



November 20, 2024

DEPT. OF LANDS  
NOV 22 2024  
BOISE, IDAHO

Marde Mensinger  
Navigable Waters Program Manager  
Idaho Department of Lands  
300 N. 6<sup>th</sup> Street, Suite 103  
Boise, Idaho 83702

Regarding an expansion of my comments during the Spring 2024 comments on proposed rules for Navigable Waters:

Dear Marde Mensinger – Navigable Waters Program Manager,

Kindly accept my congratulations on your joining the Idaho Department of Lands team. It was nice meeting you at the meeting in Sandpoint and I trust that you are enjoying the job. I am confident that you will provide a positive influence on Idaho's waterways.

As I previously promised, this letter is an expansion of my comments made during the Spring 2024 meeting. While they may seem random as you read the letter, I believe that they will show the need for a broader look at the resource, how it is used now, and what we can do to protect its future. You are likely to think, "well, this is interesting but a lot of what you say is not really my department." I would reply as you read my comments, that you are welcome, if you think it appropriate, to forward my comments to anyone who you think might either be a future resource or an interested agency.

I can't really say that these subjects are in any order, but they are an attempt to try to start a meaningful dialogue and research.

1. **ACCESS to the water:** Generally speaking, unless the land itself is owned by a government agency, the public at large does not have access to the water unless granted by the land owner. It is not likely that a private citizen is going to promote or allow the general public to have

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access to the water. That privilege has historically been provided by the state via public access sites AND private enterprises like ours, resorts and marinas that cater to the public. For a fee a citizen or a visitor can rent space at a marina for their watercraft. With that fee they are free to enjoy the docks and property.

It used to be that almost all marinas were truly open to the public. Even if you were not a slip renter, you would still be able to walk the docks, use the restrooms, or just be “on the water.” Increasingly you will find gates on the docks and the public is locked out. In Bayview, I believe that MacDonald’s Resort is the only place that the public can freely visit. Resorts and marinas who welcome the public provide genuine public access including the right to fish, access to restrooms, or just a pleasant walk on the docks. The current Idaho rules do make an attempt to reward marinas that provide public access, BUT public access is absolutely not being enhanced, it is being eroded. We really need to reverse this trend because the population is increasing and the state and counties do not have sufficient resources to give the public access to “their” water. The days are approaching quickly where people will drive by on the roadways and remark, “look at that beautiful lake, too bad we can’t get near it.”

2. **Resort/Marina sales to Developers:** There is tremendous pressure on resort/marina owners to sell to developers. The developer then carves up the property into parcels, advertises that the buyer can “own your private access to the lake,” and with the sale the public loses another possible access to the waterfront. It is extremely easy to find examples of this public access erosion. In the past, it would be common to find multiple family resorts that offered public access to the water. There are lakes now where there are no resorts or marinas. All of the former resorts have been made into parcels and sold which effectively locks out residents and tourists.

I believe that the state needs to actively work on programs that will keep family operations going so that the temptation to just “hang it up and take the money” is less of an option. When family run marinas are lost to the developers and their individual sales, they will NEVER return to a



property that welcomes the public at large. The citizens of Idaho and tourists who bring vacation dollars to Idaho will be locked out. We can't let this happen.

3. **Layers of “Red Tape” and let's have more!?** - At the meeting in Sandpoint this spring one of the rule “proposals” was the idea of incorporating the “Universal Building Code” or something similar into the state permit process. I mentioned at the time that I felt the proposal was an unnecessary burden on the resort/marina owners. I still feel that way because I have not seen a need for another layer of bureaucratic oversight of a resort/marina operation. Additionally, the compliance process has REAL costs associated with the increased compliance level. One would ask, “so what.” Well, the “so what” part means that those costs have to be passed on to the people using the facility. That results in higher prices. Every year when our family meets to set prices, we actually worry about individual people who may not be able to afford to stay here. We want to continue to include as many income levels as possible in our customer and visitor clientele. If additional layers of compliance requirements are added, the financial impact will be the possibility that someone will be excluded because of that additional cost.
4. **A subject mostly unique to Bayview:** Bayview, for my 73 year lifetime and even previous to my birth, has been a land and water village. The floathouses/floathomes that make up a good deal of waterfront offer a unique community. Tourists visit Bayview to view and sometimes utilize that unusual community. The health of the floathouse/floathome community is reliant on people being able to continue to improve and maintain the integrity and the look of the buildings. I believe that within the leased area that comprises our marina, our customers should be given a good degree of latitude when it comes to interior home modifications. I really don't see a need to overly complicate life by restricting my customers' choosing to make improvements or modifications to their home's interior layout or uses. We want to promote those improvements to help the floathouse/floathome community remain vibrant so they will not ever constitute an eyesore. We want them to invite ownership and vitality!

