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BEFORE THE IDAHO DEPARTMENT OF LANDS

In the Matter of the Application for Permit
Encroachment L9685863A, for construction of
two boat garages at existing dock,

Patrick Lewis E. Trust,

Applicant.

AGENCY Case No. PH-2026-NAV-20-001

OAH Case No. 26-320-03

**APPLICANT'S PREHEARING
STATEMENT**

Applicant, Lewis E. Patrick Trust dated April 8, 1999 (hereinafter "Applicant"),¹ by and through its attorney of record, Peter J. Smith IV of Fennemore Craig, P.C., submits this prehearing statement in support of its application for an encroachment permit to reconstruct two boat garages.

I. INTRODUCTION

Applicant seeks approval of its encroachment permit application to relocate and reconstruct two existing boat garages on its littoral property on Lake Pend Oreille pursuant to IDAPA 20.03.04 and Idaho Code Title 58, Chapter 13. The application does not request authorization for new boat garages. The garages were lawfully permitted at Heyburn State Park and their rights were preserved through temporary land use permits that were validly assigned to Applicant.

¹ The correct legal name of the Applicant is "Lewis E. Patrick Trust dated April 8, 1999". A motion to Update Caption is currently pending to reflect this correction in the case caption.

This case presents a straightforward regulatory question: whether IDAPA permits the relocation and reconstruction of existing, lawfully permitted boat garages pursuant to Section 20.03.04. The rule expressly contemplates and permits such relocation. Applicant seeks only to exercise rights preserved under valid permits and to do so in full compliance with the governing standards.

As demonstrated below, the application complies with the governing provisions of IDAPA 20.03.04. The objections raised misapply the rules and lack evidentiary support under the applicable standards.

II. FACTUAL AND PROCEDURAL BACKGROUND

1. Applicant is the owner of littoral property located at 941 W. Oden Bay, Sandpoint, Idaho 83811, on the shores of Lake Pend Oreille. (Exhibits APP-8, pg. 19; APP-12; APP-13).

2. In January 2025, the Idaho Department of Lands (“IDL”) issued Encroachment Permit No. L96S2863 to Applicant for construction of a single-family dock. Applicant constructed the dock pursuant to that permit. (Exhibit APP-1).

3. The two Boat Garages at issue were lawfully constructed and maintained at Heyburn State Park under permits issued by IDL. In September 2024, IDL issued temporary land use permits to the owners of the Boat Garages located at Heyburn State Park, allowing three years to reconstruct, remove, and/or relocate the Boat Garages. The temporary land use permits expressly authorized assignment of the permits with IDL approval. (Exhibits APP-2; APP-3)

4. In February 2025, the holders of the two temporary land use permits assigned their temporary land use permits to Applicant. (Exhibits APP-4; APP-5; APP-6; APP-7).

5. IDL approved the assignments in April 2025. The Boat Garages at Heyburn State Park were demolished prior to assignment. (Exhibits APP-4; APP-5).

6. In December 2025, Applicant, through its agent CE Kramer Crane and Contracting, submitted an application to IDL pursuant to IDAPA 20.03.04.015.05(d) to relocate and reconstruct the Boat Garages at its property in connection with its existing permitted dock. The application (L9652863A) included all materials required by IDAPA 20.03.04.020.07 (a), including site plans, structural details, square footage calculations, setback measurements, a vicinity map, and identification of adjacent littoral owners. (Exhibit APP-8).

7. Following notice, adjacent littoral owners W.H. Williams Family LLC and Kevin Chadwick (collectively, "Objectors") filed written objections on January 14 and 15, 2026, and requested a hearing. Objectors assert: (1) the application seeks prohibited new boat garages; (2) relocation of two boat garages to a single property is impermissible; and (3) the Boat Garages conflict with public trust values. Objectors also alleged that Applicant improperly expanded the square footage of its existing dock by placing framing materials over two kayak slips. (Exhibits APP-9; APP-10).

8. On January 21, 2026, IDL representative Tyler Warner inspected Applicant's property and found no compliance violations. The inspection report confirmed that framing and decking materials were present on site but not attached to the dock. (Exhibit APP-11).

9. By Notice dated February 9, 2026, the Office of Administrative Hearings appointed Leslie M. Hayes as hearing officer.

10. The evidentiary hearing is scheduled for March 5, 2026.

III. APPLICABLE LAW

IDAPA 20.03.04, promulgated under the Lake Protection Act (Title 58, Chapter 13, Idaho Code), governs encroachments on navigable lakes. The rules establish approval standards for encroachments and require the Department to balance the benefits of a proposed encroachment

against its detrimental effects on public trust values and adjacent property. IDAPA 20.030.040.012.01; Idaho Code § 58-1301.

A. Boat Garage Standards

Boat garages are expressly addressed in IDAPA 20.03.04.015.05, which provides:

- a. Boat garages are considered non-navigational encroachments.
- b. Applications for permits to construct new boat garages, expand the total square footage of the existing footprint, or raise the height will not be accepted unless the application is to support local emergency services.
- c. Existing permitted boat garages may be maintained **or replaced with the current square footage or their existing footprint and height.**
- d. **Relocation** of an existing boat garage will require a permit.

