STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

June 26, 2018

Vanessa Pepi
USACE, Seattle District
P.O. Box 3755
Seattle, WA 98134

RE: Final §401 Water Quality Certification for Carey Creek Wildlife Management Area Bank Stabilization, Pend Oreille River

Dear Ms. Pepi,

Enclosed is the final water quality certification for the above referenced project. The draft certification was advertised for public comment for 21 days from June 1 to June 22, 2018. No comments were received and no substantive changes have been made to the final certification. If you have any questions or concerns, please contact June Bergquist at 208.666.4605 or via email at june.bergquist@deq.idaho.gov .

Sincerely,

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office

c: Shane Slate, Corps of Engineers – Coeur d'Alene Regulatory Office
Loren Moore, DEQ State Office

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

June 26, 2018

404 Permit Application Number: Army Corps of Engineers Carey Creek WMA Shoreline Stabilization

Applicant/Authorized Agent: U.S. Army Corps of Engineers Seattle District, Vanessa Pepi, P.O. Box 3755 Seattle, WA 98134

Project Location: Latitude 48° 08' 46.08" Longitude 116° 51' 03.09" Located approximately 3 miles upstream of Priest River on the south bank of Pend Oreille River.

Receiving Water Body: Pend Oreille 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 our review of the joint application for permit, received on March 23, 2018, and amended on April 23, 2018 and May 22, 2018, 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 Corps of Engineers proposes to stabilize approximately 2,000 feet of shoreline along the Pend Oreille River within the Carey Creek Wildlife Management Area (WMA). The purpose is to protect cultural resources and wildlife habitat within the WMA area. The Corps proposes to place 2,432 cubic yards of Class III riprap (2 to 4 inch spalls) and granular fill in 1.51 acres of water and wetlands. The cause of erosion is wave action that is slowly eroding away the lowland finger of land that separates the mouth of Carey Creek (seasonally flooded due to Albani Falls Dam operations) from the Pend Oreille River. This finger of land also protects wetlands and upland wildlife habitat at the mouth of Carey Creek.

The Corps proposes to place fill and riprap without dredging to protect cultural resources. A temporary haul road and staging area will impact 0.09 acres of wetlands and 0.6 acres of

uplands. The staging area and temporary road fill will be removed upon completion of the project. A temporary stream crossing is needed to cross an unnamed tributary to the river that branches off of Carey Creek approximately 396 lineal yards from the river's edge at a man-made diversion. This diversion feeds a wetland adjacent to the river, then in a defined channel, enters the river. The crossing of this channel will be as close to the low pool of the river as possible where the channel is least defined. Equipment will not travel through Pend Oreille River water but remain on the dry riverbed at the point of this crossing. The temporary crossing will consist of two timber mats laid on top of one another. The mats will be removed at completion of the project.

Approximately 4,000 willow stakes will be planted at no more than 6 to 12 inches above summer high pool to ensure survival. Disturbed areas will be reseeded with native grasses. The landward slope from the top of the rock armor will be covered in topsoil and seeded with a native grass mix and native shrubs. Currently very little woody vegetation exists along the river at this location so access will not cause a significant loss of woody riparian vegetation. Planted woody vegetation will be monitored for up to three years to ensure at least an 80% survival.

Best management practices proposed by the Corps include (but not limited to):

1. Construction during frozen periods of winter to minimize impacts to the land access route and avoid the need for in-water work.
2. Fill material will be from an Idaho permitted surface mine or a government-owned quarry.
3. Disturbed areas will be seeded with native grasses.
4. Fill material will be placed during low pool at a time when the water level is approximately 6-8 feet lower than the construction.
5. Fill material will be hauled to the site during the summer months to reduce impacts to the road system which will also benefit water quality.
6. Track mounted dump trucks will be utilized to minimize disturbance.
7. Woody vegetation will be planted that will assist in stabilization of the bank, provide small amounts of shade along the riverbank, and habitat for the terrestrial stage of some aquatic insects.
8. Refueling of equipment will occur at least 100 feet from water.
9. Biodegradable hydraulic fluids will be used in machinery where appropriate.
10. A spill kit will be onsite at all times during construction and workers will be trained on its proper use.

