

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

BURGESS BIOPOWER, LLC, *et al.*¹

Debtors.

Chapter 11

Case No. 24-10235 (LSS)

(Jointly Administered)

**ORDER APPROVING STIPULATION BY AND BETWEEN
THE DEBTORS AND VICTOR W. DAHAR, TRUSTEE FOR THE
BANKRUPTCY ESTATE OF CATE STREET CAPITAL, INC.**

Upon the *Debtors' Motion For Entry of an Order Approving the Stipulation By and Between the Debtors and Victor W. Dahar, Trustee for the Bankruptcy Estate of Cate Street Capital, Inc.* (the "Motion");² and the Court finding that: (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and (c) the Court may enter a final order consistent with Article III of the United States Constitution; and upon the record herein; and after due deliberation thereon; and it appearing that sufficient notice of the Motion has been given and that no other or further notice is necessary; and good cause appearing therefor; it is hereby

ORDERED THAT:

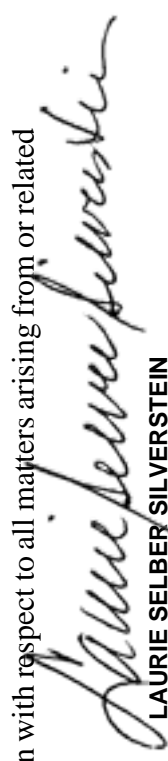
1. The Motion is GRANTED, as set forth herein.
2. The Stipulation attached hereto as **Exhibit 1** is hereby approved.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Burgess BioPower, LLC (0971) and Berlin Station, LLC (1913). The Debtors' corporate headquarters are located at c/o CS Operations, Inc., 631 US Hwy 1, #300, North Palm Beach, FL 33408.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

3. On the Stipulation Effective Date, Claim No. 5 shall be withdrawn and expunged against Burgess, and shall be deemed filed against Berlin as if it were filed on April 10, 2024. Neither the Debtors nor their estates shall object to Claim No. 5 as against Berlin on the grounds that it was filed after the Claims Bar Date.
4. On the Stipulation Effective Date, Claim No. 10015 shall be withdrawn and expunged against Burgess, and shall be deemed filed against Berlin as if it were filed on April 10, 2024. Neither the Debtors nor their estates shall object to Claim No. 10015 as against Berlin on the grounds that it was filed after the Claims Bar Date.
5. Except as expressly set forth in paragraphs 3 and 4 above, the Debtors and the CSC Trustee, respectively, reserve all rights related to Claim No. 5 and Claim No. 10015, including, without limitation, under the Bankruptcy Code, and any other applicable laws, and all claims, rights and objections thereto are preserved; provided, however, that the CSC Trustee cannot assert any claim against Burgess. For the avoidance of doubt, Claim Nos. 5 and 10015 are not deemed allowed on the Stipulation Effective Date, and the Debtors reserve all rights to object to both such claims other than that they were not timely filed.
6. From and after entry of the Order approving this Stipulation, Epiq Corporate Restructuring, LLC is authorized to update the claims register to reflect the terms of the Order, including, among other things, the withdrawal of Claim No. 5 and Claim No. 10015 against Burgess, and the entry of a filing of Claim No. 5 and Claim No. 10015 against Berlin.
7. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.
8. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: May 30th, 2024
Wilmington, Delaware



LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1
Stipulation

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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**STIPULATION BY AND BETWEEN THE DEBTORS AND VICTOR W. DAHAR,
TRUSTEE FOR THE BANKRUPTCY ESTATE OF CATE STREET CAPITAL, INC.**

The undersigned counsel, respectively, for Burgess Biopower, LLC (“Burgess”) and Berlin Station, LLC (“Berlin”), the above-captioned debtors and debtors in possession (collectively, the “Debtors”), and Victor W. Dahar, Trustee for the Bankruptcy Estate of Cate Street Capital, Inc. (the “CSC Trustee”), enter into this stipulation (the “Stipulation”). For purposes of this Stipulation, the Debtors and the CSC Trustee are each a “Party” and collectively, the “Parties.” The Parties hereby stipulate and agree as follows:

RECITALS

A. On February 9, 2024 (the “Petition Date”), the Debtors commenced the above-captioned chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “Court”). Pursuant to the *Order Pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedures (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* [D.I. 92], the cases are jointly administered. The Court set a bar date for filing

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claims against either Debtor (other than for governmental entities) of April 12, 2024 (the “Claims Bar Date”).

