.

f. When calculating the moorage percentage, the amount of public moorage is to be compared to the amount of private moorage. Commercial marinas with private float home moorage are required to provide either nonprivate float home moorage or two (2) public use boat moorages for every private float home moorage in addition to any other required public use boat moorages.

g. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.f.

h. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina, and private submerged land, if present. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17, "Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands."

i. Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the Department through a new encroachment permit prior to implementation of the change. The permit application must describe, in text and in drawings, which moorage will be public and which moorage will be private.

05. Boat Garage.

a. Boat garages are considered nonnavigational encroachments.

b. Applications for permits to construct new boat garages, expand the total square footage of the existing footprint, or raise the height will not be accepted unless the application is to support local emergency services.

c. Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height.

d. Relocation of an existing boat garage will require a permit

13. General Encroachment Standards

d. 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 water craft 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.

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal . . . 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.

f. Weather Conditions. Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices for docks, float homes, etc. must be reasonably resistant to puncture and other damage.

IDAPA 20.03.04.020. APPLICATIONS

01. Encroachment Applications. No person shall hereafter make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the department. The placing of dredged or fill material, refuse or waste matter intended as or

becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an is required prior to construction of the proposed encroachment, then the application must describe the demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued.

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner shall also be eligible for an encroachment permit; the grantor of such littoral rights, however, shall no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit.

03. Other Permits. Nothing in these rules shall excuse a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies.

05. Dock Reconfiguration.

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

b. Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal. The department shall be consulted prior to modifications being made, and shall use the following criteria to help determine if a new permit must be submitted:

- i.** Overall footprint does not change in dimension or orientation;
- ii.** No increase in the square footage, as described in the existing permit and in accordance with Paragraph 015.13.a., occurs. This only applies to community docks;
- iii.** The entrances and exits of the facility do not change

IDAPA 20.03.04.030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. Nonnavigational, Community, and Commercial Navigational Encroachments. Within ten (10) days of receiving a complete application for a nonnavigational encroachment, a community dock, a commercial navigational encroachment, or a navigational encroachment extending beyond the line of navigability, the Department will cause to be published a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed.

02. Encroachments Not in Aid of Navigation. 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.

03. Notifications. Upon request or when the Department deems it appropriate, the Department may furnish copies of the application and plans to federal, state and local agencies and to adjacent littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent littoral property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc.

04. Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner or lessee, or any resident of the state of Idaho may do one (1) of the following:

- a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or
- b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. The hearing must be specifically requested in writing. Any person or agency requesting a hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05.

05. Hearing. Notice of the time and place of public hearing on the application will be published by the Director once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed, which hearing will be held within ninety (90) days from the date the application is accepted for filing.

06. Hearing Participants. Any person may appear at the public hearing and present oral testimony. Written comments will also be received by the Department.

10. 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 . . . 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.

III. IDL'S ANALYSIS OF COMPLIANCE WITH THE LPA AND RULES - GENERAL

A. Littoral Ownership.

The Applicant is a littoral owner and owns two (2) parcels adjacent to the Spokane River identified as Kootenai County Parcel Index No. P42000008001A - AIN 109323, and P42000008002A - AIN 135604, with a common address of 414 E 1st Ave, Post Falls. Both parcels appear to be waterfront parcels with littoral rights. There are no other parcels or roads between the parcel and the OHWM.

B. Type of Encroachment.

The Applicant is seeking an encroachment permit to enlarge a commercial marina, rebuild a fuel station building, re-install fuel lines and dispenser, relocate an existing Marine Sheriff boat garage, and convert some of the moorage to private use. The commercial marina expansion and conversion of private moorage are Navigational Encroachments; while the relocation of the boat garage, the fuel station building, and fuel lines and dispensers are Non-Navigational Encroachments.

C. Shoreline Length.

The Applicant's parcel contains approximately 1280 feet of water frontage. IDL-002.

D. Line of Navigability.

The proposed commercial marina expansion will extend farther out into the river than the current/existing marina. As described above in the definition of Line of Navigability ("LON"), the LON is based on the current length of permitted encroachments in the area. The difficulty in

determining the LON for the project site is that there are single-family docks to the east, the site contains an existing commercial marina, and there is a community dock to the west.

Commercial encroachments may extend beyond the LON if authorized to do so by IDL. *See* IDAPA 20.03.04.015.13(d). Community docks and commercial facilities typically extend much farther out into the lake than a residential dock and often extend beyond the LON. However, a long commercial facility typically does not set the LON. Given the nature of the area and the existing encroachments, it appears that the proposed encroachment would extend beyond the LON.

There is an existing log boom waterward of the existing/current marina that has remained from the days of the sawmills on the river which serves as an impediment to navigability. The proposed marina expansion extends out to, but not beyond, the old log boom, which will be removed by the Applicant as part of this project. Thus, the proposed encroachment will not extend out further than an existing navigational impediment. Additionally, the proposed (and current) marina sits within a No-Wake Zone that extends from the Spokane Street bridge located west of the marina, all the way past the eastern edge of the marina approximately 550 feet.

