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Attorneys for Cat Creek Energy, LLC

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

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 63-34403 IN THE
NAME OF CAT CREEK ENERGY, LLC

IN THE MATTER OF APPLICATION
FOR PERMIT NO. 63-34652 IN THE
NAME OF CAT CREEK ENERGY, LLC

**NOTICE OF ADDITIONAL
INFORMATION
RULE 40.50**

Applicant Cat Creek Energy, LLC (“CCE” or “Applicant”) hereby submits the following additional information pertaining to Applications for Permit Nos. 63-34403 and 63-34652 (collectively, the “Applications”) in accordance with Rule 40.05 of the Water Appropriation Rules, IDAPA 37.03.08.

1. The following is an itemized list of the information required under Rule 40.05 in italics, followed by CCE’s response in regular font. The following is supported by information submitted previously to the Department in connection with the Permits, information made available in CCE’s online document repository described in paragraph 2 below.

40.01.c.i *For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.*

More than five water users appropriate water from the South Fork of the Boise River; therefore, this provision does not apply.

40.01.c.ii *For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.*

N/A.

40.01.c.iii *Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.*

Water will be diverted from the source only during periods of high runoff when all other senior water rights are in priority. The Watermaster of Basin 63 will ensure that no other senior water rights are adversely impacted.

40.01.d.i *Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.*

This Project will primarily use water non-consumptively for the generation of power. Water stored in Cat Creek Reservoir may be released for downstream consumptive use for existing water users who contract for use of the storage.

While the maximum diversion rate is 10,000 cfs, there is no required diversion rate. During years when no water is available for diversion the project will use water stored in previous years to the extent it is available. The period when water is required is year-around for power use, year-around for storage use, and during the respective seasons of use for other uses. The maximum consumptive use during any year will be highly variable depending on water supply.

40.01.d.ii *Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.*

See the memorandum on this topic prepared by Hal N. Anderson provided via the online document repository.

Rule 40.05.e.i *The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.*

Copies of agreements and easements were submitted with the original application and are part of the file in this matter. Additional filings have been made available in the document repository.

Regarding compliance with Idaho Code 42-205, the use of other existing facilities for hydropower generation is limited to those of the U.S. Bureau of Reclamation for which a Lease of Power Privilege is being pursued by the Applicant.

Regarding compliance with Idaho Code 42-206, Cat Creek Energy, LLC is a limited liability company organized and qualified to do business in Idaho.

Rule 40.05.e.ii *The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.*

Documents are being prepared for the Federal Energy Regulatory Commission and the U.S. Bureau of Reclamation on an as-needed basis.

Rule 40.05.f.i *The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.*

This information is highly proprietary for a private project of this magnitude. The information will be made as needed in a private manner for the Hearing Officer. See Item No. 3 below.

Rule 40.05.f.ii *The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.*

See documents on the online document repository. Project cost information is highly proprietary for a private project of this magnitude. The information will be made as needed in a private manner for the Hearing Officer. See Item No. 3 below.

Rule 40.05.g *Water Appropriation Rule 40.05.f: Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows: The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the Director.*

As shown in the IDWR document repository, the IDWR Western Regional Office sought comments from (1) the Watermaster of Water District 63, (2) the Idaho Department of Fish and Game, (3) the IDWR Safety of Dams Section, (4) the Idaho Water Resource Board, (5) the City of Boise, (6) the U.S. Bureau of Reclamation, and many other entities including the irrigation districts and canal companies within the Treasure Valley. Other state agencies including the Idaho Department of Environmental Quality have been briefed on the project

and attended the 2019 all agency meeting. Advertisement of the application was statewide. The spirit and letter of this rule have been met via the widespread announcement of information regarding the project, as evidenced by the robust number of protests received.

Rule 40.05.h *The following information Relative to the Public Interest Criteria of Section 42-203C(2), Idaho Code, shall be submitted by an applicant seeking reallocation of trust water for a project which the Director determines will reduce the flow of the Snake River by more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than two hundred (200) acres will be irrigated. The Director may request any or all of the following information for any filing seeking the reallocation of trust water.*

Not applicable.

2. Additional documents and information is available via CCE's online repository:

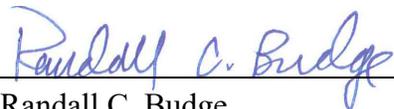
<https://catcreekenergy.securevdr.com/home/shared/fo7b391a-5d77-4521-8a88-2fed2a08f6ba>

To obtain access, please email the Applicant's attorneys and provide your name, email address, physical address, your position, the name of the protestant you are representing. You will then be provided a personal password. To resolve any technical problems with the use of your password or use of the online repository please contact the site administrator Peggy Beltrone at peggy.beltrone@gmail.com, phone number 406-781-9911.

3. CCE believes the information presently available in its document repository is sufficient to satisfy Rule 40.05. Should the Department or any protest request additional information that involves trade secrets or other proprietary or confidential information, such information will be provided only pursuant to protective order issued by the Director and will be limited to counsel, employees, experts, agents or representatives of the party who have executed a confidentiality agreement.

DATED this 31st day of March, 2020.

RACINE OLSON, PLLP

By:  _____

Randall C. Budge

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Attorneys for Applicant Cat Creek Energy, LLC

CERTIFICATE OF MAILING

I certify that on this 31st day of March, 2020, the foregoing document was served on the following persons in the manner indicated.



Signature of person mailing form

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