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June 11, 2019

34th Circuit Court
Clerk of the Court
500 Lake Street
Roscommon, MI 48653

Via electronic filing and hand delivery

Re: In the Matter of: The Water Levels
File No. 81-3003-CF

Dear Clerk:

Enclosed please find the following:

1. Motion to Intervene by HLPOA and HLLC
2. Proof of Service
3. \$20.00 motion fee

Please process in your usual manner.

Thank you for your kind attention. Please do not hesitate to contact our office should you have any questions.

Sincerely,



Stacie Thayer
Legal Assistant

Enclosure

cc Judge Bennett *via email and hand delivery*
M. Zalewski *via email and hand delivery*
P. Ellison *via email and hand delivery*
C. Bzdok *via email and hand delivery*
Client *via email*
File

STATE OF MICHIGAN
IN THE 34th CIRCUIT COURT FOR THE COUNTY OF ROSCOMMON

IN THE MATTER OF:
THE WATER LEVELS OF HOUGHTON
LAKE, HIGGINS LAKE, AND LAKE ST.
HELEN

Case No. 81-3003-CF

ROSATI SCHULTZ JOPPICH &
RAMTSBUECHLER, P.C.
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**MOTION TO INTERVENE BY HIGGINS LAKE PROPERTY
OWNERS' ASSOCIATION AND HIGGINS LAKE LAND CONSERVANCY**

NOW COMES the Higgins Lake Property Owner's Association (HLPOA) and the Higgins Lake Land Conservancy (HLLC) by and through counsel, Carey & Jaskowski, P.L.L.C., by William L. Carey, and as their joint motion before this Court states as follows:

1. The Higgins Lake Property Owner's Association (HLPOA) is a Michigan non-profit corporation. The mission statement of HLPOA is to "protect, preserve and enhance the quality of Higgins Lake and its surrounding watershed". HLPOA was formed in 1935 and is a membership based organization. To be a member of HLPOA, an individual must own lakefront property on Higgins Lake.

2. HLPOA membership exceeds 500 riparians on Higgins Lake. The purpose of HLPOA, in accordance with its Article of Incorporation, is to represent the interests of lakefront property owners on Higgins Lake. HLPOA has been a Plaintiff litigant in numerous actions before the Roscommon County Circuit Court involving the rights of riparian property owners at Higgins Lake. The standing of HLPOA to litigate the interests of its members has been affirmed by the Michigan Court of Appeals.

3. The Higgins Lake Land Conservancy (HLLC) is a Michigan non-profit corporation established in 2007. The HLLC is recognized by the Internal Revenue Service as a charitable 501C(3) corporation. HLLC was formed to acquire, exchange, sell and otherwise manage lands solely within the watershed of Higgins Lake in a manner to promote the prudent environmental use and conservation of said lands. HLLC is a directorship based organization. HLLC owns lands within the watershed of Higgins Lake, and in particular, owns land immediately adjacent to the Cut River at or about the site of the Cut River Dam. HLLC has, among its various corporate resolutions, resolved to take all steps reasonable and necessary to protect and preserve the Cut River Dam as a mechanism to assist with the control of the water level of Higgins Lake. A separate fund has been established by HLLC to be used for the purpose of protecting and preserving the Cut River Dam.

4. The proposed intervening interested parties, HLPOA and HLLC (hereinafter "Non-Profit Intervenors"), move to intervene in the instant proceeding by right under MCR 2.209(A)(3).

5. The instant motion to intervene is filed in response to that certain Motion for Issuance of a Show Cause Order Directed to County of Roscommon and its Delegated Authority. Said motion was filed on or about May 21, 2019 by Citizens for Higgins Lake Legal Levels, et al. The instant motion to intervene is further being filed in response to a certain Order to Show Cause entered by this Court on or about May 28, 2019.

6. The proposed Non-Profit Intervenors either own riparian property within the Higgins Lake watershed or represent the interests of the majority of riparian owners on Higgins Lake. The proposed Non-Profit Intervenors either directly or through membership may be impacted by the relief requested in the aforementioned Motion for Order to Show Cause. Accordingly, the proposed Non-Profit Intervenors have a right to intervene as established by MCR 2.209(A)(3).

7. The Michigan Court Rules recognize intervention by right when a Michigan statute or court rule confers an unconditional right to intervene or when the applicant claims an interest related to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest. In the case at bar, the proposed Non-Profit Intervenors' interest is not likely to be adequately represented by either the Petitioner or the Respondent.

8. While the controlling court rule requires a timely motion for intervention, there is no question in the case at bar that the instant motion has been filed timely.

9. The application of MCR 2.209(A)(3) should be liberally construed to allow intervention where the applicant's interest may be inadequately represented. The decision to grant a motion to intervene is discretionary by the Court but should be granted liberally with the Court being satisfied that the proposed intervenors meet all requirements.

10. The proposed Non-Profit Intervenors claim interest, directly or through membership, related to the subject of the Motion for Order to Show Cause that include protection of real property and the use enjoyment of Higgins Lake.

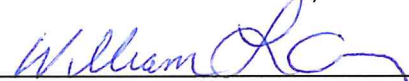
11. The proposed Non-Profit Intervenors have not, and likely will not, adopt the position advocated by either the Citizens for Higgins Lake Legal Levels or Roscommon County as those positions have been set forth in the various pleadings filed with this Court to date. Necessarily then, the proposed Non-Profit Intervenors' interest are not currently being adequately being represented.

WHEREFORE, the proposed Non-Profit Intervenors HLPOA and HLLC respectfully request that each be granted the right to intervene in this case and be allowed to file responses as interested parties and to further be given all other relief that is appropriate under the circumstances.

Respectfully submitted,


CAREY & JASKOWSKI, P.L.L.C.

Dated: June 11, 2019



By: William L. Carey (P31602)
Attorney for Higgins Lake Property
Owners Association

Dated: June 11, 2019



By: William L. Carey (P31602)
Attorney for Higgins Lake Land
Conservancy

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PROOF OF SERVICE

I, Stacie Thayer, state that I served on the 11th day of June, 2019, via email and a copy of the following documents on:

- Motion To Intervene by Higgins Lake Property Owner's Association and Higgins Lake Land Conservancy

Judge Bennett, c/o April Weiler; weilera@roscommoncounty.net
Matthew Zalewski; mzalewski@rshalaw.com
Philip L. Ellison; pellison@olcplc.com
Christopher Bzdok; chris@envlaw.com

I declare that the above statements are true to the best of my knowledge, information and belief.

Dated: 10-11-19

Stacie Thayer
Stacie Thayer (LA098897)
Legal Assistant