



## **Navigable Waterways Easement Procedures**

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This guidance document is not a new law. This document is an agency interpretation of existing law, except as authorized by Idaho Code or incorporated into a contract.

### **Agency Contact**

Navigable Waterways Program Manager, Boise Staff Office

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## **Navigable Waterways Easement Procedures**

<b>Section 50 – Navigable Waterways Easements .....</b>	<b>2</b>
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### **Documents Referenced in Procedures**

SLE-001	Easement Application
SLE-002	Submerged Easement Checklist
SLE-003	Easement Template
SLE-004	Easement Assignment
SLE-005	Relinquishment of Easement
SLE-006	Sample Letter for Notice of Easement Violation

# Section 50 – Navigable Waterways Easements

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## Contents

I. Navigable Waterways Easements ..... 2

II. Navigable Waterways Easement Administration ..... 5

III. Navigable Waterways Easement Compliance ..... 5

## I. Navigable Waterways Easements

### A. Scope

Easements are required for uses above, across, over, in, through, upon, and under the beds of state-owned navigable waterways (IDAPA 20.03.09.001). State-owned navigable waterways, or navigable waterways for the purposes of these procedures, are those at or below the natural or ordinary high water mark (IDAPA 20.03.09.010.12). Easements are generally needed for uses, facilities, or structures of a more permanent basis, or those uses classed as nonnavigational encroachments (IDAPA 20.03.04.010.16). The following uses over navigable waterways generally require an easement:

- 1. Utility access including oil and gas, water, and power lines
- 2. Bridges
- 3. Hydroelectric facilities
- 4. Fills
- 5. Shoreline stabilization and dredged or filled materials

The issuance of an easement on navigable waterways is contingent upon first obtaining an IDL Lake Encroachment Permit or an IDWR Stream Channel Alteration Permit (IDAPA 20.03.09.011.03). Permits control or regulate what occurs on, in, or above navigable waterways, but an easement requires compensation for the use of state-owned navigable waterways.

Area staff should contact the Bureau if questions arise about the necessity of a navigable waterways easement.

### B. Natural or Ordinary High Water Mark

On lakes with artificial high water marks, a navigable waterways easement will only cover that portion of the encroachment which lies waterward of the ordinary high water mark.

Examples:

- 1. A powerline that lies over private submerged lands and state-owned navigable waterways will require an easement only for the portion of the powerline that is waterward of the ordinary high water mark.
- 2. A powerline located completely landward of the ordinary high water mark would require an encroachment permit, but not a navigable waterways easement.

## **C. Terms of Easement**

### **General**

Area staff will determine whether issued easements will be classified as a permanent use or a term easement. Permanent uses are typically bridges, utility crossings, highway fills, and dams (IDAPA 20.03.09.030.01). Impermanent structures may be approved under a term easement that typically spans ten (10) to fifty-five (55) years. Easements will not be granted where temporary permits will serve the required purpose nor for uses with a lifespan of ten (10) years or less (IDAPA 20.03.09.001.03).

### **Hydroelectric Facilities**

Hydroelectric facilities licensed under the Federal Energy Regulatory Commission (FERC) will have an easement term that runs concurrently with the FERC license up to a maximum period of fifty-five (55) years (IDAPA 20.03.09.030.03).

## **D. Fees**

### **1. Administration**

A one-time, nonrefundable administration fee of five hundred dollars (\$500) will be paid at the time the application is turned in to the Area office (IDAPA 20.03.09.020.01).

### **2. Supplemental Compensation**

If required, supplemental compensation will be billed at the time of lease signature.

#### **i. Hydroelectric Dams**

Easements for dams in excess of ten (10) feet in height require compensation of one thousand dollars (\$1,000) plus five dollars (\$5) per megawatt of the nameplate rating (IDAPA 20.03.09.020.02.a).

#### **ii. Substitution of Uses**

Easements for uses that substitute navigable waterways over the use of uplands require supplemental compensation, based on the market value of the adjacent uplands (IDAPA 20.03.09.020.02.b).

### **3. Appraisals**

A licensed appraiser, selected or approved by the Department, will conduct appraisals. Expenses of the appraisal are borne by the applicant.

## **E. Easement Applications**

The appropriate Area office will determine that an easement is required for the proposed use. An **Easement Application (SLE-001)** shall include the most current template and the application fee. The applicant shall submit a letter of request stating the purpose of the easement, a plat or survey of the proposed easement, and a written description of the centerline or metes and bounds survey. Entry and exit points out of the navigable waterway should be tied to at least one legal corner. Additional information may be requested by the Area office.

Area staff will review the application for completeness and coordinate as needed with the applicant to obtain a complete application. There is a checklist in the application, however the application needs:

- Letter of Request

- Legal description in a Word document
- Legal description by a licensed surveyor
- Record of survey
- Map of easement
- Permit or permit application if needed
- Verify the application is signed (page 3)
- Mark page 3 with received by and date. Also indicate if fee was paid.

