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RECEIVED

Feb 03, 2025

DEPARTMENT OF
WATER RESOURCES

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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

STATUS REPORT

Cat Creek Energy, LLC (“Cat Creek”) submits this status report to the Director of the Idaho Department of Water Resources (the “Department”) in accordance with the *Order Consolidating Proceedings and Parties, Order Continuing Informal Proceedings, Notice of Status Conference* was issued on August 9, 2024.

BACKGROUND

On March 15, 2023, Cat Creek sent a stipulation to the protestants in the above-captioned matter requesting that Cat Creek’s application for permits nos. 63-34403, 63-34652, 63-34987, and 63-34900 be moved to informal proceedings as related proceedings before the Federal Energy Regulatory Commission (“FERC”) and the Bureau of Reclamation (“BOR”) were ongoing. The FERC and BOR proceedings are expected to address issues raised by the protestants in this matter, and provide relevant information to be considered by the Department under Idaho Code § 42-203A(5) in its analysis of Cat Creek’s applications. The stipulation was signed by Ballentyne Ditch Co., et al., United States Department of the Interior Bureau of Land Management, City of Meridian, Idaho Department of Fish and Game, Elmore County Board of County Commissioners, Idaho

Conservation League, and Trout Unlimited. Several protestants failed to respond to the stipulation request, but only one refused to sign. However, that party stated they would not oppose moving the applications to informal proceedings. After Cat Creek submitted its *Motion for Order Moving Applications to Informal Proceedings* on April 21, 2023, no party objected, and the Director issued the *Order Granting Motion to Move Applications to Informal Proceedings* on August 31, 2023

On January 18, 2024, Cat Creek filed application for permit no. 63-35522 seeking to appropriate an additional 50,000 acre-feet of water for its pumped-storage hydropower project (the “Project”). This application will enable Cat Creek to store additional water to meet existing water needs and facilitate economic growth in western Idaho. The Bureau of Land Management, Boise Project Board of Control, and Elmore County filed protests against this application.

On March 29, 2024, Cat Creek submitted a status report to the Department and requested this matter remain in informal proceedings. The Department issued a *Notice of Status Conference* on May 22, 2024, and a conference was held June 13, 2024, at which Cat Creek provided an update on the status of the Project and progress made in the various state and federal agency processes.

Following the March 29 status conference, the Department issued the *Order Consolidating Proceedings and Parties, Order Continuing Informal Proceedings, Notice of Status Conference* on August 9, 2024, which consolidated Cat Creek’s application for permit no. 63-35522 with its previously-filed applications for permit, made all previous protestants and intervenors parties to the consolidated case, continued the consolidated case in informal proceedings until a party establishes case to return to formal proceedings, and ordered Cat Creek to file a status report on February 1 of every year until formal proceedings are reestablished.

STATUS REPORT

As a preliminary matter, it is important to acknowledge the inordinate regulatory maze that must be navigated to complete a project of this magnitude, including county, state, and federal agencies. Unlike state-sponsored projects, the cost of the Creek Project is being borne solely by Cat Creek, which must secure power and water contracts in order to fund construction of the Project. While it is difficult to make direct comparisons between the Cat Creek Project and publicly-funded projects, comparisons with the Anderson Ranch Dam raise and Elmore County’s application for 10,000 acre-feet of storage from the South Fork of the Boise River show that Cat Creek’s development timeline is reasonable.

Cat Creek’s first application for permit, number 63-34652, was filed May 16, 2017, for a diversion rate of 9,996 cfs to store 101,352 acre-feet. As the Project developed, additional storage potential was recognized, and four subsequent applications were filed, with the most recent being application no. 63-35522 filed January 18, 2024.

By comparison, Elmore County filed an application for permit on March 3, 2017, for a diversion rate of 200 cfs to storage 10,000 acre-feet. To the best of Cat Creek’s knowledge, engineering and environmental review are still ongoing. No access to electrical power for the Elmore County project has been issued, no final costs of construction disclosed, and no fixed timeline has been evidenced.

The Idaho Water Resource Board (“Board”) filed an application on June 7, 2019, for a permit to store 30,000 acre-feet of water by raising Anderson Ranch Dam. After an amended notice of protest was filed by Elmore County on March 13, 2020, no further action has been taken on the application, nor was the application assigned a docket number and designated on the Department’s contested case portal. It is Cat Creek’s understanding that the project is delayed to a mid-2027 date for start of construction and 2031 for first full operations.

When viewing the Cat Creek Project alongside publicly-funded projects, Cat Creek’s progress is reasonable. As discussed below, Cat Creek continues to make considerable progress on multiple fronts and is likely to resume the FERC licensing process this year.

1. Elmore County

In 2017, Cat Creek obtained a conditional use permit (“CUP”) from Elmore County to construct its project. Under the terms of the CUP, Cat Creek was required to enter into a development agreement with the county. The first development agreement was approved in the beginning of 2018, but further action on the CUP was delayed by litigation challenging Elmore County’s decision to issue the CUP. Litigation continued until late 2023 when the Idaho Supreme Court upheld Elmore County’s grant of the CUP.

In late 2023, Cat Creek and Elmore County entered into an amended development agreement. Among other things, the development agreement required the parties to negotiate a water distribution agreement, which Cat Creek and Elmore County worked on through 2024. The parties’ attorneys recently finalized a water distribution agreement, which is scheduled to be presented to the Elmore County Board of Commissioners for approval on February 24, 2025.

2. Bureau of Reclamation

As noted in Cat Creek’s prior status report, the FERC licensing proceedings are currently in abeyance until a Lease of Power Privilege (“LOPP”) and a Contributed Funds Act (“CFA”) agreement can be finalized between Cat Creek and the BOR. During initial discussions with BOR, the proposed study plan cost was estimated at between \$1,500,000 and \$2,000,000. Later, BOR amended its estimate upward to approximately \$10,700,000. Cat Creek rejected this new proposal, resulting in further negotiations.

On January 15, 2025, representatives of Cat Creek met with BOR Regional Director Jennifer Carrington and other BOR representatives to continue negotiations. Since that meeting, a robust exchange of a draft CFA has occurred.

Once the CFA agreement is finalized, Cat Creek and the BOR will proceed with the LOPP agreement. Once the LOPP agreement is finalized, Cat Creek will resume FERC licensing proceedings. As discussed in prior status reports, protestants can receive notice of proposed study plans and submit comments by enrolling in FERC’s “eSubscription” service and enter docket number: P-14655-000.

Finally, Cat Creek has engaged, along with their powerhouse engineering firm, a dam and reservoir engineering firm. The dam and reservoir engineering firm is well acquainted with both FERC and BOR procedures for design, engineering and construction. Bonneville Power Administration is currently reviewing the Project’s power corridor right-of-way application to connect the Project with the Mountain Home transmission grid system.

RESPECTFULLY SUBMITTED this 3rd day of February, 2025.

RACINE OLSON, PLLP

By:  _____

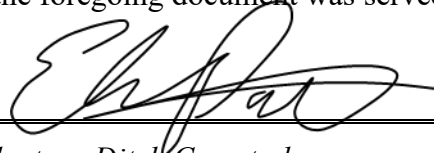
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CERTIFICATE OF MAILING

I certify that on this 3rd day of February, 2025, the foregoing document was served on the following persons via the email address identified.



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