

From: [Scott Scofield](#)
To: [Dustin Miller](#)
Cc: mitch@bridgerlp.com; scott.h@stancraft.com; kinzie.r@stancraft.com; [John Richards](#); [Marde Mensinger](#); [Mike Ahmer](#); [Rachel King](#); [Kourtney Romine](#); filings@oah.idaho.gov
Subject: CORRECTED: RE: Objector's Exceptions AGCY. CASE NO.: PH-2024-NAV-22-004/OAH Case No. 24-320-09
Date: Tuesday, February 11, 2025 05:50:41 PM

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We had internet issues with initial submission. Correct copy as follows:
(See Avista's letter in original email) **This meets the submission deadline of February 11, 2025.**

Dustin Miller, Director
Idaho Department of Lands
300 N. 6th St.
Boise, ID 83702

Re: Agcy. Case No.: PH-2024_NAV-22-004/OAH Case No. 24-320-09

Director,

As the Concerned Citizens Objectors, in accordance with the notice of the February 7, 2025 Recommended Order (RO), we submit the following exceptions to the RO for serious consideration. Although our concerns are extremely valid, it appears that they were alluded to but then discarded.

In the following body of this letter, we will provide details of reasons to deny the current permit for the 414 PF Hospitality (414 PF) marine expansion. We will address points from the RO including the following major points:

- The past and present IDL rulings do not align with IDAPA 20.03.04.030.02 and LPA 58-1301, which call for the protection of property, navigation, fish,..etc. versus economic necessity or justification
- Avista's comment letter (attachment A), which recommends not approving the current application, was not addressed in the RO.
- Argument of Encroachment of public water rights not originally in Applicant's possession has been discarded.
- Greenview Condominium's riparian rights have not been upheld and 414 PF has not drawn the lines correctly, as required by IDL guidelines (i.e. use of chord method to set boundaries). This requires Greenview's sign off, if not followed per IDL encroachment form.
- Erosion along the entire Spokane river has been occurring and IDL possesses the data

via the permitting process required by public for bank stabilization.

According to the IDAPA guidelines, the Lake Protection Act, and the Idaho Department of Water Resources: The constitution and statutes of the State of Idaho declare all the waters of the state, when flowing in the natural channels...to be public waters. These sources (IDAPA 20.0

The above-referenced permit for the 414 PF Hospitality marina expansion should be denied for the protection of the Spokane River, the no-wake zone and the people of Idaho. For far too long all permits have been rubber stamped because “the applicant has met the requirements” that are set at a profoundly low standard, the IDL has relied on the “expertise” of the departments who regularly give “No Comment”, and the Concerned Citizens find ourselves in a place where **benefits and priority is given** to Big Business or Big Power for “more money to the state or municipalities” -- but to the **detriment** of the citizens and loss of our beautiful, but narrow and shallow, Spokane River. When decisions are made in this manner, there is no one defending the rights of regular citizens; thus the emergence of Concerned Citizens against additional 127 boat slips added to Templin’s Resort on Spokane River, Inc.

Do past and present rulings align with IDAPA 20.03.04.030.02 and LPA 58-1301? The IDL has been given the responsibility to weigh benefits versus detriments for the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation... versus economic necessity or justification for... the proposed encroachment; has this conduct been demonstrated? No. (Ex: Trestle Creek development on Lake Pend Oreille decision, IDL Case No. PH-2024-NAV-20-002/OAH Case No.24-320-05); despite opposition, “economic benefits exceeding any detrimental effects).

In our case, we have much more at stake than even a **fish**; citizens will be tremendously impacted on many fronts, and some aspects have been addressed in our Objectors’ Closing Statement.

Exceptions:

- Avista’s comment letter (attachment A) was not addressed in the RO. We believe the answer to all 5 of their significant questions would be “No”. Although equally important, in these exceptions we would like to emphasize #3 and 4. #3 addresses the critical fact that our no-wake zone is within a dam-controlled area (Federal Energy Regulatory Commission which can present countless unpredictable scenarios to the recreating and navigating public.
- Argument of Encroachment of public water rights not originally in Applicant’s possession has been discarded– Idaho Department of Water Resources (rev. July 2015, black) (red =justification): Water law in Idaho is based on the appropriation doctrine, because water rights in Idaho are based upon diversion and **beneficial use** of water. The appropriation doctrine has also been called “first in time is first

in right”... The public has been navigating and recreating in these waters around the original marina and the no-wake zone FOR MANY YEARS (as confirmed by testimony of many citizens). Beneficial uses include such uses as domestic use, irrigation, stockwatering, manufacturing, mining, hydropower, municipal use, aquaculture, RECREATION, fish and wildlife, among others – there is no mention of expanding marinas for 95% PROFIT in the IDWR.idaho.gov. The IDL should not give away this great amount of water (1.5-2 acres), because the public has been using this water to navigate and recreate and the Applicant’s marina has never been over the waters out to the log boom and carried down; and the public has testified and stated that there is not enough water for a safe expansion and it would take recreation space in the no-wake zone from the public (as well as create a choke point).