When complete, Area staff will scan the application packet, then submit the application, five hundred dollars (\$500) application fee deposit slip, and legal description to the Bureau through the Document Exchange.

The Technical Records Specialist (TRS) will complete the **Submerged Easement Checklist (SLE-002)**, assign an easement number, and send the application to Land Records for metes and bounds description review. If problems are found with the metes and bounds description or survey, Area staff will request changes from the applicant. After approval by Land Records, the Area staff will draft the easement using the most current **Easement Template (SLE-003)** and send it to the TRS for review.

If the draft easement is complete, the TRS will attach a DAG Review Form to the document and send it to the Program Manager for review. If the draft is complete, the Program Manager will send it to legal staff for review.

After the initial legal review is completed, if the easement application compensation exceeds twenty-five thousand dollars (\$25,000) or is of a complex and unusual nature as determined by the Director, that easement will be presented to the Board for appropriate action (IDAPA 20.03.09.070.05).

Once approved, the TRS will then send the draft easement to the applicant for signature. After the applicant signs it, the TRS will scan the signed document and send the easement, along the DAG Review Form to the Program Manager.

The Program Manager will send it to legal staff for a final review before getting Director and if applicable, Land Board signatures. The Director may grant and renew easements in all cases except when the compensation will exceed twenty-five thousand dollars (\$25,000), exclusive of the payment for any damage or impairment of rights to the remainder of the property (IDAPA 20.03.09.070.04).

The signed easement will then be recorded by the TRS and sent to the applicant. Easements may be denied if issuance is not consistent with Idaho law or rule.

The applicant will be notified in writing of the Department's decision to issue an easement within six (6) months of application receipt (IDAPA 20.03.09.070.03).

## II. Navigable Waterways Easement Administration

### A. Navigable Waterways Easement Assignments

Easements will be assigned with the approval of the Director. The nonrefundable assignment fee is fifty dollars (\$50). An **Easement Assignment (SLE-004)** should be completed within sixty (60) days of receipt of all required forms and associated information (IDAPA 20.03.09.050).

### B. Navigable Waterways Easement Expiration and Relinquishment

If the easement area is not used as described within five (5) years of being granted, then the easement shall be forfeited back to the state (Idaho Code § 58-603).

If an easement is terminated for any reason, the grantee has up to twelve (12) months to remove all facilities and structures (IDAPA 20.03.09.060.02).

**Relinquishment of Easement (SLE-005)** is a voluntary, unilateral abandonment and termination of an easement by a grantee, which allows for the cessation of any obligation to maintain the easement (IDAPA 20.03.09.060.03).

Area staff will inspect term easements two years prior to expiration. If any potential noncompliance issues are identified, Area staff will work with the grantee to have the issues addressed prior to expiration. If a new easement is needed, an application form will be sent out by Area staff approximately one year before expiration.

### C. Navigable Waterways Easement Amendment

Any changes to an existing easement should be reviewed by Area staff to determine if an easement amendment is needed. Easement amendments will be processed in the same manner as a new application and require a new **Easement Application (SLE-001)**. Changes to the existing use, facility, or structure on an encroachment with an existing navigable waterways easement will first be permitted through a new encroachment permit or Stream Channel Alteration Permit, before any required amendments to the easement (IDAPA 20.03.09.040). Minor modifications such as ordinary maintenance, repair, or replacement of existing structures will not require a new easement. Modifications such as expanding the easement area, moving the easement location, or adding more uses will require a new application and fee, but the same easement number will be retained.

## III. Navigable Waterways Easement Compliance

### A. Authority

Violations that relate to provisions in the encroachment permit or IDAPA 20.03.04 (Lake Protection Rules) should be resolved using the remedies of IDAPA 20.03.04 and Title 58, Chapter 13, Idaho Code.

### B. Noncompliance

1. The Department should respond to noncompliances with the easement terms by the Area sending the grantee a **Notice of Easement Violation letter (SLE-006)**. The letter

should state the reasons for noncompliance, the applicable easement term or rule, the steps necessary to resolve the matter, and the corresponding deadlines.

2. Failure of the grantee to respond to the 30-day notice of noncompliance letter shall cause the Area to issue a notice of proposed easement cancellation.

### **C. Other Violations**

Failure to respond within thirty (30) days will result in the Area office issuing a notice of cancellation (certified and regular US mail). The easement cancellation will be effective thirty (30) days from the receipt of the letter. The grantee shall have thirty (30) days to appeal an adverse decision of the Department. If the grantee responds to the first notice of easement violation, the Area and grantee shall attempt to resolve the violation.



## WHEN REQUIRED

Uses above, across, over, in, through, upon, and under the beds of state-owned navigable waterways may require a navigable waterways easement. Exceptions include those uses that are typically covered by leases, through a short duration permit, or involve small water delivery structures that draw less than five (5) cubic feet per second of water.

