

Susan Ellis  
P.O. Box 804  
Rathdrum ID 83858

Intervenor in Case No.P-FCD-2018-01

**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 THE FLOOD CONTROL  
DISTRICT NO. 17

Case No. P-FCD-2018-01  
**SUSAN ELLIS's**  
**LIST OF WITNESSES and**  
**EXHIBITS (2)**

**TO: DOUG JONES**

**Idaho Department of Water Resources**  
**Northern Regional Office**  
**7600 Mineral Drive Suite 100**  
**Coeur d'Alene, Idaho 83815**

**Please find attached my "list of witnesses" and my 2 "exhibits" related to the above mentioned Case No. P-FCD-2018-01.**

By   
Susan Ellis July 19,2019

**WITNESS LIST FOR AUG 19, 2019 Hearing, Case No. P-FCD-2018-1**

**Morgan Case**  
**Terry Kiefer**  
**Gordon Stephenson**

**Don Ellis**  
**Steve Neff**

**Doug Jones**  
**Laurin Scarcello**  
**Gordon Sylte**

**EXHIBITS**

- 1. August 4, 2016 Minutes of Flood Control District No.17 Meeting –3 pages plus 3 attachments. (Total of 6 pages).**
- 2. Laurin Scarcello's "List of witnesses, exhibits, and intent to testify letter" from the 2016 IDWR Hearing to Remove the Watermaster of WD95C. (7 p)**

# Exhibit 1 of S. Ellis

## TWIN LAKES-RATHDRUM CREEK FLOOD CONTROL DISTRICT NO. 17 MINUTES OF THE MEETING August 4, 2016

The meeting was called to order at 7:25 p.m. Present were John Eixenberger, Gordon Sylte, Gordon Stephenson, and Eva Maxfield. A quorum was established.

Also present – See attached

There were no additions or changes to the agenda.

Gordon Sylte moved to accept the minutes of the June 2, 2016 meeting. S/P/U

Laurin Scarcello reported the lake level was at 8'2" with 12.47 CFS going out.

Gordon Sylte moved to pay the following: Normal Payroll, Avista \$11.28, and TC Construction \$340. S/P/U

Correspondence: A payment from Kootenai County \$11,440.88, Frontier Communications Credit (\$1.50), and a Verizon Wireless Credit (\$38.90.)

Richard Tevis attended the meeting to let the Commissioners know that he has the property by the sump. He shared a map (see black & white map attached) He is wondering if the pit might be a little deep, and would be willing to give the Flood Control District an acre of his 16 acres if it makes sense to make the access better to the sump when it is needed to be cleaned out. The Commissioners thanked him and discussed finding the best way to do this. Lauren will pursue to see if county is willing to help with this. It will be remembered and revisited at a later date.

Terry Kiefer passed around maps, and Water Flow Readings (see attached). He explained that he wasn't an expert, and that he felt uncomfortable with the limited experience he had doing these readings. He did the readings with the help of Bob Haynes. He reported that Dan Parks with the Water District double checked the readings and they might be a little high.

There was a discussion between the Commissioners and the guests about the Flood Control Commissioners having control of the dam from 10'4" to 6'4", and that once it drops below 6'4" the Water Master (Laurin Scarcello as "Watermaster" would have the control of the dam after the lake level goes below 6'4".

Colby Clark stated that there was a "Court Ruling that said only water going in could go out of the dam." Civil Case No. 32572 (copy attached). There was a discussion about the water rights of the down stream homeowners that need to be filled. Debbie Andrews explained that if the water right could not be met by letting out the amount coming in, then it was called a "Futile Call" and at that time the water rights did not come into play in determining the output of the dam. This was discussed back and forth with the visitors and the Commissioners, with the Commissioners stating the water rights need to be met. Sue Goodrich of Sylte Ranch reported that the need was only for approximately two (2) more weeks. She reported what the water was being used for livestock.

Some of the people attending wanted a clear directive to Laurin Scarcello as Gate Tender to only let out 6.6 CFS from the lake to the creek at the dam. This is what they believe is coming into the lake. It was discussed the damage to the creek bed if it dries out and also with the very new data on inflow the commissioners were not agreeing to do this. Many ideas were talked about.

