



FACT SHEET

**The United States Environmental Protection Agency (EPA)
Plans To Reissue A National Pollutant Discharge Elimination System (NPDES)
General Permit To:**

Small Suction Dredge Miners in Idaho
and the

**State of Idaho
Department of Environmental Quality
Proposes to Certify under
Clean Water Act (CWA) § 401**

Public Comment Start Date: December 13, 2017
Public Comment Expiration Date: January 29, 2018

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EPA Proposes NPDES Permit Reissuance

EPA proposes to reissue an NPDES General Permit (GP) to small suction dredgers operating in Idaho. Small suction dredges are limited to an intake nozzle size of 5 inches in diameter or less (or the diametrical equivalent defined in the GP) and equipment rated at 15 horsepower or less. The draft GP sets conditions on the discharge - or release - of pollutants from these operations into waters of the United States.

This Fact Sheet includes:

- Information on public comment, public hearings, and appeal procedures
- a description of the industry
- a description of draft GP conditions
- background information supporting the conditions in the draft GP

The State of Idaho CWA § 401 Certification

Upon EPA's request, the Idaho Department of Environmental Quality (IDEQ) has provided a draft certification of the permit under CWA § 401.

Persons wishing to comment on State Certification should submit written comments by the public notice expiration date to Nicole Deinarowicz, Idaho Department of Environmental Quality, 1410 N. Hilton Boise, Idaho 83706. Ms. Deinarowicz may be reached by phone at (208) 373-0591 or by e-mail at Nicole.Deinarowicz@deq.idaho.gov.

EPA invites comments on the draft permit

EPA will consider all public comments before issuing a final GP. Those wishing to comment on the draft GP or request a public hearing may do so in writing by the public notice expiration date. Please submit comments to the Director, Office of Water and Watersheds, USEPA-Region 10, 1200 Sixth Avenue, Suite 900, OWW-191, Seattle, Washington 98101. Comments may also be submitted by e-mail to godsey.cindi@epa.gov or faxed to (206) 553-1280.

All comments should include name, address, phone number, a concise statement of basis for the comment and relevant facts upon which it is based. A substantive comment can disagree with the statutory or regulatory basis for a permit but should include constructive feedback on how the permit is written, conditioned, and/or implemented (e.g., eligibility, prohibitions, best management practices, reporting, etc.). Comments that are very general (“I hate this permit”) or beyond the scope of the permit (“Motorboats should be regulated, too”) will be acknowledged but not considered substantive. A public hearing, which is a formal way to accept oral comments (and not a forum for discussing the permit), may be requested. Such a request must state the nature of the issues to be raised as well as the requester’s name, address, and telephone number. Persons wishing to request a public hearing may do so, in writing, by the expiration date of this public comment period.

After the comment period closes, and all comments have been considered, the EPA will review and address all submitted comments. EPA’s Regional Director for the Office of Water and Watersheds will then make a final decision regarding permit issuance. If no comments are received, the tentative conditions in the Draft GP will become final. Pursuant to CWA § 509(b)(1) [33 USC 1369(b)(1)], any interested person may appeal the permit in the Ninth Circuit Court of Appeals within 120 days following notice of EPA’s final decision for the permit.

Documents are available for review

The draft NPDES GP, fact sheet, and documents from the administrative record (mainly the references cited in this Fact Sheet) can be reviewed at EPA’s Regional Office in Seattle between 8:30 a.m. and 4:00 p.m., Monday through Friday. The draft GP and fact sheet are also available for inspection and copying at the following locations in Idaho:

EPA Idaho Operations Office
950 W Bannock Street, Suite 900
Boise, Idaho 83702
(208) 378-5746

Idaho Department of Environmental Quality
State Office
1410 North Hilton
Boise, Idaho 83706
(208) 373-0502

Idaho Department of Environmental Quality
Twin Falls Regional Office
650 Addison Ave. W, Suite 110
Twin Falls, Idaho 83301
(208) 736-2190 (800) 270-1663

Idaho Department of Environmental Quality
Boise Regional Office
1445 North Orchard
Boise, Idaho 83706
(208) 373-0550 (888) 800-3480

Idaho Department of Environmental Quality
Lewiston Regional Office
1118 F Street
Lewiston, Idaho 83501
(208) 799-4370 (877) 541-3304

Idaho Department of Environmental Quality
Idaho Falls Regional Office
900 N. Skyline Suite B
Idaho Falls, Idaho 83402
(208) 528-2650 (800) 232-4635

