



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

900 North Skyline, Suite B • Idaho Falls, ID 83402 • (208) 528-2650

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

July 3, 2015

Mr. Tim Cramer
ITD
PO Box 97
Rigby, Idaho 83442

RE: NWW-2012-00164-BO2 Thornton Interchange

Dear Mr. Cramer:

Enclosed is the Final Section 401 water quality certification (WQC) including the antidegradation analysis for the above referenced project.

A public comment period occurred from June 2 to June 23, 2015. During the comment period the Idaho Department of Environmental Quality (DEQ) received no comments.

Therefore, DEQ is issuing the FINAL Section 401 water quality certification for the above referenced project.

If you have any further questions or concerns, please contact me at 208.528.2650 or troy.saffle@deq.idaho.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Saffle".

Troy Saffle
Regional Manager

c: Nicholle Braspenickx, ACOE



Idaho Department of Environmental Quality Final §401 Water Quality Certification

July 2, 2015

404 Permit Application Number: NWW-2014-00164-B02

Applicant/Authorized Agent: Idaho Transportation Department/Tim Cramer

Project Location: 43.761361 N, -111.844969 W

Receiving Water Body: Texas Slough and Bannock Jim Slough

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, publicly noticed on April 24, 2015, 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

The Idaho Transportation Department proposes to construct a highway interchange near the town of Thornton, Idaho. During construction the actual interchange will not impact any streams or wetlands. However, as part of the project, all "at grade" access points to Highway 20 will be closed, affecting some portion of the wetlands surrounding Texas and Jim Bannock Sloughs. In total, 0.28 acres will be impacted by the project.

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 and it may impact salmonid spawning and cold water aquatic life. 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 Bodies Level of Protection

This project is located near Texas Slough and Bannock Jim Slough within the Idaho Falls assessment unit (AU) ID17040201SK012_02 and ID17040201SK012_06 (Snake River—Dry Bed to Annis Slough). These AUs have the following designated beneficial uses: cold water aquatic life, salmonid spawning, primary contact recreation, and domestic water supply. There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated.

All the designated uses are identified as “not assessed” on DEQ's 2012 Integrated Report. As such, DEQ will provide Tier 2 protections for all designed uses, discussed below.

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.

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 IDAPA 58.01.02.051.01 and 58.01.02.052.07.

High-Quality Waters (Tier 2 Protection)

The Texas Slough and Bannock Jim Slough are considered high quality for salmonid spawning, cold water aquatic life, primary contact recreation and domestic water supply. As such, the water quality relevant to all designated uses of Texas Slough and Bannock Jim Slough 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 salmonid spawning and cold water aquatic life uses of the Texas Slough and Bannock Jim Slough (IDAPA 58.01.02.052.06). The only pollutant of concern for this project is sediment. Sediment is not relevant to recreational uses or domestic water supply. Therefore, this project will not result in a lowering of water quality with respect to any pollutant relevant to the Tier 2 protection for this water body. As such, the project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

Permanent erosion and sediment controls must be implemented, which will minimize or prevent future sediment contributions from the project area. DEQ does not expect long-term impacts or degradation to the ID17040201SK012_02 and ID17040201SK012_06 AUs or the Texas Slough and Bannock Jim Slough, because proper BMPs are outlined in the project application and ITD will have staff inspecting those BMPs. Therefore, DEQ concludes that this project complies with 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. Further, this certification is conditioned on the proper selection and installation of BMPs as outlined in the project application provided by the Army Corps of Engineers.
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. 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.
4. 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.

Fill Material

1. Fill material shall not be placed in a location or in a manner that impairs surface or subsurface water flow into or out of any wetland area.
2. Excavated or staged fill material must be placed so it is isolated from the water edge or wetlands and not placed where it could re-enter waters of the state uncontrolled.

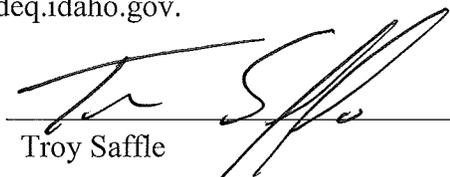
Erosion and Sediment Control

1. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standard as stipulated under the Idaho WQS (IDAPA 58.01.02.250.02.e). Any violation of this standard must be reported to the DEQ regional office immediately.
2. 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.
3. 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.
4. 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.
5. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
6. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.

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 Troy Saffle at 208.528.2650 or troy.saffle@deq.idaho.gov.


Troy Saffle

Regional Manager
Idaho Falls Regional Office