

ORIGINAL

FULBRIGHT & JAWORSKI L.L.P.
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April 29, 2005

BY HAND DELIVERY

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

P-4914-012

FILED
OFFICE OF THE
SECRETARY
2005 APR 29 P 3:43
FEDERAL ENERGY
REGULATORY COMMISSION

Re: International Paper Company and Thilmany, LLC, Project No. 4914

Dear Secretary Salas:

Pursuant to Section 8 of the Federal Power Act, 16 U.S.C. § 801, and Parts 9 and 131 of the Federal Energy Regulatory Commission's regulations, 18 C.F.R. Parts 9 and 131, International Paper Company ("International Paper") and Thilmany, LLC ("Thilmany") (collectively "Applicants") hereby submit for filing an original and eight (8) copies of their joint application for authorization to transfer the license for the above-referenced project from International Paper to Thilmany.

The transaction between the Applicants, of which the license transfer to Thilmany is but one element, is scheduled to close by May 31, 2005. Accordingly, Applicants respectfully request that the Commission publicly notice and process this Application on an expedited basis.

A Form of Notice suitable for publication in the Federal Register is included herewith, as is a 3.5 inch computer disk containing the Form of Notice in electronic format.

Also enclosed are six (6) extra copies of this filing. Please time stamp these extra copies for our files and return them to the messenger.

Very truly yours,



Glenn S. Benson
Attorney for Thilmany, LLC

Enclosures

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

International Paper Company)
Thilmany, LLC)

Project No. 4914- 012

**JOINT APPLICATION
FOR APPROVAL OF TRANSFER OF LICENSE AND
REQUEST FOR EXPEDITED TREATMENT**

Pursuant to Section 8 of the Federal Power Act (“FPA”),¹ and Part 9 of the Federal Energy Regulatory Commission’s (“Commission”) regulations thereunder,² International Paper Company (“International Paper”), the licensee of the 1.08-megawatt (“MW”) De Pere Hydroelectric Project No. 4914 (the “Project”), and Thilmany, LLC (“Thilmany”) (together, the “Applicants”) hereby jointly and severally apply for written approval for the transfer of the Project’s license from International Paper to Thilmany. As detailed below, the purpose of the proposed transfer is to implement one element of an overall asset purchase agreement, pursuant to which Thilmany will acquire the Industrial Papers Business of International Paper. Accordingly, Applicants respectfully request expedited consideration of the proposed transfer to permit the overall transaction to close by May 31, 2005.

¹ 16 U.S.C. § 801.

² 18 C.F.R. §§ 9.1, *et seq.* (2004).

I.
COMMUNICATIONS AND CORRESPONDENCE

Communications and correspondence with respect to this Application should be directed to the following:

For International Paper:

Michael K. Chapman
Senior Counsel, Energy
International Paper Company
6400 Poplar Ave.
Memphis, TN 39197

William J. Madden, Jr.
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006

For Thilmany:

Gordon H. Woodward
Kohlberg & Company, LLC
111 Radio Circle
Mt. Kisco, NY 10549
Tel: (914) 241-7430
Fax: (914) 244-3985
E-mail: woodward@kohlberg.com

John F. Harrington
Glenn S. Benson
Fulbright & Jaworski L.P.
801 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: (202) 662-0200
Fax: (202) 662-4643
jharrington@fulbright.com
gbenson@fulbright.com

II. BACKGROUND

A. The Project

The Project is located at the U.S. Army Corps of Engineers' ("Corps") De Pere Dam on the Fox River in the City of DePere, Brown County, Wisconsin, and was originally licensed on December 31, 1984, with an effective date of January 1, 1985.³ The Commission recently issued a subsequent license for the Project on March 10, 2005, for a 30-year term.⁴

The Project consists of a 400-foot-long dam attached to the west end of the Corps' De Pere Dam, and continuing to the Project powerhouse located in the lower level of International Paper's Nicolet paper mill. The Project operates in a run-of-river mode and includes: (1) a 13.6-foot-high, 400-foot-long overflow spillway with a crest elevation of 586.66 feet International Great Lakes Datum ("IGLD") attached to the westerly end of the Corps' De Pere Dam; (2) intake works consisting of 28 exterior gates screened by steel racks, and 28 interior gates; and (3) a powerhouse containing eight 135-kilowatt ("kW") generating units with a total installed capacity of 1,080 kW.

