

RECIPIENT:  
Idaho Department of Water Resources  
Gary Spackman, Director Boise Office  
Doug Jones, Manager Northern Office  
7600 N Mineral Dr #100  
Coeur d' Alene, ID 83858

12/14/2018

RECEIVED

DEC 1 / 2018

REQUESTOR:  
Paul Finman  
Ph: 208-415-4300  
Email: pfinman@lcfamps.com

Affected property:  
Finman Farm  
7350 W. Willadsen Road  
Rathdrum, ID 83858  
(Rathdrum Creek flow through and flooding)

IDWR / NORTH

Mailing address:  
764 South Clearwater Loop  
Post Falls, ID 83854

Rathdrum Creek Water Rights:  
95-731  
95-7617

REQUEST FOR HEARING/RECONSIDERATION  
PER  
SECTION 1701A(3), IDAHO CODE

AND/OR

REQUEST FOR HEARING/REMOVAL  
PER  
IDAHO CODE CHAPTER 42-3109

On December 6th at the Twin Lakes Flood Control District monthly meeting, I was shocked to learn that hearsay about the IDWR reappointing Gordon Sylte as chairman/commissioner of Twin Lakes Flood Control District 17 was true, and I witnessed Gordon Sylte being sworn in. At this meeting, Doug Jones of IDWR informed me that I have 15 days to file a request for hearing and request for reconsideration per Section 1701A(3), Idaho Code.

The grounds for my request are listed below:

1. The request and hearings for the removal of watermaster Laurin Scarcello. Docket No. C-RWM-2016 -001 were conducted properly. The IDWR conclusions, findings of fact, final analysis, and removal of Laurin Scarcello in this matter were also proper. The IDWR identified in its findings the role and influence the Flood Control District with Gordon Sylte as Chairman had on Laurin Scarcello's disregard for the law. It is now only proper to review Gordon Sylte's role in all the points raised in the hearing on the removal of Laurin


Scarcello as watermaster. The Director needs to reconsider if it is proper for Gordon Sylte to be appointed as commissioner in the Twin Lakes Flood Control District in light of his role.

2. At the Twin Lakes Flood Control District meeting on December 6, 2018, Doug Jones stated that it is unprecedented in the history of Idaho state for the reappointment of a flood control commissioner to be contested or opposed by anyone let alone a large body of people, and there are few legal guidelines to follow. Rather than ignoring the community conflict behind this historic situation, the IDWR needs to conduct a hearing to air public grievances and the Director needs to reconsider the appointment of Gordon Sylte.
3. Gordon Sylte has appealed the IDWR conclusion of Docket No. C-RWM-2016-001 and lost. He then appealed to District Court and lost. Now he is appealing to the Idaho Supreme Court (Supreme Court Docket No. 46062-2018, Case No. CV-2017-7491). At the December 6, 2018, Twin Lakes Flood Control District meeting, I specifically asked Gordon Sylte if he was directing Michael Lawrence (his personal attorney) to argue in the Idaho Supreme Court against an annual limit on water right 95-0734 or was attorney Michael Lawrence just making arguments independently as an attorney as part of a legal strategy. Gordon Sylte answered that he was directing the lawsuit and attorney Michael Lawrence was not acting independently. Gordon Sylte has argued (and continues to argue) against an annual limit on water right 95-0734 in a way that infringes on water storage rights 95-0973 and 95-0974. From this, it is legitimate to question FCD Chairman Gordon Sylte's ability to read and properly follow the law in a manner undistorted and uncorrupted by personal interest.
4. It is improper for Gordon Sylte to be a commissioner/chairman when he is both suing the IDWR, Twin Lakes Improvement Association, and FCD 17 over an annual limit on water right 95-0734 while also supposedly defending water storage rights 95-0973 and 95-0974 from being infringed upon when water right 95-0734 has either no annual limit or a hugely expanded annual limit. At a minimum, the Director needs to evaluate the conflict of interest and reconsider appointing Gordon Sylte as commissioner.
5. Gordon Sylte was part of the TLFC 17 placing bentonite in the Rathdrum Creek channel on my property without an IDWR stream alteration permit. He also was part of the TLFC 17 using heavy equipment in the Rathdrum Creek channel on my property, again without a stream channel alteration permit. He has an intense feeling of entitlement over Rathdrum Creek and its artificial and unpermitted maintenance, and he is at the center of a group that disregards and bullies landowners along Rathdrum Creek. Gordon Sylte does this for his personal water use under the guise of "flood control".
6. A series of emails to the FCD and IDWR in Oct 2017 expressed public concerns over Sylte's conflict of interest and the FCD 17's unwillingness to protect the FCD water storage right and the public interest against the Sylte lawsuit. The emails even called for the resignation of Gordon Sylte. The Department was asked then to unappoint Gordon Sylte. The Department stated that at that time there was no provision in Idaho statute to remove a FCD commissioner. Therefore, a statute needed to be passed and/or the public must wait until Gordon Sylte's term expired in December 2018. The department was very much aware of this, it should have addressed the problem by not appointing Gordon Sylte to another term, and now the Director needs to reconsider Gordon Sylte's appointment as commissioner in TLFC 17.
7. In September 2016, Chairman/Commissioner Gordon Sylte directed unpermitted and unauthorized streambed alterations that scarred the Rathdrum Creek streambed on my property. This was done under the guise of clearing stream channel debris and it used the resources of FCD 17. The damage was never repaired. This project was managed by Gordon Sylte's nephew, Jason Lucas, who lives on the Sylte property. The September FCD

