



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

2110 Ironwood Parkway • Coeur d'Alene, Idaho 83814 • (208) 769-1422

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

July 2, 2012

Farrell Brothers Partnership  
1929 W. Jefferson Ave  
St. Maries, ID 83861

RE: Final §401 Water Quality Certification for Farrell Brothers Partnership St. Joe River  
Bank Stabilization Project; NWW 1997-1200840

Dear Mr. Farrell,

Enclosed is the final water quality certification for the Farrell Brothers Partnership project. This certification was prepared in response to the May 18, 2012 Army Corps of Engineers request for DEQ to provide certification for their permit. Our draft certification process allowed the public to examine the draft document and provide written comments to DEQ for a 21 day period of time. The comment period ended on June 29, 2012 and no comments were received therefore, only small editorial changes have been made to the enclosed final certification.

If you have any questions or concerns, please contact June Bergquist at 208.666.4605 or via email at [june.bergquist@deq.idaho.gov](mailto:june.bergquist@deq.idaho.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Redline", is written over a large, light-colored circular mark.

Daniel Redline  
Regional Administrator  
Coeur d'Alene Regional Office

Enclosure

c: Mike Burgan, Corps of Engineers - Coeur d'Alene Office  
Miranda Adams, DEQ State Office



## Idaho Department of Environmental Quality Final §401 Water Quality Certification

July 2, 2012

**404 Permit Application Number:** NWW-1997-1200840, Farrell Brothers Partnership

**Applicant/Authorized Agent:** Farrell Brothers Partnership

**Project Location:** T46N, R2E, Section 4, Downstream 1.74 road miles from Calder, Idaho on south bank of the St. Joe River

**Receiving Water Body:** St. Joe River

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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.

DEQ has reviewed the facts and the figures presented in the public notice and joint application for permit for the above-referenced activity. DEQ has also reviewed and considered other material and information related to the proposed activity, including but not limited to the following: April 24, 2012 email from Kevin Traylor, NRCS to Bryon Holt, USFWS.

Based upon our review and consideration of the information listed above, DEQ certifies that if the permittee complies with the terms and conditions imposed by the above-referenced 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 proposed project is to stabilize 650 feet of river bank along the left descending bank of an island in the St. Joe River, construction of four stream barbs, and construction of three temporary stream crossings in the St. Joe River to gain access to the work site. If river levels are low enough crossing can be achieved without the temporary culverts. This project was designed by the NRCS and is scheduled to occur during summer low flow period.

## 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***

This bank stabilization project is located within the assessment unit (AU) 17010304PN027\_05. This AU has 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.

The cold water aquatic life use in this St. Joe River AU is not fully supported due to excess temperature (2010 Integrated Report). The primary contact recreation beneficial use is fully supported. As such, DEQ will provide Tier 1 protection only for the aquatic life use and Tier 2 protection, in addition to Tier 1, for the recreation beneficial use (IDAPA 58.01.02.051.02; 58.01.02.051.01).

### ***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.

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 TMDL has been developed for excess temperature.

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, this project should repair a severe bank erosion problem and will restore willow trees along the entire length of the project. Riparian vegetation such as willow trees, aid in bank stabilization, reduce water temperature which benefits fish, and aids in the recruitment of large woody debris which adds complex habitat features to the river for fish and other aquatic life. 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 state's numeric and narrative criteria. These criteria are set at levels that protect and maintain designated and existing 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.

### ***High-Quality Waters (Tier 2 Protection)***

The St. Joe River is considered high quality for recreational uses. As such, the water quality relevant to recreational uses of the St. Joe River 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 recreational uses of the St. Joe River (IDAPA 58.01.02.052.04). 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.

Permanent erosion and sediment controls must be implemented, which will minimize or prevent future sediment contributions from the project area. Although this project may result in minimal short-term sediment impacts to the water body, DEQ does not expect long-term impacts or degradation to the St. Joe River. 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 (contact on last page) 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. If ownership of the project changes, the certification holder shall notify DEQ Coeur d'Alene Regional Office 2110 Ironwood Parkway, Coeur d'Alene, ID 83814, 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.
4. 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.
5. 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.
6. 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.
7. 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 and the Section 404 permit.

### ***Fill Material***

1. All temporary fills shall be removed in their entirety on or before construction completion.
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. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS shall be selected and installed before starting construction at the site. At a minimum, BMPs must be inspected and maintained daily during project implementation.

2. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or modified if they are not effective.
3. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
4. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.

### ***Turbidity***

All practical BMPs on disturbed banks and within the waters of the state must be implemented to minimize turbidity during in-water work.

### ***In-water Work***

1. Construction affecting the bed or banks shall take place only during periods of low flow.
2. Work in waters of the state shall be restricted to areas specified in the application.

### ***Pollutants/Toxics***

The use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, and fertilizers 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 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. Damage to river banks caused by heavy equipment travel to and from the island shall be repaired so the bank is stable and re-vegetated.

### ***Dredge Material Management***

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 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.

2. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
3. 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.
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 and possible invasive species, in an upland location 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 and may include a spill response kit (e.g., oil absorbent booms or other equipment).
7. An above ground spill or overflow of petroleum 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. An above ground spill or overflow of petroleum 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.
9. Any 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 (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 or comments regarding the actions taken in this certification should be directed to June Bergquist, Coeur d’Alene Regional Office at 208-666-4605 or via email at [june.bergquist@deq.idaho.gov](mailto:june.bergquist@deq.idaho.gov).



Daniel Redline  
Regional Administrator  
Coeur d’Alene Regional Office