
RESOLUTION NO. 07-393

**A RESOLUTION ADOPTING CHANGES TO ADMINISTRATIVE RULES
GOVERNING DOCKS AND PIERS**

RECITALS:

1. The District, by Resolution No. 93-184, adopted a Land Use Policy, which applies to all District lands and land rights. The purpose of this policy is to provide guidance for land use decisions and land-use management strategies. Resolution 98-198 authorized an amendment to the District's Land Use Policy adopting Administrative Rules Governing Docks and Piers.

2. By memorandum dated September 13, 2007, Dr. Robert Clubb, Chief of Environmental and Regulatory Services, recommended certain changes to the District's Administrative Rules Governing Docks and Piers.

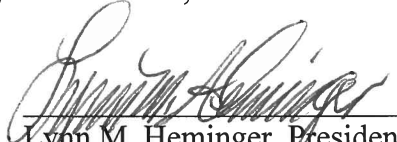
3. Notice of the proposed boat dock amendment was published in local newspapers for two consecutive weeks. By memorandum dated December 7, 2007, Dr. Clubb summarizes comments received during two public hearings held on the proposed amendment, as well as written comments received by the District. (A copy of this memorandum and the proposed amendment is attached hereto and made a part hereof.)

4. The Commission thoroughly discussed the proposed amendment during each regularly scheduled meeting from October 8, 2007, through and including December 17, 2007.

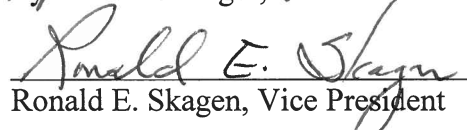
5. After thorough and complete consideration of all comments and information concerning the proposed amendment concerning boat docks and piers, the Commission believes it is in the best interest of the District to adopt the changes to the District's Administrative Rules Governing Docks and Piers.

NOW, THEREFORE, BE IT RESOLVED by the Commission of Public Utility District No. 1 of Douglas County, Washington, that the proposed changes to the District's Administrative Rules Governing Docks and Piers, as attached, are hereby adopted.

ADOPTED this 17th day of December, 2007.

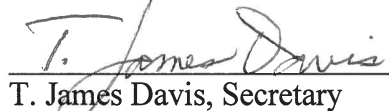


Lynn M. Heminger, President



Ronald E. Skagen, Vice President

ATTEST:



T. James Davis, Secretary

MEMO

December 7, 2007

To: Bill Dobbins

From: R. W. Clubb



Subject: Summary of the Boat Dock Amendment Process

The District, by Resolution No. 93-184, adopted a Land Use Policy, which applies to all District lands and land rights. The purpose of this policy is to provide guidance for land use decisions and land-use management strategies. Resolution 98-198 authorized an amendment to the District's Land Use Policy adopting Administrative Rules Governing Docks and Piers (hereafter referred to as, "Boat Dock Policy").

Currently, the Boat Dock Policy generally allows boat docks for the upland owner(s) of land adjacent to Project Lands, within the city limits of the cities of Brewster, Bridgeport and Pateros and in rural areas outside the city limits of Brewster, Bridgeport and Pateros joint use or community docks were most commonly allowed. Private docks and piers are not allowed on Wells Project Lands managed by the Washington State Department of Fish and Wildlife; in the Wildlife Area on the Cassimer Bar; in areas where the District planted vegetation in conjunction with the 1982 License Amendment for the two-foot pool raise; or within 500 linear feet in each direction on the shoreline of the following areas: Pateros Island, Kirk Islands, the Bridgeport Bar Islands or designated habitat lands. Also, private docks and piers are not allowed upon any lands set aside by Commission action for fish and wildlife, archaeology, recreation, public safety, or other needs of the District.

The recent proliferation of boat dock applications prompted staff to recommend that the Boat Dock Policy be amended due to concerns that the increased number of boat docks could prevent the District from meeting the No Net Impact survival requirement of the Habitat Conservation Program due to increased predation to salmonids. The amended policy would only allow dock and piers within the city limits, as they exist today, of Brewster, Bridgeport and Pateros. No new docks or piers would be allowed in the unincorporated rural areas of the reservoir. Other provisions of the dock and pier policy would remain unchanged.

Notice of the proposed boat dock amendment was published in local newspapers for two consecutive weeks. Two public hearings were held to receive public comment on the proposed amendment to the District's Land Use Policy governing the use and establishment of docks and piers on the Wells Reservoir. The public hearings were held on October 8th, 2007 in the District's Bridgeport office and on October 15th, 2007 at the

District's East Wenatchee office. Additionally, written comments on the proposed amendment were accepted through November 30th.

