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DEPARTMENT OF  
WATER RESOURCES

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**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

IN THE MATTER OF SYLTE'S PETITION  
FOR DECLARATORY RULING RE  
DISTRIBUTION OF WATER TO WATER  
RIGHT NO. 95-0734

Docket No. P-DR-2017-001

**SYLTE'S MOTION FOR SUMMARY  
JUDGMENT**

Gordon Sylte, Susan Goodrich, John Sylte, and Sylte Ranch Limited Liability Company (collectively, "Sylte"), by and through their counsel of record, Givens Pursley LLP, and pursuant Rules 260 and 565 of the Idaho Department of Water Resources' Rules of Procedure, IDAPA 37.01.01.260 and .565, hereby move the Hearing Officer to issue an order determining that, as a matter of law:

(1) the holders of water right no. 95-0734 are entitled to delivery of water to the water right on a continuous year-round basis irrespective of the amount of natural tributary inflow into Twin Lakes;

(2) the application of the futile call doctrine with respect to water right no. 95-0734 is not dependent on the amount of natural tributary inflow into Twin Lakes; and

(3) the letter dated September 20, 2016 (the "*Instructions*") from IDWR's Northern Regional Manager, Morgan Case, to the Water District 95C Watermaster must be set aside and

reversed on grounds that such *Instructions* are contrary to the existing decree (and documents incorporated by reference therein) and are not in accordance with Idaho's Prior Appropriation Doctrine as required by Idaho Code Section 42-602.<sup>1</sup>

This motion is made and based on the pleadings and documents currently filed and lodged in this matter, and the *Memorandum in Support of Sylte's Motion for Summary Judgment* and *Affidavit of Michael P. Lawrence* filed contemporaneously herewith.

Sylte does not request oral argument or a hearing on this motion.

Respectfully submitted this 23<sup>d</sup> day of June, 2017.

GIVENS PURSLEY LLP



Michael P. Lawrence

Jack W. Relf

*Attorneys for Gordon Sylte, Susan Goodrich, John Sylte, and Sylte Ranch Limited Liability Company*

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<sup>1</sup> A copy of the *Instructions*, as well as the existing decree and associated documents, are attached to the *Affidavit of Michael P. Lawrence* ("*Lawrence Affidavit*") filed contemporaneously herewith, and incorporated herein by reference.

## CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of June, 2017, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following<sup>2</sup>:

### DOCUMENT FILED:

Shelley Keen, Hearing Officer,  
Idaho Department of Water Resources  
322 East Front Street  
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<sup>2</sup> The regular mail and email service lists below are taken from the *Regular Mail Certificate of Service List* (update on June 14, 2017) and the *Email Distribution List* (update on June 14, 2017) posted on the Department's website at <http://www.idwr.idaho.gov/legal-actions/administrative-actions/sylte-petition.html>.

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