

30 December 2024

Judge Merritt Dublin
Office of Administrative Hearings
P.O. Box 83720
Boise, Idaho 83720-0104

AGCY. CASE NO. PH-2024-NAV-22-002
OAH Case No. 24-320-06

Dear Judge Dublin:

I noted on the Department of Lands Navigable Waterways web site that you had filed an ORDER RE: EXTENSION OF TIME on 23 December 2024. In that ORDER you noted that you had several questions regarding the evidence, the record and the parties positions on supplementing the record. You also noted that both parties declined to supplement the record.

In light of your request for supplemental information, I have attached 8 files for your consideration. The first four files show the Stancraft dock/pier as currently configured and at a low water mark on 22 December 2024. The fifth file shows what happened that day with a boat anchored landward of the line of navigability. The sixth file pertains to the littoral line determination method. Finally files seven and eight pertain to the determination of the line of navigability and the determination of the littoral lines respectively. These last two files are from the Idaho Department of Lands cases.

I hope that this additional information is helpful to you as you consider this case.

Sincerely,

Dr. William Chapman

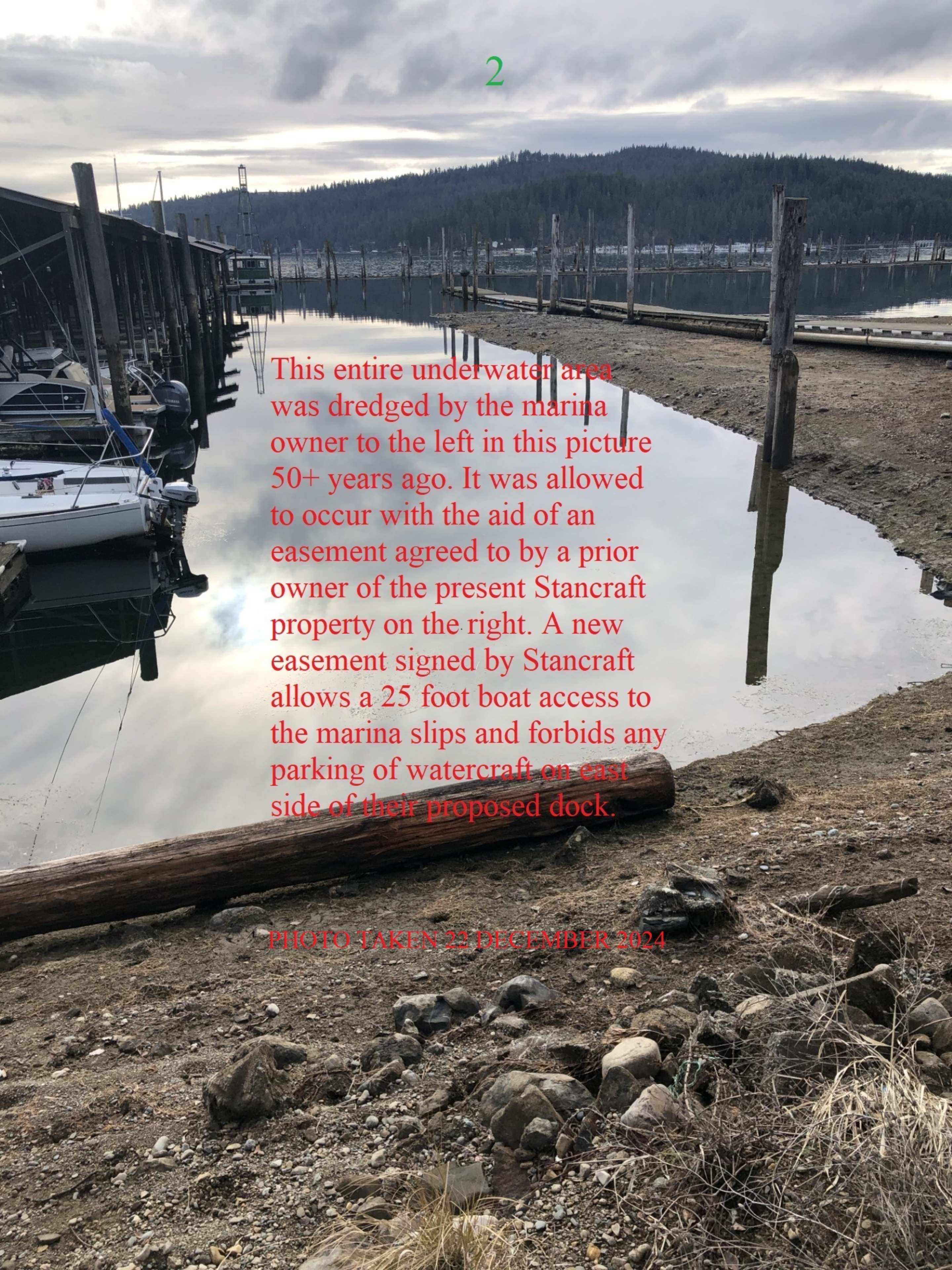
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PHOTO TAKEN 22 DECEMBER 2024



This entire underwater area was dredged by the marina owner to the left in this picture 50+ years ago. It was allowed to occur with the aid of an easement agreed to by a prior owner of the present Stancraft property on the right. A new easement signed by Stancraft allows a 25 foot boat access to the marina slips and forbids any parking of watercraft on east side of their proposed dock.

