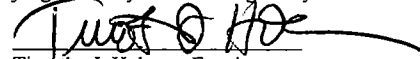


**NOTICE TO PLEAD**

To: Petitioner, Eleanor Smith Morris

You are hereby notified to plead to the enclosed Answer of Schuylkill Center for Environmental Education to Petition of Eleanor Smith Morris for Declaratory Judgment With New Matter within twenty (20) days from service hereof or a default judgment may be entered against you.



Timothy J. Holman, Esquire  
Attorney for Defendant, Schuylkill  
Center for Environmental Education

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
ORPHANS' COURT DIVISION

NO. 00056 of 1996

IN RE: SCHUYLKILL CENTER FOR ENVIRONMENTAL EDUCATION,  
A PENNSYLVANIA NONPROFIT CORPORATION

**ANSWER OF SCHUYLKILL CENTER FOR ENVIRONMENTAL EDUCATION TO  
PETITION OF ELEANOR SMITH MORRIS FOR DECLARATORY JUDGMENT  
WITH NEW MATTER**

The Schuylkill Center for Environmental Education ("SCEE"), by and through its undersigned counsel, hereby responds to the Petition of Eleanor Smith Morris for Declaratory Judgment, as follows:

1. Admitted.
2. Admitted.
3. Admitted in part and denied in part. It is admitted that Petitioner did not serve as a Trustee during the year 2002. The averments with respect to Petitioner's purported service as a Trustee from 1996 through 2002 are admitted. By way of further response, upon information and belief there were approximately 50 board meetings from the time Petitioner came onto the Board through January 2002. Upon information and belief, Petitioner attended six, including none in 1996, one in 1997, two in 1998, none in 1999, two in 2000 and one in 2001. In addition, upon information and belief, Petitioner was also the only member of the Board during that period who did not serve on any committees of the Board.

4. Admitted in part and denied in part. The averments of paragraph 4 refer to writings, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writings is expressly denied. The averment that “most of” the property was donated or devised to the Corporation by Petitioner’s mother is denied as a conclusion of law to which no responsive pleading is required. The averment that the property is located in a “highly desirable area” is denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to Petitioner’s subjective interpretation of the phrase “highly desirable area.” The averment that the property “constitutes the largest area of privately owned space within the Philadelphia city limits is denied as a conclusion of law, and is denied because the property is not privately owned, it is owned by SCEE. It is admitted that a deed plot is attached as Exhibit A.

5. Admitted in part and denied in part. It is admitted that the articles of incorporation were amended in 1988. The remaining averments of paragraph 5 are denied as conclusions of law to which no responsive pleading is required. To the extent any response may be required, it is expressly denied that the amendments either changed the charitable purposes of the corporation or were required to be approved by the Court.

6. Admitted in part and denied in part. The averments of paragraph 6 are denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of the vague, subjective and non-specific averments of paragraph 6. In addition, the averments of paragraph 6 are denied as conclusions of law to which no responsive pleading is required. It is admitted that the Board has considered the potential sale and or development of a portion of the property.

7. Admitted in part and denied in part. It is admitted that the Petitioner is a trustee and a member of the corporation. It is admitted upon information and belief that the Petitioner is the eldest child of two of the corporation’s incorporators. It is denied that the Petitioner is the “largest benefactor” of SCEE. The remaining averments of paragraph 7 are denied as conclusions of law to which no responsive pleading is required.

8. Denied as a conclusion of law to which no responsive pleading is required.

9. Denied as a conclusion of law to which no responsive pleading is required.

10. Denied as a conclusion of law to which no responsive pleading is required.
11. Admitted in part and denied in part. It is admitted that the property is located in the Roxborough section of Philadelphia. The remaining averments of paragraph 11 are conclusions of law to which no responsive pleading is required.
12. Admitted in part and denied in part. It is admitted that the southernmost 24 acres were devised to SCEE under the Will of Petitioner's mother, and that those acres are commonly known as the "Boy Scout Tract." The remaining averments of paragraph 12 refer to a writing the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is denied.
13. No response is required to this paragraph.
14. Denied. The averments of paragraph 14 are conclusions of law to which no responsive pleading is required. In addition, the averments of paragraph 14 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is denied.
15. Admitted in part and denied in part. The averment with respect to the Education Building being in the "middle" of the property is denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to Respondent's interpretation of that word. It is admitted that the Education Building contains interactive exhibits, a bookstore/gift shop, auditorium and numerous classrooms.
16. Admitted in part and denied in part. It is admitted that during the school year and during school hours, a portion of the Education Building is occupied by the Green Woods Charter School ("GWCS"). It is denied that "most" of the Education Building is occupied by the Charter School. It is admitted that approximately 200 children from kindergarten through eighth grade attend GWCS.
17. It is admitted that approximately 10,000 other persons attend the Corporation's educational programs each year on the Property, in the Education Building and off-site. It is denied that "most" of the adult education now takes place at nearby Philadelphia University.

18. Denied. It is expressly denied that participation by college students and adults in the Corporation's programs has decreased due to the alleged lack of space resulting from the presence of GWCS.

19. Admitted.

20. Admitted.

21. Admitted upon information and belief.

22. Denied. The averments of paragraph 22 are conclusions of law to which no responsive pleading is required. To the extent any further response may be required, the averments of paragraph 22 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is expressly denied.

