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ISB #4270

Attorney for Objecting Party/Proposed Intervenor Coeur d'Alene Land Company

BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application for
Encroachment L95S6163A, a
Community Dock,

River's Edge Apartments, LLC, Lanzce
Douglass,

Applicant.

AGENCY CASE NO.: PH-2025-NAV-22-005

OAH Case No. 25-320-07

PETITION TO INTERVENE

COMES NOW Coeur d'Alene Land Company, an Idaho corporation, by and through its attorney of record, John F. Magnuson, and respectfully petitions for leave to intervene pursuant to the Idaho Rules of Administrative Procedure (IDAPA 62.01.01), including but not limited to Rules 203, 325, and 700. In support of its Petition, Coeur d'Alene Land Company ("CDA Land") states as follows:

1. River's Edge Apartments, LLC (hereafter "the Applicant") owns riparian property along the Spokane River which includes the following. First, a waterfront parcel consisting of approximately 1,579.80 feet of river frontage. Second, three (3) upland (non-riparian/littoral properties), which are adjacent to the Applicant's riparian parcel. A true and correct copy of

Kootenai County Instrument No. 2875057000 (an Amended Record of Survey of Applicant's parcels) is attached hereto as Exhibit A.

2. CDA Land owns 290 acres with approximately 4,600 feet of riparian/littoral frontage on the Spokane River, lying south of the Applicant's property. Attached hereto as Exhibit B is a true and correct aerial schematic which outlines the CDA Land property in red and, across the river to the north, the Applicant's properties, also in red.

3. CDA Land has engaged third-party title professionals to determine if the Applicant's upland parcels are encumbered by a recorded covenant or other similar instrument granting rights in and to those parcels for the occupants or lessees thereon to utilize the "community dock" proposed to be permitted on Applicant's riparian/littoral parcel. No such recorded instrument creating a right on the part of Applicant's upland parcels (or the occupants or lessees thereof) was found in the records of the Kootenai County Recorder.

4. CDA Land contends that the Applicant has not satisfied the requirements of IDAPA 20.03.04.11 which defines a "community dock" as a structure that provides private moorage for "littoral owners possessing a littoral common area with littoral rights including, but not limited to, homeowner's associations." As a result, CDA Land filed an objection and a request for hearing on August 1, 2025. A true and correct copy of that objection is attached hereto as Exhibit C and incorporated by reference.

5. CDA Land is a directly-impacted and affected party in that it has significant riparian holdings directly south of, and across the Spokane River from, the Applicant's property. CDA Land's concern and objection is further based upon the Applicant's intention to construct a dock 154 feet waterward of the ordinary high water mark of the Spokane River which appears to be beyond

the line of navigability in the applicable area of the Spokane River.

6. Coeur d'Alene Land Company respectfully requests leave to intervene as a party for all purposes in this proceeding.

ORAL ARGUMENT IS REQUESTED.

DATED this 21st day of August, 2025.

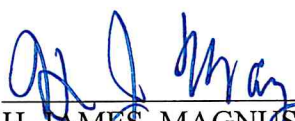


JOHN F. MAGNUSON
Attorney for Objecting Party/Proposed Intervenor
Coeur d'Alene Land Company

VERIFICATION

H. James Magnuson, President of Coeur d'Alene Land Company, hereby state under penalty of perjury that the allegations and statements contained in Paragraphs 1 through 6 above are true and correct to the best of my knowledge and belief.

DATED this 21st day of August, 2025.



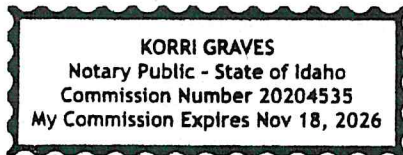
H. JAMES. MAGNUSON, President
Coeur d'Alene Land Company

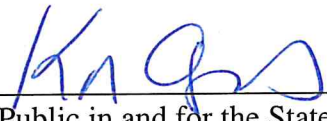
STATE OF IDAHO)
) ss:
COUNTY OF KOOTENAI)

On this 21st day of August, 2025, before me, the undersigned, a Notary Public in and for the said State and County, personally appeared **H. James Magnuson**, as President of Coeur d'Alene

Land Company, known or identified to me to be the person whose name is subscribed in the foregoing instrument and who acknowledged that he had authority to execute the same.

WITNESS my hand and official seal.





Notary Public in and for the State of Idaho
Residing at: Coeur d'Alene
My commission expires: 11/18/2026

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of August, 2025, I caused a true and correct copy of the foregoing document to be transmitted by the following method to:

Elisabeth A. Tellessen Winston & Cashatt, Lawyers, P.S. 250 Northwest Blvd., Ste. 206 Coeur d'Alene, ID 83814 <i>Counsel for Applicant River's Edge Apartments and Lanzce Douglass</i>	☒ E-mail: cat@winstoncashatt.com clk@winstoncashatt.com
Cindy and Brandon Richardson R & R Northwest 1857 W. Hayden Avenue, #102 Hayden, ID 83835 <i>Agents for Applicant</i>	☒ E-mail: cindy.richardson@rrnorthwest.com
Sheriff Robert B. Norris Kootenai County Sheriff's Office P.O. Box 9000 Coeur d'Alene, ID 83816 <i>Objector</i>	☒ E-mail: kcs0@kcgov.us