IDAPA 20.03.04.015.13(d) does not impose additional encroachment requirements beyond IDL approval for a proposed encroachment to extend beyond the LON. If the project satisfies the relevant encroachment standards and is approved, such approval would include authorization from IDL for the proposed encroachment to extend out beyond the LON pursuant to *See* IDAPA 20.03.04.015.13(d).

E. Distance from Littoral Lines.

IDAPA 20.03.04.015.13.e provides a rebuttable presumption that commercial navigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines.

Based on the application drawings, it appears that the commercial marina will provide a twenty-five (25) foot buffer to the western littoral right lines and a 250-foot buffer to the eastern littoral right lines. The Marine Sheriff's boat garage is proposed to be placed approximately in the middle of the marina, so it will provide more than a twenty-five (25) foot buffer to each littoral right line. Thus, it appears that that none of the proposed encroachments will be within (25) feet from the adjacent littoral lines and the presumption of adverse effect under IDAPA 20.03.04.015.13.e does not arise. To date, IDL has received no comments from adjacent landowners indicating that the proposed project will adversely affect on their littoral rights.

F. Signature Requirement.

IDAPA 20.03.04.020.02 states that "[o]nly persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits" and "[a] person who has been specifically granted littoral rights or dock rights from a littoral owner shall also be eligible for an encroachment permit; the grantor of such littoral rights, however, shall no longer be eligible to apply for an encroachment permit." In this matter, Applicant is the littoral owner of the parcels in question and there are no other parcels between the subject parcels and the river. Thus, Applicant satisfies IDAPA 20.03.04.020.02.

IV. IDL'S ANALYSIS OF COMPLIANCE WITH THE LPA AND RULES - SPECIFIC

The application can be broken down into three (3) aspects: commercial marina expansion with private moorage, fuel station building with fuel lines and dispensers, and the relocation of a Marine Sheriff boat garage. Each encroachment will be broken down below for further discussion.

Commercial Marina Expansion with Private Moorage

As described herein, applications for commercial marinas must satisfy the specific requirements of IDAPA 20.03.04.15.03. Based on the application materials, the Applicant is proposing to install an additional one hundred (100) boat moorages, of which, 99 will be for private use. IDL-002 at 8. There will be 185 public boat moorages available to the general public. *Id.* The public moorage looks to be of similar size and quality as private moorage, satisfying 20.03.04.15.03(g). IDL-002 at 7-8. Furthermore, the ratio of private to public moorage spaces satisfies the 50/50 ratio requirement of IDAPA 20.03.04.15.03(a). According to the application, there currently exists 228 parking spaces available for the moorage. IDL-002 at 25. This number of existing spaces is sufficient to satisfy the parking to moorage ratio required of IDAPA 20.03.04.15.03(c), should the expansion be approved. It appears from the application that the marina will be accessible via road and that marina customers will be allowed access via that road, satisfying IDAPA 20.03.04.15.03(d). IDL-002 at 25, 29

It is unclear from the Application and current record whether IDAPA 20.03.04.015.03(h) has been satisfied, which requires a commercial marina with private moorage to form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, and upland property sufficient to maintain and operate a marina. The Applicant ought to provide additional information to affirm that this requirement is satisfied.

The proposed marina expansion appears to satisfy all the requirements under IDAPA 20.03.04.015.03 for a commercial marina save that there is currently insufficient information in the record to determine whether the proposed expansion satisfies the requirements of IDAPA 20.03.04.015.03(h). The Applicant ought to provide additional information to affirm that the requirements of IDAPA 20.03.04.015.03(h) are met.

Fuel Station Building with Fuel Lines and Dispensers

The existing commercial marina already contains a fuel station building, fuel lines and dispensers, also commonly referred to as a “Ship Store”. The Application proposes to rebuild the fuel station building and reconnect fuel lines and dispensers. The fuel station building, fuel lines and dispensers are considered Non-Navigational Encroachments. Pursuant to IDAPA 20.03.04.030.02, encroachments not in aid to navigation are generally not approved and only considered in cases involving major environmental, economic, and social benefits to the general public. Ship Stores, fuel lines and dispensers have often been found to provide a major benefit to the general public through economic and social factors and are regularly approved as part of commercial marina encroachments. However, the application and record at this time contain insufficient evidence of the specific major benefits the general public would be provided by this particular fuel station, fuel lines, and dispensers. There are no type-specific encroachment standards applicable to a Ship Store beyond the general requirements for non-navigational encroachments. The Applicant ought to provide additional information regarding the major benefits the public will be provided by these proposed encroachments so that it can be determined if they satisfy the requirements of IDAPA 20.03.04.030.02.

Marine Sheriff Boat Garage Relocation

The Applicant is proposing to relocate the Marine Sheriff Boat Garage within the existing footprint of the current marina. IDL-002 at 5-6, 19. In review of the application IDL has determined that this aspect of the project would be considered a reconfiguration under IDAPA 20.03.04.020.05.b and therefore does not require a new encroachment permit. Therefore, no new permit need be issued in these proceedings to relocate the Marine Sheriff Boat Garage.

