



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370

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

September 7, 2012

Andrew Grant
Latah County Parks and Recreation
P.O. Box 8068
Moscow, Idaho 83843

Subject: Water Quality Certification for NWW-2012-145-C03

Dear Mr. Grant:

Attached is the final §401 water quality certification for the above referenced project. The §401 process requires a public notice, and the comment period closed on September 6, 2012. No public comments regarding the §401 water quality certification 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 blue ink that reads "John Cardwell".

John Cardwell
Water Quality Manager
Lewiston Regional Office

cc: Beth Reinhart, ACOE, Coeur d'Alene
Clayton Steele, TRIM Record
Miranda Adams, TRIM Record



Idaho Department of Environmental Quality Final §401 Water Quality Certification

September 7, 2012

404 Permit Application Number: NWW-2012-145-C03

Applicant/Authorized Agent: Latah County Parks and Recreation

Project Location: Project site is located 1.25 miles west of Kendrick city limit, Township 38N, Range 3W, Section 35.

Receiving Water Body: Potlatch River

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 August 13, 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

Large riprap will be placed with an excavator along 800 linear feet of levy and river bank and will include 6 rock barbs 20 feet in length. An excavator will be used to place the rip rap material and access the project site from the levy trail. The project site will be planted with native plant material.

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 Potlatch River bank stabilization project is located within the Clearwater Subbasin assessment unit (AU) ID17060306CL044_06 (Potlatch River – Big Bear Creek to mouth). 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 and salmonid spawning beneficial uses in this Potlatch River AU are not fully supported due to excess sediment and 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 and salmonid spawning uses, 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. This Potlatch River AU is included in the *Potlatch River Subbasin Assessment and TMDLs*, approved by the Environmental Protection Agency (EPA) on February 13, 2009.

The sediment TMDL addresses the direct effects suspended sediment has on the habitat and spawning success of fish, detrimental changes to food sources, and physiological stress. 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. The temperature TMDL for this Potlatch River AU calls for an increase in riparian shade in order to restore stream temperatures to background conditions. During and after rip-rap installation, native plant material will be reintroduced to revegetate the project area and the planted materials will improve the site by providing erosion control and shade.

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 and the project will be consistent with the *Potlatch River Subbasin Assessment and TMDLs*.

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 and 58.01.02.052.07.

High-Quality Waters (Tier 2 Protection)

The Potlatch River is considered high quality for primary contact recreation. As such, the water quality relevant to the contact recreation use of the Potlatch 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 the pollutant (*E. coli* bacteria) that is relevant to the contact recreation use of the Potlatch River. Project activities are not expected to contribute sources of *E. coli* to the Potlatch River. The only pollutant of concern for this project is sediment, and 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 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 construction activities to ensure avoidance of impacts to waters of the state 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.
8. All in-river work, including placing the rip-rap, will comply with the fish work windows and other ESA conditions set by the ACOE 404 permit.
9. If this project disturbs more than 1 acre and there is potential for discharge of stormwater to waters of the state, 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. All riprap and bank barbs will be constructed with clean, dense, angular rock that is free of fines and resistant to aquatic decomposition.
2. Bank barbs shall follow appropriate engineering designs and placed such that they will not cause headwater cutting or other adverse channel adjustments.

3. Excess excavation material is not to be used as riprap. Riprap used for the bank barbs shall be large enough and of the right shape to provide long term flood control.
4. Excavated or staged fill material must be placed so it is isolated from the water edge and not placed where it could re-enter waters of the state uncontrolled. The Potlatch River drainage has excessive bedload and the material should not be placed in a location where it can re-enter the waterway.

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. 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.
2. 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.
3. 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.
4. Equipment shall be operated from the top of the bank and in-river work shall be kept to a minimum.
5. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
6. Existing trees and shrubs shall be preserved to the maximum extent practicable. There are already documented habitat and water temperature problems in this section of the Potlatch River and trees provide habitat and shade. Vegetation is also known to be effective bank stabilization. Riparian vegetation that must be removed to facilitate construction shall be replanted.
7. 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.

Turbidity

1. All practical BMPs shall be implemented to prevent and control the discharge of sediment to the river during construction. The BMPs shall be maintained and monitored for effectiveness. BMPs shall be replaced or augmented if they are not effective. At no time will construction result in an increase over background turbidity greater than 50 nephelometric turbidity units (NTU) instantaneously or 25 NTU over ten consecutive days.
2. Equipment shall work from an upland site to minimize disturbance of waters of the state. If this is not practicable, appropriate measures must be taken to ensure disturbance to the waters of the state is minimized.

Vegetation Protection and Restoration

1. Disturbance of existing 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.

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. 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. A log book of these inspections shall be kept on site and provided to DEQ upon request.
3. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
4. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
5. Spills of petroleum products must be cleaned up immediately in accordance with the WQS, IDAPA 58.01.02.851.04.
 - a. 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.
 - b. 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.
 - c. 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 Cindy Barrett at (208) 799-4370, or Cynthia.Barrett@deq.idaho.gov.



Clayton Steele
Regional Administrator
Lewiston Regional Office