



# Dock Builder Application Workshop

Presented by The Navigable Waters North Ops Team

- Idaho Department of Lands -



## Today's Agenda:

- 10:00 am – 12:00 pm workshop
- Brief Group Introductions
- PowerPoint Presentation outlining requirements for a complete application
- Q&A

# What needs to be permitted with IDL:

- Docks & their Boat Lifts &/or Jet Ski Ports
- Riprap
- Seawalls
- Waterlines
- Rail Systems
- Mooring Buoys
- Boat Garages
- Float Homes
- Community Docks
- Commercial Marinas
- Commercial Facilities
- Generally, encroachments on, above, or below the beds of navigable waters




# IDL Jurisdictions & Area Offices:

- [Navigable Waterways - Department of Lands \(www.idl.idaho.gov/lakes-rivers/\)](http://www.idl.idaho.gov/lakes-rivers/)

## Navigable Waterways

At any time, the State of Idaho may determine through court action or some other means that additional lakes and rivers will be declared navigable for title purposes. The authority to conclusively determine navigability rests with the State Board of Land Commissioners and ultimately with the courts. However, IDL employees may determine the location of the ordinary high water mark along public trust lands.

 [List of Navigable Waterways](#)

- IDL area office coverage: [www.idl.idaho.gov/supervisory-areas/](http://www.idl.idaho.gov/supervisory-areas/)
  - POL, MICA/St. Joe, Priest Lake



# IDAPA 20.03.04.012.01

## Policy

### 012. POLICY.

**01. Environmental Protection and Navigational or Economic Necessity.** 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. Moreover, it is the responsibility of the State Board of Land Commissioners to regulate and control the use or disposition of state-owned lake beds, so as to provide for their commercial, navigational, recreational or other public use. (3-18-22)

**02. No Encroachments Without Permit.** No encroachment on, in or above the beds or waters of any navigable lake in the state may be made unless approval has been given as provided in these rules. An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho. (3-18-22)

**03. Permitting of Existing Encroachments.** (3-18-22)

**a.** The provisions of Title 58, Chapter 13, Section 58-1312, Idaho Code, apply. (3-18-22)

**b.** Any new encroachments, or any unpermitted encroachments constructed after January 1, 1975, are subject to these rules. (3-18-22)



# What needs to be permitted with IDL: Pre LPA

- Encroachments that were constructed prior to 1975 and have not been modified may be permitted by providing substantive documentation showing the age of the encroachment. Documentation 'deemed reliable by the board' may include dated aerial photographs like the ones obtained from USGS's Earth Explorer, personal family photos, tax deeds, or other historical information. Persons providing such documentation shall receive an encroachment permit and shall not be required to pay the application and publication fees.
- Encroachment Permits - [www.idl.idaho.gov/lakes-rivers/encroachments](http://www.idl.idaho.gov/lakes-rivers/encroachments))
- Section 58-1312 – Idaho State Legislature



# IDAPA 20.03.04.020.

## Applications

**01. Encroachment Applications.** No person shall hereafter make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the department. The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho shall be considered an encroachment and written approval by the department is required. If demolition is required prior to construction of the proposed encroachment, then the application must describe the demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. (3-18-22)

**02. Signature Requirement.** Only persons who are littoral owners or lessees of a littoral owner shall be eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner shall also be eligible for an encroachment permit; the grantor of such littoral rights, however, shall no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (3-18-22)

**03. Other Permits.** Nothing in these rules shall excuse a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies. (3-18-22)

**04. Repairs, Reinstallation of Structures.** No permit is required to clean, maintain, or repair an existing permitted encroachment, but a permit is required to completely replace, enlarge, or extend an existing encroachment. Replacement of single-family and two-family docks may not require a permit if they meet the criteria in Section 58-1305(e), Idaho Code. Reinstalling the top or deck of a dock, wharf or similar structure shall be considered a repair; reinstallation of winter damaged or wind and water damaged pilings, docks, or float logs shall be considered a repair. Repairs, or replacements under Section 58-1305(e), Idaho Code, that adversely affect the bed of the lake will be considered a violation of these rules. (3-18-22)

**05. Dock Reconfiguration.** (3-18-22)

**a.** Rearrangement of single-family and two-family docks will require a new application for an encroachment permit. (3-18-22)

**b.** Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal. The department shall be consulted prior to modifications being made, and shall use the following criteria to help determine if a new permit must be submitted: (3-18-22)

**i.** Overall footprint does not change in dimension or orientation; (3-18-22)

**ii.** No increase in the square footage, as described in the existing permit and in accordance with Paragraph 015.13.a., occurs. This only applies to community docks; (3-18-22)

**iii.** The entrances and exits of the facility do not change. (3-18-22)

**06. Redredging.** Redredging a channel or basin shall be considered a new encroachment and a permit is required unless redredging is specifically authorized by the outstanding permit. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit. (3-18-22)



# Application Forms

- Encroachment Permits – [www.idl.idaho.gov/lakes-rivers/encroachments](http://www.idl.idaho.gov/lakes-rivers/encroachments)

