

**STAFF REPORT
PIERRE SINGLE USE DOCK**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Bodacious B, Jamie Pierre, SP-13-11
DATE: October 14, 2013

I. GENERAL INFORMATION

Requested Action: An application for a shoreline substantial development permit for the installation of a permanent single use dock consisting of a 4x20 ft grated pier, a 4x34 ft grated gangway, and 1 8x20 ft float. The dock will extend 67 feet waterward of the OHWM.

Location: The subject property is described as being located within the NW Quarter of Section 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Rural Conservancy. The Douglas County Assessor's Number is 26220820009.

II. SITE INFORMATION

Site Characteristics: The subject property is primarily flat above a short, steep shoreline bank. Near the top of the shoreline bank, vegetation consists of typical riparian shrubs with patchy poison ivy. Typically, native shrub vegetation is present from the OHWM up to the top of the bank, and poison ivy begins near the top of the bank and landward, with the two species mixing within a narrow zone near the top of the bank. The majority of the riparian buffer is dominated by upland and weedy species such as knapweed and bitterbrush. A rock retaining wall is present in the upland, behind which is a single family residence.

Zoning and Development Standards: The subject property is located within the Rural Resource 5 acres (RR-5) Zoning District. The purpose of the RR-5 rural resource district is to provide an area for a variety of rural lifestyles, hobby farms, densities, and open space, while protecting the rural and resource characteristics in the vicinity. This district provides an opportunity for compatible rural land uses, and is sensitive to the site's physical characteristics. RR-5 districts are often located adjacent to urban growth areas or existing rural development of higher densities, are intended as a transition, and provide a buffer area between commercial agricultural areas or more intense development areas. These areas may be incorporated into the urban area at a future date. This district is also appropriate for areas that currently have a range of rural densities or land parcel sizes generally less than twenty acres in size and/or have adequate rural levels of services available such as roads, schools, and fire protection. Clustering or other innovative techniques for residential lots are encouraged provided that the density does not encourage urban levels of service and provide significant open space corridors and protection of critical areas.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Rural Residential 5 acres. The following goals and policies set forth in the comprehensive plan are relevant to this development:

RURAL:

POLICY RD-4: Development and recreational opportunities in rural shoreline and other rural areas shall minimize potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life.

CRITICAL AREAS – FISH AND WILDLIFE HABITAT CONSERVATION AREAS

GOAL 2: Protect fish and wildlife habitat areas as an important natural resource for Douglas County, particularly in regard to their economic, aesthetic and quality of life values.

POLICY CA-15: Impacts of new development on the quality of land, wildlife and vegetative resources will be considered as part of the environmental review process and require any appropriate mitigating measures. Such mitigation may involve the retention and/or enhancement of habitats.

POLICY CA-16: The maximum amount of vegetation should be maintained in its natural state and be disturbed only as minimally necessary for the development. Disturbed areas should be re-vegetated with native vegetation as soon as possible. Re-vegetation will be maintained in good growing conditions, as well as being kept free of noxious weeds.

POLICY CA 17: If a development proposal is located in or near a habitat conservation area shown on the reference maps, a consultation and subsequent mitigation measures, if needed, should be encouraged from the WDFW or other appropriate agency.

POLICY CA-20: Proper riparian management that maintains existing riparian habitat and is consistent with best agricultural management practices should be encouraged.

POLICY CA-21: Ensure that land uses adjacent to naturally occurring wetlands and other fish and wildlife habitat areas will not negatively impact the habitat areas. If a change in land use occurs, adequate buffers will be provided to the habitat areas.

POLICY CA-22: Activities allowed in fish and wildlife habitat conservation areas and open space will be consistent with the species located there, including all applicable state and federal regulations and/or best management practices for the activity regarding that species.

IV. SHORELINE MASTER PROGRAM

The Douglas County Shoreline Master Program classifies this reach of the Columbia River shoreline as Rural Conservancy. The purpose of the rural conservancy environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities.

A listing of the applicable policies and regulations are found in the analysis section of this staff report.

