

**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 REQUIRING DISCLOSURE
OF DOCUMENTS**
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* (“*Informal Proceedings Order*”), ordering that the contested matter continue through informal proceedings and requiring CCE to file a periodic status report with the Department documenting the related Federal Energy Regulatory Commission (“FERC”) and Bureau of Reclamation (“BOR”) proceedings. *Informal 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 (“Boise Project”), 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. filed a petition to intervene.

On August 9, 2024, the Director issued an *Order Consolidating Proceedings and Parties; Order Continuing Informal Proceedings; Notice of Status Conference* (“*2024 Order*”). In the *2024 Order*, the Director (1) consolidated all of CCE’s applications for permit to appropriate water into a single proceeding, and recognized parties from the previously consolidated matter as parties in the newly consolidated matter; (2) ordered that the matter remain in informal proceedings until CCE or another party moves to return to formal proceedings; (3) permitted CCE or another party to request Department assistance to reach a resolution during informal proceedings; and (4) required CCE to file a status report regarding the FERC and BOR

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.”).

proceedings with the Department by February 1 of each year. *2024 Order*, at 2–3. CCE filed its annual status report on February 3, 2025.

On February 10, 2025, the Director held a status conference. CCE presented an update on ongoing negotiations with Elmore County concerning a water distribution agreement and with the BOR regarding a Lease of Power Privilege (“LOPP”) and a Contributed Funds Act Agreement. CCE predicted that the FERC licensing process will no longer be in abeyance once the LOPP agreement is finalized. CCE also discussed retaining a dam and reservoir engineering firm, submitting a right of way application with the Bonneville Power Administration to connect the project to the power grid, transitioning to formal proceedings once FERC studies commence, and progressing with the wind and solar components of the project. CCE addressed several questions from the Boise Project, Ballentyne Ditch Company et al., and IDFG regarding its negotiations with Elmore County, BOR, and FERC.

During the status conference, the Boise Project requested that CCE disclose financial documentation pursuant to Idaho Code § 42-202(5), as well as a hydrological analysis addressing the project’s impact on flows and downstream users. CCE agreed to disclose both categories of requested information.

ANALYSIS

First, under Idaho Code § 42-202(5), when an application proposes to impound water in a reservoir with an active storage capacity exceeding 10,000 acre-feet, the Director may require the applicant to:

furnish a statement of the financial resources of the corporation, association, firm or person making the application, and the means by which the funds necessary to construct the proposed works are to be provided, and the estimated cost of construction; . . . and if for the generation of power . . . the nature, location, character, capacity and estimated cost of the works

Pursuant to this statutory authority, the Director will require CCE to submit financial documentation demonstrating how it has secured funds for construction of the project. This includes the estimated cost of construction and the works needed for power generation.

Second, under Rule 514 of the Department’s Rules of Procedure (IDAPA 37.01.01), the hearing officer may “issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a conference.” The Boise Project requested that CCE submit a hydrological analysis addressing the impact on flows and downstream users, including operational control of releases beyond what was disclosed in the applications. CCE did not oppose this request.

At the status conference, the Director informed the parties that another status conference would be scheduled in approximately 6 to 8 months. Accordingly, the Director issues this order requiring CCE to submit both the financial documentation and hydrological analysis no later than 30 days prior to the next status conference.

ORDER

IT IS HEREBY ORDERED that Cat Creek Energy, LLC is required to disclose and submit the following documents to all parties on or before July 21, 2025:

1. Financial documentation demonstrating how it has secured funds for construction of the project, including the estimated cost of construction and the works needed for power generation; and
2. A hydrological analysis addressing the impact on flows and downstream users, including operational control of releases beyond what was disclosed in the applications.

NOTICE OF STATUS CONFERENCE

The Director hereby notifies the parties that a status conference on these matters will be held on August 21, 2025, at 9:30 a.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=m2070b6d21fc6b84a59651c9b239f0542>.

To join the conference via telephone, please dial 1(415) 655-0001 (US Toll) and enter the following meeting access code when prompted: 2863 529 8996.

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 16th day of May 2025.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of May 2025, the above and foregoing, was served by the method indicated below, and addressed to the following:

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