



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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(208) 799-4370

Brad Little, Governor
Jess Byrne, Director

February 16, 2021

Shawn Smith
Idaho Department of Transportation, District 2
PO Box 837
Lewiston, ID 83501

Subject: FINAL 401 Water Quality Certification for the Deep Creek Bridge Replacement, NWW-2020-00191

Dear Mr. Smith:

Attached is the final §401 water quality certification for the above referenced project. The §401 process requires a public notice, and the comment period closed on February 15, 2021. No public comments regarding the §401 water quality certification were received by the Idaho Department of Environmental Quality. 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 John.Cardwell@deq.idaho.gov.

Sincerely,

A handwritten signature in black ink that reads "John Cardwell". The signature is written in a cursive style.

John Cardwell
Regional Administrator
Lewiston Regional Office

c: Shane Skaar, ACOE
Beth Spelsberg, DEQ State Office
EDMS



Idaho Department of Environmental Quality Final §401 Water Quality Certification

February 16, 2021

404 Permit Application Number: NWW-2020-00191, Deep Creek Bridge Replacement (Linear Transportation Project)

Applicant/Authorized Agent: Idaho Transportation Department, District 2

Project Location: Latitude N 469278690, Longitude W -116.9352361; near Potlatch, ID in Latah County.

Receiving Water Body: Deep Creek

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 on January 19, 2021, 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 project will replace the current 2-lane Deep Creek Bridge with a 3-lane bridge and add a turn bay at Kennedy Ford Road to improve safety and build a bridge that will meet the 100-year flood requirements and improve scour prevention downstream from the project. The project will impact about 640 linear feet of stream bank and 807 square feet of wetlands. Work below the ordinary high water mark will consist of riprap placement for scour prevention and bank stabilization along 285 linear feet of stream. During construction, the contractor will divert Deep Creek around the work area, install erosion and sediment controls, place riprap, and seed the project area.

Antidegradation Review

As part of its water quality standards program, Idaho is required to establish an antidegradation policy (40 C.F.R. § 131.12). 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 employs 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 these pollutants.

Receiving Water Body Level of Protection

This project is located on Deep Creek within the Palouse Subbasin assessment unit (AU) 17060108CL032b_03 (Deep Creek – T42, R05, Sec. 02 to mouth). This AU is designated for cold water aquatic life and secondary contact recreation beneficial uses. 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 2018/2020 Integrated Report, this AU is not fully supporting the aquatic life beneficial use. Causes of impairment include temperature, sediment, flow regime modification, and physical habitat alterations. The contact recreation beneficial use is fully supported. As such, DEQ will provide Tier 1 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. However, sediment and temperature are not relevant to recreational uses since they 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 (IDAPA 58.01.02.052.04; 07), applies to all waters subject to the jurisdiction of the Clean Water Act (IDAPA 58.01.02.051.05; 052.01), and requires demonstration that existing and designated uses and the level of water quality necessary to protect existing and designated uses shall be maintained and protected (IDAPA 58.01.02.051.01). 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 (IDAPA 58.01.02.055.02). 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).

The *Palouse River Tributaries Subbasin Assessment and TMDL* (2005) established a load allocation of 379.6 tons/year of sediment for Deep Creek and calculated a needed 96% load reduction to meet that target. 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 including diverting water around the project site when in-water work is taking place, installing silt fencing and straw wattles, and installing temporary shoring during bridge abutment construction. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area including riprap on stream banks and installing a bridge that will withstand a 100-year flood event with improved downstream scour prevention.

To ensure the permitted work will comply with temperature criteria for the protection of aquatic life (IDAPA 58.01.02.250.02.b) and the *Palouse River Subbasin 2017 Temperature TMDL* (2017), which utilizes riparian shade targets, impacted banks will be re-vegetated during the final phase of the project to stabilize the bank and improve shading to the stream channel.

In addition to the above best management practices the applicant will implement to ensure permitted work complies with TMDL targets and water quality standards, the project will also include on-site restoration and revegetation of riparian areas in order to achieve no net loss of wetlands and wetland functions within the project area.

As long as the project is conducted in accordance with the provisions of the currently submitted 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 existing and designated beneficial uses. In addition, the project will be consistent with the *Palouse River Tributaries Subbasin Assessment and TMDL* (2005) and the *Palouse River Subbasin 2017 Temperature TMDL* (2017).

