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Lanzce Douglass, Boardwalk and Docks LLC
and Residences on the Spokane LLC

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

APPLICANT'S PRE-HEARING STATEMENT

Applicant, River's Edge Apartments, LLC and Lanzce Douglass, along with Boardwalk and Docks LLC, and Residences on the Spokane LLC, Intervenor, by and through their attorney of record, Elizabeth A. Tellessen of Winston & Cashatt, Lawyers, submits this statement, supported by the record and testimony to be presented at the hearing; and establishing by a preponderance of the evidence that they have met the standards necessary for issuance of an encroachment permit for a community dock.

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1. FACTS

1.1 The Application and Applicants.

River's Edge Apartments, LLC, through its agent, R&R Northwest and Cindy Richardson, made application for a 74-slip community dock on the Spokane River. The community to be supported by the dock is an apartment complex of approximately 650 units, which will be home to numerous residents living and working in north Idaho. River's Edge Apartments, LLC has agreed to dedicate considerable improvements to public use, including an extension of the Centennial Trail and four public water/beach access points, including one supporting ADA access. These improvements along with the proposed dock will make River's Edge a unique rental community, providing river access and recreational opportunities for those that do not own multi-million-dollar residences on the Spokane River.

At the time of application River's Edge Apartments, LLC owned four lots (five tax parcels) one of which abuts the Spokane River to the south ("Shoreline Parcel"). Idaho Department of Lands ("IDL") accepted River's Edge Apartments, LLC's application for a community dock because it satisfies the definition found in IDAPA 20.03.04.010.11 due to the common ownership of multiple parcels and that it will be available only to apartment tenants. (Exhibit REA-8, Video 14:35 – 18:36) Mr. Mike Ahmer, Resource Officer Supervisor for the Mica Office of Idaho Department of Lands, has also determined that if there was a change of ownership or lease of the Shoreline Parcel then the application would

“definitely meet [the] definition.” (*Id.*) Accordingly, the application has been continuously processed as a community dock under IDAPA 20.03.04.015.02.

On August 21, 2025, River’s Edge Apartments, LLC (“River’s Edge”) conveyed the Shoreline Parcel to an affiliated family entity, Boardwalk and Docks LLC (“Boardwalk”). River’s Edge also conveyed one of the upland apartment-lots to another affiliated family entity, Residences on the Spokane LLC (“Residences”). Boardwalk then leased back to River’s Edge and Residences an interest in the Shoreline Parcel and its littoral rights. River’s Edge fast-tracked these changes to ensure there is no basis to assert that a lack of compliance with the definition of community dock. Despite the change in ownership proposed encroachment and use remain the same.

1.2 Coeur d’Alene Land Company Objection.

Unfounded speculation underpins Coeur d’Alene Land Company’s (“CDA Land”) objection to the application for a community dock. This company is owned in part and represented by Mr. John Magnuson. The company owns and is marketing for sale property on the river’s southern bank. (Exhibit REA-12) Presumably to serve its own dock development interests, CDA Land’s objection speculates that the intent, certified in the application, to establish the community dock is false. These baseless accusations are properly disregarded.

In any event, IDL has undertaken to ensure that CDA Land’s interest in developing docks on its property are protected. IDL directed River’s Edge to provide a survey of the river’s width to show that there would remain a 366-foot unobstructed corridor (150’

distance from proposed or potential docks, two 8' "boat lanes" and a 50' buffer between boat lanes). (Exhibit REA-8, Video 02:50—05:30) This is the first time in Ms. Cindy Richardson's long history designing docks that IDL has ever asked for such a survey. Nonetheless, the survey was provided and IDL accepted the community dock application as complete.

1.3 Kootenai County Sheriff Objection.

The Kootenai County Sheriff has been very vocal regarding its concerns about safety on the Spokane River. But, without a basis in law or fact, he has singled out this proposal and is requesting denial. Prior to submission of the River's Edge application, Sheriff Ryan Miller circulated a memo outlining his general concerns about the increasing number of people on the Spokane River. (Exhibit REA-9) This memo highlights the Sheriff's efforts to expand No Wake Zones in the vicinity of approved marinas. It acknowledges that the Sheriff does not have proof that there are "too many vessels on the river" and that the impacts of additional projects are unknown. The memo also touts the bona fide but failed effort by the Sheriff to eliminate towing (water skiing and tubing presumably) on the river.

