



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION
Upper Snake Field Office
470 22nd Street
Heyburn, ID 83336



USF-6310
2.2.3.19

VIA ELECTRONIC MAIL ONLY

Darrin Robinson, Resident Engineer (darrin.robinson@wyo.gov)
Wyoming Department of Transportation
PO Box 639
Afton, WY 83110

Subject: Modification of License, 12-07-14-LA717 – Palisades Project

Dear Mr. Robinson:

The Bureau of Reclamation, Upper Snake Field Office (Reclamation) has conducted a review of Wyoming Department of Transportation's (WYDOT) request to modify the License to allow for the temporary relocation of the existing access road in association with the extraction and crushing of approximately 1,000,000 cubic yards of borrow and crushing materials from Federal lands near Alpine, Wyoming. Based on both Reclamations review of the request, it has been determined that the requested modification is compatible with authorized project purposes, operations, safety, and security and it is appropriate to approve the request.

The License is modified to allow the existing road that runs along the shoreline of the Palisades Reservoir located within the authorized area of use to be temporarily relocated further up the shoreline and along the northern and eastern boundaries of the area of use to allow for a more consolidated area of use. At the end of the term of the License, WYDOT will coordinate with Reclamation on the reestablishment of the access road. Therefore, the following Specific Condition of the License is hereby modified to the following:

E. WYDOT shall not make any changes in roads leading to or near the area of use or be allowed to construct new roads, without prior written authorization from Reclamation. WYDOT shall temporarily relocate the existing access road, located within the area of use, to the northern and eastern boundaries of the area of use. WYDOT shall coordinate with Reclamation at the end of the term of this License on reestablishment of the access road.



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Please keep a copy of this letter with the License to reflect the authorized modification.

If WYDOT has any questions or concerns please contact Tara Hagen, Realty Specialist, at (208) 678-0461 extension 31 or via email at thagen@usbr.gov.

Sincerely,

Digitally signed by
MICHAEL HILLIARD
Date: 2020.09.22
15:47:49 -06'00'

Michael Hilliard
Natural Resources Manager

cc: Tracy Hollingshead, US Forest Service Palisades District Ranger (by email only
tracy.hollingshead@usda.gov)

bc: USF-3307 (Brooks), PFO-3350 (Schierer) (all by email only)

Return recorded document to:
U.S. Bureau of Reclamation
Tara Hagen, Realty Specialist
470 22nd Street
Heyburn, ID 83336

12-07-14-LA717

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**
Palisades Project,
Lincoln County, Wyoming

LICENSE

THIS LICENSE, made the 13th day of June, 201 7, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388; 43 U.S.C. § 391) and all acts amendatory thereof or supplementary thereto, collectively referred to as the Federal Reclamation Laws, is between the **UNITED STATES OF AMERICA**, hereinafter referred to as the **United States**, acting by and through the United States Department of the Interior, Bureau of Reclamation, hereinafter referred to as **Reclamation**, represented by the authorized official executing this License, and **WYOMING DEPARTMENT OF TRANSPORTATION**, a department of the State of Wyoming, hereinafter referred to as **WYDOT**.

WITNESSETH, THAT:

WHEREAS, the United States, through Reclamation, has withdrawn or acquired certain lands for the Palisades Project, hereinafter referred to as Project, in Lincoln County, Wyoming, for the Project;

WHEREAS, WYDOT has made application to Reclamation for authorization to extract materials and operate a material crushing operation, along with appurtenant structures and works, over and across those certain Federal lands; and

WHEREAS, the proposed use has been reviewed and determined to be compatible with project purposes, operations, safety and security.

NOW, THEREFORE, the parties mutually agree to comply with and be bound by the following terms and conditions during all construction, operation, maintenance, use and termination activities, as follows:

1. *License:* Reclamation grants, subject to the following terms, conditions, and the regulations promulgated under 43 CFR Part 429, WYDOT authorization to access and extract approximately 1,000,000 cubic yards of borrow and crushing material, as well as to construct, operate, maintain, and terminate a material crushing operation, along with appurtenant structures and works, over and across those certain Federal lands.

2. *Description of Area of Use:* The following is a description of the area of use located within the Project, to wit:

6th Principal Meridian, Lincoln County, Wyoming,
Township 37 North, Range 118 West,
Section 31: a portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the SE $\frac{1}{4}$ NW $\frac{1}{4}$, and Lots 1 & 2;

Boise Meridian, Bonneville County, Idaho,
Township 3 South, Range 46 East,
Section 15: A portions of Lots 4 & 9.