B. On April 10, 2024, the CSC Trustee filed Claim No. 5 against Burgess in the amount of \$3,000,000.00 for recovery in an adversary proceeding pending in the United States Bankruptcy Court for the District of New Hampshire, Case No. 21-01017-BAH (the “New Hampshire Adversary Proceeding”). On April 15, 2024, the CSC Trustee filed Claim No. 10015 against Burgess also in the amount of \$3,000,000.00 for recovery in the New Hampshire Adversary Proceeding.

C. Berlin, rather than Burgess, is the Debtor named as one of the defendants in the New Hampshire Adversary Proceeding, so Claim No. 5 and No. 10015 were filed against the incorrect Debtor. To resolve this error, the Debtors and the CSC Trustee have agreed to enter into this Stipulation, subject to approval by the Court, as follows.

STIPULATION

NOW THEREFORE, it is hereby stipulated and agreed to by and between the Parties as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby fully incorporated into and made an express part of this Stipulation.
2. Stipulation Effective Date. The Stipulation shall be effective upon the entry by the Court of an order (the “Order”) approving this Stipulation (the “Stipulation Effective Date”).
3. Withdrawn and Refiled Claim No. 5. On the Stipulation Effective Date, Claim No. 5 shall be withdrawn and expunged against Burgess, and shall be deemed filed against Berlin as if it were filed on April 10, 2024. Neither the Debtors nor their estates shall object to Claim No. 5 as against Berlin on the grounds that it was filed after the Claims Bar Date.

4. Withdrawn and Refiled Claim No. 10015. On the Stipulation Effective Date, Claim No. 10015 shall be withdrawn and expunged against Burgess, and shall be deemed filed against Berlin as if it were filed on April 10, 2024. Neither the Debtors nor their estates shall object to Claim No. 10015 as against Berlin on the grounds that it was filed after the Claims Bar Date.

5. Reservation of Rights. Except as expressly set forth in paragraphs 3 and 4 above, the Debtors and the CSC Trustee, respectively, reserve all rights related to Claim No. 5 and Claim No. 10015, including, without limitation, under the United States Bankruptcy Code (11 U.S.C. §§ 101-1532) as amended, and any other applicable laws, and all claims, rights and objections thereto are preserved; provided, however, that the CSC Trustee cannot assert any claim against Burgess. For the avoidance of doubt, Claim Nos. 5 and 10015 are not deemed allowed on the Stipulation Effective Date, and the Debtors reserve all rights to object to both such claims other than that they were not timely filed.

6. Claims Agent Authorization. From and after entry of the Order approving this Stipulation, Epiq Corporate Restructuring, LLC is authorized to update the claims register to reflect the terms of the Order, including, among other things, the withdrawal of Claim No. 5 and Claim No. 10015 against Burgess, and the entry of a filing of Claim No. 5 and Claim No. 10015 against Berlin.

7. This Stipulation and any order approving it shall be binding on the Parties and their successors and assigns.

8. The Parties participated collectively in the drafting of this Stipulation, and accordingly, the drafting of this Stipulation shall not to be attributed solely to any one Party.

9. The Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation.

<p>Dated: May 6, 2024</p>	
<p>BURGESS BIOPOWER LLC AND BERLIN STATION LLC</p> <p><i>/s/ Kenneth S. Leonetti</i></p> <p>Kenneth S. Leonetti 155 Seaport Boulevard Boston, Massachusetts 02210 Telephone: (617) 832-1000 Email: ksl@foleyhoag.com</p> <p><i>Co-Counsel for Debtors Burgess BioPower, LLC and Berlin Station, LLC</i></p>	<p>VICTOR W. DAHAR, P.A.</p> <p><i>/s/ Eleanor Dahar</i></p> <p>Eleanor Dahar 20 Merrimack Street Manchester, NY 03101 Telephone: (603) 622-6595 Email: vdaharpa@att.net</p> <p><i>Counsel to Victor W. Dahar as Chapter 7 Trustee for the Bankruptcy Estate of Cate Street Capital, Inc.</i></p>