All power from the Project is consumed by International Paper's Nicolet mill facility. The Project's 1.08-MW capacity represents about 9 percent of the paper mill's demand. The remainder of the mill's power requirements are met from purchases of power from Wisconsin Public Service Corporation.

³ *International Paper Co.*, 29 FERC ¶ 62,438 (1984).

⁴ *International Paper Co.*, 110 FERC ¶ 62,239 (2005).

The Project is classified as a low hazard potential, is exempt from the requirements of Part 12C, Emergency Action Plan, and has no outstanding dam safety issues.⁵

B. The Transaction

On March 14, 2005, TIPB Acquisition, LLC ("TIPB"), a newly-formed limited liability company affiliated with Kohlberg & Company, LLC, entered into an asset purchase agreement to acquire the Industrial Papers Business of International Paper. TIPB changed its name to Thilmany, LLC on April 18, 2005. The Industrial Papers Business produces pressure sensitive papers, industrial papers and packaging papers, and converts silicone-coated release products and lightweight specialty papers. The facilities involved in the transaction include paper mills at two locations in Wisconsin, and paper converting facilities in Wisconsin, Ohio, and the Netherlands. The Nicolet paper mill, as well as the Project, are among the assets being sold under the transaction. The purchase price for the acquisition is \$180 million, subject to certain adjustments at closing.

Thilmany will fund the acquisition price, and related fees and transaction expenses, principally through (i) the net proceeds of an approximately \$145 million offering by Thilmany of senior secured fixed rate and floating rate notes, (ii) approximately \$50 million of equity investments by affiliates of Kohlberg & Company, LLC, other associated investors, and Thilmany's management, and (iii) \$5 million of equity investments by International Paper.

⁵ *International Paper Co.*, 110 FERC ¶ 62,239 at par. 43 (2005).

C. The Proposed Transfer

To implement the asset purchase agreement, the Applicants request Commission authorization to transfer the Project's license as an integral part of Thilmany's acquisition of the Industrial Papers Business. As shown below, the proposed transfer complies with all aspects of the applicable Commission regulations, as well as the terms and conditions of the license for the Project.

**III.
THILMANY IS QUALIFIED TO BE A LICENSEE**

As discussed below, Thilmany is qualified, as the transferee, to (i) hold the license, and (ii) maintain and operate the Project in accordance with the existing license. In addition, Thilmany agrees to accept and be bound by all of the terms and conditions of the license as though it were the original licensee. Thilmany, therefore, satisfies the requirements of Section 9.2 of the Commission's regulations governing the transfer of licenses.⁶

A. Thilmany is Legally Qualified to be the Licensee

Thilmany is a limited liability company created under the laws of the State of Delaware for the purpose of acquiring the Industrial Papers Business and engaging in all other lawful business activities. As such, it is qualified under Section 4(e) of the FPA to hold hydroelectric licenses under Part I of the FPA, 16 U.S.C. § 797(e). Thilmany is authorized to do business in the State of Wisconsin, where the Project is located. Copies of Thilmany's Certificate of

⁶ 18 C.F.R. § 9.2 (2004).

Formation, its Operating Agreement, and its authorization to conduct business in Wisconsin are attached hereto as Exhibits A, B, and C, respectively.⁷

B. Thilmany Has the Technical Competence and Financial Capability to be a Licensee

Although Thilmany has not previously been a Commission licensee, it will have the requisite expertise necessary to operate and maintain the Project in accordance with the terms and conditions of the license. Thilmany will retain the management of the Industrial Papers Business and all key personnel currently engaged in operating and maintaining the Project under International Paper's ownership. Accordingly, there will be no post-acquisition change in the personnel and expertise currently available to capably operate and maintain the Project in good standing.⁸

With respect to financial capability, an investor group led by Kohlberg Partners V, L.P., an affiliate of Kohlberg & Company, LLC, will own substantially all of the equity interests in Thilmany. Founded in 1987, Kohlberg & Company, LLC is a private merchant banking firm with offices in Mt. Kisco, New York, and Palo Alto, California. Kohlberg & Company, LLC has funds under management of more than \$2.0 billion, and through its affiliates, has completed more than 75 acquisitions and recapitalization transactions in a variety of industries.