The Sheriff's formal objection to this application followed a Special Meeting held by the Kootenai County Board of County Commissioners on July 30, 2025. (Exhibit REA-8) During this Special Meeting regarding a single agenda item, the River's Edge application, the public officials berated the project and strategized around efforts to secure a denial of the application. River's Edge was not informed of this Special Meeting until after it occurred and thus was precluded from defending its application.

During this meeting Sheriff Norris and IDL discussed numerous hazards that presently exist on the river, including existing pilons that narrow the channel and the many boaters treat this area as a “fly zone.” (Exhibit REA-8, Video 11:17—14:28) Sheriff Miller acknowledged that a carrying capacity study has not been done, and his view of the river’s congestion is his opinion only. (*Id.* at 28:03-28:08) He also aptly pointed out that there are many different users of the river, with many different needs that ought to be considered. (*Id.* at 26:35-27:48)

The formal objection submitted by the Sheriff adamantly opposes this project, although the Sheriff seems to acknowledge that the river is already fraught with hazards. There is no objective evidence in the record supporting the Sheriff’s assumptions that this community dock will result in injury and death, that it will force boaters into a single lane of travel, and that the dock could only be safe if it was *already* within a No Wake Zone.

While the applicant supports the Sheriff and deputies continued efforts to protect and serve the public, the objection made to this application is unreasonable and arbitrary.

1.4 Mill River Property Owners Association Objection.

The Mill River Property Owners Association is identified in the record as an objector that requested and paid a fee for this hearing. In its objection the POA asserts generic statistics that have no bearing on the criteria for approval of a community dock and then goes on to disparage the apartment complex and its residents as aligning with the “character of the neighborhood.” This sort of condescension has no place in this decision-making process.

Furthermore, it is acknowledged that a community dock will be of a larger scale than a single dock, which is why it is held to more stringent review. E.g. IDAPA 20.03.04.030.

1.5 Citizens and Public Comments.

The public comments submitted during the initial comment period and those supporting The Concerned Citizens Against Additional 100 Boat Slips Added to Templin's Resort Spokane River, Inc. ("Citizens") rail against this and other applications that have been made for community and commercial docks along the river. The prevailing themes concern the impact surf/wake boats have on other forms of recreation (particularly non-motorized recreation), water quality, erosion, and navigation, but no facts specific to this particular application. While some comments speculate the size of the dock makes the river unsafe, there is no evidence offered in support. Others assert that there are too many boats on the river, while recognizing that the proper evidence of this fact requires formal study. Interestingly, many of the commenters agree that their safety concerns would be resolved if this portion of the river was made a No Wake Zone.

As addressed more fully below, these comments are informative but are not evidence that this proposal will have a detrimental effect on the lake value factors.

2. THE APPLICATION COMPLIES WITH THE LPA AND RULES

This brief foregoes a general recitation of the Lake Protection Act (Title 58, Chapter 13, Idaho Code) and the rules promulgated under that authority (IDAPA 20.03.04) because the applicability of those statutes and rules to this application are not in dispute. The

issues contested by the objectors are largely focused on whether this community dock is a detriment to the lake value factors. IC §58-1301.

2.1 The community dock application was properly made and partially assigned by River's Edge under IC §58-1306 and IDAPA 20.03.04.020.

The LPA and rules are plain on their face and do not require interpretation to conclude the application was properly made and signed by River's Edge, and the continued pursuit is properly joined by Boardwalk and Residences. The statute provides that applications for community navigational encroachments "must be submitted or approved by the riparian or littoral owner." IC §58-1306(a). The rules similarly provide that "[a]pplications must be submitted or approved by the littoral owner..." IDAPA 20.03.04.020.07.b. The rule, but not the statute specifically defines littoral owner as "[t]he fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant." IDAPA 20.03.04.010.33. The statute defines littoral rights as "the right of owners or lessees of land adjacent to navigable waters." IC §58-1302(f). The definition of community dock is also pertinent to this analysis: "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...." IDAPA 20.03.04.010.11.

