

Maline, Denise

From: Michael P. Lawrence <mpl@givenspursley.com>
Sent: Tuesday, November 21, 2023 9:48 AM
To: Maline, Denise; Jessica L Witt
Cc: Timothy Stover; John Simpson; Travis L. Thompson; Hansen, Angela; Jess Nielsen
Subject: RE: Chobani, Application for Permit No. 45-17745 [GP-DMS.011411.0074.FID982287]

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.

Yes, the caption should read 47-17745. That was a typo. Would you like us to submit a corrected page 1?

Thanks,
Mike

MICHAEL P. LAWRENCE
GIVENS PURSLEY LLP
601 West Bannock Street, Boise, ID 83702
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fax 208-388-1300
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From: Maline, Denise <Denise.Maline@idwr.idaho.gov>
Sent: Tuesday, November 21, 2023 9:44 AM
To: Jessica L Witt <jwitt@martenlaw.com>
Cc: Timothy Stover <tjs@magicvalleylaw.com>; John Simpson <jsimpson@martenlaw.com>; Michael P. Lawrence <mpl@givenspursley.com>; Travis L. Thompson <tthompson@martenlaw.com>; Hansen, Angela <Angela.Hansen@idwr.idaho.gov>; Jess Nielsen <jnielsen@martenlaw.com>
Subject: FW: Chobani, Application for Permit No. 45-17745

EXTERNAL

Good morning,

Yesterday we received the attached *Stipulation and Notice of Conditional Withdrawal* for the Chobani matter. It was noted on page 1 of the attached document that the permit application number listed says 45-17745. The contested case for Chobani is permit application number 47-17745, therefore I am reaching out to confirm this is a typographical error.

Please confirm that this is a typo, and all parties agree that this *Stipulation* is filed for permit application number 47-17745; in order for the department to ensure the document is filed properly.

Thank you in advance,

Denise Maline, IDWR Southern Region



Denise Maline, Administrative Assistant I
Idaho Dept. of Water Resources, Southern Region
650 Addison Ave W Ste 500
Twin Falls ID 83301-5858
(208) 293-9908
denise.maline@idwr.idaho.gov

From: Jessica L Witt <jwitt@martenlaw.com>
Sent: Monday, November 20, 2023 3:16 PM
To: IDWR File <file@idwr.idaho.gov>
Cc: Hansen, Angela <Angela.Hansen@idwr.idaho.gov>; John K. Simpson <jsimpson@martenlaw.com>;
mpl@givenspursley.com; Travis L. Thompson <tthompson@martenlaw.com>; tjs@magicvalleylaw.com
Subject: Chobani, Application for Permit No. 45-17745

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Dear Hearing Officer Hansen and Parties,

Please find attached *Stipulation and Notice of Conditional Withdrawal of Protest* for filing and service regarding the above referenced matter.

Sincerely,
Jessica

Jessica L. Witt
Contractor

O - 208.424.2033
E - jwitt@martenlaw.com
martenlaw.com
101 S. Capitol Blvd., Ste. 305
Boise, ID 83702



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Maline, Denise

From: Jessica L Witt <jwitt@martenlaw.com>
Sent: Monday, November 20, 2023 3:16 PM
To: IDWR File
Cc: Hansen, Angela; John K. Simpson; mpl@givenspursley.com; Travis L. Thompson; tjs@magicvalleylaw.com
Subject: Chobani, Application for Permit No. 45-17745
Attachments: 2023.11.20 Stipulation and Notice of Conditional Withdrawal of Protest_45-17745 4887-9209-2562 version 1.pdf

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Dear Hearing Officer Hansen and Parties,

Please find attached *Stipulation and Notice of Conditional Withdrawal of Protest* for filing and service regarding the above referenced matter.

Sincerely,
Jessica

Jessica L. Witt
Contractor

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Scott N. Pugrud, ISB No. 8883
IDAHO POWER COMPANY
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P.O. Box 70
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Facsimile: (208) 388-6935
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RECEIVED

Nov 20, 2023

DEPARTMENT OF
WATER RESOURCES

John K. Simpson, ISB No. 4242
MARTEN LAW LLP
101 S. Capitol Blvd., Ste. 305
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (206) 237-6069
jsimpson@martenlaw.com

Attorneys for Idaho Power Company

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

* 47-
IN THE MATTER OF APPLICATION FOR
PERMIT NO. ~~45~~-17745 IN THE NAME OF
CHOBANI, LLC

**STIPULATION AND NOTICE OF
CONDITIONAL WITHDRAWAL OF
PROTEST**

IDAHO POWER COMPANY (the "Protestant"), by and through its attorneys of record, Marten Law LLP, hereby files this *Stipulation and Notice of Conditional Withdrawal of Protest* to the above-numbered *Application for Permit* filed by CHOBANI, LLC (the "Applicant").

The Applicant and Protestant hereby file this Stipulation and Protestant's withdrawal of its protest on the following conditions:

1. That the Idaho Department of Water Resources ("IDWR") make the appropriate finding that the application is consistent with the Amended Snake River Basin Moratorium Order issued on October 21, 2022.