23. Admitted upon information and belief.

24. Denied. The averments of paragraph 24 refer to a document, the contents of which speak for themselves. Any averment to the contrary of the express terms of the document is expressly denied.

25. Admitted.

26. Admitted in part and denied in part. It is admitted that the Articles of Incorporation dated November 1, 1964 were signed by the persons identified in Petitioner's paragraph 26. The remaining averments of paragraph 26 refer to documents, the contents of which speak for themselves. Any averment to the contrary of the express terms of the documents is expressly denied.

27. Admitted in part and denied in part. The averments of paragraph 27 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is expressly denied. It is admitted that the Articles of Incorporation contain the cited language. By way of further response, a review of Exhibit C to the Petition confirms that, immediately after the language quoted by the Petitioner, the following language appears:

The corporation does not contemplate pecuniary gain or profit, incidental or otherwise, to its members.

The corporation is organized exclusively for charitable, educational and scientific purposes, as defined by Section 501(c)(3) of the Internal Revenue Code....

28. Admitted in part and denied in part. It is admitted that Eleanor Houston Smith died on August 29, 1987. The averments with respect to the Will of Eleanor Houston Smith refer to a writing, the contents of which speak for themselves. Any averments to the contrary of the express terms of the Will are expressly denied.

29. Denied as a conclusion of law to which no responsive pleading is required.

30. Admitted in part and denied in part. To the extent the averments of paragraph 30 are conclusions of law, they are deemed denied and no responsive pleading is required. It is admitted only that a lobby and two-story addition to the Education Building were completed in 1992. It is further admitted that the expansion included the addition of a library, book and gift store and office space. It is denied that the expansion more than doubled the square footage of the Education Building. It is further admitted that the Education Building contains a section known as the “Eleanor Houston Smith Wing.” It is denied that the Center used the \$710,000 testamentary gift to construct the addition. To the contrary, the Center held a capital campaign to raise funds for the addition.

31. Admitted in part and denied in part. The averments of paragraph 31 refer to a writing, the contents of which speak for themselves. Any averments to the contrary of the express terms of the writings are expressly denied. It is admitted that SCEE filed the Amended Articles on September 21, 1988. It is admitted that the Corporation changed its name to the Schuylkill Center for Environmental Education. The averment that SCEE “changed its charitable purposes” is denied as a conclusion of law to which no responsive pleading is required. To the extent any response may be required, it is denied that SCEE changed its charitable purposes when it filed the Amended Articles.

32. Denied. The averments of paragraph 32 refer to a writing, the contents of which speak for themselves. Any averments to the contrary of the express terms of the writing are expressly denied. To the extent any further response may be required, Respondent notes that Petitioner omitted relevant language that follows the language quoted by the Petitioner.

33. Denied. The averments of paragraph 33 are denied as a conclusion of law to which no responsive pleading is required. In addition, the averments of paragraph 33 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express

terms of the writing is expressly denied. To the extent any further response may be required, it is expressly denied that the Amended Articles changed the charitable purposes of the Corporation.

34. Denied. The averments of paragraph 34 are denied as conclusions of law to which no responsive pleading is required.

35. Denied. The averments of paragraph 35 are conclusions of law to which no responsive pleading is required.

36. Admitted. It is admitted that in 2002, SCEE entered into an agreement whereby it leased space in the Education Building to the Charter School. Any implication that the timing of that lease coincided by design with Petitioner's one-year mandated hiatus from the Board is expressly denied. By way of further response, Petitioner during 2002 received regular updates on the fact and progress of the lease negotiations with the Charter School.

37. Admitted in part and denied in part. It is admitted upon information and belief that the Charter School filed its articles of incorporation on or about June 27, 2002. It is admitted upon information and belief that the Articles of Incorporation of the Charter School are attached as Exhibit "E" to the Petition. The remaining averments of paragraph 37 are denied as conclusions of law to which no responsive pleading is required, or they are denied because they refer to documents, the contents of which speak for themselves.

38. Admitted in part and denied in part. It is admitted upon information and belief that the Charter School filed the Articles of Amendment that are attached as Exhibit "F" to the Petition. The remaining averments of paragraph 38 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is expressly denied.

39. Admitted in part and denied in part. It is admitted that the lease with the Charter School expired at the end of the 2005-06 school year, and it is admitted that the lease was extended to coincide with the Charter School's application to renew its charter. It is expressly denied that the Board did not approve the one year extension. To the contrary, the Board approved the extension. To the extent any further response may be required, the averments of paragraph 39 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is expressly denied.

40. Admitted.

41. Admitted in part and denied in part. It is admitted that the plan proposed by CICADA was completed in June 2005. The remaining averments of paragraph 41 refer to a writing, the contents of which speak for themselves. Any averment to the contrary to the terms of the writing is expressly denied.

42. Denied. The averments of paragraph 42 refer to (and, indeed, quote from), a writing, the contents of which speak for themselves. Any averment to the contrary of the terms of the writing is expressly denied.

