



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706 • (208) 373-0550

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

February 8, 2012

Vicki Farrar
Idaho Transportation Department
P.O. Box 8028
Boise, Idaho 83707-2028

Re: Reference No. NWW-022300570-B02
North Fork of the Payette River

Dear Ms. Farrar:

The Department of Environmental Quality (DEQ) has considered water quality certification for construction related to the referenced project. DEQ is issuing the attached 401 Water Quality Certification subject to the terms and conditions contained therein.

This certification shall remain in effect until December 31, 2014, at which time construction must be completed.

Please contact me at (208) 373-0550 if you have any questions or further information to present.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Wagner", is written over the word "Sincerely,".

Pete Wagner
Regional Administrator
Boise Regional Office

JA: vee

c: Nicholle Braspennickx, COE, Boise
Miranda Adams, DEQ State Office
TRIM 2011AKF308



Idaho Department of Environmental Quality FINAL §401 Water Quality Certification

February 8, 2012

404 Permit Application Number: NWW 022300570-B02

Applicant/Authorized Agent: Idaho Transportation Department / Vicki Farrar

Project Location: The project is located approximately 1.4 miles southeast of the City of Cascade on State Highway 55 (MP 114) within Section 31 of T14N, R4E in Valley County, Idaho.

Receiving Water Body: North Fork of the Payette River

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 activities receiving Section 404 dredge and fill permits and issue a water quality certification decision.

Based upon review of the permit application and associated information for the above-referenced activity including the Wetland Mitigation Plan, 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, 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.

Project Description

The project will involve the removal of an existing eight pier concrete bridge in the North Fork of the Payette River and the construction of a new two pier pre-stressed three lane (one center and two traffic) concrete girder bridge approximately 22 feet to the west of the current location. New bridge will improve river flow characteristics and improve safety.

Receiving Water Body Description

The bridge removal and new bridge construction will take place on the NFPR just south of the City of Cascade. The receiving water body is the Cascade to Smiths Ferry assessment unit (AU) ID17050123SW001_06 which has the following designated beneficial uses: cold water aquatic life, salmonid spawning, primary contact recreation, domestic water supply, and special resource water. The North Fork Payette River in this AU does not support its cold water aquatic life beneficial use due to exceedances of sediment/siltation and temperature criteria. According to the 2010 Integrated Report, this AU is in Category 4a for having an EPA approved total maximum daily load (TMDL). A sediment TMDL is written for the North Fork Payette River. The beneficial uses of salmonid spawning, primary contact recreation, domestic, agriculture and industrial water supply, wildlife habitat and aesthetics have not been assessed.

Antidegradation

In March 2011, Idaho incorporated new provisions addressing antidegradation implementation in the Idaho Code. The new antidegradation provisions are in Idaho Code §39-3603. At the same time, Idaho adopted antidegradation implementation procedures in the Idaho Water Quality Standards (WQS). DEQ submitted the antidegradation implementation procedures to EPA for approval on April 15, 2011. On August 18, 2011, EPA approved of the implementation procedures.

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051). 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 the existing uses will be maintained and protected (Tier 1 protection) (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 58.01.02.052.05). 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 (Tier 2 protection) (IDAPA 58.01.02.051.02; 58.01.02.052.06). The third level of protection applies to water bodies that have been designated outstanding resource waters and requires activities to not cause a lowering of water quality (Tier 3 protection) (IDAPA 58.01.02.051.03; 58.01.02.052.07).

DEQ is employing a water body by water body approach to implementing Idaho's antidegradation policy. This approach to antidegradation implementation means that any water body fully supporting its beneficial uses will be considered high quality (Idaho Code §39-3603(2)(b)(i)). 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 (Idaho Code §39-3603(2)(b)(iii)). The most recent federally-approved Integrated Report and supporting data are used to determine support status and the tier of protection (Idaho Code §39-3603(2)(b)).

Pollutants of Concern

The primary pollutant of concern for this project is sediment. As part of the Section 401 water quality certification, DEQ is requiring the applicant to comply with various conditions to protect water quality and to meet Idaho WQS, including the water quality criteria applicable to sediment and turbidity.

