

Sep 25, 2026

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

**PROPOSED STIPULATIONS OF
FACT**

1. Cat Creek Energy's application for permit no. 63-34403 was filed with the Department on May 16, 2017, for diversion to storage and storage for power purposes. The application seeks a diversion rate of 9996 cfs, a power storage volume of 101,352 acre-feet, and 100,000 acre-feet for power from storage. The application proposed irrigation of zero acres. This application is fully subordinated to all future uses.
2. Cat Creek Energy's application for permit no. 63-34652 was filed with the Department on April 1, 2019. The application seeks to store 30,000 acre feet for irrigation and municipal storage and a diversion rate of 3,000 cfs. The proposed place of use is within the service areas of Suez Water, Idaho Pioneer Irrigation District, and the City of Meridian, all within Water District No. 63 in the Boise River Basin. This application does not seek the right to generate power.

3. Cat Creek Energy's Application No. 63-34897 was filed with the Department on April 20, 2020. This application seeks to divert 31,000 acre feet to storage for irrigation and municipal purposes and a diversion rate of 2000 cfs. The application also sought to use the 31,000 acre feet for mitigation by delivery from storage. The water right was described as supplemental storage of water for the City of Nampa, Black Canyon Irrigation District, and Wood Creek Ranch all within Basin No. 63.

4. Cat Creek Energy's Application No. 63-34900 was filed with the Department on April 21, 2020. This application seeks a storage right of 19,000 acre-feet and a diversion rate of 2000 cfs. This application seeks a place of use in Basin No. 63, not including Elmore County.

5. Application No. 63-35522 was filed with the Department on July 11, 2024. This application sought the right to divert 50,000 acre feet to storage with a diversion rate of 2000 cfs. The place of use for the application was Basin No. 63, not including Elmore County and Camas County.

6. As of September 25, 2026, Cat Creek Energy has not provided an explanation of how water will be put to beneficial use in connection with any data center(s) in Elmore County

7. The Federal Power Act has no applicability to Applications 63-34652, 63-34897, 63-34900, or 63-35522.

8. On December 12, 2014, Cat Creek Energy filed an application for preliminary permit with the Federal Energy Regulatory Commission (FERC). This FERC application

sought a license for a pump storage project at the Cat Creek reservoir, pumping water from Anderson Ranch reservoir to the new proposed Cat Creek reservoir.

9. On January 25, 2023, Cat Creek Energy filed a Proposed Study Plan with FERC, under the integrated licensing process for the Cat Creek project. Comments were received on the Proposed Study Pan and submitted to FERC.

10. On May 19, 2023, FERC placed Cat Creek Energy's application in abeyance until further notice. FERC explained that Cat Creek Energy was required to enter into an agreement with the Bureau of Reclamation (BOR) for lease of power privileges.

11. As of May 2023, Cat Creek Energy had not entered into a new cost recovery agreement with BOR that would allow BOR to continue work on the project.

12. As of September 25, 2026, Cat Creek has not completed the studies described in the Proposed Study Plan.

13. As of September 25, 2026, Cat Creek's FERC application remains in abeyance.

14. As of September 25, 2026, Cat Creek Energy does not have a FERC license for its proposed pump storage project.

15. As of September 25, 2026, Cat Creek Energy has not provided any funding to BOR so that BOR can continue its work and studies on evaluating the project and its impact on Anderson Ranch reservoir.

16. On April 28, 2025, Idaho Power Company sent Cat Creek a notice of termination of a large generator interconnection agreement for failure to pay the fees associated with the interconnection agreement.

17. On June 27, 2025, FERC issued an order accepting the notice of termination of the interconnection agreement between Idaho Power Company and Cat Creek Energy.

18. As of September 25, 2026, no new large generator interconnection agreement has been entered into between Cat Creek Energy and Idaho Power Company.

19. As of September 25, 2026, Cat Creek Energy has no documented financing commitment to provide water or power to any proposed data center development or its pump storage project.

20. As of September 25, 2026, Cat Creek Energy has no easements across federal lands for transmission lines from its project to a point of interconnection on the transmission grid.

21. As of September 25, 2026, Cat Creek Energy has not advised the Department whether it intends to include as part of its water right applications the addition of a PV Solar Floatovoltaics system into the design of Cat Creek Energy's pump storage project as Cat Creek advised FERC in 2022 that it might add to the project.

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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