43. Admitted in part and denied in part. It is admitted that on December 15, 2005, the memorandum referred to in Paragraph 43 of the Petition was read at a meeting of the Corporation's Buildings and Grounds Committee, which Petitioner attended. It is further admitted that Petitioner and two other board members raised with the Buildings and Grounds Committee the issues described in paragraph 43 of the Petition, and that those issues were discussed in detail at that meeting.

44. Admitted.

45. Admitted.

46. Admitted in part and denied in part. It is admitted that it has been recommended to the Board that the Charter School's lease be extended. The averment with respect to the Petitioner's alleged "understanding" as to the terms of the proposed lease extension are denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the state of mind of the Petitioner. It is denied that terms of the Proposed Lease were not discussed by the Board prior to September 2006.

47. Admitted. It is admitted that Petitioner raised at the regularly scheduled Board meeting on March 27, 2006 her "concerns" outlined in paragraph 47 of the Petition.

48. Admitted in part and denied in part. It is admitted that the Proposed Lease was voted upon at the Board meeting on September 26, 2006. It is also admitted that the Proposed Lease was executed a week earlier by the Charter School. Any implication that the execution of the lease by the Charter School at that time was in any way improper is denied. The remaining

averments of paragraph 48 refer to the lease, a document which speaks for itself. Any averment to the contrary of the terms of the lease is denied.

49. Admitted in part and denied in part. It is admitted that the members of the Board received a draft of the Proposed Lease prior to the September 26, 2006 meeting. The remaining averments of paragraph 49 are denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of the averments. In addition, to the extent that the averments refer to the “knowledge” of the Petitioner, they are denied because Respondent is without knowledge or information sufficient to form a belief as to the “knowledge” of the Petitioner. To the extent any further response may be required, Petitioner was advised by the Board prior to the meeting that the Charter School is a 501(c)(3) charitable organization, and Petitioner has not suggested in her Petition (nor could she) that the Charter School is not a charitable organization. It is admitted that the Board, of which certain members are attorneys, did not retain outside counsel in September 2006 for the express purpose of reviewing SCEE’s Articles of Incorporation, the Proposed Lease or its financial impact on the Corporation. Any implication that the Board was obligated to do so at that time is expressly denied.

50. Admitted in part and denied in part. It is admitted that the bylaws of SCEE are attached as Exhibit “G” to the Petition. The remaining averments of paragraph 50 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the terms of the writing is expressly denied.

51. Denied as a conclusion of law to which no responsive pleading is required.

52. Denied as a conclusion of law to which no responsive pleading is required.

53. Admitted.

54. Denied. The averments of paragraph 54 are conclusions of law to which no responsive pleading is required.

55. Denied. It is denied that because the Charter School occupies more than fifty percent of the Education Building, including the auditorium and all but one classroom, SCEE is forced to conduct most of its adult education programs offsite, at Philadelphia University. Indeed, it is denied that the Charter School occupies more than fifty percent of the Education



Building. By way of further response, it is admitted that some of such programs were held in the Education Building prior to the lease with the Charter School. By way of response to the last sentence of Petitioner's paragraph 55, it is denied that during the school year, all of the educational programs that occur in the Education Building are held in the space not occupied by the Charter School. To the contrary, the educational programs provided by SCEE's educators to the students of the Charter School are held in the space occupied by the Charter School.

56. Denied.

57. Denied. It is denied that SCEE must conduct more of its fundraising and social activities offsite because the auditorium in the Education Building has been converted for use by the Charter School. By way of further response, SCEE's 40<sup>th</sup> Anniversary celebration did not need to be held at Drexel University, nor did the 2006 Gala need to be held at the Academy of Natural Sciences. It is admitted that, in 2006, the Gala was not held on the school grounds. By way of further response, the gala has been held at the Center since the Charter School has been a tenant.

58. Admitted in part and denied in part. It is denied that in September 2006 more than 10 local wildlife societies and community organizations were informed that they could no longer hold their meetings in the Education Building because the space was used by the Charter School. The remaining averments of paragraph 58 are admitted.

59. Admitted in part and denied in part. It is admitted that because of space needs, SCEE converted its library into two classrooms. It is admitted that some of the library books were donated to other charitable organizations, including the Charter School. Any implication that the library, which was moved, was eliminated is expressly denied.

60. Admitted in part and denied in part. It is admitted that the Charter School has modular, trailer classrooms on the grounds. It is denied that the modular, trailer classrooms do not serve any purpose of the Corporation. To the contrary, the Corporation uses those modular, trailer classrooms during the summer to conduct summer camp programs. The remaining averments of paragraph 60 are denied as conclusions of law to which no responsive pleading is required and because they allege a personal sentiment of the Petitioner regarding aesthetics. Respondent, after reasonable investigation, is without knowledge or information sufficient to

form a belief as to the truth of Petitioner's purported sentiment with respect to aesthetics, and that averment is therefore denied.

61. Admitted in part and denied in part. It is admitted that SCEE has spent at least \$73,000 of its own funds to make capital improvements to the Education Building to enable the Education Building to comply with state regulations. It is denied that the sole purpose of such improvements was to enable the Charter School to comply with state regulations.

