

State of Idaho  
Department of Water Resources  
**Water Right License**  
Water Right No. 37-22926

**Priority:** February 10, 2021

**Maximum Diversion Rate:** 4.18 CFS

**Maximum Diversion Volume:** 2,630 AF

It is hereby certified that:

BLACK CANYON BLISS LLC 20511 F ST RUPERT ID 83350-9476

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated March 05, 2015, and has submitted Proof of Beneficial Use on February 10, 2021. An examination confirms water is diverted from:

**Source :** UNNAMED STREAM

**Tributary:** SNAKE RIVER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
POWER	01/01 to 12/31	4.18 CFS	2,630 AF

**Location of Point(s) of Diversion**

UNNAMED STREAM L7 ( SE¼ NE¼), Sec. 18, Twp 06S, Rge 13E, B.M. GOODING County

**Place of Use: POWER**

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
06S	13E	18				X												

**Conditions of Approval**

1. The quantity of water that may be diverted under this right is limited to the flow rate in the source stream, up to 4.18 cfs, below the lower fish raceways authorized under right 37-7216. Diversion of water into the penstock shall not include any flow rate injected into the stream below the lower raceways from any other source without a water right authorizing diversion and injection of flows from that source.
2. Use of water under this right shall be non-consumptive.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
4. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5. Power generation is at the Black Canyon Bliss Power Plant.

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6. The rights for the use of water confirmed in this license shall be junior and subordinate to all rights for the use of water other than hydropower, within the State of Idaho that are initiated later in time than the priority of this right and shall not give rise to any right or claim against any future rights for the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this right.
7. The term of this water right license shall run concurrently with energy sales agreement IPUC Case number IPC-E-14-23, Order number 33156 approved by the Idaho Public Utilities Commission, which expires on November 15, 2034. Prior to the expiration of the term, the Director may issue an order canceling all or any part of the use authorized herein, may establish a new term, or may revise, delete, or add conditions under which the water right license may be exercised. The order shall take effect on the date the current term expires. If the Director does not issue such an order, the term shall automatically extend to a length equal to the prior term and any prior conditions on the water right license shall remain in effect.
8. This right does not constitute Idaho Public Utilities Commission or Federal Energy Regulatory Commission approval that may be required.
9. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
10. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.
11. This right does not grant any right-of-way or easement across the land of another.






This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 19<sup>th</sup> day of JANUARY, 2022.

  
ANGELA HANSEN  
Water Rights Section Manager

State of Idaho  
Department of Water Resources  
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37-22926



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles



Governor Brad Little

Director Gary Spackman

January 31, 2022

BLACK CANYON BLISS LLC  
20511 F ST  
RUPERT ID 83350-9476

RE: License No. 37-22926

### ISSUANCE OF LICENSE

Dear Water Right Holder:

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district.

The license is a PRELIMINARY ORDER issued by the Department pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Water right forms are available from any office of the Department or on the Department's website at [ldwr.idaho.gov](http://ldwr.idaho.gov)

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,



Angela Hansen  
Water Rights Section Manager

Enclosures

## CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2022, I served a true and correct copy of Water Right License No. 37-22926 by U.S. Mail, postage prepaid, to the following:

BLACK CANYON BLISS LLC (Current Owner)  
20511 F ST  
RUPERT ID 83350-9476

BROCKWAY ENGINEERING PLLC (Interested Party)  
C/O ERICK POWELL – *via email*  
2016 N WASHINGTON ST STE 4  
TWIN FALLS ID 83301  
*Erick.powell@brockwayeng.com*

WATER DISTRICT #130  
NATHAN ERICKSON (Watermaster) – *via email*  
650 ADDISON AVE W STE 500  
TWIN FALLS ID 83301  
*Nathan.erickson@idwr.idaho.gov*



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Debbi Judd  
Technical Records Specialist



## **EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

### **PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

### **EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

### **REQUEST FOR HEARING**

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

### **ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

## **CERTIFICATE OF SERVICE**

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

## **FINAL ORDER**

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

## **APPEAL OF FINAL ORDER TO DISTRICT COURT**

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.