Uses that require a navigable waterways easement are dams, bridges, road fills, power lines, fiber optic cables, pipelines, boat ramps, and other infrastructure that is essentially permanent.

Navigable waterways easement rules- <https://adminrules.idaho.gov/rules/current/20/200309.pdf>

## PROCEDURE

The procedure for acquiring a navigable waterways easement across state-owned navigable waterways is as follows:

1. Contact the appropriate IDL Supervisory Area Office to discuss the need and location of the proposed use. If the Supervisory Area Office determines that a navigable waterways easement is needed for the proposed use, the applicant may complete the application form and send in the \$500 application fee with the information required under item 3.
2. Checks for the \$500 application fee should be made out to IDAHO DEPARTMENT OF LANDS. Supplemental compensation may be required at a later date for dams and for uses that substitute state-owned navigable waterways over the adjacent uplands. See item 6 below.
3. Submit a letter of request stating the purpose of the navigable waterways easement with a Record of Survey showing the easement and a written description of the centerline or metes and bounds survey of the easement. The entry and exit points of the use in and out of the state-owned navigable waterway should each be tied to at least one legal corner. A digital copy of each of the following will speed the processing of the application:
  - The legal description as an MS Word file
  - A .pdf of the legal description signed and stamped by a Licensed Surveyor
  - Record of survey or exhibit as a .pdf
  - ESRI shapefiles of the easement (see CAD Drawing Standards for GIS Submittals)

(Note: Other methods may be considered after consultation with IDL staff for guidance.)
4. Term easements for hydroelectric facilities are typically coordinated with the Federal Energy Regulatory Commission (FERC) license renewal.
5. General Liability Insurance may be required to protect the Grantee and the state from liabilities incurred through the use of state property. If required, proof of insurance must be submitted before the final documents are issued. The State of Idaho and Idaho Department of Lands must be listed as additional insured in the certificate of insurance.
6. Supplemental compensation, when required, will be due upon signature by the Applicant.
  - a. Navigable waterways easements for all hydroelectric dams and any dam in excess of ten (10) feet in height require supplemental compensation of one thousand dollars (\$1,000.00) plus five dollars (\$5.00) per megawatt of the nameplate rating for hydroelectric dams.
  - b. Navigable waterways easements for uses that substitute state-owned navigable waters over the use of uplands will require supplemental compensation based on the market value of the adjacent uplands.



**NOTE:**

This is not to be considered a complete summary of all the information IDL may require. Additional information may be required as needed on a case-by-case basis. Costs for supporting documents are the responsibility of the applicant. IDL staff will request supporting documentation when they deem it necessary.

I HEREBY REQUEST A NAVIGABLE WATERWAYS EASEMENT FROM THE STATE OF IDAHO AND ACKNOWLEDGE THAT I UNDERSTAND MY OBLIGATIONS DESCRIBED HEREIN.

APPLICANT(S) SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_ DATE: \_\_\_\_\_

.....  
\*\*\* Idaho Department of Lands Administrative Use Only \*\*\*

RECEIVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

☐ \$500 Fee Submitted with Application

☐ APPROVED or ☐ REJECTED BY AREA: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_

☐ *Processing note: Upon complete application acceptance, the Area will drop Easement Application and "Attachment A" form into Lands and Waterways Processing Center (LWPC) Document Exchange via the LWPC In-Box into appropriate folder to obtain navigable waterways easement number.*

**Navigable Waterways Easement Number:** \_\_\_\_\_

**Prior Land Board approval required?** >\$25K or unusual/complex? ☐ Yes ☐ No

**Approval Checklist**

1) \_\_\_\_\_  
Land Records Staff Name (*approval of legal description and exhibit map*) \_\_\_\_\_ Date approved

2) \_\_\_\_\_  
Area Navigable Waterways Resource Specialist or Area Manager \_\_\_\_\_ Date approved

3) \_\_\_\_\_  
Navigable Waterways Program Manager/RPA Bureau Chief \_\_\_\_\_ Date approved

Approvals must be obtained prior to obtaining applicant and Land Board signatures

