



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

August 2, 2012

Robert Schumacher
Idaho Transportation Department
2600 Frontage Road
Lewiston, Idaho 83501

Subject: Water Quality Certification for NWW-2012-356-B02

Dear Mr. Schumacher:

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 August 1, 2012. No public comments were received by the Idaho Department of Environmental Quality. Therefore, DEQ is issuing the 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,

A handwritten signature in black ink that reads "John Cardwell".

John Cardwell
Water Quality Manager
Lewiston Regional Office

c: Nicholle Braspennickx, ACOE, Boise
Clayton Steele, TRIM Record
Miranda Adams, TRIM Record



Idaho Department of Environmental Quality Final §401 Water Quality Certification

August 2, 2012

404 Permit Application Number: NWW-2012-356-B02

Applicant/Authorized Agent: Idaho Department of Transportation

Project Location: U.S. Highway 95, Fish Hatchery Road and Old State Highway-7 Turn Bays, near Grangeville, Idaho County. Township 30N, Range 2E, Section 24/13.

Receiving Water Body: Long Haul Creek

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 joint application for permit, publicly noticed on June 27, 2012, 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, 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 Idaho Transportation Department proposes to fill 0.01 acres of emergent wetland, and approximately 135 linear feet of a road-side ditch for two turn bay projects. The project will mitigate the wetland impacts by providing riparian restoration and planting trees.

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 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 minor discharge of granular earthfill and rock associated with the construction of the two turn bays are located within the South Fork Clearwater Subbasin assessment unit (AU) ID17060305CL009_02 (Long Haul Creek). This AU has not yet been designated in Idaho's WQS. Because DEQ presumes most waters in the state will support cold water aquatic life and primary or secondary contact recreation beneficial uses, undesignated waters are protected for these uses (IDAPA 58.01.02.101.01.a).

The cold water aquatic life use and contact recreation beneficial use are not fully supported due to excess nutrients, sediment, temperature, and bacteria (2010 Integrated Report). As such, DEQ will provide Tier 1 protection for the aquatic life use and 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. This Long Haul Creek AU is included in the *Cottonwood Creek Total Maximum Daily Load (TMDL), 2000*.

The Cottonwood Creek TMDL noted problems of channelization, removal of riparian vegetation, and dominance of reed canary grass in the upper reaches of Long Haul Creek, and that construction activities can contribute to temperature, sediment, and nutrient increases. The TMDL also noted that soil and water conditions are unstable and sediment deposition in wetland areas has reduced the function and value of the wetlands.

The Cottonwood Creek TMDL proposes increases in stream shading in order to meet the temperature criteria. This project includes a wetland mitigation plan, and riparian shade will be increased through improvement of shade providing riparian woody species; soil stability will improve through restoration of herbaceous and woody species to provide root mass to provide a matrix for holding the soil particles together; infiltration will be improved through an increase in bank and canopy vegetative cover to intercept stormwater flow and precipitation which can maintain the water table, especially during the summer.

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) for permanent erosion and sediment control in order to minimize or prevent future sediment contributions as a result of this project. This project will not be contributing bacteria to the wetlands, therefore contact recreation will not be impacted as a result of this project. As long as the project is conducted in accordance with the provisions of the project plans, the 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 and will be consistent with the *Cottonwood Creek Total Maximum Daily Load, 2000* (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

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 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, 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 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.
7. 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. Placement of fill material in existing vegetated wetlands shall be minimized to the greatest extent possible.
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

1. Work will be conducted during low water conditions.
2. 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 adjacent wetlands.
3. 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.
4. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
5. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
6. Maximum fill slopes shall be such that material is structurally stable once placed and does not slough into adjacent wetlands during construction, during periods prior to revegetation, or after vegetation is established.

Vegetation Protection and Restoration

1. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.

2. Fencing and other barriers should be used to mark the construction areas.
3. 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.

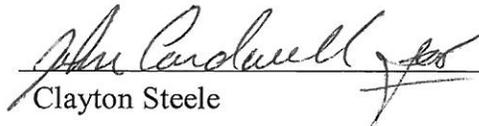
Management of Hazardous or Deleterious Materials

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 including wetlands. 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. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
3. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
4. Spills of petroleum products must be cleaned up immediately in accordance with the WQS, IDAPA 58.01.02.851.04. 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. 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.

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 to Cindy Barrett at (208) 799-4370 or Cynthia.Barrett@deq.idaho.gov.



Clayton Steele
Regional Administrator
Lewiston Regional Office