WASHINGTON ADMINISTRATIVE CODE (WAC)

WAC 173-27 provides updated rules for administering the Shoreline Management Act (RCW 90.58) and the local master program. WAC 173-27-150, establishes minimum review criteria for substantial development permits. This criteria states that a substantial development permit shall be granted only when the proposed development is consistent with:

- The policies and procedures of the Act;
- The provisions of this regulations; and
- The applicable master program adopted or approved for the area.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on October 9, 2013 in accordance with WAC 197-11-355 (Optional DNS).

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies have been given the opportunity to review this proposal. The following agencies have been sent copies of the proposal and have commented as indicated below:

Agency Notified	Response Received	Agency Notified	Response Received
WA Department of Ecology	N/R	WA Dept of Fish & Wildlife	N/R
Chelan County PUD	9/27/13	Army Corps of Engineers	N/R
Colville Tribes	N/R	Yakama Tribes	N/R
WA Dept of Arch & Hist Pres	N/R		

* N/R = No Reply

Agency comments have been included as Attachment A.

No public comments were received at the writing of this staff report.

VII. PROJECT ANALYSIS

Upon review of the application materials, site plans, public and agency comments, the Douglas County Countywide Comprehensive Plan, and applicable codes and requirements, planning staff offers the following analysis and recommendations for the subject application:

Comprehensive plan consistency:

Residential development and recreational opportunities in shoreline areas of the Rural Resource 5 acres land use designation can be considered when potential adverse impacts to water quality, slope stability, vegetation, wildlife and aquatic life have been sufficiently addressed. Critical area policies place preference on the protection of and preservation of wetlands over the alteration and mitigation of impacts to wetlands. The proposal is consistent with the goals and policies of the Douglas County Countywide Comprehensive Plan.

Consistency with the Douglas County Shoreline Master Program

Docks are a permitted use in the Rural Conservancy shoreline designation.

4.1 ECOLOGICAL PROTECTION AND CRITICAL AREAS

POLICY 1: Shoreline use and development should occur in a manner that assures no net loss of existing ecological functions and processes and protects critical areas. Uses should be designed and conducted to avoid, minimize, or to fully mitigate in so far as practical, any damage to the ecology and environment.

The project cannot avoid damage to the aquatic environment. However, the project has been designed to minimize damage and to fully mitigate pursuant to adopted mitigation ratios.

REGULATION 1: Mitigation sequencing – applicants shall demonstrate all reasonable efforts have been taken to mitigate potential adverse impacts in the following prioritized order:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action;

The project is located in the aquatic environment and therefore cannot avoid impacts.

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

The project is designed to minimize impacts by designing of the ramp and float to meet state and federal construction standards.

- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment to the conditions existing at the time of the initiation of the project;

The project is for a new structure to be placed in the aquatic environment, therefore rectifying the impact is not possible.

- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;

The project is for a new structure to be placed in the aquatic environment, therefore reducing or eliminating the impact over time via this permit is not possible. The possibility does exist that a future dock design would reduce impacts however implementation of that new design would require a future permit and analysis.

- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

The project is proposing mitigation per the adopted mitigation ratios that will compensate for the impact. Suggested conditions of approval require installation of mitigation per the approved plan.

- f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

Suggested conditions of approval require that the mitigation measures be monitored for 5 years after installation to determine survivability and corrective measures be taken if survivability is not achieved.

4.2 WATER QUALITY

REGULATION 5: All building materials that may come in contact with water shall be constructed of untreated wood, cured concrete or steel. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants. Wood treated with creosote, arsenate compounds, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

The float framing is proposed to be constructed of non-treated timber or aluminum. Decking and structural component materials shall be of a type approved by state agencies to avoid discharge of pollutants.

4.3 VEGETATION CONSERVATION

REGULATION 2: Where impacts to buffers are permitted under Section 4.1, Ecological Protection and Critical Areas, new developments shall be required to develop and implement a management and mitigation plan. When required, management and mitigation plans shall be prepared by a qualified biologist and shall be consistent with the requirements of Appendix H. Management and mitigation plans shall describe actions that will ensure no net loss of ecological functions. Vegetation shall be maintained over the life of the use and/or development by means of a conservation easement or similar legal instrument recorded with the County Auditor.

A fish and wildlife management and mitigation plan prepared by Grette & Associates was submitted in the application materials.