# Idaho Department of Lands Management Areas

**Priest Lake Supervisory Area**  
4053 Cavanaugh Bay Road  
Coolin, ID 83821  
(208) 443-2516

**Mica Supervisory Area**  
3258 West Industrial Loop  
Coeur d'Alene, ID 83815  
(208) 769-1577

**St. Joe Supervisory Area**  
1806 Main Avenue  
St. Maries, ID 83861  
(208) 245-4551

**Ponderosa Supervisory Area**  
3130 Highway 3  
Deary, ID 83823  
(208) 877-1121

**Craig Mountain Forest Protective District**  
P.O. Box 68,  
014 East Lorahama  
Craigmont, ID 83523  
(208) 924-5571

**Payette Lakes Supervisory Area**  
555 Deinhard Lane  
McCall, ID 83638  
(208) 634-7125

**Southwest Supervisory Area**  
8355 West State Street  
Boise, ID 83714  
(208) 334-3488

**Kootenai Valley Forest Protective District**  
6327 Main Street  
Bonners Ferry, ID 83805  
(208) 267-5577

**Pend Oreille Supervisory Area**  
2550 Highway 2 West  
Sandpoint, ID 83864-7305  
(208) 263-5104

**Cataldo Forest Protective District**  
80 Hilltop Overpass Road  
Kingston, ID 83839  
(208) 682-4611

**Idaho Department of Lands  
Coeur d'Alene Staff Office**  
3284 West Industrial Loop  
Coeur d'Alene, ID 83815  
(208) 769-1525

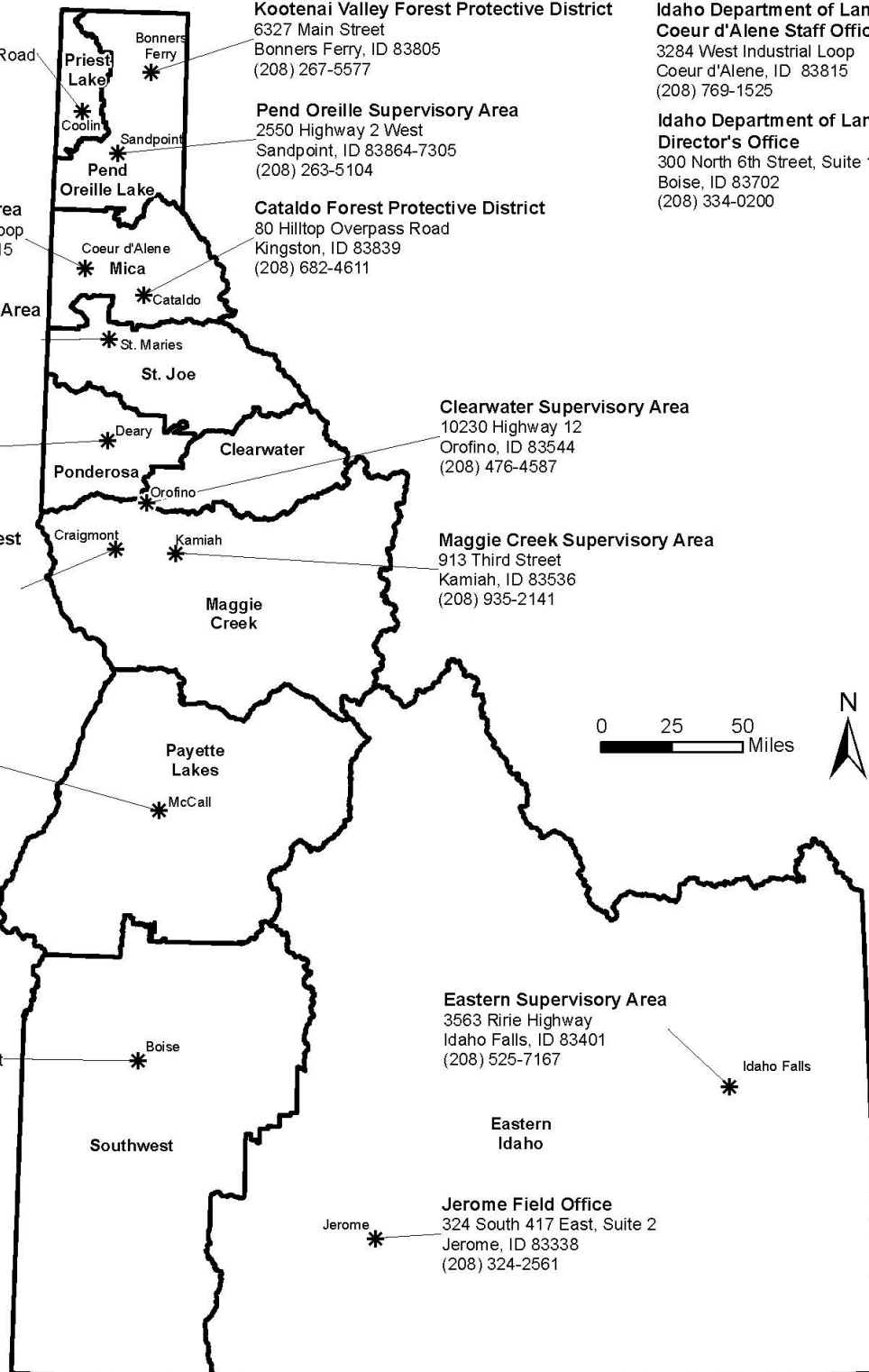
**Idaho Department of Lands  
Director's Office**  
300 North 6th Street, Suite 103  
Boise, ID 83702  
(208) 334-0200

