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DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS
FOR PERMIT NOS. 63-34403, 63-34652,
63-34897 AND 63-34900 IN THE NAME
OF CAT CREEK ENERGY, LLC

**STATUS REPORT AND MOTION TO
EXTEND STAY PROCEEDINGS**

Cat Creek Energy, LLC (“Cat Creek”) submits this status report to appraise the Director of the Idaho Department of Water Resources (the “Department”) of its progress since a stay of proceedings was ordered on September 22, 2022, and moves the Department pursuant to Rule 101.03 of the Rules of Procedure of the Department (the “Procedural Rules”) and Rule 40.01.d of the Water Appropriation Rules for an order extending the stay of proceedings.

BACKGROUND

Procedural Rule 101.03 authorizes the Director to stay proceedings when “the agency determines that such delay will assist the agency in resolving or deciding the contested case.” Rule 40.01.d of the Water Appropriation Rules (IDAPA 37.03.08.040.01.d) authorizes the Director to interrupt processing of an application for permit for up to six months “unless he determines that others will be injured by the delay or that the applicant seeks the delay for the purpose of speculation, or that the public interest of the people of Idaho will not be served by the delay.” Under the same rule the Director “may renew the approval upon written request.”

The Cat Creek project requires permits from four government agencies—Elmore County, the Department, the Federal Energy Regulatory Commission (“FERC”), and the United States

Department of Interior Bureau of Reclamation (“BOR”). At the June 21, 2022, continued prehearing conference in this matter, Cat Creek reported on the status of its permit applications before each agency. At that time, Cat Creek had secured land use permits from Elmore County. The FERC and BOR permitting processes remain ongoing and may take several years to complete.

After the prehearing conference, Cat Creek filed its first *Motion to Stay Proceedings* on July 7, 2022, and an order granting same was served on the parties on September 22, 2022. The order requires Cat Creek to file a status report on the related FERC and BOR proceedings and motion to extend the granted stay on or before February 17, 2023.

STATUS REPORT

Since the Director’s September order, Cat Creek has continued to coordinate with FERC and BOR on their respective proceedings and update the parties in the above-entitled matter on its progress. On January 11, 2023, Cat Creek updated the parties regarding Cat Creek’s coordination with county, state, and federal agencies, along with non-governmental organizations, to develop a proposed study plan for the project, and provided notice of the submission dates to FERC for the proposed study plan and the corresponding comment period. On February 16, 2023, Cat Creek updated the parties concerning the draft proposed study plan filed by Cat Creek with FERC on January 25, 2023, and upcoming meeting dates regarding same.

In addition to submitting the proposed study plan, Cat Creek hosted an on-site visit at the project location on October 5, 2022, where interested stakeholders toured the area. The event was well attended, with approximately 50 attendees from nine different stakeholder groups. Upcoming meetings include a FERC scoping meeting on February 22nd and 23rd, 2023, to be held virtually and at the USBR Snake River office conference room. Participants will discuss with FERC, BOR and Cat Creek the scope of the proposed study plan and its interplay with FERC’s rational nexus test and BOR requirements for Cat Creek’s Preliminary Lease of Power Privilege. After this February meeting the comment period will be opened to the public for feedback, with comments filed with FERC on April 26, 2023. After comments are filed, Cat Creek will file a revised study plan with FERC. Cat Creek will continue to update protesters on these relevant meetings and comment periods as the FERC/BOR processes continue.

MOTION TO EXTEND ORDER STAYING PROCEEDINGS

An order extending a stay of proceedings in the above-entitled matter is still necessary because FERC and BOR proceedings remain ongoing. Importantly, FERC and BOR will address

issues that may be considered by the Department under Idaho Code § 42-203A(5). Studies and determinations made in the FERC and BOR proceedings are likely to resolve such issues, and at a minimum will provide the Department with information relevant to its analyses under Idaho Code § 42-203A(5). Therefore, it makes sense to continue to coordinate Department proceedings with FERC and BOR proceedings, especially as significant progress has occurred and is ongoing. The scope of these studies and determinations by FERC and BOR are still being determined, and studies have not yet commenced. Accordingly, renewing the stay of the above-entitled proceedings is necessary.

To provide additional time for FERC and BOR proceedings to advance, Cat Creek respectfully requests that the Department issue an order extending the stay of proceedings, delaying the processing Cat Creek's applications in this matter, for another period of six months.

DATED this 17th day of February, 2023.

RACINE OLSON, PLLP

By: _____


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Attorneys for Applicant Cat Creek Energy, LLC

CERTIFICATE OF MAILING

I certify that on this 17th day of February, 2023, the foregoing document was served on the following persons via the email address identified.



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