



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

900 North Skyline, Suite B • Idaho Falls, ID 83402 • (208) 528-2650

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

February 9, 2015

Mr. Jeri D'Orazio  
First Fruits Foundation/LWR  
PO Box 510  
Challis, Idaho 83226

**RE: NWW-2008-00442 Garden Creek Buried Utility Line Project**

Dear Mr. D'Orazio:

Enclosed is the Final Section 401 water quality certification (WQC) including the antidegradation analysis for the above referenced project.

A public comment period occurred from October 30 to November 20, 2014. During the comment period the Idaho Department of Environmental Quality (DEQ) received comments from: the Custer County Commission, City of Challis, Idaho Department of Fish and Game, and three private citizens. DEQ's Response to Comments document is enclosed along with DEQ's final WQC.

DEQ reviewed the comments and made one significant change to the final WQC (General Condition #1):

First Fruits Foundation must notify DEQ and provide dates of approval for required City and County permits as well as the date of the final Biological Opinion from the National Marine Fisheries Service prior to starting construction.

After reviewing and addressing the comments, DEQ is issuing the FINAL Section 401 water quality certification for the above referenced project.

If you have any further questions or concerns, please contact me at 208.528.2650 or [troy.saffle@deq.idaho.gov](mailto:troy.saffle@deq.idaho.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Saffle". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Troy Saffle  
Regional Manager

c: Rob Brochu, ACOE,  
Stephen Berry, DEQ, TRIM Reference  
Chad Fealko, NOAA Fisheries, Salmon  
Public Comment Distribution List



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

February 9, 2015

**404 Permit Application Number:** NWW-00442-I02

**Applicant/Authorized Agent:** First Fruits/Living Waters Ranch

**Project Location:** Section 2, Township 13 North, Range 18 East, Custer County Idaho

**Receiving Water Body:** Garden Creek

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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 information received from the Army Corps of Engineers on October 14, 2014 concerning the source of backfill materials.

Based upon its review and consideration of the information listed above, DEQ certifies that if the permittee(s) comply 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

Three utility lines will be installed through Garden Creek, supplying drinking water and sanitary sewer service to the property; specifically, two hardened creek crossings for the installation of 6" waterlines and one hardened crossing for an 8" sanitary sewer.

## 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***

This project is located on Garden Creek within the Upper Salmon subbasin assessment unit (AU) ID17060201SL015\_02 (Garden Creek – Source to Mouth). This AU has not yet been designated. 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). In addition to these uses, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 58.01.02.100).

According to DEQ's 2012 Integrated Report, this receiving water body AU is fully supporting its assessed uses (IDAPA 58.01.02.052.05.a). As such, DEQ will provide Tier 2 protection in addition to Tier 1 for this water body for the aquatic life, salmonid spawning and contact recreational uses (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.

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 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 and 58.01.02.052.07.

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

The Garden Creek is considered high quality for cold water aquatic life, salmonid spawning and contact recreational uses. As such, the water quality relevant to cold water aquatic life and salmonid spawning uses of the Garden Creek 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 cold water aquatic life and salmonid spawning uses of Garden Creek (IDAPA 58.01.02.052.06). The only pollutant of concern for this project is sediment. Sediment is not relevant to recreational uses, but is relevant to aquatic life uses.

As noted above, BMPs will be employed during the construction phase of the project Which will minimize or prevent erosion and turbidity. Permanent erosion and sediment controls must also be implemented, which will minimize or prevent future sediment contributions from the project area. These BMPs and controls will ensure that no lowering of water quality from sediment occurs as a result of this project. Therefore, DEQ concludes that this project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.08.

## Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

### *General Conditions*

1. The applicant shall notify DEQ of the start of construction at least 5 business days prior to commencement. Notification shall be made to: Troy Snaffle, Idaho Falls Regional Office (208.528.2650) and Stephen Berry, DEQ State Office (208.373.0173). This notification shall include: proposed start date, issue dates of final City and County permits, and final Biological Opinion.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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 the project's footprint.
7. 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.
8. 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.
9. All streamside vegetation shall be replanted upon completion of ground disturbing activities.

