



1 certificate of service, and it appears that the motion was not served on either petitioner or the  
2 county. OAR 661-010-0075(2)(b) requires that any document filed with the Board must be  
3 contemporaneously served on all other parties. Because the March 4, 2010 motion was not  
4 served on other parties, those parties have not had any opportunity to respond to the motion.  
5 Allowing intervenor to belatedly correct her violation of OAR 661-010-0075(2)(b) and  
6 provide an opportunity for petitioner and the county to respond to the motion would further  
7 delay reaching finality in this appeal. In the present circumstances, we believe intervenor's  
8 failure to serve the motion on other parties has affected those parties' substantial rights, and  
9 therefore we decline to consider the motion. OAR 661-010-0005.

10 In any case, the motion is without merit. Intervenor seeks attorney fees under  
11 ORS 197.830(15)(b), which permits an award of reasonable attorney fees and expenses to the  
12 prevailing party against any other party who the Board finds "presented a position" without  
13 probable cause to believe their position was well-founded in law or on factually supported  
14 information. No petition for review was filed in this appeal, and intervenor makes no effort  
15 to identify any "position" petitioner has made in this appeal, much less explain why attorney  
16 fees and expenses are warranted under the probable cause threshold.

17 Dated this 13th day of April, 2010.

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Tod A. Bassham, Board Chair