STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706 • (208) 373-0550
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
John H. Tippets, Director

August 12, 2015

William Perry
Payette National Forest
800 West Lakeside Avenue
McCall, ID 83638

Re: NWW-2015-00257 – North Fork Smith Creek Bridge Project

Dear Mr. Perry:

The Department of Environmental Quality (DEQ) has considered water quality certification for construction related to the referenced project. DEQ is issuing the attached 401 Water Quality Certification subject to the terms and conditions contained therein.

This certification shall remain in effect until December 31, 2015, at which time construction must be completed.

If you have any questions or further information to present please contact Julia Achabal at 373-0321 or at Julia.Achabal@deq.idaho.gov.

Sincerely,

Aaron Scheff
Regional Administrator
Boise Regional Office

JRA

ec: Gregory J. Martinez, COE, Boise
Michael McIntyre, DEQ State Office
TRIM 2015AKF59

Printed on Recycled Paper

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

August 12, 2015

404 Permit Application Number: NWW-2015-00257

Applicant/Authorized Agent: Payette National Forest

Project Location: Section 3 of Township 21N, Range 9E, near latitude 45° 11' 22" N and longitude -115° 20' 43" W, near Yellow Pine, in Valley County, ID.

Receiving Water Body: North Fork Smith 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 June 24, 2015, 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, 2015 at which time construction must be completed.

Project Description

This project will replace an existing ford with a vented bridge over the North Fork Smith Creek. A small island located in the middle of the channel will be excavated to create a single channel at this location.

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 the North Fork Smith Creek within the Lower Middle Fork Salmon Subbasin assessment unit (AU) 17060206SL009_02 (Smith Creek 1st and 2nd order). 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 including cold water aquatic life, salmonid spawning and secondary contact recreation (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. 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.

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 North Fork Smith 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 the North Fork Smith 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. This project will be implemented during low flows to prevent the transport of sediment. Timing should also allow for construction to occur before common core-periods for Chinook and bull trout fish spawning. The Forest Service will survey for redds and adult spawning fish prior to commencement of work. For new channel construction, water will be diverted away from the excavation using sandbags or by installing a temporary diversion culvert. All necessary dewatering will be pumped and spread on the adjacent uplands for filtration. Precast concrete footings and a steel girder bridge will be placed to eliminate the ford. Timber running planks will be installed on the wheel tracks to eliminate tread debris from entering the creek. Vegetation will be set aside during channel work and replanted in the constructed floodplain.

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 Smith Creek 1st and 2nd order AU or the North Fork Smith 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 suspendable 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. 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.
4. Permanent erosion and sediment control measures shall be installed at the earliest practicable time consistent with good construction practices and shall be maintained as necessary throughout project operation.
5. Top elevations of bank stabilization shall be such that adequate freeboard is provided to protect from erosion at 100-year design flood elevation.
6. 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.
7. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation.
8. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
9. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
10. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
11. 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.
12. To the extent reasonable and cost-effective, the activity submitted for certification shall be designed to minimize subsequent maintenance.

Turbidity

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). *Any violation of this standard must be reported to the DEQ regional office immediately.*
2. 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).

3. 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.
4. Turbidity monitoring must be conducted and recorded. Monitoring must occur at times when project activities may result in a disturbance to water quality. Unless one method is specifically required by the Department, turbidity monitoring may be accomplished using a regularly calibrated turbidimeter or by using visual observation.

    - If the downstream turbidity exceeds upstream turbidity by 50 nephelometric turbidity units (NTU) or more, *or if a plume is observed*, then the project is causing an exceedance of the WQS.

    If a visual observation or 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 or implement additional BMP's (this may also 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. Construction affecting the bed or banks shall take place only during periods of low flow.
3. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
4. 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 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. 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. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the state. Any wastewater or wash water must not be allowed to enter a water of the state.
6. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
7. 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
   a. Make every reasonable effort to abate and stop a continuing spill.
   b. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or ground waters of the state.
   c. Immediately notify DEQ of the spill by calling the Idaho State Communications Center at 1-800-632-8000.
   d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.
8. 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.
9. 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.
10. 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 Julia Achabal, Boise Regional Office at 208.373.0321 or julia.achabal@deq.idaho.gov. .

Aaron Scheff
Regional Administrator
Boise Regional Office