### **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. Fill material shall not be placed in a location or in a manner that impairs surface or subsurface water flow into or out of any wetland area.
3. Placement of fill material in existing vegetated wetlands shall be minimized to the greatest extent possible.
4. All temporary fills shall be removed in their entirety on or before construction completion.
5. 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. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standard as stipulated under the Idaho WQS (IDAPA 58.01.02.250.02.e). Any violation of this standard must be reported to the DEQ regional office immediately.
2. Work shall be done only in low flow conditions.
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. Sediment from disturbed areas or able to be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state. Placement of clean aggregate at all construction entrances or exits and other BMPs such as truck or wheel washes, if needed, must be used when earth-moving equipment will be leaving the site and traveling on paved surfaces.

### **Turbidity**

1. All practical BMPs on disturbed banks and within the waters of the state must be implemented to minimize turbidity during in-water work.
2. Containment measures such as silt curtains, geotextile fabrics, and silt fences must be implemented and properly maintained to minimize in-stream sediment suspension and resulting turbidity.
3. Turbidity monitoring must be conducted, recorded, and reported as described below. Monitoring must occur each day during project implementation. A properly and regularly calibrated turbidimeter is required.

A sample must be taken every 15 minutes at a relatively undisturbed area approximately 50 feet up-current from in-water disturbance or discharge to establish background turbidity levels for each monitoring event. Background turbidity, location, date, and time must be recorded prior to monitoring down-current.

Monitoring must occur every 15 minutes approximately 50 feet down-current from the in-water disturbance or point of discharge and within any visible plume. The turbidity, location, date, and time must be recorded for each sample.

Results from the compliance point sampling must be compared to the background levels sampled during each monitoring event. If the downstream turbidity exceeds upstream turbidity by 50 nephelometric turbidity units (NTU) or more, then the project is causing an exceedance of the WQS. If a visible plume is observed, then the project may be causing an exceedance of the standard and turbidity sampling is required to determine if the criterion is exceeded. If an exceedance occurs, the applicant must inspect the condition of the projects 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).

4. Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The log must include background measurements (in NTUs); compliance point measurements; comparison of background and compliance point monitoring as a numeric value (in NTUs); and location, time and date for each sampling event. The report must describe all exceedances and subsequent actions taken, monitoring, and the effectiveness of the action.

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

1. Dredged material shall be placed back in the stream channel in order to restore the natural stream bed with appropriately sized substrate.

### **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 Troy Saffle, Idaho Falls Regional Office at 208.528.2650 or [troy.saffle@deq.idaho.gov](mailto:troy.saffle@deq.idaho.gov).



Troy Saffle

Regional Manager

Idaho Falls Regional Office

# Idaho Department of Environmental Quality Response to Comments on §401 Water Quality Certification for Army Corps of Engineers §404 Permit Number NWW-00442-I02

## **Introduction**

The Idaho Department of Environmental Quality (DEQ) conducted a 21-day public comment period for the §401 Water Quality Certification (WQC) related to the Army Corps of Engineers (ACOE) §404 permit number NWW-00442-I02. The comment period was conducted October 30, 2014 to November 20, 2014. Comments were received from the Custer County Commission, City of Challis, Idaho Department of Fish and Game, and three private citizens. Comments are presented below, verbatim, with DEQ responses in *bold italics*.

## **Comments from private citizens**

### **Laurie Mathews, Challis, Idaho**

I am entirely OPPOSED to the granting of a 404 permit (application number NWW-00442-102) to First Fruits/ Living Waters Ranch for the construction of two hardened creek crossings and the installation of two 6" waterlines and one 8" sewer line that will cross Garden Creek.

The reasons for my opposition are as follows:

1. The granting of a permit for the structures is premature. Neither the Custer County Commissioners or the Custer County Planning and Zoning Committee have received any notification from First Fruits / Living Waters Ranch of plans and/or proposals for this project and what it is intended for (pers.comm., Kristy Foster, Coordinator, Custer County Planning & Zoning Commission, 11/20/2014). From my own visual observation of the area there is nothing existing on the land to which the proposed lines would service.