Idaho Department of Environmental Quality
Pocatello Regional Office
444 Hospital Way, #300
Pocatello, Idaho 83201
(208) 236-6160 (888) 655-6160

Idaho Department of Environmental Quality
Coeur d'Alene Regional Office
2110 Ironwood Pkwy
Coeur d'Alene, Idaho 83814
(208) 769-1422 (877) 370-0017

Copies of the draft permit and fact sheet can be found on the EPA, Region 10 website at www.epa.gov/npdes-permits/draft-npdes-general-permit-small-suction-dredge-placer-miners-idaho

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LIST OF ACRONYMS

AR	Annual Report
BE	Biological Evaluation
BLM	Bureau of Land Management
BMP	Best Management Practices
BPJ	Best Professional Judgement
CFR	Code of Federal Regulations
CWA	Clean Water Act
EFH	Essential Fish Habitat
ELG	Effluent Limitation Guideline
EPA	Environmental Protection Agency
ESA	Endangered Species Act
ESU	Evolutionary Significant Unit
FR	Federal Register
GEM	Grimes, Elk, and Mores Creek
GP	General Permit
ICR	Information Collection Request
IDEQ	Idaho Department of Environmental Quality
IDL	Idaho Department of Lands
IDWR	Idaho Department of Water Resources
NOAA	National Oceanic and Atmospheric Administration
NMFS	National Marine Fisheries Service
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NTU	Nephelometric Turbidity Unit
OMB	Office of Management and Budget
SPCC	Spill Prevention Control and Countermeasure
T&E	Threatened and Endangered
TMDL	Total Maximum Daily Load
USFS	United States Forest Service
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
WLA	Wasteload Allocation
WQS	Water Quality Standard

I. BACKGROUND ON GENERAL PERMITS

CWA § 301(a) prohibits most point source discharges of pollutants to waters of the United States, unless they are authorized by an NPDES permit. NPDES permits authorize discharges under certain conditions described in the permit. Such permits are usually issued to individual dischargers, i.e., an individual discharger receives its own individual permit. However, the NPDES regulations also authorize the issuance of "general permits" to categories of discharges. Issuance of a general permit allows EPA to authorize discharges from multiple dischargers at one time. A determination has been made that this is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

EPA's implementing regulations authorizing the issuance of general NPDES permits are under Title 40 of the Code of Federal Regulations (CFR), Part 122, Section 28 (40 CFR 122.28). EPA may issue a general NPDES permit if there are multiple point sources operating in a geographic area that: 1) involve the same or substantially similar types of operations; 2) discharge the same types of pollutants; 3) require the same effluent limitations or operating conditions; 4) require the same or similar monitoring requirements; and 5) in the opinion of the Director, are more appropriately controlled under a general permit than under individual NPDES permits.

EPA Region 10 has determined that reissuance of the GP to authorize discharges from small suction dredge miners in Idaho is appropriate due to the similarity of operations, pollutants discharged, management practices, and need for similar limitations and monitoring requirements.

II. IDAHO NPDES AUTHORIZATION

In 2014, the Idaho Legislature revised the Idaho Code to direct the Idaho Department of Environmental Quality (IDEQ) to seek authorization from the EPA to administer the NPDES permit program for the State of Idaho. On August 31, 2016, IDEQ submitted a program package pursuant to CWA Section 402(b) and 40 CFR 123.21.

IDEQ is seeking authorization for a phased NPDES permit program that would begin July 1, 2018. Assuming that IDEQ's request for authorization is approved, IDEQ would obtain permitting for general permits on July 1, 2020. At that point in time, all documentation required by the permit would be sent to IDEQ rather than to EPA and any decision under the permit stated to be made by EPA or jointly between EPA and IDEQ will be made solely by IDEQ. Permittees will be notified by IDEQ when this transition occurs.

III. SUMMARY OF CHANGES FROM PREVIOUS PERMIT

A notice appeared in the Federal Register for the final GP on April 4, 2013., and became effective on May 6, 2013. The GP was later modified with the final Federal Register notice appearing on March 14, 2014. The original GP and its subsequent modification are collectively referred to as the 2013 GP.

EPA is proposing the following changes to the permit.

