



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

444 Hospital Way #300 • Pocatello, ID 83201 • (208) 236-6160

C. L. "Butch" Otter, Governor  
John Tippetts, Director

January 4, 2016

Ed Bala  
Idaho Department of Transportation  
5151 S. 5<sup>th</sup> Ave  
Pocatello, ID 83204

RE: State of Idaho water quality certification for Georgetown Creek bridge replacement Georgetown, Idaho.

Dear Mr. Bala:

Enclosed is the Idaho Department of Environmental Quality's §401 Water Quality Certification for your project: Georgetown Creek bridge replacement, Georgetown, Idaho. A copy of this certification also has been sent to the U.S. Army Corps of Engineers. This action is also permitted by U.S. Army Corps of Engineers' Individual Permit NWW-2015-349-B02. Please contact me with any questions at 208-236-6160.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Mladenka", with a long horizontal flourish extending to the right.

Greg Mladenka  
Water Quality Scientist

Cc:

Nicholle Braspennickx, ACOE, Boise Regulatory Office, 720 Park Boulevard, Suite 245, Boise, ID  
83712-7757

Ec: Bruce Olenick, DEQ, Pocatello Regional Administrator  
Alissa Salmore, ITD



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

January 4, 2016

**404 Permit Application Number:** NWW-2015-349-B02

**Applicant/Authorized Agent:** Ed Bala, Alissa Salmore, Idaho Transportation Department

**Project Location:** N 42.478214 W -111.371854

**Receiving Water Body:** Georgetown 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.

Based upon its review of the joint application for permit, received on November 9, 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.

### Project Description

This project will replace the present bridge structure over Georgetown Creek at U.S. Highway 30 in Georgetown.

### 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 Georgetown Creek within the Bear Lake Subbasin assessment unit (AU) ID16010201BR022\_03a (Lower Georgetown Creek, left hand fork to mouth). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, secondary contact recreation and drinking 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 AU is not fully supporting one or more of its assessed uses. The aquatic life and salmonid spawning uses in this receiving water body AU are not fully supported. Causes of impairment include total phosphorus and total suspended solids (and physical substrate habitat alterations for salmonid spawning only). The contact recreation beneficial use also is not fully supported. Causes of impairment include E. coli. As such, DEQ will provide Tier 1 protection for these uses (IDAPA 58.01.02.051.01). The only pollutant of concern associated with this project is sediment, because this project will not create impacts that could affect the recreation use.

## ***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.

Water bodies not supporting existing or designated beneficial uses must be identified as water quality limited, and a total maximum daily load (TMDL) must be prepared for those pollutants causing impairment. Once a TMDL is developed, discharges of causative pollutants shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the development of the TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect uses (IDAPA 58.01.02.055.04).

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. In addition, the project will be consistent with the *Bear River/Malad River Subbasin Assessment and TMDL*. The project will use BMPs to prevent excess sediment from entering Georgetown Creek.

## **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**

9. 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.
10. All temporary fills shall be removed in their entirety on or before construction completion.

### **Erosion and Sediment Control**

11. 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.
12. Permanent erosion and sediment control measures shall be installed and maintained in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
13. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
14. Disturbed areas suitable for vegetation shall be revegetated to prevent subsequent soil erosion.
15. 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.

### **In-water Work**

16. The existing streambed grade shall be maintained, so as not to impede aquatic organism passage. A low flow channel similar in dimensions to the channel existing immediately upstream and downstream of the structure must be incorporated through the structure to assure adequate depth for aquatic organism passage during low flow periods.

17. Construction affecting the bed or banks shall take place only during periods of low flow.

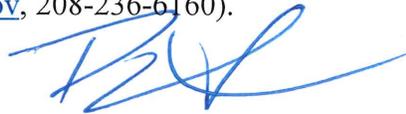
## Management of Hazardous or Deleterious Materials

18. 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.
19. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).

## 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 Greg Mladenka ([greg.mladenka@deq.idaho.gov](mailto:greg.mladenka@deq.idaho.gov), 208-236-6160).



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Bruce Olenick  
Regional Administrator  
Pocatello Regional Office