



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

444 Hospital Way #300 • Pocatello, ID 83201 • (208) 236-6160
www.deq.idaho.gov

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

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

RE: Final 401 Certification of the Eastern Idaho Regional Wastewater Authority, Oxbow Wastewater Treatment Facility, Bingham County, Idaho, NPDES Permit No. ID-0020133-0.

Dear Mr. Lidgard:

The Pocatello Regional Office of the Idaho Department of Environmental Quality has reviewed the proposed final NPDES permit for the Eastern Idaho Regional Wastewater Authority, Oxbow 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-0020133-0. Please call me at 208-236-6160 to discuss any concerns or questions regarding this final document.

Sincerely,

/s/ 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

March 21, 2014

NPDES Permit Number(s): Eastern Idaho Regional Wastewater Treatment Authority Oxbow Wastewater Treatment Plant, Permit #ID-0020133-0

Receiving Water Body: Snake River

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 Oxbow Wastewater Treatment Plant discharges the following pollutants of concern: BOD₅, TSS, *E. coli*, pH, and total phosphorus for which effluent limits have been developed. No effluent limits are proposed for total ammonia.

Receiving Water Body Level of Protection

The Oxbow Wastewater Treatment Plant discharges to the Snake River within the American Falls subbasin assessment unit (AU) 17040206SK022_04 (river mile 791 (T01N, R37E, Sec. 10) to American Falls Reservoir). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, primary contact recreation and domestic water supply. In addition to these designated uses, all waters of the state are protected for wildlife habitat, aesthetics, and agricultural and industrial water supply.

The cold water aquatic life and recreation beneficial uses in this Snake River AU are not fully supported due to excess mercury (2010 Integrated Report). As such, DEQ will provide Tier 1 protection only for these two uses (Idaho Code § 39-3603(2)(b)).

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 Oxbow Wastewater Treatment Plant 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.

This reach of the Snake River is impaired by mercury and DEQ has not scheduled TMDL development to address this impairment listing. 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). DEQ has no data to suggest that the discharge from the Oxbow Waste Water Treatment Plant is contributing to this impairment. DEQ has determined that this discharge permit will comply with these provisions of Idaho WQS.

The EPA-approved American Falls Subbasin Total Maximum Daily Load Plan: Subbasin Assessment and Loading Analysis (May 2012 rev., approved by EPA in August 2012) establishes wasteload allocations for total suspended sediment (TSS) and total phosphorus (TP). These wasteload allocations are designed to ensure the Snake River and American Falls Reservoir will maintain and/or achieve the water quality necessary to support its existing and designated aquatic life beneficial uses and comply with the applicable numeric and narrative criteria. While the Snake River AU is not impaired by TP or TSS, pollutant levels in the Snake River affect water quality in the American Falls Reservoir. Therefore, wasteload allocations were assigned to the City of Shelley's wastewater discharge and are therefore applicable to the Oxbow Wastewater Treatment Plant. The effluent limitations and associated requirements contained in the Oxbow Wastewater Treatment Plant permit are set at levels that comply with these wasteload allocations.

In sum, the effluent limitations and associated requirements contained in the Oxbow Wastewater Treatment Plant permit are set at levels that ensure compliance with the narrative and numeric criteria in the WQS and the wasteload allocations established in the American Falls TMDL. Therefore, DEQ has determined the permit will protect and maintain existing and designated beneficial uses in the Snake River in compliance with the Tier 1 provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

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

Compliance Schedule

Pursuant to IDAPA 58.01.02.400.03, DEQ may authorize compliance schedules for water quality-based effluent limits issued in a permit for the first time. Oxbow Wastewater Treatment Plant cannot immediately achieve compliance with the effluent limits for total phosphorus; therefore, DEQ authorizes a compliance schedule and interim requirements as set forth in section I.C. of this discharge permit. This compliance schedule provides the permittee a reasonable amount of time to achieve the final effluent limits as specified in the permit. At the same time, the schedule ensures that compliance with the final effluent limits is accomplished as soon as possible.

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 lynn.vanevery@deq.idaho.gov.



Bruce Olenick

Regional Administrator

Pocatello Regional Office