⁷ Exhibit A and Exhibit B each consist of two documents. Exhibit A contains a State of Delaware Limited Liability Company Certificate of Formation under the name TIPB Acquisition, LLC., and a subsequent State of Delaware Certificate of Amendment of TIPB Acquisition, LLC, changing its name to Thilmany, LLC. Exhibit B contains the Limited Liability Company Agreement of TIPB Acquisition, LLC, and the subsequent Amended and Restated Limited Liability Company Agreement reflecting the change in name to Thilmany, LLC. Exhibit C is the State of Wisconsin Certificate of Authority or Registration authorizing TIPB Acquisition, LLC to do business in the State. Thilmany has filed an amended certificate of registration with the State of Wisconsin and will supplement this application with a Certificate of Authority or Registration under the name of Thilmany once it is received.

⁸ *International Paper*, 110 FERC at par. 42.

For these reasons, Thilmany is fully qualified to own, operate, and maintain the Project in a manner consistent with the Commission's regulations and the terms and conditions of the license.

C. Authorization and Verified Statement

Exhibit D to this Application contains Thilmany's Authorization and Verified Statement, providing that Thilmany will accept and be bound by all of the terms and conditions of the license as though it were the original licensee.

Exhibit E contains International Paper's Authorization and Verified Statement for the transfer of the license.

D. Instruments of Conveyance and Project Documents

Once the transfer is approved, Thilmany will file with the Commission certified copies of all instruments showing conveyance whereby title to the Project's properties is conveyed to it, upon the completion of the transaction.

In addition, once the transfer of the license is approved, International Paper will deliver to Thilmany, and Thilmany will accept and permanently retain, all license instruments and all maps, plans, specifications, contracts, reports of engineers, accounts, books, records and all other papers and documents relating to the Project and to all additions thereto and betterments thereof.

**IV.
TRANSFEROR'S CERTIFICATION**

International Paper certifies that, to the best of its knowledge, it has fully complied with the terms and conditions of the licenses for the Project, and that it has fully satisfied and discharged all of its liabilities and obligations thereunder to the date hereof, and obligates itself to pay all annual charges accrued under the licenses to the date of transfer to the extent required by the Commission.

V.
NOTICE

Exhibit F contains a notice of the filing of this Application, suitable for publication in the Federal Register. Also included with this filing is a diskette of the Federal Register notice.

VI.
REQUEST FOR EXPEDITED CONSIDERATION.

Applicants respectfully request expedited consideration of this Application. Good cause supports this request. The proposed transfer of the license is an important component of the overall transaction between Thilmany and International Paper. Accordingly, Applicants respectfully request (i) a shortened notice period of 21 days, (ii) expedited review of this Application, and (iii) the approval of the transfer as soon as possible, but no later than May 31, 2005, consistent with the parties' targeted closing date.

VII.
CONCLUSION

The proposed transfer clearly satisfies the public interest standard under Section 9.3(a) of the Commission's regulations. 18 C.F.R. § 9.3(a). Thilmany will retain the expertise to operate and maintain the Project in the same fashion, post-acquisition, as the current licensee. Further, Thilmany has agreed to accept all of the terms, conditions, and obligations imposed by the current license and the FPA, and to be bound by those terms, conditions, and obligations to the same extent as though it were the original licensee. Thus, the proposed transfer is consistent with the public interest and will insure the continued existence of a financially viable company to operate and maintain the Project in full compliance with all license and Commission requirements. Accordingly, the transfer should be approved in all respects.

WHEREFORE, for the foregoing reasons, Applicants respectfully request that the Commission approve on an expedited basis the transfer of the license for Project No. 4914, as set forth herein.

