

ORIGINAL

DEPT. OF LANDS

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BOISE, IDAHO

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Attorneys for Sharlie-Grouse Neighborhood Association, Inc.

BEFORE THE STATE BOARD OF LAND COMMISSIONERS

SHARLIE-GROUSE NEIGHBORHOOD)
ASSOCIATION, INC.,)

Petitioner,)

vs.)

IDAHO STATE BOARD OF LAND)
COMMISSIONERS,)

Respondent,)

and)

PAYETTE LAKES COTTAGE SITES)
OWNERS ASSOCIATION, INC., and)
WAGON WHEEL BAY DOCK)
ASSOCIATION, INC.,)

Intervenors/Respondents.)

DECLARATION OF MARK RICHEY

MARK RICHEY, under penalty of perjury, hereby declares and states as follows:

1. I am Idaho licensed State Certified Appraiser, License #CGA-11, with an MAI Designation from The Appraisal Institute. Over the course of the last 2 years, I have been asked by the Sharlie-Grouse Neighborhood Association (“SGNA”) and certain of its members to evaluate the impacts of a change in use of a parcel of land known as Community Beach in McCall, Idaho that resulted when the State of Idaho conveyed such parcel to the Payette Lakes Cottage Sites Owners Association (“PLCSOA”).

2. In February, 2018, I testified in Case No. CV-2017-204 in the Fourth Judicial District of the State of Idaho, in and for the County of Valley, concerning the diminution in property value as a result of the conveyance of Community Beach to PLCSOA. Attached hereto as **Exhibit A** is a true and correct copy of the Declaration of Mark Richey in Opposition to Intervenor Defendant’s Second Motion for Summary Judgment in such case. For the reasons detailed in my testimony, I stated my initial conclusion that values of the properties I analyzed within the SGNA as of February 2018 had been reduced by 10 to 20 percent, in comparison to the value if the conveyance had not occurred. I continue to hold the opinions expressed in my written testimony, subject to my subsequent and more comprehensive evaluation of real property owned by Zephaniah and AnnMarie Johnson.

3. More recently, I provided Zephaniah and AnnMarie Johnson a consultant’s report, dated October 1, 2018, relating to value impacts for property they own adjacent to Community Beach. Attached hereto as **Exhibit B** is a true and correct copy of such report. For the reasons stated in the report, I concluded that the market value of that property has been reduced 35 percent, due to a change of use on Community Beach.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 12th day of April 2019.



Mark Richey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15 day of April 2019, I caused a true and correct copy of the above to be served upon the following individuals in the manner indicated below:

Angela Schaer Kaufmann
Joy M. Vega
Idaho Department of Lands
P.O. Box 83720
Boise, ID 83720

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(angela.kaufmann@ag.idaho.gov)
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Mark Perison
Tricia Soper
Mark D. Perison, P.A.
P.O. Box 6575
Boise, ID 83707
*Attorneys for Payette Lakes Cottage Site
Owners Association, Inc. and Wagon Wheel
Bay Dock Association, Inc.*

U.S. Mail
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 Via Facsimile (208)343-5838
 Via E-Mail
(tricia@markperison.com)

COURTESY COPY TO:

Jim Jones, Esq.
Parsons Pehle & Latimer
800 W. Main St., Ste. 1300
Boise, ID 83702
Hearing Officer

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Matthew J. McGee

EXHIBIT A

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Attorneys for Petitioners

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

ZEPHANIAH and ANNMARIE JOHNSON,
husband and wife, ANDREA UMBACH, a
single person, CUTLER and NANCY
UMBACH, husband and wife; ROBERT AND
DEANNE SEILER, husband and wife; W.H.
SHARLIE, INC., an Idaho corporation; and
COTTAGE SITE, LLC, an Idaho limited
liability company,

Plaintiffs,

vs.

PAYETTE LAKES COTTAGE SITES
OWNERS ASSOCIATION, INC., an Idaho
corporation,

Defendant.

and

WAGON WHEEL BAY DOCK
ASSOCIATION, INC., an Idaho Non-Profit
Corporation,

Intervenor/Respondent.

Case No. CV-2017-204-C

**DECLARATION OF MARK RICHEY
IN OPPOSITION TO INTERVENOR
DEFENDANT'S SECOND MOTION
FOR SUMMARY JUDGMENT**

MARK RICHEY, declares and states as follows:

Attached hereto and incorporated herein by reference, marked as Exhibit A is a copy of my Certification and my Appraiser Qualifications.

This declaration summarizes my initial thoughts and preliminary conclusions regarding the affects to the subject ownerships caused by the State Board of Land Commissioners after their effective transfer of real property rights from a parcel of land formerly noted as *Community Beach* to the Payette Lakes Cottage Sites Owners Association. The transfer effectually created a land use change. Before the transfer this land area was managed as a community beach. After the transfer, any use that complied with the Declaration of Covenants, Conditions, and Restrictions, and the City of McCall land use regulations is permitted.

The purpose of this investigation is to determine if the transfer of the *Community Beach* from the State Board of Land Commissioners to the Payette Lakes Cottage Sites Owners Association had an impact on the fee interests controlled by:

1. Zephaniah and Annmaire Johnson, Lot 187, State Subdivision-Southwest Payette Lake Cottage Sites
2. Andrea Umbach, Lots 159, 160, 174 and 173, State Subdivision-Southwest Payette Lake Cottage Sites
3. Cutler and Nancy Umbach, Lots 159, 160, 174 and 173, State Subdivision-Southwest Payette Lake Cottage Sites
4. Robert & Deanne Seiler, Lot 158 and 156, State Subdivision-Southwest Payette Lake Cottage Sites
5. WH Sharlie, Lot 157 and 171, State Subdivision-Southwest Payette Lake Cottage Sites

The intended use is to determine if the market value had been impacted by the legal and physical changes that occurred after the April 23, 2014 transfer. It is my understanding this assignment's scope is for me to investigate legal and physical characteristics that affected the use of the Community Beach parcel before and after the transfer, conclude market conditions in effect

during February 2018, research data for comparison purposes, conduct a preliminary analysis, and summarize my conclusions in an abbreviated appraisal report-consulting document that you will convert to an affidavit. The intended users are aware additional time will be required to conduct a thorough market investigation due to the time of year, the results of my investigation are preliminary, and subject to change as the valuation process is completed. Due to the time of year I could not inspect the subject parcels or the comparable data. This report is prepared for Zephaniah and Annmaire Johnson, Andrea Umbach, Cutler and Nancy Umbach, Robert and Deanne Seiler, WH Sharlie, at the request of E. Don Copple. I am aware the affidavit converted from this report will be provided to the Court and professionals assisting these intended users. This appraisal report and the contents of my work file are not intended for any other use or user beyond what I have disclosed here.