*The 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. DEQ did add a condition in the WQC requiring the applicant provide DEQ with the issuance date of any and all permits prior to the start of construction.*

2. The proposed project area lies within an area of land that has been designated as an Area of Critical Concern by both the Custer County Commissioners and the City of Challis. This area lies within the Garden Creek watershed, which includes an anadromous fish stream, provides water to the City of Challis and contributes a broad range of ecological and economic values to the upper Salmon River region.

*The project, if constructed as proposed and conditioned by both the ACOE 404 permit and WQC will pose no long term impacts to the fisheries or water quality in Garden Creek. DEQ believes the Best Management Practices outlined in the permit and the 401 certification will ensure compliance with state Water Quality Standards and avoid a lowering of water quality. Further, National Marine Fisheries will issue a Biologic Opinion on the potential impacts to Endangered Species Act (ESA) listed fish and proposed additional conditions to protect the fish population in Garden Creek, prior to the start of construction.*

A formal agreement exists between Custer County and the City of Challis that states coordination and communication will occur between the two entities for any proposed activities within this area (Mark Lupher, Mayor, City of Challis, pers. comm., 11/20/2014).

As of today, November 20, 2014, The Custer County Commissioners have failed to notify the City of this proposed activity (pers. comm., Kelly Wahlstrom, City Clerk, 11/20/2014; pers. comm., Mark Lupher, Mayor, City of Challis, 11/20/2014). Consequently, the City has been excluded from the opportunity to

review potential impacts within the Area of Critical Concern and residents of the City have not been provided with an adequate opportunity to comment.

*The WQC process is triggered through the formal request of ACOE to DEQ to consider the project as proposed in the 404 application. As mentioned above, the WQC 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.*

3. There is some twenty years or more of history of construction and development activities, with associated impacts to the landscape, the water and the people residing within the Garden Creek watershed Designated Area of Critical Concern by the First Fruits Foundation / Living Waters Ranch.

Over this time there have been numerous hearings regarding these activities; testimony from City and County residents opposing each cycle of development activities; water quality studies funded by private citizens that have established degraded conditions; documentation of failure to comply with requirements; and most recently, geomorphic events of mass land failure within the development zone. All of this is more than enough evidence to bring into serious question any reasonable or logical basis for DEQ to issue a Permit that authorizes First Fruits Foundation / Living Waters Ranch to proceed with construction and development activities.

Quite to the contrary, I am flabbergasted that with the implied title of an agent tasked with the weighty responsibility of protecting public assets, DEQ has not been an advocate for a moratorium on any further construction and development within this environmentally significant and sensitive watershed.

*DEQ believes the project is consistent with Idaho Water Quality Standards (WQS) and the Antidegradation rules for permitting this type of work. DEQ has no authorities related to land use planning or any type of local zoning requirements.*

#### **Comments from Ken Hyatt, Challis, Idaho**

As a resident living in the Garden Creek drainage and a Physician Assistant at the Challis Area Health Center, I am concerned about yet another possible development at Living Waters to again threaten the quality of the water in Garden Creek. As a critical watershed for the Challis community I am concerned that further development of sewer and water systems at Living Waters will increase the risk for both sediment and microbial contamination of Garden Creek. Garden Creek is a contributor to the aquifers that supply Challis with it's water supply, and Garden Creek is a critical watershed for fisheries including salmon spawning. I am opposed to the request by Living Waters for two six inch water lines and one eight inch sanitary line to go through Garden Creek. There is already dense development in this area and a very large and involved sewage treatment set up close to Garden Creek. This is in a very high seismic area (multiple earthquakes in mid April 2014, with epicenter in nearby Morgan Creek, and also a very significant cloud burst in July of 2013 that I witnessed, at it's height of activity, bring high volumes of water and sediment right through Living Waters and it's sewage treatment project that was under construction. I do not think that any further development at Living Waters could be of any benefit, but only detriment to this critical watershed.

