

**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

**ORDER CONSOLIDATING
PROCEEDINGS AND PARTIES**

**ORDER CONTINUING INFORMAL
PROCEEDINGS**

NOTICE OF STATUS CONFERENCE

BACKGROUND

On May 16, 2017, Cat Creek Energy, LLC (“CCE”) filed an application for permit to appropriate water with the Idaho Department of Water Resources (“Department”) and was assigned Permit No. 63-34403. Between 2019 and 2020, CCE filed three additional separate, related applications for permits to appropriate water with the Department—Permit Nos. 63-34652, 63-34987, and 63-34900. All four applications to appropriate water were protested by multiple parties. On June 10, 2020, the Department issued an amended order consolidating the proceedings and parties.

On August 31, 2023, the Director issued an *Order Granting Motion to Move Applications to Informal Proceedings* (“*Order*”), ordering that the contested matter continue through informal proceedings and that “every six months [], until the matter returns to formal proceedings, Cat Creek Energy[,] LLC shall file a status report with the Department on the related Federal Energy Regulatory Commission and Bureau of Reclamation proceedings.” *Order*, at 2–3.

On January 18, 2024, CCE filed an additional separate, related application for permit to appropriate water with the Department—Permit No. 63-35522. Ballentyne Ditch Company et al.,¹ U.S. Department of Interior, Bureau of Land Management, Boise Project Board of Control, Elmore County Board of Commissioners, Idaho Power Company, and Allen Thompson filed protests with the Department. Additionally, on May 20, 2024, the Idaho Department of Fish and Game (“IDFG”) filed a *Petition to Intervene*, and on May 29, 2024, Veolia Water Idaho, Inc. (“Veolia”) filed *Veolia’s Petition to Intervene*.

On March 29, 2024, CCE filed a *Status Report and Motion to Continue Informal Proceedings* in the consolidated proceedings. In response, on April 10, 2024, the Board of Commissioners of Elmore County filed a *Response to Status Report and Motion to Continue Informal Proceedings* (“*Response*”) claiming that CCE’s “filing contains some vague and misleading statements.” *Response*, at 2.

¹ Sawtooth Law Office, PLLC filed one protest on behalf of Ballentyne Ditch Company, Boise Valley Irrigation Ditch Company, Canyon County Water Company, Eureka Water Company, Farmers’ Co-operative Ditch Company, Farmers Union Ditch Company, Middleton Mill Ditch Company, Middleton Irrigation Association, Inc., Nampa & Meridian Irrigation District, New Dry Creek Ditch Company, Pioneer Ditch Company, Pioneer Irrigation District, Settlers Irrigation District, South Boise Water Company, and Thurman Mill Ditch Company (collectively, “Ballentyne Ditch Company et al.”).

The Director determined it was necessary to hold a status conference to discuss (1) whether the new application should be consolidated with the other consolidated applications, (2) whether IDFG’s May 20, 2024 *Petition to Intervene* should be granted,² (3) the status of the Elmore County, Federal Energy Regulatory Commission (“FERC”), and Bureau of Reclamation (“BOR”) proceedings, and (4) whether informal proceedings should continue. *Notice of Status Conference*, at 2.

On June 13, 2024, the Director held the status conference. The parties did not object to consolidating the new application with the previously consolidated applications. Counsel for CCE suggested that consolidation occur as it had previously, in that all parties to the previously consolidated proceeding would be recognized as parties to all applications without having to file additional protests or motions to intervene. The parties did not object to consolidating the proceedings and parties in the manner CCE suggested.³

CCE presented an update on the status of the FERC and BOR proceedings.⁴ Counsel for Elmore County was unavailable for the status conference but submitted a *Written Statement in Lieu of Live Participation at Status Conference* (“*Written Statement*”) on June 7, 2024. In its *Written Statement*, Elmore County provided its update on the status of the Elmore County proceedings. *Written Statement*, at 2–4.

