

Maline, Denise

From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Monday, January 22, 2024 5:00 PM
To: IDWR File
Cc: Travis L. Thompson; Pugrud, Scott; Timothy Stover; John Simpson; Hansen, Angela
Subject: 47-17745 - Chobani's Unopposed Motion to Augment Record [GP-DMS.011411.0074.FID982287]
Attachments: Chobani Unopposed Motion to Augment Record 2024-01-22_18181005_3.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

Please find attached Chobani's Unopposed Motion to Augment Record.

Thanks,
Mike

MICHAEL P. LAWRENCE

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Attorneys for Chobani, LLC

RECEIVED

Jan 22, 2024

DEPARTMENT OF
WATER RESOURCES

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 47-17745 IN THE
NAME OF CHOBANI, LLC

CHOBANI'S UNOPPOSED MOTION
TO AUGMENT RECORD

Chobani, LLC ("Chobani"), by and through its counsel of record, Givens Pursley LLP, hereby moves the Hearing Officer to augment the evidentiary record in the above-captioned matter to include as Exhibit 30 the document attached hereto as **Attachment A**.

Attachment A is a true and correct copy of a December 27, 2023, email exchange between City of Twin Falls Planning and Zoning Director Jonathan Spendlove and attorneys at the law firm of Givens Pursley. Good cause exists to grant this motion. The email exchange in Attachment A occurred after the December 19-20, 2023, evidentiary hearing and therefore was not available for introduction at the hearing. Chobani contends that the email exchange in Attachment A helps to clarify Mr. Spendlove's hearing testimony.

Chobani's undersigned counsel has contacted the attorneys for protestants City of Twin Falls and Burks Tractor Company, Inc., who have indicated that they do not oppose augmenting the record to include the document in Attachment A.¹

Oral argument is not requested.

¹ Chobani's counsel did not contact Idaho Power Company because they stipulated to withdraw the Company's protest prior to the December hearing and the Company did not participate at the hearing.

DATED this 22nd day of January, 2024.

GIVENS PURSLEY LLP



By: _____

Michael P. Lawrence

Attorneys for Chobani, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 22nd day of January, 2024, I served a true and correct copy of the above and foregoing document via the manner listed below to the following:

DOCUMENT FILED:

Idaho Department of Water Resources	<input type="checkbox"/>	U.S. Mail, postage prepaid
IDAHO WATER CENTER	<input type="checkbox"/>	Express Mail
322 E Front St., Suite 648	<input type="checkbox"/>	Hand Delivery
Boise, Idaho 83702-7371	<input type="checkbox"/>	Facsimile
	<input checked="" type="checkbox"/>	Efile: file@idwr.idaho.gov

DOCUMENT SERVED:

Travis L. Thompson	<input type="checkbox"/>	U.S. Mail, postage prepaid
MARTEN LAW LLP	<input type="checkbox"/>	Express Mail
163 Second Ave. W.	<input type="checkbox"/>	Hand Delivery
PO Box 63	<input type="checkbox"/>	Facsimile
Twin Falls, ID 83303-0063	<input checked="" type="checkbox"/>	Email
tthompson@martenlaw.com		
<i>Attorneys for City of Twin Falls</i>		

Timothy J. Stover	<input type="checkbox"/>	U.S. Mail, postage prepaid
STOVER GADD & ASSOCIATES PLLC	<input type="checkbox"/>	Express Mail
PO Box 1428	<input type="checkbox"/>	Hand Delivery
Twin Falls, ID 83303-1428	<input type="checkbox"/>	Facsimile
tjs@magicvalleylaw.com	<input checked="" type="checkbox"/>	Email
<i>Attorneys for Burks Tractor Company, Inc.</i>		