As recently summarized in *Findings of Fact, Conclusions of Law, and Recommended Order*, 414 PF Hospitality, LLC, OAH Case No. 24-320-09, Conc. Law. No. 35:

Rules of statutory construction apply to the interpretation of administrative rules. *Mason*, 135 Idaho 581,583, 21 P.3d at 905. "Interpretation of a rule should begin, therefore, with an examination of its literal words." *State v. Besaw*, 155 Idaho 134,142,306 P.3d 219,227 (Ct. App. 2013) (citing *Mason*, 135 Idaho at 586, 21 P.3d at 908). "The language of the rule should be given its plain, obvious, and rational meaning." *Id.* "In addition, this language should be construed in the context of the rule and statute as a whole, to give effect to the rule and to the statutory language the rule is meant to supplement." *Wheeler v. Idaho Thmsp. Dept.*, 148 Idaho 378,384 (2009) (citing *Mason*, 135 Idaho at 586, 21 P.3d at 908).

Considering these rules of construction it should be found that the applicable statutes and rules do not require interpretation and the application and applicants satisfy those definitions.

River's Edge was the only littoral owner with littoral rights at the time of application, and its agent and member Lanzce Douglass signed the application. By signing the application Mr. Douglass certified that the information contained therein "is complete and accurate." (Exhibit REA-1) The application certified that the purpose of the dock would be for "mooring opportunities for resident's [sic] of the River's Edge Apartment complex." (*Id.*) Testimony at the hearing will affirm this intent, establishing that the community dock will be a common area available to tenants of the apartments that wish to lease a slip at the community dock. This community dock will not be available to the general public. See IDAPA 20.03.04.010.09. As explained by Mr. Ahmer at the Special Meeting, the application and intent are consistent with IDAPA 20.03.04.010.11.

But, to ensure the application "definitely meets the definition" River's Edge, Boardwalk and Residences have entered a lease for the Shoreline Parcel specifically segregating a portion of the littoral rights to each owner. (Exhibit REA-6) Boardwalk and

Residences have additionally accepted and assumed the application and agreed to execute any document requested and perform under any permit or license issued by IDL. (Exhibit REA-7). Accordingly, there are “more than two (2) adjacent littoral owners” making this application as required by IDAPA 20.03.04.010.11.

2.1.1 *The community dock definition is properly applied to River’s Edge.*

Coeur d’Alene Land Company objects to the application based on its counsel’s, not IDL’s interpretation of the requirements for a community dock. (Exhibit REA-10) These assertions are not supported by the plain language of the statute, rules, or facts of this application. If there is cause to find an interpretation of IDAPA 20.03.04.010.11 is justified, then IDL’s conclusion that the application follows the agency’s interpretation is entitled to deference.

It is well established in Idaho that an agency’s interpretation of a statute or rule will be given considerable weight if: (1) the agency has been entrusted with the responsibility to administer the statute or rule, (2) the agency’s statutory construction is reasonable, (3) the statutory language does not expressly treat the precise question at issue, and (4) any of the rationales underlying the rule of deference are present. *Mason v. Donnelly Club*, 135 Idaho 581, 583, 21 P.3d 903 (2001), citing *J.R. Simplot Co. Inc. v. Idaho State Tax Com’n*, 120 Idaho 849, 820 P.2d 1206 (1991) (herein “Simplot Factors”). Although River’s Edge submits that the third element is not satisfied (that is, the rules expressly include the application and applicants), if an interpretation is necessary, IDL’s interpretation, as explained by Mr. Ahmer at the Special Meeting, should be granted deference.

Regarding the first element, there is no dispute that IDL is the agency entrusted with the responsibility to administer the applicable community dock rules. Second, IDL's acceptance of this application for a community dock serving an apartment complex is reasonable and avoids discrimination between "homeowners" and "renters." The fourth element is also satisfied because the interpretation is practical. *See Simplot*, 120 Idaho at 858. The community dock definition on its face is general, "including, but not limited to" the example "homeowner's associations," which indicates it is not intended to "address all of the details necessary for its effective implementation." IDAPA 20.03.04.010.11, and *Simplot*, 120 Idaho at 858. Although, IDL has adopted some guidelines regarding "eligible applicants" for a community docks those guidelines relate to subdivisions, a particular sort of residential development. (*IDL, Navigable Waterways Program Doc. No. ENC-Section 25, V.E* (herein "IDL Guidance")). But the guidelines still fall short of addressing all of the details necessary for effective implication and are thus not practical when applied to an apartment complex.

