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DEPARTMENT OF
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**BEFORE THE IDAHO 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

**IDFG’S OPPOSITION TO CAT
CREEK MOTION TO VACATE AND
RESET HEARING SCHEDULE**

COMES NOW, Protestant, the Idaho Department of Fish and Game (“IDFG”), by and through its attorneys of record, and pursuant to IDAPA 37.01.01.220.025.b, hereby file an opposition to Cat Creek Energy LLC’s (“Cat Creek”) *Motion to Vacate and Reset Hearing Schedule and for Status Conference* (“*Motion to Vacate*”) filed on September 24, 2026. Cat Creek has not provided sufficient evidence demonstrating good cause for modifying the scheduling order, modifying the order would prejudice IDFG, and would not be in the public interest.

**IDFG’S OPPOSITION TO CAT CREEK MOTION TO VACATE AND RESET HEARING
SCHEDULE —1**

ARGUMENT

Cat Creek has not provided evidence that “good cause” exists for altering the scheduling order. IDAPA 37.01.01.514. Cat Creek asserts that it has found a “data center developer” that would “provide the capital needed to construct the CCE [Cat Creek Energy] water an energy project in conjunction with a data center campus.” *Motion to Vacate* at 2. Cat Creek further asserts that they “expected to document commitment for that funding by August 31, 2026.” *Id.* That documentation was, however, delayed because Elmore County passed a resolution creating a moratorium on large-scale data center development. *Id.* Cat Creek states that “[b]ecause the financing and construction structure depends on the associated data center development, the resulting moratorium prevented the parties from formally proceeding on the anticipated timetable.” *Id.* Cat Creek declares that this “interruption is temporary.” *Id.* However, Cat Creek has provided no evidence demonstrating that the Elmore County moratorium will be lifted at the end of the emergency moratorium, or that its deal with the data center company will still be at play at that point in the future. It is entirely unclear that, if the data center emergency moratorium is lifted in 182-days (December 31, 2026), there will be enough time for Cat Creek to obtain documentation of its deal with the data center entity by January 30, 2027. Therefore, Cat Creek’s request for delay is based merely on speculation that, when the Elmore County’s emergency data center moratorium resolution is revisited, Elmore County will allow data centers to be built. This kind of speculation does not constitute good cause for extending the hearing schedule.

Cat Creek also asserts that vacating and resetting the hearing schedule will not prejudice the parties. *Id.* at 4. It asserts that “maintaining the present schedule would instead require all parties to incur substantial expert, discovery, and motion practice expenses before the project

participants' roles and responsibilities are finalized and while the moratorium prevents the associated development from advancing.” *Id.* This statement ignores the procedural posture of this matter. Over the past ten years, IDFG has spent many hours attending informal settlement conferences. When proceedings became formal, IDFG spent time propounding discovery. In addition, IDFG has, in good faith, complied with the Hearing Officer’s *Order Advancing Matter to Formal Proceedings and Adopting a Scheduling Order; Notice of Prehearing Conference and Hearing* (“*Scheduling Order*”). IDFG expended considerable time, effort, and money to compile and disclose its expert reports as required by the *Scheduling Order*. Cat Creek, however, did not file any expert reports. Instead, it waited until one day before the expert witness disclosure deadline to file the request for extension. This late request creates prejudice to those protestants who, like IDFG, worked diligently to prepare and disclose their expert reports. Cat Creek, having willfully missed the expert witness disclosure deadline, should not be allowed a second chance to disclose its experts and expert reports.

To avoid prejudice to IDFG and the other protestants, the Hearing Officer should deny the request for extension. The amount of IDFG’s time, resources, and money that has been spent in this matter, to date, is considerable. Further delay would only exacerbate those expenditures. Especially, since it is clear that Cat Creek has not yet secured the financial backing of the “data center developer” and is facing major legal hurdles in doing so because of Elmore County’s recent data center moratorium. IDFG and the other protestants in this matter should not have to continue to put time and resources into a matter that has clearly become speculative. Another 90-day delay will simply find all the parties fielding yet another request from Cat Creek that the matter be set out further into 2027.

Cat Creek's assertion that a delay would "serve the public interest" is also without merit. IDFG's already disclosed expert reports make clear that development of the project is not in the local public interest when it comes to fish, wildlife, and recreation in the Anderson Ranch Reservoir area. In addition, Elmore County's resolution noting that the development of data centers "may have significant impacts upon water resources" makes Cat Creek's reliance on a "data center developer" to provide the financing for the project may face serious hurdles from the public in the future. It is not in the public interest for the Hearing Officer to grant a delay in this matter under these circumstances. It is clear that, after ten years, Cat Creek does not have the wherewithal to compile and disclose expert reports in support of its project. Granting a delay would simply cause IDFG, and all the protestants, to spend more time and money.

CONCLUSION

Cat Creek has not provided sufficient evidence showing that there is good cause for extending the deadlines in this matter. Granting Cat Creek's request would create prejudice for the protestants in this case, would ignore Cat Creek's failure to meet the expert witness disclosure deadline, and would allow Cat Creek the unfair advantage of a second chance at filing its expert reports and witness disclosure. Further, granting Cat Creek's request would not be in the public interest. Given this, IDFG respectfully requests that the Hearing Officer deny Cat Creek's request to vacate and reset the hearing schedule.

DATED October 7th, 2026.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



ANN N. YRIBAR
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of October 2026, I caused to be served a true and correct copy of the foregoing IDFG's FIRST SET OF DISCOVERY REQUESTS by transmitting a copy thereof in the manner listed below:

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