Summary of Changes from the 2013 GP	
Draft Permit Part	Description of Change
Throughout	Changed “placer mining” to “suction dredging” to more precisely describe the activity being covered by the GP
I.A.	Clarified the Coverage and Eligibility requirements
I.B.	Specified that a final Annual Report is due with a request for termination.
I.D.5.	Clarified the list of Withdrawn Waters
I.G.1.a. & b.	If a Permittee has received coverage for either GEM creeks of SF Clearwater in the previous year, submittal of the Annual Report is required before a new NOI will be processed for the coming season.
I.G.1.b.	Setup an annual coverage mechanism for the South Fork Clearwater River that coincides with IDWR and federal land managers
I.H.	Clarify the expiration date of permit coverage given that some facilities have time limited coverage.
III.	Clarify Monitoring and Reporting requirements.
VI.B.	Updated penalty amounts according to the Debt Collection Act.
V.B.	Expanded the Duty to Reapply
VI.	Clarified some Definitions.
Requesting comments on specific issues	
I.D.4.	Should EPA coordinate consultation with a federal land manager (FLM) on ESA for private/state lands that may be within the area that the FLM is considering?
I.E.	Should EPA create a list based on IDWR’s list of open waters that would show those waters that are closed in a watershed for either ESA or sediment/suspended solids/mercury impairment?
I.G.a.1.	Should EPA allocate the wasteload under the Mores Creek TMDL in yd ³ rather than hours?
State Certification	
I.E.	IDEQ intends to notify public water supply intake systems when a dredger has received coverage to operate within 500 feet of the intake.
I.F.	Requires an individual permit on an Outstanding Resource Water if one is ever designated.

IV. OPERATIONS AND RECEIVING WATERS COVERED BY THIS GP

A. INDUSTRY DESCRIPTION AND NPDES PERMITTING APPLICABILITY

Placer mining is the mining and extraction of gold or other heavy metals and minerals, primarily from alluvial deposits. These deposits may be in existing stream beds or ancient, often buried, stream deposits, i.e., paleo or fossil placers.

Many placer deposits consist of unconsolidated clay, sand, gravel, cobble, and boulders that contain very small amounts of native gold or other precious metals. Most are stream deposits that occur along present stream valleys or on benches or terraces above existing streams. Areas for locating gold are around boulders near the upstream end of pools where the current first starts to slow, in seams and pockets in exposed bedrock around midstream boulders, or on the inside of a river bend at or near the head of a gravel bar where larger materials have accumulated.

Dredging systems are classified as hydraulic or mechanical (including bucket dredging), depending on the methods of digging. Suction dredges, the most common hydraulic dredging system, are popular with small scale and recreational gold placer miners. Suction dredges consist of a supporting hull with a mining control system, excavating and lifting mechanism, gold recovery circuit, and waste disposal system. All floating dredges are designed to work as a unit to extract, classify, beneficiate ores, and discharge. The disposal system is a discrete conveyance, or point source, from which pollutants are or may be discharged.

Because suction dredges work the stream bed, the discharges from suction dredges consist of stream water and bed material. The primary pollutant of concern in the discharges from a suction dredge is suspended solids, defined as total suspended non-filterable solids. The suspended solids discharged from suction dredges result from the agitation of stream water and stream bed material in the dredge while processing the material. The discharged suspended solids result in a turbidity plume, or cloudiness, in the receiving water. This discharge, when released into waters of the United States, constitutes the addition of a pollutant from a point source that is subject to NPDES permitting.

Mercury may be encountered and collected from historic activities. The discharge of any mercury is prohibited under this GP.

B. OPERATIONS COVERED BY THE GP

EPA is proposing to reissue a GP continuing to authorize discharges from small suction dredges. Small suction dredges are defined as having intake nozzle diameters of less than or equal to 5 inches and a rating of no more than 15 horsepower or dredging operations with the diametrical equivalent to a 5 inch dredge as long as the combined horsepower does not exceed 15. Diametrical equivalents are defined as follows:

- 1 – 5 inch dredge
- 1 – 4 inch dredge and 1 – 1 inch dredge
- 1 – 3 inch dredge and 1 – 2 inch dredge
- 1 – 3 inch dredge and 2 – 1 inch dredges
- 2 – 2 inch dredges and 1 – 1 inch dredge
- 3 – 1 inch dredges and 1 – 2 inch dredge
- 5 – 1 inch dredges

Larger suction dredges and other placer mining activities are not authorized to discharge under this GP. Operations not covered by this GP need to submit an individual permit application to EPA. EPA will evaluate the possible need for other general permits.