IDL's determination that the River's Edge dock is a community dock is practical and reasonable considering how an apartment complex functions. For instance, inherent to apartment complexes is the fact that the individual residents do not own but only lease their residences and have no ownership interest in their home or any common area. Nevertheless, under their lease agreements they have the right to possess and access common areas and amenities within the complex (e.g. pools, community buildings, parking areas, etc.). Depending on the complex, certain amenities may have additional charges (e.g. garage

parking and storage areas). These common areas are owned and operated by the owner(s) of the apartment complex, not by a “homeowners’ association” like they would be in a condominium or subdivision.

IDL has properly concluded that this application meets the definition of community dock, whether under the express terms or its reasonable interpretation, and IDL’s conclusion that the application satisfies IDAPA 20.03.04.010.11 is properly upheld.

2.1.2 *Substantial compliance with submission and notice requirements.*

CDA Land complains in its opposition to Boardwalk and Residence’s motion to intervene, that the intervention causes a “change in the fundamental nature of the application...” But, there is no legitimate argument that the application before and after the assignment are in substantial compliance with the requirements that the application be signed by a littoral owner and notice of the proposed encroachment provided to the public. See IDAPA 20.03.04.020.02, .07.b, .025.02; and IC §58-1306(b), and e.g. *Friends of Farm to Market v. Valley County*, 137 Idaho 192, 198-199 (2002) (finding substantial compliance with county ordinance justified grant of conditional use permit).

The application was signed as required and was properly noticed in each instance. The change in ownership does not alter either of these facts, particularly where an assignment of application is neither prohibited nor requires a particular process.¹ And while the applicant’s name is included in the various notices its inclusion is not required by statute

¹ Assignment of issued permits and leases do require compliance with IDAPA 20.03.04.065, but this is not applicable to applications.

or rule, and a change in the applicant does not threaten compliance with the substantive requirements. Regardless, River's Edge retains littoral rights and its identity as applicant is accurate and consistent with the standard of substantial compliance.

2.2 The proposed community dock satisfies the applicable standards set out in IC §58-1306 and IDAPA 20.03.04.015 and .020.

The application includes all the “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” that are required by code and those additional plans requested by IDL. See IC §§58-1302(k) and 1306(a); and IDAPA 20.03.04.020.07.a. Specifically, the application shows that with the placement of the docks, and assuming there are docks placed across the river, there will remain open and free of encroachment a 366-foot-wide channel for unobstructed navigation (herein “366’ Channel”).

Moreover, the application and plans establish that the community dock is consistent with the encroachment standards because: (a) the application is being processed as a commercial navigational aid; (b) no part of the structure exceeds 10 feet in width; (c) the surface decking (11,064 sq.ft.) is less than seven square feet per lineal foot of shoreline (1,581 LF x 7 = 11,067).² See IDAPA 20.03.04.015.02.a-c. The plans show that the docks do not encroach on adjacent littoral rights and are set back at least 25 feet from the littoral

² IDAPA 20.03.04.015.02.d and .02.e are inapplicable.

boundaries, and neither adjacent littoral owner, Coeur d'Alene Investments, LLC nor City of Coeur d'Alene, has offered evidence to rebut the presumption of no adverse effect. IDAPA 20.03.04.015.13.e.

It is relevant to note that the board has not established a line of navigability for this portion of the river. Nevertheless, IDL has indicated that community and commercial docks are presumed to extend beyond the line of navigability and are processed and reviewed under IC §58-1306 and can approved in accordance with IDAPA 20.03.04015.13.d.

Having met all the technical requirements, the only question that remains for consideration is whether the public trust or lake values support a change in the ultimate size of the docks. IDAPA 20.03.04.015.02.

2.3 The River's Edge Community Dock will aid navigation and enhance economic and recreational opportunities.

2.3.1 *Navigation.* A dock, regardless of size or purpose, is an "encroachment in aid of navigation" IC §58-1303(h). Furthermore, IDL guidelines provide that encroachment beyond the line of navigability "shall be permitted, unless site specific conditions warrant a reduction or extension in length." *IDL, Navigable Waterways Program Doc. No. ENC-Section 25, III.A.*

In this instance, the community dock will provide navigational benefits to the apartment-tenants who otherwise would not have a boat, be dependent upon public launches or only fortuitously secure slip-rental at highly sought-after and costly commercial marinas. It is also expected that the 100' No Wake Zone extending from the end of the community

dock will aid navigation for small, slow, or non-motorized vessels. River's Edge Community Dock is also willing to require as a condition of moorage that the tenant provide evidence that he/she has completed the Idaho boater safety course and obtained a boater education card, increasing the number of safe and informed boaters on the river.