Applicant (or Agent) completes and submits the application packet to the Supervisory Area Office, which includes:

- Joint Application Form
- Either Single/Two-family IDL Application or Commercial/Community/Non-Navigational Application 2-Pages
- Supporting documents such as drawings, maps, etc. (Checklist on 2-page IDL Application)
- Applicable application fee



# Complete Application Requirements

- Encroachment Permits - Department of Lands (idaho.gov)
- IDAPA 20.03.04.020.07.a

**IDAHO ADMINISTRATIVE CODE**  
**Department of Lands**

**IDAPA 20.03.04 – Regulation of Beds, Waters,  
& Airspace Over Navigable Lakes in Idaho**

i.	Lakebed profile in relationship to the proposed encroachment. The lakebed profile shall show the summer and winter water levels.	(3-18-22)
ii.	Copy of most recent survey or county plat showing the full extent of the applicant's lot and the adjacent littoral lots.	(3-18-22)
iii.	Proof of current ownership or control of littoral property or littoral rights.	(3-18-22)
iv.	A general vicinity map.	(3-18-22)
v.	Scaled air photos or maps showing the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, and the location and orientation of the proposed encroachment in the lake.	(3-18-22)
vi.	Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface.	(3-18-22)
vii.	Names and current mailing addresses of adjacent littoral landowners.	(3-18-22)

**Provide a Black/White Copy of Each Required Document on 8½"x14" or Smaller Paper:**

- County plat map showing both neighboring littoral lots.
- Tax record identifying the owner of the upland parcel(s)
- Lakebed profile with encroachment and water levels of winter and summer
- General vicinity map that allows Department to find the encroachment
- Scaled air photo or map showing lengths of nearby encroachments, distances to adjacent encroachments, and location and orientation of the proposed encroachment



# Application – Getting into the “seaweed”

- **07. Forms, Filing. Applications and plans shall be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs of preparation of the application, including all necessary maps and drawings, shall be paid by the applicant.**
- a. Plans shall include the following information at a scale sufficient to show the information requested:
  - i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile shall show the summer and winter water levels.
  - ii. Copy of most recent survey or county plat showing the full extent of the applicant’s lot and the adjacent littoral lots.
  - iii. Proof of current ownership or control of littoral property or littoral rights.
  - iv. A general vicinity map.
  - v. Scaled air photos or maps showing the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, and the location and orientation of the proposed encroachment in the lake.
  - vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface.
  - vii. Names and current mailing addresses of adjacent littoral landowners.
- b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the natural or ordinary high-water mark and the artificial high-water mark, the application must be submitted or approved by the owner of such lands. When the littoral owner is not the applicant, the application shall bear the owner’s signature as approving the encroachment prior to filing.



# Application – Getting into the “seaweed”

- c. If 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.
- d. Applications for noncommercial encroachments intended to improve waterways for navigation, wildlife habitat and other recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make such improvements. Application fees are not required for these encroachments.
- e. The following applications shall be accompanied by the respective nonrefundable filing fees together with a deposit toward the cost of newspaper publication, which deposit shall be determined by the director at the time of filing:
  - i. Nonnavigational encroachments require a fee of one thousand dollars (\$1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars (\$550).
  - ii. Commercial navigational encroachments require a base fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by Title 58, Chapter 13, Section 58-1307, Idaho Code;
  - iii. Community navigational encroachments require a fee of two thousand dollars (\$2,000); and
  - iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars (\$1,000).



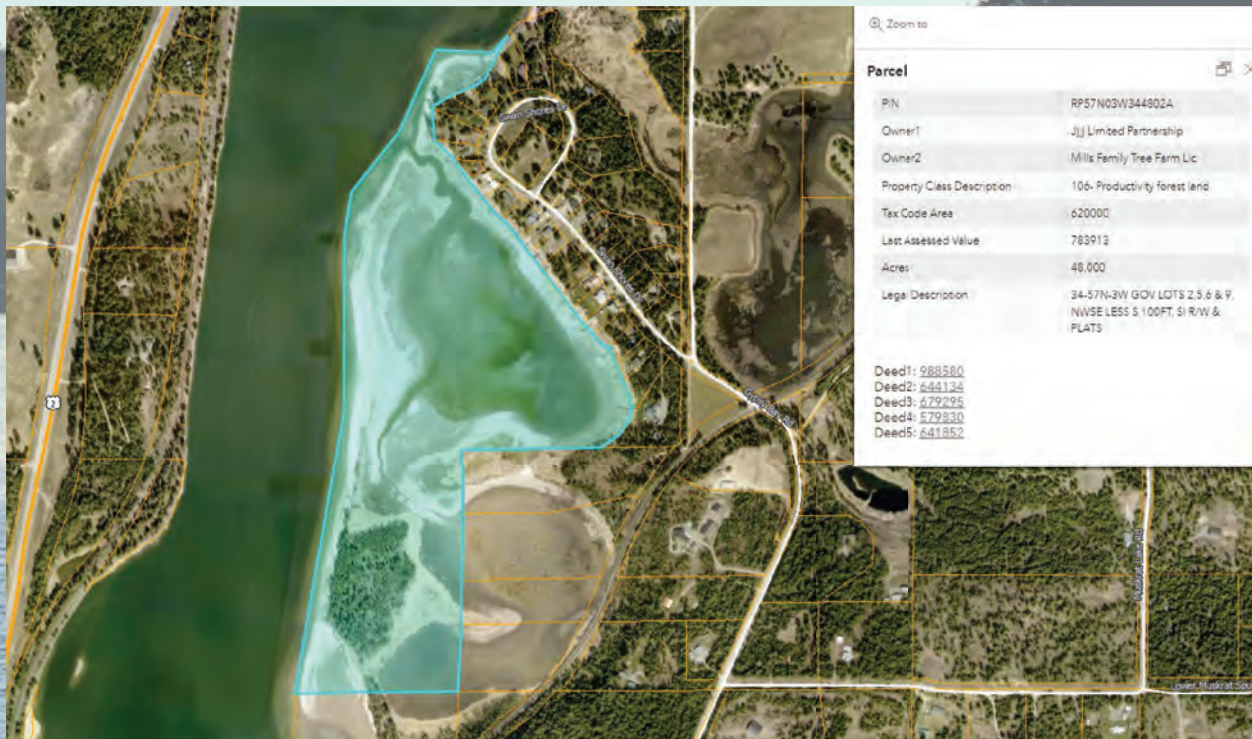
# Application – Getting into the “seaweed”