Suction dredging activities are also permitted by the Idaho Department of Water Resources (IDWR). Letter Permits are required by IDWR for suction dredges with nozzle size of 5 inches in diameter or less, and equipment rated at 15 horsepower or less.

Many of the permit conditions in the GP are based on conditions of the IDWR permit and are consistent with IDAPA 37.03.07 Rule 64 Stream Channel Alterations Rules applicable to recreational dredging. Other permit requirements are based on Idaho Water Quality Standards (WQS), as described in more detail below.

C. RECEIVING WATERS

The draft GP authorizes discharges of specified pollutants to certain waters of the United States within the state of Idaho during certain times of year. This section summarizes where (in what receiving waters) and when (what times of year) suction dredgers can discharge effluent under the GP. The receiving waters are the waters of the United States in the state of Idaho, most of which are classified in the Idaho WQS [IDAPA 58.01.02] as protected for aquatic life, recreation, water supply, wildlife, and aesthetics.

1. Receiving Waters not covered by this GP

The following are the receiving waters excluded from coverage, i.e., this GP does not authorize the discharge from suction dredges in the water bodies described below except under limited circumstances:

National Protected Areas: The draft GP does not apply to facilities that are proposed to be located in National Parks System Units (i.e., Parks and Preserves), National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, or National Wilderness Areas unless the land management agency has approved the activity and this approval is provided with the Notice of Intent (NOI).

Endangered Species Act (ESA): Critical habitat has been designated for bull trout by the US Fish and Wildlife Service (USFWS). In order to facilitate the consultation required with the USFWS under Section 7 of the ESA, EPA is proposing to continue the prohibition on suction dredge discharges in habitat designated for bull trout unless a consultation has been completed for another federal process (e.g. USFS Plan of Operations, US Army Corps of Engineers (Corps) Section 10 permit).

Critical habitat has been designated by the National Marine Fisheries Service (NMFS) for the following salmon species in Idaho: Snake River

Sockeye salmon, Snake River Spring/Summer Chinook salmon, and Steelhead.

A more complete discussion of the critical habitat areas is included in Section VII.A. of this fact sheet and EPA's Biological Evaluation.

Additionally, EPA is proposing to continue to exclude activities in the stream segments where four species of snails that are either listed as threatened or endangered under ESA are known to occur: Snake River Physa, Banbury Springs Limpet, Bliss Rapids Snail, and Bruneau Hot Springsnail.

National Wild and Scenic Rivers: Pursuant to Section 47-1323 of the Idaho Code, the State Board of Land Commissioners prohibits dredge mining in any form in water bodies making up part of the National Wild and Scenic Rivers System.

Appendix B of this Fact Sheet (Appendix D of the GP), Part 1 provides specific details on the prohibited waterbodies.

Withdrawn River Segments: Pursuant to Sections 47-702(2), 47-1323, and 58-104(9) of the Idaho Code, the State Board of Land Commissioners has prohibited recreational dredge and placer mining in certain segments of the following rivers: Boise River, Payette River, Priest River, St. Joe River, Clearwater River, Lochsa River, Selway River, Salmon River, and Snake River.

Appendix B of this Fact Sheet (Appendix D of the GP), Part 2 provides the complete list of specific withdrawn river segments that are closed to placer mining.

State Protected Rivers: Pursuant to Section 42-1734A of the Idaho Code and adopted by the Idaho Water Resource Board, certain waterways and/or stream segments are protected as either a State Natural River or as a State Recreational River with recreational dredge or placer mining prohibited.

Suction dredge mining is prohibited in portions of the following water bodies: Priest River Drainage, Payette River Drainage, Boise River Drainage, Snake River Drainage, Henry's Fork Snake River Drainage, South Fork Snake River Drainage, North Fork Clearwater River Drainage, and Main Salmon River Drainage.

Appendix B of this Fact Sheet (Appendix D of the GP), Part 3 provides a complete list of the segments of State Protected Rivers where suction dredging is prohibited.

Water Quality Limited Segments: A water quality limited segment is any waterbody, or definable portion of a waterbody, where it is known that the water quality does not meet applicable WQS, and/or is not expected to meet

applicable WQS. Under CWA § 303(d), states must identify and list water quality limited segments.

CWA § 303(d) requires states to develop a Total Maximum Daily Load (TMDL) management plan for impaired waterbodies on the list. A TMDL is a pollutant budget which accounts for what is already in the water then divides what is left between point and nonpoint sources.