Summary of the October 8, 2007 Bridgeport Public Hearing

The meeting was attended by 18 individuals. Ten individuals presented comments that opposed adoption of the boat dock policy. Most of the opposed comments focused on concerns of economic impacts as a result of limiting boat docks on the Wells reservoir. Two individuals supported the proposed boat dock amendment. Both individuals were representatives from resource protection agencies and were concerned that the proliferation of boat docks would affect the survival rate of salmonids migrating through the Wells reservoir and would negatively impact shoreline wildlife values.

Gail Howe, Mayor of Pateros, opposed the proposed amendment primarily for economic impacts and recreation issues.

Larry Lehman, Grette Associates (Environmental Consulting Firm), opposed the amendment stating that existing permitting requirements adequately protect the natural resource.

Andrew Lampe, Okanogan County Commissioner, opposed the amendment based on economic and quality of life issues; provided a resolution in opposition of the amendment.

Ken Hobart, Brewster realtor and landowner, opposed, based on economic impacts and recreational use.

Jon Wyss, Brewster resident, opposed, based on economic impact.

Mark Miller, realtor/developer, opposed based primarily on economic impacts.

Lee Webster, Mayor of Brewster, opposed, based primarily on economic impacts.

J. D. Smith, Brewster City Administrator, commented about inadequate notice.

Mike Stennes, orchardist, opposed, milfoil beds are more of a problem than boat docks.

Judi Asmussen, Pateros businesswoman, opposed, taxpayers have rights to use lands.

Dale Bambrick, NMFS, supported the amendment stating it was clearly warranted. Boat docks provide spawning habitat and shelter for smallmouth bass, a predator to salmonids.

Chris Parsons, WDFW, supported the boat dock amendment stating boat docks provide advantages to predators of salmonids while reducing habitat for both aquatic and terrestrial species.

Summary of the October 15, 2007 East Wenatchee Meeting

The meeting was attended by 11 individuals. Ten individuals presented comments that opposed adoption of the boat dock policy. Gail Howe, Mayor of Pateros, attended but did not comment again. Seven of the ten individuals who commented had a realtor or land development background. Most comments focused on economic impacts as a result of limiting boat docks.

Josh Corning, East Wenatchee realtor/developer, opposed, purchase of property gives the right to access water.

Ken Stanton, Douglas County Commissioner, opposed, based on economic impacts and the effects to personal property rights.

Stephen Skylstad, East Wenatchee landowner/developer, opposed, asked questions.

Andy Feil, East Wenatchee landowner/developer, opposed, based on economics and recreation impacts.

Jerrod Riggan, Brewster landowner/developer, opposed, based on economic impacts.

Glenn Grette, Grette Associates (Environmental Consulting Firm) opposed, new boat dock permitting requirements provide adequate protection.

Chuck Zimmerman, Attorney for Brewster, opposed.

Ryan Vickery, East Wenatchee landowner/developer, opposed.

Mark Miller, realtor/developer, opposed, based on economic impacts.

Jamie Loewen-Wallace, NCW Realtors Association, opposed, based on economic impacts.

Written comments submitted to the District by November 30th

The District received 23 written comments concerning the proposed boat dock amendment. Most (21) comments opposed the proposed amendment and most comments focused on economic or recreation impacts as a result of limiting boat docks. Of the 21 individuals who commented on the proposed amendment, one third (7) represented a realtor or land developer background. Comments from the two State Representatives expressed concerns about the process and potential economic impacts.

Carolyn Byrd, realtor, opposed, based on economic and recreation impacts.

Brenda White, opposed, based on economic impacts.

Cheryl Jones, realtor, opposed, based on economic impacts.

Gail Howe, Mayor of Pateros, opposed, based on economic impacts.

Judy Asmussen, Pateros businesswoman, opposed, based on economic impacts.

Judy Asmussen, Pateros Chamber of Commerce, opposed, based on economic impacts.

Joel Kretz, 7th District Representative, concerned about the process.

Jerrod Riggan, Brewster landowner/developer, opposed, based on economic impacts and disputes the rationale for the need for the amendment.

Janet Jordan, opposed, inadequate process and motives.

Robert Pelan, Pateros businessman, opposed, based on property rights.

Mark Miller, realtor/developer, Indian Dan Canyon Ranch and Land Company, opposed, disputes rationale for the need for the amendment.

Mike Isenhart, Brewster Veterinarian, opposed, disputes rationale for the need for the amendment and process.

Jackie Goble, Brewster realtor and land owner, opposed, based on economic and recreation impacts.

Ron Pasley, Brewster, opposed, based on economic and recreation impacts.

