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Attorneys for Pancheri, Inc.

RECEIVED

May 05, 2025

DEPARTMENT OF
WATER RESOURCES

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

IN THE MATTER OF APPLICATIONS
FOR TRANSFER 89297 IN THE NAME
OF PANCHERI INC.

**DECLARATION OF
ROBERT L. HARRIS**

I, Robert L. Harris, state that the following is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

1. I am over the age of eighteen (18) and am competent to testify to the matters contained herein.
2. I am a member of Holden, Kidwell, Hahn & Crapo, P.L.L.C. ("HKHC"), representing Pancheri, Inc. ("Pancheri") in this matter.
3. This declaration is being submitted in support of *Applicant's Motion for Summary Judgment and Memorandum in Support* filed by Pancheri in this matter.
4. On February 7, 2025, I prepared discovery requests and served them on Roy Sermon. The discovery requests are attached hereto as **Exhibit 1**. The discovery requests included interrogatories, request for production of documents, and requests for admission.

5. The discovery requests were propounded on February 7, 2025, in accordance with the *Notice of Hearing and Scheduling Order* dated January 13, 2025 (the “Procedural Order”).
6. Responses to the discovery requests were due on or before 30 days of service of the discovery requests, which was Monday, March 10, 2025.¹
7. As of May 5, 2025, I have not received responses to any of the discovery requests propounded to Roy Sermon. Specifically, I have not received responses to the requests for admission contained in the discovery requests.

I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct. Idaho R. Civ. P. 2.7; Idaho Code § 9-1406.

May 5, 2025



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

¹ Thirty (30) days from February 7, 2025, is March 9, 2025, but because that day falls on a Sunday, by rule, the deadline is moved to the next business day, in this case, March 10, 2025. IDAPA 37.01.01.056.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2025, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

DOCUMENT SERVED: DECLARATION OF ROBERT L. HARRIS

ATTORNEYS AND/OR INDIVIDUALS SERVED:

James Cefalo
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Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Exhibit 1

DISCOVERY REQUESTS

Robert L. Harris (ISB #7018)
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Attorneys for Pancheri Inc.

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

IN THE MATTER OF APPLICATION
FOR TRANSFER 89297 IN THE NAME
OF PANCHERI INC.

**FIRST DISCOVERY REQUESTS TO
ROY SERMON**

TO: ROY SERMON, roy.sermon@gmail.com

YOU WILL PLEASE TAKE NOTICE that the Applicant, Pancheri Inc., requires Protestant Roy Sermon ("Protestant") to answer the following discovery requests pursuant to IDAPA 37.01.01.520 and the *Notice of Hearing and Scheduling Order* (issued January 13, 2025).

DEFINITIONS AND INSTRUCTIONS

In answering these discovery requests, furnish all information available to you, including information in the possession of your attorneys or investigators for your attorneys, and not merely information known of your own personal knowledge.

If you cannot answer the discovery requests in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portion.

If you are unable to produce the requested documents, after exercising due diligence to secure the documents, so state, and identify the reason for your inability to produce the documents,

the whereabouts of the documents if not in your control or possession, and the means whereby you lost control or possession of the documents. Identify any documents which once did exist if not now existing and state whatever information or knowledge you have concerning the information contained in those documents.

If you object to answering any portion of any of the following discovery requests based on a claim of privilege or work product, please so state by providing a complete description of the basis for the privilege upon which you base your objection.

Prior to answering these discovery requests, note the following definitions:

1. “you” and/or “Protestant” refers to Roy Sermon, as well as each of his employees, agents, representatives (including insurance carriers), investigators, and attorneys.

2. “Applicant” refers to Pancheri Inc..

3. “Application” refers to Application for Transfer No. 89297.

4. “and” includes “or” and “and/or.”

5. “facts” means all circumstances, events, and evidence pertaining to or touching upon the allegations set forth in the pleadings in this matter.