5.10 Moorage: docks, piers, watercraft lifts, mooring buoys, floats

POLICY 4: Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to navigation and other water-oriented activities such as fishing, swimming and pleasure boating, as well as property rights of adjacent land owners.

The dock will not pose a hazard to navigation.

POLICY 5: Moorage should be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. The length, width and height of piers and docks should be no greater than necessary for safety and functional use.

The project proposes a float and ramp that is the minimum size necessary.

REGULATION 2: Residential moorage for individual lots is permitted in subdivisions legally established prior to February 20, 1975, where shared moorage has not already been developed or required; private moorage is also permitted for individual legal lots of record, not part of an approved subdivision. In these circumstances, moorage shall be limited to one private dock per shoreline residential lot. Lot owners shall be encourage to utilize mooring buoys or to coordinate with adjoining property owners for shared moorage.

The subject property has not been subdivided since 1975 and therefore is eligible for a single use dock.

REGULATION 6: New and substantially expanded piers and docks shall be constructed of materials that are approved by applicable federal and state agencies for use in water to avoid adverse effects on water quality or aquatic plants and animals in the long-term for both submerged portions of the dock and decking and other components. Wood treated with creosote, pentachlorophenol or other similarly toxic materials is prohibited.

The new construction materials proposed will be approved by the applicable federal and state agencies for use in water.

REGULATION 7: Moorage facilities shall be the minimum size necessary to meet the needs of the proposed waster-dependent use and shall observe the following criteria:

- a. If allowed, only one private dock with one accessory float, and two watercraft lifts (the combination of one boat and one jet ski or other watercraft together) shall be permitted on a shoreline lot owned for residential or private recreational use.

The proposed project is for a single use dock.

- b. Docks with or without a float shall be the minimum required to provide for moorage. Commercial docks shall be the minimum length necessary to serve the type of vessel served. Exceptions to these length standards are addressed below.

The proposed project is for one float.

- c. Docks on the Columbia River that exceed 100 feet in length or docks which exceed 50 feet in length on a lake or sites with unique characteristics that may create navigational safety hazards shall prepare a navigational safety study.

The proposed dock is 67 feet out from OHWM.

- d. Moorage shall be designed to avoid the need for maintenance dredging. The moorage of a boat larger than provided for in the original moorage design shall not be grounds for approval of dredging.

The location does not indicate the need for maintenance dredging.

REGULATION 9: In order to minimize impacts on near shore areas and avoid reduction in ambient light level:

- a. Pier and ramp construction must meet the following standards:
 - 1) The width of piers and ramps shall not exceed 4 feet for single or joint-use docks. Greater widths may be permitted for community, public or commercial docks where use patterns can justify the increase;
 - 2) The bottom of the pier or bottom of the landward edge of a ramp, must be elevated at least 2 feet above the plan of OHWM;
 - 3) Pier and/or ramp surfaces are to consist of either grating or clear translucent material; and
 - 4) Pier and ramp construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, Fish and Wildlife, and Natural Resources and the United States Army Corps of Engineers.
- b. Float construction must meet the following standards:
 - 1) Any float materials that are in contact with the water must be white or translucent;
 - 2) Floatation materials must be permanently encased to prevent breakup and release of small flotation pieces;
 - 3) Decking or surface area of the float must consist of either grating or clear translucent material;
 - 4) Floats cannot be located where they could impede fish passage; and
 - 5) Float construction shall meet or exceed the standards and/or requirements of the Washington State Departments of Ecology, fish and Wildlife, and Natural Resources and the United States Army Corps of Engineers.

Proposed design meets the above listed construction standards.

REGULATION 10: Private docks shall not encroach into the required side yard setbacks for residential development (Both onshore and offshore); provided that, a shared moorage may be located adjacent to or upon a side property line of the affected properties upon filing of an easement agreement or other legal instrument by the affected property owners.

The proposed dock location does not encroach into the required side yard setbacks.

REGULATION 11: Piers and docks shall use pile supports unless engineering studies demonstrate that pile supports are insufficient to ensure public safety. Rip-rapped or bulkheaded fills may be approved only as a conditional use and only when demonstrated that no feasible alternative is available. Mitigation shall be provided to ensure no net loss of shoreline ecological functions and processes.