- f. Applicants shall pay any balance due on publication costs before written approval will be issued. The Department shall refund any excess at or before final action on the application.
- g. Application for a single-family or two-family dock not extending beyond the line of navigability or a nonnavigational encroachment for a buried or submerged water intake line serving four or less households shall be accompanied by a nonrefundable filing fee of four hundred twenty-five dollars (\$425).
- h. No publication cost is required for application for noncommercial navigational encroachment not extending beyond the line of navigability or for application for installation of buried or submerged water intake lines and utility lines.
- i. Applications and plans shall be stamped with the date of filing.
- j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication when required, shall not be accepted for filing. The department shall send the applicant a written notice of incompleteness with a listing of the application’s deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the department. If the given deadline is not met, the department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date but will be required to pay another filing fee and publication fee, if applicable.



# Application – Getting into the “seaweed”

- The Pend Oreille system contains Private Submerged Lands (PSL) due to the Albeni Falls Dam creating an Artificial High-Water Mark. In some cases, the owners of PSL do not own any upland property, they only own lakebed. If a ‘waterfront’ homeowner wants to build a dock but the dock will end up across, on, in, or above of another owner’s PSL, the owner of the PSL will need to sign off on the dock application.
- **IDAPA 20.03.04.020.07.b. *Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the natural or ordinary high-water mark and the artificial high-water mark, the application must be submitted or approved by the owner of such lands. When the littoral owner is not the applicant, the application shall bear the owner’s signature as approving the encroachment prior to filing.***





# IDAPA 20.03.04.015.

## Encroachment Standards

### 13. General Encroachment Standards Notables

- c. Angle from Shoreline.** (3-18-22)
- i.** Where feasible, all docks, piers, or similar structures must be constructed so as to protrude as nearly as possible at right angles to the general shoreline, lessening the potential for infringement on adjacent littoral rights. (3-18-22)
- ii.** Where it is not feasible to place docks at right angles to the general shoreline, the Department will work with the applicant to review and approve the applicant's proposed configuration and location of the dock and the dock's angle from shore. (3-18-22)
- d. Length of Community Docks and Commercial Navigational Encroachments.** Docks, piers, or other works may extend to a length that will provide access to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water, except that no structure may extend beyond the normal accepted line of navigability established through use unless additional length is authorized by permit or order of the Director. If a normally accepted line of navigability has not been established through use, the Director may from time to time as he deems necessary, designate a line of navigability for the purpose of effective administration of these rules. (3-18-22)
- e. Presumed Adverse Effect.** It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse affects. (3-18-22)
- f. Weather Conditions.** Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices for docks, float homes, etc. must be reasonably resistant to puncture and other damage. (3-18-22)



# IDAPA 20.03.04.010.

## Definitions

- 34. *Riparian or Littoral Right Lines* Notables
  - Riparian or Littoral Right Lines. Lines that extend waterward of the intersection between the artificial or ordinary high-water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline.



- White Board Activity



# Re-Cap & Questions?

- Each application may require additional information based on encroachment type (float homes, boat garages, community docks, etc.)
- Reference your checklist for every application!
- The IDL web page has many tools and resources to reference.
- Only complete applications (application **fee** included) will be accepted for review and processing.
- IDL prefers to receive original paper application/s vs. emailed to us.
- IDL **can not** consult, we process complete applications.
- Please don't turn in an incomplete application, EVER!
- Timelines vary!
- Questions?



# In Closing & Gratitude

- By a show of hands, how many people felt this workshop was worth the time investment?
- A PDF of this PowerPoint will be emailed to you.
- Thank you for your time and attendance!

The Navigable Waters North Ops Team

