

Sep 24, 2026

DEPARTMENT OF
WATER RESOURCES

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**DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 63-34403, 63-34652,
63-34897, 63-34900, AND 63-35522 IN
THE NAME OF CAT CREEK ENERGY,
LLC

**DECLARATION OF JAMES T.
CARKULIS IN SUPPORT OF MO-
TION TO VACATE AND RESET
HEARING SCHEDULE AND FOR
STATUS CONFERENCE**

I, James T. Carkulis, declare as follows:

1. I am the agent for Cat Creek Energy, LLC (“CCE”). I make this declaration in support of CCE’s Motion to Vacate and Reset Hearing Schedule and for Status Conference. I have personal knowledge of the matters stated in this declaration and, if called as a witness, could and would testify competently to them.
2. CCE is the applicant for Permit Nos. 63-34403, 63-34652, 63-34897, 63-34900, and 63-35522. Those applications support CCE’s broader integrated renewable-energy and pumped-storage hydropower project in Elmore County, Idaho, which includes water storage and delivery facilities, renewable generation, transmission, and long-duration pumped-storage hydropower components.
3. CCE’s principals, including the Faulkner family, have invested more than \$42.0 million to advance the project. Those expenditures include project development, engineering, environmental and technical work, real estate, legal and regulatory work, permitting, federal coordination, and other activities necessary to advance a project of this size and complexity.
4. The estimated cost of the integrated CCE water and energy project is now \$5 billion, not taking into account the associated data-center campus. The contemplated project would include approximately 150,000 acre-feet of water storage and substantial generation, transmission, pumping, data-center, and supporting infrastructure.
5. For more than three and one half months, CCE has worked with a coalition of sophisticated commercial participants to formalize a financing and development structure for the integrated project. The coalition includes an experienced owner and operator of large-scale hyperscale data-center campuses, multiple well-known technology companies expected to lease space at the campus, and a major United States design-build and construction-management company with substantial data-center experience.

6. Under the structure presently being negotiated, the data-center developer is expected to provide the capital required to construct both the CCE water and energy project and the associated data-center campus. The prospective technology-company tenants and design-build participant are expected to provide the commercial demand and project-delivery capabilities necessary to support construction and operation.

7. The negotiations and the identities of the coalition participants are subject to confidentiality provisions and involve commercially sensitive information. CCE therefore cannot presently disclose the participants' identities or the substance of the confidential terms under discussion. The participants remain actively engaged, however, and their continued work demonstrates concrete progress toward definitive financing, development, construction, tenancy, and operating agreements.

8. CCE initially anticipated documenting a financing commitment tied to the associated data-center development by September 1, 2026. That commitment has not yet been finalized, in large part because Elmore County adopted Resolution No. 952-26 on July 2, 2026, imposing an emergency moratorium on the acceptance, processing, review, approval, or issuance of permits and zoning approvals for new data-center development within unincorporated Elmore County. A true and correct copy of Resolution No. 952-26 is attached as Exhibit A.

9. The County's moratorium materially disrupted the anticipated timetable for formalizing the coalition's development, financing arrangements, and timelines of energy and water infrastructure buildout because those arrangements depend on the associated data-center campus.

10. Despite the moratorium, CCE and the coalition participants have continued their work. Their negotiations address financing, ownership and control, project configuration, engineering interfaces, development responsibilities, construction sequencing, tenancy, operations, permitting, risk allocation, confidentiality, and the transition from preliminary understandings to definitive agreements.

11. The project is exceptionally complex from a technical standpoint. It requires coordinated design and integration of water-storage and delivery facilities, pumped-storage hydropower, renewable-generation and transmission assets, high-capacity electrical infrastructure, data-center systems, site and transportation improvements, and other supporting facilities, together with coordinated federal, state, and local approvals and oversight.

12. The project is likewise complex from an operational standpoint. The participants must allocate responsibility for development, construction, financing, ownership, facility interfaces, water and energy delivery, campus operations, regulatory compliance, scheduling, and long-term performance. Each large company involved has its own management, technical personnel, financing requirements, approval processes, and legal department. Coordinating multiple sophisticated companies and negotiating interdependent agreements of this scale inherently takes time.

13. The resulting agreements will materially affect the project's financing, ownership, configuration, development and operating responsibilities, the persons and entities with relevant knowledge, the universe of responsive documents, confidentiality considerations, expert and technical work, and the evidentiary record for these proceedings. Proceeding under the existing schedule before those relationships are reduced to definitive agreements would likely produce an incomplete record and require substantial amendment and supplementation.

