



Idaho Department of Environmental Quality Draft §401 Water Quality Certification

March 17, 2016

404 Permit Application Number: NWW-2016-032, 033, 034 and 035; Sam Owen Fire District Placement of Four Dry Hydrants

Applicant/Authorized Agent: Robert Wathan, Sam Owen Fire Department P.O. Box 344 Hope ID 83836

Project Locations: **(1)** T57N R1E section 35; latitude 48° 13' 17.07" longitude 116° 17' 41.63" along Monarch View Lane, Hope Idaho; **(2)** T57N R1E section 35; latitude 48° 12'30.90" longitude 116° 17'18.08" at Island View Resort, Hope Idaho; **(3)** T57N R1E section 13; latitude 48° 11'49.83" longitude 116°17'10.30" located within the Kullyspell Estates subdivision Osprey Circle Road; **(4)** T57N, R1E section 35; latitude 48° 12'56.60" longitude 116° 17'08.03" located at Beyond Hope Resort, Hope, Idaho.

Receiving Water Body: Pend Oreille Lake

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 our review of the joint application for permit, received on February 23, 2016, 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 Sam Owen Fire Department proposes to place a six inch diameter plastic water intake pipe into Pend Oreille Lake at four locations to obtain water for firefighting purposes. The pipes will be placed in a three foot deep 20 foot long trench constructed on dry lakebed during low pool. The remaining lengths of pipe will be laid on the surface of the lakebed. The pipes will extend waterward to a point that will provide 18 feet of water depth at summer pool at each of the four locations. A fish screen will be placed over the inlet of each pipe. The fire engine's pump will be used to draw water into the pipe so no pump station or submersible pump is necessary. Silt fence or straw bales will be used to prevent muddy runoff from entering the lake from the trench

construction activity. All four hydrants can be installed within 30 days. No riparian vegetation will be cut down and disturbed areas will be reseeded.

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 pollutants of concern for this project are sediment and phosphorus. 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 and phosphorus.

Receiving Water Body Level of Protection

This project is located on Pend Oreille Lake within the Pend Oreille Lake Subbasin assessment unit (AU) ID17010214PN018L_0L (Freshwater Lake). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, primary contact recreation and domestic 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 (cold water aquatic life and salmonid spawning) and recreational uses are not fully supported. Causes of impairment include phosphorus, mercury and other flow

regime alterations. As such, DEQ will provide Tier 1 protection only (IDAPA 58.01.02.051.01) for both aquatic life and contact recreation uses.

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 *Total Maximum Daily Load (TMDL) for Nutrients for the Nearshore Waters of Pend Oreille Lake, Idaho*. Work will be conducted on dry lakebed during low pool using clean sand for pipe bedding. The excavated overburden will be replaced in the trench in the order it was excavated. Best management practices will be used to prevent any turbid runoff from entering the lake water.

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).

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.

Fill Material

8. Fill material shall be free of organic and easily suspended fine material.
9. All temporary fills shall be removed in their entirety on or before construction completion.
10. 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.

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. BMPs must be inspected and maintained each day throughout project implementation.
13. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
14. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.

15. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
16. Sediment from disturbed areas or able to be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state. Placement of clean aggregate at all construction entrances or exits and other 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

17. 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 by calling (208)666-4605 and leaving a message.*
18. 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).
19. Containment measures such as straw bales and silt fences must be implemented and properly maintained to minimize sediment suspension and resulting turbidity in the lake.
20. **To minimize turbidity once the lake level rises, excavated lakebed must be replaced into the trench in the order it was removed. Care shall be taken to not mix sediment as it is excavated.**

In-water Work

21. **Work in the water is not authorized by this certification.**
22. Activities that include constructing and maintaining intake structures must include adequate fish screening devices to prevent fish entrainment or capture.

Vegetation Protection and Restoration

23. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
24. Where possible, alternative equipment should be used (e.g., spider hoe or crane) to minimize lakebed disturbance.
25. 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. For example, this may include replanting of shrubs and trees.

Management of Hazardous or Deleterious Materials

26. 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.
27. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
28. 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.
29. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
30. 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.
31. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
32. In the event of an unauthorized release of hazardous material or petroleum product, the responsible persons in charge must:
 33. Make every reasonable effort to stop a continuing spill.
 34. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or ground waters of the state.
 35. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.
 36. Call 911 if the spill cannot be immediately stopped or contained.
 37. Immediately notify the appropriate DEQ Regional Office of the spill during normal working hours. If the spill occurs after normal working hours, and is immediately stopped and contained, notification must be made to the Idaho State Communications Center at 1-800-632-8000. If the released amount meets federal reporting criteria, notification must be made to the National Response Center at 1-800-424-8802.

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 June Bergquist, Coeur d’Alene Regional Office at 208-666-4605 or via email at june.bergquist@deq.idaho.gov.

DRAFT

Daniel Redline

Regional Administrator

Coeur d'Alene Regional Office