The area of use is more particularly depicted on Exhibit A, attached hereto and made a part hereof. The area of use encompasses 77 acres, more or less, and shall be known as the Alpine Bear Pit.

3. *Term of License:* The term of this License shall be for a period of twenty (20) years from the date of Reclamations signature for this License, unless sooner terminated as hereinafter provided.

4. *Fees and Costs:*

A. In accordance with 43 CFR 429.18, WYDOT has paid to Reclamation the associated application fee and administrative costs; and 43 CFR 429.22, Reclamation reserves the right to recover additional and related administrative costs incurred for such activities as monitoring over time, to ensure compliance with this License's terms and conditions.

B. In accordance with 43 CFR 429.26(a), the applicable use fee has been waived.

5. *Standard Conditions:*

A. The United States reserves the right to grant compatible use authorizations affecting the area of use.

B. The United States, its officers, agents, and employees shall at all times have unrestricted access and ingress to, passage over, and egress from the area of use, to make investigations of all kinds, dig test pits and drill test holes, and to survey for and construct Reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever.

C. The United States, its successors and assigns, shall at all times have the prior right to use any of the area of use wherein described to construct, operate, and maintain all structures and facilities, including, but not limited to canals, wasteways, laterals, ditches, roadways, electrical transmission lines, communication structures generally, substations, switchyards, powerplants, fish screens, fish ladders and other appurtenant irrigation and power structures and facilities, without any payment made by the United States, or their successors for such rights.

D. WYDOT is responsible for determining and not impacting all other rights which have lawfully been attached to the area of use before the date of this License.

E. Except in an emergency, WYDOT shall notify Reclamation, in writing, at least seven (7) days and no more than thirty (30) days prior to beginning of any authorized activities under this License. Such notice shall include WYDOT work schedule so that Reclamation personnel may monitor such activities as they progress.

F. The activities of WYDOT shall be conducted by WYDOT without cost to the United States, or to their assigns, and in such a manner as to cause no interference or stoppage of the flow of water in the reservoir, canals, laterals, wasteways, ditches, or other irrigation facilities, or interference with the normal operation of works of the United States. All

activities within the area of use shall be undertaken only at times, according to plans, and in a manner satisfactory to Reclamation.

G. If the construction or maintenance of any or all project facilities across, over, or upon said Federal realty interests should be made more expensive by reason of the existence of improvements or works of WYDOT thereon, such additional expense is to be estimated by Reclamation whose estimate is to be final and binding upon the parties hereto. Within thirty days after demand is made upon WYDOT for payment of any such sums, WYDOT shall make payment thereof to the United States, or to any of their successors or assigns constructing such structures and facilities across, over, and upon said Federal interests. As an alternative to payment, WYDOT, at its sole cost and expense and within time limits established by Reclamation, may remove or adapt facilities constructed and operated by it on said Federal interests to accommodate the aforementioned structure and facilities within the time limits specified.

H. WYDOT shall be liable for any and all damages to the property or interests of the United States by reason of the exercise of the rights and privileges authorized to by this License. Any damage to Federal realty interests or project facilities resulting from WYDOT's exercise of the privileges allowed by this License shall be corrected promptly at WYDOT's expense, and in a manner satisfactory to Reclamation.

I. WYDOT shall comply with County, State, and Federal health, sanitation, and pollution standards and/or regulations. WYDOT shall maintain the area of use and improvements in a sanitary condition at all times; waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

J. WYDOT shall conduct the operation of their authorized use in a good and workmanlike manner, as determined by Reclamation, in compliance with all Federal, State, and local requirements.

K. WYDOT shall keep the area of use free from all safety and health hazards, and problems not inherent to the authorized use.

L. WYDOT shall protect all survey monuments found within the area of use. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, geodetic benchmarks and triangulation stations, military control monuments, Reclamation markers and any other survey monuments. In the event of obliteration or disturbance of any of the above, WYDOT shall immediately report the incident, in writing, to Reclamation and the respective installing authority if known. Where General Land Office or Bureau of Land Management monuments or references are obliterated, WYDOT shall coordinate with the Bureau of Land Management to restore the disturbed monument or references. WYDOT shall provide a copy of any resultant survey to Reclamation. WYDOT shall be responsible for all associated costs.