The proposed project is for pile supports.

REGULATION 15: Moorage facilities shall be marked with reflectors, or shall be otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Exterior finish shall be generally non-reflective.

Suggested conditions of approval require that the dock be marked with reflectors or otherwise identified.

REGULATION 16: Moorage facilities shall be constructed and maintained so that no part of a facility creates hazardous conditions nor damages other shore property or natural features during predictable flood conditions. Floats shall be securely anchored.

The dock is designed and secured so that it will not damage shoreline property or natural features.

REGULATION 21: All moorage facilities must permanently mark all of the components with name, address, telephone number and date of installation.

Suggested conditions of approval requires that the dock be permanently marked for identification.

REGULATION 23: Moorage facilities shall avoid locations that will adversely impact shoreline ecological functions or processes.

The dock is proposed to be located in the most appropriate shoreline location on the subject property.

Appendix H, Chapter 3: Critical Areas – Fish and Wildlife Habitat Conservation Areas

The Fish and Wildlife Habitat Management and Mitigation plan proposes to utilize the default 150 foot buffer on the subject property consistent with Appendix H, Chapter 3 of the SMP. For this situation most of the buffer is existing residence, lawn grass, and orchard grass which pre-dates the adoption of the SMP and is allowed to be maintained in its current condition. A formalized trail is only proposed in the area between the existing orchard grass and OHWM.

The installation of a dock will impact the aquatic and riparian environment. A fish and wildlife habitat management and mitigation plan has determined that a total of 340 square feet of new overwater coverage. The dock and trail will disturb a total of 28 square feet of buffer. The plan proposes 925 square feet of riparian vegetation plantings to meet the mitigation requirement for disturbance of habitat from the dock. A planting

plan is proposed on page 6 of 6 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.

As conditioned, the proposal is consistent with this section.

Consistency with WAC 173-27 and RCW 90.58:

As conditioned below, the project appears consistent with the requirements and criteria of the Shoreline Management and Enforcement Procedures, and the Shoreline Management Act

VIII. RECOMMENDATION

As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18 and 19 of the Douglas County Code, the Douglas County Countywide Comprehensive Plan, and the Douglas County Shoreline Master Program. Staff recommends approval of SP#13-11, subject to the following findings of fact and conditions:

Suggested Findings of Fact

1. The applicant is Jamie Pierre, 11525 Lake City Way, Seattle WA.
2. General Description: An application for a shoreline substantial development permit for the installation of a permanent single use dock consisting of a 4x20 ft grated pier, a 4x34 ft grated gangway, and 1 8x20 ft float. The dock will extend 67 feet waterward of the OHWM.
3. The subject property is described as being located within the NW Quarter of Section 8, Township 26N., Range 22 E., W.M., Douglas County, Washington. The shoreline designation is Rural Conservancy. The Douglas County Assessor's Number is 26220820009.
4. The Comprehensive Plan Designation is Rural Resource 5 Acres.
5. The subject property is located in the RR-5 zoning district.
6. The Columbia River Shoreline section of the subject property is designated as "Rural Conservancy" by the Douglas County Shoreline Master Program.
7. WAC 173-27-150 establishes minimum review criteria for Shoreline Management Substantial Development Permits. This criteria states that a substantial development permit shall be granted only when the development proposed is consistent with the policies and procedures of the Act; the provisions of this regulation; and the applicable master program adopted or approved for the area.
8. The subject property has not been subdivided since the initial adoption of the Douglas County Shoreline Master Program (February 20, 1975).
9. The Douglas County Shoreline Master Program, Section 5.13, Regulation 2 allows for individual moorage for lots that have not been subdivided since the initial adoption of the Douglas County Shoreline Master Program (February 20, 1975).
10. A fish and wildlife habitat management and mitigation plan dated June 2013 was performed for the project by Grette & Associates.
11. A fish and wildlife habitat management and mitigation plan determined that a total of 368 square feet of aquatic habitat will be disturbed by installation of the dock. The plan proposes 925 square feet of riparian vegetation plantings to meet the requirement for a 1:1 ratio for disturbance of aquatic habitat. A planting plan is

proposed on page 6 of 6 of the diagrams in the Fish & Wildlife Habitat Management and Mitigation Plan.

