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DEPARTMENT OF
WATER RESOURCES

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Attorneys for Boise Project Board of Control

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE 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

EXPERT WITNESS LIST

Boise Project hereby submits its preliminary expert witness list regarding these applications in accordance with Order Advancing Matter To Formal Proceedings And Adopting A Scheduling Order (May 15, 2026). The list is preliminary, in large part, because the Applicant (Cat Creek or CCE) has repeatedly changed the scope of its proposed project and has failed to provide adequate explanation of both its construction methods, including reservoir drawdown scenarios, and its operational parameters. As a consequence, the Boise Project has not been able to ascertain the full scope of the impacts of Cat Creek's proposed construction and operation on the interests of the Boise Project in Anderson Ranch Reservoir and downstream in the Boise River. Moreover, Cat Creek has recently announced that it is completely modifying its proposal in the hopes of entering into an agreement or agreements to supply, or accommodate, possible future data center project(s) located in Elmore County, even though the Elmore County Commission has imposed a moratorium on establishing data centers in Elmore County. If the

water from the Cat Creek project will be used for data centers in Elmore County, rather than as proposed in the applications and in the Memorandum Agreements with the potential water users in the Boise Basin, this is a significant modification, and given the dearth of details on this latest proposal, the Boise Project cannot anticipate how the new proposal will impact the Boise Project's interests.

Because of the lack of adequate information about Cat Creek's potential operations, Boise Project potential witnesses cannot provide expert witness reports. However, the Boise Project has identified the following individuals or entities who would be able to testify concerning the impacts of the Cat Creek project on the Boise Project's interests including the following:

1. Tom Ritthaler, acting Manager of the Boise Project Board of Control. Mr. Ritthaler will testify about the interests of the Boise Project's member Districts in the Anderson Ranch Reservoir and related facilities. Including the storage rights in the reservoir, how those interests could be affected by Cat Creek's operations, including Cat Creek's statement in the past that it intends to "borrow" storage water from Anderson Ranch Reservoir in order to accomplish its pump storage facility operations. To the extent that Cat Creek discloses its operational parameters for the pump storage project, Mr. Ritthaler will be able to explain how those Boise Project member district interests are affected by any impacts to Anderson Ranch Reservoir from the operations of the Cat Creek pump storage project, and what conditions would be required to ensure that the water rights in Anderson Ranch Reservoir are protected.
2. Daniel Hoke, Watermaster of Water District No. 63. To the extent that Cat Creek is able to identify how and when it will utilize water from the proposed pump storage

project, including the new possibility of sending water from the Boise River to Elmore County data centers, Mr. Hoke will be able to explain the impact on water users and diversions in the Boise River, which are under this administration as Watermaster of Water District No. 63.

3. Tyson Dye, Generation Supervisor of Lucky Peak Power Plant Project. To the extent that Cat Creek is able to identify how its operations will affect the flows in the Boise River, Mr. Dye will be able to explain the impacts of those modifications in the flows on the hydroelectric generation at Lucky Peak Power Plant. In the past Cat Creek has stated that all of the water will flow downstream through the hydroplant and this will change only the timing of the water flow in a way that will benefit Lucky Peak. Cat Creek has not provided any details to support that contention and has never identified specifically how and when the timing of the flows will change. However, now Cat Creek is apparently proposing to divert water out of the Boise River to other areas to service data centers which could severely affect generation at Lucky Peak. If and when that flow regime change becomes known, Mr. Dye will be able to address the impacts on Lucky Peak.

4. Representatives of the Bureau of Reclamation known to the Bureau of Reclamation. The Boise Project may call Bureau of Reclamation witnesses to identify the impact to operations at Anderson Ranch Reservoir including anticipated costs and impacts of the operations on sedimentation, erosion, and fisheries in the reservoir.

5. Representatives of the Idaho Department of Water Resources. The Boise Project may call appropriate representatives of the Idaho Department of Water Resources in order to explain the impact on storage allocation and water rights in the Boise River, once

Cat Creek is able to identify how it proposes to operate the pump storage facility, and to what extent the proposed operations will affect storage and natural flow rights in the Boise River.

These witnesses, to the extent that they would provide expert testimony under Idaho Rule of Evidence 702, are non-retained individuals under Rule 26 of the Idaho Rules of Civil Procedure. These witnesses may also supply opinion testimony under Idaho Rule of Evidence 701, which would not require an expert witness report. If Cat Creek is able to identify how it intends to construct and operate this facility under the new or old or future water use proposals, then the Boise Project will update the topics of testimony by these witnesses.

In addition, the Boise Project reserves the right to name and call additional expert witnesses, including retained experts under Rule 26 of the Idaho Rules of Civil Procedure, once the funding and actual planned construction and operations are known. For example, CCE has stated that this project will cost \$5 Billion dollars, CCE has not identified the source of funding. If and when CCE does identify the funding source(s), the Boise Project may retain an expert to evaluate the proposed funding for consistency with IDWR appropriation rules.

DATED this 25th day of September, 2026.

MARTEN LAW LLP

/s/ Albert P. Barker

Albert P. Barker

Attorney for Boise Project Board of Control

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 2026, I served the original of the foregoing **EXPERT WITNESS LIST**, method as indicated below, addressed to the following:

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