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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. L95S6166

Mark E. Allen,

Applicant.

Agency Case No. PH-2025-NAV-22-002

OAH Case No. 25-320-04

**IDAHO DEPARTMENT OF LANDS’  
NOTICE OF NON-OPPOSITION TO  
MOTION TO DISMISS**

The Idaho Department of Lands (“IDL”), by and through its counsel of record, Kayleen Richter, hereby provides notice that it does not oppose Objector Randy Folkins’ Motion to Dismiss lodged with the Hearing Officer on July 31, 2025. While IDL does not object to the dismissal of this proceeding, IDL requests that proceedings be dismissed on the condition that Mr. Allen submits updated plans depicting the boat garage and its location, signed by both adjacent littoral owners, to IDL as soon as practicable.

IDL understood Applicant Mark Allen’s representation at the prehearing conference to be that the resolution reached with Mr. Folkins involved Mr. Allen locating the boat garage farther away from Mr. Folkins’ littoral lines to a location to be determined. The boat garage’s new location likely would not match the plans Mr. Allen submitted with his application. Applicants are typically held to his or her application plans so that the built encroachment matches the permit. *See* IDAPA 20.03.04.020.07.a. It is IDL’s policy that “[p]reviously permitted

encroachments that no longer match the permit must either be permitted anew or brought back to their permitted design to match their existing permit.” *IDL Encroachments Procedures*, 11.<sup>1</sup>

Here Mr. Folkins is the Objector, is the closer of the two adjacent neighbors, appears to have negotiated this resolution with Mr. Allen, and is the moving party to dismiss this matter and vacate the upcoming hearing. In this situation, IDL is willing to allow Mr. Allen to submit updated plans that include the boat garage’s accurate location so that the boat garage will match the permit. *See* I.C. § 67-5241; *see also* IRAP 62.01.01.004.

In addition, while it seems that Mr. Folkins consents to the boat garage’s potential new location, IDL has not received confirmation that Mr. Allen’s other adjacent neighbors (Lincoln Wilson and Manisha Wilson) consent to the same. Therefore, IDL requests that Mr. Allen’s updated plans bear the signatures of both adjacent neighbors—Wilson and Folkins.

Should this matter be dismissed and Mr. Allen not provide IDL with signed, updated accurate plans, Mr. Allen’s boat garage may be at risk of being deemed noncompliant. In such a case, IDL reserves the right to require Mr. Allen to bring the boat garage into compliance or apply for a new permit, and the right to pursue any other applicable administrative and judicial actions for violations. *See IDL Encroachments Procedures*, 77–83. IDL’s non-opposition to the Motion to Dismiss should not be considered a waiver of IDL’s rights or policies, nor as consent to encroachments being built to plans other than those submitted with an application.

If the Hearing Officer decides that moving forward with the hearing as scheduled is appropriate, IDL likewise does not object and is prepared to proceed.

DATED this 1st day of August, 2025.

IDAHO DEPARTMENT OF LANDS



Kayleen Richter  
Counsel for IDL

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<sup>1</sup> IDL’s Encroachments Procedures can be accessed on IDL’s website at: <https://www.idl.idaho.gov/wp-content/uploads/sites/2/2025/07/EncroachmentsProceduresAndReferenceDocuments-July2025.pdf>

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of August, 2025, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Mark E. Allen 248 Saint Court Richland, WA 99354  <i>Applicant</i>	<input checked="" type="checkbox"/> Email: markallen50@msn.com
Randy Folkins 4310 S. Thiermann Road Spokane, WA 99223  <i>Objector</i>	<input checked="" type="checkbox"/> Email: randy@eljayoil.com
Marde Mensinger Idaho Department of Lands 300 N. 6 <sup>th</sup> Street Boise, ID 83702  <i>IDL Program Manager for Navigable Waters</i>	<input checked="" type="checkbox"/> Email: mmensinger@idl.idaho.gov
Kourtney Romine Kayla Dawson  <i>Service Contacts 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 Street (208) 605-4300	<input checked="" type="checkbox"/> Email: filings@oah.idaho.gov bryan.nickels@oah.idaho.gov



Kayleen Richter  
Counsel for IDL