

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF WATER RIGHT )  
PERMIT NO. 1-10401 IN THE )  
NAME OF THE UNITED STATES )  
DEPARTMENT OF INTERIOR )  
BUREAU OF RECLAMATION )  
\_\_\_\_\_ )

**PRELIMINARY ORDER  
APPROVING APPLICATION  
FOR AMENDMENT OF PERMIT**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department finds, concludes, and orders as follows:

**FINDINGS OF FACT**

1. On July 18, 2005, the Department issued water right permit no. 1-10401 ("Permit") in the name of the United States Department of Interior Bureau of Reclamation ("Permit Holder") for power storage and power from storage uses in Palisades Reservoir on the Snake River. The Permit authorized diversion from the Snake River in Government Lot 2 (NW¼ NE¼), Section 17, Township 1 South, Range 45 East, B.M. Bonneville County.
2. On June 29, 2006, the Permit Holder submitted a Proof of Beneficial Use statement.
3. On June 10, 2020, the Department conducted a beneficial use field examination to confirm the extent of developed use authorized by the Permit. The field examiner confirmed the point of diversion is the Palisades Dam, the center of which is located in SE¼ NE¼, Section 17, Township 1 South, Range 45 East, B.M. Bonneville County.
4. On August 24, 2020, the Department notified the Permit Holder that the point of diversion was developed differently than authorized on the Permit and requested the Permit Holder submit an Application for Amendment of Permit to change the point of diversion.
5. On October 23, 2020, the Department received the Permit Holder's Application for Amendment of Permit to change the point of diversion.

**CONCLUSIONS OF LAW**

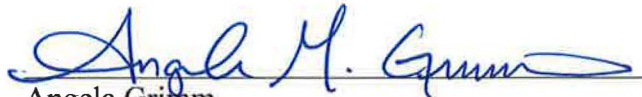
1. Per Idaho Code § 42-211, the Department may approve a permit holder's application to change the point of diversion of a permit if the change will not result in diversion and use of more water than originally permitted or adversely affect the rights of others.

2. The Permit Holder's request to change the point of diversion will not result in diversion and use of more water than originally permitted nor adversely affect the rights of others.
3. The Department should approved the Permit Holder's Application for Amendment of Permit to change the point of diversion.

### ORDER

IT IS HEREBY ORDERED that Application for Amendment of Permit no. 1-10401 is **APPROVED**. The authorized point of diversion for water right permit no. 1-10401 is amended to be in SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Section 17, Township 1 South, Range 45 East, B.M. Bonneville County.

Dated this 27<sup>th</sup> day of OCTOBER, 20 20.



Angela Grimm  
Water Rights Section Manager

## **CERTIFICATE OF SERVICE**

I hereby certify that on October 29, 2020, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER APPROVING APPLICATION FOR AMENDMENT OF PERMIT** to the persons listed below:

RE: Water Right Permit No. 1-10401

**US DEPARTMENT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
ATTN: LANIE PAQUIN  
1150 N CURTIS RD STE 100  
BOISE ID 83706-1234**



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**Jean Hersley**  
**Technical Records Specialist II**

## **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.

State of Idaho  
Department of Water Resources  
**Application for Amendment**  
(For Licensing Purposes)  
Water Right No. 1-10401

RECEIVED

OCT 23 2020

DEPARTMENT OF  
WATER RESOURCES

Priority: June 06, 2002

Maximum Diversion Volume: 157,000.0 AF

The owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 1-10401

US DEPT OF INTERIOR  
BUREAU OF RECLAMATION  
1150 N CURTIS RD STE 100  
BOISE ID 83706-1234

requests the permit be changed as follows:

Source : SNAKE RIVER

Tributary: COLUMBIA RIVER

Beneficial Use

POWER STORAGE

POWER FROM STORAGE

Period of Use

01/01 to 12/31

01/01 to 12/31

Annual Volume

157,000.0 AF

157,000.0 AF

Location of Point(s) of Diversion

SNAKE RIVER SE¼ NE¼, Sec. 17, Twp 01S, Rge 45E, B.M. BONNEVILLE County

Place of Use: POWER FROM STORAGE

Twp	Rng	Sec	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
01S	45E	17		X L2														

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed this 22 day of October, 20 20.

(Signature)

Lanie Paquin  
Manager, Snake River Area Office  
Columbia-Pacific Northwest  
Bureau of Reclamation Region

FOR DEPARTMENT USE ONLY

Preliminary check by \_\_\_\_\_ Fee = \$100 Received by KU # CK#138 Date 10.23.2020

C109394



State of Idaho  
Department of Water Resources

# Attachment for Application to Amend a Permit

1-10401

This map depicts the POWER FROM STORAGE place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



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

0 0.15 0.3 0.6 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E Front Street, Suite 648 • PO Box 83720 • Boise ID 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700

Website: idwr.idaho.gov • Email: idwrinfo@idwr.idaho.gov

BRAD LITTLE  
Governor

GARY SPACKMAN  
Director

October 29, 2020

US DEPT OF INTERIOR  
BUREAU OF RECLAMATION  
1150 N CURTIS RD STE 100  
BOISE ID 83706-1234

RE: Permit 01-10401

Dear Permit Holder(s):

The Department of Water Resources (IDWR) has issued the enclosed Amendment of Permit acknowledging the new point of diversion for the water right referenced above.

The Amendment of Permit is a **preliminary order** issued by IDWR pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

If you have any questions regarding this matter, you may call me at 208-287-4951.

Sincerely,

for Angela Grimm  
Water Rights Section Manager

Enclosures