6. The term “document” or “documents” means any kind of written, typed, printed, graphic, photographic, videotaped, electronic, or computer-generated matter of any kind or nature, however produced or reproduced, including data or information that exists in electronic or data storage devices in any medium, any electronic files in their original format, as well as all mechanical or electronic sound recordings, and written transcripts thereof, however produced or reproduced, including all marginal notations, drafts, duplicates, and carbon copies thereof, whether in your control or not, in the possession of you or your counsel. If a document exists in both a paper form (or “hard copy”) and electronically, then a request to produce such documents shall be deemed to be a request to produce both the hard copy and the electronic copy of the document.

7. The terms “electronic” and “electronically” mean any and all digital or electronic files or means, however stored, including, but not limited to, local or remote computer hard disk drive, floppy disc, CD-ROM, tape drive, zip disk, flash or thumb drive, or any other electronic storage format or medium. Additionally, requests for production of electronic documents means production of such documents or computer files in their native format.

8. The term “identify,” when used with respect to documents or the description or identification of a document, shall be deemed to request the nature and subject matter of the documents; the date thereof; the title or name thereof; the name, address, and job title or job capacity of the person who prepared the document or who has knowledge of it; and the name, address, job title, and/or job capacity of the recipient(s) thereof.

9. The term “identify,” when used with respect to a person, shall be deemed to request the person’s full name, job title, last known business and residence addresses, and telephone numbers.

10. “Communicate” or “communication” refers to every manner or means of disclosure or Application or exchange of information, whether orally or by document and whether face-to-face, by telephone, mail, e-mail, personal delivery, or otherwise.

11. The term “identify” when used with respect to oral communications shall be deemed to request whether said communication was in person or by telephone, an identification of each person who participated in or heard any part of said communication, and the substance of what was said by each person who participated in said communication, and when such communication took place.

12. “Evidencing” and “relating to” mean consisting of, summarizing, describing, referring to, dealing with, mentioning, etc.

13. Whenever the plural appears, the word shall include the singular, and vice versa.

14. All pronouns denoting gender which are in the masculine form shall be interpreted in light of the gender of the individual which the pronoun describes and vice versa.

15. Where knowledge or information in possession of a party is requested, such request includes information and knowledge either in your possession, under your control, within your dominion, or available to you regardless of whether this information is in your personal possession or is possessed by your agents, attorneys, servants, employees, independent contractors, representatives, insurers, or others with whom you have a relationship and from whom you are capable of deriving information, documents, or materials.

16. Each discovery request shall be accorded a separate answer and each subpart of a discovery request shall be accorded a separate answer.

17. PURSUANT TO RULE 26(e) OF THE IDAHO RULES OF CIVIL PROCEDURE, AS INCORPORATED INTO THIS MATTER BY IDAPA 37.01.01.520.02, THESE DISCOVERY REQUESTS ARE CONTINUING IN NATURE, SO AS TO REQUIRE YOU TO FILE SUPPLEMENTARY ANSWERS IN A REASONABLE MANNER.

I. INTERROGATORIES

INTERROGATORY NO. 1.: Please identify each individual who answered or provided information necessary to respond to the following interrogatories and requests for production.

INTERROGATORY NO. 2.: Please identify each and every person known to you who has any knowledge or who purports to have knowledge of any of the facts of this contested case.

INTERROGATORY NO. 3.: With respect to each person identified in response to Interrogatory No. 2, please set forth in detail the facts you believe are or may be known to such person.

INTERROGATORY NO. 4.: For each fact set forth in response to Interrogatory No. 3, above, identify any and all documents that relate to, describe, support, or otherwise reflect the facts known to each person.

INTERROGATORY NO. 5.: Please state the full name, current address, and telephone number of each and every person, including parties, you intend to call as a witness to testify on your behalf in this contested case.

INTERROGATORY NO. 6.: Please state with particularity the substance of the facts and opinions to which each person identified in response to Interrogatory No. 5 is expected to testify.

INTERROGATORY NO. 7.: Please identify in full and complete detail any reports, statements, affidavits, photographs, drawings, illustrations, written documents, electronic messages, diaries, calendars, notes, journals, tape recordings, and/or video tapes of which you possess or are aware that pertain to any issues in this contested case.

