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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

**OPPOSITION TO PETITION TO
INTERVENE (BOARDWALK AND
DOCKS, LLC AND RESIDENCES ON
THE SPOKANE, LLC) BY OBJECTING
PARTY/PROPOSED INTERVENOR
COEUR D'ALENE LAND COMPANY**

COMES NOW Coeur d'Alene Land Company, an Idaho corporation, by and through its attorney of record, John F. Magnuson, and respectfully files this Opposition to the Petition to Intervene filed August 22, 2025 by "Boardwalk and Docks, LLC" and "Residences on the Spokane, LLC."

I. BACKGROUND FACTS.

1. On June 23, 2025, River's Edge Apartments, LLC as the sole Applicant, filed an application with the Idaho Department of Lands ("IDL") for an encroachment permit authorizing a

“community dock” with seventy-four (74) slips and 11,064 square feet of dock.

2. Attached hereto as Exhibit A, for illustrative purposes, is a Kootenai County tax parcel map which identifies five (5) parcels as “1,” “2,” “3,” “4,” and “5.”

3. The original encroachment permit application of June 23, 2025 identified all five (5) parcels shown on Exhibit A, including the waterfront parcel (Parcel #5), as being owned by the Applicant, River’s Edge Apartments, LLC.

4. IDAPA 20.03.04.030.01 requires that notice of the application be published once a week for two (2) consecutive weeks and that IDL furnish copies of the application and plans to federal, state and local agencies and to adjacent littoral owners. Interested parties may, within thirty (30) days of the first date of publication of notice regarding the application, file written objections with IDL or to request a public hearing.

5. On August 1, 2025, Coeur d’Alene Land Company (“CDA Land”) filed a written objection to the application noting, inter alia that the application did not satisfy the requirements for the issuance of a community dock under IDAPA 20.03.04.11. That administrative rule 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.

CDA Land noted that there was only one (1) littoral owner (River’s Edge Apartments, LLC); that the owners of upland (non-riparian) properties was also River’s Edge Apartments, LLC; that there was no “littoral common area” established by any written and recorded real property instrument; and that the proposed permit, if issued, would not require use by the apartment renters in the upland parcels owned by the Applicant but could instead be rented to any member of the public, thereby

creating a de facto commercial marina without satisfying the requirements of IDL or the City of Coeur d'Alene.

6. On August 19, 2025, a scheduling conference was held, resulting in the issuance of the August 20, 2025 Scheduling Order. Pursuant to that Scheduling Order, anyone had the right to file a petition to intervene by August 22, 2025. That date has now passed.

7. On August 22, 2025, "Boardwalk and Docks, LLC" and "Residences on the Spokane, LLC" sought leave to intervene and to change the fundamental nature of the previously-submitted encroachment permit application. The Petition to Intervene discloses the following:

- (1) On August 21, 2025, the riparian/littoral parcel that forms the basis for the application was conveyed by River's Edge Apartments, LLC (the existing Applicant) to Boardwalk and Docks, LLC. This is identified as Parcel #5 on Exhibit A.
- (2) On August 21, 2025, Parcel #1 was conveyed by Applicant River's Edge Apartments, LLC to Residences on the Spokane, LLC.
- (3) On August 21, 2025, an unrecorded Lease was signed by "Residences on the Spokane, LLC," the new transferee of the riparian/littoral parcel (Parcel #5), with the four (4) upland parcels (Parcels "1" through "4"), with the Lessees being Residences on the Spokane, LLC (the new transferee of Parcel #1) and River's Edge Apartments, LLC (still holding title to Parcels "2" through "4").
- (4) The unrecorded Leases may be terminated at any time with the consent of the landlord and the tenants.
- (5) The Leases purport to lease to the respective owners of each of the four (4) upland parcels an undivided one-fourth interest in the riparian/littoral parcel (Parcel #5).

8. It is evident that these last minute machinations by the Applicant are an attempt to change the fundamental nature of the application as some sort of response to the objections interposed by objecting parties, including CDA Land. Through the subject Petition to Intervene, Boardwalk and Docks, LLC (the "new" owner of the riparian/littoral parcel (Parcel #5)) and

Residences on the Spokane, LLC (the new Lessee of Parcel #1) seek to substitute and intervene as the Applicant.