Mark Worth, Brewster realtor, opposed, based on economic impacts and rationale for the need for the amendment.

Clint Pasley, Brewster realtor, opposed, based on economic impacts and disputes rationale for the need for the amendment.

Randy Moore, Pateros businessman, opposed.

Cary Condotta, 12th District Representative, consider economic concerns.

Betty Wagoner, Pateros, opposed, based on economic and recreation impacts.

Mark Miller, realtor/developer, opposed, provided additional information.

Gale R. and Laurel M. McDaniel, Brewster landowner, opposed, based on recreation impacts.

Glenn Grette, Grette Associates (Environmental Consulting Firm), opposed, disputes rationale for the need for the amendment and concerns about economic impacts.

R J Stoll, Banrac, LLC, Douglas County land owner, opposed, deed says he can have docks, disputes rationale for need for the amendment.

Report on the “Effects of Docks in Wells Dam Pool on Subyearling Summer/Fall Chinook Salmon” by Dr. Don Chapman

Dr. Don Chapman researched the question of “Will increased numbers of docks in the littoral zone of Wells Pool reduce survival of juvenile summer/fall Chinook salmon (*Oncorhynchus tshawytscha*)?” Dr. Chapman reported 10 conclusions concerning the relationship of docks to subyearling Chinook, smallmouth bass, Northern pikeminnow and predation. Boat docks were considered a harbor of predators that could impact the survival of juvenile summer/fall Chinook. He noted that, although not the focus of his report, the effect of docks on yearling salmon is of some concern, especially in the lower Methow and Okanogan rivers, even though these fish migrate rapidly downstream in spring and tend to move in deeper water than subyearlings. Northern pikeminnow and smallmouth bass may take advantage of reduced velocity and cover under docks, preying on yearling salmonids that pass under or close to the floats. Dr. Chapman opined “To avoid increases in mortality of subyearling summer/fall Chinook salmon, managers should discourage placement of more docks in littoral zones of Wells pool”.

Summary of Existing Docks on the Wells Reservoir

The Wells Reservoir consists of approximately 93 miles of shoreline, including the shoreline on the Okanogan and Methow rivers. The shoreline for towns of Pateros (2.6 miles), Brewster (2.7 miles) and Bridgeport (2.2 miles) amounts to approximately 8.2% of the Wells Project shoreline. In the town of Pateros, there are 24 existing docks, two vested applications and a potential for 19 additional docks for a total of 45 docks. Pateros has not designated an urban growth area outside the existing city limits. In the town of Brewster, there are six existing docks, three vested applications and a potential for 18 additional docks for a total of 27 docks. The town of Brewster designated an urban growth boundary with a January 10, 1996 plan. Based on the 1996 plan, the urban growth area includes two existing boat docks and the potential for nine additional docks, for a total of 38 docks within the existing city limits and 1996 designated urban growth

area of Brewster. The town of Bridgeport does not have private boat docks, but has one vested application, with the potential for a total of 49 boat docks. The rural areas around the Wells Reservoir, including the Okanogan and Methow rivers have 20 existing docks, with the potential for 102 Corps of Engineers Region General Permit 5 (RGP5) docks.

To summarize, there are 50 existing boat docks on the Wells Reservoir, 14 vested applications, the potential for 102 RGP5 boat docks in the rural area and 85 potential docks within the city limits of the three towns. Additionally, there is a potential for approximately 150 additional boat docks (in addition to the potential RGP5 docks), if the applicant elects to go through the full permitting process, bringing the total to 252 additional docks in the rural areas and 85 in the three towns for a total of 337 docks. These estimates are based on Douglas PUD's existing Land Use Policy guidance for use of Project lands by upland owners.

MEMO

September 13, 2007

To: Bill Dobbins

From: R. W. Clubb



Subject: Boat Dock Policy

The District, by Resolution No. 93-184, adopted a Land Use Policy, which applies to all District lands and land rights. The purpose of this policy is to provide guidance for land use decisions and land-use management strategies. Resolution 98-150 authorized the District to proceed with a State Environmental Policy Act (SEPA) review, issue a determination of environmental non-significance and hold public hearings to amend the District's Land Use Policy through the adoption of Administrative Rules governing Docks and Piers. Resolution 98-198 authorized an amendment to the District's Land Use Policy adopting Administrative Rules Governing Docks and Piers (hereafter referred to as, "Boat Dock Policy").