It was brought to the Commissioners attention that the Department of Water Resources has activated Laurin as Water Master. After many comments from everyone, the Commissioners decided to set the gate for an outflow as recommended by the "Water Master.

Gordon Stephenson moved to instruct Laurin Scarcello to close the gates to around 10 CFS out



and monitor. S/P/U

Laurin Scarcello gave a report on the channel work he has been trying to do on Rathdrum Creek. He feels at least two thirds of the water is being lost on the property owned by Paul Finman, who is one of the largest property owners on Rathdrum Creek. The following is a summarization of Laurin Scarcello trying to get work done to stop water loss.

*8-2-16 Met Paul Finman at 9 am with a 3 Ton Bobcat and talked for an hour on Pauls' philosophies. Viewed sandpit at 10am. There was good sand but wondered about access. Viewed where the sand could go and should go. Viewed where the previous Bentonite had been used. Paul felt it was not effective. We disagreed and I pointed out that this practice had worked for decades, and we wanted to do more Bentonite work. I made mention of this at least half a dozen times. Paul had to leave for a phone conference and did not want us there without him. I offered for him to lock me in and let me work, he declined. I tried to explain that there is a very short season that the water needs to get downstream, it did no good. Without access, I cannot do my job, and am letting down the Commissioners and the property owners. We are poor stewards of the lake, and watersheds – Why are we only able to perform our duties at the whim of a land owner. I put the bentonite back on the pallet and tools back. It was a wasted 5 hours. Without state backing and access, we are just a bunch of nice people in a nice room, wasting a nice amount of time.*

The discussion resumed on the measurements coming into the lake and where it is best to put the measuring devices. John Eixenberger voiced concerns of how different every year can be based on snow melt, weather, and even the clear cutting of trees in the watershed. Members from the Water District said that they had earmarked monies to pay for, install and monitor when it is decided the best way to do it. Gordon Stephenson voiced his opinion that it would take years to get any accurate data to allow guessing at the inflow based off of only one stream. And that each year would have different set of variables.

The preliminary budget package was passed around, with P&L, Bank Statement, and past year documentation. A motion was made to accept and publish the preliminary budget for Oct 1, 2016 to Sept 30, 2017. S/P/U

Eva Maxfield moved to adjourn the meeting at 9:45 PM  
Respectfully Submitted, Bobbie Hunsinger, Secretary/Treasurer

Name	Affiliation	Phone
Susan Ellis	Twin Lakes Water District #95C	(208) 755-4134
Don Ellis	Twin Lakes Water District #95C	(208) 755-4880
Herb Minatre	Twin Lakes Improvement Association	(208) 687-2080
Lauren Scarcello	Gate Tender for TwinLakes/Rathdrum Creek Flood Dist #17	(208) 661-6090
Debbie Andrews	Twin Lakes Improvement Association	(724) 553-8779
Richard Tervis	8598 W 4th St, Rathdrum, ID 83858	(208) 687-0822
Rene Laacroic	8979 W Twin Lake Rd, Rathdrum, ID 83858	(208) 687-0993
Terry Kiefer	Twin Lakes Water District #95C	(208) 687-0822
Sue Goodrich	8626 w Sylte Ranch RD, Rathdrum, ID 83858	(208) 659-8881
Colby Clark	Twin Lakes Improvement Association/ Twin Lakes Water Dist	(208) 553-3266
Doug Jayne	Twin Lakes Improvement Association/ Twin Lakes Water Dist	(509) 710-6791
Bobbie Hunsinger	Sect/Treasurer for TwinLakes/Rathdrum Creek Flood Dist #17	(208) 659-3256

Further attachments for the Aug. 4, 2016 FGD Meeting. AE

INFLOW READINGS TO UPPER TWIN LAKE

<u>Location</u>	<u>Date/Time</u>	<u>Outlet (cfs)</u>	<u>Lake Level</u>	<u>Inflow (cfs)</u>	
No Name Creek	7/10/16 4pm	13.4	9.1'	0.17	Just above the dam
Fish Creek	7/13/2016 10am	11.9	9.1'	7.8	At Easterly Bridge
Fish Creek	7/14/16 4pm	11.1	8.9'	9.3	Near Mouth; includes tributaries
No Name Creek	7/18/16 2pm	11.6	8.8'	0.15	
Fish Creek	7/21/16 3:30pm	12.5	8.7'	8.12	At mouth
Two Creeks	7/21/16 7pm	12.2	8.7'	0.18	Near head of Upper Lake