Antidegradation Review

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

- Tier I 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 I review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).

- Tier II 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 III 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 I protection for that use, unless specific circumstances warranting Tier II 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 Pend Oreille River within the Pend Oreille Lake Subbasin assessment unit (AU) ID17010214PN002_08 (Pend Oreille Lake to Priest River). This AU has the following designated beneficial uses: cold water aquatic life, primary contact recreation and domestic water supply (IDAPA 58.01.02.110.05). 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 2014 Integrated Report, this AU is not fully supporting its aquatic life use. Causes of impairment include dissolved nitrogen gas and temperature. As such, DEQ will provide Tier I protection (IDAPA 58.01.02.051.01) for the aquatic life use. The contact recreation beneficial use is unassessed. DEQ must provide an appropriate level of protection for the contact recreation use using information available at this time (IDAPA 58.01.02.052.05.b).

The only pollutant of concern associated with this project is sediment. However, sediment is not relevant to recreational uses since sediment will not degrade water quality necessary to support recreation uses, and it is therefore unnecessary for DEQ to conduct a Tier II analysis.

Protection and Maintenance of Existing Uses (Tier I Protection)

A Tier I 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 existing and 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. The applicant proposes to work during the low pool timeframe and when the ground is frozen to avoid water quality impacts. There will be no dredging so disturbance of the riverbed will be minimal. The completed project will greatly reduce erosion of riverbank and re-establish some native riparian vegetation. 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.

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 existing and designated uses is maintained and protected in compliance with the Tier I 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. 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.
2. 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.

3. 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.
4. 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.
5. 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.
6. 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

7. Fill activities affecting the riverbank shall take place only during periods of low pool.
8. Fill material subject to suspension shall be free of easily suspended fine material. The fill material to be placed shall be clean material only and from an Idaho Department of Lands permitted source or federal government owned source.
9. Fill material shall not be placed in a location or in a manner that impairs surface or subsurface water flow into or out of any wetland area.
10. Placement of fill material in existing vegetated wetlands shall be minimized to the greatest extent possible.
11. All temporary fills shall be removed in their entirety on or before construction completion.
12. Excavated or staged fill material must be placed so it is isolated from the water edge or wetlands and not placed where it could erode or slump into waters of the state.

Erosion and Sediment Control

13. 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.
14. One of the first construction activities shall be placing erosion and sediment control measures around the perimeter of the project or initial work areas to protect the project water resources.
15. 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.

16. 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.
17. BMP effectiveness shall be monitored throughout the project. BMPs shall be replaced or augmented if they are not effective.
18. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
19. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
20. 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

21. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standards under the Idaho WQS (IDAPA 58.01.02). *Any violation of this standard must be reported to the DEQ regional office immediately.*
22. 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) to eliminate the plume.
23. 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.

In-water Work

24. Permittee shall not conduct any work in open water of Pend Oreille River.

Pollutants/Toxics

25. The use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, fertilizers, and deicing salts during construction and operation should be limited to the best estimate of optimum application rates. All reasonable measures shall be taken to avoid excess application and introduction of chemicals into waters of the state.

Vegetation Protection and Restoration

26. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.

27. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.

Management of Hazardous or Deleterious Materials

28. 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.
29. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
30. 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.
31. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
32. 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 (including dry river or streambeds). Any wastewater or wash water must not be allowed to enter a water of the state. Cleaning shall be adequate enough to remove all life stages of aquatic invasive species.
33. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
34. 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. Call 911 if immediate assistance is required to control, contain, or clean up the spill. If no assistance is needed in cleaning up the spill, contact the appropriate DEQ regional office during normal working hours or Idaho State Communications Center after normal working hours (1-800-632-8000). If the spilled volume is above federal reportable quantities, contact the National Response Center (1-800-424-8802).
        - Coeur d'Alene Regional Office: 208-769-1422 / 877-370-0017
    d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

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 .

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office