

OHLER BEAN & TINKEY

Nathan S. Ohler, ISB # 8502

nathan@ohlerbean.com

1809 E. Sherman Avenue, Suite 101

Coeur d'Alene, ID 83814

Telephone: (208) 444-8686

Attorneys for Applicant

BEFORE THE IDAHO DEPARTMENT OF LANDS

Application for Permit to Install a Community
Dock, Encroachment L95S6181,

The Estates at Waterstone HOA, Inc.,
Jason Garvey (Agent),

Applicant.

AGENCY Case No. PH-2025-NAV-
22-006

OAH Case No. 25-320-08

**APPLICANT'S PREHEARING
STATEMENT**

Evidentiary Hearing

Date: October 6, 2025

Time: 4:00 p.m. Pacific Time

COMES NOW the Applicant, The Estates at Waterstone HOA, Inc., Jason Garvey (Agent), by and through its counsel, Nathan S. Ohler of Ohler Bean & Tinkey, and submits the following prehearing statement:

The Applicant is the owner of record of Tract A, Estates at Waterstone according to the Plat recorded as Instrument No. 3007089000, in Book "M" of Plats, Pages "31-31C," records of Kootenai County, Idaho, together with all riparian rights of wharfage associated with, or appurtenant to, Lots 9-12, Block 3, Estates at Waterstone according to said Plat (See Exhibit WS-4). These littoral rights include 426.36 feet of shoreline on the Spokane River. Applicant respectfully requests approval of its Application No. L95S6181 (the "Application") (Exhibit WS-1) for reasons that are self-evident from the content of the Application.

Dispositively, the Application satisfies all standards that govern navigable encroachments for community docks pursuant to Idaho Code § 58-1301, et seq., and the Idaho Department of Lands' Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho (IDAPA 20.03.04). The decking area of the proposed community dock is less than what the regulations allow per IDAPA 20.03.04.015.02(c). Applicant accommodated the adjacent property owners to design the setback of the community dock further from the adjacent littoral right lines than what is allowed per IDAPA 20.03.04.015.13(e), thereby also exceeding the standards required to lessen the potential for infringement on adjacent littoral rights per IDAPA 20.03.04.015.13(c).

In addition to satisfying all objective criteria required for approval, none of the adjacent property owners object to the Application, and the proposed community dock does not present any conceivable infringement to adjacent littoral rights or the line of navigability. To exceed what Idaho law requires, the community dock was designed *further* from the line of navigability than existing legally permitted encroachments (see IDAPA 20.03.04.010.20), enters the widest aspect of the Spokane River, is located one property downriver from an existing community dock encroachment of similar size, and is "tucked in" to a shallow cove to further its distance from the line of navigability in relation to existing encroachments.

//

//

//

//

//

//

In short, the Application satisfies Idaho law and there is no aspect of the proposed community dock that is atypical from the surrounding existing legally permitted encroachments. Applicant therefore respectfully requests approval of the Application.

DATED: September 12, 2025.

OHLER BEAN & TINKEY

/s/ Nathan S. Ohler

By _____
Nathan S. Ohler, Of the Firm
Attorneys for Applicant
The Estates at Waterstone HOA, Inc.,
Jason Garvey (Agent)

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2025, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Leslie M. Hayes
Office of Administrative Hearings
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300
Hearing Officer

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email:
Leslie.hayes@oah.idaho.gov

The Estates at Waterstone HOA, Inc.
Jason Garvey, Agent
1386 Northwest Blvd
Coeur d'Alene, ID 83814
(208) 916-3647
Agent for Applicant

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email: jason@wesslen.com;
caseym@legacylw.com

Concerned Citizens, LLC
11927 W. Span Way Rd
Post Falls, ID 83854
(208) 964-4037
Objector

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email: sherichic91@gmail.com

Peter J. Smith IV
Fennemore
418 East Lakeside Ave., #224
Coeur d'Alene, ID 83814
(208) 956-0145
Counsel for Objector Concerned Citizens

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email:
peter.smith@fennemorelaw.com

Idaho Department of Lands
John Richards, General Counsel
Kayleen Richter, Counsel
300 N. 6th Street, Ste. 103
Boise, ID 83702
(208) 334-0200
Counsel for IDL

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email: jrichards@idl.idaho.gov;
krichter@idl.idaho.gov

Marde Mensinger
Program Manager for Navigable Waters

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email:
mmensinger@idl.idaho.gov

Kourtney Romine
Rachel King
Kayla Dawson
Service Contacts for IDL

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email: kromine@idl.idaho.gov;
rking@idl.idaho.gov;
kdawson@idl.idaho.gov

OAH
General Government Division
P.O. Box 83720
Boise, ID 83720-0104
(208) 605-4300

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Email: filings@oah.idaho.gov

/s/ Jennifer Escruceria

Jennifer Escruceria