62. Admitted in part and denied in part. It is admitted that the Board has recently explored the possibility and feasibility of selling and/or developing the Boy Scout Tract and other areas, in accordance with its rights under the relevant documents. To the extent that any response is required to the remaining averments of paragraph 62, which state the Petitioner's opinion with respect to the desirability of the Property, are denied because Respondent is without knowledge or information sufficient to form a belief as to the truth of those averments.

63. Denied. The averments of paragraph 63, which refer to the purported absence of a suggestion, but which fail to identify who the alleged maker of such a suggestion might be, are denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of the averments. To the extent any further response may be required, in light of the fact that the Board considered the sale of the Boy Scout Tract, and in light of the fact that the Board is not required to demonstrate that the Boy Scout Tract is "inappropriate for the purposes" of the Corporation, the averments of paragraph 63 are pointless.

64. Denied. The averments of paragraph 64, which refer to the purported absence of a suggestion, but which fail to identify who the alleged maker of such a suggestion might be, are denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of the averments. To the extent any further response may be required, in light of the fact that the Board considered the sale of the Boy Scout Tract, and in light of the fact that the Board is not required to demonstrate that the Boy Scout Tract would further the purposes of the Corporation, the averments of paragraph 64 are pointless. By way of further response, the implication by Petitioner that the receipt of substantial funds by the Corporation would not further the purposes of the Corporation is puzzling at best.

65. The Will of Eleanor Houston Smith is a writing, the contents of which speak for themselves. The remainder of the averments contained in paragraph 65 are admitted.

66. Admitted.

67. Denied. The averments of paragraph 67 refer to a writing which is not attached to the Petition, the contents of which speak for themselves. Any averment to the contrary of the terms of the writing are expressly denied.

68. Admitted in part and denied in part. It is admitted that Natural Lands Trust proposed to submit an application on behalf of SCEE to the Pennsylvania DCNR and suggested that DCNR could award grants totaling up to \$1.5 million over two years in exchange for the easements. It is denied that Natural Lands Trust provided any assurances that DCNR either would award grants or would award grants in any specific amount.

69. Denied. It is denied that the Board had no advance notice of the presentation to be made at the September 2006 meeting.

70. It is admitted that the Trustees voted on whether the application should be submitted. It is admitted that copies of the applications were not delivered to the Board. By way of further response, the application was and has been available for review at the Center.

71. Admitted in part and denied in part. It is admitted that Petitioner voted in favor of submitting the application to DCNR. The remaining averments of paragraph 71, which refer to the state of mind of Petitioner, are denied because Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of those averments.

72. Denied. The averments of paragraph 72 set forth conclusions of law to which no responsive pleading is required. Alternatively, the averments of paragraph 72 set forth the musings and/or state of mind of Petitioner. As such, Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of the averments.

## **COUNT I**

### **Request for Declaratory Relief re: Articles of Incorporation**

73. In response to Petitioner's paragraph 73, Respondent incorporates by reference its responses to paragraphs 1 through 72 above as though fully set forth herein at length.

74. Denied as a conclusion of law to which no responsive pleading is required.

75. Denied as a conclusion of law to which no responsive pleading is required. To the extent any further response may be required, it is denied that the charitable purposes of the Corporation have been changed.

76. Admitted in part and denied in part. It is admitted that Eleanor Houston Smith and Margaret Houston Meigs donated land to the Property via legal instruments that speak for themselves. The remaining averments of paragraph 76 are denied as a conclusion of law to which no responsive pleading is required. To the extent any further response may be required, it is denied that the charitable purposes of the Corporation have been changed.

77. Denied as a conclusion of law to which no responsive pleading is required.

78. Admitted in part and denied in part. It is admitted that the testamentary gift by Eleanor Houston Smith was made prior to the amendment of the Original Articles. The remaining averments of paragraph 78 refer to the state of mind of a deceased person. As such, Respondent, after reasonable investigation, is without knowledge or information sufficient to form a belief as to the truth of those averments.

79. Denied. The averments of paragraph 79 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the terms of the writing is expressly denied. In addition, the averments of paragraph 79 are denied as a conclusion of law to which no responsive pleading is required.

80. Denied. The Corporation is investigating the issue of whether it sought or obtained court approval of the amendment of the articles of incorporation. At this time it is without knowledge or information sufficient to form a belief as to the truth of that averment, and therefore denies the averment. The averment that such approval was required is denied as a conclusion of law to which no responsive pleading is required. To the extent any further response may be required, it is expressly denied that the Corporation was required to seek or obtain approval of the Court in connection with the filing of the Amended Articles.

WHEREFORE, Respondent Schuylkill Center for Environmental Education respectfully requests that this Honorable Court dismiss the Petition, enter judgment in its favor, and award such other and further relief as the Court deems appropriate, including but not limited to the attorney's fees and costs incurred by Respondent in connection with this matter.

## **COUNT II**

### **Request for Declaratory Relief re: Lease with Charter School**

81. In response to Petitioner's paragraph 81, Respondent incorporates herein by reference its responses to paragraphs 1 through 80 above as though fully set forth herein at length.

82. Denied as conclusions of law to which no responsive pleading is required.

83. Denied as a conclusion of law to which no responsive pleading is required.

84. Denied as a conclusion of law to which no responsive pleading is required.

85. Denied as a conclusion of law to which no responsive pleading is required, and denied for the reasons set forth in paragraphs 1 through 84 above.