I have not inspected any of these properties as part of this assignment. I am aware of the physical characteristics of this neighborhood, the *Community Beach* prior to this transfer, and some of the adjacent properties. I have familiarity with this area of Payette Lake and the Community Beach through my appraisal practice that began in 1975 on various properties near this location (Payette Lake Water and Sewer District, Tom Malson, Fred Bagley, Willy J. Garrison, J.R. Simplot Co.). Additionally, I am aware of the access to the *Community Beach* (Sharlie Lane and Sharlie Way), linking Warren Wagon Road to the turn-outs along these roads and Wagon Bay Creek that have been used by the public for parking, as users walked to the beach.

As part of this assignment I have gathered general information and researched the market for data from comparable properties to assist in this valuation. I made an interpretation of the market condition as of the report date and based my preliminary valuation on the Sales Comparison Approach. Neither the Cost nor the Income Capitalization Approaches were investigated as part of this preliminary valuation.

Community Beach is noted on the State Subdivision-Southwest Payette Cottage Sites plat. Since the 1932 platting, the public was allowed use of the beach. The plat identifies three roads (now known as Sharlie Way, Community Beach Road, Sharlie Lane) with direct connection to what is noted on the Plat as *Community Beach*. It is obvious this community beach area was the centerpiece of the development. Community Beach Road does not exist.

Since the *Community Beach* was State land and intended as a community beach, building improvements were obviously restricted, and the historic beach or open space use was expected to continue. On April 23, 2014 the State Board of Land Commissioners transferred rights to this land to the Payette Lakes Cottage Sites Owners Association. Soon after, signs were placed restricting public access to the beach, rights permitting the construction of a private dock were granted to a third-party entity, and a portion of the community beach was offered by the HOA to an adjacent owner for \$200,000. The result constitutes a notable land use change to the adjacent owners.

Prior to the 2014 transfer, some of the ownerships within the 1932 plat of the Amended Payette Lakes Cottage Sites Subdivision were adjacent to the or lie within the view shed of this site noted as *Community Beach*, that had been managed by the Idaho Department of Lands. Before this transfer, the owners of both the beach front and upland lots had reason to assume the Community Beach site would remain for their use as a beach, with no likelihood of change due to the plat notations (Community Beach). Public land, or open space within neighborhood communities is typically managed for either the public or private use of the development, and the use or view shed will not change either legally or physically. In the case of *public land*, everyone has the right of access and use for a multitude of recreational and or open space pursuits. Additional benefits accrue nearby ownerships not only due to their proximity, but the general assurances of the continuation of the existing use(s) and view shed.

In this case, sites within the 1932 Amended Payette Lakes Cottages Sites Subdivision Plat that either adjoined or lie within the view shed are in my opinion impacted. The change of use and potential for additional modifications to the area noted as *Community Beach* can potentially affect the market value of these ownerships. It is difficult to identify each lot that has been potentially impacted until weather permits later this spring. However, the lake front and upland lots adjacent to the parcel identified as *Community Beach* are obviously affected.

The state conveyed exchange deeds in 1999 granting *enjoyment and use* in common areas to lots now owned by the Umbachs and Seilers stating in part:

“with this deed goes a right of enjoyment and use, in and to the common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities of Amended Payette Lake Cottage Sites Subdivision;” and “such right shall be appurtenant to and pass with the title to each lot.” This right is subject to these additional disclosures:

- a. No grantee shall make a conveyance of less than his entire interest in the common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities, and any such partial conveyance shall be void.
- b. The State of Idaho shall have no obligation for installation, operation or maintenance of these referenced common areas and facilities.
- c. The right to shared use and enjoyment of the common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities by state lessees and future purchasers of state lots together with existing lot owners in the subdivision described above.
- d. Upon conveyance of the last state-owned lot in fee simple located in the Amended Payette Lake Cottage Sites Subdivision, any right, title and interest to the common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities held by the State of Idaho shall automatically vest in common in all holders of the right of use and enjoyment described above, and the State of Idaho shall have no further right, title and interest in such common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities.

On April 23, 2014 the State Board of Land Commissioners transferred ownership rights to the common land to the Payette Lakes Cottage Sites Owners Association. It appears the State has breached item "d" above as they retain ownership in other lots within the Amended Payette Lake Cottage Sites Subdivision. Subsequent to this transfer the HOA has:

- i. placed signs restricting public access to the beach;
- ii. negotiated rights permitting the construction of a private dock to a third-party entity;
- iii. offered a portion of the community beach on March 1, 2016 to an adjacent owner for \$200,000.

The result of this change is that after the April 23, 2014 transfer, additional disclosures must be made to potential buyers, and the resulting type of ownership or membership must be revealed. This could impact future real property transactions as a buyer may be purchasing into a lawsuit. The fact a new dock has been approved by the HOA and a portion of the Community Beach has been offered to the adjacent owner demonstrates that change has occurred. In my opinion the change has had a negative impact on market value depending upon the location of the specific parcel of real property. Until the total scope of the change of this control (State v. HOA) can be measured from market activity, potential results pertaining to the marketing of a site within these affected subdivisions could include:

1. If another parcel is available without the uncertainty of the HOA control over the common areas within the Amended Payette Lakes Cottage Sites Subdivision, the buyer may elect to purchase the alternate property.
2. Should a competing parcel be available outside these affected subdivisions, the buyer would be in a position to reduce the offer, following his or her due diligence.
3. Regardless, additional risk is perceived due to the uncertainties created by the April 23, 2014 Declaration of Covenants, Conditions, and Restrictions, that at least appear to violate the disclosures in State of Idaho Deed No. 13281, the best-case scenario is at least an extended marketing time assuming an informed buyer.

Again, the State Board of Land Commissioners transfer effectively created a land use change. Before the transfer this land area was managed as a public community beach. After the transfer, any use that complied with the Declaration of Covenants, Conditions, and Restrictions, and the City of McCall land use regulations appears to be permitted. Some of the recent changes were described above. The presumption of open space may have been lost due to this transfer and change of management. The assumption of a conforming *Community Beach* use has been eroded.

