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**BEFORE THE STATE BOARD OF LAND COMMISSIONERS  
STATE OF IDAHO**

IN THE MATTER OF

Encroachment Permit Application  
No. L-96-S-0206I

Sourdough Point Homeowner's  
Association, Sherrel Rhys, President,

Applicant.

Agency Case No. PH-2026-NAV-20-002

OAH Case No. 26-320-06

**IDAHO DEPARTMENT OF LANDS'  
RESPONSE TO OBJECTOR'S  
REQUEST FOR REVIEW**

The Idaho Department of Lands ("IDL"), by and through its counsel of record, Kayleen Richter, submits the following Response to Objector's Request for Review in accordance with the briefing schedule provided in the *Findings of Fact, Conclusions of Law, and Recommended Order* ("FOFCOL").

On May 7, 2026, Deputy Chief Administrative Law Judge Leslie Hayes issued the FOFCOL recommending that the Sourdough Point Owners Association ("SPOA") permit application be approved. The Recommended Order section of the FOFCOL states in relevant part:

If either **party** disagrees with this recommended order, pursuant to Idaho Code section 67-5244, the **party** may request review of this recommended order with the agency head.... [A party] may file a request for review of this recommended order, with a supporting brief, directly with the agency head **within one (1) business day from the service date of this recommended order**, unless the agency head sets a different deadline. Opposing parties shall thereafter have **one (1) business day** to submit a response brief.

FOFCOL, 13. On May 8, 2026, Objector Safe Harbour Holdings Corp. submitted a "Request for Review, and Supporting Brief" through its representative Kevin Palmer. As an initial matter, IDL

objects to Objecter's request for review as Objecter is not a party to this proceeding as defined by the LPA Rules and the APA. IDAPA 20.03.04.010.25 ("Each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party."); I.C. § 67-5201(17) ("Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party."). Accordingly, Objecter's request for review should not be considered.

Additionally, Objecter's request for review does not include any citations to the administrative record. While Objecter asserts that substantial evidence supports his arguments, Objecter fails to cite such evidence. Should the Director decide to consider the Objecter's request for review, the Objecter's unsupported arguments should be weighed accordingly.

Objecter alleges that the FOFCOL insufficiently weighs several of Objecter's arguments in opposition to SPOA's Encroachment Permit Application. Objecter's arguments relate to the following, reproduced and summarized in part from Objecter's request for review:

1. Long-standing historic and current navigation patterns;
2. Line-of-sight navigation through the corridor;
3. Water ("depth alignment," circulation, quality);
4. Turning movements associated with existing moorage;
5. Shared use by motorized vessels, paddle craft, and swimmers;
6. The cumulative effects of extending the existing dock structure;
7. Aesthetic concerns;
8. Property value concerns;
9. Insufficient consideration of alternative locations for expanding the community dock system; and
10. The validity of the necessity to expand the community dock system.

Note that arguments 1, 2, 4, 5, and 6 advance substantially similar claims that together allege the proposed encroachment would have a detrimental effect to the lake value factor of navigation.

As the FOFCOL recognizes, IDL's authority in this matter is limited. FOFCOL, page 7 (Conclusion of Law # 5), page 8 (Conclusion of Law # 21); page 12 (Conclusion of Law # 40). Objecter's allegation that "certain existing slips have not been limited exclusively to SPOA lot

owners or community residents, but were also sold to persons outside the community” is not only unsupported by citation to the record but it is also outside of the scope of IDL’s regulatory authority. The earnestness of SPOA’s need to expand the community dock system was not addressed in this proceeding. However, SPOA’s need to expand the community dock system is supported in the record by the reality that there are fewer slips than parcels in SPOA. Put plainly, “[a]dditional slips will provide additional access to the waterways and recreation.” FFCOL, page 11 (Conclusion of Law # 30).

Finally, IDL disagrees with Objector that the FOFCOL does not adequately weigh the lake value factors as the LPA requires. Rather, the FOFCOL makes specific, cited findings of fact based on the record and clearly outlines the evidence or lack of evidence in the record with respect to each factor. While Objector may disagree with the result of the weighing done in the FOFCOL, the FFCOL does indeed independently evaluate the application and appropriately weighs the evidence in the record. *See e.g.*, FOFCOL, page 9 (Conclusion of Law # 26); page 12 (Conclusion of Law # 37).

DATED this 11th day of May 2025.

IDAHO DEPARTMENT OF LANDS



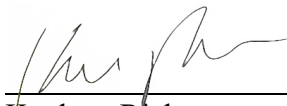
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Kayleen Richter  
*Attorney for IDL, Navigable Waterways  
Program*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11 day of May 2026, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Sourdough Point Homeowner’s Association Sherrel Rhys, President P.O. Box 29 Sagel, ID 83860 (406) 431-8018 <i>Applicant</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email: sherrelrhys@gmail.com
Bob Presta Kramer Marine 46820 Highway 200 Hope, ID 83836 (208) 264-3021 <i>Agent for Applicant</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email: bob.cekramer3@me.com
Kevin Palmer Safe Harbour Holdings Corp. 3946 Edenstone Road NW Calgary AB, T3A 3Z6 Canada (403) 585-5588 <i>Objector</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email: kevin@palmermail.ca
Amidy Fuson Rachel King Marde Mensinger Idaho Department of Lands 300 N. 6 <sup>th</sup> Street Boise, ID 83720 (208) 334-0248 <i>IDL Navigable Waterways Program Contacts</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email: afuson@idl.idaho.gov rking@idl.idaho.gov mmensinger@idl.idaho.gov
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Dustin Miller, Director Idaho Department of Lands 300 N. 6 <sup>th</sup> Street Boise, ID 83720 (208) 334-0248 <i>IDL Director / Agency Head</i>	<input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Email: dmiller@idl.idaho.gov jwinters@idl.idaho.gov

  
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