**Clearwater Supervisory Area**  
10230 Highway 12  
Orofino, ID 83544  
(208) 476-4587

**Maggie Creek Supervisory Area**  
913 Third Street  
Kamiah, ID 83536  
(208) 935-2141

**Eastern Supervisory Area**  
3563 Ririe Highway  
Idaho Falls, ID 83401  
(208) 525-7167

**Jerome Field Office**  
324 South 417 East, Suite 2  
Jerome, ID 83338  
(208) 324-2561





# Submerged Easement Checklist

**Instructions:** This form is used by the TRS for each Submerged Easement.

Applicant Name:		ES#:	
<b>Application Acceptance</b>		<b>Yes</b>	<b>N/A</b>
1. Applicant is <b>not</b> on Default List.		<input type="checkbox"/>	
2. Applicant is complete and \$500 received.		<input type="checkbox"/>	
3. Received Land Records approval?		<input type="checkbox"/>	
4. Assign appropriate instrument number in IMS		<input type="checkbox"/>	
5. Update IMS A. Status Tab B. Billed Use Tab C. Action Log Tab D. Additional Information Tab 1) Project Nbr Field - Submerged		<input type="checkbox"/>	
6. Create Customer Card (the Asset type Coe is 4035 - Submerged)		<input type="checkbox"/>	
7. Create Lease Card		<input type="checkbox"/>	
8. Drop documents to fiscal		<input type="checkbox"/>	
9. Create physical and electronic files		<input type="checkbox"/>	
10. Update IMS Action Log and tracking log		<input type="checkbox"/>	
<b>Processing a Submerged Easement-Area will drop a draft copy of the easement via Doc Exchange</b>			
11. Is easement under \$25,000? If so, edit easement signature page for Director's signature. If not, edit easement signature page for Land Board signature.		<input type="checkbox"/>	
12. Create DAG Instrument Approval Form coversheet. Send coversheet and word document of the easement to the Navigable Waterways Program Manger		<input type="checkbox"/>	
13. Update IMS Action Log and tracking log		<input type="checkbox"/>	
14. Receive signed DAG coversheet from Program Manager		<input type="checkbox"/>	
15. Send two copies of the easement to the applicant for signature		<input type="checkbox"/>	
16. Update IMS Action Log and tracking log		<input type="checkbox"/>	
<b>Executing a Submerged Easement</b>			
17. Receive from applicant signed easement, scan. If additional money is owed, process outstanding fees		<input type="checkbox"/>	
18. Send second DAG coversheet and signed easement to Program Manager for review		<input type="checkbox"/>	
19. Update IMS Action Log and tracking log		<input type="checkbox"/>	
20. Receive second DAG coversheet from Program Manager		<input type="checkbox"/>	
21. Update IMS Action Log and tracking log		<input type="checkbox"/>	
22. Deliver original easements, with DAG coversheet to front desk for Directors signature		<input type="checkbox"/>	
23. Update IMS Action Log and tracking log		<input type="checkbox"/>	
24. Receive signed easements from front desk		<input type="checkbox"/>	
25. Update IMS Action Log and tracking log		<input type="checkbox"/>	
26. Send one original easement to respective county(ies) for recordation		<input type="checkbox"/>	
27. Update IMS Action Log and tracking log		<input type="checkbox"/>	
28. After recordation, scan county recorded easement and send a copy to Land Records via the Doc Exchange and a copy of the area office		<input type="checkbox"/>	
29. Please a copy of the easement in the "N" drive in the Easement folder		<input type="checkbox"/>	
30. Send copy of recorded page and the unrecorded copy of the easement to the applicant.		<input type="checkbox"/>	
31. Update IMS Action Log and tracking log		<input type="checkbox"/>	
32. Add to MasterTrak		<input type="checkbox"/>	
33. File physical easement file		<input type="checkbox"/>	
Preparer's Signature		Supervisor's Signature	

After recordation, return originals to:  
Idaho Department of Lands  
Attn: Resource, Protection and Assistance Bureau  
PO Box 83720, Boise, Idaho 83720-0050  
Phone (208) 334-0200



300 N. 6th St., Suite 103  
PO Box 83720  
Boise, Idaho 83720-0050  
Phone (208) 334-0200 Fax (208) 334-3698

## STATE OF IDAHO

### EASEMENT NO. ESXXXXXX

THIS EASEMENT ("Easement"), made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **STATE BOARD OF LAND COMMISSIONERS**, whose administrative agency is the **IDAHO DEPARTMENT OF LANDS**, whose mailing address is 300 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050 ("Grantor"), and **APPLICANT'S NAME**, an **Idaho corporation** whose mailing address is, **Applicant's Mailing Address** ("Grantee").