V. IDL’S ANALYSIS OF COMMENTS

Based on the objection letter and comments, the main concerns with the proposed project appear to be related to lighting and additional boat slips. *See* IDL-007, 009. There are no rules, regulations, or standards for IDL to enforce or require when it comes to lighting for a marina. Upland lighting for the hotel and upland property above the Ordinary High Water Mark is outside of IDL's jurisdiction. IDL's regulatory authority is limited to only those areas specifically identified in the LPA. The LPA grants IDL the 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. The LPA does not grant IDL authority to regulate upland encroachments and provides no specific authority to regulate lighting. Thus, any concerns over upland lighting or marine lighting are likely outside the regulatory authority of IDL. Moreover, while comments have raised concerns about lighting, there is currently insufficient evidence in the record showing that lighting is likely to cause issues.

Additionally, there are also no rules, regulations, or standards for IDL to enforce or require when it comes to additional boat slips being provided on the Spokane River or relating to potentially increased boat traffic. While objectors have raised concerns regarding carrying capacity of the Spokane River and potential associated safety risks, there is currently no information in the record to show that these effects are likely to occur. IDL relies on our resource partners for their expertise. While IDL can appreciate the objectors concerns about additional boat traffic, IDL has not received any comments from the County or Marine Sheriff or other agency with relevant expertise regarding boater safety being jeopardized by additional boat slips. Without additional information in the record, IDL cannot assume impacts of a proposed project.

In sum, IDL must assess proposed encroachments based on IDL's regulatory authority, compliance with specific encroachment standards, and based on information within the record. With there currently being insufficient evidence in the record regarding any likely adverse

impacts of lighting or increased boat traffic in addition to there being no specific encroachment standards relating to these impacts for IDL to enforce, these concerns, as presently stated in the record, are likely not sufficient grounds for denial of the application.

VI. CONCLUSION

Given the reasons described above, the application satisfies the encroachment standards applicable to the proposed expansion, save for the additional information required to demonstrate: (1) compliance with IDAPA 20.03.04.015.03(h); and (2) the major public benefits from the fuel station building, fuel lines, and distributaries. At this time, IDL recommends the Applicant provide additional information that demonstrates: (1) the Applicant satisfies IDAPA 20.03.04.015.03(h); and (2) that the fuel station building and its components, will provide a major public benefit. As described herein, the reconfiguration of the Marine Sheriff's Boat Garage does not require a new encroachment permit.

Because the record for this matter remains open, the full potential impacts of this application may have not yet been fully determined and additional information may be forthcoming. IDL respectfully reserves the right to supplement, clarify, or modify its statements based on the availability of new information.

DATED this 9th day of December, 2024.

IDAHO DEPARTMENT OF LANDS

/s/John Richards

John Richards
Counsel for IDL

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2024, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Scott Hislop Nelson Erickson 2936 W. Dakota Ave. Hayden, ID 83835 <i>Applicant</i>	<input checked="" type="checkbox"/> Email: scott.h@stancraft.com nelson@stancraft.com
Marde Mensinger Idaho Department of Lands 300 N. 6 th St. Boise, ID 83720 (208) 334-0248 <i>IDL Program Manager for Navigable Waters</i>	<input checked="" type="checkbox"/> Email: mmensinger@idl.idaho.gov
Kourtney Romine Kayla Dawson <i>Service Contact for IDL</i>	<input checked="" type="checkbox"/> Email: kromine@idl.idaho.gov kdawson@idl.idaho.gov
OAH General Government Division P.O. Box 83720 Boise, ID 83720-0104 816 W. Bannock St. (208) 605-4300	<input checked="" type="checkbox"/> Email: filings@oah.idaho.gov Merritt.dublin@oah.idaho.gov

/s/John Richards

John Richards
Counsel for IDL

Wm. Scott Hislop
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BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of,

Encroachment Permit Application No.
L95S3036N

414 PF Hospitality, LLC
Applicant

Agency Case No. PH-2024-NAV-22-004

OAH CASE NO. 24-320-09

PRE-HEARING STATEMENT

This Pre-Hearing Statement of Applicant is being provided by William Scott Hislop, Counsel for Project 414, LLC, a StanCraft affiliate and member of 414 PF Hospitality, LLC.

I. BACKGROUND

A. Applicant

Applicant provided its application for a commercial marina encroachment permit as defined in the Idaho Administrative Procedures Act (IDAPA) and paid its application fee to the Idaho Department of Lands (IDL). The application was formally received September 13, 2024. (App - 001) Throughout its pre-application and application process, Applicant sought input and considered the interests of neighboring land and littoral rights owners as well as the community.

Applicant understands and embraces the responsibility of owning and developing commercial property on the Spokane River given the impact on private property owners and citizenry of Kootenai County and the State of Idaho. The application and plans submitted

contemplate and adhere to the IDL's Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho, Idaho Administrative Procedures Act (IDAPA 20.03.04) and mitigate adverse impacts of the commercial marina encroachment permit.

B. Factual Background.

414 PF Hospitality, LLC (Applicant) is the assignee of the encroachment permit No. L-95-S-3036L (App – 002). Applicant seeks an encroachment permit to extend the existing dock within the current encroachment to the log boom identified in the encroachment definition, southwest of the commercial marina, to renovate the commercial marina to a commercial marina with private moorage, relocate the Kootenai County Sherriff existing boat garage, and move the existing ship store south, keeping it at the end of the commercial dock encroachment.