Respectfully submitted,

By: 

John F. Harrington
Glenn S. Benson
Fulbright & Jaworski L.L.P.
801 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 662-0200

Attorneys for Thilmany, LLC

William J. Madden, Jr.
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006

Michael K. Chapman
Senior Counsel, Energy
International Paper Company
6400 Poplar Ave.
Memphis, TN 39197

**Attorneys for
International Paper Company**


Dated: April 29, 2005

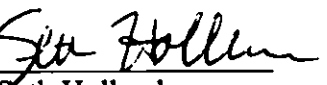
Signature Page 1 of 2

In Witness Whereof, Thilmany, LLC has caused its name to be hereunto signed by Gordon Woodward, its Vice President, and its corporate seal to be hereunto affixed by Seth Hollander, its Assistant Secretary, thereunto duly authorized.

Thilmany, LLC

Date: April 25, 2005

By: 
Gordon Woodward
Vice President

Attest: 
Seth Hollander
Assistant Secretary

Corporate Seal

Signature Page 2 of 2

In Witness Whereof, International Paper Company has caused its name to be hereunto signed by William P. Crawford, its Vice President, Global Sourcing, and its corporate seal to be hereunto affixed by Edward R. Niederriter, its Assistant Corporate Secretary, thereunto duly authorized.

International Paper Company

Date: 4/27/05

By: 
Vice President, Global Sourcing


Attest: 

EXHIBIT A

**CERTIFICATE OF FORMATION
THILMANY, LLC**

State of Delaware
Secretary of State
Division of Corporations
Delivered 06:55 PM 03/04/2005
FILED 05:41 PM 03/04/2005
SRV 050188254 - 3935352 FILE

**STATE of DELAWARE
LIMITED LIABILITY COMPANY
CERTIFICATE of FORMATION**

- **First:** The name of the limited liability company is TIPB Acquisition, LLC
- **Second:** The address of its registered office in the State of Delaware is 2711 Centerville Road Suite 400 in the City of Wilmington, DE 19808. The name of its Registered agent at such address is Corporation Service Company
- **Third:** (Use this paragraph only if the company is to have a specific effective date of dissolution: "The latest date on which the limited liability company is to dissolve is _____.")
- **Fourth:** (Insert any other matters the members determine to include herein.)

In Witness Whereof, the undersigned have executed this Certificate of Formation this 4th day of March, 2005.

By: /s/ Kevin Rohstock
Authorized Person(s)

Name: Kevin Rohstock
Typed or Printed

APR. 19. 2005 3:58PM

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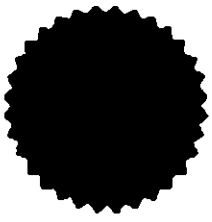
NO. 4597 P. 2

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "TIPB ACQUISITION, LLC", CHANGING ITS NAME FROM "TIPB ACQUISITION, LLC" TO "THILMANY, LLC", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF APRIL, A.D. 2005, AT 6:50 O'CLOCK P.M.



3935352 0100
050312768

Harriet Smith Windsor
Harriet Smith Windsor, Secretary of State
AUTHENTICATION: 3820277

DATE: 04-19-05

APR. 19. 2005 3:58PM

LANIER2

NO. 4597 P. 3

State of Delaware
Secretary of State
Division of Corporations
Delivered 07:22 PM 04/18/2005
FILED 06:50 PM 04/18/2005
SRV 030312768 - 3835332 FILE

**CERTIFICATE OF AMENDMENT
TO
CERTIFICATE OF FORMATION
OF
TIPB ACQUISITION, LLC**

It is hereby certified that:

1. The name of the limited liability company (hereinafter called the "limited liability company") is TIPB Acquisition, LLC.

2. The certificate of formation of the limited liability company is hereby amended by striking out Article "First" thereof and by substituting in lieu of said Article the following new Article:

First: The name of the limited liability company is Thimney, LLC.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment of TIPB Acquisition, LLC this 18th day of APRIL, 2005.


Gordon Woodward, Manager

EXHIBIT B

**LIMITED LIABILITY COMPANY AGREEMENT
THILMANY, LLC**

**LIMITED LIABILITY COMPANY AGREEMENT
OF
TIPB ACQUISITION, LLC**

This Limited Liability Company Agreement (this "Agreement") of TIPB Acquisition, LLC is entered into by the sole Member (as defined below) of the Company.

