STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

January 22, 2016

Curtis Arnzen
Idaho Transportation Department
P.O. Box 837
Lewiston, ID 83501

Subject: Water Quality Certification for NWW-2015-578-B03

Dear Mr. Kessel,

Attached are the final §401 water quality certifications for the above referenced projects. The §401 process requires a public notice, and the comment period closed on January 21, 2016. No public comments regarding the §401 water quality certification were received by the Idaho Department of Environmental Quality (DEQ). 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 Cynthia.Barrett@deq.idaho.gov .

Sincerely,

Cynthia Barrett
Water Quality Program Manager
Lewiston Regional Office

cc: Eric Gerke, ACOE, Boise
John Cardwell, DEQ, LRO
Nicole Deinarowicz, DEQ, SO
TRIM 2015AKF91

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Idaho Department of Environmental Quality

Final §401 Water Quality Certification

January 22, 2016

404 Permit Application Number: NWW-2015-578-B03

Applicant/Authorized Agent: Idaho Transportation Department

Project Location: Idaho County, Township 29N Range 7E Section 29, SH 14 Mile 35.80

Receiving Water Body: Leggett Creek

This water quality certification is issued under the authority 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. and Wastewater Treatment Requirements (Idaho Water Quality Standards) IDAPA 58.01.02.

DEQ has reviewed the joint application for permit received on December 22, 2015. A copy of this required certification has been sent to the Army Corps of Engineers. DEQ hereby certifies pursuant to section 401 of the Clean Water Act that provided the conditions listed in this water quality certification and the terms of the permit are met, there is a reasonable assurance the proposed project will comply with applicable requirements of sections 301, 302, 303, 306, and 307 of the Clean Water Act and the Idaho Water Quality Standards 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 project proposes to discharge an estimated 112 cubic yards of rock, 48 cubic yards of concrete, 24 cubic yards of structural fill rock and streambed material below the ordinary high water mark of Leggett Creek. The purpose of the project is to allow for passage of aquatic life in Leggett Creek and provide roadway improvement. Project activities involve replacing one CMP culvert with a corrugated plate arch pipe (108-foot by 20-foot by 6-foot, 4-inch) on a precast footing containing a channel fill section inside the structure. Other work includes installation of a cofferdam to minimize sediment transport during construction.

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 Leggett Creek within the South Fork Clearwater River subbasin assessment unit (AU) ID17060305CL075_02 (Leggett Creek - source to mouth). The Leggett Creek water body ID has not yet been designated. Because DEQ presumes most waters of 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). The South Fork Clearwater River Subbasin Assessment and TMDL identified salmonid spawning as an existing use (South Fork Clearwater River Subbasin Assessment and TMDLs, March 2004).

The cold water aquatic life and salmonid spawning beneficial uses are not fully supported in Leggett Creek due to excess temperature. As such DEQ will provide Tier 1 protection for the aquatic life and salmonid spawning beneficial uses. The contact recreation beneficial use is fully supporting. Because the only pollutant of concern associated with this project is sediment, DEQ will not provide a Tier 2 review for contact recreation as the project will not be adding bacteria pollutants to this AU (IDAPA 58.01.02.051.01; 58.01.02.051.02).

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. This AU (ID17060305CL075_02) is included in the South Fork Clearwater Subbasin Assessment and TMDL (2004).

The South Fork Clearwater River Subbasin Assessment and TMDL determined that the South Fork Clearwater River and its tributaries (Leggett Creek) are being heated by solar insolation due to alterations to the stream flow regime, channel substrate and reduced riparian shading. Aquatic species of concern identified in the TMDL include sculpin, mountain whitefish, bridgelip suckers and pacific lamprey. Salmonid resources include bull trout, spring chinook, steelhead/rainbow trout, westslope cutthroat trout, and brook trout. Pollutant load reduction targets were set to restore stream shading and stream channel morphology and in order to improve stream temperature, restored riparian communities and stream channels are needed. Because these water quality impacts have been documented, it is necessary to ensure that project activities do not directly or indirectly cause further temperature exceedances in Leggett Creek. Based on project designs and proposed activities, construction activities are not expected to contribute sources of temperature to Leggett Creek; no trees or canopy will be removed and stream banks will be reseeded after construction.

The project will replace one undersized culvert with a new corrugated plate arch on a precast footing on Leggett Creek. Soil disturbances will be limited to the construction area; water, soil, and erosion control best management practices (BMPs) will be in place during construction and water will be diverted around the construction zone. During the construction phase the applicant will implement, install, maintain, monitor, and adaptively manage BMPs directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the project. In addition, erosion and sediment control measures 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 water quality 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 South Fork Clearwater River Subbasin Assessment and TMDL (2004).

There is no available information indicating the presence of any existing beneficial uses aside from those that are already 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).

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

General Conditions

1. The proposed project shall be constructed in a manner that will not violate Idaho's Water Quality Standards as set forth in IDAPA 58.01.02.
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 waterbodies, 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. The applicant is responsible for all work done by contractors and must ensure the contractors are informed of and follow the conditions described in this certification and the section 404 permit.
5. 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. Excavated or staged fill material must be placed so it is isolated from the water edge and not placed where it could re-enter waters of the state.

Erosion and Sediment Control

1. All practical best management practices (BMPs) on disturbed banks and in waters of the state must be implemented to minimize turbidity. Turbidity shall not exceed background turbidity by more than 50 NTU instantaneously or more than 25 NTU for more than 10 consecutive days. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
2. 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.
3. 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. 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. Measures shall be taken to prevent wet concrete from entering waters of the state.

Management of Hazardous or Deleterious Materials

1. Adequate measures and controls must be in place to ensure that petroleum products and hazardous, toxic, and/or deleterious materials will not enter waters of the state.
2. Equipment and machinery must be moved to an upland area prior to refueling, repair, and/or maintenance.
3. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).

4. Any release of petroleum products, hazardous or deleterious materials must be immediately contained and remediated and DEQ must be notified.

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.
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 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 Mark Sellet at (208) 799-4370 or email at mark.sellet@deq.idaho.gov.

John Cardwell
Regional Administrator
Lewiston Regional Office