

BOARD OF ELMORE COUNTY COMMISSIONERS

NOTICE OF PUBLIC HEARING TO TAKE TESTIMONY LIMITED TO AMENDMENTS TO CAT CREEK ENERGY, LLC CONDITIONAL USE PERMITS CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, AND CUP-2015-07 FOR A PUMP STORAGE HYDRO ELECTRICAL GENERATING FACILITY, PV SOLAR ELECTRICAL GENERATING FACILITY, WIND TURBINE ELECTRICAL GENERATING FACILITY, TRANSMISSION LINES, AND SUBSTATION THAT ARE CONTEMPLATED BY THE DEVELOPMENT AGREEMENT AND THE RESOLUTION, IF ANY, OF ISSUES RAISED IN A LAWSUIT THROUGH MEDIATION

NOTICE IS HEREBY GIVEN that on July 26, 2018 at the hour of 6 p.m. in the in the War Memorial Hall (aka American Legion Building), 515 East 2nd South Street, Mountain Home, Idaho 83647, a public hearing to take testimony limited to: (i) amendments to conditional use permits CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, and CUP-2015-07 (collectively, the “CUPs”) of Cat Creek Energy, LLC (“Cat Creek”) to develop a pump storage hydro electrical generating facility, PV solar electrical generating facility, wind turbine electrical generating facility, transmission line, and substation (the “Project”) that are contemplated by the Development Agreement among Elmore County (the “County”), Cat Creek, and the owners of the land subject to the CUPs (the “Landowners”); (ii) the resolution (“Settlement”), if any, of issues raised in the lawsuit (“Lawsuit”) captioned generally as *S Bar Ranch v. Elmore County*, in which Cat Creek has intervened, through a mediation among the County Board of County Commissioners (the “Board”), Cat Creek, and S Bar Ranch LLC (“S Bar Ranch”); (iii) any amendments to the Development Agreement that would be consistent with the matters described in subparts (i) and (ii) above; and (iv) any amendments or modifications to the matters described in subparts (i), (ii), and (iii) above that are raised during the public hearing.

The Board on February 10, 2017 approved Findings of Fact, Conclusions of Law and Order, with certain conditions (the “Approval”), for Cat Creek’s CUPs for the Project. One of the conditions to the Approval was the execution and recordation of a Development Agreement. On February 9, 2018, a development agreement (“Development Agreement”) was approved by the Board, executed by Cat Creek, the County, and the Landowners, and recorded. A request for reconsideration of the Approval and the Development Agreement was filed on February 16, 2018 and denied by the Board on April 6, 2018. The Board issued Findings of Fact, Conclusions of Law and Order – CUP Amendments (the “Approval Amendments”) approving certain amendments to the Approval (the “CUP Amendments”) on March 16, 2018.

On March 26, 2018, the County received a second request for reconsideration of the Approval, Approval Amendments, and the Development Agreement based on alleged substantive and procedural due process errors. The Board issued Findings of Fact, Conclusions of Law and Order – May 18, 2018 that ordered a rehearing of the CUP Amendments.

In the Lawsuit initiated by S Bar Ranch, S Bar Ranch seeks judicial review of, among other things, the Approval, Approval Amendments, and Development Agreement.

Any and all interested persons shall be heard at the hearing to take testimony limited to: (i) the CUP Amendments and any other matter raised in the Development Agreement to the extent that it amends the Approval; (ii) the Settlement, if any; (iii) any amendments to the Development Agreement that would be consistent with the matters described in subparts (i) and (ii) above; and (iv) any amendments or modifications to the matters described in subparts (i), (ii), and (iii) above that are raised during the public hearing. With respect to the amendments described in

subpart (i) above, testimony will be limited to the modification, removal, or addition of findings of fact, conclusions of law, or conditions set forth in the Approval on the following subject matters:

- An extension of the time Cat Creek has to satisfy Conditions No. 2 (b) and (c) of the Approval with respect to CUP-2015-04 (hydro electrical generating facility);
- The site plan and Project description;
- The Stakeholder Board (as defined in Condition No. 2 (d) of the Approval);
- Annual fish stocking in Anderson Ranch Reservoir;
- Conservation efforts affecting areas of sage-grouse habitat surrounding wind turbine areas 2 and 3 in the eastern part of Wood Creek Ranch;
- Erosion control measures;
- Cat Creek's erosion control plan;
- Visual mitigation measures;
- Communication with governmental agencies regarding fish and wildlife habitats and other matters;
- Noise standards;
- The Scholarship Fund (as defined in Condition No. 30 of the Approval);
- The term of approval of the CUPs, including any option to extend the approval within the possible period of approval of the CUPs;
- The Senior Fund (as defined in Condition No. 31 of the Approval);
- An updated Wildlife Mitigation Plan/Environmental Impact Statement;
- A power sale agreement between Cat Creek and Idaho Power;
- The Interconnection Application;
- The annual report requirement;
- The County's right to terminate the CUPs;
- Separation of the County's approvals of the CUPs to allow phasing of the Project; and
- Any other matter raised in the Development Agreement to the extent that it amends the Approval.

A more detailed description of the above-described subject matters of the rehearing is set forth in the Approval Amendments and the Development Agreement, both of which, as part of the record for this matter, are available for review as set forth below.

The Board reserves the right to set time limits on testimony, and if implemented, the time limits will be announced at the start of the hearing. Anyone who wishes to testify, but is unable to attend, may submit written testimony prior to the hearing by sending it to the Elmore County Land Use and Building Department ("Land Use and Building Department"), 520 East 2nd South Street, Mountain Home, Idaho 83647. The record for this matter may be reviewed prior to the hearing in the Land Use and Building Department and at the Elmore County Clerk's Office, 150 South 4th East, Mountain Home, Idaho 83647 during regular business hours.

A common way of locating the property subject to the CUPs from Mountain Home is to travel US 20 north for 25.4 miles to Wood Creek Road. The portion of the Project that comprises the wind turbine electrical generating facility (CUP-2015-06) is proposed to include wind turbines that may be a height of no more than 500 feet and located within the area generally described as Southwest quarter of the southwest quarter Section 21, Township 1 South, Range 10 East, all North of the Highway Section 22, Township 1 South, Range 10 East, Northeast quarter of Highway, Northwest quarter of the Southwest quarter South of the Highway Section 28, Township 1 South, Range 10 East, Northeast quarter of the East half of the Northwest quarter of the Southwest quarter of the West half of the Southeast quarter of the East half of the Southeast quarter South of the Highway Section 29, Township 1 South, Range 10 East, South half of the Northeast quarter of the

Southeast quarter and Southeast Southwest less portion tax 4 Section 30, Township 1 South, Range 10 East, North half of the Southeast less portion South of road, Southeast Southwest of Southeast Northwest Tax 3, South half of the Northeast North half Northeast and Northeast Northwest less Tax 5 Portion Tax 4 Section 31 Township 1 South, Range 10 East, East half Northwest quarter North half Southwest quarter Section 32, Township 1 South, Range 10 East, West half Section 33, Township 1 South, Range 10 East, B.M.

The Elmore County Clerk is responsible for ensuring compliance with the American Disabilities Act of 1993. Provisions will be made for persons with disabilities who are unable to attend this hearing. A grievance procedure is available from D. Marceau, Elmore County Courthouse, in accordance with the ADA regulations.

**BARBARA STEELE, CLERK
BOARD OF COMMISSIONERS
ELMORE COUNTY, IDAHO**

**2 Publications
June 27, 2018
July 11, 2018**