Based on my investigations, it is my opinion the market value of the lake front and upland lots within the subdivision adjacent to the parcel identified as *Community Beach* are obviously impacted. Given the legal changes since the transfer to the HOA and potential for additional physical alterations, values have been affected. My initial conclusion is that market values at the time of this investigation, February 2018, have been reduced by 10 to 20 percent, in comparison to what each could have received if the April 23, 2014 transfer had not occurred. The lake front lots would, in my opinion, be impacted at the upper end of the range, 20 percent, caused by this change in comparison to the upland lots at 10 percent due to their distinct physical differences. *As disclosed, additional market research will be required by me, and physical inspections will need to be conducted to estimate the affect the April 23, 2014 transfer had on the subject parcels.*

As of this writing, it is my opinion the market values of the subject parcels have been impacted as follows:

1. Zephaniah and Annmaire Johnson-minus 20 percent, Lot 187, State Subdivision-Southwest Payette Lake Cottage Sites;
2. Andrea Umbach, Cutler and Nancy Umbach -minus 10 percent Lots 159, 160 & 174, State Subdivision-Southwest Payette Lake Cottage Sites, -minus 20 percent Lot 173, State Subdivision-Southwest Payette Lake Cottage Sites;
3. Robert & Deanne Seiler-minus 20 percent Lot 156, State Subdivision-Southwest Payette Lake Cottage Sites, -minus 10 percent Lot 158, State Subdivision-Southwest Payette Lake Cottage Sites;

4. WH Sharlie-minus 20 percent Lot 157 and 171, State Subdivision-Southwest Payette Lake Cottage Sites

Again, the intended users are aware additional time will be required to conduct a thorough market investigation, the results of my investigation are preliminary and subject to change as the valuation process is completed.

Definitions relied on in this investigation include:

“Market Value,” as used in this report, is defined as:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. Reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Source: The Dictionary of Real Estate Appraisal, Fifth Edition, 2010, pp. 122-123

“Highest and Best Use,” as used in this report, is defined as:

Four criteria are examined to estimate the highest and best use of the subject property. The criteria and their applicability to the subject, both “as vacant” and “as improved” are as follows:

- **Legally Permissible:** a legally permissible use is determined primarily by current zoning regulations. However, other considerations such as long-term leases, deed restrictions, and environmental regulations may preclude some possible highest and best use.
- **Physically Possible:** the size, shape, and topography affect the uses to which land may be developed. The utility of a parcel can be dependent on its frontage and depth. Sites with irregular shapes may be more expensive to develop, and topography or subsoil conditions may make utilization too costly or restrictive. Highest and best use as improved also depends on physical characteristics such as condition and utility.
- **Financially Feasible:** the use of the property is analyzed to make a determination as to the likelihood that the property is capable of producing a return, which is greater than the combined income needed to satisfy operation expenses, debt service, and capital

amortization. Any use that is expected to produce a positive return is classified as financially feasible.

- **Maximally Productive:** the use that provides the highest rate of return among financially feasible uses is the highest and best use. The use of the land must yield a profitable net return, and the quantity of land devoted to any specific use must be limited to that quantity which will yield a maximum return to each owner.

“Valuation Process,” as used in this report, is:

The valuation process is a systematic set of procedures an appraiser follows to provide answers to questions about real property value. In assignments to develop an opinion of market value, the goal of the valuation process is a well-supported value conclusion that reflects all of the pertinent factors that influence the market of the property being appraised. To achieve this goal, the appraiser studies a property from three different viewpoints, which are referred to as the approaches to value. These are; the sales comparison approach, the cost approach, and the income capitalization approach.

The Sales Comparison Approach is best utilized when a number of similar properties have recently sold. The sale prices of the properties “comparables” that are most similar to the subject tend to indicate a range in which the value indication of the appraised property will fall.

The Cost Approach is derived by adding the estimated value of the land to the current cost of replacing the building improvements, less accrued depreciation from all causes. This approach has greater reliability in valuing new or nearly new improvements, or properties that are not frequently exchanged in the market.

The Income Capitalization Approach reflects the present value of the future benefits derived by the ownership of real property. Data needed to complete this valuation method includes market rents, vacancy rates, anticipated annual operating expenses, and overall capitalization rates. This valuation method is best used for appraisals of real estate involving income-producing properties, apartments, offices, retail buildings, industrial properties, etc.

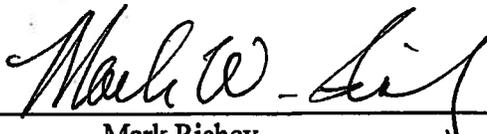
One or more of these approaches are used in all real property valuations. The appraisal approach utilized depends on the type of property, the use of the appraisal, as well as the quality and quantity of market data available. Each valuation method is applicable to many appraisal assignments. Generally, one or more of these approaches have greater reliability for the subject appraisal. The approaches to value and techniques used depend on which ones are necessary to produce credible assignment results, given the intended use.

Traditionally, specific appraisal techniques are applied within the three approaches to derive indications of real property value. The specific approaches and corresponding techniques used will be discussed within the valuation portion of the appraisal.

To complete the valuation process, the appraiser integrates the information drawn from market research, data analysis, and the application of the approaches to reach a value conclusion. This conclusion may be presented as a single-point estimate of value or if the assignment permits, as a range within which the value may fall.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 27th day of February, 2018.



Mark Richey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of March, 2018, a true and correct copy of the foregoing was served upon the following by the method indicated below:

Matthew L. Walters
Jade C. Stacey
Elam & Burke, P.A.
251 E. Front Street, Suite 300
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 Hand Delivered
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Tricia K. Soper
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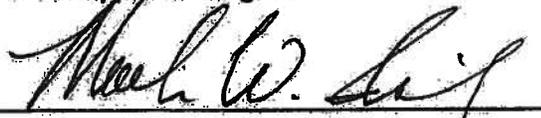
E Don Copple

EXHIBIT A

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. the statements of fact contained in this report are true and correct.
2. the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. my engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
8. I have not made a personal inspection of the property that is the subject of this report.
9. no one provided significant real property appraisal assistance to the person signing this certification.
10. the reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and American Society of Farm Managers and Rural Appraisers.
11. that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
12. As of the date of this report, I have completed the continuing education program of the American Society of Farm Managers and Rural Appraisers.
13. As of the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.
14. I have not prepared a prior appraisal of the subject property within the three-year period immediately preceding acceptance of this appraisal assignment.



Mark W. Richey, MAI

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal review is subject to the following:

1. The legal description furnished is assumed correct.
2. All existing liens and encumbrances have been disregarded, and the property is appraised as though free and clear under responsible ownership and competent management.
3. The subject property will remain under management that is considered competent and ownership that is responsible.
4. No survey of the property was made, and no liability is assumed in connection with such matters.
5. Information furnished by others is assumed reliable, but no responsibility is assumed for its accuracy.
6. We are not required to give testimony or to appear in court by reason of the appraisal with reference to the property in question unless arrangements have been made previously.
7. One or more of the signatories of this appraisal report is a member of the Appraisal Institute. The Bylaws and Regulations of the Institute require each member to control the use and distribution of each appraisal report signed by such member or candidate.

