



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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

August 22, 2018

Clint Kimball  
Boundary County Road and Bridge  
P.O. Box 1418  
Bonners Ferry, ID 83805

RE: Final §401 Water Quality Certification for Trout Creek Bridge lower branch of  
Trout Creek; NWW-2018-124

Dear Mr. Kimball,

Enclosed is the final water quality certification for the above referenced project. The draft certification was advertised for public comment for 21 days from July 26 to August 15, 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](mailto:june.bergquist@deq.idaho.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel Redline".

Daniel Redline  
Regional Administrator  
Coeur d'Alene Regional Office

c: Tracy Peak , Corps of Engineers – Boise Regulatory Office 720 E. Park Blvd, Suite  
245 Boise, ID 83712-7757  
Loren Moore, DEQ State Office  
Martin Taylor James Sewell & Associates 1319 N. Division Ave Sandpoint, ID 83864



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

August 22, 2018

**404 Permit Application Number:** NWW-2018-124; Trout Creek Bridge

**Applicant/Authorized Agent:** Clint Kimball, Boundary County Road and Bridge/Martin Taylor, Sewell & Associates, LLC 1319 N. Division Ave Sandpoint, ID 83864

**Project Location:** Latitude 48° 50' 05.11"N; Longitude 116° 25' 13.46"W; Bridge is located on Westside Road (Highway 18) approximately 9.3 miles north of the intersection of Riverside and Westside Roads

**Receiving Water Body:** Trout 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 our review of the joint application for permit, received on May 25, 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 applicant proposes to replace an existing bridge over the lower branch of Trout Creek with a new wider and longer bridge to meet current design standards. The existing bridge abutments currently constrict the stream causing sediment to accumulate beneath and upstream of the bridge. This constriction has caused the formation of a vegetated gravel bar in the middle of the channel. As part of the project, vegetation on this gravel bar will be removed by hand cutting and hauled out of the stream using a mini-excavator. The excavator travel in the stream is limited by certification condition 30. Natural processes will gradually erode this sandbar downstream and re-establish a more natural unrestricted channel. Vegetation removal is necessary so trees and shrubs from the gravel bar do not form a debris jam as the channel realigns once the bridge restriction is removed. Approximately 100 cubic yards of gravel and rock will be discharged below the ordinary high water mark to construct the new abutments. Work will be done during

the allowed bull trout work window between July 15 and August 31 which coincides with the low flow timeframe. Excavation of 150 cubic yards of riverbed is required to set abutments and place riprap armoring to protect abutments from erosion. Other excavation work will be accomplished landward of the ordinary high water mark.

## **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 pollutants of concern for this project are sediment and temperature. 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 temperature.

## ***Receiving Water Body Level of Protection***

This project is located on Trout Creek within the Lower Kootenai Subbasin assessment unit (AU) ID17010104PN010\_03a (Trout Creek – lower portion below branch). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, and primary contact recreation. 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 temperature and benthic macroinvertebrate bio-assessments (lack of adequate benthic macroinvertebrate assemblages). The contact recreation beneficial use is fully supported. As such, DEQ will provide Tier I protection (IDAPA 58.01.02.051.01) for the aquatic life use and Tier II protection (IDAPA 58.01.02.051.02) in addition to Tier I for the contact recreation use (IDAPA 58.01.02.052.05.c).

The only pollutants of concern associated with this project are sediment and temperature. Sediment and temperature are not relevant to recreational uses since they will not degrade water quality necessary to support recreation uses. So it is unnecessary for DEQ to conduct a Tier II analysis for recreational uses.

### ***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. Specifically, bridge removal will be accomplished by working from the road to minimize impacts to the stream. Bridge abutment work will be isolated by placement of a cofferdam constructed of sandbags or other non-erodible barrier, or portable water-filled bladders. Sediment barriers will be placed between the construction activity and the stream to prevent delivery of soil into the water and function until planted native vegetation becomes established to stabilize the banks. 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. 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 subject to suspension shall be free of easily suspended fine material. The fill material to be placed shall be clean material only.
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. All temporary fills shall be removed in their entirety on or before construction completion.
11. 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***

12. 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.
13. 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.
14. 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.
15. 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.
16. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation.
17. BMP effectiveness shall be monitored during project implementation. 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. 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.
21. 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.
22. Cofferdams must be implemented and properly maintained to meet water quality standards.

### ***Turbidity***

23. 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 exceedance of this standard must be reported to the DEQ regional office immediately.*
24. 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) to eliminate the plume.

25. If the permittee prefers to use a turbidimeter to ensure compliance with Idaho's WQS rather than a visual observation, the following monitoring steps shall be followed:

26. Choose and identify the following locations for each crossing:

- a. **Background location:** A relatively undisturbed location unaffected by the construction activity, up-current from the permitted activity; and,
- b. **Compliance location:** A location down-current from the permitted activity, **within any visible plume**, at the distance that corresponds to the size of the waterbody where work is taking place as listed on the table below:

Wetted Stream Width	Compliance Distance
Up to 30 feet	50 feet
>30 feet to 100 feet	100 feet
>100 feet to 200 feet	200 feet
>200 feet	300 feet

27. Conduct Compliance Monitoring with a Turbidimeter

- a. Measure turbidity at both background and compliance location if a plume is observed and record the date, time, location, and turbidity measurements in the daily log. The permittee must also record all controls and practices implemented at the start of the work.
- b. Turbidity measurements must be representative of stream turbidity when the activity is being conducted. *Measurements cannot be taken during a cessation of activity.*
- c. If the project causes turbidity levels to increase above 50 NTU over background, the permittee must implement additional controls and practices, resume work, and monitor both points again until water quality standards are met. A description of the additional controls and the date, time, and location where they are implemented must be recorded in the daily log.

### ***In-water Work***

28. Equipment shall work from an upland site to minimize disturbance of waters of the state.
29. Construction affecting the bed or banks shall take place only during periods of low flow.
30. Forging of the channel on the north side of the gravel bar is only permitted when necessary for cut vegetation removal. No other in-water equipment crossing is authorized.
31. Work in waters of the state shall be restricted to areas specified in the application.
32. Measures shall be taken to prevent wet concrete from entering into waters of the state when placed in forms and/or from truck washing.

33. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
34. To minimize sediment transport, stream channel or stream bank stabilization must be completed prior to returning water to a dewatered segment.

### ***Pollutants/Toxics***

35. 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***

36. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.
37. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
38. 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.

### **Management of Hazardous or Deleterious Materials**

39. 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.
40. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
41. 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.
42. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
43. 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. **Cleaning shall be adequate enough to remove all life stages of aquatic invasive species.**
44. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
45. 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](mailto:june.bergquist@deq.idaho.gov).



Daniel Redline  
Regional Administrator  
Coeur d'Alene Regional Office