The parties either requested informal proceedings continue or did not object to continuing informal proceedings. However, counsel for Boise Project Board of Control expressed concern with continuing informally indefinitely and requested a short term deadline. The Director agreed with the concern for the potential stagnancy of the applications. Accordingly, the Director informed the parties that he would hold another status conference in approximately 4–6 months, which would be set in an order following the June 13, 2024 status conference.

Therefore, the Director issues this order consolidating the new permit application with the previously consolidated application proceedings, continuing informal proceedings, and noticing a status conference.

ORDER

IT IS HEREBY ORDERED that the proceedings for Cat Creek Energy, LLC’s Applications for Permit Nos. 63-34403, 63-34652, 63-34897, and 63-34900 and Application for Permit No. 63-35522 are consolidated. All further captions used in this consolidated proceeding shall include Applications for Permit Nos. 63-34403, 63-34652, 63-34897, 63-34900, and 63-35522. All parties (whether protestant or intervenor) to the previously consolidated

² The Director issued the *Notice of Status Conference* on May 22, 2024, prior to receiving *Veolia’s Petition to Intervene*. While Veolia’s petition was not noticed for discussion, the parties did not object to either discussing Veolia’s intervention at the status conference, or to Veolia’s intervention in the new permit application proceeding.

³ The parties also did not object to either IDFG’s or Veolia’s intervention in the new application, although the issue perhaps became moot when the parties did not object to the manner of consolidation.

⁴ The presentation slides are posted on the Department’s website at: <https://idwr.idaho.gov/legal-actions/administrative-actions/cat-creek-energy/>.

proceeding are recognized as parties to the instant consolidated proceeding without additional procedure, protest, or intervention.

IT IS FURTHER ORDERED that the above-captioned contested matter shall continue through informal proceedings until Cat Creek Energy, LLC, or any other party, establishes cause for returning to formal proceedings. It is unnecessary for Cat Creek Energy, LLC to move to continue informal proceedings.

IT IS FURTHER ORDERED that when Cat Creek Energy, LLC, or any other party, believe that Department participation in informal proceedings would assist in reaching a resolution, they may contact the Department and request the Department appoint a contact person to assist in informal proceedings.

IT IS FURTHER ORDERED that by February 1st of every year, until the matter returns to formal proceedings, Cat Creek Energy, LLC shall file a status report with the Department on the related Federal Energy Regulatory Commission and Bureau of Reclamation proceedings.

NOTICE OF STATUS CONFERENCE

The Director hereby notifies the parties that a status conference on these matters will be held on February 10, 2025, at 1:30 p.m. (MT), at the Department's State Office, located at 322 E. Front Street, 6th Floor, Conference Rooms 602C–D, Boise, Idaho. All parties to the matters must be represented at the status conference in person or by video conferencing.

To attend the conference via computer or smartphone, please click the following Webex link, follow the prompts, and wait to be admitted by the meeting host:
<https://idahogov.webex.com/idahogov/j.php?MTID=m45b681b79e6396e298870d86cab16cff>.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2634 565 3553.

The status conference will be held in accordance with the provisions of Chapter 17, Title 42, and Chapter 52, Title 67, Idaho Code, and the Department's Rules of Procedure, IDAPA 37.01.01. A copy of the Rules of Procedure may be obtained from the Department upon request or at <https://adminrules.idaho.gov/rules/current/37/370101.pdf>.

The conference will be conducted in a facility that meets the accessibility requirements of the Americans with Disabilities Act. If you require reasonable accommodation to attend, participate in, or understand the conference, please advise the Department no later than five (5) days before the conference. Inquiries for reasonable accommodations should be directed to Sarah Tschohl, Idaho Department of Water Resources, PO Box 83720, Boise, Idaho 83720-0098, telephone: (208) 287-4815, email sarah.tschohl@idwr.idaho.gov.

DATED this 9th day of August 2024.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of August 2024, the above and foregoing, was served by the method indicated below, and addressed to the following:

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