This report is intended for the exclusive use of the party for whom this appraisal report was prepared. The report is confidential and is not intended for the use of any other person or entity or for the use of any third-party beneficiary. The report may not operate as any sort of representation to any person or entity other than the party for whom it was prepared about the quality or value of the property appraised and only the person for whom this report was prepared has a right to rely upon the contents of this report.

Therefore, except as hereinafter provided, the party for whom this appraisal report was prepared may distribute copies of this appraisal report, in its entirety, to such third parties as may be selected by the party for whom this appraisal report was prepared only upon receiving the prior express written consent of the signatories of this appraisal report to the distribution to third parties.

Further, neither all nor any part of this appraisal report shall be disseminated to the general public by use of advertising media, public relations media, sales media, or other media for public communication without the prior express written consent of the signatories of this appraisal.

8. The distribution of the total valuation of this report between land and improvements applies only under the utilization considered in this appraisal. The separate valuation of land and improvements must not be used in connection with any other appraisal and is invalid if so used.
9. The market value estimate assumes that the property does not contain urea formaldehyde foam, asbestos, radon gas, lead, lead-based paint, polychlorinated biphenyls (PCBs), underground storage tank, or any hazardous substance. The appraisers do not warrant the existence or nonexistence of material on the property of urea formaldehyde foam, asbestos, radon gas, lead, lead-based paint, polychlorinated biphenyls (PCBs), underground storage tank, or any hazardous material or substance, make no representation as to the degree of any health hazard or environmental hazard or condition that may exist on the property or in relation to the property, have not estimated the cost of the removal or remediation of such condition or hazard, and express no opinion as to any effect such condition or hazard may have on the marketability or value of the property being appraised. If the appraisal assignment is to include a determination whether such environmental conditions or hazards exist on the property being appraised and is to consider the effects, if any, such environmental conditions or hazards may have on market value, previous arrangements must be made with the appraisers for environmental auditing of the property, appropriate engineering studies, and specific evaluation of the environmental conditions on the property upon the marketability and value of the property.
10. Any plot plan or other maps shown here for the purposes of identification are not to be construed as an actual survey.
11. An engineering investigation to confirm the structural integrity of the building(s) has not been made. For purposes of this appraisal, structural soundness is assumed to exist but is not warranted by the appraiser(s).
12. An engineering study to determine soils suitability for existing or proposed structures has not been made. It is assumed that soil characteristics, which could cause settling, sliding, dampness, or other damages to buildings and site improvements, do not exist.
13. Unless environmental studies are made available to us, it is the position of Idaho Land and Appraisal, LLC that any duty and liability placed on the appraiser(s) be commensur-

ate with the level of knowledge, training, and experience required of the average appraiser in the normal course of appraising real property for market value determinations. This duty should reflect the appraiser(s) frame of reference, not the services that only an environmental engineer or comparable expert is equipped to perform.

14. No environmental audit of the property has been made, and no attempt has been made to determine whether the property or operations comply with any federal, state, or local environmental statute, rule, or regulation. The statement of value is based upon an assumption of compliance with all federal, state, and local environmental statutes, rules and regulations, that the property is not under any order or directive to institute any clean-up, remedial or corrective action plan, that the property is not the site of any treatment, storage, disposal or release of any hazardous material or substance and is not the site of urea formaldehyde foam, asbestos, radon gas, lead, lead-based paint, polychlorinated biphenyls (PCBs), or underground storage tank.
15. Appraiser shall not disclose the existence of any adverse environmental condition on or related to the property appraised to any person other than the (owner/financial institution/person employing appraiser) without the consent of the (owner/financial institution/person employing appraiser) unless required by law or the terms of the appraisal employment agreement or deemed necessary by appraiser to avoid imminent risk of injury to persons who may be exposed to such environmental condition. Nothing herein shall impose upon the appraiser any duty to disclose any adverse environmental condition.
16. (Owner/financial institution/person employing appraiser) promises and agrees to disclose to appraiser all information concerning or relating to the environmental condition of the property being appraised which is known to or within the possession or control of (owner/financial institution/person employing appraiser), including without limitation information whether the property is or has been the site of any treatment, storage, disposal, or release of any hazardous substance, or contains any urea formaldehyde foam, asbestos, radon gas, lead, lead-based paint, polychlorinated biphenyls (PCBs), or underground storage tank.
17. To the fullest extent allowed by law, the (owner/financial institution/person employing appraiser) shall indemnify and hold harmless the appraiser, appraiser's consultants and agents and employees, and any of them, from and against any and all claims, damages, losses and expenses, including, but not limited to attorney's fees, arising out of or resulting from performance of the appraisal, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

To the fullest extent allowed by law, the (owner/financial institution/person employing appraiser) shall indemnify and hold harmless the appraiser, appraiser's consultants and agents and employees, and any of them, from and against any and all claims, damages, losses and expenses, including, but not limited to attorneys' fees, arising out of or resulting from any adverse environmental condition on or related to the property appraised.

18. The Americans with Disabilities Act (ADA) became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, would reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this could have a negative effect upon the value of the property. Since we have no direct evidence relating to this issue, we did not consider possible non-compliance with the requirements of ADA in estimating the value of the property.
19. The appraisers are not knowledgeable in determining the seismographic condition of subject improvements. This issue can only be confirmed by a knowledgeable construction engineer.
20. No extraordinary assumptions or unusual hypothetical conditions were considered in my analysis.

APPRAISER QUALIFICATIONS

MARK W. RICHEY, MAI

EDUCATION

Undergraduate

High School in Nampa, Idaho

B.S. in Business from University of Idaho in 1975

Appraisal

Numerous appraisal courses and seminars have been taken through the various professional appraisal organizations. In excess of 700 hours of appraisal courses and 800 hours of continuing education seminars have been completed since 1976.

A list of these courses and seminars can be made available upon request.

CONTINUING EDUCATION FOR DESIGNATED MEMBERS

The Appraisal Institute and American Society of Farm Managers and Rural Appraisers conduct continuing education programs for its members. Members who meet the minimum standards of these programs are awarded periodic educational certification. I have currently completed the requirements under these continuing education programs.

EXPERIENCE

Associated with Idaho Land & Appraisal Ltd. Co., Boise, Idaho, since August 1975, doing business in Idaho and Oregon--principally on real estate appraisals of all classes of property. These valuation assignments include of residential, commercial, industrial, agricultural, and special use real estate. A partial client list includes the following:

Public Utilities

Idaho Power Co

Qwest

AT&T Broadband

Financial Institutions

U.S. Bank

Wells Fargo

Key Bank

MetLife

Rabobank

Farmland Management Services

AXA Equitable AgriFinance

Regional Industries

J. R. Simplot Company

North American Foods

St. Luke's

Agricultural Operators

JRS III Properties, LP

Hammett Livestock

J.D. Aldecoa & Son

Blaine Larsen Farms

Joe Black & Sons

Winnemucca Farms

Oil Companies

Stinker Stations

Chevron, U.S.A.