2.3.2 *Economics.* The public economic benefits could arise in various ways, including but not limited to lease payments to IDL, potential for new boat and boater license and registration, less demand on the Sheriff's resources for enforcement considering dock users will be required to obtain a boater education card, and an increase in property tax revenues. Private economic benefits will vary and are expected to include income to the owners, cost savings to tenants that will not need to pay for storage or transport of their boats to/from the river, and mitigation of costs claimed by nearby property owners caused by boaters using this portion of the river as a "fly zone."

2.4 The River's Edge Community Dock furthers the public trust and benefits the lake value factors.

Despite the rhetoric in the objections and public comments there can be no legitimate dispute that this community dock aids the public trust by making navigation of the state's waters available to apartment tenants that might not otherwise have access to boat moorage. Furthermore, much of the detriment touted by the objectors may in fact be a benefit to navigation and recreation.

The public trust doctrine set out in *Kootenai Environmental Alliance, Inc. v. Panhandle Yacht Club, Inc.*, 105 Idaho 622, 671 P.2d 1085 (1983) and codified in Title 58 Chapters 12 and 13, Idaho Code is not as narrow as it is portrayed in the public comments. To read the public comments one would be led to believe that the public trust is only served if those *presently* living on the river can freely travel at the maximum speed from their private dock to Cedars on Lake Coeur d'Alene. But the Spokane River is not the rich-man's river and speeding up the river is not the only navigation that matters.

Idaho recognizes that all navigable rivers "shall be open to public use as a public highway for travel and passage, up or downstream, for business or pleasure, and to exercise the incidents of navigation — boating, swimming, fishing, hunting and all recreational purposes." IC §36-1601. Taking the public comments at face value, these rights have been drastically curtailed by recreational boats seeking to speed through the river, some producing wakes that make non-motorized and even some motorized navigation and recreation undesirable and dangerous.

Fair consideration of each of the lake value factors in light of the proposed community dock reveals that there is no evidence that this community dock poses a detriment to the lake value factors, but rather certain attributes are likely to benefit segments of the navigating and recreating public.

2.4.1 *Protection of Property.* The Idaho Supreme Court has recently ruled that the public trust doctrine and lake protection act operate to protect littoral property rights of the adjacent landowner. *Newton v. MJK/BJK, LLC*, 167 Idaho 236, 245, 469 P.3d 23

(2020). Considering the docks are set back at least 25' from the littoral boundaries and no adjacent littoral owner has presented evidence of a detriment to its property this project cannot be found to be a detriment to this lake value.

Although the LPA and rules are not intended to benefit non-adjacent property owners, IDL has undertaken to ensure that by allowing this community dock CDA Land will not be impaired in its efforts to market and develop its property with docks. The 366' Channel requirement was imposed to ensure this equity, and it is a benefit to private property owners at the expense of the applicant.

2.4.2 *Navigation.* Generally speaking, navigation is the means of determining one's position and chartering a safe course from one place to another. In Idaho navigability is established when, at a minimum, a body of water "will float cut timber having a diameter in excess of six (6) inches or any other commercial or floatable commodity or is capable of being navigated by oar or motor propelled small craft for pleasure or commercial purposes is navigable." IC §36-1601. Notably, navigation is also not relegated to motorboats. See IC §36-1601. Similarly, it is not necessary that a person be able to travel as fast as the law allows to preserve navigation or navigability.

Moreover, there is no expectation that navigation or navigability will be entirely free of hazards, obstacles or encroachments. As will be explained by Captain Joe Derie at the hearing, navigational hazards are those items you cannot see. A dock, whether personal, commercial or community is an aid to navigation, and while it navigation may encroach into the navigational channel that does not make it a navigational hazard.

While safety is a component of navigation, the LPA and its rules do not control the safety of the river. Rather boat and vessel safety is controlled by the Idaho Safe Boating Act. IC Ch. 67-70. Significantly, the stated policy of this act is “to foster the **greater development, use and enjoyment of the waters** of this state by watercraft and to adopt certain standards for the safe operation and equipment of vessels.” IC §67-7001. Idaho Department of Parks and Recreation is charged with administering the Idaho Safe Boating Act and did not comment on this application. IC §§67-7004 & 7003(6) The Kootenai County Sheriff is charged with enforcement of the act and has commented. IC §67-7028.