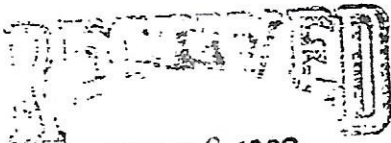
Readings taken by Terry Kiefer

15  
2









FEB 28 1969

Department of Water Resources

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHTS TO )  
THE USE OF THE SURFACE WATERS )  
OF TWIN LAKES, INCLUDING )  
TRIBUTARIES AND OUTLETS. )

CIVIL NO. 32572

MEMORANDUM DECISION

THE STATE OF IDAHO, )  
Department of Water Resources, )

Plaintiff, )

v. )

ABBOTT, Knox and Spouse; )  
et al., )

Defendants. )

This proceeding was brought pursuant to Section 42-1406 Idaho Code for the purpose of adjudicating the rights of the various users of the surface waters of Twin Lakes, including its tributaries and outlets, within Kootenai County, Idaho. The Director of the Idaho Department of Water Resources filed his petition seeking such adjudication, after he received petitions signed by one hundred and twenty-two users of waters from Twin Lakes.

MEMORANDUM DECISION

P.7

# Exhibit 2 of S. Ellis

October 24, 2016

Idaho Department of Water Resources  
c/o Shelley Keen  
PO BOX 83720  
Boise, ID 83720-0098

Dear Shelley:

I, Laurin Scarcello, challenge the removal of the watermaster because I believe that I have upheld the law. I intend to testify. I would also like to examine the following witnesses:

Don Ellis, WD 95C Vice Chairperson  
Susan Ellis, WD 95C Secretary  
Colby Clark, Complainant and WD 95C Advisory Board Member

I am also submitting the following documents/items that I will be relying upon at hearing:

Letter of support from Charlotte Robertson-Limesand  
Sno-tel data sheet  
Watermaster Report  
Duties of Flood Control District  
Excerpt from letter to Michael Newell from IDWR  
Turtle shell, hay bale, shovel (listed, but actual items not mailed to parties)

I will also be reading my statement into the record.

Respectfully,



Laurin S. Scarcello



10-23-2016

Charlotte Robertson-Limesand  
9910 West Twin Lakes Road  
Rathdrum Idaho 83858  
(208) 687-0528 home  
(208) 262-6818  
[climesand@gmail.com](mailto:climesand@gmail.com)

Idaho Department of Water Resources  
c/o Shelly Keen  
P.O. Box 83720  
Boise, Idaho 838720-0098

Dear Shelly Keen,

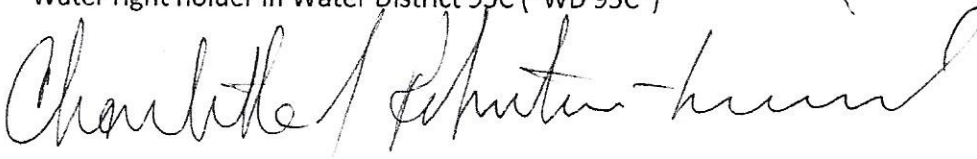
This is in regards to the Docket No. C-RWM-2016-001. In the matter of Clark's request for removal of the water District No. 95C watermaster, Laurin Scarcello.

My name is Charlotte Robertson-Limesand, I live at 9910 West Twin Lakes Road for 50 years. My house is one house away from Mr. Colby Clark the Complaint. I believe current watermaster, Laurin Scarcello should not be removed.

I would like to give you some information about my background. My mother was born in Twin Lakes in 1926 into the Roth family; they have lived in Upper Twin Lakes area, since 1902. My Grandparents, George and Bessie Roth moved into the house I live in 1944. Bessie Roth name is on the same Twin Lakes water rights as Sylte. I have heard stories about the lake being so low that it was just stream. My Mother, Josephine Roth Robertson lived her whole life in Upper Twin and she purchased the property (9910 W Twin Lakes Rd) in 1968. She told me stories when she was younger about having to move the dock out every week because the lakes drop so low and so fast. When I was a little girl in the 60's 70's and into the 80's we had a fifty feet water hose that went into the lake, to water our yard, by fall the foot value, would be sticking out of the water, sometimes being four to five feet from the water.