Texaco

Cities of,

Boise, Nampa, Caldwell,

McCall, Cascade,

Idaho City, Garden City,

Mountain Home

Government Agencies

Idaho Department of Law Enforcement

Idaho Department of Fish & Game

Idaho Department of Lands

Idaho Transportation Department

Bureau of Land Management

US Forest Service

Army Corps of Engineers

Internal Revenue Service

US Department of Energy

US Small Business Administration

Farm Services Agency

Ada County Highway District

COURT TESTIMONY

Qualified as expert witness in State of Idaho District Courts, U.S. District Court, and U.S. Bankruptcy Court

RECENT COURT TESTIMONY AND DEPOSITIONS

Client	Case Name	Case Number	Court	State	County	Dep	Trial
Boise Housing Authority	ACHD v Shoreline Plaza	CV OC 1218019	Idaho District Court	Idaho	Ada		X
Brooke View	ACHD v Brooke View Inc.	CV-OC-2012-12275	Fourth Judicial District	Idaho	Ada	X	X
J.R. Simplot Foundation	J.R. Simplot Foundation Inc. v Ada County Assessor, Ada County Board of Equalization	15-A-1202, 1203, 1208	Idaho Board of Tax Appeals	Idaho	Ada		X
Ray Montierth	Choice Feed, Inc., v. Montierth, et al	CV15-5208	Third Judicial District	Idaho	Canyon	X	
Judd DeBoer	City of McCall v. McKeown Realty Services, LLC, et al	Case No. CV 2016-172-C	Fourth Judicial District	Idaho	Valley	X	

Fees

The fees for professional services are based on hourly rates of \$150 for the appraisal process, \$250 for meetings, deposition and testimony, plus additional expenses of mileage and/or per diem charges.

MEMBERSHIP

MAI Designation - The Appraisal Institute

Professional Member - American Society of Farm Managers & Rural Appraisers

Member - Local and National Board of Realtors

State Certified Appraiser: Idaho License #CGA-11;
Oregon License #C000296

Division of Occupational Licenses
Department of Self-Governing Agencies
The public interest and the health, safety and welfare of the people
shall be the basic and chief concern of the State in the exercise of its
powers.
CERTIFIED GENERAL APPRAISER

MARK W. RICHY
P. O. BOX 370
EAGLE ID 83616

Free Copy
Thank You
Sincerely,
Mark W. Richy

CGA-11
Member

09092018
Expires

PROFESSIONAL CONTRIBUTIONS

Chair, Treasure Valley Farm Managers & Rural Appraisers 1983

President, Idaho Society of Farm Managers & Rural Appraisers 1989

President, Southern Idaho Chapter, American Institute of Real Estate Appraisers, 1989

Regional Representative of the Appraisal Institute 1991

PROFESSIONAL PUBLICATIONS

None

EXHIBIT B



Mark@IdahoLandandAppraisal.com

Mark W. Richey, MAI

October 1, 2018

Zephaniah Johnson
2208 N. 19th Street
Boise, Idaho 83702

Dear Mr. Johnson:

This report summarizes my conclusions regarding the impact to your property value caused by the Payette Lakes Cottage Sites Ownership Association (PLCSOA) development of a multi-slip dock on a parcel of land formerly noted on the State Subdivision-Southwest Payette Lake Cottage Sites plat as *Community Beach*. The PLCSOA's development of a multi-slip dock effectually created a land use change that has impacted lake front property views, created additional noise, and adversely impacted the local neighborhood enjoyment of their properties.

The intended use of my research is to determine from market data if the development and construction of a multi-slip dock directly adjacent to your property and the resulting change of use, impacted your real estate ownership legally described as follows:

Lot 187, State Subdivision-Southwest Payette Lake Cottage Sites, Valley County, Idaho

The purpose is to estimate the effect on your ownership caused by the development and construction of a multi-slip dock on the community beach immediately adjacent to your real property. It is my understanding this assignment's scope is for me to investigate and conclude market conditions before and after the dock was developed, research data for comparison purposes, conduct an analysis, and summarize my conclusions in an abbreviated appraisal report-consulting document. This appraisal is prepared for Zephaniah and Annmarie Johnson at their request. I am aware this report will be provided to professionals assisting the intended users. This appraisal report and the contents of my work file are not intended for any other use or user beyond what I have disclosed here.

I have made a cursory inspection of the subject property as part of this assignment. I am aware of the physical characteristics of this neighborhood, the *Community Beach*, and some of the adjacent properties prior to this transfer. I have familiarity with this area of Payette Lake and the Community Beach through my appraisal practice that began in 1975 on various properties near this location (Payette Lake Water and Sewer District, Tom Malson, Fred Bagley, Willy J. Garrison, J.R. Simplot Co.). Additionally, I am aware of the access to the Community Beach (Sharlie Lane and Sharlie Way), linking it to Warren Wagon Road.

Idaho Land and Appraisal, LLC
Real Estate Appraisers and Consultants
P.O. Box 370 Eagle, ID 83616 • O: 208-853-3400 • C: 208-866-3400

October 1, 2018
Zephaniah Johnson
Page Two

As part of this assignment I have gathered general information and researched the market for data from comparable properties to assist in this valuation. I made an interpretation of the market condition as of the appraisal date and based my analysis on direct comparisons of similar ownerships. Neither the Cost nor the Income Capitalization Approaches were investigated as part of this investigation.

The subject property is south and adjacent to the Community Beach noted on the State Subdivision-Southwest Payette Cottage Sites plat. Since the 1932 platting, the neighborhood and public were allowed use of the beach. The plat identifies three roads (Sharlie Way, Community Beach Road, Sharlie Lane) with direct connection to what is noted on the Plat as Community Beach. It is obvious this community beach area was the centerpiece of this 1930's development. Community Beach Road does not exist but is denoted on the plat.

Since the Community Beach was State land and intended for use as a community beach, building improvements had been restricted, and the historic beach or open space use was expected to continue. The Johnsons purchased their Payette Lake home in April of 2011 fully aware of the adjacent community beach, but due the notation on the plat and historic use, they had no reasonable expectation a change in land use could occur. In fact, the beach was considered by the Johnsons as a bonus, which created an additional open space amenity to their ownership.