Receiving Water Body Level of Protection

The cold water aquatic life use in the North Fork Payette River AU ID17050123SW001_06 is not fully supported due to excess sediment/siltation and temperature exceedances (DEQ, 2010 IR). As such, DEQ will provide Tier 1 protection only for the aquatic life use (Idaho Code §39-3603(2)(b)(i)).

The primary contact recreation beneficial use has not been assessed; therefore, DEQ must determine the appropriate level of antidegradation protection on a case-by-case basis using information available at the time (Idaho Code §39-3603(2)(b)(ii)). *E. coli* samples are available from the EPA's STORET database for this AU. Although samples were not taken frequently enough to calculate a geometric mean comparable to Idaho Water Quality Standards, all sample results are below 126 cfu/100ml, which strongly suggests no impairment. Based on this information DEQ shall provide Tier 2 protection in addition to Tier 1 for recreational uses (IDAPA 58.01.02.251.01).

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. The cold water aquatic life beneficial use is not fully supported due to sediment/siltation and temperature; a load allocation for sediment is included in the *North Fork Payette River TMDL* (DEQ, 2005). Temperatures do exceed the temperature standard, but this is primarily due to warm water exiting Cascade Reservoir. Canopy cover in the listed stream segment meets target levels and thus, a TMDL is not recommended. Suspended sediment is not impairing beneficial uses, but the effects of *bedload* sediment entering that reach from the Cascade to Clear Creek reach is impairing beneficial uses. A TMDL for sediment with an allocation based on bank erosion was determined for this reach.

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 CWA, and requires a showing 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 which ensure protection of designated beneficial uses.

For antidegradation review purposes, the North Fork of the Payette River at the project location is not fully supporting its cold water aquatic life beneficial use due to excess sediment/siltation; therefore, the receiving water is not considered a high quality water for this use and DEQ will provide Tier1 protection.

The primary pollutant for this project is sediment. DEQ understands the eight existing bridge piers will be removed and two piers of the new bridge will be placed in the streambed. This project will cause a disturbance to the river bed, resulting in increased sediment and turbidity. However, the construction activity description explains that in-channel work will be enclosed within a temporary coffer dam which will not need to be dewatered and will be constructed to control and prevent turbidity to the NFPR.

Wetland areas adjacent to the North Fork of the Payette River will be impacted by temporary and permanent fill. This project will use a private wetland mitigation bank to compensate for wetland loss as a result of this project. Wetland areas will be revegetated where practicable with native vegetation and willow cuttings. Planting will take place in the autumn or spring of the year to allow sufficient time for establishment. These activities will help repair or replace wildlife habitat and biological diversity, stabilize banks, and provide a method of sediment, nutrient and toxicant removal.

During the construction phase, the applicant will implement, install, maintain, monitor and adaptively manage best management practices directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the project. Permanent erosion and sediment controls will be implemented to help minimize or prevent future sediment contributions from the project area. Additionally, DEQ will also require turbidity monitoring as part of this certification. The monitoring plan should demonstrate how ITD will meet the requirements of this certification.

As long as the project is conducted in accordance with the provisions of the project plans, Section 404 permit and conditions of this certification, then there is reasonable assurance the project will comply with the States' numeric and narrative criteria. The numeric and narrative criteria are set at levels which protect and maintain designated and existing beneficial uses. In addition, the project will be consistent with the *North Fork Payette River TMDL*. The TMDL provides that construction activities that obtain a permit and follow best management practices will be considered in compliance with the TMDL.

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, IDAPA 58.01.02.052.05 and 40 CFR 131.12(a)(1).

High Quality Waters (Tier 2 Protection)

NFPR is considered high quality for primary contact recreation. As such, the water quality relevant to primary contact recreation of the North Fork of the Payette River must be maintained and protected, unless a lowering of water quality is deemed necessary to accommodate important social or economic development.

In order to determine whether degradation will occur, DEQ must evaluate the effect on water quality of the issuance of the permit for each pollutant that is relevant to primary contact recreational uses of the North Fork Payette River (IDAPA 58.01.02.052.04). These

pollutants include *E.coli*. The only pollutant of concern for this project is sediment. Sediment is not relevant to recreational uses. 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.