M. Hunting and fishing by the public shall not be restricted by WYDOT, except in the areas of the extraction and crushing operations.

6. *Specific Conditions:*

A. To comply with Title VI (Section 601) of the Civil Rights Act of July 2, 1964 (78 Stat. 241) which provides that "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance," and to be bound by the regulations of the Department of the Interior for the effectuation thereof, as set forth in 43 CFR § 17.

B. To comply with Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended which is designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

C. To comply with the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq.; and the general age discrimination regulations at 45 CFR § 90 which are designed to prohibit discrimination on the basis of age in programs and activities receiving Federal financial assistance, as set forth in 43 CFR § 17.

D. To obligate its subcontractors, sub-grantees, transferees, successors in interest, or any other participants receiving Federal financial assistance hereunder, to comply with the requirements of this Permit.

E. WYDOT shall not make any changes in roads leading to or near the area of use or be allowed to construct new roads, without prior written authorization from Reclamation. WYDOT shall ensure that no excavation, nor disturbance to vegetation shall occur within 30 feet of the existing road located along the reservoir edge.

F. WYDOT shall take every precaution to prevent fires caused by its activities, within the area of use. This includes, but is not limited to, ensuring that proper spark arresters have been installed on WYDOT's equipment. Further, WYDOT shall be responsible for the cost of suppressing all fires caused by their agents or assigns.

G. Explosives shall not be used by WYDOT within the area of use without prior written approval from Reclamation.

H. If at any time WYDOT to reconstruct, remodel or relocate any portion of the area of use, prior written approval must be obtained from Reclamation.

I. WYDOT shall be responsible for weed control, including noxious weeds and non-native invasive plants that result from the authorized activities under this License in the area of use. WYDOT shall coordinate with Reclamation and/or local authorities for acceptable weed control measures (within limits imposed in the use authorization) prior to implementing weed treatments. If herbicides are to be used for weed control, the applicator(s) shall hold a current State of Wyoming applicator's license or be under the direct supervision of a licensed applicator.

J. WYDOT is responsible for ensuring the undercarriages of equipment and/or vehicles used within the area of use are free of all soil and plant material prior to operating on Federal interests to reduce the establishment of new invasive, non-native species and/or the spread of existing species to new areas.

K. WYDOT shall seed all disturbed areas with the seed mixture(s) listed below. The seed mixture(s) shall be planted in the amounts specified in pounds of pure live seed

(PLS)/acre. There shall be no noxious weed seed in the seed mixture. Seed shall be tested and the viability testing of seed shall be done in accordance with State law(s). Commercial seed shall be either certified or registered seed. The seed mixture container shall be tagged in accordance with State law(s) and available for inspection by Reclamation. Recommended seeding dates for grasses are November 1 to April 30, when the soil is not frozen, but a first frost has already occurred. Sagebrush shall be seeded separately and can be applied over the snow. A seeding depth between one-quarter inch ($\frac{1}{4}$ ") and one-half inch ($\frac{1}{2}$ ") is recommended. Seed planted deeper than one-half inch ($\frac{1}{2}$ ") may not germinate. A fertilizer rate of 20 lbs/acre of nitrogen is required. To reduce erosion and enhance germination, the area is to be compacted after seeding.

Seed Mixture	
Species of seed	Pounds/acre
Indian Rice grass	2
Western Wheatgrass	1
Canby Blue grass	2
Annual rye grass	4
Sand Drop seed	$\frac{1}{4}$
Tall Wheat grass	2
Lewis Flax	$\frac{1}{4}$
Wyoming Big Sagebrush	$\frac{1}{2}$ (separate application)
Total lbs/acre PLS	12

L. WYDOT shall prepare a seedbed that will be firm, clean and weed-free. Weed-free seeding conditions may be achieved with chemical or mechanical preparation. However, no residual chemicals are allowed.

M. This License is subject to the right of the United States and its designated agents and contractors, upon prior consultation with WYDOT to enter upon, extract, and remove material from the area of use.

N. WYDOT shall keep a record of all materials removed from the area of use and provide an annual report to Reclamation by July 1st.

O. Access to areas below the high-water line and extraction of materials shall only take place when the Palisades Reservoir level is low enough to expose the extraction site(s), and only as long as the water level is below the extraction site(s).