The State Board of Land Commissioners transferred rights from the Community Beach to the Payette Lakes Cottage Sites Owners Association on April 23, 2014. Soon after, signs were placed restricting public access to the beach, and rights permitting the construction of a private dock were granted to a third-party entity. Additionally, the north extremity of the Community Beach site was offered by the PLSCOA to an adjacent owner for \$200,000. Before the 2014 transfer, the Johnsons had reason to assume the Community Beach site would continue in its historic use as a beach, with no likelihood of change due to the plat notations and past use. It has been my experience that public land or designated open space areas within neighborhood communities are typically managed for either enjoyment by the public or private use of a development (park, playground, golf course, etc.). Because of this type of ownership-management status the use or view shed is not expected to change either legally or physically.

In the case of public land, everyone has the right of access and use for a multitude of recreational and/or open space pursuits. Additional benefits accrue to nearby or adjacent ownerships like the subject not only due to proximity to public land, but the general assurances of the continuation of the existing use(s) and view shed. The 2014 transfer and the result of these changes (signs, use restrictions, extending an offer to sell a portion, the construction of a dock) constituted a notable land use change to Mr. and Mrs. Johnson's Payette Lake home.

October 1, 2018
Zephaniah Johnson
Page Three

It is my opinion the market value of the subject property (2390 Sharlie Lane) has been affected by physical changes that have subsequently occurred. The resulting uncertainty and risk caused by the change of use coupled with the potential for additional modifications to the area noted as Community Beach has affected the market value of this ownership based on my research.

The State of Idaho conveyed exchange deeds in 1999 granting *enjoyment and use* in common areas to lots now owned by neighbors of the Johnson's (Umbachs and Seilers) stating:

- a. No grantee shall make a conveyance of less than his entire interest in the common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities, and any such partial conveyance shall be void.
- b. The State of Idaho shall have no obligation for installation, operation or maintenance of these referenced common areas and facilities.
- c. The right to shared use and enjoyment of the common areas, parks, beaches, reserves, roads, sewer systems, water systems, and all other common facilities by state lessees and future purchasers of state lots together with existing lot owners in the subdivision described above.
- d. Upon conveyance of the last state-owned lot in fee simple located in the Amended Payette Lake Cottage Sites Subdivision, any right, title and interest to the common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities held by the State of Idaho shall automatically vest in common in all holders of the right of use and enjoyment described above, and the State of Idaho shall have no further right, title and interest in such common areas, parks, beaches, reserves, roads, sewer systems, water systems and all other common facilities.

It appears the State of Idaho breached item "d" above because the State retained ownership in other lots within the Amended Payette Lake Cottage Sites Subdivision. After this transfer the PLSCOA has:

- i. placed signs restricting public access to the beach;
- ii. negotiated rights permitting the construction of a private dock to a third-party entity, Wagon Wheel Bay Dock Association, Inc. (WWBDA);
- iii. offered a portion of the community beach on March 1, 2016 to an adjacent owner for \$200,000.

The result of this change to the Johnson's is that additional disclosures must be made by them to potential buyers, and the resulting type of ownership or membership in the common areas must be revealed. This can impact future real estate transactions. The fact a new dock has been approved by the PLSCOA, and a portion of the Community Beach has been offered to the adjacent owner demonstrates that change has occurred. In my opinion, the change has had a negative

impact on market value of the subject property. However, it may be a while before the total scope of the change of the land use control can be measured from market activity.

Some of the initial change that affects the subject property includes:

1. the PLSCOA granted Littoral Rights to the WWBDA,
2. trees were cleared without oversight or governmental approval to accommodate the construction of the dock,
3. the WWBDA constructed a private dock with 8-slips for sole use of its members,
4. the private dock extending from the site noted as *Community Beach* was constructed within the view shed of the subject property,
5. since this dock is designed for multiple users, it is larger than many docks used in support of a single residence, or one shared by adjacent owners,
6. the private dock is used extensively by the eight members, including their families and guests,
7. without an adjacent dwelling, the members of the WWBDA remain on the dock throughout the day,
8. pedestrian and automobile traffic have increased,
9. restroom facilities were not constructed to accommodate the change of use;

Some of the results pertaining to the changes above affecting the subject property could include:

1. if another lakefront home is available without the uncertainty of the PLSCOA control over the common areas within the Amended Cedar Knoll Acres, Amended Pinecrest Addition, and Southwest Payette Cottage Sites, the buyer may elect to purchase the alternate property,
2. the WWBDA use of a portion of the adjacent site likely exceeds the *carrying capacity* of what is expected in this market for a like-sized parcel,
3. should a competing parcel be available outside the affected subdivisions, the buyer would be in a position to reduce the offer to the subject owners, following his or her due diligence,
4. additional risk is perceived for the subject ownership due to the uncertainties created by the April 23, 2014 Declaration of Covenants, Conditions, and Restrictions over the land use of their adjacent parcel,
5. an extended marketing time for the subject is expected under the assumption of an informed buyer.

I went to the local market to conduct the analysis needed to estimate the effect an adjacent community dock parcel could have on a private, single-user property. My market research included single-family detached homes with deeded frontage on Payette Lake. Sales from 2008 through mid-2018 were considered. This search resulted in 51 lakefront homes, 2 of which had community dock neighbors.

A lakefront home at 904 Cottonwood Street sold in May of 2015 for \$1,525,000. The transaction included a 3,208-square-foot home (\$475/SF) with private dock on 99 feet of lake frontage. This ownership adjoins a community dock. The 2015 market data set includes seven transactions of lakefront homes, varying in size from 504 square feet of gross living area to 3,208 square feet, and range in price from \$371 to \$2,907 per square foot of gross living area. Excluding the outliers, the range narrows from \$475 to \$1,408 per square foot with most in the \$535 to \$860 per square foot array. A mid-point indication of about \$700 per square foot results in a value reduction of about 30 percent (\$475/\$700) due to the community boat dock proximity.

The second lakefront home adjacent to a community boat dock is at 938 Cottonwood. This property sold for \$1,595,000 in November of 2016 and included a rear dwelling (mother-in-law cottage), private boat dock and 55 feet of deeded lake frontage. For comparison purposes the lakefront portion and 2,650 square foot home were allocated separately using the Valley County Assessor data at \$1,088,640, resulting in a price indication of \$410 per square foot of gross living area. The 2015 market data set includes ten transactions of lakefront homes, varying in size from 1,299 square feet of gross living area to 6,989 square feet, and range in price from \$315 to \$1,013 per square foot of gross living area. Excluding the outliers, the range narrows from \$410 to \$890 per square foot with most in the \$650 to \$850 per square foot array. A mid-point indication of about \$750 per square foot results in a value reduction of about 45 percent indicated (\$410/\$750) due to the community boat dock proximity.