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

Pursuant to IDAPA 58.01.02.200.08, 58.01.02.250.02.b, and 58.01.02.055.05, the following conditions are designed to reduce impairment pollutants from construction activity and ensure no lowering of water quality occurs in Deep Creek.

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. 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.
7. 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 <https://www.epa.gov/npdes-permits/stormwater-discharges-construction-activities-region-10>.

Fill Material

1. Fill material subject to suspension will be free of easily suspended fine material. The fill material to be placed will be clean material only.
2. Fill material will not be placed in a location or in a manner that impairs surface or subsurface water flow into or out of any wetland area.
3. Placement of fill material in existing vegetated wetlands will be minimized to the greatest extent possible.
4. All temporary fills will be removed in their entirety on or before construction completion.
5. 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 uncontrolled.

Erosion and Sediment Control

1. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS and TMDLs shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's [*Idaho Catalog of Storm Water Best Management Practices*](#). Other resources may also be used for selecting appropriate BMPs.
2. One of the first construction activities will 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. Permanent erosion and sediment control measures will 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. Permanent erosion and sediment control measures will be installed at the earliest practicable time consistent with good construction practices and will be maintained as necessary throughout project operation.
5. Structural fill or bank protection will consist of materials that are placed and maintained to withstand predictable high flows in the waters of the state.
6. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation and be replaced or augmented if they are not effective.
7. All construction debris will be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
8. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion.
9. Maximum fill slopes will 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.
10. 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

1. 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.
2. 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).
3. 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

1. Work in open water is to be kept at a minimum and only when necessary to reduce sediment disturbances. Equipment shall work from an upland site to minimize disturbance of waters of the state. If this is not practicable, appropriate measures must be taken to ensure disturbance to the waters of the state is minimized.
2. Forging of the channel is not permitted. Temporary bridges or other structures shall be built if crossings are necessary.
 - a. Temporary crossings must be perpendicular to channels and located in areas with the least impact. The temporary crossings must be supplemented with clean gravel or treated with other mitigation methods at least as effective in reducing impacts. Temporary crossings must be removed as soon as possible after the project is completed or the crossing is no longer needed.
3. Heavy equipment working in wetlands will be placed on mats or suitably designed pads to prevent sediment disturbance and damage to the wetlands.
4. Work in waters of the state shall be restricted to areas specified in the application.
5. Measures will be taken to prevent wet concrete from entering into waters of the state when placed in forms and/or from truck washing.
6. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
7. To minimize sediment transport, stream channel or stream bank stabilization must be completed prior to returning water to a dewatered segment.

Pollutants/Toxics

1. In conformance with IDAPA 58.01.02.200, 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

1. Disturbance of existing wetlands and native vegetation will be kept to a minimum.
2. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
3. Fencing and other barriers should be used to mark the construction areas.
4. Where possible, alternative equipment should be used (e.g., spider hoe or crane).
5. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation will be successfully reestablished to function for water quality benefit at pre-project levels or improved at the completion of authorized work.

Dredge Material Management

1. Upland disposal of dredged material must be done in a manner that prevents the material from re-entering waters of the state.

Management of Hazardous or Deleterious Materials

1. In conformance with IDAPA 58.01.02.200, petroleum products and hazardous, toxic, and/or deleterious materials will 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.
2. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
3. Daily inspections of all fluid systems on equipment to be used in or near waters of the state will 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.
4. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
5. Equipment and machinery will 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.
6. Emergency spill procedures will be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
7. 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).

- Lewiston Regional Office: 208-799-4370 / 877-541-3304

d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

Treated Wood

1. DEQ's [Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments](#) must be considered when using treated wood materials in the aquatic environment. Within this guidance document DEQ references the [Best Management Practices for the Use of Treated Wood in Aquatic and Wetland Environments](#). This document provides recommended guidelines for the production and installation of treated wood products destined for use in sensitive environments.

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 DEQ's Lewiston Regional Office, Sujata Connell, 208-799-4370 or Sujata.Connell@deq.idaho.gov.



John Cardwell
Regional Administrator
Lewiston Regional Office