Several waterbodies are identified on the State of Idaho's CWA § 303(d) list as water quality limited for suspended solids and/or sediments. This GP does not authorize discharges from suction dredge operations in these waterbodies, unless there is a TMDL that specifies waste load allocations for suction dredge activities. Currently only two sediment TMDLs specify allocations for suction dredging: the South Fork Clearwater River and Mores Creek (includes Grimes Creek and Elk Creek) TMDLs.

This GP also does not authorize discharges from suction dredge operations in waterbodies listed as water quality limited for mercury, unless there is a TMDL that specifies waste load allocations for suction dredge activities. Currently, no TMDL for mercury impaired waters includes waste load allocations for suction dredging.

Appendix B of this Fact Sheet (Appendix D of the GP), Part 4 contains an internet link to a current list of segments that are water quality limited for sediment and mercury in the 2014 Integrated Report (approved by EPA on June 5, 2017) and are therefore not included in the coverage area of this GP. IDEQ may update this list during the duration of this GP. Because this GP does not relieve a Permittee of the requirements of other applicable federal, state, or local laws, it is the responsibility of the Permittee to contact IDEQ for the most up-to-date EPA approved Integrated Report. Pages 2 and 3 and Appendix C of this Fact Sheet and Appendix A of the draft GP contain IDEQ contact information.

The 2013 GP did not cover suction dredging within the boundaries of the Tribal reservations of the Nez Perce, the Shoshone Bannock, the Coeur d'Alene, the Kootenai, and the Shoshone-Paiute Tribes. EPA intends to keep this restriction in place under the new GP. This decision responds to previous tribal requests and will make the transition of the GP easier under the permit program authorization process described in FS II. because IDEQ will not have the authority to administer the NPDES program within Indian Country.

2. Receiving Waters Covered Under This GP

- a. The IDWR's permit contains closed areas as well as timing restrictions. This information can be found at <https://www.idwr.idaho.gov/streams/recreational-mining-permits.html> by clicking on the link for 2017 IDWR Recreational Mining Program Instructions (the most current information to date). A requirement to

contact IDWR for the most current list of closures and timing restrictions is included and highlighted in Appendix A of the GP. Because this GP does not relieve a Permittee of the requirements of other applicable federal, state, or local laws, compliance with the IDWR or IDEQ restrictions is expected.

EPA IS REQUESTING COMMENTS

WOULD IT BE HELPFUL IF EPA COULD PRODUCE A TABLE TO INCLUDE IDWR'S LIST AND THE CAVEATS EPA HAS FOR ESA AND IMPAIRED WATERS, IT WOULD BE REFERENCED HERE WITH A MECHANISM FOR ALLOWING EPA TO COVER OTHER WATERBODIES IF A FACILITY GOES THROUGH THE LONG FORM PROCESS WITH IDWR.

- b. The USFS and/or the Bureau of Land Management (BLM) completed ESA consultation on the waterbodies listed below. The consultation determinations contain limits on the number of dredges that can operate in each area. The SF Clearwater River is limited by a TMDL.

ESA Consultations Completed	
Waterbody	# of Dredges Allowed
Moose Creek	18
Lolo Creek	18
French & Orogrande Creek	20 combined
South Fork (SF) Clearwater River	15

Because ESA consultation has been completed, EPA was able to provide permit coverage for these waters under Permit Part I.D.4.a. The USFWS consultations expire at the end of the 2017 season for Moose, Lolo, French and Orogrande creeks. Until these consultations have been updated, EPA will be unable to grant permit coverage for these creeks. The USFWS consultation for SF Clearwater River expires in 2025. The NMFS consultations for Lolo Creek and the SF Clearwater River do not expire until 2023 and 2025, respectively.

To date, the number of NOIs that EPA has received has not exceeded the limits specified in the table. If the need arose to limit the number, the GP would be modified to include a process similar to that of the SF Clearwater River, described below (FS V.C.2.).

V. OBTAINING COVERAGE UNDER THE GP

Suction dredge owners or operators seeking authorization to discharge under this GP must first submit a written NOI to EPA. A Permittee may allow another person or persons to operate a dredge under their permit; however, the Permittee is legally responsible for any discharge, including violations, from the dredge even if someone else is operating the dredge at the time of the violation.

