Idaho Department of Environmental Quality

Final §401 Water Quality Certification

June 30, 2008

NPDES Permit Number: **IDR10-0000** General Permit for Storm Water Discharges from Construction Activities (CGP)

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), the Idaho Department of Environmental Quality (IDEQ) has authority to review National Pollution Discharge Elimination System (NPDES) permits and issue a water quality certification decision.

The draft version of the above-reference permit (also known as the Construction General Permit [CGP]) contains Idaho-specific conditions that were established in Idaho's certification (dated April 14, 2003) for the 2003 permit. Those conditions, with minor modifications, are included in this certification. IDEQ certifies that if the final CGP contains the conditions as written below and the permittees comply with the terms and conditions imposed by the above-referenced permits, then there is reasonable assurance the discharges 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).

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, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

CONDITIONS THAT ARE NECESSARY TO ASSURE COMPLIANCE WITH WATER QUALITY STANDARDS

303(d)-listed Water Bodies with Approved TMDLs
Discharges of storm water will be consistent with load allocations established by the applicable TMDL.

303(d)-listed Water Bodies without Approved TMDLs (High Priority)
If a TMDL has not been established for a high priority 303(d)-listed water body, then discharges of storm water may not cause an increase in the total load of listed pollutant(s) in the receiving water body.

303(d)-listed Water Bodies without Approved TMDLs (Medium or Low Priority)
If a TMDL has not been established for a medium or low priority 303(d)-listed water body, then best management practices shall be employed as necessary to prohibit further impairment of the designated or existing beneficial uses in the receiving water body.

Best Management Practices (BMPs)
BMPs must be designed, implemented, and maintained by the permittee to fully protect and maintain the beneficial uses of the receiving water body. The permittee should select appropriate BMPs that are authorized by the appropriate designated agency as defined in Idaho Water Quality Standards (IDAPA 58.01.02), recommended in IDEQ's *Catalog of Stormwater BMPs for Idaho Cities and Counties*, recommended by other local government entities, recommended by other appropriate guidance documents, or that will otherwise fully protect and maintain beneficial uses.

Equivalent Analysis Waiver
Use of the "Equivalent Analysis Waiver" in Addendum C is not authorized.

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.

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities, including without limitation, any modifications of the permit to reflect new or modified TMDLs, wasteload allocations, site specific criteria, variances, or other new information, shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to §401.

Questions regarding the actions taken in this certification should be directed to Johnna Sandow, IDEQ (State Office) at (208) 373-0163.

Barry N. Burnell
Administrator
IDEQ Water Quality Division