12. The mitigation proposed in the Fish and Wildlife Management and Mitigation Plan meets the requirements of the Douglas County Regional Shoreline Master Program.
13. Comments from reviewing agencies have been considered and addressed where appropriate.
14. Douglas County issued a Determination of Non-significance on October 9, 2013 in accordance with WAC 197-11-355 (Optional DNS).
15. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
16. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
17. WAC 173-27-090 requires that construction must be commenced within 2 years of the effective date of the shoreline permit and that authorization for construction shall terminate 5 years after the effective date of the shoreline permit.
18. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.

Suggested Conclusions:

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan and the Douglas County Shoreline Master Program.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. As proposed, revised, and conditioned, potential impacts of the project can be mitigated.
4. Public interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" of the Douglas County Code.

Suggested Conditions of Approval

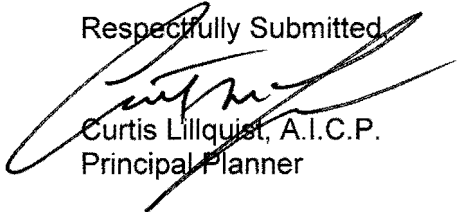
1. The project shall proceed in substantial conformance with the plans and application materials of file submitted on July 31, 2013 except as amended by the conditions herein.
2. The applicant shall comply with all applicable local, state and federal regulations.
3. A copy of this permit and attached conditions shall be kept on-site and provided to the contractor and all others working within the shoreline area at all times. The applicant, contractor, machinery operators and all others working within the shoreline area shall have read this permit and attached conditions and shall follow its conditions at all times.
4. The dock shall be marked with reflectors, or shall be otherwise identified to prevent unnecessarily hazardous conditions for water surface users during day or night. Documentation shall be provided with the building permit application.
5. The dock shall be permanently marked with name, address, telephone number and date of installation. Documentation shall be provided with the building permit application.

6. The project application shall proceed consistent with the Fish & Wildlife Habitat Management and Mitigation Plan prepared by Grette & Associates, dated June 2013.
7. Where necessary, a permanent means of irrigation shall be installed for the mitigation plantings that are designed by a landscape architect or equivalent professional. Said design shall meet the specific needs of riparian and shrub steppe vegetation.
8. Mitigation planting as shown on the mitigation planting plan sheet 6 of 6, dated March 25, 2013 shall be planted upon completion of the dock.
9. A performance surety agreement in conformance with Title 14, D.C.C. shall be entered into between the property owner and Douglas County Transportation and Land Services prior to issuance of the building permit. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, irrigation, seed mix and necessary monitoring visits and reports by the biologist of record and Washington State sales tax.
10. The mitigation site shall be maintained to ensure the management and mitigation plan objectives are successful. Maintenance shall ensure 80% survival during the 5 year monitoring period and shall include corrective actions to rectify problems, include rigorous, as-needed elimination of undesirable plants; protection of shrubs and small trees from competition by grasses and herbaceous plants, and repair and replacement of any dead plants.
11. A five year monitoring period shall commence upon placement of the planting materials and irrigation system. A performance surety agreement in conformance with Title 14 of Douglas County Code shall be entered into between the property owner and Douglas County Transportation and Land Services. Douglas County must approve quotes for the cost of installation, delivery, plant material, soil amendments, permanent irrigation, seed mix, and 3 monitoring visits and reports by a qualified biologist, and the quotes shall include Washington State sales tax.
12. Onsite monitoring and monitoring reports shall be submitted to Douglas County Transportation and Land Services 1 year after mitigation installation; 3 years after mitigation installation; and 5 years after mitigation installation. Monitoring reports shall be submitted by a qualified biologist, as defined by Douglas County Code. The biologist must verify that the conditions of approval and provisions in the fish & wildlife habitat management and mitigation plan submitted by Grette & Associates, dated June 2013 have been satisfied.
13. Sequential release of funds associated with the surety agreement shall be reviewed for conformance with the conditions of approval and the management and mitigation plan. Release of funds may occur in increments of 1/3 for substantial conformance with the plan and conditions of approval. If the standards that are not met are only minimally out of compliance and contingency actions are actively being pursued by the property owner to bring the project into compliance, the County may choose to consider a partial release of the scheduled increment. Non-compliance can result in one or more of the following actions: carry over of the surety amount to the next review period; use of funds to remedy the nonconformance; scheduling a hearing with the Douglas County Hearing Examiner to review conformance with the conditions of approval and to determine what actions may be appropriate.
14. Where a condition imposed herein may be found inconsistent with the requirements of the Washington State Department of Fish and Wildlife, HPA Permit, or permitting issued by the United States Army Corps of Engineers, the Douglas County Land Services Director shall have discretion to allow for project redesign consistent with the approvals granted by said agencies; if the redesign can be found consistent with