9. No timely published notice of the proposed amended encroachment permit application has been provided to the public, to responding agencies, or to adjacent littoral owners, in compliance with IDAPA 20.03.04.030.01.

II. ARGUMENT IN OPPOSITION TO PETITION TO INTERVENE.

A. Failure to Comply With Required Notice Provisions.

IDAPA 20.03.04.030.01 requires the published notice of “a complete application for . . . a community dock.” This notice is to be published once a week for two (2) consecutive weeks in a newspaper of general publication in the County in which the encroachment is proposed. This notice is intended to apprise all potentially interested parties of the identity of the applicant and the bases upon which the encroachment is sought. Through the methodology chosen by the Applicant and the related proposed Intervenor, they have fundamentally changed the nature of the basis upon which they claim entitlement to a permit for a community dock and they have failed to comply with the notice provisions by giving public notice, compliant with the terms of the rules, as to the modified application or the substituted applicants. If the hearing proceeds without full notice and an opportunity to object, with respect to the newly-constituted application and substituted Applicants, then the process will likely be inherently fraught with a lack of due process. The simple solution is to require that the amended application with substituted Applicants be re-noticed and re-published in conformity with established legal requirements under the Administrative Rules. Otherwise, the time for objecting to the proposed modified application has already passed and no member of the public with a basis or standing to intervene can now do so, the time having passed.

B. The Application Still Fails to Satisfy the Requirements for a Community Dock.

Pursuant to IDAPA 20.03.04.010.11, a community dock may provide private moorage for more than two (2) adjacent littoral owners. The Applicants may suggest that the littoral/riparian parcel (Parcel #5), now being owned by Boardwalk and Docks, LLC and leased in undivided one-quarter interests to Residences on the Spokane, LLC (Parcel #1) and River's Edge Apartments, LLC (Parcels #2, #3, and #4) is a littoral parcel owned by more than two (2) adjacent littoral owners. However, long-standing IDL administrative interpretation and enforcement of the applicable statutory and administrative requirements for the issuance of a community dock permit prohibit the use of multiple leases of a single, legal waterfront parcel (such as Parcel #5) for purposes of creating separate waterfront parcels. This is consistent with IDL's long-standing administrative interpretation that a waterfront parcel may not be "subdivided," per se, through leases, but rather can only be subdivided through an actual legally-recognized subdivision process. Accordingly, the fact that Parcel #5 now has four (4) ostensible owners is insufficient to satisfy the requirements for the issuance of a community dock permit.

It is also expected that Petitioners and the Applicant will claim that they have now defined an upland "community" for the purposes of permitting the community docks, being Parcel #1 (now owned by Residences on the Spokane, LLC which is also the Lessee of an undivided one-quarter interest in Parcel #5) and River's Edge Apartments, LLC (the owner of Parcels #2 - #4 and the Lessee of an undivided three-fourths interest in the littoral/riparian parcel). However, no legally-enforceable real property interest on the part of Parcels #1 through #4 has been created or substantiated in support of the application as presently constituted.

In the absence of a recorded and legally-binding right on the part of the actual occupants of Parcels #1 through #4 to use the community dock proposed on Parcel #5, whether through the creation of a homeowners association or through another legally-sufficient mechanism, there will be no requirement that the encroachment's use be for the members of an established community, to-wit, the renters or occupants of Parcels #1 through #4. The leases submitted by the Applicant and proposed Intervenor are unrecorded, entered into between related entities, and may be terminated at any point in time by the mutual consent of the related Lessors and Lessees. Standing alone, should this permit be issued, authorizing seventy-four (74) slips, the Applicant and proposed Intervenor could then terminate the leases, have no substantiated "community" with rights in the dock, and proceed to lease the slips to any member of the public, whether a Lessee of Parcels #1 through #4 or otherwise. This would create a de facto commercial marina without having satisfied the requirements of IDL, the City of Coeur d'Alene, or any other applicable entity or agency with oversight and jurisdiction.

III. CONCLUSION.

Based upon the reasons and authorities set forth above, CDA Land Company respectfully request that the Petition to Intervene by Boardwalk and Docks, LLC and Residences on the Spokane, LLC be denied or, alternatively, should the Petition be granted, that the application be re-noticed in accordance with the terms of IDAPA 20.03.04.030.01.

DATED this 29th day of August, 2025.