- Exploitation of Greenview Condos’ riparian rights – Objectors believe that IDL has been using littoral rights that apply to the lake, instead riparian rights that apply to a river. The Applicant is requesting an expansion in a river, therefore, it would be riparian rights that would be applied to the water lines between the two properties. Additionally, we believe that the Applicant’s permit application was incorrect when it states that they are leaving a 25’ space before encroaching on their neighbor’s water. The shoreline does not extend straight, but angles where the two properties meet, and therefore, the lines must be drawn using the chord method; the Applicant has been favored when drawing riparian lines and further scrutiny is needed. Additionally, in response to the RO (p. 3, para 2) “No objection was raised that any person was prejudiced by a lack of notice...”; that is not acceptable. Greenview Condos should not have to rely on someone from River Run Association to the east to inform them; Greenview Condos were prejudiced by the failure of the process.
- #18 – Choke point in no-wake zone caused by moving ship store
- #24, 25 – it is continually repeated that there will be more slips for the public. However, the public slip count has been all over the place, but if we use 168 as the original number of slips and now there will be 185, that is only 17 additional public slips. How much will these slips cost annually; private or public? No matter the price, it will be an extreme amount of profit over the 3.75% that is supposed to be paid to the City of Post Falls.
- #31 – sadly, more weight was given to TWO citizen letters supporting the expansion than 108+ letters received and testimonies under oath opposing the expansion. And to the mayor’s letter of approval which he later said at the City Council meeting that he verbally said he was only supporting the hotel update and that he had not taken a position on the marina slips.

- #52 - **?error?** Objectors [et al.] ... express the view that more access is a benefit... at “maximum carrying capacity” and no additional slips should be authorized, or not authorized until research is conducted...[?] We concur with the later NOT the former being a benefit. The two cannot be true together.
- #56 - erosion – the Hearing Officer finds, however, that there is not sufficient evidence in the record as to the cause of the shoreline erosion, or that the detriments will be increased by adding slips to the marina, or that not adding slips will benefit the river. That does not concur with logic and testimony that have been entered into evidence. Of course none of the applicable departments commented, but we see fit to bring up the exception that IDL possesses data that illustrates the boat traffic damage resulting in **permits requested** for bank stabilization that is currently and almost continually being done by homeowners and in the public parks along the water such as Black Bay, Kiwanis Park, etc. This data would also support the numerous citizens upriver that testified of boat traffic causing shoreline, seawall and rip rap damage (not to mention dock damage that some department should have) because the citizens have had to apply for IDL permits to repair the damage, shore up their shorelines, and then do it all over again in a couple of years.
- Pg. 32-33 Hearing Officer references overwhelming testimony of objectors and citizens (under oath) of safety, river traffic, erosion, etc., but then chooses to defer to the “silence “ of the 12 expert departments. No one is listening to the people and our logical and reasonable arguments are being set aside. How do we get representation?
- #59 – ...public damage caused by the public's illegal conduct is not within IDL's jurisdiction to resolve under the statutes and regulations governing encroachments. This is deflection of responsibility; why didn't IDL engage the Marine Deputy Department as they have now engaged IDEQ?
- #60 – There is substantial evidence that Marina 33 will provide private benefits – of great profit. But public benefits (City of PF) will only be 1% of ship store, 3.75% of marina, and now we find out that IDL will benefit from water beds leases – so it is an **economic benefit to IDL. The public only loses.** Local families lose 1.5-2 acres of the no-wake zone where they anchor, children jump off boats and play in the water, so therefore, they will be pushed up closer to the Avista dam! The Applicant stated that the families will not need the no-wake zone any longer because they can use the breakwater to tie up; can 20-30 boats tie up on the breakwater? It would not be safe for kids to jump off boats at that location, because the navigable waters (Line of Navigation) will be moved 200-300 feet farther out into the no-wake zone. Families would not allow their children to jump into the Line of Navigation.
- Pg. 36 – Approval with Following Conditions – 1) Applicant to enter into the required submerged land lease – **we were correct in our position that the 1.5-2 acres of public water is not theirs to encroach into.** 2) Applicant to develop a comprehensive traffic control plan for accessing the marina, ship store, and fuel dispensers, that ensures public safety - **exactly HOW is the Applicant going to develop, IMPLEMENT and ENFORCE a traffic plan? The Applicant says one of the benefits of the ship store is jobs for the locals, yet since they've owned the marina they have discontinued**

monitoring the speed violators because as their employee said “we don’t want our teenage employees to have to confront drunk people”. Not to mention, how will they post, educate and enforce this new plan? 3) Applicant to develop a plan for demolition in consultation with IDEQ that *ensures protection of water quality* – well that is poignant. IDL is going to engage IDEQ now? IDL did nothing to further engage any of the 12 departments following their “No Comment”. Taxpayers/citizens pay these departments, but the departments do not engage when it would be to the citizen’s benefit; only when money for IDL is on the horizon.