C. Procedural Background.

Applicant signed its Joint Application for its encroachment permit on July 31, 2024 (App – 001 at 4). The requisite application fee was paid and received August 27, 2024 (App – 001 at 10; and the completed application was stamped received by IDL on September 13, 2024 (App – 001 at 1). On September 25, 2024, IDL mailed a request for publication to the Coeur d'Alene Press requesting publication of the notice for two (2) consecutive weeks (App-003). Any objection to the application must be made and the requisite fee paid by the objecting party within 30 days of the first publication of the notice in a paper of local circulation. I.C 58-1306(c), IDAPA 20.03.04.030.04.b. On Monday, October 28, 2024, the first Monday following the thirtieth day (which fell on a Sunday) Mr. & Mrs. Scott and Sheryl Scofield, Mr. Jose Jara, and Mr. Dick Telch, filed an objection and paid the requisite fee to pay for the publication of the hearing. A Notice of Appointment of Hearing Examiner, was sent to the parties and those objecting to the application on November 18, 2024. (App-004). Notice of Scheduling Order was sent to all parties and those objecting the application on 20th of November 2024. (App-

005). The Scheduling Hearing was timely held and both parties and Mr. & Mrs. Scofield participated. This Pre-Hearing Statement is made and provided consistent with the deadlines set at the Scheduling hearing.

D. Legal Background and Authority.

1. Lake Protection Act, Title 58, Chapter 58, Chapter 13, Idaho Code

The Lake Protection Act (LPA), Title 58, Chapter 13, Idaho Code, governs encroachments upon Idaho's navigable lakes, and provides in pertinent part that "[n]o 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." I.C. § 58-1301. IDL, acting on behalf of the State of Idaho Board of Land Commissioners (Board) has the power 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 as provided herein." I.C. § 58-1303.

The following provisions of the Lake Protection Act, Title 58, Chapter 13, Idaho Code ("LPA") are applicable to the Application, and helpful to understanding IDL's analysis of the Application:

a. I.C. § 58-1301 – Legislative Intent (see also IDAPA 20.03.04.012):

The legislature of the state of Idaho hereby declares that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. 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.

b. I.C. § 58-1302 - DEFINITIONS:

(b) "Beds of navigable lakes" means the lands lying under or below the

“natural or ordinary high-water mark” of a navigable lake and, for purposes of this act only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

(c) “Natural or ordinary high water mark” means the high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

(d) “Artificial high water mark” means the high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line.

(e) "Riparian or littoral rights" means only the rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake. (*See also* IDAPA 20.03.04.010.32).

(g) “Line of navigability” means the line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water. (*See also* IDAPA 20.03.04.0101.20)

(h) “Encroachments in aid of navigation” means and includes docks, piers, floats, pilings, breakwaters, boat ramps, channels or basins, and other such aids to the navigability of the lake, on, in or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” may be used interchangeably herein with the term “navigational encroachments.” (*See also* IDAPA 20.03.04.010.15).

(i) "Encroachments not in aid of navigation" means and includes all other encroachments on, in or above the beds or waters of a navigable lake, including landfills or other structures not constructed primarily for use in aid of the navigability of the lake. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "nonnavigational encroachments." (*See also* IDAPA 20.03.04.010.16).

(k) "Plans" means maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same

c. I.C. § 58-1306:

(a) Applications for construction, enlargement or replacement of a nonnavigational encroachment, a commercial navigational encroachment, a community navigational encroachment, or for a navigational encroachment extending beyond the line of navigability shall be submitted upon forms to be furnished by the board and accompanied by plans of the proposed encroachment containing information required by section [58-1302\(k\)](#), Idaho Code, and such other information as the board may by rule require in conformance with the intent and purpose of this chapter. Applications for nonnavigational, community navigational, or commercial navigational encroachments must be submitted or approved by the riparian or littoral owner.

(b) Within ten (10) days of receipt of an application submitted under subsection (a) of this section, the board shall cause to be published in a newspaper having general circulating in the county in which the encroachment is proposed, once a week for two (2) consecutive weeks a notice advising of the application and describing the proposed encroachment and general location thereof. Applications for installation of buried or submerged water intake lines and utility lines shall be exempt from the newspaper publication process. The board may also furnish copies of the application and accompanying plans to other state agencies having an interest in the lake to determine the opinion of such state agencies as to the likely effect of the proposed encroachment upon adjacent property and lake value factors of navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty or water quality. Within thirty (30) days following receipt of such copy of the application and plans from the board, such other state agency shall notify the board of its opinion and recommendations, if any, for alternate plans determined by such agency to be economically feasible to accomplish the purpose of the proposed encroachment without adversely affecting unreasonably adjacent property or other lake value factors.

(f) In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, the board shall 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 a nonnavigational encroachment, a commercial navigational encroachment, or a community navigational encroachment not extending below the natural or ordinary high water mark. If . . . following a hearing, the board determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, it shall grant the permit.