The required contents of the NOI are specified in Permit Part I.G. and are included in table format in Appendix A of the draft GP. The NOI must include the following information, which EPA has determined is adequate to grant coverage under the GP:

Applicant, whether a new applicant (if not, include Miner #), Winter/Summer Address (Indicate if same), Telephone Number, Email address, Names of other operators (when sharing equipment), Size of Suction Dredge Nozzle (5 inches or less), Equipment rating (15 hp or less), Land Management Agency (include approval where applicable, see Permit Part I.D.1),

Waterbody, Nearest Town, Latitude, Longitude, Dates of Operation, Hours of Operation, Include a map noting each location,

Printed Name, Signature (Certified according to Permit Part V.E.4.), Date

EPA will accept the above information in any format as long as it contains a signature above the required certification language. Appendix A, which contains the above information in table format, has been provided for convenience, but applicants are not required to use it. NOIs are not considered Information Collection Requests (ICRs) and do not have to be cleared with OMB. The use of NOIs was incorporated in the generic ICR submission covering the NPDES permit program.

If applicants want to operate in areas designated as Critical Habitat, EPA must be in possession of a determination made by the Services for another federal agency on the activity at the time the applicant submits the NOI or the applicant must provide it to EPA.

All suction dredge owners and operators that wish to be covered under this GP must meet the requirements of the GP, submit an NOI, and must receive written authorization to discharge from EPA. See FS V.C.2. and 3. for further information on NOI timing requirements for Mores, Grimes, Elk creeks (including their open tributaries), and the SF Clearwater River.

After an NOI is received, EPA will coordinate all proposed permit actions with the appropriate land management agency (U.S. Forest Service, Bureau of Land Management, Idaho Department of Lands) for each dredge location. Upon approval from the land manager, EPA will provide written authorization to the Permittee regarding coverage under the GP. A copy of the coverage letter and the GP must be kept at the dredge site at all times. EPA provides two copies of the applicant's "Miner Number" on an 8½" by 11" sheet of paper—which can be laminated, placed in a sheet protector or wrapped in plastic—to be displayed on the suction dredge and in a vehicle near the dredge site. The Miner Number is unique to each applicant, whereas the permit number varies per location and/or year.

In certain circumstances, EPA may require the suction dredge owner or operator to apply for and obtain an individual NPDES permit. These situations are described in Permit Part I.F.1. and include circumstances where:

- the single discharge or the cumulative number of discharges is/are a significant contributor of pollution;

- the discharger is not in compliance with the GP;
- a change occurred in the pollutant control technology or practices;
- effluent limitation guidelines are promulgated for the point sources covered by the GP;
- a Water Quality Management Plan containing requirements applicable to such point sources is approved;
- a TMDL and corresponding wasteload allocation has been completed for a waterbody; or
- circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the GP.

As a condition of the CWA § 401 Certification, IDEQ is requiring any applicant proposing to discharge to an outstanding resource water (ORW or Tier III water - should one become designated during the term of this permit) to obtain an individual NPDES permit and an individual water quality certification, as necessary. This condition will ensure compliance with Idaho's antidegradation provisions concerning ORWs.

There are also situations where EPA may deny coverage under the GP. These are described in Permit Part I.F.2. and include circumstances where:

- a land management agency with jurisdiction over affected portions of the receiving water submits to EPA a request that GP coverage be denied within 30 days of EPA's receipt of the NOI;
- the land management agency's request includes proposed additional or revised permit terms that the requesting agency believes are necessary to protect the natural values of the affected location;
- the land management agency's request concerns a person who either seeks to discharge into waters of the United States located in certain protected areas, is in significant noncompliance with the GP, or intends to discharge into impaired waters; or
- the NMFS or the USFWS determines that consultation under Section 7 of the Endangered Species Act is necessary for suction dredge operations to protect listed threatened and endangered species and their habitat. This also includes private property where threatened or endangered species and/or their habitat are known to occur.

VI. EFFLUENT LIMITATIONS REQUIRED BY THE GENERAL PERMIT

A. STATUTORY REQUIREMENTS FOR DETERMINING EFFLUENT LIMITS

NPDES permit conditions are developed in accordance with various statutory and regulatory authorities established pursuant to the CWA. CWA §§ 101, 301(b), 304, 308, 401, and 402 provide the process and statutory basis for the effluent limitations and other conditions in the NPDES permit. EPA evaluates discharges with respect to these sections of the CWA and the relevant NPDES regulations in determining which conditions to include in the permit.