Considering the policy and scope of authority under the Idaho Safe Boating Act the Sheriff’s objections seem to be at odds with the expectations set out in IC §58-1306(b) and IC §67-7001. The Sheriff’s objections seem to rely on speculation or misinformation—alleging that this is the narrowest section of the river and the placement of the community docks will constrain the channel to only allow one boat to pass at a time. As has been shown on the plans the 366’ Channel will remain without encroachment by these docks, as compared to the channel to the east that remains a navigable wake zone with obstructions narrowing the width to less than 300 feet. (Exhibit REA-15) And, despite the Sheriff’s stated safety concerns he has not deployed his available assets to patrol the river, moved to adopt a No Wake Zone, nor shown an increase in accidents on the river. IC §67-7031(26)(a).

The applicant submits that the River’s Edge Community Dock will not have a detrimental effect on navigation, vessels of all sizes will continue to be able to safely navigate the 366’ Channel. The fact that vessels may be obligated or elect to slow their

speeds to comply with the statutory No Wake Zone (100' from docks, IC §67-7077(b)), a de facto No Wake Zone to ensure safe navigation, or No Wake Zone that may be adopted under IC §67-7031(26)(a) is not evidence of a detriment to navigation. In fact, slower navigation is likely a benefit to smaller, slower, and non-motorized navigators and recreators.

2.4.3 *Fish and wildlife habitat and aquatic life.* There multiple public comments alleging this community dock will impact the life and habitat of creatures relying on the river. However, the agency with expertise in this matter, Idaho Fish and Game (IFG) has not offered any comment about the likely effects of the proposed dock. Although, IFG did comment on the design of the seawall that has been permitted for the Shoreline Parcel. (Exhibit REA-3) Certainly, if IFG thought that these docks posed a threat to fish and wildlife habitat or aquatic life in the river it would have commented or objected. In the absence of a comment or objection it is proper to conclude that there is no evidence that the proposed community dock will have detrimental effects on these lake value factors.

2.4.4 *Recreation.* When evaluating the impacts of the community dock on recreation it is important to consider the entire scope of this project and the many recreational uses of the river. In addition to the community dock River's Edge offers its tenants and the public an extension of the Centennial Trail and four public river access points. Furthermore, under the Idaho Safe Boating Act there will be a 100' No Wake Zone, making this area more available for non-motorized recreators (e.g. fishing, kayaking, paddle boarding, and swimming).

The recreational activity that draws the most attention and greatest source of complaints are wake/surf boats towing surfers, skiers and tubers. Even the Sheriff has sought approval of legislation prohibiting towing on the river. But there is simply no evidence, only speculation, that this community dock will add to the detriment highlighted in the public comments. Rather, the recreational benefits of additional beach access protected by docks and a 100' No Wake Zone aligns with many of the concerns raised. There is no evidence that these docks will be a detriment to recreation.

2.4.5 *Aesthetic Beauty.* Of the lake values this value is the most subjective and prone to arbitrary evaluation. Suffice to say that there are a great number of dock styles, designs, boats, vessels, and recreational equipment that litter the shoreline of the river. This proposal does not suggest any unique or special design that will be a detriment to the river's highly developed shoreline. Further, the first-quality appearance and maintenance of this community dock serves the interest of the owners, and one cannot reasonably expect that it will become dilapidated or fall into disrepair. There is no objective evidence that this dock will have a detrimental effect on this lake value.

2.4.6 *Water quality.* Idaho Department of Environmental Quality (IDEQ) is the agency charged with protecting water quality and provides recommendations to mitigate potential risks to water quality even when it is beyond its jurisdiction to monitor. There is no evidence or reason in the record to believe IDEQ would not provide comment if it has reason to believe that this community dock would negatively impact the river's water quality. IDEQ's silence indicates that IDEQ does not consider this community dock to be a

risk to the water quality, thus there is an absence of evidence showing this community dock could be a detriment to water quality.

3. CONCLUSION

The applicant through the application and further testimony at the hearing will establish by a preponderance of the evidence that this community dock meets all the technical standards set out in the LPA and rules and will not have a detrimental effect on the lake value factors. As to the source of safety, congestion and other concerns there is no evidence that these detriments will be increased by allowing this community dock. The speculation that has been offered is insufficient to further condition or deny this permit.

DATED this 5th day of September, 2025.


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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2025, I caused to be served a true and correct copy of the foregoing by the following method to:

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