(g) A permit shall not be required for repair of an existing nonnavigational encroachment, commercial navigational encroachment, or commercial navigational encroachment.

2. Applicable IDAPA Rules Pertaining to Application.

The following provisions of the Rules For the Regulation of Beds, Waters and Airspace Over

Navigable Lakes in the State of Idaho, IDAPA 20.03.04 (“LPA Rules”) are applicable to this Application, and helpful in understanding IDL’s analysis of the Application.

a. IDAPA 20.03.04.010 DEFINITIONS

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary.

04. Beds of Navigable Lakes. The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one.

10. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes

15. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” is used interchangeably with the term “navigational encroachments 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.”

20. Line of Navigability. A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question

23. Natural or Ordinary High Water Mark. The high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

29. Public Hearing. The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who acts as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken

by the Department by tape recorder. The hearing coordinator exercises such control at hearings as necessary to maintain order, decorum and common courtesy among the participants.

30. Public Trust Doctrine. The duty of the State to its people to ensure that the use of the public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code.

32. Riparian or Littoral Rights. The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake.

40. Upland. The land bordering on navigable lakes, rivers, and streams.

3. IDAPA 20.03.04.012. Policy.

01. Environmental Protection and Navigational or Economic Necessity. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the State Board of Land Commissioners to regulate and control the use or disposition of state-owned lake beds, so as to provide for their commercial, navigational, recreational or other public use of any navigable lake in the state may be made unless approval 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.

4. Applicable General Encroachment Standards under IDAPA 20.03.04.015.13 by Subsection

d. 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 water craft 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. IDAPA 20.03.04.015.13.d

e. **Presumed Adverse Effect.** It will be presumed, subject to rebuttal . . . 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. IDAPA 20.03.04.015.13.e

f. **Weather Conditions.** Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices for docks, float homes, etc. must be reasonably resistant to puncture and other damage. IDAPA 20.03.04.015.13.f.

5. Encroachment Standards – Commercial Marinas IDAPA 20.30.40.015.03

a. Commercial marinas must have a minimum of fifty percent (50%) of their moorage available for use by the general public wither 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 contacts 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 a transfer of ownership of moorage or real property, or require membership in a club or organization.

c. 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 ordinance prevails.

d. If a commercial marina can be accessed from a road, marina customers must be allowed access via that road.

g. When Private Moorage is permitted, the public moorage must be of similar size and quality a private moorage, except for float home moorage as provided in Paragraph 015.03f.

h. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina, and private submerged land, if present. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA

20.03.17, "Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands". IDAPA 20.30.40.015.03.h.

6. IDAPA 20.03.04.020. APPLICATIONS

01. Encroachment Applications. No person shall hereafter make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the department.

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner shall also be eligible for an encroachment permit; the grantor of such littoral rights, however, shall no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit.

03. Other Permits. Nothing in these rules shall excuse a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies.

7. Processing of Applications for All Other Types of Encroachments. IDAPA 20.03.04.030

02. Encroachments Not in Aid of Navigation. 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, social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when this is no other feasible alternative with less impact on public trust values.

10. 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 . . . 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.

8. 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).

9. Burden of Proof - Standard of Proof.

a. 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 P.2d 260, 263 (Ct. App. 1984) *rev'd on other grounds* 109 Idaho 299, 707 P.2d 410 (1984).

b. Standard of Proof. 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).

II. APPLICATION OF STANDARDS AND AUTHORITY TO APPLICANT'S APPLICATION REQUEST

Applicant's encroachment permit requests approval of four (4) modifications to its existing

permit, namely 1) Conversion of a commercial marina to commercial marina with private moorage, 2) Commercial Marina (with private moorage) reconfiguration, 3) Relocate Sherriff boat house, and 4) Relocate ship store. (App - 001)

1. Standing and Littoral Rights Holder

1.1. Applicant is the owner of the upland property, tax parcel numbers AIN 135604 and 109323. (App – 001 at 1). Applicant is the current littoral rights owner and is the holder of an existing commercial marina encroachment permit. (App – 002). The existing commercial marina encroachment permit has a permit area identified as:

“Bulkhead at 2128’ leading to 3’x15’ ramp to 9’x160’ walkway with 808’x8 dock enclosing 7 wings have 168 slips; 60’ x 24’ cruise boat landing; 24’x 38’ ship store with fuel system including a sealed sump and liquid sensors over the fuel line and dispensers; swim area to the east of marina; log boom/piling southwest of marina; Kootenai County Sherriff Department attached dock, see L-95-S-5320”. App – 002 at 1).

1.2. The application was signed by the authorized signor of the applicant, Mitch Alhedef.

1.3. All requests in the application are located below the ordinary high watermark and are within the jurisdiction of IDL.

1.4. Applicant is the proper party to bring the application. The application was properly made to or filed with IDL with the requisite application fee.

2. Conversion Of Applicant’s Existing Commercial Marina to a Commercial Marina with Some Private Moorage.

2.1. **Encroachment Standards.** For the Board to find in favor of the Applicant and grant the encroachment permit converting the commercia marina to a commercial marina with some private moorage, there must be a preponderance of the evidence showing elements of the

encroachment standards found in IDAPA 20.03.04.015.03.