IDAPA 20.03.04.015.05 (emphases added). These provisions establish three principles.

First, boat garages are classified as nonnavigational encroachments and are evaluated under the standards applicable to that category.

Second, the rules prohibit *new* boat garages and expansion of existing boat garages absent emergency services justification, but preserve the right to maintain or replace existing permitted boat garages within their current footprint and height.

Third, the rules expressly authorize relocation of existing boat garages subject to permit approval. Subsection (d) confirms that existing permitted boat garages may be relocated subject to IDL review. The rules maintain the existing number of boat garages on navigable waterways while allowing permit holders to relocate and rebuilt boat garages.

B. Nonnavigational Encroachment Standards

Boat garage applications are processed under IDAPA 20.03.04.030 as nonnavigational encroachments. The Department must balance the benefits of a proposed Nonnavigational Encroachment against its detrimental effects. The rules provide:

The Department will consider **unreasonable** adverse effect upon adjacent property and **undue interference** with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment...

IDAPA 20.03.04.030.10 (emphases added). The rules also require consideration of navigation, environmental impacts, and effects on adjacent littoral rights. Nonnavigational Encroachments within twenty-five feet of an adjacent littoral right line are subject to a rebuttable presumption of adverse effect upon adjacent littoral right owners. IDAPA 20.03.04.015.13(e).

IV. ANALYSIS

This encroachment application has satisfied all applicable requirements, and objectors' arguments are based on a misunderstanding of the rules and lack evidentiary support.

A. The Application Satisfies All Applicable Requirements.

First, the application complies with IDAPA 20.03.04.015.05. Applicant does not seek authorization for new boat garages. Rather, the application seeks to relocate and reconstruct the Boat Garages that were previously permitted and whose rights were preserved under temporary land use permits. IDAPA 20.03.04.015.05(d) expressly authorizes relocation of existing boat garages subject to permit approval. Treating the Boat Garages as new would render subsection (d) meaningless and contradict IDL's issuance of temporary land use permits authorizing relocation. The temporary land use permits expressly authorized assignment and relocation. (Exhibit APP-2, pg. 1; APP-3, pg. 1).

Second, the application satisfies dimensional and placement standards. The site plans demonstrate that the Boat Garages will substantially maintain the same footprint and height as the structures previously located at Heyburn State Park. *Compare* (Exhibit APP-2, pg. 1; APP-3, pg. 1) *with* (Exhibit APP-8, pgs. 2, 8). Brennen Chasse, the architect who prepared the plans, will testify to confirm compliance with these dimensional requirements.

Third, the application adequately addresses navigation and environmental considerations. The Boat Garages are enclosed structures that will not involve dredging, shoreline modification, or lakebed disturbance beyond the permitted footprint. The application demonstrates that construction methods and materials will minimize environmental impacts. Objectors have presented no evidence that the Boat Garages will create an “unreasonable” adverse impact on their littoral rights as required for denial under IDAPA 20.03.04.030.10.

B. Objectors’ Arguments Lack Merit.

Objectors’ arguments² do not provide a basis for denial under IDAPA 20.03.04.

1. Alleged Dock Expansion

Objectors argue that Applicant expanded its existing dock by placing decking material over kayak slips, creating a “documented history of noncompliance.” This argument fails for three reasons. First, IDL’s January 21, 2026 site inspection following a complaint concerning the expanded dock surface area found no compliance violations. (Exhibit APP-11, pg. 1). Second, the alleged dock issue concerns Permit No. L96S2863, not the boat garage application (L96S2863A) at issue in this proceeding. Third, IDAPA 20.03.04.080.01–.02 establishes specific enforcement procedures that favor notice and opportunity for correction. Denial of an unrelated permit application is a disfavored remedy for alleged violations of a separate permit, particularly where IDAPA procedures clearly favor opportunities for notice and self-correction by permit holders. IDAPA 20.03.040.080.01–0.2.

2. Classification as “New” Boat Garages

Objectors argue that the application must be denied because IDAPA 20.03.04.015.05(b) prohibits new boat garages absent emergency services justification. This argument misapplies the rule. IDAPA 20.03.04.015.05(c)–(d) expressly authorizes maintenance, replacement, and

² The two objections are identical. They were jointly submitted by both Objectors. (Exhibits APP-9; APP-10).

relocation of existing permitted boat garages. The emergency services requirement in subsection (b) applies only to new boat garages or expansion of existing structures. Neither circumstance is present here. Applicant was assigned temporary land use permits for two existing permitted boat garages and now seeks approval to relocate and reconstruct those structures pursuant to subsections (c) and (d). The application does not seek to construct “new” boat garages or expand the footprint or height of the existing permitted structures. Approval will not increase the total number of boat garages on Idaho’s navigable waterways. Subsections (c) and (d) recognize that such boat garages cannot (practically speaking) be physically moved and instead must be reconstructed at a new location.