The Member hereby desires to form a limited liability company pursuant to and in accordance with the Delaware Limited Liability Company Act (6 Del. C. § 18-101 through § 18-1109), as amended from time to time (the "Act"), and hereby agree as follows:

1. Name. The name of the limited liability company is TIPB Acquisition, LLC (the "Company").

2. Purpose. The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.

3. Managers. The Company shall have such managers as designated by the Company from time to time (the "Managers"). The initial Manager of the Company is Gordon H. Woodward.

4. Members. The sole member of the Company is Kohlberg Investors V, L.P. (the "Member"). The Member holds 100% of the membership interests of the Company.

5. Officers. The Managers may, from time to time, designate one or more persons to be officers of the Company. No officer need be a resident of the State of Delaware, a Member or a Manager. Any officers so designated shall have such authority and perform such duties as the Managers may, from time to time, delegate to them. Any officer may be removed at any time, with or without cause, by the Managers.

6. Powers. The business and affairs of the Company shall be managed by the Managers. The Managers shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by members under the laws of the State of Delaware. The Managers are hereby designated as an authorized person, within the meaning of the Act, to execute, deliver and file the Certificate of Formation of the Company (and any amendments and/or restatements thereof) and any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business. The Managers are hereby authorized, empowered and directed in the name and on behalf of the Company to approve, execute and deliver any and all agreements, certificates or any other documents on behalf of the Company.

7. Indemnity. To the fullest extent permitted by law, the Company shall indemnify the officers of the Company, the Managers, each of the Members and their respective officers, directors, employees, agents and controlling persons (each, an "Indemnified Person"), on request by the Indemnified Person, and hold each of them harmless from and against all losses, costs, liabilities, damages and expenses (including reasonable costs of suit and attorney's fees) any of them may incur as an officer, a Member, or Manager of the Company or as a controlling person

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of such Member or Manager, in performing the obligations of an officer, Manager, or Member with respect to the Company, as the case may be, INCLUDING ANY MATTER ARISING OUT OF OR RESULTING FROM THE INDEMNIFIED PERSON'S OWN SIMPLE, PARTIAL, OR CONCURRENT NEGLIGENCE, except for any such loss, cost, liability, damage or expense primarily attributable to the Indemnified Person's breach or reckless disregard of fiduciary duties, gross negligence, willful misconduct, or fraud. If an Indemnified Person becomes involved in any action, proceeding or investigation with respect to which indemnity may be available under this Section 7, the Company shall reimburse the Indemnified Person for its reasonable legal and other expenses (including the cost of investigation and preparation) as they are incurred, provided that the Indemnified Person shall promptly repay to the Company the amount of any such expense paid if it is ultimately determined that the Indemnified Person was not entitled to indemnification hereunder.

8. Dissolution. The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (a) the written consent of the Member, (b) the death, retirement, resignation, expulsion, insolvency, bankruptcy or dissolution of the Member unless the business of the Company is continued by consent of any subsequent, remaining Members within 90 days following the occurrence of any such event, or (c) the entry of a decree of judicial dissolution under Section 18-802 of the Act.

9. Capital Accounts. A separate capital account shall be maintained for each Member, including a Member who hereafter acquires an interest in the Company, in accordance with the rules of Treasury Regulation Section 1.704-1(b)(2)(iv).

10. Contributions. On the date of this Agreement, the Member shall contribute \$100.00 to the capital of the Company. No Member shall be entitled or required to make any additional contribution to the capital of the Company.

11. Allocation of Profits and Losses. The Company's profits and losses shall be allocated among the Members in proportion to their membership percentages.

12. Distributions. Distributions shall be made to the Members at the times and in the aggregate amounts determined by the Managers. Such distributions shall be allocated among the Members in the same proportion as their then current capital account balances.

13. Assignments. A Member may not assign in whole or in part its limited liability company interest without the written consent of the Managers, which consent may be granted or withheld in his sole and absolute discretion.

14. Resignation. A Member may not resign from the Company without the Managers' consent.

15. Issuance of Certificates. The interest of a Member in the Company may be represented by an LLC Certificate. Upon the request of a Member, the Managers shall cause the Company to issue an LLC Certificate in the name of said Member certifying that the person or entity named therein is the record holder of the interest in the Company. The Company elects to be governed by Article 8 of the Uniform Commercial Code as in effect in the State of Delaware.