86. Denied. The averments of paragraph 86 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is denied. In addition, the averments of paragraph 86 are denied as a conclusion of law to which no responsive pleading is required.

87. Denied. The averments of paragraph 87 are denied as conclusions of law to which no responsive pleading is required.

88. Denied as a conclusion of law to which no responsive pleading is required. To the extent any further response may be required, the averments of paragraph 87 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is denied.

89. Denied as a conclusion of law to which no responsive pleading is required.

90. Denied as a conclusion of law to which no responsive pleading is required.

91. Denied as a conclusion of law to which no responsive pleading is required.

92. Denied as a conclusion of law to which no responsive pleading is required.

WHEREFORE, Respondent Schuylkill Center for Environmental Education respectfully requests that this Honorable Court dismiss the Petition, enter judgment in its favor, and award such other and further relief as the Court deems appropriate, including but not limited to the attorney's fees and costs incurred by Respondent in connection with this matter.

### COUNT III

#### **Request for Declaratory Relief re: Development and Sale of Real Property**

93. In response to Petitioner's paragraph 81, Respondent incorporates herein by reference its responses to paragraphs 1 through 80 above as though fully set forth herein at length.

94. Denied. The averments of paragraph 94 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is expressly denied.

95. Denied. The averments of paragraph 95 refer to a writing, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writing is expressly denied.

96. Denied. The averments of paragraph 96 refer to writings, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writings is expressly denied. To the extent any further response may be required, the averments of paragraph 96 are conclusions of law to which no responsive pleading is required.

97. Denied. The averments of paragraph 97 refer to writings, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writings is expressly denied. To the extent any further response may be required, the averments of paragraph 97 are conclusions of law to which no responsive pleading is required.

98. Denied. The averments of paragraph 98 refer to writings, the contents of which speak for themselves. Any averment to the contrary of the express terms of the writings is expressly denied. To the extent any further response may be required, the averments of paragraph 98 are conclusions of law to which no responsive pleading is required.

WHEREFORE, Respondent Schuylkill Center for Environmental Education respectfully requests that this Honorable Court dismiss the Petition, enter judgment in its favor, and award such other and further relief as the Court deems appropriate, including but not limited to the attorney's fees and costs incurred by Respondent in connection with this matter.

### **Parties in Interest**

99. Admitted in part and denied in part. It is admitted that the resolution of the questions presented may affect the interests of the parties identified in Petitioner's paragraph 99. It is denied that the persons identified in Petitioner's paragraph 99 are the only persons whose interests will be affected. For example, the interests of the School District of Philadelphia, the approximately 200 children who attend the Charter School and their families will be affected by the outcome of the Petition.

100. Admitted.

WHEREFORE, Respondent Schuylkill Center for Environmental Education respectfully requests that this Honorable Court dismiss the Petition, enter judgment in its favor, and award to Respondent such other and further relief as the Court deems appropriate, including but not limited to the attorney's fees and costs incurred by Respondent in connection with this matter.

### **NEW MATTER**

101. Respondent incorporates by reference its responses to paragraphs 1 through 100 above as though fully set forth herein at length.

102. As noted in paragraph 27 of the Petition, the Original Articles authorized the Corporation to "[d]evelop and operate appropriate portions of the area for public use as a nature education center (and particularly a center of the type sponsored by the National Audubon Society), outdoor recreation, wild life conservation, botanical and agricultural demonstration projects, camp sites, a nature sanctuary and allied activities." In addition, the Original Articles "[p]ermit the use of, or lease, [of] appropriate portions of the area to other qualified charitable organizations for which this corporation is organized, or to governmental agencies engaged in the same activities."

103. Petitioner, in a document dated March 1, 2006 described the mission of SCEE as follows:

The mission of the Schuylkill Center is based on the goals that the Center is to preserve the open space in perpetuity **and to fulfill the teaching of environmental education** in the following manner:

1. Geographically - **to provide environmental education** in the Region of Philadelphia, to the County of Philadelphia and to the five county Southeastern Region of Pennsylvania, and not just to local Roxborough.

2. Culturally - **to provide environmental education** to the inner city children of Philadelphia and not just to the middle and lower income children of Roxborough

3. Demographically - **to provide environmental education** to the following groups:

- |                     |                     |
|---------------------|---------------------|
| a) adult education  | c) children         |
| b) college students | d) teenage students |

and not just the neighborhood children between 6-12 years.

**The Schuylkill Center was not founded** to provide a grade school for neighborhood kids but rather **to provide environmental education for a wide variety of people.**

A true and correct copy of a document prepared by Petitioner, dated March 1, 2006, and titled "The Conflicting Role of the Green Woods Charter School within the Schuylkill Center - Is the Lankenau School the Answer," is attached hereto as Exhibit A (emphasis added).

104. From its inception as the Schuylkill Valley Nature Center, through the present as SCEE, the Corporation has in fact provided environmental education to all segments of the Philadelphia community and the surrounding counties.