Peter J. Smith IV Fennemore Craig, PC 418 E. Lakeside Avenue, Ste. 224 Coeur d'Alene, ID 83814 <i>Counsel for Potential Intervenor Concerned Citizens</i>	__X__ E-mail: peter.smith@fennemorelaw.com
Idaho Department of Lands John Richards, General Counsel Kayleen Richter, Counsel 300 N. 6 th Street, Ste. 103 Boise, ID 83701 <i>Counsel for IDL</i>	__X__ E-mail: jrichards@idl.idaho.gov krichter@idl.idaho.gov
Amidy Fuson Lands Resource Specialist-Navigable Waters Marde Mensinger <i>Program Manager for Navigable Waters</i>	__X__ E-mail: afuson@idl.idaho.gov mmensinger@idl.idaho.gov
Kourtney Romine Rachel King Kayla Dawson <i>Service Contacts for IDL</i>	__X__ E-mail: kromine@idl.idaho.gov rking@idl.idaho.gov kdawson@idl.idaho.gov
OAH General Government Division P.O. Box 83720 Boise, ID 83720-0104	__X__ E-mail: filings@oah.idaho.gov leslie.hayes@oah.idaho.gov

Judy E. Scott

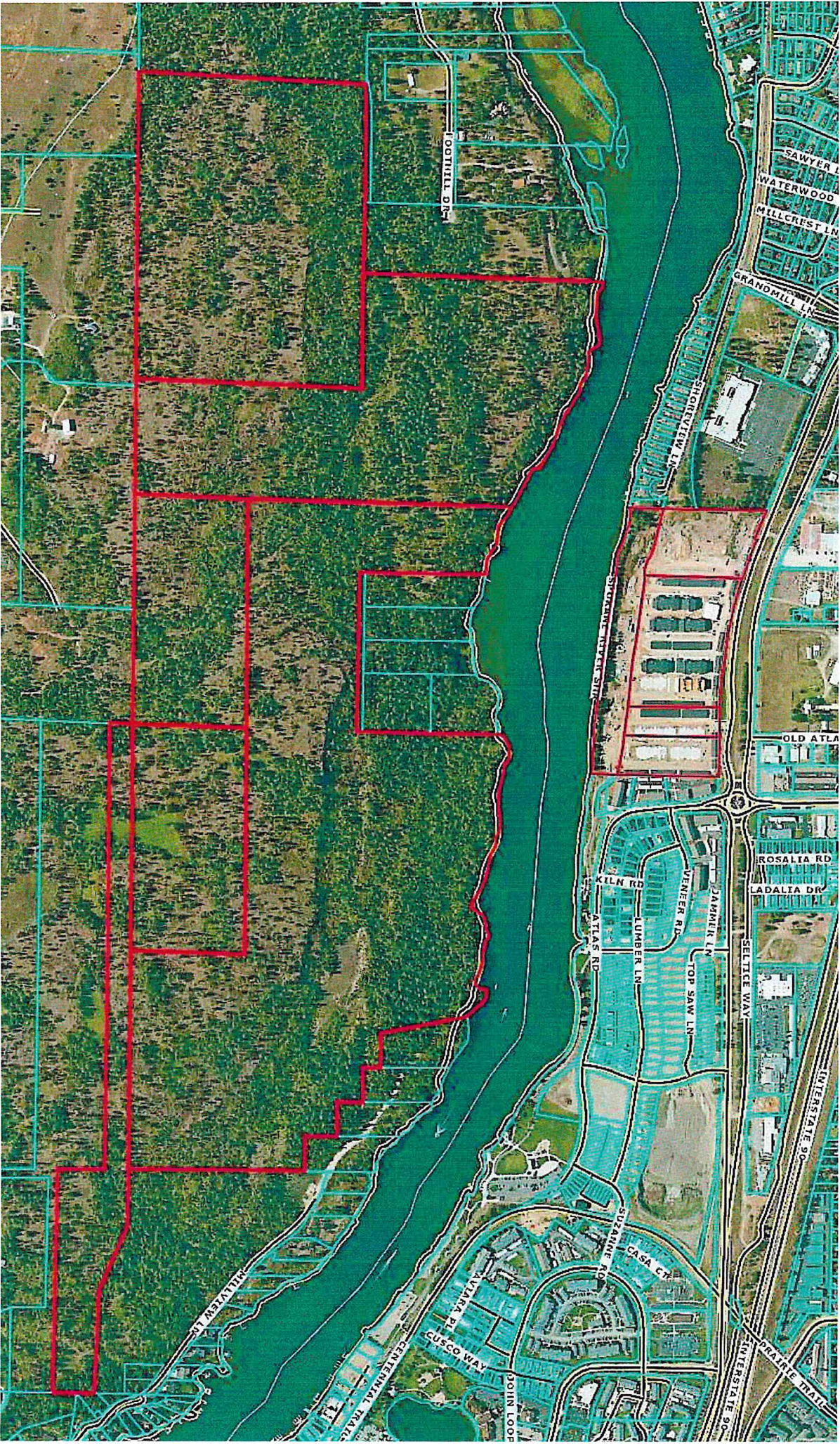


EXHIBIT B

JOHN F. MAGNUSON
ATTORNEY AT LAW

ADMITTED IN IDAHO

TELEPHONE
208•667•0100

FAX
208•667•0500

P.O. Box 2350
1250 NORTHWOOD CENTER COURT
SUITE A
COEUR D'ALENE
IDAHO 83816

August 1, 2025

Idaho Department of Lands
Attn: Ms. Amidy Fuson
Lands Resource Specialist Sr.
Navigable Waters
3284 Industrial Loop
Coeur d'Alene, ID 83815