P. WYDOT shall not conduct any hot plant operations within the area of use.

Q. No fuel storage is allowed within the area of use. Refueling of any vehicle or equipment shall be completed in areas located above the high-water line and shall be required to be strictly attended. If a lockable fueling valve is utilized during refueling activities then appropriate secondary containment is required.

R. WYDOT shall control dust during implementation of the activities authorized by this License to the satisfaction of Reclamation.

S. Groundwater shall not be pumped from any areas below the high-water line.

T. Material shall not be stockpiled below the high-water line within the area of use.

U. A safety fence shall be placed around the perimeter of all extraction and crushing sites, and removed during times that no extraction is occurring, or periods of high water.

V. Overburden to be removed shall be temporarily stockpiled at sites above the high-water line and upon excavation completion be placed in a uniform lift over the excavation site.

W. WYDOT shall conduct all activities associated with the operation, maintenance, and termination of this License in a manner that shall minimize disturbance to vegetation, drainage channels and the reservoir bank. WYDOT shall take resource conservation and protection measures as Reclamation deems reasonably necessary.

X. Final excavation slopes shall be left at 3:1 or flatter when extraction activities are completed or after any ground disturbing activities.

7. *Hazardous Materials:*

A. WYDOT may not allow contamination or pollution of the area of use, or Federal waters and facilities. WYDOT accepts responsibility for care, operation, and maintenance by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

B. WYDOT shall comply with all applicable Federal, State, and local laws and regulations, as well as Reclamation Policy, Directives and Standards, existing or hereafter enacted or promulgated, concerning any hazardous material that shall be used, produced, transported stored, or disposed of on or in the area of use, or Federal waters and facilities.

C. "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, et seq., and the regulations promulgated pursuant to that Act.

D. Upon discovery of any event which may or does result in contamination or pollution of the area of use or Federal waters and facilities, WYDOT shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery with full details of the actions taken to Reclamation. Reporting may be within a reasonable time period. A reasonable time period means within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

E. In any event, WYDOT shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et. seq.) with regard to any toxic substances that are used, generated by or stored on the area of use or on facilities authorized to under this License. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193). Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response Compensation and Liability Act of 1980, Section 102b. A copy of any report required or requested by any Federal agency

or State government as a result of a reportable release or spill of any toxic substances shall be furnished to Reclamation concurrent with the filing of the reports to the involved Federal agency or State government.

F. Violation of any of the provisions of the Article, as determined by Reclamation may constitute grounds for termination of this License. Such violations require immediate corrective action by WYDOT and shall make WYDOT liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

G. WYDOT agrees to include the provisions contained in A through F of this Article in any subcontract or third-party contract it may enter into pursuant to this License.

H. Reclamation agrees to provide information necessary for WYDOT, using reasonable diligence, to comply with the provisions of this Article.

8. *Cultural Resources:* WYDOT shall immediately provide an oral notification to Reclamation of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on the area of use. WYDOT shall follow up with a written report of their finding(s) to Reclamation within forty-eight (48) hours. Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this License. WYDOT shall immediately cease the activity in the area of the discovery, make a reasonable effort to protect such discovery, and wait for written approval from Reclamation before resuming the activity. Protective and mitigation measures specified by Reclamation shall be the responsibility of WYDOT.

9. *Transfer or Sublease of License:* Neither this License nor any interest therein shall be transferred or subleased by WYDOT without the prior written authorization of Reclamation and until payment has been made to the United States to cover the expense of approving such transfer or sublease.

10. *Termination of License:* This License, a use authorization, shall terminate and all rights of WYDOT hereunder shall cease, and WYDOT shall quietly deliver to Reclamation possession of the area of use in like condition as when taken, reasonable wear and damage by the elements excepted:

A. Reclamation reserves the right to construct, operate, and maintain public works now or hereafter authorized by Congress without liability for termination of the agreement or other damage to WYDOT's activities or facilities.

B. Reclamation may, at any time and at no cost or liability to the United States, terminate any use authorization in the event of a natural disaster, a national emergency, a need arising from security requirements, or an immediate and overriding threat to public health and safety.

C. Reclamation may, at any time and at no cost or liability to the United States, terminate any use authorization for activities other than existing authorized private exclusive recreational or residential use as defined in 43 CFR § 429.2 if Reclamation determines that any of the following apply:

i. The use has become incompatible with authorized Project purposes, operations, safety and security;

ii. A higher public use is identified through a public process described at 43 CFR § 429.32(a)(1); or

iii. Termination is necessary for operational needs of the Project.