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

GENERAL CONDITIONS

1. This certification authorizes the activity as described in the joint application for permit received on December 16, 2011. Unless otherwise authorized by DEQ, this certification is valid until December 31, 2014.
2. This certification is conditioned upon the requirement that any modification (e.g. change in best management practices, 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 §401. Such modifications may not be implemented until DEQ has made a determination whether additional certification is necessary.
3. 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 water quality standards, there is no longer reasonable assurance of compliance with water quality standards or other appropriate requirements of state law.
4. In the event ownership of the project changes, the certification holder shall notify DEQ, in writing, upon transferring this ownership or responsibility for compliance with these conditions to another person or party. The new owner/operator shall request, in writing, the transfer of this water quality certification to his/her name.
5. A copy of this certification must be kept on the job site and readily available for review by any contractor working on the project as well as any federal, state, or local government personnel.
6. Project areas shall be clearly identified in the field prior to initiation of land disturbing activities to ensure avoidance of impacts to waters of the U.S. beyond project footprints.
7. 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.

8. The applicant is responsible for all work done by contractors and must ensure the contractor(s) are informed of and follow all the conditions described in this certification and the Section 404 permit.
9. Because this project disturbs more than 1 acre and there is potential for discharge of stormwater to a waters of the U.S., coverage under the U.S. Environmental Protection Agency Construction Stormwater General Permit *must* be obtained. More information can be found at:
<http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources>.
10. The applicant shall provide to DEQ a signed statement from any contractor working on the project that they have read and understand the conditions of this certification and the Corps of Engineers permit. These statements must be provided to DEQ prior to the contractor beginning work at the project site.

FILL MATERIAL

1. Fill material shall be free of organic and easily suspendable fine material. The fill material to be placed shall include clean earth fill, sand, and stone only.
2. 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.
3. Placement of fill material in existing vegetated wetlands shall be minimized to the greatest extent possible.
4. All temporary fills shall be removed in their entirety on or before the completion of construction.
5. Excavated or staged fill material must be placed so that 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. Best management practices (BMPs) for sediment and erosion control suitable to prevent exceedances of state water quality standards shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is the DEQ Catalog of Stormwater BMPs for Cities and Counties available online at: <http://www.deq.idaho.gov/media/494058-entire.pdf>.

Other sources of information may be used for selecting appropriate BMPs.

2. One of the first construction activities shall be the placement of 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 the operation of the project.
5. Top elevations of bank stabilization shall be such that adequate freeboard is provided to protect from erosion at 100 year design flood elevation.
6. Structural fill or bank protection shall consist of materials that are placed and maintained to withstand predictable high flows in the waters of the state.
7. BMPs shall be inspected and maintained during project implementation.
8. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily.
9. BMP effectiveness shall be monitoring during project implementation. BMPs shall be replaced or augmented if they are not effective.
10. All construction debris shall be properly disposed of so that it cannot enter waters of the State or cause water quality degradation.
11. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
12. Maximum fill slopes shall be such that material is structurally stable once placed and does not slough into the stream channel during construction, during periods prior to revegetation, or after vegetation is established.
13. To the extent reasonable and cost-effective, the activity submitted for certification shall be designed to minimize subsequent maintenance.
14. Sediment from disturbed areas or able to be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the State. Placement of clean aggregate at all construction entrances or exits, and other BMPs such as truck or wheel washes if needed, must be used when earth moving equipment will be leaving the site and traveling on paved surfaces.