WITNESSETH: That for and in consideration of a one-time administrative fee in the amount of **Five hundred no/100ths dollars (\$500.00)**, lawful money of the United States of America, receipt whereof is hereby acknowledged, Grantor does hereby grant to Grantee, and its successors and assigns, a non-exclusive easement for the purpose of constructing, using, and maintaining a **Insert Specific Use Here** over or under the **Waterbody** situated in **Insert County** County, State of Idaho, and is more particularly described as follows (and may hereinafter be referred to as the "Easement Area"):

[See Exhibits A and B, attached hereto and incorporated herein by reference]

The Easement Area contains **X.XX** acres, more or less.

Subject to the following terms and conditions:

#### A. General:

1. This Easement may be assigned only with the prior written consent of Grantor. Grantee must use the prescribed form issued by Grantor and pay the required easement assignment fee. Such consent shall not be unreasonably withheld.
2. The terms and conditions of this Easement shall be binding on the successors and assigns of the respective parties.
3. The boundary lines of the Easement Area shall be extended or shortened to begin on, end on, and conform to the ordinary high water mark of the **Waterbody**.

**B. Limited Purpose:**

1. If Grantee desires to use the Easement Area for an additional or different purpose than the one specified herein, then Grantee shall make a request in writing to Grantor. If approved, in Grantor's discretion, this Easement shall either be amended, or canceled and replaced by a new easement.
2. Grantee may allow its agents, licensees, and contractors, hereinafter referred to as "Permittees", to exercise the rights granted herein.
3. This Easement does not give Grantee authority to permit third-party use of the Easement Area for any purpose. Only Grantor may authorize third-party use. Grantor may permit third-party use only on the condition that such use shall not materially interfere with Grantee's rights as hereby authorized. Third-party use is herein defined as those wanting use of the Easement Area other than the Permittees of Grantee.

**C. Grantee's Covenants:**

1. Grantee, and its Permittees, shall comply with all applicable federal, state, and local laws, regulations and ordinances, and with all applicable state administrative rules.
2. Grantee shall take measures for prevention of the spread of noxious weeds and invasive species through the inspection of any and all equipment proposed to be utilized within the navigable waters and riparian areas during the installation, use and maintenance of a **Insert Specific Use Here** over or under the **Waterbody**.
3. The legal description for the Easement Area was provided by Grantee, who assumes full responsibility for its intended use within the described Easement Area. Grantor assumes no responsibility for an inaccurate legal description.

**D. Insert Specific Use Here:**

1. **Insert Specific Use Here** is to be constructed and maintained in such a manner that it will not obstruct, hinder, or affect navigation, recreation, or other authorized and customary use of the **Waterbody**.
2. All underground facilities may be abandoned in place only with the prior written approval of Grantor. Otherwise, all underground facilities shall be removed by Grantee.

**E. Indemnification:**

1. Grantee shall indemnify, defend, and save harmless Grantor, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with Grantee's acts or omissions under this Easement, or Grantee's failure to comply with any state or federal statute, law, regulation or rule.

2. Upon receipt of Grantor's tender of indemnity and defense, Grantee shall immediately take all reasonable actions necessary, including, but not limited to, providing a legal defense for Grantor, to begin fulfilling its obligation to indemnify, defend, and save harmless Grantor. Grantee's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of Grantor under this Easement. However, if it is determined by a final judgment that Grantor's negligent act or omission is the sole proximate cause of a suit or claim, then Grantor shall not be entitled to indemnification from Grantee with respect to such suit or claim, and Grantor, in its discretion, may reimburse Grantee for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed pursuant to the following provision.

3. Any legal defense provided by Grantee to Grantor under this section must be free of any conflict of interest, even if retention of separate legal counsel for Grantor is necessary. Any attorney appointed to represent Grantor must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code §§ 67-1401(13) and 67-1409(1).

**F. Grantor's Reservations:**

1. Grantor reserves unto itself, the right and privilege to use the Easement Area for any and all purposes deemed necessary or desirable in connection with the control, management, administration, and use of Grantor's lands.

2. Grantor reserves the right to grant additional easements over, under, across or along the Easement Area. Any additional easement shall not materially interfere with the rights and privileges hereby authorized to Grantee.

3. Nothing in this Easement shall be construed as binding Grantor to perform beyond its legal authority, or to expend any monies in excess of appropriations or authorized funds available for such purposes.

**G. Termination:**

1. The easement, or any segment or portion thereof, not used for five (5) consecutive years for the purpose for which it was granted, or construction not completed within five (5) years from the date of this Easement for the purpose for which it was granted, shall be presumed abandoned. Grantor shall notify Grantee in writing if the easement is considered abandoned and will terminate this Easement if notification of use of the Easement Area is not received within thirty (30) days from the date of notification.

2. If at any time Grantee determines that the easement, or any segment or portion thereof, is no longer needed for the purposes granted, then Grantee shall furnish to Grantor a statement in recordable form confirming termination of the Easement.

