

FEB 16 2022

DEPARTMENT OF
WATER RESOURCES

February 14, 2022

All parties as set forth in the attached certificate of service

Re: Cat Creek Energy, LLC, Applications for Permit Nos. 63-34403, 63-34652, 63-34897, and 63-34900

Dear parties:

This follows up on my letter dated June 29, 2021, concerning the above-referenced water right applications filed by Cat Creek Energy, LLC (CCE). At the last prehearing conference, Director Spackman asked the parties to work together to develop a hearing schedule. My June 29 letter proposed that CCE first complete its FERC Preliminary Application Document (PAD) which contains detailed information about the project, its operations, and environmental impacts. While the water right applications and the FERC application are governed by different laws, our hope is that the PAD will answer many of your questions concerning the project and facilitate a cooperative resolution of protests.

The PAD is too large to distribute by email as it consists of 244 pages. It has been uploaded to CCE's virtual data room (Citrix ShareFile Virtual Data Room, referred to herein as "ShareFile") which the parties were given access to previously. If you have previously accessed ShareFile, you should have received email notification that the PAD has been uploaded. If you have not previously requested access to ShareFile, please email Tessa Sparrow (tessa@racineolson.com) and copy me (tj@racineolson.com) with your name, email address, physical address, position, and, if you are an attorney or other party representative, the name of the party you are representing. You will then be provided a link and a personal password to access ShareFile. If you encounter any technical problems please contact Peggy Beltrone (peggy.beltrone@gmail.com; (406) 781-9911).

The PAD provides detailed information related to the criteria that IDWR will consider in evaluating CCE's water right applications under Idaho Code 42-203A(5). Sections 3.5, 3.8, and 4.5 address the water supply available to the project; section 4.5.1.1 addresses the computerized accounting program used by Water District 63 to ensure that water rights are administered in priority; and section 4 addresses issues related to the local public interest, including water quality, wildlife resources, and fish and aquatic resources. Our hope is that the information in the PAD will satisfy concerns the parties may have concerning the water right applications, and that a contested hearing will not be required. Of course, we understand that further dialogue may be needed to fully resolve concerns, and that some issues may ultimately require a decision by Director Spackman.

Now that the PAD has been provided, we would like to hold a settlement conference with the parties in an effort to resolve protests cooperatively. My last letter suggested that a meeting be held 3-4 weeks after dissemination of the PAD. However, counsel for one of the protestants requested additional time to review the PAD. Therefore, we have scheduled a meeting March 8, 2022, at 1:30 p.m. at the IDWR state office at 322 E. Front Street, Boise, Idaho. Please attend the meeting in person if possible. If you are unable to attend that meeting in person you may participate by phone or video using Cisco Webex:

Join from the meeting link:

<https://idahogov.webex.com/idahogov/j.php?MTID=m5a9783d1d319714e56d2234d34e6efd6>

Join by meeting number:

Meeting number (access code): 2463 240 2984

Meeting password: MeJVYXM4A36

Join by phone:

+1-415-655-0001, passcode 24632402984##

The extent to which protests can be resolved cooperatively will determine whether and to what extent expert testimony will be required in this proceeding. CCE proposes that the parties make a good faith effort at settlement before proceeding with litigation and the development of expert reports. It is not necessary that experts attend the March 8 meeting, and we do not anticipate setting a hearing schedule at that meeting. A hearing schedule can be set once we know what issues cannot be resolved cooperatively.

If any party would like to discuss their particular protest prior to the March 8 meeting, please feel free to contact me directly. Otherwise I look forward to visiting with everyone then.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas J. Budge", with a stylized flourish at the end.

THOMAS J. BUDGE

cc: Director Gary Spackman, IDWR

CERTIFICATE OF MAILING

I certify that on this 14th day of February, 2022, the foregoing document was served on the following persons in the manner indicated.



Signature of person mailing form

<p>Director Gary Spackman Idaho Department of Water Resources PO Box 83720 Boise, Idaho 83720-0098 gary.spackman@idwr.idaho.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Idaho Department of Water Resources Western Region 2735 Airport Way Boise, Idaho 83705-5082 gary.spackman@idwr.idaho.gov Kimberle.English@idwr.idaho.gov Sean.Costello@idwr.idaho.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>Garrick Baxter Attorney General Idaho Department of Water Resources garrick.baxter@idwr.idaho.gov</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>James Carkulis CAT CREEK ENERGY, LLC 398 S. 9TH, SUITE 240 BOISE ID 83702 jtc@ccewsrps.net</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>
<p>David R. Tuthill, Jr. Hal Anderson IDAHO WATER ENGINEERING 2918 N. EL RANCHO PL BOISE ID 83704 dave@idahowaterengineering.com hal@idahowaterengineering.com</p>	<p><input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail</p>

Gary D. Slette
ROBERTSON & SLETTE, PLLC
134 3RD AVE E
PO BOX 1906
TWIN FALLS ID 83303-1906
gslette@rsidaholaw.com

☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

Ballentyne Ditch Co, et al.
SAWTOOTH LAW OFFICES PLLC
c/o Daniel B. Steenson
c/o S. Bryce Farris
c/o Andrew J. Waldera
1101 W RIVER ST STE 110
PO BOX 7985
BOISE ID 83707
dan@sawtoothlaw.com
bryce@sawtoothlaw.com
andy@sawtoothlaw.com

☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

United States of America Bureau of Reclamation
UNITED STATES OF AMERICA BUREAU OF RECLAMATION
c/o E. Gail McGarry
1150 N CURTIS RD STE 100
BOISE ID 83706-1234
EMcgarry@usbr.gov

☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

IDAHO CONSERVATION LEAGUE
c/o Marie Callaway Kellner
PO BOX 844
BOISE ID 83701
mkellner@idahoconservation.org

☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

Boise Project Board of Control & Riverside Irrigation District
BARKER ROSHOLT & SIMPSON LLP
c/o Albert P. Barker
1010 W JEFFERSON ST STE 102
PO BOX 2139
BOISE ID 83701-2139
apb@idahowaters.com

☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

Allen R. Thompson
406 N. THOMPSON RD
KING HILL ID 83633
kimraftertranch@gmail.com

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

SUEZ Water Idaho Inc.
GIVENS PURSLEY LLP
c/o Michael P. Lawrence
c/o Christopher H. Meyer
c/o Charles Baser
601 W BANNOCK ST
PO BOX 2720
BOISE ID 83701-2720
mpl@givenspursley.com
chrismeyer@givenspursley.com
charliebaser@givenspursley.com

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

IDFG
STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
c/o Ann Y. Vonde
DEPUTY ATTORNEY GENERAL
PO BOX 83720
BOISE ID 83720-0010
ann.vonde@ag.idaho.gov

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

IDFG
Craig White
IDAHO DEPT. OF FISH AND GAME
Magic Valley Region 324 S 417 E Suite 1
Jerome ID 83338
craig.white@idfg.idaho.gov

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

IDFG
Tom Bassista
Bradley Dawson
IDAHO DEPT. OF FISH AND GAME
317 W Main St
Boise, ID 83735-0001
thomas.bassista@idfg.idaho.gov
Bradley.dawson@idfg.idaho.gov

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

<p><i>IDFG</i> Casey Pozzanghera Staff Biologist, Southwest Region IDAHO DEPT. OF FISH AND GAME 15950 N Gate Blvd Nampa, ID 83687 casey.pozzanghera@idfg.idaho.gov</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>Wildlands Defense</i> c/o Katie Fite PO BOX 125 BOISE ID 83701 katie@wildlandsdefense.org</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>Tree Top Ranches LP</i> c/o William J. Mulder 101 S CAPITOL BLV STE 1801 BOISE ID 83701 wjmulder@treetopranches.com</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>S Bar Ranch, LLC</i> <i>The District at Parkcenter, LLC</i> HAWLEY TROXELL ENNIS & HAWLEY c/o Dana L. Hofstetter c/o Richard F. Goodson 877 MAIN ST STE 1000 PO BOX 1617 BOISE ID 83701-1617 dhofstetter@hawleytroxell.com rgoodson@hawleytroxell.com</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>Gwinn Rice Ranch LLC</i> c/o Jim Rice 2851 W BALATA CT MERIDIAN ID 83646-5197 Jimrice1965@gmail.com</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>City of Boise</i> SCOTT B. MUIR Deputy City Attorney BOISE CITY ATTORNEY'S OFFICE 150 N. Capitol Blvd. P.O. Box 500 Boise, ID 83701-0500 BoiseCityAttorney@cityofboise.org</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail

<p><i>City of Boise</i> MARY R. GRANT Deputy City Attorney BOISE CITY ATTORNEY'S OFFICE 150 N. Capitol Blvd. P.O. Box 500 Boise, ID 83701-0550 mgrant@cityofboise.org</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>Wendi Combs</i> 704 LINDENWOOD DR NAMPA ID 83638 misssterry52@yahoo.com</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>City of Meridian (*INTERVENER*)</i> HONSINGER LAW PLLC c/o Charles L. Honsinger PO BOX 517 BOISE ID 83701 honsingerlaw@gmail.com</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>Idaho Department of Lands</i> c/o Michele Andersen 3284 W INDUSTRIAL LOOP COEUR D'ALENE ID 83815 mandersen@idl.idaho.gov angela.kaufmann@ag.idaho.gov</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail
<p><i>Idaho Power Company</i> BARKER ROSHOLT & SIMPSON LLP c/o John K. Simpson 1010 JEFFERSON ST., STE 102 PO BOX 2139 BOISE ID 83701-2139 jks@idahowaters.com</p>	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-mail

Trout Unlimited

Julisa Edwards
General Counsel
Trout Unlimited
1777 N. Kent St., Ste 100
Arlington, VA 22209
Julisa.edwards@tu.org

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

Kira Finkler
Director, Idaho Water and Habitat Program
Trout Unlimited
910 W. Main St., Suite 342
Boise, Idaho 83702
Kira.finkler@tu.org

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

USDI BLM

USDI BLM IDAHO STATE OFFICE
c/o Fredric W. Price
1387 S. VINNELL WAY
BOISE ID 83709-1657
fwprice@blm.gov

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

Elmore County, Board of County Commissioners

Dylan B. Lawrence
Varin Wardwell LLC
242 N. 8th Street, Suite 220
P.O. Box 1676
Boise, Idaho 83701-1676
dylanlawrence@varinwardwell.com

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail

Open Educational Resources

John Chatburn
john.chatburn@oer.idaho.gov

- ☐ U.S. Mail/Postage Prepaid
☐ Overnight Mail
☐ Hand Delivery
☒ E-mail