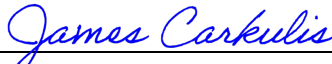
14. CCE has also continued to advance the federal component of the project. By letter dated April 17, 2026, the Bureau of Reclamation acknowledged CCE's request for a three-year extension of Preliminary Lease of Power Privilege Agreement No. 23-07-10-P0107, stated that it would consider the request, invited CCE to submit information demonstrating the project's forward viability, and advised that a determination would be made by June 15, 2026. A true and correct copy of that letter is attached as Exhibit B.

15. Vacating the current prehearing deadlines and hearing dates and setting a status conference after January 30, 2027, would allow the County's temporary moratorium process to run its course and provide the coalition with a reasonable opportunity to formalize its relationships. CCE could then report meaningfully to the Department regarding project financing, ownership, development responsibilities, and permitting participation, and the Department could establish a revised schedule based on the project's actual structure.

16. In my view, the requested modification will promote an orderly and accurate record, avoid unnecessary expert, discovery, and motion-practice expense, and allow these proceedings to move forward on the basis of current and reliable information rather than provisional assumptions likely to change as the definitive agreements are completed. This request will also allow the most significant resource for water and water storage in Elmore County and the Boise Basin to help relieve severely strained existing water consumptive use and provide for future consumptive and beneficial needs in the region to be constructed.

I declare under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

DATED this 23 day of September, 2026.



James T. Carkulis

CERTIFICATE OF MAILING

I certify that on this 24th day of September, 2026, the foregoing document was served on the following persons via the email address identified.


THOMAS J. BUDGE

IDAHO DEPT. OF WATER RESOURCES Director Mathew Weaver Garrick L. Baxter Sarah Tschohl file@idwr.idaho.gov mathew.weaver@idwr.idaho.gov garrick.baxter@idwr.idaho.gov megan.jenkins@idwr.idaho.gov Sarah.tschohl@idwr.idaho.gov	<i>Ballentyne Ditch Co., et al.</i> SAWTOOTH LAW OFFICES PLLC Daniel B. Steenson S. Bryce Farris Andrew J. Waldera dan@sawtoothlaw.com bryce@sawtoothlaw.com andy@sawtoothlaw.com
<i>Cat Creek Energy, LLC</i> James Carkulis David R. Tuthill, Jr. Hal Anderson Gary D. Slette jtc@ccewsrps.net dave@idahowaterengineering.com hal@idahowaterengineering.com gslette@rsidaholaw.com	<i>Office of Energy and Mineral Resources</i> IDAHO GOVERNOR'S OFFICE OF ENERGY AND MINERAL RESOURCES Marissa Warren, Energy Program Manager marissa.warren@oer.idaho.gov
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EXHIBIT A

**Elmore County Resolution No. 952-26—Emergency Moratorium on Data-Center Permit-
ting**

RESOLUTION NO. 952-26

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ELMORE COUNTY, IDAHO, ADOPTING AN EMERGENCY MORATORIUM ON THE ISSUANCE OF PERMITS FOR DATA CENTER DEVELOPMENT WITHIN UNINCORPORATED ELMORE COUNTY PURSUANT TO IDAHO CODE § 67-6523; AUTHORIZING THE CHAIRMAN TO TAKE ACTION AND EXECUTE DOCUMENTS CONSISTENT WITH THE PURPOSE OF THIS RESOLUTION; DECLARING THE SUBORDINATION OF ALL ORDINANCES, RESOLUTIONS, AND ORDERS IN CONFLICT HERewith; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Title 67, Chapter 65 of the Idaho Code (“Local Land Use Planning Act”) and Article 12, Section 2 of the Idaho Constitution provide authority for Elmore County to adopt land use and regulation ordinances to protect the health, safety, and welfare of their citizens; and

WHEREAS, Idaho Code § 67-6523 authorizes a governing board to adopt a moratorium upon the issuance of permits when the governing board finds that an imminent peril to the public health, safety, or welfare exists and states in writing the reasons for such finding; and

WHEREAS, Elmore County is facing a severe water crisis as is shown by the enactment of the Cinder Code Butte Critical Groundwater Management Area and the Mountain Home Groundwater Management Area by the Idaho Department of Water Resources; and

WHEREAS, data centers are defined by Idaho Code § 63-3622VV(f) as facilities used to house eligible server equipment for the transmission and storage of data that contain uninterruptible power supplies or generator power, sophisticated fire suppression systems, and enhanced physical security measures; and

WHEREAS, the Idaho Legislature recently found that data centers require significant amounts of water and, in doing so, passed House Bill 895, effective July 1, 2026 and codified as Idaho Code §42-252, restricting certain consumptive uses of water by data centers constructed after July 1, 2026; and