3. Grantor may, at its option, terminate this Easement for breach of any of the terms of this Easement, and/or pursue any other remedy available at law or in equity to enforce the terms of this Easement. If termination occurs, the director of Grantor shall notify Grantee in writing of the

termination. Grantee shall have thirty (30) days from the date of notification of termination to appeal to the director for reinstatement.

**H. Authority:**

This Easement is issued by the authority of the Rules for Easements on State-Owned Navigable Waterways (IDAPA 20.03.09).

**I. Additional Provisions** (Delete if no other easements or leases are present):

This Easement is non-exclusive and is subject to any pre-existing instruments and rights, including, but not limited to, the following:

1. Subject to State of Idaho Easement No. ESXXXXX, for Insert Use Here issued to Grantee on Issuance Date.

**J. Acceptance:**

USE OF THIS EASEMENT OR THE EASEMENT AREA BY GRANTEE CONSTITUTES ACCEPTANCE OF THE EASEMENT AND AGREEMENT TO BE BOUND BY THE TERMS HEREOF.

[Signatures follow]

IN WITNESS WHEREOF, Grantee has executed this Easement.

**GRANTEE, an Idaho corporation**

Dated: \_\_\_\_\_  
\_\_\_\_\_ **JOHN DOE, President**

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a notary public in and for said state, personally appeared **John Doe**, known or identified to me to be the **President of Grantee**, an **Idaho corporation**, and to be authorized to execute the within instrument on behalf of said corporation, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that said corporation executed the same.

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

\_\_\_\_\_  
NOTARY PUBLIC for \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_  
\_\_\_\_\_



IN WITNESS WHEREOF, the State Board of Land Commissioners has executed this Easement.

STATE BOARD OF LAND COMMISSIONERS

\_\_\_\_\_  
President of the State Board of Land Commissioners and  
Governor of the State of Idaho

Countersigned:

\_\_\_\_\_  
Secretary of State of Idaho

\_\_\_\_\_  
Director of the Idaho Department of Lands

STATE OF IDAHO     )  
                                  ) ss.  
COUNTY OF ADA    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said State, personally appeared BRAD LITTLE, as the President of the State Board of Land Commissioners and Governor of the State of Idaho, that executed the within instrument, and acknowledged to me that he executed the same as said President and Governor, and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO     )  
                                  )ss.  
COUNTY OF ADA    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said State, personally appeared PHIL MCGRANE, as Secretary of State of Idaho, that executed the within instrument, and acknowledged to me that he executed the within instrument as said Secretary of State and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO     )  
                                  )ss.  
COUNTY OF ADA    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said State, personally appeared DUSTIN T. MILLER, the Director of the Idaho Department of Lands and Secretary of the State Board of Land Commissioners, and acknowledged to me that he executed the within instrument as said Director and Secretary, and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho  
My Commission Expires: \_\_\_\_\_

Exhibit A

Legal Description

(Size and legal description using government lots followed by meets and bounds description. Example:

A strip of land, 100 feet in width over and across a portion of the bed of the Snake River, lying between Government Lots 8 and 9 of Section 8, Township 1 South, Range 45 East, Boise Meridian, Bonneville County, Idaho, said strip being 50 feet on each side of the following described centerline:

Starting at a point on the right bank of the Snake River below Palisades Dam. Said point being S36° 24' 30"E, 5,279 feet from the Section Corner of Sections 5, 6, 7, 8 of T1S, R45E. B.M. Thence a strip bearing S70° 14' 13"W, 305 feet long and 50 feet on each side.)

State of Idaho  
Easement No. ESXXXXXX  
Page 9 of 9

Exhibit B  
Map or Plat of Easement Area



300 N. 6th St., Suite 103  
PO Box 83720  
Boise, Idaho 83720-0050  
Phone (208) 334-0200 Fax (208) 334-3698

**ASSIGNMENT OF  
STATE OF IDAHO  
EASEMENT NO. \_\_\_\_\_**

For and in consideration of the assignment fee of **Fifty Dollars (\$50.00)** and receipt whereof is hereby acknowledged, \_\_\_\_\_ with a mailing address of \_\_\_\_\_, hereby sell, assign, and transfers unto, \_\_\_\_\_, with a mailing address of \_\_\_\_\_ all of its rights, title, and interest in and to the State of Idaho Easement No. \_\_\_\_\_, Instrument Number \_\_\_\_\_, recorded in \_\_\_\_\_ County, Idaho. This easement is an easement in gross.

WITNESS our hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**ABC, Inc.,**  
An Idaho corporation

\_\_\_\_\_  
**JOHN DOE**  
President / Vice President / Secretary / Assistant Sec

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me a Notary Public in and for said state personally appeared **JOHN DOE**, known or identified to me to be the President / Vice President / Secretary [choose one] of **ABC, Inc.**, an Idaho corporation, the corporation that executed the instrument or the person that executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

(seal)

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**ACCEPTANCE AND ASSUMPTION:**

The undersigned assignee above named accepts and assumes the obligations and conditions of the above-described State of Idaho Easement No. \_\_\_\_\_ and separately covenants with the State of Idaho that he/she/they [choose one] will abide thereby.