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

CERTIFICATE OF SERVICE

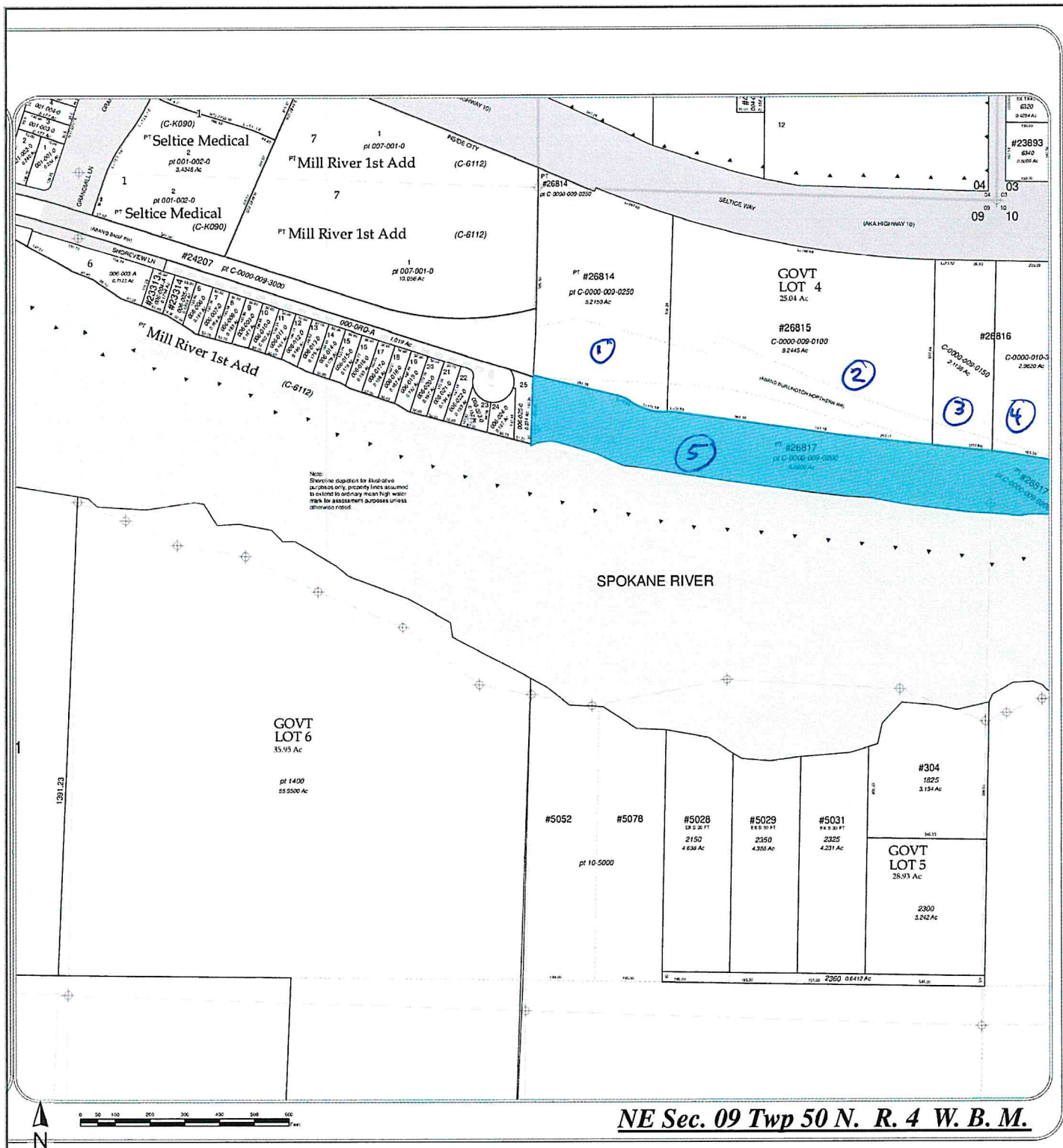
I HEREBY CERTIFY that on the 29th day of August, 2025, I caused a true and correct copy of the foregoing document to be transmitted by the following method to:

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Judy E. Scott

CDA LAND-OPPOSITION.PET.wpd



KT / BT
KOOTENAI TITLE / BONNER TITLE
 MAKE A REQUEST FOR THE BEST

This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.