WHEREAS, the Board finds that large-scale data center development may have significant impacts upon water resources, electrical infrastructure, transportation systems, emergency services, public safety resources, land use compatibility, agricultural lands, and the general welfare of Elmore County residents; and

WHEREAS, the County’s current Comprehensive Plan and Zoning and Development Ordinance do not contain data-center-specific standards addressing such impacts and land use entitlement regulations; and

WHEREAS, the Board finds that immediate acceptance and processing of permit applications for data center development before completion of appropriate study and regulatory

review could result in land use decisions that are inconsistent with Elmore County's ability to protect public health, safety, and welfare; and

WHEREAS, the Board finds that an imminent peril to the public health, safety, and welfare exists related to approving data center land use applications before the County has had an opportunity to evaluate and adopt appropriate regulations governing such facilities.

NOW, THEREFORE, BE IT RESOLVED BY A __-__ VOTE, the Board hereby adopts and approves this emergency moratorium on the issuance of permits for data center development within unincorporated Elmore County:

Section 1. Findings. The foregoing recitals are incorporated herein as findings of fact and constitute the Board's written findings pursuant to Idaho Code § 67-6523.

Section 2. Moratorium. Pursuant to Idaho Code § 67-6523, Elmore County hereby adopts an emergency moratorium on the acceptance, processing, review, approval, or issuance of permits and zoning approvals for new data center development within unincorporated Elmore County.

Section 3. Affected Permits. The moratorium shall apply to all applications for any land use entitlement or development approval required for construction or operation of a data center within unincorporated Elmore County.

Section 4. Definition. For purposes of this Resolution, "Data Center" shall have the meaning set forth in Idaho Code § 63-3622VV(f), as may be amended.

Section 5. Study Period. During the moratorium period, Elmore County Land Use and Building Department staff, the Elmore County Planning and Zoning Commission, and legal counsel are directed to:

1. Evaluate potential impacts of data center development;
2. Review regulatory approaches adopted in other jurisdictions;
3. Analyze impacts on water resources and infrastructure;
4. Consider amendments to the Comprehensive Plan and Zoning and Development Ordinance; and
5. Prepare recommendations for permanent regulations, if appropriate.

Section 6. Duration. This emergency moratorium shall become effective immediately upon adoption and shall remain in effect for a period not exceeding one hundred eighty-two (182) days unless sooner repealed or superseded by an interim or final ordinance, consistent with Idaho Code §§ 67-6523 and 67-6524.

Section 7. Severability. If any portion of this Resolution is determined invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

DATED this 2nd day of July, 2026.



ELMORE COUNTY BOARD OF COMMISSIONERS

Approving:

By: [Signature]
Albert Hofer, Chairperson

By: [Signature]
Crystal Rodgers, Commissioner

By: [Signature]
Franklin Corbus, Commissioner

ATTEST:

[Signature]
Julie Kennedy, Elmore County Clerk

EXHIBIT B

**Bureau of Reclamation Letter dated April 17, 2026, Regarding Request for Extension of
Preliminary Lease of Power Privilege**

AMENDMENT NO. 002
to
PRELIMINARY LEASE OF POWER PRIVILEGE
Between
BUREAU OF RECLAMATION
And
CAT CREEK ENERGY, LLC
For the
ANDERSON RANCH RESERVOIR PUMPED-STORAGE
HYDROELECTRIC DEVELOPMENT PROJECT

This modification is entered into by and between the Bureau of Reclamation, Columbia Pacific-Northwest Region, hereinafter referred to as Reclamation, and Cat Creek Energy, LLC (CCE) under the provisions of the master Preliminary Lease agreement enacted on October 7, 2019.

- I. The purpose of this Amendment is to modify the Preliminary Lease as follows:
- a. Extend the Preliminary Lease termination date under Article 1 from March 31, 2026 to December 31, 2027.
 - b. Modify Article 14 to "CCE agrees to fund Reclamation's work under this Preliminary Lease through a Contributed Funds Act agreement to be executed between Reclamation and CCE prior to December 31, 2027."

All other terms and conditions of the original Preliminary Lease remain in effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the last date written below.

ROLAND
SPRINGER

Digitally signed by ROLAND
SPRINGER
Date: 2026.07.14 10:21:25
-06'00'

Roland K. Springer, Acting Regional Director
Columbia Pacific-Northwest Region
Bureau of Reclamation

Jul 14, 2026

Date

James Carkulis

James Carkulis, Agent for Cat Creek Energy, LLC

06-August-2026

Date

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