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### FACSIMILE COVER SHEET

**DATE:** April 5, 2019

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<b>CLIENT-MATTER NUMBER:</b>	24720.003		
<b>NUMBER OF PAGES WITH COVER PAGE:</b>	7	<b>ORIGINALS:</b>	NOT SENT

**RE: In the Matter of the Petitions Filed with the Department Regarding Appointment of Gordon Sylte as a Commissioner of Flood Control District No. 17 (CASE P-FCD-2018-1)**

Attached for filing please find Twin Lakes Improvement Association's Motion to Deny Petitions to Intervene. Thank you.

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Attorneys for Twin Lakes Improvement Association

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF THE PETITIONS  
FILED WITH THE DEPARTMENT  
REGARDING APPOINTMENT OF  
GORDON SYLTE AS A COMMISSIONER  
OF FLOOD CONTROL DISTRICT NO. 17

Case No. P-FCD-2018-01

**MOTION TO DENY PETITIONS TO  
INTERVENE**

COMES NOW Twin Lakes Improvement Association ("TLIA"), through counsel, pursuant to Rule 354 of the Department's Rules of Procedure, IDAPA 37.01.01.354, and hereby moves that the Department deny the petitions to intervene filed in this matter by Bobbie Hunsinger, Laurin Scarcello, Gordon Stephenson and Susan Goodrich. The grounds for this motion are set forth below.

**GROUND FOR DENIAL**

A petition to intervene "must state the direct and substantial interest of the potential intervenor in the proceeding." Rule 351. The petitions filed in this matter do not state the direct and substantial interest of the petitioners. In fact, the petitions filed by Bobbie Hunsinger, Laurin Scarcello and Gordon Stephenson state nothing beyond the fact that they want to intervene and that they know when the prehearing conference is scheduled. The petition filed by Susan

Goodrich states that she has known and observed Gordon Sylte for 25 years, but does not state what direct and substantial interest she has in the matter.

While any of these four individuals might desire to appear as a witness at the hearing in this matter, that is not sufficient to satisfy the requirements for intervention under Rule 351. Indeed, the March 8, 2018 email from the Department's Doug Jones to Bobbie Hunsinger (attached to Susan Goodrich's petition to intervene) states: "If it should come to a hearing you may be designated as a witness, perhaps by Gordon [Sylte]." Even if they are not called as witnesses by a party, they may participate as public witnesses. Rules 158 and 355. This does not require – or justify – intervenor status.

The March 8 email from Doug Jones also indicates that: "By intervening you will receive notices as they are distributed by IDWR and the parties." If these four potential witnesses are interested in receiving notices of the proceedings, they need only request that from the Department, as they obviously did prior to the prehearing conference, or look to the Department's website for the information. Again, this interest is not sufficient to satisfy the requirements for intervention under Rule 351.

Also worth noting, none of the petitions to intervene were served on the other parties to this matter, including TLIA, as required by Rules 8 and 303. As a result this motion to deny the petitions to intervene is timely. Rule 354 (party opposing petition to intervene must file motion within 7 days after receipt of petition to intervene). It also serves as an additional basis for dismissing the petitions. Rule 304 ("Defective, insufficient or late pleadings may be returned or dismissed").

Finally, while the petition filed by Susan Goodrich indicates that a \$25 fee accompanied her petition, it is unclear whether the other three petitioners paid the fee for intervention, as

required by Idaho Code § 42-221.L. If not, the filings are not complete and would not be timely under Rule 352 (requiring petitions to be filed before prehearing conference). *See also*, Rule 304 (late pleadings may be returned or dismissed).

#### CONCLUSION

While the four petitioners may indeed be interested in testifying as witnesses at the hearing on behalf of Gordon Sylte, and being apprised of the hearing schedule, this does not satisfy the requirements to intervene under Rule 351. No direct and substantial interest has been demonstrated, or even alleged. As a result, the petitions should be denied.

DATED This 5th day of April, 2019.

PARSONS BEHLE & LATIMER

By

  
Norman M. Semanko

*Attorneys for the Twin Lakes Improvement Association*

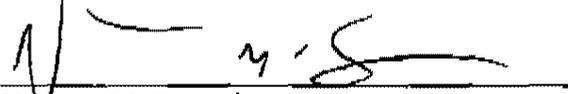
### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of April, 2019, I served a true and correct copy of the foregoing document on the parties listed below by their designated method of service as indicated.

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