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*Attorneys 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. L96S1673E

Juniper Financial Services, LLC,

Applicant.

Agency Case No. PH-2025-NAV-20-001

OAH Case No. 25-320-03

**IDAHO DEPARTMENT OF LANDS’  
PREHEARING STATEMENT**

The Idaho Department of Lands (“IDL”), by and through its counsel of record, Kayleen Richter, submits the following Prehearing Statement in accordance with the *Scheduling Order* issued April 23, 2025. This matter is scheduled for a public hearing on May 27, 2025, at 6:00 p.m. Mountain Time/5:00 p.m. Pacific Time located at the Sandpoint Community Hall. IDL concurrently submits its disclosure of witnesses and its exhibit list for hearing.

**I. BACKGROUND**

**A. Application**

Juniper Financial Services, LLC (“Applicant”) seeks an encroachment permit to rebuild an existing boat garage on its property near Hope and Memaloose Island on Lake Pend Oreille (“Application”). *See* IDL-004.

## **B. Procedural Background**

On March 28, 2025, IDL received a complete application from the Applicant. IDL-004. That same day IDL contacted the Bonner County Daily Bee to publish public notice of the application and pending public hearing. *See* IDL-002. On April 1, 2025, IDL sent a resource agency notice seeking comments on the application. IDL-005. On April 1, 2025, IDL also contacted adjacent neighbors (Eric Skinner, Kokanee Island LLC, and Robert Whale) and provided them with a copy of the Application. IDL-006. Pursuant to IDAPA 20.03.04.030.01, on April 3, 2025, IDL objected to the Application due to concerns with the proposed size of the boat garage and requested the Office of Administrative Hearings (“OAH”) conduct a public hearing. IDL-001. On April 2 and 9, 2025, the Bonner County Daily Bee published a legal advertisement to notify the public of the Application and pending public hearing. *See* IDL-002. On April 7, 2025, IDL received notice that OAH appointed a Hearing Officer for this matter. IDL-007. After a scheduling conference on April 17, 2025, the Hearing Officer issued a scheduling order setting the date to hold a public hearing for May 27, 2025, and setting associated prehearing deadlines. IDL-009. On May 6, 2025, IDL contacted the Bonner County Daily Bee to publish public notice of the details of the public hearing in the local newspaper. IDL-010. On May 8 and 15, 2025, the Bonner County Daily Bee published a legal advertisement to notify the public of the details of the public hearing. *Id.*

## **C. Comments**

To date, IDL has not received any public comment or resource agency responses for the Application.

## **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,

IDAHO DEPARTMENT OF LANDS’ PREHEARING STATEMENT—2

acting on behalf of the State of Idaho Board of Land Commissioners, “shall regulate, control and may 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 LPA, reproduced in relevant part, apply to the Application and guide IDL’s analysis of the Application:

**I.C. § 58-1301. Encroachment on Navigable Lakes – 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. Encroachment on Navigable Lakes – 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.

...

(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. Nonnavigational or Commercial Navigational Encroachments – Community Navigational Encroachments – Navigational Encroachments Beyond Line of Navigability – Application – Procedures – Publication of notice – Hearing – Appeals – Reconsideration – Criteria priority**

(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. LPA Rules, IDAPA 20.03.04**

The Rules for the Regulation of Beds, Waters and Airspace Over Navigable Lakes in the State of Idaho, IDAPA 20.03.04 (“LPA Rules”), apply to this Application. The following provisions, reproduced in relevant part, guide IDL’s analysis of the Application.

### **IDAPA 20.03.04.010 DEFINITIONS.**

**...03. Artificial High Water Mark.** 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.

**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.

...

**06. Boat Garage.** A structure with one (1) or more slips that is completely enclosed with walls, roof, and doors, but no temporary or permanent residential area.

...

**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.

...

**34. Riparian or Littoral Right Lines.** Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline.

...

#### **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.**

...

##### **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**

...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.

### **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.

...

**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 LPA RULES— GENERAL**

#### **A. Littoral Ownership**

The Applicant is a littoral owner and owns one (1) parcel adjacent to Lake Pend Oreille identified as Bonner County Parcel No. RP021700010010A. IDL-004 at 1, 10. The parcel appears to be a waterfront parcel with littoral rights. There are no other parcels or roads between the parcel and the Artificial High-Water Mark (AHWM).



## **B. Type of Encroachment**

The Applicant is seeking an encroachment permit to rebuild a boat garage, which is a nonnavigational encroachment.

## **C. Shoreline Length**

According to the Bonner County Public Mapping Application<sup>1</sup> the Applicant's parcel contains approximately 1,200 feet of water frontage. The Application shows the parcel has 1,159.47 feet of water frontage. IDL-004 at 12.

## **D. Line of Navigability**

The proposed boat garage will be located approximately the same distance (or shorter) in the lake as adjacent encroachments and will not extend beyond the Line of Navigability ("LON"). IDL-004 at 11.

