STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F Street • Lewiston, Idaho 83501 • (208) 799-4370
www.deq.idaho.gov

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

December 22, 2014

Doral Hoff, P.E.
Idaho Transportation Department
P.O. Box 837
Lewiston, ID 83501

Subject: 401 Water Quality Certification for NWW-2014-495-B02

Dear Mr. Hoff:

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 December 19, 2014. 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 email at Cynthia.Barrett@deq.idaho.gov.

Sincerely,

Cynthia Barrett
Surface Water Quality Manager
Lewiston Regional Office

Enclosure

ec: Nicholle Braspennickx, ACOE, Boise
John Cardwell, TRIM Record
Stephen Berry, TRIM Record

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

December 22, 2014

404 Permit Application Number: NWW-2014-495-B02

Applicant/Authorized Agent: Idaho Transportation Department

Project Location: U.S. Highway 95, Milepost 196.74, Race Creek Bridge, latitude 45° 26' 13.56" N and longitude -116° 19' 5.87" W, Idaho County

Receiving Water Body: Race 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 November 5, 2014, 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 Race Creek bridge replacement project proposes to discharge 425 cubic yards of fill materials (400 cubic yards of riprap and 25 cubic yards of concrete) below the ordinary high water mark of Race Creek for the bridge replacement on US 95, at Mile Post 196.74.

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 Race Creek bridge replacement project is located within the assessment unit (AU) 17060209SL014_03. 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 presumed uses, salmonid spawning has been determined to be an existing use based on Beneficial Use Reconnaissance Project fish data (2003). All waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 58.01.02.100).

The existing and presumed cold water aquatic life, salmonid spawning and secondary contact recreation uses in this Race Creek AU are fully supporting (2012 Integrated Report). As such, DEQ will provide Tier 2 protection in addition to Tier 1 protection for the aquatic life use, salmonid spawning existing use and secondary contact recreation presumed use (Idaho Code § 39-3603(2)(b)).

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 that 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. 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)

Race Creek is considered high quality for cold water aquatic life, salmonid spawning and secondary contact recreation. 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, salmonid spawning and secondary contact recreation uses of Race Creek (IDAPA 58.01.02.052.06). These pollutants include sediment, temperature and *E. coli* bacteria respectively. Project activities are not expected to contribute sources of *E. coli* bacteria to Race Creek. Additionally, project activities are not expected to alter the temperature regime of Race Creek. The only pollutant of concern for this project is sediment which is relevant to the aquatic life beneficial use.

As stated above, the applicant will implement, install, maintain, monitor and adaptively manage BMPs directed toward reducing erosion and minimizing turbidity levels in Race Creek in order to replace a bridge that is approximately 80 years old and is functionally obsolete. To separate and dewater the work area from the Race Creek channel, a portable cofferdam will be installed and a pump will be used to dewater the work area into a temporary sediment basin located above the ordinary high water level of Race Creek and the main Salmon River. The sediment basin will be designed and constructed for the prevention of siltation. The pumped water will be allowed to settle in the sediment basin until turbidity is below Idaho state water quality standard criteria and returned to Race Creek. The accumulated silt in the sediment basin will be removed and disposed of in an approved upland area. The listed conditions in the water quality certification are necessary to ensure compliance with water quality standards and when implemented, will meet the antidegradation provisions of a Tier 2, high quality water body. As such, this project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

Permanent erosion and sediment controls must be implemented that will minimize or prevent future sediment contributions from the project area. The provisions in the 404 permit and the conditions of the 401 water quality certification ensure that degradation to the Race Creek AU will not occur as a result of project activities. 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 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. All temporary fills shall be removed in their entirety on or before construction completion.
4. 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. Best Management Practices 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. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation and 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. Disturbed areas suitable for vegetation shall be seeded or vegetated to prevent subsequent soil erosion.
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.
8. To the extent reasonable and cost-effective, the activity submitted for certification shall be designed to minimize subsequent maintenance.

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.

3. Turbidity monitoring must be conducted each day during project implementation when project activities may result in turbidity increases above background levels. If the downstream turbidity exceeds upstream turbidity by 50 nephelometric turbidity units (NTU) or more, the project is causing an exceedance of the WQS. If an exceedance occurs, the permittee 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).

In-water Work

1. Work in open water is to be kept at a minimum and only when necessary. 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.
2. Fording of the channel is not permitted. Temporary bridges or other structures shall be built if crossings are necessary.
   a. Temporary crossings must be perpendicular to channels and located in areas with the least impact. The temporary crossings must be supplemented with clean gravel or treated with other mitigation methods at least as effective in reducing impacts. Temporary crossings must be removed as soon as possible after the project is completed or the crossing is no longer needed.
3. Measures shall be taken to prevent wet concrete from entering into waters of the state when placed in forms and/or from truck washing.
4. Activities that include constructing and maintaining intake structures must include adequate fish screening devices to prevent fish entrainment or capture.
5. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
6. To minimize sediment transport, stream channel or stream bank stabilization must be completed prior to returning water to a dewatered segment.

Vegetation Protection and Restoration

1. Disturbance of existing wetlands and 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.

Dredge Material Management

1. Upland disposal of dredged material must be done in a manner that prevents the material from re-entering waters of the state.

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. In accordance with IDAPA 58.01.02.850, in the event of an unauthorized release of hazardous material to state waters or to land such that there is a likelihood that it will enter state waters, the responsible persons in charge must
   b. Make every reasonable effort to abate and stop a continuing spill.
   c. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or ground waters of the state.
   d. Immediately notify DEQ of the spill by calling the Idaho State Communications Center at 1-800-632-8000.
   e. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.
6. In accordance with IDAPA 58.01.02.851.04, any aboveground spill or overfill of petroleum that results in a release that exceeds 25 gallons *or that causes a sheen on a nearby surface water* shall be reported to DEQ within 24 hours and corrective action in accordance with IDAPA 58.01.02.852 shall be taken.
7. In accordance with IDAPA 58.01.02.851.04, any aboveground spill or overfill of petroleum that results in a release less than 25 gallons *and does not cause a sheen on nearby surface water* shall be reported to DEQ by calling the Idaho State Communications Center at 1-800-632-8000 if cleanup cannot be accomplished within 24 hours.
8. 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 DEQ by calling the Idaho State Communications Center at 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 email at cynthia.barrett@deq.idaho.gov.

John Cardwell
Regional Administrator
Lewiston Regional Office