These two sales indicate a reduction in value ranging from 30 to 45 percent relying on same year of transaction comparisons. If the entirety of the 2008 through 2018 data set is considered, the mean results (\$/SF of gross living area) are:

2008	\$734/SF
2009	\$925/SF
2010	No reported Transactions
2011	\$587/SF
2012	\$802/SF
2013	\$535/SF
2014	\$667/SF
2015	\$1,075/SF
2016	\$668/SF
2017	\$565/SF
2018	\$730/SF

The data shows the market has been in the \$600 to \$800 per square foot of gross living area range since the beginning of the recovery in 2011. This supports my mid-range market indications for 2015 and 2016 at \$700/SF and \$750/SF of gross living area respectively. Relying on mid-point ranges of \$700 per square foot based on the entirety of the data set and the two sales with adjacent community dock properties at \$410/SF and \$475/SF, about \$450 per square foot of gross living area, the market's recognition of a similar physical characteristic to what currently affects the subject is a 35 percent reduction in market value (\$450/\$700).

Based on my investigations to date, I have concluded the market value of the subject property is obviously impacted. The data for like properties is limited regarding the number of sales, but each of the transactions appear to have sold for less per square foot of gross living area when compared to other transactions the same year of sale, or the larger market data set. My estimate of the reduction in value is effective at the time this research was conducted, August-September 2018. The data supports my initial observation that the market value has been reduced in comparison to what the subject ownership could have received if the April 23, 2014 transfer had not occurred. It is my opinion the market value of the subject property has been reduced 35 percent, due to the resulting change of use caused by the Idaho State Board of Land Commissioners effective transfer of real property rights from a parcel of land formerly noted on the State Subdivision-Southwest Payette Lake Cottage Sites plat as *Community Beach* to the Payette Lakes Cottage Sites Owners Association.

Definitions relied on in this investigation include:

"Market Value," as used in this report, is defined as:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. Reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

Source: The Dictionary of Real Estate Appraisal, Fifth Edition, 2010, pp. 122-123

“Highest and Best Use,” as used in this report, is defined as:

Four criteria are examined to estimate the highest and best use of the subject property. The criteria and their applicability to the subject, both “as vacant” and “as improved” are as follows:

- **Legally Permissible:** a legally permissible use is determined primarily by current zoning regulations. However, other considerations such as long-term leases, deed restrictions, and environmental regulations may preclude some possible highest and best use.
- **Physically Possible:** the size, shape, and topography affect the uses to which land may be developed. The utility of a parcel can be dependent on its frontage and depth. Sites with irregular shapes may be more expensive to develop, and topography or subsoil conditions may make utilization too costly or restrictive. Highest and best use as improved also depends on physical characteristics such as condition and utility.
- **Financially Feasible:** the use of the property is analyzed to make a determination as to the likelihood that the property is capable of producing a return, which is greater than the combined income needed to satisfy operation expenses, debt service, and capital amortization. Any use that is expected to produce a positive return is classified as financially feasible.
- **Maximally Productive:** the use that provides the highest rate of return among financially feasible uses is the highest and best use. The use of the land must yield a profitable net return, and the quantity of land devoted to any specific use must be limited to that quantity which will yield a maximum return to each owner.

“Valuation Process,” as used in this report:

The valuation process is a systematic set of procedures an appraiser follows to provide answers to questions about real property value. In assignments to develop an opinion of market value, the goal of the valuation process is a well-supported value conclusion that reflects all of the pertinent factors that influence the market of the property being appraised. To achieve this goal, the appraiser studies a property from three different viewpoints, which are referred to as the approaches to value. These are; the sales comparison approach, the cost approach, and the income capitalization approach.

The Sales Comparison Approach is best utilized when a number of similar properties have recently sold. The sale prices of the properties “comparables” that are most similar to the subject tend to indicate a range in which the value indication of the appraised property will fall.

The Cost Approach is derived by adding the estimated value of the land to the current cost of replacing the building improvements, less accrued depreciation from all causes. This approach has greater reliability in valuing new or nearly new improvements, or properties that are not frequently exchanged in the market.

October 1, 2018
Zephaniah Johnson
Page Eight

The Income Capitalization Approach reflects the present value of the future benefits derived by the ownership of real property. Data needed to complete this valuation method includes market rents, vacancy rates, anticipated annual operating expenses, and overall capitalization rates. This valuation method is best used for appraisals of real estate involving income-producing properties, apartments, offices, retail buildings, industrial properties, etc. One or more of these approaches are used in all real property valuations. The appraisal approach utilized depends on the type of property, the use of the appraisal, as well as the quality and quantity of market data available. Each valuation method is applicable to many appraisal assignments. Generally, one or more of these approaches have greater reliability for the subject appraisal. The approaches to value and techniques used depend on which ones are necessary to produce credible assignment results, given the intended use.

Traditionally, specific appraisal techniques are applied within the three approaches to derive indications of real property value. The specific approaches and corresponding techniques used will be discussed within the valuation portion of the appraisal.

To complete the valuation process, the appraiser integrates the information drawn from market research, data analysis, and the application of the approaches to reach a value conclusion. This conclusion may be presented as a single-point estimate of value or if the assignment permits, as a range within which the value may fall.

If there is anything else I can provide, please let me know.

Thank you for the opportunity to be of service.

Respectfully submitted,

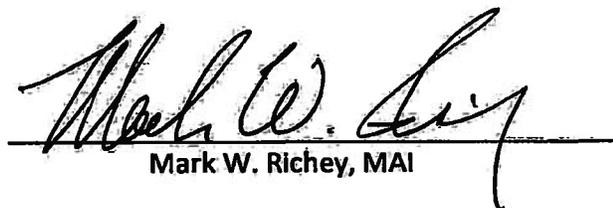
A handwritten signature in black ink, appearing to read "Mark W. Richey". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Mark W. Richey, MAI

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. the statements of fact contained in this report are true and correct.
2. the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
3. I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
4. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. my engagement in this assignment was not contingent upon developing or reporting predetermined results.
6. my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
8. I have made a personal inspection of the property that is the subject of this report.
9. no one provided significant real property appraisal assistance to the person signing this certification.
10. the reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute and American Society of Farm Managers and Rural Appraisers.
11. that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
12. As of the date of this report, I have completed the continuing education program of the American Society of Farm Managers and Rural Appraisers.
13. As of the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.
14. I have prepared a prior appraisal of the subject property within the three-year period immediately preceding acceptance of this appraisal assignment.