INTERROGATORY NO. 8.: Identify each person you may call as an expert witness at the hearing on this matter and, as to each, please provide a summary of each experts' opinions pursuant to Idaho Rule of Civil Procedure 26(b)(4). This should include but is not limited to the following: (a) The subject matter on which each expert may testify; (b) The substance of the opinion to which each expert may testify; (c) The underlying facts and data upon which each expert's opinions are based; and (d) The witness' credentials which you allege qualify him or her as an expert.

INTERROGATORY NO. 9.: Please state with particularity all facts and legal bases you have to assert that the Application will injure Protestant's water rights or any other water rights owned by others, and relative to such water rights, please identify them by water right number(s).

INTERROGATORY NO. 10.: Please identify any and all studies or other documents you believe support your bases of protest to the Application.

INTERROGATORY NO. 11.: If you deny any of the *Requests for Admission* herein, or any portion therein, please describe the reasons for such denial or partial denial.

INTERROGATORY NO. 12.: If you believe other water rights will be injured by this Application, as described under Idaho Code § 42-222(1), please describe with particularity the basis for such belief.

INTERROGATORY NO. 13.: If you believe that the Application constitutes an enlargement in use of the original right, as described under Idaho Code § 42-222(1), please describe with particularity the basis for such belief.

INTERROGATORY NO. 14.: If you believe that the Application is inconsistent with the conservation of water resources within the state of Idaho or is not in the local public interest, as described under Idaho Code § 42-222(1), please describe with particularity the basis for such belief.

INTERROGATORY NO. 15.: If you believe that the Application will adversely affect the local economy of the watershed or the local area within which the source of water for the proposed use originates, as described under Idaho Code § 42-222(1), please describe with particularity the basis for such belief.

INTERROGATORY NO. 16.: The Applicant has proposed to include the following condition as a condition of approval for the Application: “Diversion and use of water under this right from the additional point of diversion authorized under Transfer 89297, located in SWNE, Sec. 11, T06N, R38E, shall be subordinate to all surface water rights with a source described as the Little Lost River prior to June 2, 1891. The water rights included in Transfer 89297 retain their respective priority dates relative to all other actions to distribute water.” Please describe with particularity whether or not this condition will resolve your protest.

INTERROGATORY NO. 17.: Please identify any and all of the water rights or other water entitlements (canal company shares, irrigation district acres, etc.) that you utilize on property you own in Basin 33.

INTERROGATORY NO. 18.: Please identify any and all records of water deliveries made to you under your water rights or other water entitlements.

II. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1.: Please produce any and all documents you intend to produce at the hearing in this contested case.

REQUEST FOR PRODUCTION NO. 2.: Please produce any and all expert reports regarding the issues of this contested case available to you.

REQUEST FOR PRODUCTION NO. 3.: Please produce any and all documents identified in response to the above Interrogatories or used to derive the information for your responses to these discovery requests.

REQUEST FOR PRODUCTION NO. 4.: Please produce any and all documents relating to, evidencing, or on which you base your responses to the above Interrogatories.

III. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that your water rights will not be affected or injured by the Application.

REQUEST FOR ADMISSION NO. 2: Admit that the Application will not adversely affect the local economy of the watershed or the local area within which the source of water for the proposed use originates, as described under Idaho Code § 42-222(1).

REQUEST FOR ADMISSION NO. 3: Admit that the Application is in the local public

interest, as described under Idaho Code § 42-222(1).

REQUEST FOR ADMISSION NO. 4: Admit that the Application will not allow for an enlargement, as described under Idaho Code § 42-222(1).

REQUEST FOR ADMISSION NO. 5: Admit that the Application is consistent with the conservation of water resources within the state of Idaho, as described under Idaho Code § 42-222(1).

Dated this 7th day of February, 2025.



Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of February, 2025, I served a true and correct copy of the following described pleading or document on the attorneys and/or individuals listed below by the method(s) indicated.

DOCUMENT SERVED: FIRST DISCOVERY REQUESTS TO ROY SERMON

ATTORNEYS AND/OR INDIVIDUALS SERVED:

Roy Sermon
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- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Courthouse Box
- ☒ Email



Robert L. Harris, Esq.
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