This year the lake level stayed higher than it has for a couple of years. Even last year when we were in drought condition the lake never got as low as when I was growing up. I believe that the water district and the water master are doing a good job at maintaining the water level. As I stated before I would not remove the watermaster, Laurin Scarcello and I would be willing to testify to that account.

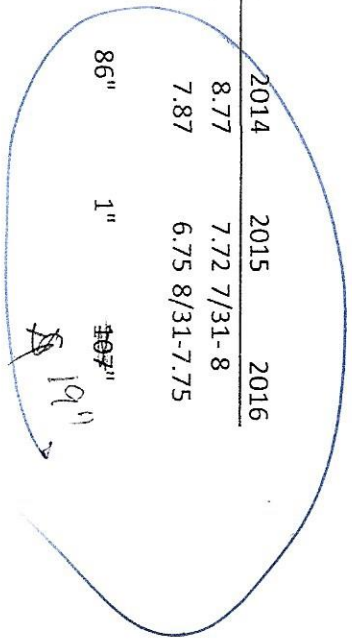
Water right holder in Water District 95C ("WD 95C")



Charlotte Robertson-Limesand

# Lake Level

	2008	2009	2010	2011	2012	2013	2014	2015	2016
1-Aug	9.15	8.62	9.26	9.91	10.13	9.11	8.77	7.72	7/31-8
1-Sep	8.63	7.89	7.95	8.85	8.91	8.43	7.87	6.75	8/31-7.75
SnowPac									
1-Apr	175"	120"	68"	126"	144"	86"	86"	1"	<del>107"</del>





# WATER MASTER REPORT

8-2-16 Met Paul Finman at 9 am w [redacted] and talked for an hour on Pauls' philosophies. Viewed sandpit at 10am. There was good sand but wondered about access. Viewed where the sand could go and should go. Viewed where the previous Bentonite had been used. Paul felt it was not effective. We disagreed and I pointed out that this practice had worked for decades, and we wanted to do more Bentonite work. I made mention of this at least half a dozen times. Paul had to leave for a phone conference and did not want us there without him. I offered for him to lock me in and let me work, he declined. I tried to explain that there is a very short season that the water needs to get downstream, it did no good. Without access, I cannot do my job, and am letting down the Commissioners and the property owners. We are poor stewards of the lake, and watersheds – Why are we only able to perform our duties at the whim of a land owner. I put the bentonite back on the pallet and tools back. It was a wasted 5 hours. Without state backing and access, we are just a bunch of nice people in a nice room, wasting a nice amount of time.

\* blackout are says: "with a 3 Ton Bobcat." A. E. L. W.

## WATER MASTER REPORT FOR TWIN LAKES (Aug 4 - Sept 1, 2016)

8-4-16: Flood Control Meeting. Agreed to reduce 12.5 CFS to 1-280 CFS for two weeks

8-5-16: Lacroix, Sylte, Miller, Scarcello met at Hogan property to cut trees off road and create a path to creek

8-6-16: Cacroix, Sylte, Scarcello and helpers put 3/4 pallet of bentonite in creek. Scarcello walked and soveled length of Finman property.-8- Kept CFS the same to carry bentonite.

8-8-16: Closed main gate to 10 CFS. Lake at 8.12

8-12-16: Closed main gate to 6.5 CFS. Need to check this date online.

8-16-16: Water Advisory Board met at Easterday bridge. Chain bolted to bridge for gauge?

8-20-16: 5.6 CFS at top of Finman property. None leaving. 1 gas powered pump at bridge frivously irrigating. Called IDWR to record this. Hose, sprinkler, PVC pipe.

8-28-16: 4.5 CFS in top of Finman property. None leaving. Pump gone but hose, sprinkler and PVC pipe there. Creek bed leaking at some points Dan and Scarcello repaired last October. Flow and leaks measured and observed by Terry Keifer, Jason Lucas and Colby Clark.

8-29-16: Through Kootenai Shoshone Cattelmans Assn., Idaho Cattlemans Assn, Kootenai Shoshone Farm Bureau, and Idaho Farm Bureau was able to make contact with Water Users Association. They suggested we become members so I did as a private individual. Referred to one of their attorneys. Spoke with Norm Semanco again. Private property rights etc. came up. Norm is still Finman's attorney. He expressed liability concerns of Finman. I told him I felt we could address those. Also told him that as it stands now a single property owner is adversely affecting all other property owners' rights throughout the entire drainage. Norm said he would call me back. 208-344-6690.