105. Today, hosting the Charter School is but one of many environmental and science education services provided by SCEE. In addition to hosting the Charter School, SCEE provides the following representative sample of environmental education services and programs:

- 1) Hosts guided groups, which include on-site visits to the SCEE from school and home school groups other than the Charter School comprising thousands of schoolchildren from the City and surrounding communities;
- 2) Provides environmental and science education services to the Charter School as required by the lease between the Charter School and SCEE;
- 3) Provides community Outreach and Education: Hosting and/or visiting recreation centers and schools in the Delaware Valley region;



4) Hosts the General Public at large events, such as the Native Plant Sale, the Halloween Hike and Insect Festival;

5) Hosts post secondary education programs for Arcadia University that includes education coordinating and teaching;

6) Hosts the Philadelphia County Envirothon, an environmental science competition among and between City High School students interested in the environment. The winning teams advance to the state-wide competition. Members of SCEE's education staff organize the competition, and serve as mentors to the students as they prepare for the competition;

7) Hosts girl and boy scout troops, including some for overnight stays;

8) Hosts the "Challenge Course," a low ropes teambuilding course on the grounds of SCEE;

9) Hosts a summer camp which uses, among other things, the modular classroom trailers of the Charter School, which is attended by hundreds of children aged 4-18 years old;

10) Hosts after school environmental education programming, including the Monkey Tail program for children aged 5-12;

11) Hosts weekend, Club and Adult-oriented programming, such as naturalist led-walks; birding clubs; birthday parties; and adult environmental education events such as movie nights and ecological restoration and backyard ecology workshops;

12) Provides Act 48 teacher training, whereby SCEE's education staff has been designated an approved provider of Commonwealth-required continuing educational science education for environmental science teachers throughout the Commonwealth.

106. SCEE, like many non-profit organizations, must strive to carry out the mission of the Corporation while generating sufficient revenue to permit the Corporation to survive.

107. As of 2002, revenues of SCEE were declining for many reasons, including a reduction by the Philadelphia School District in the numbers of visits by its school children due to budgetary concerns of the School District, and the reduction in the number of educational

classes requested/attended by teachers of the Philadelphia School District, which over the years has conducted more continuing education programs “in-house.”

108. In 2002, the proponents of the Charter School approached SCEE about entering into a partnership whereby the Charter School would lease space from SCEE.

109. Although not a board member at that time, SCEE kept Petitioner fully informed of the potential partnership between the Charter School and SCEE.

110. Indeed, following Petitioner’s receipt of notice of the proposed partnership between SCEE and the Charter School, Petitioner raised many of the same concerns she raises in her Petition in 2002. At the time, upon information and belief, Petitioner even consulted counsel at one or more prominent Philadelphia law firms, including the Pepper Hamilton firm, to discuss those concerns.

111. Then the Board unanimously concluded that the Charter School would provide both needed funds to SCEE and that the mission of the Charter School - to educate children with a particular emphasis on environmental education - was completely consistent with the mission of SCEE.

112. The Charter School was at its inception, and remains so today, an agency of the Government of the Commonwealth of Pennsylvania.

113. In addition to paying market rate rent for the space provided by SCEE, the Charter School, by separate contract required by the lease, pays SCEE for the services of SCEE’s educators, who provide approximately twenty-one hours per week of environmental education to the pupils of the Charter School.

114. In addition to the revenue generated by the SCEE/GWCS partnership, SCEE’s involvement with the Charter School allows the SCEE staff to learn from and transfer the skills learned and experiences with the Charter School students to program areas and student groups in the eleven other areas in which SCEE provides environmental education. Such benefits have been recognized by the Commonwealth of Pennsylvania’s Department of Education and the Secretary of the Pennsylvania Department of Environmental Protection during visits to SCEE to observe the partnership.

115. SCEE's eligibility for, and receipt of, grant programs and funding sources, such as the Pennsylvania Department of Environmental Protection's "Growing Greener" funding, the Philadelphia Water Department and the Pennsylvania Game Commission have been aided and enhanced by the Corporation's relationship with the Charter School because of the knowledge base and integration of the students in programs such as studying invasive plants, water quality and wildlife, among other areas.

116. Through a partnership with the Pennsylvania Department of Education's Office of Environment and Ecology, SCEE has designed the science curriculum for the Charter School to meet the Pennsylvania State Standards on Environment and Ecology well in advance of 2009, when all public school students will be tested on them.

117. The students of the Charter School participate in periodic service projects "out on the land" of SCEE, thereby helping to ensure the viability of SCEE for generations of visitors to come.

118. The presence of the Charter School has not prevented SCEE from carrying out its mission.

119. The current lease between SCEE and the Charter School was most recently approved, by a 14-1 vote, at a meeting of the Board on November 28, 2006.

120. The lease was approved by substantially more than a two thirds majority of the Board and complies in all respects with the Corporation's bylaws and with 15 Pa.C.S.A. § 5546.

121. Upon information and belief, when the Amended Articles were drafted and filed with the Commonwealth of Pennsylvania, members of the families of the founders did not raise an objection or a formal challenge.

122. The Amended Articles are consistent with the mission of SCEE from its inception.

123. The Amended Articles did not change the charitable purposes of the Corporation.

124. The Amended Articles did not divert the property of the Corporation from its charitable purposes.

125. As noted in the Petition, the Petitioner was a member of the Board as early as 1996.

126. As a member of the Board, Petitioner was aware of the Amended Articles as early as 1996.

127. Alternatively, Petitioner could have made herself aware of the terms of the Amended Articles as early as 1996.

128. Accordingly, Petitioner's claim that the Amended Articles should be voided is barred by the doctrines of waiver, estoppel and/or laches.