2.1.1. Here the applicant shows that through the conversion, when coupled with the commercial marina reconfiguration, not more than fifty percent (50%) of the slips will be available for private moorage and at least fifty percent (50%) will be available for public use. App – 001 at 1 and 8. Any lease for public use will not be greater than in length than one (1) year. Any renewals of a public moorage lease will not exceed one (1) year.

2.1.2. The City of Post Falls does not have a parking requirement that is in conflict with IDAPA and as such parking requirements in IDAPA 20.03.04.015.03.c apply. The parking ratio provided by the Applicant is such that there is sufficient parking. Parking is provided through an ingress/egress and parking agreement. The easement provides 228 parking spaces for the marina. App -001 at 25. Upon reconfiguration the commercial marina will have 284 slips App – 001 at 8. There are projected to be 99 private slips requiring 99 parking spaces; and 185 public slips requiring 93 parking spaces. Total parking needed for the projected conversion of commercial marina is one hundred ninety-two (192). There are sufficient parking stalls for the conversion. The size and quality of the public slips will be of similar quality and size as the private slips. App – 001 at 8 & 9.

2.1.3. The ingress/egress easement provides marina users access to the public road.
IDAPA 20.03.04.015.03.d

2.1.4. The Applicant currently owns the upland property, the littoral rights, and is the responsible party on the submerged land lease. The Applicant manages the marina such that the property and the marina can is being maintained satisfying IDAPA

20.03.04.015.03.h. App – 007.

2.1.5. The applicable elements under IDAPA 20.03.04.015.03 are satisfied beyond a preponderance of the evidence.

2.2. Application of the Public Trust Doctrine. Once the encroachment standards are met, the board will need to evaluate the approval in the light of the Public Trust Doctrine. I.C. 58-1201. 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.

2.2.1. Navigation is the right to use the navigable water of the state by its citizenry. I.C. 36-1601(b). Idaho legislature has defined public navigable waterways as a “*public highway for travel and passage, up or down stream, for business or pleasure, and to exercise the incidents of navigation – boating, swimming, fishing, hunting and all recreational purposes.*” I.C. 36-1601(b), *emphasis added*.

2.2.2. This application asks the board to approve a request to conduct commercial activity that directly benefits the citizenry's right and ability to access the State's water ways. The approval of this application will promote navigation as defined by the legislature. It will not hinder the navigability of the Spokane river, instead it will provide access to the water for boating, swimming, fishing, hunting and all other recreations purposes. App – 001 at 34.

2.2.3. The objection filed, precipitating the current public hearing, makes the assertion that providing opportunity for the people of Post Falls and the neighboring community with access to the navigable river will create a danger. The area surrounding the existing marina is in a no wake zone, where all boaters are required

to be underway at speeds that do not create a wake. If the assertion is that no additional members of the public (boaters) should be allowed to use the river or thereby Coeur d'Alene Lake, their comments are in direct conflict with the Public Trust Doctrine and the mandate provided by Idaho's legislature.

2.2.4. Approval of the conversion of the commercial marina to commercial marina with some private moorage is consistent with the Public Trust Doctrine.

3. Commercial Marina (with private moorage) Reconfiguration

3.1. The reconfiguration of the commercial marina, buy itself, does not require completion of the application process. IDAPA 20.03.04.020.05.b. There the administrative code says, the rearrangement of a community and commercial navigational encroachment may not require a new application for an encroachment permit if the changes are only internal. In consultation with IDL, the plan should be reviewed to see if the "overall footprint" changes in dimension or orientation. IDAPA 20.03.04.020.05.b.i, and if the entry or exits of the facility change. IDAPA 30.02.04.020.05.b.iii. Here the "overall footprint" is not changing. The encroachment permit identifies the area as running from the "Bulkhead at 2128' leading to 3'x 15' ramp to 9'x160' walkway with 808'x8 dock enclosing 7 wings have 168 slips; 60' x 24' cruise boat landing; 24' x 38' ship store with fuel system including a sealed sump and liquid sensors over the fuel line and dispensers; swim area to the east of marina; [log boom/piling] southwest of marina; Kootenai County Sherriiff Department attached dock, see L-95-S-5320". App – 002 at 1).

3.1.1. The reconfigured commercial marina with some private moorage will fit within the "overall footprint" of the existing commercial marina. App – 001 at 5. Public dock space and the ship store dock will not extend past the log boom.

3.1.2. The proposed dock reconfiguration provides for a twenty-five-foot (25') buffer to the littoral line to the adjacent property to the southwest and three hundred ninety feet (390') to the littoral line to the property to the northeast. The General Encroachment Standards rule that imposes a rebuttable presumed adverse effect of a commercial navigational encroachment that is closer the twenty-five feet (25') to an adjacent littoral rights line will not apply here.

3.2. Economic benefit resulting from the reconfiguration. There is an increased economic benefit to be had for all parties involved (IDL, Applicant and the public) after the proposed reconfiguration of the marina.

