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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 Douglas,

Applicant.

AGENCY Case No. PH-2025-NAV-22-005

OAH Case No. 25-320-07

**CONCERNED CITIZENS OBJECTION
TO APPLICANT'S EXPERT
TESTIMONY (CAPTAIN JOSEPH A.
DERIE)**

COMES NOW Concerned Citizens Against Additional 100 Boat Slips ("Concerned Citizens"), by and through undersigned counsel, and objects to the expert testimony offered by Applicant's witness, Captain Joseph A. Derie ("Captain Derie").

I. ARGUMENT

Applicant River's Edge Apartments, LLC and Lanzce Douglas offered expert testimony from Captain Derie at the September 16, 2025 evidentiary hearing. Captain Derie's expert testimony lacks foundation and was entirely speculative.

Pursuant to IDAPA Rule 485:

Expert opinions are generally admissible if the proffering party demonstrates the relevancy of the expert opinions, as well as demonstrates the general **reliability** of the expert opinions, both as to **methodology** and

qualifications of the expert. Expert testimony that is conclusory, offers legal opinions, or which is based solely upon hearsay, is inadmissible.

(emphasis added). Here, Captain Derie's testimony fails to satisfy Rule 485 because his opinions are based on limited observation, lack of knowledge, and speculation. His only site visit to the Spokane River occurred on a Tuesday, a day when boating activity and related conditions are far less representative of the typical usage of the waterway. Testimony offered by Concerned Citizens, Kootenai County Sheriff Bob Norris, and numerous members of the public—individuals with reliable and firsthand knowledge of the River—clearly establishes that the very safety, navigational, and environmental concerns at issue are most visible and acute on weekends, when boat traffic is at its peak.

By relying solely on a single weekday visit and without demonstrating any specialized or site-specific knowledge of the River's ongoing conditions, Captain Derie's conclusions rest on inadequate information and are necessarily speculative. Rule 485 expressly prohibits expert testimony that is conclusory or unsupported by reliable methodology, and Captain Derie's opinions fall squarely within that category.

II. CONCLUSION

For the foregoing reasons, Concerned Citizens respectfully requests that the testimony of Captain Joseph A. Derie be deemed inadmissible under Rule 485. In the alternative, should the

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presiding officer determine that the testimony is admissible, Objector requests that it be afforded minimal weight given its speculative nature, lack of foundation, and absence of reliable methodology.

DATED this 22nd day of September 2025.

FENNEMORE CRAIG, P.C.



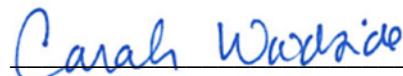
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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd 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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