Mark W. Richey, MAI

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal is subject to the following assumptions and limiting conditions

A. Legal Matters and Title Status

- 1. No responsibility is assumed for matters legal in character or nature.**
- 2. No opinion is rendered as to title, which is assumed to be good and marketable.**
- 3. No survey of the property was made, and no liability is assumed related to such matters.**
- 4. Any plot plan or other maps shown here for the purposes of identification are not to be construed as an actual survey.**
- 5. The legal description provided is assumed correct.**
- 6. All existing liens, encumbrances, and assessments have been disregarded, unless otherwise noted, and the property is appraised as though free and clear, having responsible ownership and competent management.**
- 7. This appraisal assumes (unless otherwise specifically stated) that the subject is structurally sound, and all components are in working condition.**

If this valuation conclusion is subject to satisfactory completion, repairs, or alterations, it is assumed that the improvements will be completed competently and without significant deviation.

- 8. The distribution of the total valuation of this report between land and improvements applies only under the utilization considered in this appraisal. The separate valuation of land and improvements must not be used in connection with any other appraisal and is invalid if so used.**
- 9. I will not be required to give testimony or appear in court because of having made an appraisal of the property in question, unless specific arrangements to do so have been made in advance**
- 10. Information furnished by others is assumed reliable, but no responsibility is assumed for its accuracy.**
- 11. I have noted in this appraisal report any significant adverse conditions discovered during the data collection process in performing the appraisal. Unless otherwise stated in this appraisal report, I have no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property that would make the property less valuable, and have assumed that there are no such conditions and make no guarantees or warranties, express or implied. I will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist.**

B. Examination of Property and Collection of Data

I have examined the property described herein exclusively for the purposes of identification and description of the real property. The objective of any data collection is to develop an opinion of the highest and best use of the subject property and make meaningful comparisons in the valuation of the property. The appraiser's observations and reporting of the subject improvements are for the appraisal process and valuation purposes only and should not be considered as a warranty of any component of the property.

C. The Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) became effective January 26, 1992. I have not made a specific compliance survey and analysis of this property to determine whether it is in conformity with the various detailed requirements of the ADA. Since I have no direct evidence relating to this issue, I did not consider possible non-compliance with the requirements of ADA in estimating the value of the property.

D. Additional Certification for Appraisal Institute Members, Candidates and Practicing Affiliates

Appraisal Institute Designated Member Certification:

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.

E. Disclosure of Appraisal

I will not disclose the contents of this appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, applicable federal, state or local laws, or professional peer review.

F. The Client, Appraisal Use and Related Limitations

The Client is the party or parties who engage an appraiser in a specific assignment. A party receiving a copy of this report from my client does not, as a consequence, become a party to the appraiser-client relationship. Any person who receives a copy of this appraisal report as a consequence of disclosure requirements that apply to an appraiser's client, does not become an intended user of this report unless my client specifically identified them at the time of the assignment. My appraiser's written consent and approval must be obtained before this appraisal report can be conveyed to anyone including the public through advertising, public relations, news, sales, or other media.

G. Indemnification

To the fullest extent allowed by law, my client shall indemnify and hold me harmless, my consultants and agents and employees, and any of them, from and against any and all claims, damages, losses and expenses, including, but not limited to attorney's fees, arising out of or resulting from performance of the appraisal, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

As fully allowed by law, the client shall indemnify and hold harmless the appraiser, appraiser's consultants and agents and employees, and any of them, from and against all claims, damages, losses and expenses, including, but not limited to attorney fees, arising out of or resulting from any adverse environmental condition on or related to the property appraised.

H. Work File

My analysis and valuation is not limited to this document. It also includes my work file that includes all my market data, but possibly not all my analysis, any deposition testimony and all trial testimony in which my analysis is set forth.

I. Unusual Extraordinary Assumptions

1. None Considered

J. Hypothetical Conditions

1. None Made

APPRAISER QUALIFICATIONS

MARK W. RICHEY, MAI

EDUCATION

Undergraduate

High School in Nampa, Idaho
B.S. in Business from University of Idaho in 1975

Appraisal

Numerous appraisal courses and seminars have been taken through the various professional appraisal organizations. In excess of 700 hours of appraisal courses and 800 hours of continuing education seminars have been completed since 1976. A list of these courses and seminars can be made available upon request.

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The Appraisal Institute and American Society of Farm Managers and Rural Appraisers conduct continuing education programs for its members. Members who meet the minimum standards of these programs are awarded periodic educational certification. I have currently completed the requirements under these continuing education programs.

EXPERIENCE

Associated with Idaho Land and Appraisal LLC., Boise, Idaho, since August 1975, doing business in Idaho and Oregon--principally on real estate appraisals of all classes of property. These valuation assignments include of residential, commercial, industrial, agricultural, and special use real estate. A partial client list includes the following:

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Key Bank
MetLife
RaboBank
Farmland Management Services
AXA Equitable AgriFinance

Regional Industries

J. R. Simplot Company
North American Foods
St. Luke's

Agricultural Operators

JRS III Properties, LP
Hammett Livestock
J.D. Aldecoa & Son
Blaine Larsen Farms
Joe Black & Sons
Winnemucca Farms

Oil Companies

Stinker Stations
Chevron, U.S.A.
Texaco

Cities of,

Boise, Nampa, Caldwell,
McCall Cascade,
Idaho City, Garden City

Government Agencies

Idaho Department of Law Enforcement
Idaho Department of Fish & Game
Idaho Department of Lands
Idaho Department of Transportation
Bureau of Land Management
US Forest Service
Army Corps of Engineers
Internal Revenue Service
US Department of Energy
US Small Business Administration
Farm Services Agency
Ada County Highway District

COURT TESTIMONY

Qualified as expert witness in State of Idaho District Court, U.S. District Court, and U.S. Bankruptcy Court

MEMBERSHIP

MAI Designation - The Appraisal Institute
Professional Member - American Society of Farm Managers & Rural Appraisers
Member - Local and National Board of Realtors
Idaho Real Estate Sales License (currently inactive)
State Certified Appraiser: Idaho License #CGA-11;
Oregon License #C000296

PROFESSIONAL CONTRIBUTIONS

Chair, Treasure Valley Farm Managers & Rural Appraisers 1983
President, Idaho Society of Farm Managers & Rural Appraisers 1989
President, Southern Idaho Chapter, American Institute of Real Estate Appraisers, 1989
Regional Representative of the Appraisal Institute 1991

Department of Self-Governing Agencies
The person named here and the requirements for licensure are in addition
under the laws and rules of the State of Idaho to operate as a(n)

CERTIFIED GENERAL APPRAISER

MARK W. RICHEY
P.O. BOX 270
EAGLE, IDAHO 83616

Tina Cory
Chair, B.O.L.

CGA-11
Number

09/04/2019
Expires