The Boat Dock Policy generally allows boat docks for the upland owner(s) of land adjacent to Project Lands, within the city limits of the cities of Brewster, Bridgeport and Pateros and in rural areas outside the city limits of Brewster, Bridgeport and Pateros only where single family building lots or dwellings existed or property was platted or subdivided prior to November 16, 1998. Private docks and piers are not allowed on Wells Project Lands managed by the Washington State Department of Fish and Wildlife; in the Wildlife Area on the Cassimer Bar; in areas where the District planted vegetation in conjunction with the 1982 License Amendment for the two-foot pool raise; or within 500 linear feet in each direction on the shoreline of the following areas: Pateros Island, Kirk Islands, the Bridgeport Bar Islands or designated habitat lands. Also, private docks and piers are not allowed upon any lands set aside by Commission action for fish and wildlife, archaeology, recreation, public safety, or other needs of the District.

The Boat Dock Policy has been an effective tool for managing boat docks. However, the recent proliferation of boat-dock applications may have serious implications to the Wells Project both during the term of the current license and future licenses. In the last 18 months, the District has received applications for as many new docks in the rural areas as previously existed over the past 40 years. Continued development of docks around the Wells Reservoir may have serious adverse impacts to the natural resources currently using the Project area.

The concern is that the proliferation of docks around the Wells Reservoir may prevent the District from meeting its HCP standard of No Net Impact (NNI) for anadromous fish. Docks and piers provide habitat for non-native (smallmouth bass) and native predatory

fish (northern pikeminnow); both of these species are known voracious predators of migrating juvenile salmonids. Studies have shown that bass use of docks and piers is disproportionate to their availability, indicating significant active selection by bass of these artificial habitat features. Northern pikeminnow use structures such as docks and piers as velocity refuge, allowing them to hold position in high-velocity areas where they would otherwise not be able to effectively forage. The District presently spends \$125,000 per year to remove predatory northern pikeminnow from the Project; allowing the proliferation of docks that enhance foraging opportunities for pikeminnow would be counterproductive.

The concentration of predatory fish along a migration corridor for juvenile salmonids has proven to result in substantial predation rates on those salmonids, especially ocean-type Chinook (conservative estimates of 4% of the annual production). The proliferation of docks and piers along the migration corridor would improve foraging efficiency for predatory fish by providing the overhead cover and velocity refuge necessary for those predators to use ambush predation techniques where they otherwise could not. Additionally, docks and piers have been shown to disrupt the migration of juvenile ocean-type Chinook. These fish avoided migrating under docks and piers, instead they moved into deep water to go around the end of these structures, thereby increasing their susceptibility to predators occupying deeper water or holding position under the structures. Summer Chinook are particularly vulnerable to reservoir predation as they enter the reservoir at a small size and often exhibit prolonged reservoir rearing prior to outmigration. Section 5 of the Wells HCP requires that the District “consider the cumulative impact effects” when making land-use or related permit decisions; proliferation of docks and piers may raise the mortality level to a point where the District is unable to meet our 7% NNI standard.

There is also concern that the proliferation of docks around the Wells Reservoir will, in a short time, negatively impact the existing character of the environment from a rural wildlife-friendly reservoir to a recreation reservoir with reduced wildlife value. The District has historically promoted the wildlife preservation values of Project Lands and the wildlife lands purchased for the Washington Department of Fish and Wildlife. Constant use of the reservoir by large numbers of recreational boaters will drive wildlife from the area, exacerbate erosion problems, and could affect water quality to the detriment of resident and migratory fish.

To contain the proliferation of boat docks, we considered the consequences of a total ban on all boat docks and piers, but recognized that to be neither a reasonable nor balanced solution to the problem. We considered permitting only the most environmentally benign facilities, determined by providing individual environmental assessments for each newly proposed dock or pier. However, after considering the technical difficulty in assessing the potential individual impacts, the substantial man-power requirements to conduct the studies, and the undeniable cumulative impact of even the most benign facilities, we concluded that such an effort would be impractical and would ultimately result in the same environmental consequence: the destruction of the natural character of the Wells Reservoir and the potential inability to meet the HCP NNI standard.

The compromise that we believe will protect the Wells reservoir natural environment while still allowing some new boat docks and piers would modify the existing Boat Dock and Pier Policy as follows: 1. All new docks and piers would be prohibited in the rural areas of the Wells Reservoir, immediately. This would prevent further destruction and fragmentation of wildlife habitat on Project Lands and minimize the anticipated increase in reservoir mortality for juvenile salmonids by containing new structures to areas where the shorelines are already developed. 2. New boat docks and piers would only be allowed within the existing city limits of Pateros, Brewster and Bridgeport. The District would provide several (2-3) public boat moorages for up to ten boats each around the reservoir to provide for future recreational usage.

I believe that it is in the best long-term interest of the District to change the Boat Dock and Pier Policy as outlined above and as amended in the attachment.