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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

**CLOSING STATEMENT OF
CONCERNED CITIZENS**

Concerned Citizens Protecting the Spokane River, Inc. ("Concerned Citizens"), by and through counsel, and in accordance with the Hearing Officer's request, submit this Closing Statement in the above-entitled matter.

I. BACKGROUND

Concerned Citizens filed a Petition to Intervene on August 22, 2025. On September 16, 2025, the public hearing was held at the Best Western Plus Hotel in Coeur d'Alene, Idaho. At the beginning of the hearing, the Hearing Officer orally denied Concerned Citizens' Petition to Intervene, but nonetheless allowed Concerned Citizens to participate in the proceedings as if Concerned Citizens had party status. Concerned Citizens called numerous witnesses who provided compelling testimony regarding the negative impacts of dock encroachments on navigability, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, and by far the

greatest—the negative impacts on safety. Members of the general public (over 100 in attendance) echoed these same concerns. Objector Kootenai County Sherriff’s Department also provided testimony concerning its struggle to effectively patrol, monitor, and respond to emergencies or violations given the overwhelming activity on the Spokane River (“River”). Applicant Rivers Edge Apartments, LLC called numerous witnesses including Lanzce Douglas (applicant), Captain Joseph A. Derie (supposed expert in navigation and safety), Cindy Richardson (dock design), and others involved in the permitting process and apartment construction project.

II. LEGAL STANDARD

When considering whether to approve an application, the Examiner and IDL must weigh the following standards:

It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment.

IDAPA 20.03.04.012.01; *see also* I.C. § 58-1301 (Lake Protection Act). A permit may only be approved when “the Department determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effect.” IDAPA 20.03.04.30.10. Pursuant to the Public Trust Doctrine, 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.” *In re Sanders Beach*, 143 Idaho 44, 453, 147 P.3d 75, 85 (2006).

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III. ARGUMENT

The overwhelming evidence demonstrates that the River is at a tipping point. A short-sighted approach to permitting has already overburdened the River, and continued approval of this and other pending applications will push it toward a crisis that all parties claim they want to prevent—yet development continues unchecked, without any meaningful safeguards. The evidence supports a finding that the detriments of this dock encroachment far exceed the limited benefits.

A. Navigational and Safety Concerns

The River is a narrow, winding waterway with limited capacity to safely accommodate vessel traffic. Unlike larger lakes with broad expanses, the river's constrained width means that each additional dock translates directly into more boats operating in already crowded navigation channels. The result is not simply inconvenience, but heightened risks to all users: collisions, property damage, and dangerous interactions between motorized and non-motorized craft. As traffic density grows, wakes from large vessels threaten swimmers, paddleboarders, and kayakers who rely on calmer near-shore waters. Shoreline owners report repeated wake damage to docks, bulkheads, and moored vessels. Law enforcement officers and emergency responders have testified to the growing difficulty of patrolling and maintaining safety given the sheer number of boats concentrated in confined areas.

These are not abstract concerns. Substantial first-hand experience of witnesses, public comments, and testimony from those who use the river daily—whether for leisure or work—establish the real-world consequences of unchecked development. Their testimony confirms what is already apparent to anyone familiar with the River: that existing conditions are precarious, and that each new dock adds to the strain. *See generally*, (Testimony of Officer Hayes, Hearing

Transcript pp. 128–133). The permit at issue would not resolve these problems; it would only exacerbate them by adding seventy four (74) dock slips.

Importantly, the Applicant offered no credible evidence to counter the overwhelming first-hand testimony of those who actually live on and use the River. The Applicant’s designated expert, Captain Joseph Derie, conducted only a single weekday site visit — at a time when boating activity was not representative of actual weekend and peak-season conditions. (Hearing Transcript 94:1–20). His conclusions were necessarily speculative, lacking reliable methodology or site-specific knowledge. Indeed, his testimony was so limited that it failed to address the well-documented safety hazards and navigational congestion repeatedly described by residents, the Kootenai County Sheriff, and numerous members of the public.

By contrast, objectors, community members, and public officials have provided consistent, first-hand accounts of the River’s real-world conditions. These accounts detail routine congestion, wake hazards, conflicts between motorized and non-motorized users, and the inability of law enforcement to keep pace with the volume of boats. This testimony is grounded in lived experience over many seasons and is therefore far more probative than the speculative opinions offered by the Applicant’s witness.

B. Environmental and Aesthetic Impacts

Testimony from residents, law enforcement, and river users makes clear that the River is already under severe environmental and aesthetic strain. Witnesses described shoreline erosion and uprooted trees caused by heavy boat wakes; loss of shallow-water habitat essential for fish and aquatic life; and a noticeable decline in wildlife such as otters, beavers, and waterfowl. Concerns were raised about contaminated sediments from historic mining being stirred up by wakes, reintroducing heavy metals like lead into the water column and posing risks to both ecological

health and human use. Others spoke to the steady transformation of the River’s scenic character—natural shorelines replaced by rows of docks and pilings, noise from boat traffic and amplified music replacing the quiet enjoyment that once defined the River. Taken together, this testimony establishes that the cumulative impact of additional docks is not speculative, but real and ongoing, and that the proposed project will only exacerbate these harms while offering little to no public benefit.

C. Lack of Economic & Navigational Benefits

The Applicant provided testimony from Lanzce Douglas that the project will yield public economic benefits through lease payments, registration fees, or boater education requirements. (Hearing Transcript 51:8–16). These are negligible when compared to the substantial public costs associated with increased enforcement needs, shoreline damage from wakes, and diminished recreational value for non-motorized users. Indeed, this is purely another example of public resources being disproportionately diverted to the economic interests of a few. While the Applicant attempts to mask its proposed project as expanding access to the River to individuals (renters) who could not otherwise afford lakefront access (owners), it fails to appreciate that the public, including the future leaseholders of the proposed development will bear the externalized costs.

Moreover, there is no navigational necessity for the proposed docks. The record contains no testimony or evidence suggesting that these docks are required to aid or improve navigation, and Mr. Lanzce Douglas acknowledges at the hearing that no such evidence has been provided. (Hearing Transcript 50:3–8). To the contrary, all credible testimony demonstrates that additional docks will only add congestion to an already crowded waterway.

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IV. RELIEF REQUESTED

Concerned Citizens respectfully request that the Hearing Officer and the Department of Lands deny the encroachment permit for Rivers Edge Apartments, LLC.

DATED this 3rd day of October 2025.

FENNEMORE CRAIG, P.C.



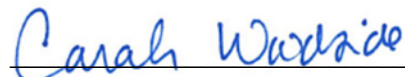
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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October, 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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