



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

August 18, 2016

**404 Permit Application Number:** NWW-2016-380-B03

**Applicant/Authorized Agent:** Adams County Road and Bridge Department

**Project Location:** Latitude 44°57.771' N; Longitude-116°17.095' W. Township19N, Range 2E, Section 25, NE¼, NW¼, near New Meadows in Adams County, ID.

**Receiving Water Body:** Little 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, received on August 9, 2016, 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.

This certification shall remain in effect until December 31, 2016 at which time construction must be complete.

### Project Description

This project will repair a hazardous bridge by replacing a failing 4'x4'x16' open bottom concrete culvert at the south inlet with the same size and make culvert. In addition, a second new 4'x4'x16' open bottom culvert will be placed at the south inlet and a third 4'x4'x16' open bottom culvert will be placed on the outlet side of the bridge to widen the road. Currently this bridge is a public hazard.

## 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 Little Creek within the Little Salmon River Subbasin assessment unit (AU) 17060210SL007\_02 (Little Salmon River – Meadow Valley Tributaries). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, primary contact recreation and domestic water supply. 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 (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. Work will be conducted from the roadbed above the creek. Most of the water in Little Creek in the fall is irrigation water, so the property owners located above the project area have been asked to slow the irrigation water to lower the water level during the time of construction. This will ensure that work will be done during low flow to reduce the potential of turbidity. 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 the Tier 1 provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

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

The Little Creek is considered high quality for cold water aquatic life and salmonid spawning. As such, the water quality relevant to these uses 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 the Little Creek (IDAPA 58.01.02.052.06). The pollutant of concern is sediment. Because sediment is not relevant to contact recreation, project activities will not result in a lowering of water quality with respect to recreational beneficial use support. Sediment is relevant to the aquatic life beneficial use and the permittee must minimize the transport of sediment through the implementation of best management practices (BMPs). The replacement of an eroding concrete culvert and the addition of two new concrete culverts will increase the width of the bridge which will prevent sediments, sands, gravel and eroding concrete from entering Little Creek. Before the project begins, a 4 foot diameter culvert will be placed in Little Creek to contain and protect water through and beyond the project site. Cofferdams will be placed at the inlet to divert water into the culvert. To minimize water quality impacts, this project will take place in the fall so that water is at low flow and work will take place from the roadbed above the

creek. The eroding structure will be removed in one piece using an excavator to minimize stream disturbance. The excavator will also place all new open bottom concrete culverts. When the project is complete the coffer dam will be removed one side at a time to prevent erosive flows through the project site. As such, the project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

In order to maintain the ambient water quality conditions, permanent erosion and sediment controls must be implemented which will minimize or prevent future sediment contributions from the project area. The provisions in the 404 permit, coupled with the conditions of this certification, ensure that degradation to the Little Salmon river – Meadow Valley Tributaries AU or Little Creek will not occur. Therefore, DEQ concludes that this project complies with the Tier 2 provisions of Idaho’s WQS (IDAPA 58.01.02.051.02; 58.01.02.052.06 and 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. 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 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. 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. Fill material shall be free of organic and easily suspended fine material. The fill material to be placed shall include clean earth fill, sand, and stone only.
2. All temporary fills shall be removed in their entirety on or before construction completion.
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. 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. 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 project water resources.
3. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
4. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
5. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
6. 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.
7. To the extent reasonable and cost-effective, the activity submitted for certification shall be designed to minimize subsequent maintenance.
8. 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. Visual observation is acceptable to determine whether BMPs are functioning properly. If a plume is observed, the project may be causing an exceedance of WQS and the permittee must inspect the condition of the projects BMPs. If the BMPs appear to be functioning to their fullest capability, then the permittee must modify the activity or implement additional BMPs (this may also include modifying existing BMPs).
2. Containment measures such as silt curtains, geotextile fabrics, and silt fences must be implemented and properly maintained to minimize instream sediment suspension and resulting turbidity.

### ***Vegetation Protection and Restoration***

1. Disturbance of native vegetation shall be kept to a minimum.
2. Fencing and other barriers should be used to mark the construction areas.

### **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. A log book of these inspections shall be kept on site and provided to DEQ upon request.
4. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
5. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).

### ***Culverts***

1. The culvert shall not constrict the stream channel and shall not be angled such that the outflow is directed toward the stream bank. The culvert's flow line shall match the existing stream invert at its entrance and exit.
2. The culvert outflow shall be armored with riprap to provide erosion control. This riprap will be clean, angular, dense rock that is free of fines and resistant to aquatic decomposition.
3. Culverts shall be sized appropriately to maintain the natural drainage patterns.

## 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 Julia Achabal at (208) 373-0321 or via e-mail at [julia.achabal@deq.idaho.gov](mailto:julia.achabal@deq.idaho.gov).

DRAFT

---

Aaron Scheff  
Regional Administrator  
Boise Regional Office