Scott N. Pugrud	<input type="checkbox"/>	U.S. Mail, postage prepaid
Idaho Power Comapny	<input type="checkbox"/>	Express Mail
1221 W. Idaho Street	<input type="checkbox"/>	Hand Delivery
P.O. Box 70	<input type="checkbox"/>	Facsimile
Boise, Idaho 83707	<input checked="" type="checkbox"/>	Email
Telephone: (208) 388-6454		
Facsimile: (208) 388-6935		
spugrud2@idahopower.com		
<i>Attorney for Idaho Power Company</i>		

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Attorneys for Idaho Power Company

- U.S. Mail, postage prepaid
- Express Mail
- Hand Delivery
- Facsimile
- Email



By: _____
Michael P. Lawrence

ATTACHMENT A

(copy of December 27, 2023 email exchange with Jonathan Spendlove)

From: Deborah E. Nelson
Sent: Wednesday, December 27, 2023 4:32 PM
To: Jonathan Spendlove; Danielle M. Stollo
Cc: 'Bruce Castleton'; Mitch Humble; Travis Rothweiler
Subject: RE: Notice of appeal and narrative [GP-DMS.011411.0074.FID982296]

Thank you, Jonathan, for your call and email.

We appreciate the confirmation that this was not a final Administrator decision. We agree that, based on this confirmation, it is appropriate to return the appeal and fee.

I'll follow-up with Chobani to determine a good time to discuss.

In the meantime, Happy New Year!

Deb

DEBORAH E. NELSON

GIVENS PURSLEY LLP

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direct 208-388-1215 / mobile 208-571-6325 / assistant 208-388-1225 (Jennifer Taylor)

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From: Jonathan Spendlove <JSpendlove@tfid.org>
Sent: Wednesday, December 27, 2023 2:15 PM
To: Danielle M. Stollo <dms@givenspursley.com>; Deborah E. Nelson <den@givenspursley.com>
Cc: 'Bruce Castleton' <bcastleton@castletonlegal.com>; Mitch Humble <Mhumble@tfid.org>; Travis Rothweiler <trothweiler@tfid.org>
Subject: RE: Notice of appeal and narrative [GP-DMS.011411.0074.FID982296]

EXTERNAL

Danielle and Deb,

Following up on the items we discussed during our phone conversation today. The letter that was drafted, and later included as part of the IDWR hearing, was in the format of an Administrator Determination. However, it was not intended to be a Final Administrator Determination. The letter was not delivered to Chobani by my office, and it was not accompanied by an explanation on how to appeal the determination (as an Official Final Administrator Determination should). It was simply the format most similar to how I organized my thoughts.

At this time, I believe an Appeal is unnecessary, as no official zoning action has taken place as of yet. It is my intent for you to maintain your right to appeal the official land use determination when it occurs. If you agree with this course of action, we will return the application, and corresponding fee.

I would encourage a full discussion and disclosure on the proposed operation that Chobani is seeking to accomplish on their property. We could then work towards an official zoning determination, if they wish, prior to expending further resources on this project. As we discussed over the phone, a smaller group can be more productive. Along with myself, the City Attorney and a member of the City Managers Office would be needed on our side. To that effect I have taken the liberty of including them on this email.

We will await further direction from you on the appeal application, and a future meeting date to discuss the land use matter more fully.

Respectfully,

Jonathan Spendlove
Planning and Zoning Director
City of Twin Falls

From: Danielle M. Strollo <dms@givenspursley.com>
Sent: Friday, December 15, 2023 5:02 PM
To: Planning and Zoning <tfplanning@tfid.org>
Cc: Deborah E. Nelson <den@givenspursley.com>
Subject: Notice of appeal and narrative [GP-DMS.011411.0074.FID982296]

[EXTERNAL SENDER]

Hello:

On behalf of Chobani LLC, please see attached notice of appeal and narrative in support of said notice, which was just sent to the City Clerk's office via email. We have asked for the link for fee payment in accordance with the appeal form.

Thank you,
Danielle



Please do not print this email unless it is absolutely necessary. Spread environmental awareness.

DANIELLE M. STROLLO
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