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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

**CONCERNED CITIZENS OPPOSITION
TO PETITION TO INTERVENE BY
BOARDWALK AND DOCKS, LLC AND
RESIDENCES ON THE SPOKANE, LLC
(Joining Coeur d'Alene Land Company's
Opposition)**

COMES NOW Concerned Citizens Against Additional 100 Boat Slips, by and through undersigned counsel, and objects to the Petition to Intervene filed by Boardwalk and Docks, LLC and Residences on the Spokane, LLC, and expressly joins and adopts the Opposition filed by Coeur d'Alene Land Company. 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 filed August 29, 2025.

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CONCERNED CITIZENS OPPOSITION TO PETITION TO INTERVENE BY BOARDWALK AND DOCKS, LLC AND RESIDENCES ON THE SPOKANE, LLC: 1 OF 7

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I. PROCEDURAL DEFECTS

A. Untimely and Improper Attempt to Amend the Application.

The original application, filed June 23, 2025, identified River’s Edge Apartments, LLC as the sole applicant. After objections were filed—including CDA Land Company’s objection on August 1, 2025—the Applicant executed last-minute deeds and an unrecorded lease on August 21, 2025, then sought to substitute two new entities as “Applicants” through the Petition to Intervene on August 22, 2025. These maneuvers attempt to fundamentally alter the application after the statutory notice and objection period expired, contrary to Idaho Code § 58-1306(b)–(d) and IDAPA 20.03.04.030.01.

B. Failure to Comply with Notice Requirements.

IDAPA requires publication of a *complete* application identifying the true applicant. IDAPA 20.03.04.020.07(c) states that “[i]f more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of a designated homeowner’s or property management association.” This has not occurred. By substituting new entities after notice, Petitioners deprived the public and agencies of due process. No re-publication has occurred as required.

II. SUBSTANTIVE DEFECTS

A. Failure to Meet Definition of Community Dock.

IDAPA 20.03.04.010.11 defines a community dock as serving more than two adjacent littoral owners or others possessing a legally enforceable littoral common area. The Petition relies on an unrecorded lease, terminable at will, to fabricate multiple “owners” of one waterfront parcel. Long-standing IDL interpretation prohibits using leases to subdivide one waterfront parcel into multiple littoral parcels. Without recorded covenants or enforceable common rights, this

application fails to qualify as a community dock and instead amounts to a de facto commercial marina.

III. PUBLIC TRUST DOCTRINE AND NAVIGABILITY CONCERNS

The State of Idaho holds title to the beds of all navigable bodies of water below the natural high water mark for the use and benefit of the public. The power to direct, control, and dispose of the public lands is vested in the State Board of Land Commissioners pursuant to Idaho Code § 58-101. *Kootenai Env't All., Inc. v. Panhandle Yacht Club, Inc.*, 105 Idaho 622, 625, 671 P.2d 1085, 1088 (1983).

Idaho courts have long held that “the state holds the title to the beds of navigable lakes and streams below the natural high-water mark *for the use and benefit of the whole people.*” *Callahan v. Price*, 26 Idaho 745, _____, 146 P. 732, 735 (1915) (emphasis added). The doctrine preserves public rights of navigation, recreation, habitat, aesthetics, and water quality. *Idaho Forest Indus., Inc. v. Hayden Lake Watershed Improvement Dist.*, 112 Idaho 512, 516, 733 P.2d 733, 737 (1987); *Kootenai Env't Alliance*, 105 Idaho at 625.

In *In re Sanders Beach*, the Court explained that courts look with “considerable skepticism upon *any* governmental conduct which is calculated *either* to relocate that resource to more restricted uses *or* to subject public uses to the self-interest of private parties.” 143 Idaho 443, 453, 147 P.3d 75, 85 (2006).

Here, approval would allocate seventy-four boat slips totaling 11,064 square feet in one of the most congested and narrow stretches of the Spokane River, converting a public trust resource to the self-interest of private parties. This outcome contravenes both statutory policy (Idaho Code §§ 58-1201, 58-1301) and the Public Trust Doctrine as interpreted by Idaho courts.

A. Safety, Environmental, and Navigational Hazards.

The Kootenai County Sheriff has opposed increasing the number of boat slips on the Spokane River, explaining that additional docks on this narrow, high-traffic section of the Spokane River would exacerbate hazards and force vessels into single-file navigation, increasing risks of collision and injury. KOOTENAI COUNTY SHERIFF MEMORANDUM TO IDAHO DEPARTMENT OF LANDS AND COMMUNITY LEADERSHIP from Sergeant Ryan Miller dated March 10, 2025.

Beyond these safety concerns, additional boat traffic will harm the river's ecological and aesthetic values. More boats accelerate shoreline erosion, damage existing docks, and interfere with the navigation and recreation of existing users because the river is already overcrowded at peak summer times. Increased wakes and boat turbulence also resuspend sediments and increase turbidity, degrading fish and wildlife habitat, aquatic life, water quality, and the river's aesthetic beauty.

Recent reports in the press confirm these concerns. The Idaho Department of Environmental Quality has documented complaints about wake and surf boats affecting property and public safety, while University of Idaho research demonstrates that increased boat traffic elevates turbidity, resuspends toxic metals, and compounds water quality impacts through a "bathtub effect" of waves reflecting off both shores. On a single busy summer day in 2024, researchers counted 900 boats on the Spokane River, and preliminary results confirm that water quality is consistently better before boats pass than afterward. Scientists have cautioned that the river may be approaching ecologically damaging levels of use, emphasizing that "we are loving our lakes to death." See Carolyn Bostick, *Spokane River traffic data*, CDA Press (Mar. 9, 2025), available at <https://cdapress.com/news/2025/mar/09/spokane-river-traffic-data/> last accessed September 5, 2025 at 10:28 AM.

These findings underscore the importance of weighing environmental impacts as required by Idaho Code § 58-1301 and IDAPA 20.03.04.012.01.

IV. CONCLUSION

For the foregoing reasons, Concerned Citizens respectfully requests that the Department of Lands deny the Petition to Intervene by Boardwalk and Docks, LLC and Residences on the Spokane, LLC. In the alternative, should the Department consider granting intervention, the application must first be re-noticed and re-published in strict compliance with Idaho Code § 58-1306(b)–(d) and IDAPA 20.03.04.030.01.

DATED this 5th day of September 2025.

FENNEMORE CRAIG, P.C.



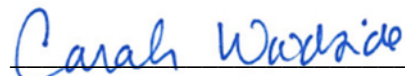
PETER J. SMITH IV, ISB #6997
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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2025, I cause to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

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