PHOTO TAKEN 22 DECEMBER 2024

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PHOTO TAKEN 22 DECEMBER 2024

LAKE BED AT THE MIDDLE OF DOCK SECTION 4 IS ABOUT
10 INCHES IN DEPTH.

PHOTO TAKEN 22 DECEMBER 2024

4



LAKE BED DEPTH OF 3 FEET AT THE
END OF DOCK SECTION 5. THIS IS
SUFFICIENT TO ALLOW SMALL
WATERCRAFT TO NAVIGATE AND IS AT
THE LINE OF NAVIGABILITY. (SEE
APPLICATION FOR ENCROACHMENT
PERMIT NO. L-96-S-219-C AND
DIRECTOR'S FINDING ON LINE OF
NAVIGABILITY 14 APRIL 2014)

5

BOAT ANCHORED LANDWARD OF THE LINE OF
NAVIGABILITY. 22 DECEMBER 2024



GENERAL SHORELINE CURVATURE WHICH IS CONCAVE. THIS IS NOT PRECISE BUT ELUCIDATES THE FOLLOWING POINT: BOTH THE APPLICANT AND IDL INCORRECTLY STATE THAT UTILIZING THE "GOLD STANDARD " OF THE CHORD METHOD ON A CONCAVE SHORELINE IS NOT AS RELEVANT AS USING EQUALITY AND PROPORTIONALITY IN DETERMINING LITTORAL LINES. THIS IS INCORRECT AS THEIR PROPOSED ENCROACHMENT INFRINGES ON THE LITTORAL RIGHTS OF THE JESSICK'S ADJACENT PROPERTY. (SEE CASE NO. CC-2015-PUB-20-001) FINAL ORDER DATED 26 OCTOBER 2015.

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHO

IN THE MATTER OF THE LINE OF)	
NAVIGABILITY IN AND IN THE VICINITY)	DIRECTOR'S FINDING ON
OF GLENGARY BAY OF LAKE PEND)	LINE OF NAVIGABILITY
OREILLE.)	
_____)	

I. NATURE OF THE PROCEEDING

The purpose of this proceeding is to determine a line of navigability pursuant to the State Board of Land Commissioners' authority in the Lake Protection Act ("LPA"), Idaho Code § 58-1301 *et seq.*, that will be used by the Idaho Department of Lands ("IDL") to process Peter and Shelagh Kaseburg's application for Encroachment Permit No. L-96-S-219-C.

IDL held a public hearing in this matter on August 15, 2013, at the Sandpoint Community Hall. Mike Murphy served as the hearing coordinator. Mr. Murphy issued his *Recommended Finding on Line of Navigability* ("Recommended Finding") on April 7, 2014.

II. DIRECTOR'S FINDING

My responsibility is to render a finding on the line of navigability on behalf of the State Board of Land Commissioners based on the record reviewed in the context of my personal expertise gained through education, training, and experience. I have reviewed the documents submitted in this matter, the hearing transcript, and the hearing coordinator's Recommended Finding. I conclude the Recommended Finding is based on substantial evidence in the record. I adopt the Recommended Finding as my finding on the line of navigability in this matter. The

OCT 26 2015

BOISE, IDAHO

BEFORE THE STATE BOARD OF LAND COMMISSIONERS
STATE OF IDAHOIN THE MATTER OF ENCROACHMENT PERMIT
APPLICATION NO. ERL-96-S-219E

) Case No. CC-2015-PUB-20-001

PETER KASEBURG,
APPLICANT.) **FINAL ORDER**
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Applicant Peter Kaseburg, his wife Shelagh Kaseburg, and the Kaseburg Family Trust have petitioned the Director of the Idaho Department of Lands (IDL) to review the Findings of Fact, Conclusions of Law, and Preliminary Order (Preliminary Order) issued by Hearing Officer Edward Lockwood in this contested case regarding Peter's application for a noncommercial navigational encroachment permit. By this Final Order, I affirm the Hearing Officer's ultimate conclusion that Kaseburg's application should be denied.

NATURE OF PROCEEDINGS

The purpose of this proceeding is to determine whether Kaseburg should be granted a permit for a noncommercial navigational encroachment under Idaho Code § 58-1305 and the IDL's Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho, IDAPA 20.03.04. Kaseburg filed his application on April 24, 2015, proposing to build a walkway and floating dock that would extend 140 feet from his property up to the line of navigation (LON), allowing year-round access to the waters of Glengary Cove, which is an indentation in the larger Glengary Bay on Lake Pend Oreille. George Congleton, acting in his