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JUN 05 2020

DEPARTMENT OF
WATER RESOURCES

rd @ 12:59 pm

by JRS
rcpt C108854

Scott L. Campbell, ISB No. 2251
Campbell Law, Chartered
Post Office Box 170538
Boise, Idaho 83717
Telephone: (208) 949-0599
scott@slclexh20.com

Dylan B. Lawrence, ISB No. 7136
Varin Wardwell LLC
242 N. 8th Street, Suite 220
P.O. Box 1676
Boise, Idaho 83701-1676
Telephone: (208) 922-7060
Facsimile: (866) 717-1758
dylanlawrence@varinwardwell.com

Attorneys for Protestant Elmore County, Board of County Commissioners

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-34897)

In the name of Cat Creek Energy, LLC)

NOTICE OF PROTEST

_____)

Name and address of protestant and matter being protested: The Elmore County Board of County Commissioners (“Elmore County”), through undersigned counsel of record, hereby files this Notice of Protest to Application for Permit No. 63-34897 (the “Application”), filed by Cat Creek Energy, LLC (the “Applicant”), pursuant to Idaho Code Section 42-203A(4) and IDWR Rules of Procedure 210, 250. Elmore County’s mailing

address is 150 S. 4th East, Mountain Home, Idaho 83647. The \$25 protest fee is being submitted contemporaneously with this Notice.

Protestant's representative and service: Elmore County's representatives for service in this matter shall be counsel of record identified in the heading of this Notice.

Bases of protest: The Application proposes to divert water from the South Fork Boise River within Elmore County, for uses within Ada County, Canyon County, and Elmore County. Elmore County holds a permit for water appropriation from this same source. If granted, the Application must be conditioned in a manner consistent with Idaho Code Section 42-203A(5)(a)-(f), the Department's Water Appropriation Rules, and conditions imposed on other water rights within Basin 63.

In particular, pursuant to Idaho Code Section 42-203A(5)(a), the Application must not injure other water rights, including those held by Elmore County. In addition, the Application does not adequately explain or establish the sufficiency of the water supply or the financial resources that will be used to complete the project pursuant to Idaho Code Section 42-203A(5)(b), (d).


Moreover, pursuant to Idaho Code Sections 42-203A(4) and 42-203A(5)(e), (g), and because the source of water proposed in the Application originates in Elmore County, the Application conflicts with the local public interest as defined in Idaho Code Section 42-202B and will adversely affect the local economy of the local area within which the source of water originates, unless more of the water appropriated under any permit is designated for beneficial uses within Elmore County.

Finally, because the Application is tied to and specifically incorporates other water right applications filed by Applicant that have not yet been granted, the Application is speculative at this time in violation of Idaho Code Section 42-203A(5)(c).


What would resolve this Protest: If conditions addressing and reflecting the above bases of protest are included in any permit, Elmore County would support action by the Director granting the permit. Otherwise, the application must be denied.

DATED THIS 5th day of June, 2020.

Varin Wardwell LLC

By: 
Dylan B. Lawrence
Attorneys for Elmore County, Board of
County Commissioners

Campbell Law Chtd.

By: 
Scott L. Campbell
Attorneys for Elmore County, Board of
County Commissioners

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of June, 2020, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Original:

Idaho Department of Water Resources
322 E. Front Street
Boise, Idaho 83702

U.S. Mail
 Overnight Mail
 Hand Delivery
 Fax
 Email

With copies to:

Cat Creek Energy, LLC
c/o Idaho Water Engineering, LLC
2918 N. El Rancho Pl.
Boise, Idaho 83704

U.S. Mail
 Overnight Mail
 Hand Delivery
 Fax
 Email

Scott L. Campbell
Campbell Law, Chartered
Post Office Box 170538
Boise, Idaho 83717
scott@slclexh20.com

U.S. Mail
 Overnight Mail
 Hand Delivery
 Fax
 Email


Dylan B. Lawrence

Idaho Department of Water Resources Receipt
Receipt ID: C108854

Payment Amount	\$25.00	Date Received	6/5/2020	Region	STATE
Payment Type	Check	Check Number	2744		
Payer	VARIN WARDWELL LLC				
Comments	NOTICE OF PROTEST FOR CAT CREEK ENERGY LLC PERMIT # 63-34897				

Fee Details

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$25.00	PROTESTS	56103	0229	21		1155



Signature Line (Department Representative)

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DEPARTMENT OF
WATER RESOURCES

VARIN WARDWELL LLC
242 N. 8TH STREET, SUITE 220
P.O. BOX 1676
BOISE, IDAHO 83701
P: 208.345.6021
F: 1.866.717.1758
VARINWARDWELL.COM



ATTORNEYS AT LAW

ALISON BERRIOCHOA
ALISONBERRIOCHOA@VARINWARDWELL.COM

June 5, 2020

VIA HAND DELIVERY

Idaho Department of Water Resources
322 E Front Street, Suite 648
Boise, Idaho 83702-7371

Re: *In the Matter of Application for Permit No. 63-34897*

To Whom It May Concern:

Enclosed please a Notice of Protest being submitted on behalf of Protestant Elmore County, Board of County Commissioners for filing in the above referenced matter. Also included is check no. 2744 in the amount of \$25 for filing of the same. Please do not hesitate to contact our office if you have any questions or concerns.

Sincerely,

VARIN WARDWELL LLC

A handwritten signature in blue ink that reads "Alison Berriochoa".

Alison S. Berriochoa
Paralegal

Enclosures