## **E. Distance from Littoral Lines**

The LPA Rule governing General Encroachment Standards provides a rebuttable presumption that nonnavigational encroachments will have an 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.

Based on the Application drawings it appears the boat garage will provide a seven hundred and thirty-nine (739) foot buffer to the littoral line to the south and a twenty-nine (29) foot buffer to the littoral line to the north. IDL-004 at 5. Therefore, there is no presumption of adverse effect upon adjacent littoral rights. IDL has not received any additional public or agency comment indicating that there will be an adverse effect on adjacent littoral rights from this Application.

## **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

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<sup>1</sup> The Bonner County Public Mapping Application is accessible online at <https://cloudgisapps.bonnercountyid.gov/public/>.

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 parcel in question and there are no other parcels between the subject parcels and the lake. Thus, Applicant satisfies IDAPA 20.03.04.020.02.

#### **IV. IDL’S ANALYSIS OF COMPLIANCE WITH THE LPA AND LPA RULES—SPECIFIC**

The Application contains only one component: the rebuilding of an existing and permitted boat garage on the Applicant’s property. The Applicant is not proposing any other encroachments through this Application.

##### **A. Boat Garage**

The Applicant is seeking to rebuild a boat garage that was originally permitted by IDL back on December 29, 2004. *See* IDL-004, -011. IDL performed an inspection of the existing boat garage on February 27, 2025, in anticipation of an upcoming application submittal. *See* IDL-003. IDL typically performs inspections of boat garages and float homes prior to demolition and re-permitting to ensure compliance with the existing permit and to verify the encroachment’s exact dimensions.

IDL requested the public hearing due to the discrepancy in size for the proposed boat garage to be rebuilt compared to the size of the existing boat garage that IDL inspected in late February 2025. IDL issued the December 2004 encroachment permit, L-96-S-1673, for the installation and maintenance of riprap, or bank stabilization, and also permitted an existing ramp, dock, and boat garage, which were already on the property.<sup>2</sup> IDL-011 at 2, 15. Specifically, the December 2004 encroachment permit allowed for an “[e]xisting 3’ x 16’ ramp, 8’ x 40’ dock, and 30’ x 35’ boatgarage (sic).” IDL-011 at 2. The drawing submitted with the December 2004

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<sup>2</sup> It is not unusual for IDL to start the permitting process for one type of encroachment, only to find out that other encroachments already exist on the property that require permitting as well. For example, this is fairly common with applicants seeking a single-family dock, only for IDL to discover that the property also contains riprap and a water intake line that both require permitting.

permit application showed a 30' x 35' boat garage that contained a 'square within a square.' IDL-011 at 15.

Boat garages typically have two footprints. *See* IDL-012 at 41. The first is the 'float footprint,' or master footprint, which is the "[a]rea covered by the float(s) supporting the boat garage." IDL-012 at 41. The second is the 'boat garage footprint,' or wall-to-wall footprint, which is the "[a]rea enclosed by the walls and roof." *Id.* Accordingly, the master footprint is larger than the wall-to-wall footprint. The master footprint allows for decking around the walls of the boat garage for recreation, moorage of additional vessels, and the maintenance and repair of the boat garage exterior walls. When a boat garage does not have a walkway around the three sides of the boat garage, it only has a wall-to-wall footprint.

In this case, the Applicant's existing boat garage has the walkway and, therefore, has a master footprint and a boat garage footprint. The two footprints are reflected in the December 2004 permit application drawing by the 'square within a square.' IDL-011 at 15. IDL also observed and recorded the two footprints during the February 2025 inspection. IDL-003 at 1, 3.

During the February 2025 inspection, IDL observed two footprints as described above, with the master footprint having dimensions of 24'2" x 34'5" and the wall-to-wall boat garage footprint of 21' x 28'9". IDL-003 at 1, 3. The boat garage appeared to be advanced in age showing signs of dilapidation and disrepair, indicating that the boat garage has been on the property and in the water for many years/decades. *See* IDL-003 at 6–15. The boat garage did not appear to contain any portions or sections that were askew, removed, or decreased in size—in essence the boat garage appears to be unmodified since it was permitted in December 2004. *See id.*

IDL also observed that the existing boat garage did not match the permit description dimensions of 30' x 35', although the inspected master footprint's length was close at 34'5". The Applicant is seeking to rebuild the existing boat garage with a 22' x 47' boat garage, which is a total size of 1,034 square feet. IDL-004 at 2, 3, 5. As permitted, the boat garage would have had a total size of 1,050 square feet (30' x 35'). However, as described above and shown in the

inspection report, the actual wall-to-wall footprint of the existing boat garage only allows for a total size of 603.75 square feet (21' x 28'9").

The LPA Rules for boat garages have been updated and clarified since the issuance of the original December 2004 permit. The updates in the LPA Rules were made in response to issues IDL faced with rebuilding boat garages. *See e.g., Newton v. MJK/BJK, LLC*, 167 Idaho 236 (2020) (Application did not specify the height of a proposed boat garage, so when the landowner's boat garage doubled in size during the rebuild due to an added second story, the rebuild did not expand the existing footprint, *i.e.*, the surface area occupied on top of the lakebed.)

