

Miller, Nick

From: Miller, Nick
Sent: Thursday, October 15, 2020 3:41 PM
To: 'Andy Waldera'; Dave Rathbun
Cc: Carl Hayes; Debby Long
Subject: RE: Water Application for Permit Nos. 65-23934 (Rathbun) & 65-23926 (Kohtz)--Middle Fork of the Payette River

The email string is fine. I wanted to make sure it is clear in the file.

Thank you.

Nick.

From: Andy Waldera [mailto:andy@sawtoothlaw.com]
Sent: Thursday, October 15, 2020 3:40 PM
To: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Dave Rathbun <rathbuns@earthlink.net>
Cc: Carl Hayes <carl@blackcanyonirrigation.com>; Debby Long <debby@sawtoothlaw.com>
Subject: RE: Water Application for Permit Nos. 65-23934 (Rathbun) & 65-23926 (Kohtz)--Middle Fork of the Payette River

Unless you disagree, Nick, I was content to use the email string in the application file.

If you prefer something different, please advise and I will act accordingly on behalf of Black Canyon Irrigation District.

Regards,
Andy

Andrew J. Waldera

SAWTOOTH LAW OFFICES, PLLC

andy@sawtoothlaw.com

www.sawtoothlaw.com

Telephone: (208) 629-7447 ext. 216

Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707



SAWTOOTH LAW
OFFICES, PLLC

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 629-7447, so that our address record can be corrected. Thank you.

From: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Sent: Thursday, October 15, 2020 2:31 PM

To: Andy Waldera <andy@sawtoothlaw.com>; Dave Rathbun <rathbuns@earthlink.net>

Cc: Carl Hayes <carl@blackcanyonirrigation.com>; Debby Long <debby@sawtoothlaw.com>

Subject: RE: Water Application for Permit Nos. 65-23934 (Rathbun) & 65-23926 (Kohtz)--Middle Fork of the Payette River

Hi Andy,

Are you planning to send in a withdrawal by mail, or do you intend this email string to go in the file to document your protest withdrawal?

Please confirm.

Nick.

From: Andy Waldera [<mailto:andy@sawtoothlaw.com>]

Sent: Wednesday, October 14, 2020 11:26 AM

To: Dave Rathbun <rathbuns@earthlink.net>

Cc: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Carl Hayes <carl@blackcanyonirrigation.com>; Debby Long <debby@sawtoothlaw.com>

Subject: RE: Water Application for Permit Nos. 65-23934 (Rathbun) & 65-23926 (Kohtz)--Middle Fork of the Payette River

Thank you folks.

Andy

Andrew J. Waldera

SAWTOOTH LAW OFFICES, PLLC

andy@sawtoothlaw.com

www.sawtoothlaw.com

Telephone: (208) 629-7447 ext. 216

Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707



NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 629-7447, so that our address record can be corrected. Thank you.

From: Dave Rathbun <rathbuns@earthlink.net>

Sent: Wednesday, October 14, 2020 11:22 AM

To: Andy Waldera <andy@sawtoothlaw.com>

Cc: Miller, Nick <Nick.Miller@idwr.idaho.gov>; Carl Hayes <carl@blackcanyonirrigation.com>; davidkohtz@gmail.com; Debby Long <debby@sawtoothlaw.com>

Subject: Re: Water Application for Permit Nos. 65-23934 (Rathbun) & 65-23926 (Kohtz)--Middle Fork of the Payette River

David & Alana Rathbun via this email reaffirm that:

They respectively seek appropriation of water sourced exclusively from the Middle Fork Payette River with proposed points of diversion and places of use upstream of (north of) Crouch, Idaho.

Thanks for your courteous efforts on this issue.

Sent from my iPhone

On Oct 14, 2020, at 9:57 AM, Andy Waldera <andy@sawtoothlaw.com> wrote:

Good morning Nick (and All).

I am pleased to report that Black Canyon Irrigation District and the United States Bureau of Reclamation have reached agreement on a proposed water right condition for use on new water right applications in Basin 65.

However, as we've further refined our thinking and review of the above-referenced applications in particular, we feel that the proposed remark/condition is not necessary given the location of these proposed appropriations from the Middle Fork Payette—reason being that hydraulically, neither applicant could attempt to call water through either Cascade or Deadwood Reservoirs for their benefit (absent pumping and piping) because water cannot flow uphill up the Middle Fork to their respective properties.

Thus, Black Canyon Irrigation District conditionally withdraws its pending protests to both Application for Permit Nos. 65-23934 (Rathbun) & 65-23926 (Kohtz); provided that each of them (Rathbun and Kohtz) reiterate and confirm via response to this email that:

--They respectively seek appropriation of water sourced exclusively from the Middle Fork Payette River with proposed points of diversion and places of use upstream of (north of) Crouch, Idaho.

I know we drilled down into some of these details verbally recently in relation to the Kohtz application, but I would appreciate a written acknowledgment from both applicants (Rathbun and Kohtz) to further document these facts.

Thank you for your time and consideration. So far as Black Canyon is concerned, it sees no reason to participate in tomorrow's status conference in the Rathbun matter or the subsequent Kohtz conference either. But, I am happy to join the calls to further discuss if you want to do so Nick.

Regards,
Andy

Andrew J. Waldera

SAWTOOTH LAW OFFICES, PLLC

andy@sawtoothlaw.com

www.sawtoothlaw.com

Telephone: (208) 629-7447 ext. 216

Facsimile: (208) 629-7559

P.O. Box 7985, Boise, Idaho, 83707

<image001.png>

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 629-7447, so that our address record can be corrected. Thank you.