16. Liability of Members. The Members shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act.

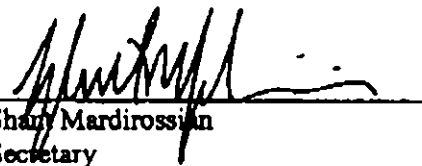
17. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Delaware, all rights and remedies being governed by said laws.

612835900466.1

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has
duly executed this Limited Liability Company Agreement as of March 9, 2005.

Kohlberg Investors V, L.P.

By: Kohlberg Management V, L.L.C., its general
partner

By: 
Shant Mardirossian
Secretary

AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
THILMANY, LLC

This Amended and Restated Limited Liability Company Agreement (this "Agreement") of Thilmany, LLC (the "Company") is entered into by the sole Member (as defined below) of the Company.

The Company was formed pursuant to and in accordance with the Delaware Limited Liability Company Act (6 Del. C. § 18-101 through § 18-1109), as amended from time to time (the "Act"). by filing a Certificate of Formation of TIPB Acquisition, LLC on March 4, 2005. The Company changed its name from TIPB Acquisition, LLC to Thilmany, LLC by filing a Certificate of Amendment to the Certificate of Formation with the Delaware Secretary of State. The Member hereby desires to continue a limited liability company pursuant and in accordance with the to the Act, and hereby amends and restates the Agreement as follows:

1. Name. The name of the limited liability company is Thilmany, LLC.
2. Purpose. The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary or incidental to the foregoing.
3. Managers. The Company shall have such managers as designated by the Company from time to time (the "Managers"). The Manager of the Company is Gordon Woodward.
4. Members. The sole member of the Company is KIPB Intermediate Holdings, LLC (the "Member"). The Member holds 100% of the membership interests of the Company.
5. Officers. The Managers may, from time to time, designate one or more persons to be officers of the Company. No officer need be a resident of the State of Delaware, a Member or a Manager. Any officers so designated shall have such authority and perform such duties as the Managers may, from time to time, delegate to them. Any officer may be removed at any time, with or without cause, by the Managers.
6. Powers. The business and affairs of the Company shall be managed by the Managers. The Managers shall have the power to do any and all acts necessary or convenient to or for the furtherance of the purposes described herein, including all powers, statutory or otherwise, possessed by members under the laws of the State of Delaware. The Managers are hereby designated as an authorized person, within the meaning of the Act, to execute, deliver and file the Certificate of Formation of the Company (and any amendments and/or restatements thereof) and any other certificates (and any amendments and/or restatements thereof) necessary for the Company to qualify to do business in a jurisdiction in which the Company may wish to conduct business. The Managers are hereby authorized, empowered and directed in the name

and on behalf of the Company to approve, execute and deliver any and all agreements, certificates or any other documents on behalf of the Company.

7. Indemnity. To the fullest extent permitted by law, the Company shall indemnify the officers of the Company, the Managers, each of the Members and their respective officers, directors, employees, agents and controlling persons (each, an "Indemnified Person"), on request by the Indemnified Person, and hold each of them harmless from and against all losses, costs, liabilities, damages and expenses (including reasonable costs of suit and attorney's fees) any of them may incur as an officer, a Member, or Manager of the Company or as a controlling person of such Member or Manager, in performing the obligations of an officer, Manager, or Member with respect to the Company, as the case may be, INCLUDING ANY MATTER ARISING OUT OF OR RESULTING FROM THE INDEMNIFIED PERSON'S OWN SIMPLE, PARTIAL, OR CONCURRENT NEGLIGENCE, except for any such loss, cost, liability, damage or expense primarily attributable to the Indemnified Person's breach or reckless disregard of fiduciary duties, gross negligence, willful misconduct, or fraud. If an Indemnified Person becomes involved in any action, proceeding or investigation with respect to which indemnity may be available under this Section 7, the Company shall reimburse the Indemnified Person for its reasonable legal and other expenses (including the cost of investigation and preparation) as they are incurred, provided that the Indemnified Person shall promptly repay to the Company the amount of any such expense paid if it is ultimately determined that the Indemnified Person was not entitled to indemnification hereunder.

