



Idaho Department of Environmental Quality Draft §401 Water Quality Certification

September 19, 2013

404 Permit Application Number: NWW 2011-090 Avista Spirit Lake Conductor Line

Applicant/Authorized Agent: Nancy Carroll, Avista Corporation

Project Location: T53N, R4W sections 14 and 23; Electric conductor cable to be installed between Bronze Bay and Bowen Island and Bowen Island southwest to southern shore of Spirit Lake

Receiving Water Body: Spirit Lake

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 U.S.C. Section 1341(a)(1); and Idaho Code §§ 39-101 et seq. and 39-3601 et seq., the Idaho Department of Environmental Quality (DEQ) has authority to review activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the joint application for permit, received on September 3, 2013, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permit along with the conditions set forth in this water quality certification, then there is reasonable assurance the activity will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, the Idaho Water Quality Standards (WQS) (IDAPA 58.01.02), and other appropriate water quality requirements of state law.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations, or permits.

Project Description

Avista proposes to discharge 3.5 cubic yards of native material and 3 cubic yards of precast concrete blocks associated with the installation of 5,800 feet of 13.2V conductor line placed on the bed of Spirit Lake. The current broken conductor line will remain in place. Work will be accomplished during low water in October. At three locations on the shoreline, the conductor will be buried in a hand dug 36" deep trench that will extend 20 feet beyond the low water line. The cable will then daylight on the bed of the lake with concrete blocks tied to the conductor to anchor it on the bottom. A barge and divers will be utilized for the work.

Antidegradation Review

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

- Tier 1 Protection. The first level of protection applies to all water bodies subject to Clean Water Act jurisdiction and ensures that existing uses of a water body and the level of water quality necessary to protect those existing uses will be maintained and protected (IDAPA 58.01.02.051.01; 58.01.02.052.01). Additionally, a Tier 1 review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).
- Tier 2 Protection. The second level of protection applies to those water bodies considered high quality and ensures that no lowering of water quality will be allowed unless deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).
- Tier 3 Protection. The third level of protection applies to water bodies that have been designated outstanding resource waters and requires that activities not cause a lowering of water quality (IDAPA 58.01.02.051.03; 58.01.02.052.09).

DEQ is employing a water body by water body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (IDAPA 58.01.02.052.05.a). Any water body not fully supporting its beneficial uses will be provided Tier 1 protection for that use, unless specific circumstances warranting Tier 2 protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

Pollutants of Concern

The primary pollutant of concern for this project is sediment. As part of the Section 401 water quality certification, DEQ is requiring the applicant comply with various conditions to protect water quality and to meet Idaho WQS, including the water quality criteria applicable to sediment.

Receiving Water Body Level of Protection

This project is located on Spirit Lake within the Pend Oreille Lake assessment unit (AU) ID17010214PN009L_0L (Spirit Lake). This AU has the following designated beneficial uses: cold water aquatic life, domestic water supply, primary contact recreation, salmonid spawning, and domestic, agricultural and industrial water supply. Additionally, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics.

Spirit Lake is included in Category 2 of the 2010 Integrated Report indicating it fully supports all its beneficial uses. As such, DEQ will provide Tier 1 and 2 protections for both aquatic life and recreational uses (IDAPA 58.01.02.051.02; 58.01.02.051.01).

Protection and Maintenance of Existing Uses (Tier 1 Protection)

As noted above, a Tier 1 review is performed for all new or reissued permits or licenses, applies to all waters subject to the jurisdiction of the Clean Water Act, and requires demonstration that existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. The numeric and narrative criteria in the WQS are set at levels that ensure protection of designated beneficial uses.

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) directed toward reducing erosion and minimizing turbidity levels in Spirit Lake. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area. Because this proposed project lacks turbidity control for the in-water excavation, conditions have been added requiring such controls be implemented in order to meet Idaho Water Quality Standards for turbidity, a Tier 1 protection. Other conditions have been added to ensure long term stability of the shoreline, prevention of spills from equipment, and measures taken to prevent the introduction of invasive species. As long as the project is conducted in accordance with the provisions of the project plans, Section 404 permit, and conditions of this certification, then there is reasonable assurance the project will comply with the state's numeric and narrative criteria. These criteria are set at levels that protect and maintain designated and existing beneficial uses.