3.2.1. The current submerged land lease has a base rental amount payable by Applicant to IDL. In addition to the base rent the Applicant is required to pay 1% of the gross receipts from the Ship Store, and 3.75% of the gross receipts of the commercial marina. An increase in the size of the marina operation will provide benefits to IDL, the public and the Applicant. APP-006 at 4

3.2.2. IDL will receive increased rental payment based on marina operations revenue.

3.2.3. The public will have greater access to the water of Idaho from the increased offering of moorage slips, which are in limited supply on Lake Coeur d'Alene.

3.2.4. The Applicant benefits from economic opportunity of operating the marina business with increased capacity.

3.3. An application for a commercial marina reconfiguration is required where the reconfiguration includes the conversion of the commercial marina to a commercial marina with some private moorage.

3.4. The burden of proof and standard of proof for a reconfiguration of a commercial dock, in

and of itself is satisfied.

- 3.5. An application for a commercial marina reconfiguration is required where one or more nonnavigational aids will be moved. See application requests 3 and 4 moving the nonnavigational aids, namely Sherriff's boat garage and Applicants ship store below.

4. Relocate Sherriff boat house

- 4.1. An application for commercial marina reconfiguration is required where one or more nonnavigational aids will be moved. A boat garage is considered a nonnavigational encroachment. Applicant currently has an existing, permitted boat garage that is used by the Kootenai County Sheriff's Department for the storage of emergency vessels and quick access to the Spokane River and Lake Coeur d'Alene. The previously permitted boat garage is maintaining its existing footprint and will be relocated inside of the marina (App – 001 at 5).

- 4.2. Standard for Approval of Nonnavigational Aid. 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 public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when this is no other feasible alternative with less impact on public trust values.

- 4.2.1. The Sherriff's boat house clearly provides a major social benefit. Quick, reliable access to the water for emergency services is a major social benefit. Reconfiguration of the commercial marina is an economic and social benefit. The reconfiguration will displace the Sherriff's dock and boat house from its current location and will necessitate the relocation of the boat house. These circumstances are consistent with

the Public Trust Doctrine.

4.2.2. StanCraft entered a memorandum of understanding with the Kootenai County to assist in providing emergency services. App – 001 at 35 – 38. Placing the Sheriff's boat Garage at the Applicant's marina (a StanCraft affiliated marina) at the west end of the Spokane River helps fulfill the obligation under the memorandum of understanding, and promotes safety on the water ways.

5. Relocate ship store.

5.1. Movement of the ship store is directly related the reconfiguration of the commercial marina. App – 001 at 5, 6, 8, 9, 10, and 11. The ship store is a nonnavigational aid and the standard for its approval will be considered in situations involving major environmental, economic, or social benefit to the general public, and when the approval is consistent with the Public Trust Doctrine. IDAPA 20.03.04.030.02

5.1.1. The request by Applicant is to keep the ship store in the same position, relative to the end of the commercial marina. The ship store is currently on the end of the commercial marina dock with easy access to boaters and helps create flow of boating traffic.

5.1.2. The area in which the marina is located on the river is a no wake zone at the far west end of the Spokane River. Just to the east of the marina and the future location of the ship store are buoys marking the end of the no wake zone. Boats often fail to slow as they enter the no wake zone coming from upriver. Reconfiguring the commercial dock and relocating the ship store to the corner of the commercial dock will provide a visual cue and reminder of the no wake zone. Having this visual cue will improve safety for the inhabitants of the area around the marina and within the

no wake zone.

5.1.3. Moving the ship store to the end of the newly reconfigured dock will provide better flow for the boating public after mooring their boat at the public slip space.

5.1.4. The size of the ship store will increase with the reconfiguration allowing StanCraft to provide more services, employ more people and increase revenue from added customers. The increase revenue for marina operations increases rent payable to the state base on the terms of the current lease. App – 007.

5.1.5. Location of the reconfigured dock, extending to current overall footprint, out to the log boom, is consistent with the current line of navigability. The log boom is a defined boundary of the existing encroachment permit. The line of navigability is established to the south of the log boom. Moving the ship store and the reconfigured commercial marina out to the encroachment boundary, the line of navigability maximizes the already encumbered submerged land, and increases revenue to the state of Idaho without having to expend any additional resources. The Public Trust Doctrine balance test is satisfied.

CONCLUSION

Given that the standards set out in IDAPA 20.03.04 as outlined above are satisfied, Applicant respectfully requests that the Hearing Officer recommend approval of Applicant's application for an IDL encroachment permit.

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.

DATED this 9th of December, 2024.

APPLICANT

414 PF Hospitality, LLC



Wm. Scott Hislop
Legal Counsel, Project 414, LLC

From: Jeff Tyler <jtyler114@gmail.com>
Sent on: Saturday, December 7, 2024 12:28:18 AM
To: Navigable Waterways <navigablewaterways@idl.idaho.gov>
Subject: New boat slips on the Spokane River at Templins

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

To whom it concerns,

I live on Harbor Island on the Spokane River and I have many friends who can't find a slip on the lake for their boat. There is a large shortage for many of those who love to use our waters. 100 slips will barely be noticed on the river, especially on weekdays. I'm support the new slips and look forward to the excellent work that Stan Craft does.