8. Dissolution. The Company shall dissolve, and its affairs shall be wound up upon the first to occur of the following: (a) the written consent of the Member, (b) the death, retirement, resignation, expulsion, insolvency, bankruptcy or dissolution of the Member unless the business of the Company is continued by consent of any subsequent, remaining Members within 90 days following the occurrence of any such event, or (c) the entry of a decree of judicial dissolution under Section 18-802 of the Act.

9. Capital Accounts. A separate capital account shall be maintained for each Member, including a Member who hereafter acquires an interest in the Company, in accordance with the rules of Treasury Regulation Section 1.704-1(b)(2)(iv).

10. Contributions. On the date of this Agreement, the Member shall contribute \$100.00 to the capital of the Company. No Member shall be entitled or required to make any additional contribution to the capital of the Company.

11. Allocation of Profits and Losses. The Company's profits and losses shall be allocated among the Members in proportion to their membership percentages.

12. Distributions. Distributions shall be made to the Members at the times and in the aggregate amounts determined by the Managers. Such distributions shall be allocated among the Members in the same proportion as their then current capital account balances.

13. Assignments. A Member may not assign in whole or in part its limited liability company interest without the written consent of the Managers, which consent may be granted or withheld in his sole and absolute discretion.

14. Resignation. A Member may not resign from the Company without the Managers' consent.

15. Issuance of Certificates. The interest of a Member in the Company may be represented by an LLC Certificate. Upon the request of a Member, the Managers shall cause the Company to issue an LLC Certificate in the name of said Member certifying that the person or entity named therein is the record holder of the interest in the Company. The Company elects to be governed by Article 8 of the Uniform Commercial Code as in effect in the State of Delaware.

16. Liability of Members. The Members shall not have any liability for the obligations or liabilities of the Company except to the extent provided in the Act.

17. Governing Law. This Agreement shall be governed by, and construed under, the laws of the State of Delaware, all rights and remedies being governed by said laws.

* * * * *

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed this Amended and Restated Limited Liability Company Agreement as of April _____, 2005.

KIPB Intermediate Holdings, LLC

By: KIPB Holdings, LLC, its sole member

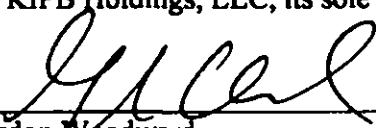
By:  _____
Gordon Woodward
Manager

EXHIBIT C

**AUTHORIZATION TO CONDUCT BUSINESS
IN THE STATE OF WISCONSIN
THILMANY, LLC**

United States of America

State of Wisconsin

DEPARTMENT OF FINANCIAL INSTITUTIONS



CERTIFICATE OF AUTHORITY or REGISTRATION

Issued to

TIPB ACQUISITION, LLC

an organization formed under the laws of **DELAWARE**,

authorizing the organization to transact business in this state, effective **April 18, 2005**,

as a

- Foreign limited liability partnership, under sec. 178.45, Wis. Stats.
- Foreign limited partnership, under sec. 179.82, Wis. Stats
- Foreign corporation, under sec. 180.1503, 180.1504, 181.1503 or 181.1504, Wis. Stats.
- Foreign limited liability company, under sec. 183.1004 or 183.1006, Wis. Stats.

Date of Issue: April 19, 2005.



RAY ALLEN, Deputy Administrator
Division of Corporate & Consumer Services
Department of Financial Institutions

See reverse for more information

CONTINUING REQUIREMENTS

Maintain a Registered Agent and Office in Wisconsin

Each foreign organization licensed or registered to transact business in Wisconsin must continuously maintain a registered agent and office in Wisconsin. If such agent is a natural person, the agent must be a resident of Wisconsin. Or, the agent may be some other domestic or licensed foreign organization qualified to act under the appropriate statutes. The organization may not name itself as its own registered agent.

