STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

May 30, 2012

Mr. Michael Francis
Environmental Compliance Section
Walla Walla District, Corps of Engineers
201 North Third Avenue
Walla Walla, WA 99362 - 1876

RE: Water Quality Certification for CENWW-PM-PD-EC 12-01

Dear Mr. Francis;

Attached is the final §401 water quality certification for the above referenced project. The 401 process requires a public notice of 21-days. The comment period closed on May 29, 2012. No public comments were received by the Idaho Department of Environmental Quality. Therefore, we are pleased to issue this final certification.

If you have any questions or concerns, please do not hesitate to contact me at 208.799.4370 or john.cardwell@deq.idaho.gov

Sincerely,

John Cardwell
Regional Water Quality Program
Lewiston Regional Office

c: Anneli Aston, ACOE
Clayton Steele, TRIM Record
Miranda Adams, TRIM Record

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Idaho Department of Environmental Quality

Final §401 Water Quality Certification

May 30, 2012

404(b)(1) Application Number: CENWW-PM-PD-EC 12-01

Applicant/Authorized Agent: US Army Corps of Engineers, Walla Walla District

Project Location: The project site is located at the Canyon Creek Campground area on the North Fork Clearwater River at River Mile 7 on Dworshak Reservoir.

Receiving Water Body: Dworshak 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 activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the Corps of Engineers Civil Works Action Section 404(b)(1) evaluation, publicly noticed on March 30, 2012, DEQ certifies that if the Corps of Engineers complies 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 purpose of the proposed action is to enhance the recreational facilities at Canyon Creek Campground by creating useable access roads and a parking area below the ordinary high water mark for use during reservoir drawdown.

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 58.01.02.052.05).

- 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; 58.01.02.052.06).
- 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; 58.01.02.052.07).

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). 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.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. 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 Body Level of Protection

The project in the Canyon Creek Campground area is located within the assessment unit (AU) 17060308CL002_06L. Dworshak Reservoir is designated for the following 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.

The Dworshak Reservoir AU designated beneficial uses have not been assessed, therefore DEQ must determine the appropriate level of antidegradation protection on a case-by-case basis. Currently there is no data available regarding the support status of cold water aquatic life, salmonid spawning, primary contact recreation, and domestic water supply and the collection of necessary data to determine the use support status of this AU would take considerable time. As such, the applicant has agreed to consider Dworshak Reservoir high quality water for aquatic life, salmonid spawning, contact recreation, and water supply beneficial uses (ACOE, personnel communication). For the purpose of this antidegradation review, and to prevent further delays in the issuance of this certification, Tier 2 protection will be applied for aquatic life, salmonid spawning, contact recreation, and water supply on Dworshak Reservoir. DEQ will re-evaluate the level of antidegradation protection afforded to this AU based on available information when preparing future 401 certifications for federally-permitted activities that may affect Dworshak Reservoir.

In sum, DEQ will provide Tier 2 protection, in addition to Tier 1 protection for the cold water aquatic life, salmonid spawning, primary contact recreation, and domestic water supply beneficial 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. The numeric and narrative criteria in the WQS are set at levels that ensure protection of designated beneficial uses.

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the project. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area. As long as the project is conducted in accordance with the provisions of the Section 404 (b)(1) project plans and conditions of this certification, then there is reasonable assurance the project will comply with the state's numeric and narrative criteria. These criteria are set at levels that protect and maintain designated and existing beneficial uses.

High-Quality Waters (Tier 2 Protection)

Dworshak Reservoir is considered high quality for cold water aquatic life, salmonid spawning, contact recreation, and water supply beneficial uses. As such, water quality relevant to cold water aquatic life, salmonid spawning, contact recreation, and water supply uses of Dworshak Reservoir 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 404(b)(1) evaluation will affect water quality for each pollutant that is relevant to the above listed beneficial uses of Dworshak Reservoir (IDAPA 58.01.02.052.04). These pollutants include sediment, temperature, and *E. coli*. The only pollutant of concern for this project is sediment. Sediment is not relevant to the recreational or water supply beneficial uses and project activities are not expected to contribute to further sources of *E. coli* to Dworshak Reservoir. Additionally, project activities are not expected to contribute to temperature exceedances. In fact, re-vegetation efforts in the project area may help reduce water temperature along the shoreline and provide erosion control.

DEQ has therefore concluded that 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 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 Section 404 (b)(1) 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.
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. A copy of this certification must be kept on the job site and readily available for review by any contractor working on the project and any federal, state, or local government personnel.
4. The applicant is responsible for all work done by contractors and must ensure the contractors are informed of and follow all the conditions described in this certification.
5. If this project disturbs more than 1 acre and there is potential for discharge of stormwater to waters of the US, coverage under the EPA Stormwater Construction General Permit *must* be obtained. More information can be found at http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources.

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. All temporary fills shall be removed in their entirety on or before construction completion.
3. 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

4. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's *Catalog of Stormwater Best Management Practices for Idaho Cities and Counties*, available online at http://www.deq.idaho.gov/media/494058-entire.pdf. Other resources may also be used for selecting appropriate BMPs.

5. 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.
6. Structural fill or bank protection shall consist of materials that are placed and maintained to withstand full pool water levels in Dworshak Reservoir.
7. If the turbidity in Dworshak Reservoir adjacent to the construction project exceeds 50 nephelometric turbidity units (NTU) or more, *or if a plume is observed*, then the project is causing an exceedance of the WQS. If an exceedance occurs, the applicant must inspect the condition of project BMPs. If the BMPs appear to be functioning to their fullest capability, then the applicant must modify the activity (this may include modifying existing BMPs).
8. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.

Management of Hazardous or Deleterious Materials

9. Petroleum products and 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.
10. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be done to ensure no leaks or potential leaks exist prior to equipment use.
11. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
12. 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.
13. 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.
14. 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 Communications Center). Any spill equal to or greater than 25 gallons is reportable immediately.
15. Any release that causes a sheen 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 (1-800-632-8000).

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 Cindy Barrett, Lewiston Regional Office, (208) 799-4370 or Cynthia.Barrett@deq.idaho.gov.

Clayton Steele
Regional Administrator
Lewiston Regional Office