There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated and discussed above; therefore, the permit ensures that the level of water quality necessary to protect both designated and existing uses is maintained and protected in compliance with the Tier 1 provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

High-Quality Waters (Tier 2 Protection)

Spirit Lake is considered high quality for all designated and existing beneficial uses. As such, the water quality relevant to all designated and existing beneficial uses of the Spirit Lake must be maintained and protected, unless a lowering of water quality is deemed necessary to accommodate important social or economic development.

To determine whether degradation will occur, DEQ must evaluate how the permit issuance will affect water quality for each pollutant that is relevant to all designated and existing beneficial uses of the Spirit Lake (IDAPA 58.01.02.052.06). These pollutants include the following: sediment and petroleum products.

As previously noted, this certification requires the use of temporary BMPs during the project to protect water quality from these pollutants of concern. In addition, permanent erosion and sediment controls required by as conditions of this certification, must also be implemented, to minimize or prevent future sediment contributions from the project area. Although this project may result in minimal short-term sediment impacts to the water body inside of the silt curtains, DEQ does not expect long-term impacts or degradation to Spirit Lake. Therefore, DEQ concludes that this project complies with the Tier 2 provisions of Idaho's WQS (IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06).

Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

General Conditions

1. This certification is conditioned upon the requirement that any modification (e.g., change in BMPs, work windows, etc.) of the permitted activity shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401. Such modifications may not be implemented until DEQ has determined whether additional certification is necessary.
2. DEQ reserves the right to modify, amend, or revoke this certification if DEQ determines that, due to changes in relevant circumstances—including without limitation, changes in project activities, the characteristics of the receiving water bodies, or state WQS—there is no longer reasonable assurance of compliance with WQS or other appropriate requirements of state law.
3. If ownership of the project changes, the certification holder shall notify DEQ, in writing, upon transferring this ownership or responsibility for compliance with these conditions to another person or party. The new owner/operator shall request, in writing, the transfer of this water quality certification to his/her name.
4. A copy of this certification must be kept on the job site and readily available for review by any contractor working on the project and any federal, state, or local government personnel.
5. Project areas shall be clearly identified in the field prior to initiating land-disturbing activities to ensure avoidance of impacts to waters of the US beyond project footprints.
6. The applicant shall provide access to the project site and all mitigation sites upon request by DEQ personnel for site inspections, monitoring, and/or to ensure that conditions of this certification are being met.
7. The applicant is responsible for all work done by contractors and must ensure the contractors are informed of and follow all the conditions described in this certification and the Section 404 permit.
8. If this project disturbs more than 1 acre and there is potential for discharge of stormwater to waters of the US, coverage under the EPA Stormwater Construction General Permit *must* be obtained. More information can be found at:
<http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources>.

Erosion and Sediment Control

1. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's *Catalog of Stormwater Best Management Practices for Idaho Cities and Counties*, available online at:
<http://www.deq.idaho.gov/media/494058-entire.pdf>. Other resources may also be used for selecting appropriate BMPs.

2. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standard as stipulated under the Idaho WQS (IDAPA 58.01.02). Any violation of this standard must be reported to the DEQ regional office immediately at (208) 666-4605. Leaving a voice mail message and a contact number is acceptable.
3. One of the first construction activities shall be placing permanent and/or temporary erosion and sediment control measures around the perimeter of the project or initial work areas to protect the project water resources.
4. Permanent erosion and sediment control measures shall be installed in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
5. Permanent erosion and sediment control measures shall be installed at the earliest practicable time consistent with good construction practices and shall be maintained as necessary throughout project operation.
6. Structural fill or bank protection shall consist of materials that are placed and maintained to withstand predictable high flows in the waters of the state.
7. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation.
8. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
9. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
10. Disturbed areas suitable for vegetation shall be seeded or re-vegetated to prevent subsequent soil erosion (see Vegetation and Restoration section below for details).
11. Sediment from disturbed areas or able to be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state. Placement of clean aggregate at all construction entrances or exits and other BMPs such as truck or wheel washes, if needed, must be used when earth-moving equipment will be leaving the site and traveling on paved surfaces.
12. Turbidity in Spirit Lake resulting from work above the ordinary high water mark shall be visually monitored once daily during construction and recorded as described below. If the project causes a visible turbidity plume in the lake, the permittee shall follow the monitoring, response, and recording procedures described below until WQS are met.