The issues that arose regarding rebuilding boat garages were primarily related to two types of measurements: (1) the height of an existing boat garage, which constrains the height to which a boat garage could be rebuilt to the height of the existing boat garage, and (2) the two different footprints, which ensures that the wall-to-wall footprint dimensions of an existing boat garage are not expanded out to the master footprint dimensions, thus increasing the size of the rebuilt boat garage from the size of the previously existing boat garage. *Compare* IDAPA 20.03.04.015.05.b-c (2008)<sup>3</sup> and with IDAPA 20.03.04.015.05.b-c (2025)<sup>4</sup>.

Additionally, IDL has updated its Encroachments Procedures to respond to these same two issues. *See* IDL-012 at 40–43, 55–56 (Encroachments Procedures, updated August 2024). In compliance with the updated rules, the Encroachments Procedures do not permit expanding the height of boat garages or expanding boat garages to the master footprint. IDL-012 at 41.

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<sup>3</sup> For ease of reference, IDAPA 20.03.04.015.05.b-c (2008) provided:

- b. Applications for permits to construct new boat garages, or to expand the total square footage of the existing footprint, will not be accepted unless the application is to support local emergency services.
- c. Existing permitted boat garages may be maintained or replaced at their current size.

<sup>4</sup> For ease of reference, IDAPA 20.03.04.015.05.b-c (2025) provides:

- 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.

Pursuant to the LPA Rules and the Encroachments Procedures IDL has enforced identifying and separating two different footprint dimensions to prevent the wall-to-wall footprint dimensions to be expanded to the master footprint dimensions for at least the past seven (7) years that IDL witness Mike Ahmer has been the Resource Supervisor, which he will affirm at hearing. For example, Mr. Ahmer will affirm at hearing that IDL has been working with ~75 boat garage owners down in Heyburn State Park (southern portion of Lake Coeur d'Alene) who had to move or demolish their boat garages as part of a marina expansion, and IDL has been enforcing the two footprints with all of those structures and their future owners. To assist these boat garage owners, IDL hosts an informational page for the Heyburn Boat Garages on its website.<sup>5</sup> One of the Frequently Asked Questions asks and answers the following:

[Question:] Can someone rebuild a boat garage to the size of the float, rather than to the size of the existing garage?

Answer: Boat garages may be replaced with the current square footage of their existing footprint and height. This means the area enclosed by the walls, the area of any floats beyond the walls, nor the height of the new boat garage may be bigger than those of the existing boat garage. A boat garage may be rebuilt following the plan approved by IDL in an Encroachment Permit. Surface decking area beyond the walls of the boat garage is regulated by the corresponding rules for dock encroachments (e.g. the decking area beyond the walls of a noncommercial boat garage that serves one waterfront owner must meet the requirements of a single-family dock).

*Heyburn State Park Boat Garage Owners*, Idaho Department of Lands,

<https://www.idl.idaho.gov/lakes-rivers/heyburn-state-park-boat-garage-owners/> (last visited May 13, 2025).<sup>6</sup> This is consistent with the regulatory definition of boat garage which defines it as the “structure...*that is completely enclosed with walls, roof, and doors...*” IDAPA 20.03.04.010.06. (emphasis added). Thus, the LPA Rule permitting existing boat garages to be replaced within the current square footage and height refers to the square footage of the *enclosed* structure as defined in rule. IDAPA 20.03.04.015.05.c. The LPA Rules are clear that applications to expand the total square footage of the boat garage footprint will not be accepted unless the application is to

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<sup>5</sup> As of the date of this filing, the Heyburn Boat Garage informational page indicates that it was last updated on January 8, 2025, at 10:50 a.m.

<sup>6</sup> To preserve an accurate record, IDL intends to submit a pdf snapshot of this site as it currently exists as IDL-013.

support local emergency services. *Id.* at 05.b. Here, because the Application is seeking to expand the square footage of the footprint of the boat garage, as defined in IDAPA 20.03.04.010.06, it cannot be approved IDL pursuant to IDAPA 20.03.04.015.05.b.

## **V. IDL ANALYSIS OF COMMENTS**

To date, IDL has not received comments from agencies or the public regarding this application.

## **VI. CONCLUSION**

Given the reasons described above, the application does not satisfy the encroachment standards applicable to the boat garage and recommends denial. However, the public comment period remains open and additional information may be presented at the public hearing. IDL respectfully reserves the right to supplement, clarify, or modify its statements based on the availability of new information.

DATED this 13th day of May, 2025.

IDAHO DEPARTMENT OF LANDS

/s/ Kayleen Richter  
Kayleen Richter  
Counsel for IDL

## CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of May, 2025, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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/s/ Kayleen Richter  
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