A. Having said that, we are not in favor of the proliferation of floathomes/floathouses. We are **not** in favor of making boat houses, which were originally built just to house boats, into floathouses/floathomes with their necessary plumbing and living facilities. We are comfortable having the 100 or so historical floathouses/floathomes as the unique community it is.

5. **Boat Sewage, Gray Water, Sanitation:** Believe it or not, I think that the boat sewage pumpout facilities at MacDonald's Resort are the ONLY working pumpouts on the entire Southern end of Lake Pend Oreille. For years I thought that all marinas were required to have them, but I think I was wrong. Here are some of my comments regarding the current situation:

A. We pump out sewage from a LOT of boats and we charge a small fee for that work. However, there are some boats, who very likely have heads/toilets that we NEVER see. I know they have the same bodily functions that I do, but we never see them at the our pumpout stations. I believe that they are illegally dumping their sewage overboard via macerator pumps exiting the boats via thru-hulls. Our recreational waters are being compromised by this practice.

B. Some of the larger monohull boats, power and sail, and most houseboats have extensive gray water producing facilities including sinks, tubs, showers, and even clothes washers with dryers. It is a rare boat that has gray water retention facilities. Most of this gray water is going right into the lake along with the suspended soils, organic matter, soap, shampoo, detergent, and various and sundry additives. Again, this practice, with the increase in human population and lake use, will compromise our recreational waters. The lake can take some of this abuse, but the growing population will likely overtax the lake's ability to remain unsullied.



C. What should be done? I believe that in order to get a boat license any boat with head/toilet facilities should be inspected by an authorized technician. That inspection should confirm that the boat does have an adequate holding tank for sewage. If there is an overboard discharge option via y-valve or direct discharge that option should be sealed with a tamperproof tag so that it cannot be used. If on inspection by law enforcement the tag has been compromised there should be a weighty fine so that people are not tempted to cheat. In past years I have had conversations with the local health district and they have been interested but the problem has certainly not been at the top of their list. No progress on possible enforcement has been done to date. However, the increasing population might necessitate another look at the growing problem.

Regarding gray water, that is a more complicated issue because having to retrofit boats for gray water retention would be a big problem. However, it is worth addressing so that over time boats may be required to be equipped with gray water retention as an industry standard. It is a subject worth some time and investigation.

**6. Abandoned Boats on Idaho State Property:** I didn't think I would live long enough to see the day when people would just abandon boats. Now it is turning into a real problem. There is a boat now stuck in the mud in Buttonhook Bay because the owner left it there and when the lake went down it got stuck. That particular boat has been there all season. He is not paying for any dockage or space use to the state. It is an eyesore and has been taking up space that people who actually buy a boat license could use. The sheriff's office has been contacted as well as the Parks and Recreation people. Everyone wants to do something, but no one seems to have any authority. I think we need some legislation giving the state the right to lien the owner's property so there is a way to get the boat out of the water, sold, sent to the landfill, or other possibilities. At this point in time, it seems like the authorities do not have a clear path to removal.

Thank you for your time. There is a lot here and I would like to invite you to read my letter at least twice so you can get a good idea of how big the subject is. I hope that you will find some of the subjects worthy of some additional research on the part of your department. If you have any questions or if you need me to elaborate further on any issue, I would be glad to provide a prompt reply. My email is [macdonaldsresort@gmail.com](mailto:macdonaldsresort@gmail.com)

Respectfully,

A handwritten signature in black ink, appearing to read "Gary MacDonald". The signature is fluid and cursive, with the first name "Gary" and last name "MacDonald" clearly legible.

Gary MacDonald, President  
MacDonald's Hudson Bay Resort, Inc. dba MacDonald's Resort