File an Annual Report

Each foreign corporation and limited liability company licensed to transact business in Wisconsin is obliged to file an annual report. Report forms are distributed during January to the organization's registered agent and office in Wisconsin, and are due March 31. The initial annual report is due March 31st the year after the entity becomes licensed. Failure to file the report sets grounds for revocation of the organization's authority to transact business in Wisconsin. There is no annual report filing requirement for foreign limited partnerships or foreign limited liability partnerships.

File for an Amended Certificate of Authority

Promptly file for an amended certificate of authority or registration to reflect a change in the name of the entity or other changes to information set forth in the original application.

For additional information and blank forms, contact

Department of Financial Institutions
Division of Corporate & Consumer Services
P O Box 7846
Madison, Wisconsin 53707-7846

Phone (608) 261-7577
Website: www.wdfi.org

EXHIBIT D

**AUTHORIZATION AND VERIFIED STATEMENT OF
THILMANY, LLC**

STATE OF WISCONSIN

Gordon Woodward, being duly sworn, deposes and says that he is the Vice President of Thilmany, LLC and that:


1. He/she has read the contents of this Application; and that the contents are true to the best of his/her knowledge and belief;
2. Thilmany, LLC agrees to accept and be bound by all of the terms and conditions of the licenses as though it were the original licensee; and
3. He/she is duly authorized to execute this application for transfer of license on behalf of Thilmany, LLC.

Dated this 25 day of April 2005 at Mt. Kisco, New York.



 Gordon Woodward, Vice President

Subscribed and Sworn to before me, a notary public for the State of New York, this 25 day of April 2005.



 Joan Cass
 Notary Public, State of New York
 No. 4523127
 Qualified in Putnam County
 Certified in Westchester County
 Commission Expires March 14, 2006

EXHIBIT E

**AUTHORIZATION AND VERIFIED STATEMENT OF
INTERNATIONAL PAPER COMPANY**

STATE OF TENNESSEE

Michael K. Chapman, being duly sworn, deposes and says that he is the Senior counsel -
Energy of International Paper Company and that:

1. He has read the contents of this Application; and that the contents are true to the best of his knowledge and belief; and
2. William P. Crawford is duly authorized to execute this application for transfer of license on behalf of International Paper Company.

Dated this 27th day of April 2005 at Memphis, Tennessee.


 Michael K. Chapman

Subscribed and Sworn to before me, a notary public for the State of Tennessee this 27 day of April 2005.

**MY COMMISSION EXPIRES:
October 19, 2008**

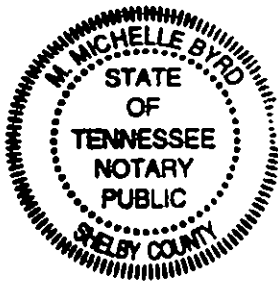


EXHIBIT F

**NOTICE SUITABLE FOR PUBLICATION
IN THE FEDERAL REGISTER**

(Insert Date)

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. Type of Application: Transfer of License
- b. Project No.: P-4914
- c. Date Filed: April 29, 2005
- d. Applicants International Paper Company
Thilmany, LLC
- e. Name of Project De Pere Hydroelectric Project
- f. Location: On the Fox River in Brown County,
Wisconsin
- g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)
- h. Applicant Contacts: John F. Harrington
Glenn S. Benson
Fulbright & Jaworski L.L.P.
801 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 662-0200

William J. Madden, Jr.
Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006
- i. FERC Contact (insert)
- j. All documents (original and eight copies) should be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.
- k. International Paper Company ("International Paper") and Thilmany LLC ("Thilmany") tendered for filing an Application for transfer of License for approval by the Commission.

Applicants request the transfer of the license for the Project from International Paper to Thilmany.

l. Location of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426 or by calling (202) 208-1371.

This filing is accessible on-line at <http://www.ferc.gov> using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket. For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

m. Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. *Such notices, motions, or protests must be filed on or before the comment date.* Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicants. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Standard Time on (insert date)

Magalie R. Salas
Secretary

CERTIFICATE OF SERVICE

In accordance with the Commission's rules and regulations, I hereby certify that I have this day served, via first class mail, the following document upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, DC on this 29th day of April 2005



Glenn S. Benson
Fulbright & Jaworski L.L.P.
801 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 662-4589