Turbidity Associated with Work Below Ordinary High Water Mark

1. Silt curtains shall be used to contain sediment and minimize turbidity in the lake when trenching below the ordinary high water mark and lakeward. Silt curtains shall be configured to minimize the area inside of the silt curtain. The silt curtain shall not be removed until turbidity inside of the curtain meets Water Quality Standards for turbidity (IDAPA 58.01.02.250.e.) which reads:

Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than fifty (50) NTU instantaneously or more than twenty-five (25) NTU for more than ten (10) consecutive days.

2. Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur each day the trenching work occurs below the ordinary high water mark. A properly and regularly calibrated turbidimeter is required.

Monitoring: Background Turbidity

A background sample must be taken for each monitoring event every two hours during any trenching below the ordinary high water mark. The samples shall be taken at a nearby location not influenced by the in-water disturbance. Background turbidity, location, date, and time must be recorded prior to monitoring.

Monitoring: Work Site Turbidity

Monitoring must occur every two hours during in-water trenching just outside of the silt curtain and within any visible plume located outside of the silt curtain. The turbidity, location, date, and time must be recorded for each sample.

Compliance Determination and Response

Results from the work site turbidity sampling must be compared to the background levels sampled for each monitoring event. If the turbidity outside of the silt curtain exceeds background turbidity by 50 nephelometric turbidity units (NTU) or more, then the project is causing an exceedance of the WQS. If an exceedance occurs, the applicant must inspect the condition of the projects BMPs. If the BMPs appear to be functioning to their fullest capability, then the applicant must modify the activity (this may include modifying existing BMPs) until WQS are met.

Recording

Turbidity monitoring must be reported. Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The log must include background measurements (in NTUs) or observations; compliance point measurements or observations; comparison of background and compliance point monitoring as a numeric value (in NTUs) or in narrative form; and location, time, and date for each sampling event. The report must describe all exceedances and subsequent actions taken, monitoring, and the effectiveness of the action.

Vegetation Protection and Restoration

1. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.
2. Fencing and other barriers should be used to mark the construction areas.
3. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation shall be successfully reestablished to function for water quality benefit at pre-project levels or better. Woody species located in the shoreline riparian zone that are removed during construction shall be replaced in kind.
4. Disturbed areas shall be seeded or vegetated and temporary and permanent erosion control measures implemented to minimize or prevent future sediment contributions to the lake until the vegetation grows sufficiently to fulfill that function.

Management of Hazardous or Deleterious Materials

1. Petroleum products and hazardous, toxic, and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must be in place to ensure that those materials will not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.
2. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the lake if this fluid is available.
3. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be done to ensure no leaks or potential leaks exist prior to equipment use.
4. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the state. Any wastewater or wash water must not be allowed to enter a water of the state.
5. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
6. Any petroleum release that causes a sheen (of any size) in waters of the state must be reported immediately to the National Response Center at 1-800-424-8802 and the Idaho State Communication Center (1-800-632-8000).

Required Notification

The permittee must notify the appropriate DEQ Regional Office when authorized work begins at (208)666-4605 (a voice mail is acceptable).

Right to Appeal Final Certification

The final Section 401 Water Quality Certification may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the “Rules of Administrative Procedure before the Board of Environmental Quality” (IDAPA 58.01.23), within 35 days of the date of the final certification.

Questions or comments regarding the actions taken in this certification should be directed to June Bergquist, Coeur d’Alene Regional Office, at 208-666-4605 or via email at june.bergquist@deq.idaho.gov.

DRAFT

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office