VIA HAND DELIVERY

Re: River's Edge Apartments, LLC Application for Community Dock Permit
(L95S-6163A)

Dear Amidy:

This letter is written on behalf of Coeur d'Alene Land Company, the owner of riparian property located across the Spokane River from the real property of River's Edge Apartments, LLC ("the Applicant"). The Applicant seeks approval of a community dock. Coeur d'Alene Land Company ("the Company") hereby objects to the proposed application and requests a public hearing. I enclose a check in the amount of \$75.00 made payable to the Idaho Department of Lands as specified in your June 30, 2025 Courtesy Notification.

The property owned by the Applicant (Parcel No. 26817) is titled in the name of River's Edge Apartments, LLC. The Applicant also owns adjacent property (which is non-riparian in nature) which the Applicant has developed for multi-family (apartment) rental purposes. The application does not qualify under the existing administrative regulations for the issuance of a permit for a community dock. IDAPA 20.03.04.11 defines a "community dock" as follows:

A structure that provides private moorage for more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to, homeowner's associations. No public access is required for a community dock.

(Emphasis added).

EXHIBIT C

August 1, 2025

Page 2

The Applicant has one riparian parcel. The Applicant owns other adjacent parcels, which are all non-riparian in nature. There is no matter of record title indicating that the subject parcel (Parcel No. 26817) is "a littoral common area." There are no recorded rights on the part of the Applicant's upland parcels to have a legal right of use in the proposed community dock. Hence, it is not a "community" dock.

Since the adoption of the administrative regulations governing community docks, a fundamental requirement has been imposed that an applicant demonstrate that the "other littoral owners possessing a littoral common area" include a recorded real property interest on the part of the upland, non-riparian parcels to utilize the "community dock." For example residential riparian communities satisfy the requirements for "possessing a littoral common area with littoral rights" by recording real property covenants that create a right on the part of the non-riparian upland parcels to utilize the riparian portion held in "common." This ensures that the letter and spirit of the law is met. It guarantees that the people who will be using the "community dock" are in fact the members of the "community." This requirement has been evenly-handedly and uniformly been applied by IDL to community dock applications since adoption of the administrative regulations.

The Applicant may state that it intends to lease slips in the dock to renters of apartments on adjacent parcels, but those renters have no recorded common interests, legal or otherwise, in the riparian area. Since there is no riparian common area possessed in common by all of the parcels, the Applicant could, should the encroachment be permitted, lease the slips to anyone, regardless of whether or not they have any relationship or affiliation to the upland parcels as a renter or otherwise. That makes this a commercial marina and not a community dock.

Given the inability of this application to satisfy the standards of a community dock under the IDAPA rules, the Applicant could in fact rent the entirety of the slips to individuals who have absolutely no relationship with any of the Applicant's properties, littoral or otherwise. This is no different than leasing the slips to someone who lives five (5), ten (10), or fifty (50) miles away.

As a commercial marina, the Applicant would be required to devote one-half of the slips to public rental and to provide all required parking associated with a commercial marina, and meet City zoning requirements. There is no indication in the application that these standards have been met.

Should this encroachment be permitted, you can likely anticipate seeing rentals of the subject slips to individuals with no relationship to the Applicant's adjacent properties. These individuals will have no place to park. Further, there is no requirement that one-half of these slips be subject to the public lease requirements mandated by IDAPA.

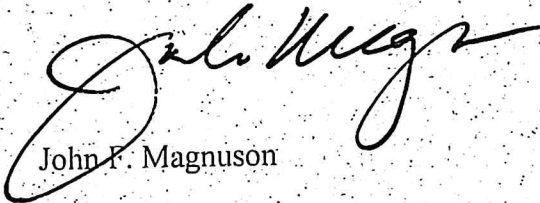
Additionally, the A dock is shown to extend 154 feet waterward of the OHWM. There are no 154 foot docks of a community nature readily apparent in this expanse of the river. The proposed encroachment is beyond the line of navigability. To shoe-horn an 11,064 square foot commercial

August 1, 2025

Page 3

marina under the guise of a community dock in this expanse of the river appears contrary to both the letter and the spirit of the rules as well as the Public Trust Doctrine.

Sincerely,

A handwritten signature in black ink, appearing to read "John Magnuson". The signature is fluid and cursive, with a large loop at the end.

John F. Magnuson

JFM/js

Encl.

cc: Coeur d'Alene Land Company

IDL-FUSON.LTR4.wpd