*The project, if constructed as proposed and conditioned by both the ACOE 404 permit and WQC will pose no long term impacts to the fisheries or water quality in Garden Creek. Further, National Marine Fisheries will issue a Biologic Opinion on the potential impacts to Endangered Species Act (ESA) listed fish and proposed additional conditions to protect the fish population in Garden Creek. Additionally, the engineering of the service lines were reviewed and approved by DEQ Professional Engineers. This approval provides a reasonable assurance the project will comply with Idaho's rules*

*for drinking water and waste water treatment. Lastly, the WQC is not a land use permit and does not relieve the applicant from complying with local planning and zoning rules.*

**Comments from Patricia Hyatt, Challis, Idaho**

It is my understanding that Living Waters Ranch resides in the Garden Creek Aquifer that supplies the town of Challis. Our P & Z committee has designated all of Garden Creek drainage as an area of critical concern to protect our watershed. Therefore any construction that requires additional water or sewage lines that could impact the watershed is to be brought before the P & Z com. as well as the County Commission. I understand that these new lines will supply a new pool as well as an RV park. Neither of which has come before the committee or the commission.

We opposed construction of the last building project which added additional burden to the watershed - This constitutes another burden which has not gone through the proper channels

I oppose any expansion at Living Waters unless first brought before the commissioners and the P & Z committee. I will make my voice heard to both entities.

*The issuance of a WQC does not relieve the applicant from obtaining any other federal, state, county or city permit or certification or other required documentation. DEQ did add a condition in the WQC requiring the applicant provide DEQ with the issuance date of any and all permits prior to the start of construction. DEQ believes the project is consistent with Idaho Water Quality Standards and the Antidegradation rules for permitting this type of work.*

**Comments from Idaho Department of Fish and Game, Tom Bassista**

The Idaho Department of Fish and Game (Department) has reviewed the water mainline and sewer line installations below Garden Creek in 3 locations proposed by Firstfruits Foundation.

This proposed work needs to be done only during low flow periods. The Department would prefer the Applicant to place native substrate, removed during excavation, back on the creek bed after installation of the utility lines and gravel material. The idea is to restore the stream bed to natural conditions with appropriate sized substrate.

The Department recommends that any streamside vegetation removed during excavation be replaced and stabilized immediately after the utility lines are installed.

The Department recently surveyed the area and found fish present within or near the project area. Care should be taken during installation and removal of the bypass pipeline and coffer dams to not injure or kill fish.

*DEQ incorporated Idaho Fish and Game's comments into the conditions of the WQC to address Idaho Department of Fish and Game concerns. This includes a condition requiring vegetation and stabilization. These are included in General Conditions' section of the WQC.*

**Comments from Custer County, Barbara Tierney, County Clerk**

The Custer County Commissioners would appreciate your making note of the following: There has been no approval at any level in the county for development of the property referenced on the 404 Permit Application Number: NWW-00442-I02, First Fruits/Living Waters Ranch.

*DEQ informed the applicant of the need to obtain the necessary county permits prior to start of construction. 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.*

**Comments from Challis City Council, via council member Mike Barrett**

As we previously discussed, the Challis City Council agrees with the comments as broken down by DEQ (submitted in 3 categories). Of primary concern to the city is the fact that Garden Creek is the primary source of municipal water for the city, whether from the slow sand filter (surface water source), or municipal wells, of which we have 2 in production, and 1 under construction which all utilize the Garden Creek Aquifer as their source.

Should a problem occur in the Garden Creek Aquifer, the cities sole source of municipal water would be from a single well in the Salmon River Aquifer. This single source would not be able to meet current demand.

While the city is not opposed to development generally, we also want to ensure that it is measured, and does not conflict with the cities ability to provide clean, safe drinking water to its inhabitants.

Additional questions have been posed specifically as it relates to construction techniques (see below).

