DEPT. OF LANDS
JUN 19 2018
BOISE, IDAHO

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**BEFORE THE STATE BOARD OF LAND COMMISSIONERS**

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| **SHARLIE-GROUSE NEIGHBORHOOD ASSOCIATION, INC.** | ) | |
| **Petitioner,** | ) | **ANSWER TO PETITION FOR DECLARATORY RULING** |
| **vs.** | ) | |
| **IDAHO STATE BOARD OF LAND COMMISSIONERS,** | ) | |
| **Respondent.** | ) | |

The State of Idaho, Board of Land Commissioners ("Respondent"), by and through its counsel of record, answers the Petition in the above-captioned matter.

## ANSWER TO PETITION

1. Respondent denies each and every allegation of the Petition not specifically admitted herein.

2. Paragraph 1 of the Petition consists of legal argument or conclusion to which no response is required.

3. In response to Paragraph 2 of the Petition, Respondent admits that on or about on April 2, 2014, it issued a quitclaim deed, State Deed No. SD13867, granting certain lands described therein ("State Land") to Payette Lakes Cottage Sites Owners Association, Inc. ("PLCSOA") as grantee ("Deed"). State Deed No. SD13867 speaks for itself, and Respondent denies the allegations contained in Paragraph 2 to the extent inconsistent with State Deed No. SD13867.

4. In response to Paragraph 3 of the Petition, Respondent admits that on or about January 28, 2015, it issued an amended quitclaim deed, State Deed No. SD13867, granting certain lands described therein ("State Land") to PLCSOA as grantee ("Amended Deed"). The Amended State Deed No. SC13867 speaks for itself, and Respondent denies the allegations contained in Paragraph 3 to the extent inconsistent with the Amended Deed.

5. In response to Paragraph 4 of the Petition, Respondent avers that the interest the State held in such lands, if any such interest remainder after prior dedications and conveyances, was held as endowment property, but denies that it was held for the benefit of the public schools.

6. Respondent is without sufficient knowledge and information to respond to the allegations contained in Paragraph 5 of the Petition and therefore denies the same.

7. In response to Paragraph 6 of the Petition, Respondent admits that Petitioner sent a letter to IDL dated September 23, 2013. The letter speaks for itself, and Respondent denies the

allegations in Paragraph 6 to the extent they are inconsistent with September 23, 2013 letter. Petitioner specifically denies this Paragraph to the extent that it alleges that the Deed and Amended Deed constituted the "disposal" of endowment land.

8. In response to Paragraph 7 of the Petition, Respondent admits that Community Beach is located at Lot 1, Block 2 of the SW Payette Cottage Sites Subdivision. Respondent denies that Sharlie Lane, Sharlie Way, Community Beach Access Road, Grouse Way and the Community Beach (collectively "Deeded Land") only serve the property of Petitioners' members, and further denies Petitioners' characterization of the Deeded Land as "SGN Property." Respondent is without sufficient knowledge and information to respond to the remaining allegations in Paragraph 7 and therefore denies the same.

9. Respondent is without sufficient knowledge and information to respond to the allegations in Paragraphs 8 and 9 of the Petition, and therefore denies the same.

10. In Response to Paragraph 10 of the Petition, Respondent denies the first sentence. Respondent admits that on October 8, 2013, Deputy Attorney General Robert Follett sent a letter to Jay Gustavsen, then counsel for Petitioners. That correspondence speaks for itself, and Respondent denies the allegations in Paragraph 10 to the extent they are inconsistent with the October 8, 2013 letter.

11. Respondent denies the allegations in Paragraph 11 of the Petition.

12. In response to Paragraph 12 of the Petition, Respondent admits that it conveyed the Deeded Lands to PLSCOA via the Deed and Amended Deed. Respondent denies that a public auction was required, and denies that it did not receive financial consideration.

13. Respondent denies the allegations in Paragraph 13 of the Petition.

14. Paragraphs 14 – 18 of the Petition consist of legal argument and conclusion to which no response is required.

15. Respondent denies the allegations in Paragraph 19 of the Petition, and specifically denies that the Deed and Amended Deed constituted a disposal, and that a public auction was required.

16. In response to Paragraph 20 of the Petition, Respondent admits that it did not engage in rulemaking or issue a rule applicable to the Deeded Land. Respondent denies this paragraph to the extent that it alleges that an administrative rule or rulemaking was required in order for the Land Board to issue the Deed or Amended Deed.

17. In response to Paragraph 21 of the Petition, Respondent admits that it did not issue an order in a contested case authorizing the issuance of the Deed or Amended Deed. Respondent otherwise denies this paragraph, and specifically denies that a contested case or order in a contested case was required in order for the Land Board to issue the Deed or Amended Deed. Respondent further denies that there was no opportunity afforded to initiate or participate in a contested case relating to the Deed or Amended Deed. Respondent specifically denies that the Deed and Amended Deed constituted a disposal.

18. Paragraphs 22 – 24 of the Petition consist of legal argument and conclusion to which no response is required. However, Respondent specifically denies that the Land Board is an administrative agency that has no authority other than that given to it by statute, that it is a "creature of statute," and that it is limited to authority granted to it by the Legislature. Respondent avers that the Land Board is a constitutional entity, and has authority and duties stemming from the Idaho Constitution and the Idaho Admission Bill.

19. Paragraph 25 consists of a request for relief, to which no response is required. To the extent a response is deemed necessary, Respondent denies that Petitioners are entitled to the relief requested or to any relief whatsoever.

**AFFIRMATIVE DEFENSES**

20. Petitioners lack standing to bring this Petition for Declaratory Ruling.

21. Petitioners have failed to join an indispensable party.

22. Petitioners fail to state a claim upon which relief may be granted.

23. Petitioners' claims are barred by laches and estoppel.

DATED this 19th day of June, 2018.

ANGELA SCHAER KAUFMANN
JOY M. VEGA
Deputy Attorneys General

## CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 2018, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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| Payette Lakes Cottage Sites<br>Owners Association, Inc.<br>PO Box 4226<br>McCall, Idaho 83638 | ☑ U.S. Mail, postage prepaid<br>☐ Hand Delivery<br>☐ Overnight Mail<br>☐ Facsimile:<br>☐ Email: |
| Sharlie-Grouse Neighborhood<br>Association, Inc,<br>c/o Matthew J. McGee<br>SPINK BUTLER, LLP<br>251 E. Front Street, Suite 200<br>PO Box 639<br>Boise, ID 83701 | ☑ U.S. Mail, postage prepaid<br>☐ Hand Delivery<br>☐ Overnight Mail<br>☐ Facsimile:<br>☐ Email: |

Angela Schaer Kaufmann

ANGELA SCHAER KAUFMANN
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