STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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(208) 373-0502

Brad Little, Governor
Jess Byrne, Director

July 7, 2021

Ms. Breann Green
Salmon Whitepark Association
195 Hwy 93 S
Salmon, Idaho 83467

Subject: **Idaho §401 Water Quality Certification for the Salmon Whitewater Park**

Dear Ms. Green

On May 12, 2021, the Idaho Department of Environmental Quality (DEQ) received a request for a §401 Water Quality Certification (WQC) from the Army Corps of Engineers concerning the proposed Salmon White Waterpark.

DEQ drafted a WQC and began a public comment period on June 7 through June 29, 2021. DEQ received no comments and finalized the WQC. Enclosed, please find DEQ's final WQC.

Please do not hesitate to contact me at 208.528.2650 or troy.saffle@deq.idaho.gov with questions or concerns about the WQC process and final permit.

Thank you.

Sincerely,

Troy Saffle
Regional WQ Manager
Idaho Falls Regional Office

enclosure

c: James Joyner, ACOE
Beth Spelsberg, DEQ (EDMS reference)

Idaho Department of Environmental Quality

Final § 401 Water Quality Certification

July 7, 2021

Water Quality Certification Request For : NWW-00440-I02 Salmon Whitewater Park

Permit Number: Individual §404 permit

Applicant/Authorized Agent: Salmon Whitewater Park Association / Breann Green

Project Location: N 45.176328, W 113.89567

Receiving Water Body: 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 certification request, received on 5/12/2021, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permit and the conditions set forth in this water quality certification, then it is reasonable for DEQ to conclude the activity will comply with water quality requirements, including 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.

1 Project Description

The Salmon Whitewater Park Association (SWPA) proposes to build, construct and maintain a recreational whitewater park in Salmon, Idaho. A recreational whitewater park will be constructed in the east channel of the Salmon River between Island Park and Veterans' Park in downtown Salmon, Idaho including: (1) a wave structure, terraced viewing area, and a kids' play area to provide public recreation opportunities, (2) placement of ecological education signs, (3) replacement of a Lemhi County waterline, and (4) removal of depositional material and bank armoring to reduce Island Park bank erosion. The project area is in the Mid Salmon Panther Subbasin, USGS hydrologic unit code 17060203 in downtown Salmon, Idaho, Lemhi County on land managed by the City of Salmon. The U.S. Highway 93 bridge and a pedestrian bridge between Veterans' Park and Island Park cross the site.

About 5.2 acres of east channel will be dewatered for 8-12 weeks. About 0.25 acre of vegetation classified Riverine (R3UBH) as will be temporarily impacted during initial construction and routine maintenance. Another 0.25 acre will be permanently removed.

A total of 2,975 CY will be excavated below OHW during construction.

A total of 5,925 tons of fill material ranging from 6-foot diameter boulders to coarse sand will be used to construct the deflector, wave structure, boulder features, play area, bank armoring and terracing. 3,661 CY of the fill will be below OHW including 705 CY of clean gravel and cobble for bedding material and 37 CY is clean coarse sand ¼"minus to provide foot-friendly substrate in the play area pools.

Two City of Salmon water pipelines will be removed and new 203/8¾" diameter iron casings will be buried 5-feet deep when the channel is dewatered for the park construction. Excavation and fill for the pipelines will be 27.5 CY.

2 Antidegradation Review

As part of its water quality standards program, Idaho has an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051). DEQ has adopted regulations to implement the antidegradation policy (IDAPA 58.01.02.052).

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).

2.1 Pollutants of Concern

The 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 these pollutant.

2.2 Receiving Water Body Level of Protection

This project is located on Salmon River within the Middle Salmon River- Panther – Williams Creek to Pollard Creek assessment unit (AU) ID17060203SL042_06. (Williams Creek to Pollard Creek) This AU has the following designated beneficial uses: cold water aquatic life and salmonid spawning 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).] This AU is identified as "not supporting" its beneficial uses due to temperature impairment.

The only pollutant of concern associated with this project is sediment. However, sediment is not relevant to recreational uses since aquatic life is the more sensitive use and sediment will be expected to cause impairments to aquatic life at concentrations well below what would be necessary to cause recreational use impairment; it is therefore unnecessary for DEQ to conduct a Tier II analysis (IDAPA 58.01.02.052.06).]

2.3 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. 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 it is reasonable for DEQ to conclude that 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.

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).

3 Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

The following conditions are necessary to ensure the whitewater park project complies with Idaho water quality standards and other appropriate water quality requirements of State law applicable to the Salmon River.

3.1 General Conditions

This certification is based on the certification request submitted by the SWPA on 5/12/2021 and 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.

Because DEQ is certifying only the activity described in the certification request, this condition is necessary to ensure that discharges under circumstances that differ from those described in the certification request will comply with 33 U.S.C. § 1341, 40 CFR Part 121, and other applicable water quality requirements, including without limitation 33 U.S.C. § 1311(a), Idaho Code § 39-108, IDAPA 58.01.02.051, IDAPA 58.01.02.052, IDAPA 58.01.02.080, IDAPA 58.01.02.200, IDAPA 58.01.02.210, IDAPA 58.01.02.250, IDAPA 58.01.02.251, IDAPA 58.01.02.252, IDAPA 58.01.02.253, and IDAPA 58.01.02.400.