Question(s):

1. Is leak detection a component of the construction/final product? If not, why?

*Leak detection of buried pipelines transporting sewage are not required in Idaho's Wastewater Rules. However, because this project is also installing drinking water lines, IDAPA rules regarding public drinking water systems require valves at both sides of a crossing to determine leaks in order to prevent drinking water supply contamination. (IDAPA 58.01.08.542.17b.iii).*

2. If so, is routine sampling required? If so, what is the frequency of the sampling? If not, why?

*No samples specific to the portions of buried pipe are collected. However, the permit for the operation of the Large Soil Adsorption System requires Garden Creek be sampled for nitrates, the samples are collected above the construction location.*

Note (1): As background, in working at mines throughout the western United States, in particular the construction of impoundments and leach pads, leak detection is a requirement below the affected area in order to check for contamination from the source. Generally, it was placed well below the affected area since a leak may not manifest itself until much further below. It may not be a requirement, generally, but the question was posed because of the construction corridor (through the wetlands).

3. Was adequate consideration given to the potential impacts to the watershed below the affected area, primarily as it pertains to municipal wells below the affected area?

*The WQC includes requirements to protect water quality in the watershed. As noted above, Idaho rules relating to drinking water systems require leak detection methods. In addition, the review of the plans and specification for the pipe crossing Garden Creek ensures the pipe meets both wastewater and drinking water requirements applicable to stream crossings. DEQ believes it adequately considered potential impacts to water quality..*

Note (2): The council does not consider itself an authority on the watershed/aquifer. As such, we have a surface water system (slow sand filter) which receives water directly from Garden Creek, as well as three (3) municipal wells (2 online, and 1 in development). Potential impacts to the surface water system seem more evident than impacts to the municipal wells. With this in mind, was the potential for contamination some years later (in the future) considered as it pertains to the municipal wells (a leak that works its way down/under/through the strata)? Do the municipal wells even draw from the same aquifer? If they do not, this may not even be an issue.

*Under its water quality certification, DEQ must ensure there is reasonable assurance the project will meet surface water quality standards. DEQ can also include conditions as necessary to meet water quality standards and other appropriate requirements of state law related to surface water quality. DEQ did not review ground water quality impacts and therefore, did not include conditions relating to groundwater in the certification. However, as noted, the plans and specifications for the project were reviewed by DEQ to ensure they meet engineering requirements as set forth in the Drinking Water and Wastewater Rules, which are intended to help ensure the pipeline is safe for human health and the environment.*

Note (3): This may also pertain to development as a whole. What is the density of development that this particular area will support? Has it been quantified? Can it be quantified? This may be a question without an answer.

*While DEQ does not specify building density, the sizing of waste treatment and drinking water delivery must be adequate to meet expected build-out populations prior to DEQ Engineering approval.*

4. It was proposed that the construction window be coordinated with the installation of a new surface water diversion (city) so as to mitigate any potential for silt, etc. to enter the cities surface water system. This new diversion is in place, and this window of opportunity is now closed. What controls will now be put in place to ensure that the cities surface water system is not harmed/jeopardized by construction activities which could result in silt, etc. entering an active surface water system (still in use), or an inactive water system (which would require clean up prior to use)? Will bonding be required to offset potential cleanup costs?

*DEQ's WQC requires the project be built in a manner which does not result in violations of Idaho water quality criteria, and this includes DEQ WQS relating to sediment. DEQ believes the BMPs specified in the permit and certification will ensure protection of Garden Creek from increases in sediment. Bonding is not a requirement of the 401 certification.*

Note (4): The slow sand filter is the primary source of municipal water for the city. Even with all of the municipal wells online, the slow sand filter is a necessary backup system during peak demand.

Comment(s):

As previously stated, the city is in agreement with how DEQ has classified the concerns:

1. Concern in general about First Fruits and their expansion, specifically as it relates to County and City Planning Requirements, as well as purported agreements between the entities for facilitated communications.
2. General concern about any impact the project might have on Garden Creek water quality, specifically as it relates to drinking water supply and fisheries interests, and
3. Specific concerns on the construction techniques required if DEQ issues the Water Quality Certification (WQC)

*DEQ modified the draft WQC to reflect comments from the City and local citizens concerning notifications and permissions required prior to construction. In addition, DEQ included conditions for construction sequencing and monitoring during construction.*