129. Even if the Amended Articles were not approved by the Court, no such approval was necessary.

130. If the Court concludes that the Amended Articles should have been submitted to the Court for approval, this Court, through its equitable powers, can and should approve the Amended Articles at this time.

131. The lease between SCEE and the Charter School and the presence of the Charter School within the Education Building is consistent with the Original Articles and the Amended Articles.

132. The Charter School was formed for one or more of the Corporation's charitable purposes - to provide education.

133. The modular trailer classrooms on the property were placed there in accordance with the terms of the lease between SCEE and the Charter School, and there is no legal basis for the removal of the modular trailer classrooms from the property.

134. The Petition fails to state a claim upon which relief can be granted.

135. Count III of the Petition, which does not seek to prevent the sale of any particular portion of the Property to any particular person or entity, fails to state a claim upon which relief can be granted, as it does not set forth a justiciable claim.

136. Count III of the Petition fails to state a claim upon which relief can be granted because it presents no issue which is ripe for adjudication.

137. The Petitioner's claims are barred and/or limited by the doctrine of waiver.

138. The Petitioner's claims are barred and/or limited by the doctrine of estoppel.

139. The Petitioner's claims are barred and/or limited by the doctrine of consent.

140. The Petitioner's claims are barred and/or limited by the doctrine of laches.

141. Binney Meigs, a grandson of Margaret Houston Meigs (who, as noted in Petitioner's paragraph 23, was an original donor of property to the Corporation), is a member of the Board.

142. Mr. Meigs and the entire Meigs family support the partnership between SCEE and the Charter School, and believe that the partnership is wholly consistent with the mission of the Corporation's founders.

143. The Board consists of John Howard, Linda Carpenter, Elizabeth Gemmill, Richard Woodring, Christina Binder, Ann Bower, Jeffrey Beck, Francis Lane, Barbara Schulze, Sarah Hetznecker, Terrence Donnelly, Lara Herzig, Petitioner, Nicholas Cuce, William Walkup, Lee Van de Velde and Binney Meigs, each of whom cares deeply about the environment and about the mission of SCEE.

144. The Board, by an overwhelming majority, supports the partnership between SCEE and the Charter School, and believes that the partnership is wholly consistent with the mission of the Corporation's founders.

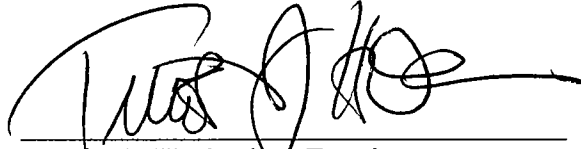
145. Petitioner, due to her blood relation to a founder, appears to believe that her personal opinions are more important than and trump the considered and collective opinions of the Board.

146. Petitioner, a disgruntled Board member, is attempting to seek from this Honorable Court that which she has been unable to achieve through the normal Board process.

147. Upon information and belief, despite unlimited opportunity to do so, Petitioner has not visited a classroom at the Charter School to observe SCEE educators working with Charter School students.

148. The Petitioner's claims are without merit factually or legally, and Petitioner should be required to pay to Respondent all of its attorneys fees and costs incurred in defending this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Heckscher', written over a horizontal line.

Date: 1/31/07


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Environmental Education

### VERIFICATION

I, John Howard, Chairman of the Board of Trustees of the Schuylkill Center for Environmental Education, Respondent herein, hereby verify that the foregoing factual statements made in the foregoing Answer of Schuylkill Center for Environmental Education to Petition of Eleanor Smith Morris for Declaratory Judgment With New Matter are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date:

1/31/07



\_\_\_\_\_  
John Howard, Chairman  
Board of Trustees of the  
Schuylkill Center for Environmental Education

# EXHIBIT “A”



**The Conflicting Role of the Green Woods Charter School within the Schuylkill Center  
Is the Lankenau School the Answer ?**

Schuylkill Center Community Council Meeting  
March 1, 2006

**I. Introduction**

At the January SCEE Board Meeting, it was agreed that representatives of the Charter School and the Schuylkill Center should meet to attempt a more rationalized integration than exists at the present moment. It seemed reasonable for representatives to have the opportunity to attempt a rationalization.

Alas, judging from the Minutes of that joint meeting, no such rationalization was achieved. Instead the GWCS is continuing on its current grabby and grasping role asking for more space and more curriculum without contributing to the capital costs or paying the SCEE staff sufficiently for the teaching they are doing. Even the nominal rent that GWCS pays is depleted by the wear and tear of the buildings .

It seems timely for the Community Council to understand the extent of the GWCS's inability to fit into the mission of the Schuylkill Center.

**II. The Mission of the Schuylkill Center**

The mission of the Schuylkill Center is based on the goals that the Center is to preserve the open space in perpetuity and to fulfill the teaching of environmental education in the following manner :

1. Geographically -to provide environmental education in the Region of Philadelphia, to the County of Philadelphia and to the five county Southeastern Region of Pennsylvania , and not just to local Roxborough .
2. Culturally- to provide environmental education to the inner city children of Philadelphia and not just to the middle and lower middle income children of Roxborough
3. Demographically- to provide environmental education to the following groups :
  - a) adult education
  - b) college students
  - c) children
  - d) teenage studentsand not just the neighborhood children between 6-12 years.