D. Reclamation may, at any time and at no cost or liability to the United States, terminate any use authorization if Reclamation determines that WYDOT has failed to use the use authorization for its intended purpose. Further, failure to implement the authorized use within the timeframe specified in this License may constitute a presumption of abandonment and cause termination of this License.

E. Reclamation may, at any time and at no cost or liability to the United States, terminate any use authorization if WYDOT fails to comply with all applicable Federal, State, and local laws, regulations, ordinances, or terms and conditions of any use authorization, or to obtain any required permits or authorizations.

11. *Issuance of a New License:* If WYDOT desires issuance of a new license after expiration, they shall submit an application requesting to do so no less than six (6) months prior to the expiration date of this License. A new license may be issued to the WYDOT subject to the regulations promulgated under 43 CFR Part 429 or any other applicable regulations or laws.

12. *Notices:*

A. All notices given under this License shall be in writing and may be delivered by personal delivery, electronic mail (e-mail); via recognized delivery services such as United Parcel Service (UPS) or Federal Express (FedEx); or by deposit in the United States Postal Service (USPS), and addressed as follows:

Natural Resources Manager	Resident Engineer
Upper Snake Field Office	WDOT
Bureau of Reclamation	310 N Washington
470 22 nd Street	PO Box 639
Heyburn, ID 83336	Afton, WY 83110
208-678-0461	307-886-3886

B. The parties designate the Natural Resources Manager and Resident Engineer as their authorized representatives for this License. These individuals shall have the authority to take any action allowed or required under this License, on behalf of their employer. The parties may change their designated representatives or address at any time by giving notice of such change in accordance with this article.

13. *Removal of Structures:* Upon the expiration or termination of this License and if requested to do so by Reclamation, WYDOT shall remove all structures, equipment, or other improvements made by them from the area of use at no cost to the United States. Upon failure to remove any such improvements within sixty (60) days of expiration or termination any remaining improvements shall, at the option of the United States, be removed or become the property of the United States. WYDOT shall pay all expenses of the United States, or its assigns, related to removal of such improvements.

14. *Hold Harmless:* WYDOT agrees to indemnify the United States for, and hold the United States and all of its representatives harmless from, all damages resulting from suits, actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other activities of WYDOT.

15. *Officials Not to Benefit:* No Member of Congress shall be admitted to any share or part of any License or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

16. *Severability:* Each provision of this License shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this License shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the License as a whole.

17. *Successors in Interest Obligated:* This provision of the License shall apply to and bind the assigns of the United States, and their heirs, executors, administrators, and assigns of WYDOT.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names as of the date first above written.

THE UNITED STATES OF AMERICA

**WYOMING DEPARTMENT OF
TRANSPORTATION**

By: 

Ryan Newman
Assistant Area Manager

By: 

Michael Garner
Resident Engineer

NOTE: The above executing signatures shall be notarized and the Notary Acknowledgment page completed.

NOTARY ACKNOWLEDGMENT

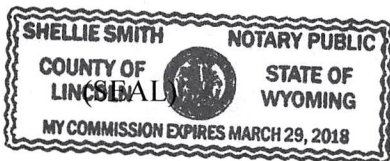
STATE OF Wyoming)

: §

County of Lincoln)

On the 5 day of June, 2017, Michael H Garner, personally appeared before me, known to me to be the official of the **WYOMING DEPARTMENT OF TRANSPORTATION**, that executed the within and foregoing instrument and acknowledged that said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.



Shellie Smith
Notary Public in and for the State of Wyoming
Residing at: Afton, WY 83110
My commission expires: March 29, 2018

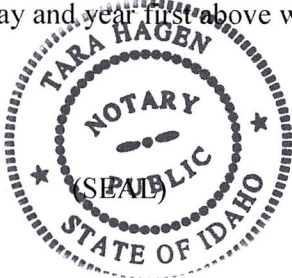
STATE OF IDAHO)

: §

County of Minidoka)

On the 13th day of June, 2017, Ryan Newman, personally appeared before me, known to me to be the official of **THE UNITED STATES OF AMERICA** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Tara Hagen
Notary Public in and for the State of Idaho
Residing at: Shoshone, ID
My commission expires: 04-27-2019

12-07-14-LA717 - Wyoming Department of Transportation

U.S. Bureau of Reclamation

Upper Snake Field Office

