



**U.S. Army Corps
Of Engineers**

Walla Walla District
201 North Third Avenue
Walla Walla, WA 99362-1876

Public Notice:

Application for Permit

APPLICATION NO.: NWW-2021-00517

WATERWAY: Garfield Bay – Lake Pend Oreille

APPLICANT: Brandon Chartrey – ABCD
Homebuilders LLC

DATE ISSUED: October 28, 2022

END DATE: November 28, 2022

30-Day

Interested parties are hereby notified that the Walla Walla District has received an application for a Department of the Army permit for certain work in waters of the United States, including wetlands, as described below in the attached documents:

- **20220729-ProjectDrawings-NWW-2021-517.pdf**

APPLICANT:

Brandon Chartrey
ABCD Homebuilders LLC
P.O. Box 1995
Olympia, Washington 98507
(360) 561-2554; YesterdayHomebuilders@comcast.net

U.S. ARMY CORPS OF ENGINEERS PROJECT MANAGER:

Megan Biljan
Coeur d'Alene Regulatory Field Office
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, Idaho 83814
(208) 433-4474; megan.biljan@usace.army.mil

PURPOSE: Construct three new dock structures and re-construct a breakwater that was damaged and failed in order to protect proposed new dock structures.

WATERWAY: Garfield Bay – Lake Pend Oreille

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LOCATION: The proposed project would be located at 1835 Garfield Bay Road, within Section 22, Township 56 North, Range 1 West, near coordinates 48.183081° N latitude and - 116.431183° W longitude, in Sagle, Bonner County, Idaho.

DRIVING DIRECTIONS: From Coeur d'Alene take US Highway 95 North and turn right onto Sagle Road which turns into Garfield Bay Road. The project is located at 1835 Garfield Bay Road.

AUTHORITY: This permit will be issued or denied under the authority of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). A Department of the Army permit is required for the discharge of dredged or fill material into waters of the United States, including wetlands, as well as, for work or structures waterward of the ordinary high water mark located in or over navigable waters of the United States, including the excavation, dredging or deposition of material in navigable waters, or any alteration obstructing or affecting the course, location, condition, or capacity of the navigable waterway.

WORK: The applicant proposes work below the ordinary high water mark (OHWM) that includes the placement of large angular rock boulders to re-construct a 70 foot long breakwater. The proposed breakwater work includes a discharge of 1,960 cubic yards of large rock material and is proposed to extend into Garfield Bay approximately 100 feet and rise roughly 6 feet above the OHWM. The proposed maximum width of breakwater below OHWM is 80 feet. Work is proposed to be accomplished by utilizing a mini-excavator with rubber tracks to place rocks in front of itself as it "walks" its way out into the bay. A skid steer track loader with rubber tracks and dump trucks would bring the rocks to the excavator for placement.

The first phase in construction of the breakwater is to establish an access path that would cut into the existing bank above the OHWM. The excavator would continue to place rock in front of itself to establish the path. Once the access path has been established to the breakwater terminus point (approximately 60 feet waterward from the southwest property corner), the excavator would begin to place fill for the projected base radius of the breakwater (approximately 80 feet wide, depending on the variable depth of the lakebed). The excavator would place 1,000-2,000 pound rocks that would be keyed in and used to establish the perimeter of the toe of slope. Once the base has been established and the toe slope is keyed in, equipment would start tapering the breakwater up in approximately 2 foot lifts. The perimeter would be tapered at approximately 1-1/2 foot run to 1 foot rise. Larger "man-sized" rock would be selected

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and stacked along the perimeter. This process would continue until the breakwater is at its designed elevation.

The last phase in construction of the breakwater includes the installation of an electrical conduit to the end of the breakwater. A light would be installed at the end of the breakwater to alert watercraft of the location of the breakwater. The top of the breakwater would be capped with clean crushed rock to lock in the top rock.

The applicant proposes to install three new 700 square foot "L"-shaped single-family docks structures that would include driving approximately twenty one (21) 10-inch diameter steel piles into the lakebed and attaching the decking to the piles. Additionally, the applicant proposes to install boat lifts and marine launch rails on each new dock.

ADDITIONAL INFORMATION: The applicant has proposed to stage equipment and fill material within the upland area adjacent to the project site that is owned by the applicant. Clean and washed angular rock is proposed to construct the breakwater, and the fill material would be sourced from Peak Sand and Gravel. Refueling of equipment would take place at a minimum of 100 feet landward from the ordinary high water mark.

The project proposes to re-construct a breakwater that has failed due to high winds and waves. The original breakwater was permitted and constructed in 1988 and consisted of four floating pole-tire breakwater "units" with wave energy dissipaters and concrete anchors. A Nationwide Permit 03: Maintenance was authorized in 2009 to re-construct the original breakwater with the same design as the floating pole-tire structure after a high wind and wave event. In 2014 and 2015 the breakwater failed again after storm events and resulted in the removal of the previous existing boat docks and slips due to the damage caused to the dock structures.

CONSTRUCTION PERIOD: The applicant proposes to start construction Winter 2022 when lake levels are drawn down and at their lowest, and end Spring 2023 before lake levels begin to rise. However, if a permit is issued by the Corps it would authorize construction for a period of three (3) years.

PROPOSED MITIGATION: The applicant has not proposed compensatory mitigation for this project.