Jeff Tyler
5892 W Harbor Dr, Coeur d'Alene, ID 83814
208 660 7880

From: Tami Wickens <tami.wickens6@gmail.com>
Sent on: Monday, December 9, 2024 1:49:59 PM
To: Navigable Waterways <navigablewaterways@idl.idaho.gov>
Subject: Templins marina expansion

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

This river has been overtly exploited along its shores and in its waters. If not protected, it will become another polluted dead body of water destroyed by mankind. Let's give nature a break and not allow the ultra-rich to expand their playground and their pocketbook! They are the only winners in this scenario, unfortunately .

From: barb erbes <erbes2@hotmail.com>
Sent on: Monday, December 9, 2024 5:08:50 PM
To: Navigable Waterways <navigablewaterways@idl.idaho.gov>
Subject: #L-95-S-3036N

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

To whom it may concern; as a resident who lives just east of Templins on the same side of the river, I would like to express my opposition to any expansion at Templins that increases boat traffic on the river.

Having just spent our 6th year on the river we've seen a steady increase in power boating traffic and more recently a significant decrease in kayakers, paddle boarders and fishermen in part due to their safety concerns. The last 2 summers we've seen dead waterfowl floating in high boat traffic areas and have personally witnessed power boats running into and over the top of waterfowl at high speeds. In our yard alone we've had a goose flailing around with a broken neck and another with a broken wing. In addition the last 2 summers we've had dead fish floating on the shore. Obviously lots of things lead to fish dying but the constant destruction of the habitat, by excessive churning up of the river floor may well play a part.

Since Templins has installed the 24 hour gas pumps the boat traffic has also increased in what use to be relatively quiet times. Now boats come racing down the river at all hours to gas up.

Most places; restaurants, hotels, concerts etc all have occupancy limits in place, largely due to safety concerns. Does the Spokane River have no limit? How far will the eco system be stressed before it's too far?

As Oliver Wendell Holmes Jr. so eloquently said: "A river is more than an amenity, it is a treasure"

Thank you for your time,

Barbara Erbes

Post Falls

Sent from my iPad

From: Darren Mabe <darren.j.mabe@gmail.com>
Sent on: Wednesday, December 11, 2024 6:57:34 PM
To: Navigable Waterways <navigablewaterways@idl.idaho.gov>
Subject: Application # L-95-S-3036N

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Mayor/City of Post Falls,

The request to add more slips to Templin/Stancraft Marina is in direct conflict with the interests of every homeowner on the river and those citizens who already use the Spokane river for recreation. I am a landowner with deeded waterfront access and a passionate boater who enjoys our beautiful lake year round. I have lived in Idaho my entire life and learned to respect the beauty it provides while responsibly recreating. I own a surf boat and respectfully only create surf wakes out on the main lake where it won't cause damage and a safety hazard. I use the river as a way to access the lake multiple times a week from March through October - so my comments here are from direct firsthand experience.

IDPAP 20 states that for the safety and welfare of the community, wildlife, and aesthetic beauty we need to regulate access and traffic on waterways. The current traffic levels are already causing enormous damage to boats and docks on the river, eroding the shoreline, and creating an unsafe condition for recreation.

There is already a dangerous amount of traffic on the river. Any given weekend in the summer, you can sit anywhere on the river and within a few hours watch multiple events happen where someone being run over by another boat is narrowly avoided. Towing sports (wakeboard, skiing, tubing, surfing) should already be illegal on weekends as it's just a matter of time before someone is killed. Adding traffic by expanding the docks will make this far worse. Someone will be killed if this continues to worsen.

Our neighborhood has 20 boat slips in a small marina on the river. Every year several of our boats are significantly damaged by the wakes of boats passing by. We are using every reasonable means possible to protect our boats; rubber snub lines that allow stretch in the lines and bumpers everywhere to keep the boats from crashing into the docks. The wakes are so extreme that tie-down lines are being broken, bumpers crushed and damage is still happening - we have had swim platforms ripped completely off, bows cracked from slamming into the dock, and extensive damage to pontoons and hulls from rubbing and colliding with the dock. Proof of this damage available upon request.

The damage to the community, property value and human life that this proposal would entail far outweigh the value to our community that the growth of the Stancraft business and a few public dock slips provide. I appreciate the inclusion of trash removal in their proposal, but it is not clearly outlined exactly how much trash removal they are planning and trash in the river is rarely noted as a problem to any local that I have talked to so it's somewhat superfluous. Traffic is always the number one issue.

If more access to Lake Coeur D'alene is needed, then it needs to be done somewhere on the main portion of the lake. The river is already grossly overtaxed and can handle no more traffic or expansion.

Damage to shorelines and existing property could be mitigated by allowing some form of wake relief/break devices to be installed by all existing docks on the lake but this would come at enormous cost to the community. Safety could be made reasonable by not allowing towing sports on the river. But until BOTH of these things change, adding any more access to the river, especially at the far west end is unreasonable and will cause untold damages to the community.

I urge you to deny this application.

Thanks for your time,

Darren Mabe

507 S Shore Pines ct
Post Falls ID 83854
208-908-8840