17 meeting minutes stipulate that the project was to remove debris, but the project transformed the streambed into essentially a cleared road with deep ruts from the tracks of the heavy trackhoe used. Clearly the purpose of the project was more than debris clearance and the intent was to make stream channel alterations that Gordon Sylte had previously openly stated would improve water delivery to his property. As such, Gordon Sylte used public FCD 17 funds to pay for an unpermitted project for personal benefit. Morgan Case, IDWR North Idaho Regional Manager at the time, cautioned FCD 17 from making unpermitted streambed changes before the project and chastised them after the project, as seen in FCD 17 meeting minutes and recalled by numerous eye witnesses. Gordon Sylte and FCD 17 (for Gordon's benefit) knowingly and blatantly disregarded the law, and this attitude and practice continues unabated. The Director needs to reconsider and reverse Gordon Sylte's appointment as commissioner.

8. Gordon Sylte has knowingly and consistently used his position as FCD 17 commissioner to direct the release of TLIA and FCD 17 storage waters, which is above and beyond Sylte water right 95-0734 and the 1989 Decree (32572). This intent is openly discussed repeatedly in FCD 17 meetings and sometimes captured in the meeting minutes. August 2016 meeting minutes document Colby Clark's request that FCD 17 immediately stop the over-release of water, but FCD 17 commissioners voted not to do this as Gordon Sylte's wife (Susan Goodrich) requested at least 2 more weeks of water. As such, FCD 17 was blatantly being used for water delivery to the Sylte ranch in contravention of the FCD 17 charter and improper infringement of water storage rights 95-0973 and 95-0974.
9. Gordon Sylte's abuse of his position as commissioner is behind the Idaho state legislature passing what I call the "Remove Gordon Sylte as commissioner law": Idaho code chapter 42-3109, Removal for Neglect of Duty, Misconduct, or Malfeasance. This law was signed by the Governor and went into effect July 1, 2018, and it is unprecedented in the history of Idaho. The grounds for removal of Gordon Sylte as commissioner are almost identical to the grounds for the Director to reconsider his appointment. If the Director does not reconsider and reverse the appointment of Gordon Sylte as commissioner, then the next step is to go through the process of removing Gordon Sylte after this ill-advised and improper inaction.

Signed,



Paul Finman