* per E-mail confirmation 11/21/2023. sm

Scott N. Pugrud, ISB No. 8883
IDAHO POWER COMPANY
1221 W. Idaho Street
P.O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-6454
Facsimile: (208) 388-6935
spugrud2@idahopower.com

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Nov 20, 2023

DEPARTMENT OF
WATER RESOURCES

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MARTEN LAW LLP
101 S. Capitol Blvd., Ste. 305
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
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Attorneys for Idaho Power Company

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

IN THE MATTER OF APPLICATION FOR
PERMIT NO. 45-17745 IN THE NAME OF
CHOBANI, LLC

**STIPULATION AND NOTICE OF
CONDITIONAL WITHDRAWAL OF
PROTEST**

IDAHO POWER COMPANY (the “Protestant”), by and through its attorneys of record, Marten Law LLP, hereby files this *Stipulation and Notice of Conditional Withdrawal of Protest* to the above-numbered *Application for Permit* filed by CHOBANI, LLC (the “Applicant”).

The Applicant and Protestant hereby file this Stipulation and Protestant’s withdrawal of its protest on the following conditions:

1. That the Idaho Department of Water Resources (“IDWR”) make the appropriate finding that the application is consistent with the Amended Snake River Basin Moratorium Order issued on October 21, 2022.

2. That the Applicant has provided mitigation for the permit through the recharge of non-trust water delivered from the City of Twin Falls and available to Chobani's injection wells following use and treatment through the Applicant's processing plant.

3. That the appropriate measuring, data collection, and reporting will be provided to the Department to ensure that full mitigation is provided for all pumping from the new right.

4. Recognizing that the application is for a new diversion of trust water, the parties agree that the standard Trust Water language for all new appropriations of Trust Water contained in IDWR Application Processing Memorandum # 77, dated July 18, 2019, be inserted on any permit issued in this matter, as well as the following language indicating that the permitted use is mitigated by the recharge and will not be subject to administration to satisfy minimum streamflow rights in the Snake River at Murphy Gauge so long as mitigation is appropriately documented:

Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right and such mitigation is documented and accounted for.

The parties recognize and agree any water recharged through the Applicant's private managed recharge program (injection wells) is completed to ensure that the condition identified above is satisfied and shall not stand for the concept of "Aquifer Storage and Recovery."

5. That the parties recognize that the concept "Aquifer Storage and Recovery" (ASR) (meaning the use of managed recharge to store surface water in a confined underground area while avoiding injury to existing water rights) is not recognized in Idaho and further, given the unconfined nature of the Eastern Snake Plain Aquifer (ESPA), such assertions would have no

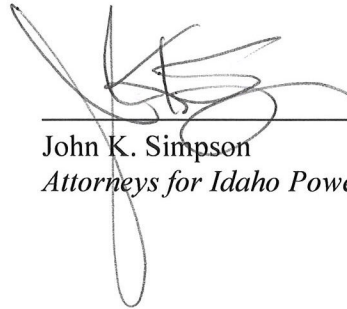
technical basis. This application is not premised upon ASR; nor shall this application and any permit issued be considered precedent for ASR.

DATED this 17th day of November, 2023. **GIVENS PURSLEY LLP**



Michael P. Lawrence
Attorneys for Applicant Chobani, LLC

DATED this ¹⁶20 day of ~~November~~, 2023. **MARTEN LAW LLP**

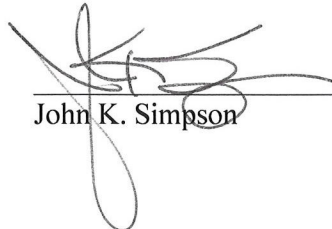


John K. Simpson
Attorneys for Idaho Power Company

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 2023, I served the original of the foregoing **STIPULATION AND NOTICE OF CONDITIONAL WITHDRAWAL OF PROTEST**, by hand-delivering, emailing, or depositing same in the U.S. Mail, postage prepaid, as indicated, addressed to the following:

| | |
|--|---|
| Idaho Department of Water Resources Idaho Water Center 322 East Front Street Boise, Idaho 83702-7374 file@idwr.idaho.gov | <input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email |
| Michael P. Lawrence GIVENS PURSLEY LLP PO Box 2720 Boise, ID 83701-2720 mpl@givenspursley.com <i>Attorneys for Chobani, LLC</i> | <input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email |
| Travis L. Thompson MARTEN LAW LLP 163 Second Ave. W PO Box 63 Twin Falls, ID 83303-0063 tthompson@martenlaw.com <i>Attorneys for City of Twin Falls</i> | <input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email |
| Timothy J. Stover STOVER GADD & ASSOCIATES PLLC PO Box 1428 Twin Falls, ID 83303-1428 tjs@magicvalleylaw.com <i>Attorneys for Burks Tractor Company, Inc.</i> | <input type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email |



John K. Simpson