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.

   Because DEQ is certifying only the activity described in the certification request based on information available at the time of certification, this condition is necessary to ensure that discharges from activities not described in the certification request, or where there has been a change in the characteristics of or WQS applicable to the receiving water body, will comply with 33 U.S.C. § 1341, 40 CFR Part 121, and other applicable water quality requirements, including without limitation 33 U.S.C. § 1311(a), Idaho Code § 39-108, IDAPA 58.01.02.051, IDAPA 58.01.02.052, IDAPA 58.01.02.080, IDAPA

58.01.02.200, IDAPA 58.01.02.210, IDAPA 58.01.02.250, IDAPA 58.01.02.251, IDAPA 58.01.02.252, IDAPA 58.01.02.253, and IDAPA 58.01.02.400.

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.

   This condition is necessary to ensure that, in the event of an ownership change, DEQ has the minimum information to support ongoing compliance with 33 U.S.C. § 1341, 40 CFR Part 121, this water quality certification ,and other applicable water quality requirements, including without limitation Idaho Code § 39-108, IDAPA 58.01.02.080, and IDAPA 58.01.02.400.

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.

   This condition is necessary to ensure all responsible parties, including onsite contractors, are aware of and comply with this water quality certification and other applicable water quality requirements, including without limitation Idaho Code § 39-108, IDAPA 58.01.02.080, and IDAPA 58.01.02.400

4. 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.

   This condition is necessary to ensure all responsible parties, including onsite contractors, comply with this water quality certification and applicable water quality requirements, including without limitation Idaho Code § 39-108, IDAPA 58.01.02.080, and IDAPA 58.01.02.400.

5. 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 is required.

   This condition is necessary to ensure that work authorized under the Section 404 permit complies with water quality requirements prohibiting unauthorized stormwater discharges, including without limitation 33 U.S.C. § 1311(a), 33 U.S.C. § 1342(p), IDAPA 58.01.02.080, and IDAPA 58.01.02.400.

3.1 Fill Material

The following conditions are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.210, IDAPA 58.01.02.250, IDAPA 58.01.02.251, IDAPA 58.01.02.252, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. Fill material subject to suspension will be free of easily suspended fine material. Only clean material may be placed as fill. If dredged material is proposed to be used as fill material and there is a possibility the material may be contaminated, then the permitee must assess and characterize sediment to determine the suitability of dredge material for unconfined-aquatic placement; determine the suitability of post dredge surfaces; and to predict effect on water quality during dredging. Sediment assessment and characterization done in accordance with the procedures in the Sediment Evaluation Framework for the Pacific Northwest (RSET, 2018) satisfies the above requirement. A different assessment and characterization methodology may be used if the Department approves the methodology in writing.
2. All temporary fills will be removed in their entirety on or before construction completion.
3. 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.

3.2 Erosion and Sediment Control

The following conditions are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

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. 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.
3. 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.
4. 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.

5. 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.
6. All construction debris will be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
7. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion (2020 Catalog of Storm Water BMPs 3.5.1.4) .
8. 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.
9. 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.

3.3 Turbidity

The following conditions are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200.08, IDAPA 58.01.02.250.02.e, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. Sediment resulting from this activity must be mitigated to prevent violations of in turbidity standards the Idaho WQS. Any violation of this standard must be reported to the DEQ regional office immediately.
2. A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field, but grab samples may be collected and taken to a laboratory for analysis. When monitoring is required a sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current. Then a sample must be collected immediately down-stream from the in-water disturbance or point of discharge and within any visible sediment plume. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

a. Results from the down-current sampling point must be compared to the up-current or background level to determine whether project activities are causing an exceedance of state WQS. If the downstream turbidity is 50 NTUs or more greater than the upstream turbidity, then the project is causing an exceedance of the WQS. Any exceedance of the

turbidity standard must be reported to the appropriate DEQ regional office within 24 hours.

b. Earth disturbing activities may continue once turbidity readings return to within 50 NTU over background instantaneously; or, if turbidity has exceeded 25 NTU over background for more than ten consecutive days, once turbidity readings have no longer exceeded 25 NTU over background for at least 24 consecutive hours.

c. Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The report must describe all exceedances and subsequent actions taken, including the effectiveness of the action.

3.4 Management of Hazardous or Deleterious Materials

The following conditions are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.080, IDAPA 58.01.02.200, IDAPA 58.01.02.400, *IDAPA 58.01.02.800, IDAPA 58.01.02.850.*

1. 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.
2. 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.
3. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
4. 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.
5. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
6. 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).

    i. Contact Idaho Falls Regional Office: (208) 528-2650

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

4 Required Notification

The permittee must notify the Idaho Falls Regional Office when authorized work begins.

5 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 in the Idaho Falls Regional Office at 208.528.2650 or troy.saffle@deqidhao.gov.

Kreyg Eager for

Eric Neher
Regional Administrator
Idaho Falls Regional Office