3. Relocation to a Single Property

Objectors argue that relocation of two boat garages to a single property is impermissible because the original permits were site-specific. This argument lacks support in the rules. IDAPA 20.03.04.015.05(c)–(d) authorizes relocation of existing permitted boat garages without restricting the number of structures that may be relocated to a single property. The rules require only that relocated boat garages maintain the same footprint and height as the original structures. The application demonstrates that the Boat Garages will maintain the same footprint and height as the structures previously located at Heyburn State Park. *Compare* (Exhibit APP-2, pg. 1; APP-3, pg. 1) *with* (Exhibit APP-8, pgs. 2, 8) (listing previous and planned boat garage dimensions). Objectors cite no rule provision prohibiting relocation of multiple boat garages to a single property.

4. Aesthetic Concerns

Objectors final argument is that the Boat Garages are incompatible with scenic values and will add visual bulk, decrease shoreline views, and increase overwater shading. Objectors provide no specific evidence that the application violates applicable standards or that their littoral rights will be adversely affected. Rather, Objectors’ arguments establish a general dissatisfaction with

Boat Garages, despite the IDAPA rules clearly allowing these structures. IDAPA 20.03.04.010.06 (defining boat garages as enclosed structures with walls, roofs, and doors). Further, the Boat Garages are located between 42 and 45 feet from adjacent littoral right lines, beyond the 25-foot threshold for a rebuttable presumption of adverse effect under IDAPA 20.03.04.015.13(e). (Exhibit APP-8, pgs. 5–6). IDAPA 20.03.04 requires a balanced assessment of benefits and detrimental effects, not categorical exclusion of private structures. The relocation and reconstruction of two existing permitted boat garages does not result in unreasonable adverse effects on public trust values or adjacent property under the applicable standards.

In sum, the application falls squarely within the regulatory framework established by IDAPA 20.03.04. It does not expand, enlarge, or create new boat garages. It relocates two previously permitted structures, maintains their existing footprint and height, and places them outside the twenty-five-foot presumption threshold. Under the governing standards, the record contains no evidence of unreasonable adverse effect upon adjacent property.

V. CONCLUSION

The application satisfies the requirements of IDAPA 20.03.04, including the standards governing relocation and reconstruction of existing boat garages under Section 20.03.04.015.05. Objectors' arguments misapply the governing rules and lack evidentiary support. The record provides no factual or legal basis for denial. Applicant respectfully requests that the Hearing Officer recommend approval of the encroachment permit application.

DATED this 13th day of February 2026.

FENNEMORE CRAIG, P.C.

By: /s/ Peter J. Smith
PETER J. SMITH IV, ISB #6997
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2026, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

<p>Bob Presta CE Kramer Crane and Contracting 46820 Hwy 2 Hope, ID 83836 (208) 264-3021 <i>Agent for Applicant</i></p>	<p><input type="checkbox"/> By U.S. Mail <input type="checkbox"/> By Overnight Mail <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Email: bob@cekramer.com <input type="checkbox"/> By iCourt</p>
<p>Kevin Chadwick 2365 E Tennessee Ave Denver, CO 80209 (303) 619-6877 <i>Objector</i></p>	<p><input type="checkbox"/> By U.S. Mail <input type="checkbox"/> By Overnight Mail <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Email: kevinspears.chadwick@gmail.com <input type="checkbox"/> By iCourt</p>
<p>W.H. Williams Family LLC Ruth Williams c/o Margaret Williams 29 Eagle Cove Sandpoint, ID 83864 (208) 946-7105 <i>Objector</i></p>	<p><input type="checkbox"/> By U.S. Mail <input type="checkbox"/> By Overnight Mail <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Email: Mrwlaw1315@gmail.com <input type="checkbox"/> By iCourt</p>
<p>Bistline Law, PLLC Arthur Bistline 1205 N. 3rd Street Coeur d’Alene, ID 83814 (208) 665-7270 <i>Attorney for Objector W.H. William Family LLC</i></p>	<p><input type="checkbox"/> By U.S. Mail <input type="checkbox"/> By Overnight Mail <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Email: service@bistlinelaw.com <input type="checkbox"/> By iCourt</p>
<p>Idaho Department of Lands Kayleen Richter 300 N. 6th Street, Ste. 103 Boise, ID 83702 (208) 334-0200 <i>Counsel for IDL</i></p>	<p><input type="checkbox"/> By U.S. Mail <input type="checkbox"/> By Overnight Mail <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Email: krichter@idl.idaho.gov <input type="checkbox"/> By iCourt</p>

<p>Idaho Department of Lands Amidy Fuson <i>Lands Resource Specialist-Navigable Waters</i> Marde Mensinger <i>Program Manager for Navigable Waters</i> Rachel King <i>Program Specialist-Navigable Waterways</i></p>	<p><input type="checkbox"/> By U.S. Mail <input type="checkbox"/> By Overnight Mail <input type="checkbox"/> By Facsimile <input checked="" type="checkbox"/> By Email: afuson@idl.idaho.gov mmensinger@idl.idaho.gov rking@idl.idaho.gov <input type="checkbox"/> By iCourt</p>
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/s/ Nathan J. Sargent _____
NATHAN J. SARGENT