The Schuylkill Center was not founded to provide a grade school for neighborhood kids but rather to provide environmental education for a wide variety of people. If the purpose of the Schuylkill Center is to be changed,

then these changes must go through the proper channels and there are proper legal steps to be taken .

### III

#### The Eleanor Houston Smith Wing

The Eleanor Houston Smith Wing was bequeathed in her will as money for the Nature Center as it was then called. There is no mention in her will of a gift to a Charter School nor even a gift of a campus for a school. The Officers and members of the Board have all seen the will and know that this is true.

The Eleanor Houston Smith Will certainly did not provide a gift to benefit a Charter School as distinguished from benefiting the Schuylkill Center with its much different purposes. Without a change of mission, duly approved as provided by law , the original gift of the East Wing and the gift of the West Wing under the EHS Will must all be used in the fulfillment of the Center's stated mission.

The recent Joint Master plan for GWCS/SCEE proposed kicking the SCEE Center out of this building and dumping the Center in the Machine Shop, so that the Charter School could take over the whole building. I regard this as an outrageous proposal , even though it was made under the supervision of John Howard , SCEE Vice Chairman.

In summary, if the Charter School becomes the primary user of the EHS Wing as well as the portion of the property presently used by the Charter School, the entire building would be devoted to purposes apart from the Schuylkill Center's mission . Such a change would have to go through the proper channels and legal steps taken.

The Library in the EHS Wing , which the Charter School helped to destroy in a pagan and primitive act , needs to be reconstituted in the Center as a Library with books and computerized data with computer work stations , etc. All the famous Libraries have had to reconstitute themselves in the digital world , but they didn't resort to destroying the original Library of books . Classroom 3 needs to be returned to a Library with computer stations.

The auditorium has also been taken from the SCEE Center without the Charter School making any attempt at sharing the auditorium. This has meant that SCEE's 40th Anniversary was held at Drexel University and this year's Gala is to be held at the Academy of Natural Sciences.

SCEE needs the auditorium to fulfill its obligation to provide adult education and space for community groups to meet. In September , about eleven groups, who have been coming for twenty years, were turned away because the space was needed by the Charter School, again showing the conflict between the use of the Charter School and the Center's mission.

#### IV. Fiduciary Duty of the Trustees

The SCEE Board members have a fiduciary duty to fulfill the current mission of the Center. Particularly the Chairman and the Vice-Chairman have a fiduciary duty to advance the mission as stated in the SCEE Articles of Incorporation, the By-Laws and the stated mission of the Schuylkill Center. It does not make sense for the Chairman and Vice-Chairman to devote their time when they are doing so little to promote the purposes of the Schuylkill Center

#### V. Alternative Solutions for the Charter School

It was hoped at the recent meeting, that the Charter School would come up with alternative solutions which would help them to integrate fairly into the SCEE Center compatible with the mission of the Center. Rather than trying to reconcile their mission with the Center, the Charter School has proposed even more demands which further detract from the ability of the Center to carry out its mission. Alternatives do exist such as :

- a) adding additional temporary trailers to cover their immediate needs, this was recommended but turned down, but it is the only temporary solution.
- b) building a campus on the 22 acre Boy Scout site; this would allow for playing fields yet leaving most of the land under easement.
- c) adapting the Lankenau School to the needs of the Charter School. This would eliminate the neighbors fear of an expanded High School, yet still keep the Charter School in touch with the Center. At the meeting on March 6, the neighbors might like to present such a solution to Michael Nutter and the various committees.

#### VI. Summary

We should like the neighbors' help to rationalize the situation of the Green Woods Charter School. There is no long term solution for them to take over the SCEE buildings. Any legal fight could take 3-4 years and use up capital funds which could be used more purposely

Instead the Charter School must find an alternative home which allows them to expand as they require, raise their own capital campaigns yet still participate in the environmental education benefits of being allied with the Schuylkill Center. Although this particular Charter School may consider itself unique amongst all the other charter schools in the area, they are financially weak and cannot match the uniqueness of the Schuylkill Center

Eleanor Smith Morris

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
ORPHANS' COURT DIVISION

NO. 00056 of 1996

IN RE: SCHUYLKILL CENTER FOR ENVIRONMENTAL EDUCATION,  
A PENNSYLVANIA NONPROFIT CORPORATION

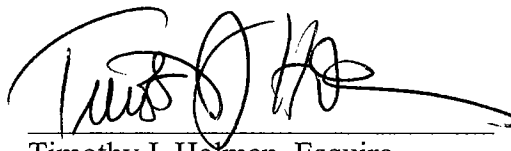
**CERTIFICATE OF SERVICE**

I, Timothy J. Holman, Esquire, do hereby certify and confirm that on January 31, 2007 I caused a true and correct copy of the foregoing Answer of Schuylkill Center for Environmental Education to Petition of Eleanor Smith Morris for Declaratory Judgment With New Matter to be served upon the following via first-class United States mail, postage pre-paid:

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