



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
John H. Tippetts, Director

15 December 2015
Michael J. Lidgard
NPDES Permits Unit Manager
EPA Region 10
1200 Sixth Avenue, Suite 900
Seattle WA 98101-3140

 **FILE**

RE: Final 401 Certification of the City of Aberdeen, Idaho, NPDES Permit No. ID-0020176.

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 Aberdeen's 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. ID0020176. Please call me at 208-236-6160 to discuss any concerns or questions regarding this final document.

Sincerely,



Lynn Van Every
Regional Water Quality Manager

Cc: Bruce Olenick, Regional Administrator, Pocatello
Nicole Deinarowicz, 401 Program Coordinator, Boise

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Idaho Department of Environmental Quality Final §401 Water Quality Certification

December 15, 2015

NPDES Permit Number(s): ID0020176, City of Aberdeen

Receiving Water Body: Hazard Cr. (Aberdeen Drain), Little Hole Draw on American Falls Reservoir

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 Aberdeen discharges the following pollutants of concern: BOD₅, TSS, *E. coli*, Total Residual Chlorine, pH, Total Phosphorus and Total Ammonia. Effluent limits have been developed for BOD₅, TSS, *E. coli*, Total Chlorine Residual, pH, and Total Phosphorus. No effluent limits are proposed for Total Ammonia.

Receiving Water Body Level of Protection

The City of Aberdeen discharges to Hazard Creek/Little Hole Draw within the American Falls Subbasin assessment unit (AU) (17040206SK025_02a). Hazard Creek/Little Hole Draw is undesignated. DEQ presumes undesignated waters in the state will support cold water aquatic life and primary and secondary contact recreation beneficial uses; therefore, undesignated waters are protected for these uses (IDAPA 58.01.02.101.01.a). In addition to these uses, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 58.01.02.100).

According to DEQ's 2012 Integrated Report, this AU is not fully supporting one or more of its assessed uses. The aquatic life use is not fully supported. Causes of impairment include Total Phosphorus and Sedimentation/Siltation (Total Suspended Solids). As such, DEQ will provide Tier 1 protection (IDAPA 58.01.02.051.01) for the aquatic life use. The contact recreation beneficial use was assessed in 2003 and was meeting criteria for *E. coli*. For purposes of this review Hazard Cr./Little Hole Draw is considered Tier 2 for recreation. The proposed permit limit is set at the water quality standard (same limit as in the current permit) and assures maintaining this beneficial use at current levels.

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 Aberdeen 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.

Prior to the development of the TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect uses (IDAPA 58.01.02.055.04).

The EPA-approved *American Falls Subbasin Total Maximum Daily Load Plan: Subbasin Assessment and Loading Analysis* (May 2012) establishes wasteload allocations for Total Suspended Solids (TSS) and Total Phosphorus (TP) in Hazard Creek/Little Hole Draw. These wasteload allocations are designed to ensure Hazard Creek/Little Hole Draw and American Falls Reservoir will achieve the water quality necessary to support its existing and designated beneficial uses and comply with applicable numeric and narrative criteria. The effluent limitations and associated requirements contained in the City of Aberdeen permit are set at levels that comply with these wasteload allocations.

In sum, the effluent limitations and associated requirements contained in the City of Aberdeen 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 Subbasin TMDL*. Therefore, DEQ has determined the permit will protect and maintain existing and designated beneficial uses in Hazard Creek/Little Hole Draw 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 Hazard Creek/Little Hole Draw is considered high quality for the recreation beneficial. As such, the water quality relevant to the recreation beneficial uses of the Hazard Creek/Little Hole Draw 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 the recreation beneficial use of the Hazard Creek/Little Hole Draw (IDAPA 58.01.02.052.05). The contact recreation beneficial use was assessed in 2003 and was meeting criteria for E. coli. For purposes of this review Hazard Cr./Little Hole Draw is considered Tier 2 for recreation. As such, DEQ must ensure that there is no lowering of water quality with respect to those pollutants relevant to recreational uses. The proposed permit limit for E. coli is set at the water quality standard, and is the same limit that is included in the current permit. Therefore, there will be no lowering of water quality with respect to recreational uses.

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. City of Aberdeen cannot immediately achieve compliance with the effluent limits for total phosphorus; therefore, DEQ authorizes a compliance schedule and interim requirements as set forth below. 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.

Table 1. City of Aberdeen compliance schedule to meet phosphorus effluent limits.

Task No.	Completion Date	Task Activity
1	March 1, 2017	Progress Report Deliverable: The permittee must provide the EPA with a Progress Report on the Facility Plan Update
2	March 1, 2018	Progress Report Deliverable: The permittee must provide the EPA a Progress Report on the Facility Plan Update
3	March 1, 2019	Facility Plan Update The permittee must develop a facility plan update that evaluates the options that would allow the facility to meet the final water quality-based effluent limitations for phosphorus and select a preferred alternative. Deliverable: The permittee must provide the facility plan update to the IDEQ for review and the necessary approvals and provide the EPA with written notification of completion
4	March 1, 2020	Progress Report on Funding Deliverable: The permittee must provide the EPA with a Progress Report on obtaining funding for the selected alternative.
5	March 1, 2021	Obtain Funding Deliverable: The permittee must provide the EPA with written notice that the necessary funding has been obtained.
6	March 1, 2022	Progress Report Preliminary Design Deliverable: The permittee must provide the EPA with a Progress Report on the Preliminary Design.

Task No.	Completion Date	Task Activity
7	September 1, 2022	Complete Preliminary Design Report Deliverable: The permittee must provide the EPA with written notice that the preliminary design report is completed. The report must be submitted to IDEQ for review and any necessary approvals.
8	September 1, 2023	Complete Final Design Deliverable: The permittee must provide the EPA with written notice that the final design is complete. The design must be submitted to IDEQ for review and any necessary approvals.
9	March 1, 2024	Award Bid for Construction Deliverable: The permittee must provide the EPA and IDEQ with written notice that the bid award is complete
10	September 1, 2025	Construction Substantially Complete Deliverable: The permittee must provide the EPA and IDEQ with written notice that the construction is substantially complete
11	February 1, 2026	Achieve Final Effluent Limitation Deliverable: The permittee must achieve compliance with the final phosphorus effluent limitations

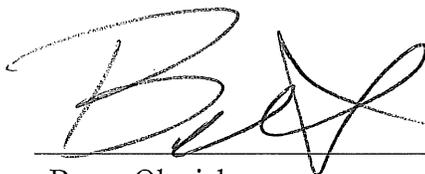
Other Conditions

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 DEQ Water Quality Manager, 208.236.6160 or lynn.vanevery@deq.idaho.gov.



Bruce Olenick
Regional Administrator
Pocatello Regional Office