**XYZ, Inc.,**  
An Idaho corporation

Date: \_\_\_\_\_

\_\_\_\_\_  
**JOHN SMITH**  
President / Vice President / Secretary / Assistant Sec

STATE OF                    )  
                                  ) ss.  
County of                 )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me a Notary Public in and for said state personally appeared **JOHN SMITH**, known or identified to me to be the President / Vice President / Secretary [choose one] of **XYZ, Inc.**, an Idaho corporation, the corporation that executed the instrument or the person that executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

(seal)

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF LANDS

Date: \_\_\_\_\_

\_\_\_\_\_  
**DUSTIN T. MILLER**, Director

STATE OF IDAHO       )  
                                  ) ss.  
County of                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for said State, personally appeared **DUSTIN T. MILLER**, the Director of the Idaho Department of Lands and Secretary of the State Board of Land Commissioners, and acknowledged to me that executed the within instrument as said Director and Secretary, and that the State Board of Land Commissioners and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

(seal)

\_\_\_\_\_  
Notary Public for State of Idaho

My Commission Expires: \_\_\_\_\_

After Recording  
Return to:

Idaho Department of Lands  
300 N. 6<sup>th</sup> Street Suite 103  
Boise, Idaho 83720



## RELINQUISHMENT OF

STATE OF IDAHO EASEMENT NO. <<Number>>

**THIS RELINQUISHMENT OF EASEMENT** is made by <<GRANTEE'S NAME>>, a <<State>> corporation, whose mailing address is <<Address>>, <<City>>, <<State Abbreviation>> <<Postal Code>>.

## RECITALS

A. On or about <<Date easement granted>>, the State of Idaho, Board of Land Commissioners, as Grantor, granted an easement identified as State of Idaho Easement No. <<Number>> ("Easement"), to <<GRANTEE'S NAME>>, as Grantee, over and across certain real property in <<County name>> County, Idaho. The Easement was recorded in the records of <<County name>> County, Idaho, on <<Date easement recorded>>, as Instrument Number <<County record number>>.

B. <<GRANTEE'S NAME>> has a replacement easement that will serve the same purpose as the Easement would have provided. Accordingly, <<GRANTEE'S NAME>> now desires to voluntarily relinquish the Easement in its entirety pursuant to IDAPA 20.03.09.060.03.

## RELINQUISHMENT

**NOW, THEREFORE**, for and in consideration of the recitals above, which are incorporated below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, <<GRANTEE'S NAME>> hereby covenants and agrees as follows:

1. <<GRANTEE'S NAME>> hereby relinquishes the Easement in all respects from the lands subject thereto.

**IN WITNESS WHEREOF**, <<GRANTEE'S NAME>>, intending to be legally bound hereby, has caused this Relinquishment of Easement to be duly executed the day and year first above written.

<<GRANTEE'S NAME>>,  
a <<State>> corporation

Dated: \_\_\_\_\_

\_\_\_\_\_  
[print name]  
Its: \_\_\_\_\_  
[authority]



STATE OF IDAHO                     )  
  ) ss.  
County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or identified to me to be the \_\_\_\_\_ of <<GRANTEE'S NAME>>, a Washington corporation, the person who executed the within and foregoing document, and acknowledged to me that such corporation executed the same.

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

(SEAL)

\_\_\_\_\_  
Notary Public for Idaho  
My commission expires: \_\_\_\_\_

Sample Letter for Notice of Easement Violation  
Copy sample below into respective area letterhead

Letterhead

Date

Permittee

Address

SUBJECT: Violation of Submerged Lands Easement and Easement Rules, ES-XXXX

The Idaho Department of Lands has determined that you are in violation of Term XXX of Submerged Lands Easement ES-XXXX and IDAPA 20.03.09, the Rules Governing Easements on State-Owned Navigable Waterways. [Description of the violation and why it is a violation must be written here.](#) [The applicable Rules and easement terms must also be cited here.](#)

To resolve these noncompliance issues, the following actions must be taken:

[Description of the steps needed to resolve the violation, and deadlines for their completion.](#)

If the above actions are not taken within the timeframes given, the department may pursue other remedies including assessment of civil penalties and easement termination. These remedies are authorized by Idaho Code 58-603 and IDAPA 20.03.09.060. If the easement is terminated, the Department may order all facilities and structures associated with this easement be removed from the waterway within 12 months as authorized by Subsection 060.02 of IDAPA 20.03.09.

Thank you for your assistance in resolving this situation. If you have any questions, please call me at [Phone Number](#).

Sincerely,

Name

Title

cc: Navigable Waters Program Manager  
Deputy Attorney General