OTHER ENVIRONMENTAL DOCUMENTS AND DA PERMITS ISSUED TO

APPLICANT: The applicant received authorization on December 27, 2021, under *Regional General Permit (RGP) 27: Structures in Lake Pend Oreille*, to install a new 700 square foot "L" shaped dock with a single boat slip extending approximately 50 linear

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feet waterward of the OHWM. The applicant also received verification of authorization on April 29, 2022, under *Nationwide Permit (NWP) 58: Utility Line Activities for Water and Other Substances* to install two new drop pipe waterlines.

WATER QUALITY CERTIFICATION: The Idaho Department of Environmental Quality (IDEQ) will evaluate whether to certify that the discharge of fill material proposed for this project will not violate existing water quality standards. A Department of the Army permit will not be issued until water quality certification has been issued or waived by the IDEQ, as required by Section 401 of the Clean Water Act. Comments or questions concerning Water Quality Certification for this project should be mailed to:

Idaho Department of Environmental Quality
Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, Idaho 83814
or sent to Chantilly Higbee at chantilly.higbee@deq.idaho.gov

SECTION 401 (A)(2) NEIGHBORING JURISDICTION: Per 40 CFR Ch. 1 Subpart C 121.12(a) the (a)(2) neighboring jurisdiction notification will be sent to the Environmental Protection Agency (EPA) within 5 days of receiving 401 water quality certification.

AQUATIC RESOURCE DESCRIPTION: Lake Pend Oreille is a 75,054.47-acre limnetic lacustrine waterbody that includes approximately 175 miles of shoreline. Located almost entirely in Bonner County, Pend Oreille Lake is the largest and deepest natural lake in Idaho. The lake is the source of the Pend Oreille River in northeastern Washington, which ultimately drains to the Columbia River. Lake levels are controlled by Albeni Falls dam with a full-pool elevation of 2,062 feet and normal drawdown around the first of December of 2,051 feet. Garfield Bay is situated along the western shoreline of Lake Pend Oreille and encompasses approximately 190 acres. The substrate includes a mix of < 5% sand, < 10% gravel and roughly 85% cobble

ANTICIPATED IMPACTS ON AQUATIC ENVIRONMENT: The proposed project would result in permanent impacts to 0.14 acre of open water as a result of the construction of the breakwater. Additionally, the proposed project would result in 2,100 square feet of over-water coverage as a result of the dock structure installations.

OTHER AUTHORIZATIONS: None

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CULTURAL RESOURCES: The applicant has submitted a cultural resource survey and technical report for the project, dated April 15, 2022, prepared by Archaeological Cultural Resource Management Consultant LLC. Coordination is currently being conducted with the Idaho State Historic Preservation Office (ISHPO) to determine if this activity will affect a site that is listed on the National Register of Historic Places, or a site that may be eligible for listing on the Register. We are also coordinating with the appropriate Tribal entity or the Tribal Historic Preservation Offices for the Kootenai Tribe of Idaho, Confederated Salish and Kootenai Tribe of the Flathead Reservation, and Kalispel Tribe, to determine if there are any tribal historic or cultural interests within the project area.

TRIBAL TREATY RIGHTS and INTERESTS: Federal agencies acknowledge the federal trust responsibility arising from treaties, statutes, executive orders and the historical relations between the United States and American Indian Tribes. The federal government has a unique trust relationship with federally recognized American Indian Tribes, including the Kootenai Tribe of Idaho, Confederated Salish and Kootenai Tribe of the Flathead Reservation, and Kalispel Tribe. The Corps has a responsibility and obligation to consider and consult on potential effects to Tribal rights, uses and interests. The Corps further recognizes there may be a need for additional and on-going consultation.

ENDANGERED SPECIES: The project is within the known or historic range of Grizzly Bear (*Ursus arctos horribilis*) and Bull trout (*Salvelinus confluentus*). Coordination is currently being conducted with the U.S. Fish and Wildlife Service (USFWS) to determine if the activity will have any effect on species designated as endangered or threatened under the Endangered Species Act, or their critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844).

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). No EFH species are known to use the project area. Preliminarily, we have determined the described activity would have no effect on EFH.

ENVIRONMENTAL IMPACT STATEMENT: Preliminary review indicates the proposed activities will not require preparation of an Environmental Impact Statement. Comments provided will be considered in preparation of an Environmental Assessment.

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EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on public interest. This decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and in general, the needs and welfare of the people. In addition, our evaluation will include application of the EPA Guidelines (40 CFR 230) as required by Section 404(b)(1) of the Clean Water Act.

CONSIDERATION OF PUBLIC COMMENTS: The Corps of Engineers is soliciting comments from the general public; Federal, State and local agencies and officials, Tribal entities and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

PUBLIC HEARING: Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this proposed activity. Requests for a public hearing shall state specific reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

COMMENT & REVIEW PERIOD: Interested parties are invited to provide comments on the proposed activity, which will become a part of the record and will be considered in the final decision.

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Please mail or email all comments to:

U.S. Army Corps of Engineers
Walla Walla District
Coeur d'Alene Regulatory Office
Attn: Megan Biljan
1910 Northwest Boulevard, Suite 210
Coeur d'Alene, Idaho 83814
megan.biljan@usace.army.mil

Comments should be received no later than the comment due date of **November 28, 2022**, as indicated on this notice, to receive consideration.