The Applicant has NOT produced enough evidence that the benefit to the citizen outweighs the detriment! Their reasons are all superficial and profit driven.

To the Agency head or Director: it takes courage for you to rule for the people, to save the river, and stand up to Big Business; we know. We may not have all the citations of law that are usually presented because we have not yet hired an attorney, but we DO have courage, most of us live here all year long, we have love for our area and our beautiful Spokane River, and we have passion to save our river and no-wake zone! **We can’t go back** once the permit has been granted and the expansion, encroachment and diminishing of the no-wake zone is done.

Thank you for your kind consideration,

Concerned Citizens against additional 100 boat slips added to Templin’s Resort on Spokane River

From: Scott Scofield

Sent: Tuesday, February 11, 2025 4:05 PM

To: 'dmiller@idl.idaho.gov' <dmiller@idl.idaho.gov>

Cc: 'mitch@bridgerlp.com' <mitch@bridgerlp.com>; 'scott.h@stancraft.com' <scott.h@stancraft.com>; 'kinzie.r@stancraft.com' <kinzie.r@stancraft.com>; 'jrichards@idl.idaho.gov' <jrichards@idl.idaho.gov>; 'mmensinger@idl.idaho.gov' <mmensinger@idl.idaho.gov>; 'mahmer@idl.idaho.gov' <mahmer@idl.idaho.gov>; 'rking@idl.idaho.gov' <rking@idl.idaho.gov>; 'kromine@idl.idaho.gov' <kromine@idl.idaho.gov>; 'filings@oah.idaho.gov' <filings@oah.idaho.gov>

Subject: RE: Objector's Exceptiodmins AGCY. CASE NO.: PH-2024-NAV-22-004/OAH Case No. 24-320-09

From: Scott Scofield

Sent: Tuesday, February 11, 2025 4:02 PM

To: dmille@idl.idaho.gov

Cc: mitch@bridgerlp.com; scott.h@stancraft.com; kinzie.r@stancraft.com; jrichards@idl.idaho.gov; mmensinger@idl.idaho.gov; mahmer@idl.idaho.gov; rking@idl.idaho.gov; kromine@idl.idaho.gov; filings@oah.idaho.gov

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Dustin Miller, Director
Idaho Department of Lands
300 N. 6th St.
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- #27, #31, #34 – Sadly, more weight was given to TWO citizen letters supporting the expansion than 108+ letters received and testimonies under oath opposing the expansion.
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- #51, #60 – Applicant has NOT proven benefits outweigh detriments. a) The mayor said in recent City Council meeting that he only approves of the hotel renovation and had not made a statement on the marina b) reconfiguration of no-wake zone will take away family space, and there is no proof the ship store will provide visual cue, c) log boom is not an encumbrance and the expansion changes LON into family space d) there is more order with log boom and there will be no guidelines after large encroachment e) economic benefits

From: Lunney, Meghan <Meghan.Lunney@avistacorp.com>
Sent on: Saturday, December 28, 2024 12:08:56 AM
To: Navigable Waterways <navigablewaterways@idl.idaho.gov>
CC: Wiley, Rene <Rene.Wiley@avistacorp.com>; Aushev, Eugene <Eugene.Aushev@avistacorp.com>
Subject: Comment Pertaining to Application No. L-95-S-3036N

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To whom it may concern,

Avista became aware that the Idaho Department of Lands (IDL) received an Encroachment Permit application for Templins (StanCraft) to expand their current commercial marina. It is our understanding the expansion may include additional private moorage (up to 100 more boat slips), reconfiguration of existing fuel lines with two dispensaries and the building of a new ship store on the Spokane River. Given the location is within the Federal Energy Regulatory Commission (FERC) Spokane River Project Boundary (P-2545), Avista respectfully submits the following concerns for consideration.

- Has the applicant or IDL analyzed whether the expansion will impact river navigability and/or water-based recreation due to the narrow river channel?
- Has the applicant or IDL considered or addressed the need for increased marine support/patrols due any resulting increased boat traffic?
- Will the applicant be responsible for ensuring marina users are aware of the Spokane River ordinance in effect when spillgates are open at Post Falls Dam? Anyone docking at this Marina will likely attempt to launch their boat at Q'emiln park. However Q'emiln Park boat launch is closed during spring runoff when Post Falls Dam spillgates are open. Additionally during this time, boats are not allowed within the ordinance area between the dam and Spokane Street Bridge.
- Given the boat slip exit appears to be at the downstream end of the main marina exit, the applicant should consider an alternate exit during spring flows given the proximity to Post Falls Dam and the existing ordinance.
- Did the applicant submit a debris management plan and spill management plan for the long-term maintenance of this development?

[002 Application L-95-S-3036N \(PH-2024-NAV-22-004\)](#)

Thanks,
-Meghan.