the Douglas County Code, the Shoreline Master Program, and the Shoreline Management Act.

15. Construction of the project for which this permit has been granted must be commenced within two (2) years of the effective date of this permit. Authorization to conduct development activities granted by the permit shall terminate five (5) years from the filing date of the permit.

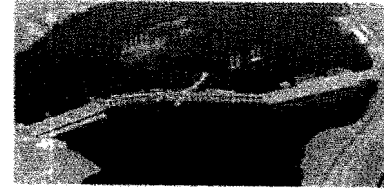
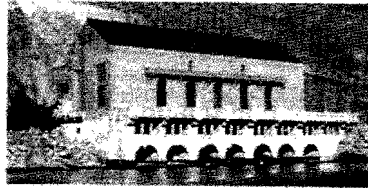
Respectfully Submitted,



Curtis Lillquist, A.I.C.P.
Principal Planner

Attachments

ATTACHMENT A



PUBLIC UTILITY DISTRICT NO. 1 of CHELAN COUNTY
P.O. Box 1,231, Wenatchee, WA 98807-1231 • 327 N. Wenatchee Ave., Wenatchee, WA 98801
(509) 663-8121 • Toll free 1-888-663-8121 • www.chelanpuad.org

September 27, 2013

Douglas County Transportation & Land Services
Attn: Curtis Lillquist
140 19th Street NW
East Wenatchee, WA 98802

Re: Bodacious B, LLC/Jamie Pierre single use dock – SP-13-11

Dear Mr. Lillquist:

Douglas County has provided the District notice of the above-mentioned single-use dock proposal (Pierre Dock) for formal comment. We appreciate the opportunity to review and comment on the proposal to ensure early coordination and consistent information exchange between Douglas County and the District. The District provides the following comments:

As owner and operator of the Rocky Reach, Rock Island, and Lake Chelan hydroelectric projects, the District is responsible for operating and maintaining its project works and project lands and waters under the requirements of its Federal Energy Regulatory Commission (FERC) Licenses. The Federal Power Act authorizes the FERC to regulate non-federal hydroelectric projects. Under the District's federal License for the Rocky Reach Project, FERC required the District to acquire and retain fee title, or the right to use in perpetuity, all property necessary or appropriate to construct, maintain, and operate the project. These purposes may include, but are not limited to, operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control.

The proposed Pierre Dock will be installed upon property encumbered by a District flowage easement ("Original Easement") which encumbers the land up to an elevation of 723 feet above sea level, USCGS datum, and a Supplemental Easement which supplements the District's rights in the Original Easement and provides the property owner additional use of the property above the contour elevation of 715.5 feet above sea level, USC&GS datum. The terms of the Original Easement reserve the property owner's right to maintain boat landings and piers upon the property "which in the reasonable judgment of the District's Commission, do not endanger the Project [Rocky Reach Hydroelectric Project] or violate the District's Federal Power Commission License for the Project."

As required by our FERC licenses, the District manages shorelines within its Project boundaries to be consistent with Project licenses and management plans and to assess developmental uses to ensure multiple resources are considered, such as recreation, cultural, fish, wildlife, and habitat resources. Under our FERC licenses, the District has the ability to grant permission to applicants for specific non-project uses, subject to specific license conditions. Examples include relatively routine, non-project use applications such as non-commercial boating access facilities (boat docks and piers), erosion control structures, certain types of recreation development, bulkheads, and vegetative removal or trimming and planning. The District implements this requirement, including reviewing tracking permit applications in

coordination with the primary permitting authorities that are responsible for managing development activities along the shoreline within the project boundaries. Larger development activities, such as proposed docks with more than 10-slips, require FERC approval.