7:00 PM meeting at high school. Much discussion! Lake at 7.12? 5 CFS coming in at Easterday bridge. 4.4 leaving dam. Reduced to 2.5.

8-30-16: Talked to IDWR about concerns with Finman. Idea to change creek bed reckless? Who pays? Who pays? Oversight?

9-1-16: Lake at 7.51. 2.8 CFS outflow. Reduced to 1.95CFS. Small inflow at top of Finman property to maintain creek bed to trouble spots.

7. To establish the fiscal year of the district and to keep records of all business transactions of the district

8. To prepare a statement of the financial condition of the district at the end of each fiscal year, in a form to be prescribed by the director or by the legislative services office, and publish in at least one (1) issue of some newspaper published, or in general circulation in, the county, or counties, in which such district is located and to file a certified copy of such financial report with the director and the legislative services office on or before February 2 of each year.

9. To have an audit of the financial affairs of the district as required in section 67-4503, Idaho Code. A certified copy of said audit shall be filed with the director on or before February 2 following the audit.

10. To obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, and improve any properties acquired; to receive income from such properties and to expend such income in carrying out the purposes and provisions of this chapter; to lease any of its property or interest therein in furtherance of the purposes and provisions of this chapter, provided that no contract or agreement for the acquisition, purchase or repair of personal property involving expenditure in excess of one thousand dollars (\$1,000), shall be entered into without first advertising for sealed competitive bids as herein provided.

11. To have the power of eminent domain for the use of the district in the construction, operation, maintenance and upkeep of its structures, waterways, dikes, dams, basins, or any other use necessary in the carrying out of the provisions of this chapter.

12. To convey rights-of-way and easements for highways, public roads, public utilities, and for other purposes, over district property, as shall be determined by the board to be in the best interests of the district.

13. To convey, by deed, bill of sale, or other appropriate instrument, all of the estate and interest of the district, in any real or personal property. Prior to such sale or conveyance, the board shall have the property appraised by three (3) disinterested residents of the district, which appraisal shall be entered in the minutes of the board. The property may be sold at public auction or at a private sale by sealed competitive bids, as the board shall determine, to the highest cash bidder, provided that in no case shall any property of a district be sold for less than its appraised value. All sales by sealed competitive bids shall be advertised as herein provided.

14. To use natural streams and to improve the same for use as a flood control structure. However, in the event that the use of the natural stream involves alteration of the stream channel, no such alteration shall be made by the district until such alteration is approved by the director.

15. To enter into contracts or agreements with the United States or any of its officers, agents, or subdivisions, or with the state or any of its officers, agents or political subdivisions, and to cooperate with such governments, persons or agencies in effectuating, promoting and accomplishing the purposes of this chapter, provided that the district has sufficient moneys on hand, or in their budget for the year in which said contract is entered into, to defray the expenditure of funds called for in such contract without the creation of any indebtedness. Whenever any such contract shall, by its terms, require the expenditure of funds by the district in excess of the moneys on hand or the funds to be realized from their budget for the year in which said contract is entered into, then such contract may not be entered into by the district until ratified by two-thirds (2/3) of the qualified voters voting at an election to be held, subject to the provisions of section 34-106, Idaho Code, for that purpose, according to the provisions of this chapter.

10-11-2000  
7-11-2001



APR 13 1988



State of Idaho  
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS  
GOVERNOR  
R. KEITH HIGGINSON  
DIRECTOR

April 11, 1988

Michael J. Newell  
Sims, Liesche & Newell  
1010 Ironwood Drive  
Coeur d'Alene, Idaho 83814

4. A Few Notes as to Lake Level

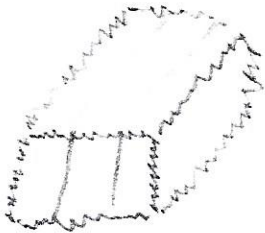
Finally, it should be noted that water rights will not be administered based upon the level of the lake. The storage right owners are not entitled to a minimum lake level, and the report does not provide for maintenance of a minimum lake level.



- Turtle Shell



- Shovel



- Bale of Hay