TURBIDITY

1. Sediment that is the result of this activity must be mitigated to prevent violations of the turbidity standard as stipulated under Section 58.01.02 of the Idaho Water Quality Standards. The standard reads, "Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than fifty (50) Nephelometric Turbidity Units (NTU) instantaneously or more than twenty-five (25) NTU for more than ten (10) consecutive days." Any violation of this standard must be reported to this office immediately.
2. All practical BMPs on disturbed banks and within the waters of the State must be implemented to minimize turbidity during in-water work.
 - a. Use of containment measures such as silt curtains, geotextile fabrics, and silt fence must be implemented and properly maintained in order to minimize instream sediment suspension and resulting turbidity.
3. Turbidity monitoring must be conducted and recorded in a manner sufficient to determine whether state water quality standards are being met throughout the duration of the project. Monitoring must occur each day during project implementation.
 - a. DEQ requires the applicant to collect data under an EPA approved QAPP, Turbidity Monitoring Plan and SOP for each component of the monitoring plan. It is expected that these documents be made available to DEQ upon request.
 - b. Any violation of the turbidity standard must be reported to DEQ immediately. If the standard is exceeded at any time due to project activities as shown by monitoring, activity shall cease immediately and appropriate action shall be taken to correct the situation prior to continuing work. All mitigation activities shall be reported to DEQ.
 - c. Reporting of turbidity monitoring: Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The log must include: background NTUs or observation; compliance point NTUs or observation, comparison of background and compliance point monitoring in NTU or narrative form, location, time, and date for each sample event. The report must describe all exceedances and subsequent actions taken, and the effectiveness of the action.

IN-WATER WORK

4. Work in open water is to be kept at a minimum and only when necessary. Equipment shall work from an upland site to minimize disturbance of waters of the U.S. If this is not practicable, appropriate measures must be taken to ensure disturbance to the waters of the U.S. is minimized.
5. Construction affecting the bed or banks shall take place only during periods of low flow.
6. Forging of the channel is not permitted.

7. Heavy equipment working in wetlands shall be placed on mats or suitably designed pads to prevent damage to the wetlands.
8. Work in waters of the State shall be restricted to areas specified in the application.
9. Measures shall be taken to prevent the entrance of wet concrete into waters of the State when placed in forms and/or from washing of trucks.
10. To minimize sediment transportation, stabilization of the stream channel or stream banks must be completed prior to returning water to a dewatered segment.

POLLUTANTS/TOXICS

1. The use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, fertilizers, deicing salts, etc. during construction and operation should be limited to the best estimate of optimum application rates. All reasonable measures shall be taken to avoid excess application and introduction of chemicals into the waters of the State.

VEGETATION PROTECTION AND RESTORATION

1. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.
2. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
3. Fencing and other barriers should be used to mark the construction areas.
4. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation shall be successfully reestablished to function for water quality benefit at pre-project levels or improved at the completion of authorized work.

DREDGE MATERIAL MANAGEMENT

1. Upland disposal of dredged material must be done in a manner that prevents the material from re-entering waters of the State.

MANAGEMENT OF HAZARDOUS OR DELETERIOUS MATERIALS

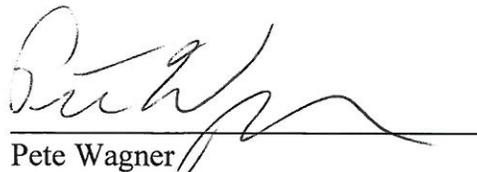
1. Petroleum products, hazardous, toxic and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must be in place to ensure that those materials will not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third party activities.
2. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel.

3. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be done to assure no leaks or potential leaks exist prior to equipment use. A log book of these inspections shall be kept on site and provided to DEQ upon request.
4. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
5. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the State. Any wastewater or wash water must not be allowed to enter a water of the State.
6. Emergency spill procedures shall be in place which may include a spill response kit (e.g. oil absorbent booms or other equipment).
7. Any spill less than 25 gallons must be cleaned up within 24-hours of the release but does not require reporting to DEQ. If the spill is less than 25 gallons and is not cleaned up within 24-hours, then it becomes a reportable quantity.
8. Any spill greater than or equal to 25 gallons must be cleaned up within 24 hours of the release and reported to DEQ by calling 1-800-632-8000 (Idaho State Communication Center). Any spill equal to or greater than 25 gallons is reportable immediately.
9. A release that causes a sheen (of any size) in waters of the State must be reported immediately to the National Response Center at 1-800-424-8802 and the Idaho State Communication Center.

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 Julia Achabal, DEQ Boise Regional Office, 208.373.0550, julia.acahabal@deq.idaho.gov.



Pete Wagner
Regional Administrator
DEQ Boise Regional Office