



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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C. L. "Butch" Otter, Governor
Curt Fransen, Director

4 September 2014
Michael J. Lidgard
NPDES Permits Unit Manager
EPA Region 10
1200 Sixth Avenue, Suite 900
Seattle WA 98101-3140

RE: Draft 401 Certification for the City of Grace Wastewater Treatment Facility, NPDES Permit No. ID-0023825.

Dear Mr. Lidgard:

The Pocatello Regional Office of the Idaho Department of Environmental Quality has reviewed the proposed final NPDES permit for the City of Grace Wastewater Treatment Facility. Section 401 of the Federal Clean Water Act requires that states issue certifications for activities which are authorized by a Federal permit and that may result in a discharge to surface waters. In Idaho, the Department of Environmental Quality (DEQ) is responsible for reviewing these activities and evaluating whether the activity will comply with Idaho Water Quality Standards, including any applicable water quality management plans (e.g., total maximum daily loads). A federal permit cannot be issued until DEQ has provided a certification or waived certification either expressly or by taking no action.

Attached under this cover please find the Final 401 Certification for NPDES Permit No. ID-0023825. Please call me at 208-236-6160 to discuss any concerns or questions regarding this final document.

Sincerely,

A handwritten signature in blue ink that reads "Lynn Van Every".

Lynn Van Every
Regional Water Quality Manager

Cc: Bruce Olenick, Regional Administrator, Pocatello
Miranda Adams, 401 Program Coordinator, Boise



Idaho Department of Environmental Quality Final §401 Water Quality Certification

September 2, 2014

NPDES Permit Number(s): ID-0023825, City of Grace

Receiving Water Body: Bear River at the Grace Forebay

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 National Pollutant Discharge Elimination System (NPDES) permits and issue water quality certification decisions.

Based upon its review of the above-referenced permit and associated fact sheet, 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 discharge 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.

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 City of Grace discharges the following pollutants of concern: BOD₅, total suspended solids, *E. coli*, total residual chlorine, pH, total ammonia and total phosphorus. Effluent limits have been developed for this list of pollutants.

Receiving Water Body Level of Protection

The City of Grace discharges to the Bear River within the Middle Bear River Subbasin assessment unit (AU) ID16010202BR009_06 (Bear River – Alexander Reservoir Dam to Densmore Creek). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning and primary contact recreation. There is no available information indicating the presence of any existing beneficial use aside from those that are already designated.

The cold water aquatic life use in this Bear River AU is not fully supported due to excess temperature (2010 Integrated Report Category 5), and TMDL's have been written and approved for previous impairment listings for total suspended solids and total phosphorus (2010 Integrated Report Category 4a). The primary contact recreation beneficial use is fully supported. As such, DEQ will provide Tier 1 protection only for the aquatic life use and Tier 2 protection, in addition to Tier 1, for the recreation beneficial use (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. In order to protect and maintain designated and existing beneficial uses, a permitted discharge must comply with narrative and numeric criteria of the Idaho WQS, as well as other provisions of the WQS such as Section 055, which addresses water quality limited waters. The numeric and narrative criteria in the WQS are set at levels that ensure protection of designated beneficial uses. The effluent limitations and associated requirements contained in the City of Grace permit are set at levels that ensure compliance with the narrative and numeric criteria in the WQS.

Water bodies not supporting existing or designated beneficial uses must be identified as water quality limited, and a total maximum daily load (TMDL) must be prepared for those pollutants causing impairment. A central purpose of TMDLs is to establish wasteload allocations for point source discharges, which are set at levels designed to help restore the water body to a condition that supports existing and designated beneficial uses. Discharge permits must contain limitations that are consistent with wasteload allocations in the approved TMDL.

In the absence of a TMDL and depending upon the priority status for development of a TMDL, the WQS stipulate that either there be no further impairment of the designated or existing beneficial uses or that the total load of the impairing pollutant remains constant or decreases (IDAPA 58.01.02.055.04 and 58.01.02.055.05). Discharge permits must comply with these provisions of Idaho WQS.

The EPA-approved *Bear River/Malad River Subbasin Assessment and Total Maximum Daily Load Plan for HUCs 16010102, 16010201, 16010202, 16010204 (March 2006) and Bear River Basin Total Maximum Daily Load Addendum to the Bear River/Malad Subbasin Assessment and Total Maximum Daily Load Plan for HUCs 16010102, 16010201, 16010202, 16010204* (February 2013 revision) establishes wasteload allocations for total suspended solids and total phosphorus. DEQ completed, and EPA approved, TMDL's for sediment and phosphorus in 2006 (reflected in category 4a of the 2010 Integrated Report). Subsequent to the 2006 TMDL for total phosphorus, DEQ revised the total phosphorus TMDL for the Alexander to Densmore Creek Bear River assessment unit in 2013 meeting with EPA approval on 13 September 2013. The 2013 TMDL addendum included a revision of the 2006 total phosphorus wasteload allocation for the City of Grace. This newly approved TMDL wasteload allocation is reflected in the effluent limit for total phosphorus in this permit and certification. These wasteload allocations are designed to ensure the Bear River will achieve the water quality necessary to support its existing and designated aquatic life beneficial uses and comply with the applicable numeric and narrative criteria. The effluent limitations and associated requirements contained in the City of Grace permit are set at levels that comply with these wasteload allocations.

In sum, the effluent limitations and associated requirements contained in the City of Grace permit are set at levels that ensure compliance with the narrative and numeric criteria in the WQS and the wasteload allocations established in the above named TMDLs. Therefore, DEQ has determined the permit will protect and maintain existing and designated beneficial uses in the Bear River 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)

The Bear River is considered high quality for primary contact recreation. As such, the water quality relevant to primary contact recreation uses of the Bear River 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 primary contact recreation uses of the Bear River (IDAPA 58.01.02.052.05). The pollutant relevant to primary contact recreation in this reach of Bear River is *E. coli*. Effluent limits are set in the proposed and existing permit for this pollutant.

For a reissued permit or license, the effect on water quality is determined by looking at the difference in water quality that would result from the activity or discharge as authorized in the current permit and the water quality that would result from the activity or discharge as proposed in the reissued permit or license (IDAPA 58.01.02.052.06.a). For a new permit or license, the effect on water quality is determined by reviewing the difference between the existing receiving water quality and the water quality that would result from the activity or discharge as proposed in

the new permit or license (IDAPA 58.01.02.052.06.a). For *E. coli*, the permit limits remain unchanged, ensuring no degradation.

In sum, DEQ concludes that this discharge permit 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

Mixing Zones

Pursuant to IDAPA 58.01.02.060, DEQ authorizes a mixing zone that utilizes 25% of the critical flow volumes of this the Bear River for chlorine and total ammonia.

Other Conditions

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities—including without limitation, any modifications of the permit to reflect new or modified TMDLs, wasteload allocations, site-specific criteria, variances, or other new information—shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401.

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 Lynn Van Every, Pocatello Regional Office, 208-236-6160, or via e-mail at lynn.vanevery@deq.idaho.gov.



Bruce Olenick
Regional Administrator
Pocatello Regional Office