



Idaho Department of Environmental Quality
DRAFT §401 Water Quality Certification

May 18, 2011

NPDES Permit Number: City of Fruitland Wastewater Treatment Plant, **ID-002033-8**

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended, 33 USC 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 (NDPES) 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, including 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.

MIXING ZONES

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

ANTIDegradation

Idaho's antidegradation policy (IDAPA 58.01.02.051.01) requires that existing uses and the water quality necessary to protect the existing uses shall be maintained and protected (Tier 1 protection). In addition, where water quality is better than that required to maintain beneficial uses, then DEQ must assure that no degradation will occur, unless after intergovernmental coordination and public participation, degradation is deemed necessary to accommodate important economic or social development in the area in which the waters are located (Tier 2 protection).

The City of Fruitland discharges its treated wastewater to the Payette River (assessment unit ID17050122SW001_06). Because this assessment unit is not fully supporting its cold water aquatic life or primary contact recreation beneficial uses, DEQ is providing Tier 1 protection for aquatic life and contract recreation beneficial uses (see the attached

Antidegradation Review document for a more detailed discussion). Therefore, the permit must be protective of existing uses.

The effluent limitations in the draft permit for the City of Fruitland are set at levels that ensure the State's numeric and narrative criteria and other WQS provisions will be met and that comply with the *Lower Payette River TMDL* (DEQ 1999 and 2003). The numeric and narrative criteria and TMDL wasteload allocations are set at levels which protect and maintain designated and existing beneficial uses. Therefore, in accordance with IDAPA 58.01.02.051.01, the limits in the draft permit protect and maintain designated and existing beneficial uses in the Payette River.

ALTERNATIVE LIMITATIONS

The effluent limitations for fecal coliform may be omitted from the NPDES permit and the permit will still comply with Idaho WQS (including Idaho's antidegradation policy) as well as the *Lower Payette River TMDL*. The existing permit for the City of Fruitland contains effluent limitations for fecal coliform as well as *Escherichia coli* (*E. coli*). The *E. coli* limits were in the permit to reflect the bacteria criterion that DEQ adopted in 2000 to protect the contact recreation beneficial use (IDAPA 58.01.02.251.01). The fecal coliform limit was in the current permit because at the time the permit was issued, IDAPA 58.01.02.420.05 established a disinfection requirement for sewage wastewater treatment plant effluent and the 1999 *Lower Payette River TMDL* established fecal coliform wasteload allocations for the facility. The disinfection requirement specified fecal coliform concentrations not exceed a geometric mean of 200/100 mL fecal based on a minimum of five samples in one week.

In 1986, EPA updated its criteria to protect recreational use of water recommending an *E. coli* criterion as a better indicator of bacteria levels that may cause gastro-intestinal distress in swimmers than fecal coliform. DEQ changed its bacteria criterion from fecal coliform to *E. coli*, which as indicated earlier, is reflected in the current permit for the City of Fruitland. The disinfection requirements of Idaho WQS were revised in 2002 to reflect an earlier change in the bacteria criterion from fecal coliform to *E. coli*. The *Lower Payette River TMDL* was amended in 2003 to address the change in the water quality standards from fecal coliform to *E. coli*. The *E. coli* limits comply with numeric criteria at the "end-of-pipe and are as or more protective of water quality than the old fecal coliform limits.

Retention of the *E. coli* limitations and the removal of the fecal coliform limits will not result in degradation of the Payette River, will not cause or contribute to a water quality standards violation, and will protect and maintain the existing recreational beneficial uses. For these reasons, DEQ believes that deletion of the fecal coliform effluent limitations complies with Section 303(d)(4)(B) of the Clean Water Act.

CONDITIONS THAT ARE NECESSARY TO ASSURE COMPLIANCE WITH WATER QUALITY STANDARDS OR OTHER APPROPRIATE WATER QUALITY REQUIREMENTS OF STATE LAW

1. The City of Fruitland must collect continuous temperature data in the effluent as well as the Payette River upstream of the discharge.
2. The certification is conditioned upon the requirement that any material modification of this permit or the permitted activities including without limitation, any modifications of the permit to reflect new or modified TMDL waste load allocations or other new information, shall first be provided to DEQ for review to determine compliance with WQS and to provide additional certification pursuant to section 401.

OTHER CONDITIONS

The certification is conditioned upon the requirement that any material modification of this permit or the permitted activities including without limitation, any modifications of the permit to reflect new or modified TMDL waste load allocations or other new information, shall first be provided to DEQ for review to determine compliance with 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 regarding the actions taken in this certification should be directed to Pete Wagner, DEQ (Boise Regional Office) at (208) 373-0550.

Pete Wagner
Administrator, DEQ Boise Regional Office