



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

900 North Skyline, Suite B • Idaho Falls, ID 83402 • (208) 528-2650

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

August 16, 2012

Mr. Jerry Meyers
Trout Unlimited
194 Indian Creek Road
North Fork, Idaho 83466

Mr. Vic Conrad
J.R. Simplot Company
P.O. Box 27
Boise State ID Zip 83707

RE: NWW-2012-00125-I02

Dear Messrs. Conrad and Meyers:

Enclosed, please find the final §401 water quality certification for the above referenced project. The 401 process requires a public notice of 21-days. The comment period closed on August 7, 2012. After considering public comments, we are pleased to issue this final certification.

If you have any questions or concerns, please do not hesitate to contact me at 208.528.2650 or troy.saffle@deq.idaho.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Saffle".

Troy Saffle
Regional Manager
Idaho Falls Regional office

c: James Joyner, ACOE
Sue Christensen, TU
Mike Edmonson, OSC
Miranda Adams, TRIM Reference only



Idaho Department of Environmental Quality Final §401 Water Quality Certification

August 16, 2012

404 Permit Application Number: NWW-2012-00125-I02

Applicant/Authorized Agent: US Forest Service/JR Simplot Company

Project Location: 44.34224 ° N, -114.72301° W, Custer County

Receiving Water Body: Yankee Fork, tributary to the Salmon River

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 from the applicant on May 9, 2012, 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

Habitat improvement projects are proposed, including channel re-contouring and placement of large wood habitat structures through the issuance of an individual 404 permit.

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 58.01.02.052.04).

- 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; 58.01.02.052.05).
- 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 proposed activity is located within the Upper Salmon Subbasin assessment unit (AU) ID 17060201SL032_04 (Yankee Fork Creek - Jordan Creek to mouth). This AU is designated in Idaho Water Quality Standards (WQS) for cold water aquatic life, salmonid spawning, primary contact recreation and domestic water supply.

These uses in this Salmon River AU are fully supported (2010 Integrated Report). As such, DEQ will provide Tier 2 protection, in addition to Tier 1 protection, for both the aquatic life use and for the recreation beneficial use (IDAPA 58.01.02.051.01 and 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. The BMPs outlined for the project along with the conditions in this 401 certification will ensure compliance with the narrative and numeric criteria in the WQS. Therefore, there is reasonable assurance that water quality necessary to protect existing uses shall be maintained and protected.

High-Quality Waters (Tier 2 Protection)

The Salmon River is considered high quality for cold water aquatic life, salmonid spawning, primary contact recreation and domestic water supply. As such, the water quality relevant to cold water aquatic life and salmonid spawning uses of the Salmon River 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 Salmon River (IDAPA 58.01.02.052.06). The only pollutant of concern for this project is sediment. Sediment is not relevant to recreational beneficial uses, but is relevant to the aquatic life use, including salmonid spawning. Aquatic life uses will be protected through construction management and best management practices. These practices specifically include the use of specific erosion control measures such as the creation, filing and implementation of a Storm Water Pollution Prevention Plan (SWPPP), minimizing ground disturbing actions, and de-watering of areas before beginning earth disturbing activities.

Permanent erosion and sediment controls will be implemented according to the plans submitted. These actions will minimize or prevent future sediment contributions from the project area. Although this project may result in minimal short-term sediment impacts to the water body, DEQ does not expect long-term impacts or degradation to the Yankee Fork Creek - Jordan Creek to mouth AU or the Salmon River. Furthermore, the intent of this project is to restore and reconnect portions of the stream in order to promote higher levels of fish spawning and rearing, for both anadromous and resident salmonids. Therefore, DEQ concludes that this project complies with IDAPA 58.01.02.051.02 and IDAPA 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 US 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.

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. 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

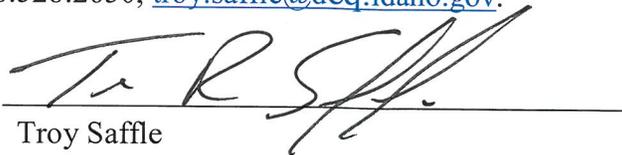
1. Sediment discharges resulting from this activity must be minimized by the implementation of best management practices so as to prevent the violation of the turbidity criterion in IDAPA 58.01.02.250.02.e. Any violation of this standard must be reported to the DEQ regional office immediately.
2. Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur each day during project implementation. A properly and regularly calibrated turbidimeter is recommended, but visual observation is acceptable. The applicant shall contact Troy Saffle to coordinate the monitoring activities and details.
3. Turbidity monitoring must be reported. Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The log must include background measurements (in NTUs) or observations; compliance point measurements or observations; comparison of background and compliance point monitoring as a numeric value (in NTUs) or in narrative form; and location, time, and date for each sampling event. The report must

describe all exceedances and subsequent actions taken, monitoring, and the effectiveness of the action.

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 Troy Saffle, Idaho Falls Regional Office, 208.528.2650, troy.saffle@deq.idaho.gov.



Troy Saffle

Regional Manager

Idaho Falls Regional Office