Additionally, the District's Habitat Conservation Plan Agreement (HCP), approved by FERC Order, requires the District to consider the cumulative impacts of any action when making land use or permit decisions within the Rocky Reach and Rock Island Project reservoirs (see attached HCP, section 6.1). We understand that the County's shoreline plan has a similar cumulative impact consideration. The HCP is a critical aspect of the District's operation of the hydro Project.

In a past FERC consultation process for a private community dock, the National Marine Fisheries Service (NMFS) filed a "Notice of Intervention, Comments and Protest" regarding the installation of docks within the Rocky Reach Reservoir. NMFS' statement went beyond the community dock at issue. NMFS raised questions about the District's ability to meet survival standards for ESA listed and non-listed Plan Species and the ultimate objective of reaching No Net Impact requirements under the requirements of the HCP if docks were continued to be built along the reservoir. Specifically, NMFS stated that more docks in the Rocky Reach reservoir will create additional cover habitat that will likely be occupied by smallmouth bass and other predators, and potentially increase predation on salmonids. The District believes that the issues raised by NMFS warrant coordinated consideration by all permitting agencies to ensure regulatory policies and regulations are met.

Should the applicants receive all necessary approvals for this project, the District requests that Douglas County condition the issuance of the final building permit on the applicants receiving a dock license from the District.

If you would like to meet to discuss this issue in further detail please feel free to contact me.

Sincerely,



Lisa Graves
Real Estate Specialist

Enclosure

methods to protect adult fallbacks and steelhead kelts at the Dam, and the District shall immediately implement the agreed to Measures. Reduction in fallback rates, mortalities and protection of kelts shall be factored into juvenile bypass and adult passage development and implementation and into Project operation decisions. Before the District is asked to implement additional operation of the bypass system or other measures for kelts or fallbacks, there will need to be a high level of certainty that these Measures will make a significant difference in meeting the relevant survival standard.

e. The Parties to this Agreement recognize that current technology does not allow for a precise estimate of hydroelectric project induced mortality to adult salmonids. Until adult survival studies can accurately differentiate between natural and hydro-project induced mortality, the District shall use the best available technology to conduct, on a periodic basis, adult passage verification studies toward the diagnosis of adult loss, injury and delay at Rocky Reach Dam. Prior to the completion of adult survival studies, compensation for adult mortality shall be assumed completely fulfilled by the District's contribution to the Tributary Fund. Following the completion of adult survival studies, should adult survival rates fall below 98% but the Combined Adult and Juvenile survival rate be maintained above 91%, additional hatchery compensation for that portion of adult losses that exceeds 2%, toward a maximum contribution of 7% hatchery funding and 2% tributary funding, would be utilized to satisfy NNI compensation requirements for each Plan Species.

f. Pursuant to the 2000 Biological Opinion for the Federal Columbia River Power System (the "Bi-Op"), federal action agencies are required to conduct a comprehensive evaluation to assess adult survival at federal dams. The Bi-Op sets forth a series of evaluation methods to be employed. The Coordinating Committee should review the information and techniques utilized in those studies and evaluate their potential for accurately measuring Combined Adult and Juvenile Project Survival. The Coordinating Committee should also evaluate technologies found at the federal dams to increase adult survival for possible implementation at the Project. Based upon those evaluations, the District shall implement as necessary technologies appropriate for the Project.

SECTION 6 RESERVOIR HABITAT AND WATER QUALITY

6.1 When making land use or related permit decisions on Project owned lands that affect reservoir habitat, the District shall consider the cumulative impact effects in order to meet the conservation objectives of the Agreement, requirements of the FERC license, and other applicable laws and regulations. The District further agrees to notify and consider comments from the Parties to the Agreement regarding any land use permit application on Project owned lands.

6.2 The District shall notify all applicants for District permits to use or occupy Project lands or water that such use or occupancy may result in incidental take of species listed as endangered or threatened under the ESA, requiring advance authorization from NMFS or USFWS.