In establishing permit limits, EPA first determines which technology-based limits apply to the discharges in accordance with national effluent guidelines and standards. EPA then determines which water quality-based limits apply to the discharges based upon an assessment of the pollutants to be discharged and a review of state WQS. The effluent limit for a particular pollutant is the more stringent of the technology-based effluent limit or the water quality-based effluent limit.

B. TECHNOLOGY-BASED EFFLUENT LIMITATIONS

CWA § 301(b) requires technology-based controls on effluents. EPA has established technology-based controls, also called effluent limitation guidelines (ELGs), for numerous industry categories. On May 24, 1988, EPA established ELGs for the Gold Placer Miner industry. However, these guidelines apply to mechanical placer mining and certain large dredging operations but do not apply to small suction dredge operations. In the absence of established ELGs, EPA may establish limits based upon Best Professional Judgment (CWA § 402(a)(1) and 40 CFR 122.43, 122.44, 125.3).

It is EPA's Best Professional Judgment (BPJ) that Best Management Practices (BMPs) be established to minimize the environmental impacts of suspended solids in discharges from suction dredge operations. BMPs are measures that are intended to prevent or minimize the generation and the potential for the release of pollutants from facilities to the waters of the United States. BMPs are commonly required in NPDES permits.

The use of BMPs is allowed under CWA § 402(a)(2) and 40 CFR 122.44(k)(2) of the NPDES regulations. 40 CFR 122.44(k)(2) allows the inclusion of BMPs in lieu of numerical effluent limits under certain circumstances, including where numeric effluent limits are infeasible or the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

Suction dredging has a unique method of intake and displacement, which present unusual permitting issues. As discussed above, a suction dredge is a mechanical device that floats on the stream surface and pumps stream water and stream bed material through a suction intake conduit to a sluice box to process and recover gold or other minerals. The discharge from suction dredges consists totally of stream water and bed material immediately released back into the receiving water. Because it is infeasible to establish numeric limits directly to the discharge point, BMPs are required to reduce the impacts of the suspended solids discharge and meet the intent of the CWA.

The specific BMPs included in the draft GP are described in FS V.

C. WATER QUALITY-BASED EFFLUENT LIMITATIONS

CWA § 301(b)(1)(C) requires the establishment of limitations in permits necessary to meet WQS. All discharges to state waters must comply with state

WQS, including the state's antidegradation policy. The NPDES regulations at 40 CFR 122.44(d)(1) implement CWA § 301(b)(1)(C). These regulations require that permits include limits for all pollutants or parameters which are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state WQS. The limits must be stringent enough to ensure that WQS are met and must be consistent with any available waste load allocation.

As discussed previously, the primary pollutant of concern from suction dredge discharges is suspended solids. Suspended solids are evaluated using turbidity. Turbidity is a measure of light transmission through water and is reported in nephelometric turbidity units (NTUs). High levels of turbidity can adversely impact water quality and can have direct and indirect effects on fish and other aquatic life. The State of Idaho has established the following turbidity standard for protection of the cold water aquatic life beneficial use:

Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than 50 NTU instantaneously or more than 25 NTU for more than 10 consecutive days.

IDEQ has also established a turbidity standard for small public water supplies:

Turbidity as measured at the public water intake shall not be (1) increased by more than 5 NTU above natural background, measured at a location upstream from or not influenced by an human induced nonpoint source activity when background turbidity is 50 NTU or less or (2) increased by more than 10% above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed 25 NTU, when background turbidity is greater than 50 NTU.

IDEQ will notify active public drinking water systems if recreational dredging operations are proposed to occur within 500-feet of their surface water intake.

The NPDES regulations at 40 CFR 122.44(d)(1)(vii)(B) require that effluent limits be consistent with the assumptions and requirements of any available wasteload allocation (WLA) for the discharge in an approved TMDL. EPA reviewed the approved TMDLs for sediment impaired streams and found two, the TMDL for the SF Clearwater River and the Boise-Mores Creek, that include WLAs for suction dredge operations. EPA approved the SF Clearwater River TMDL in July 2004. EPA approved the Boise-Mores Creek TMDL in February 2010.

Water quality-based effluent limitations for turbidity are included in the draft GP. Limitations may apply specifically to operations in certain waterbodies based on an approved TMDL. These limitations are described below.

1. Turbidity Limits and Monitoring Required for All Dischargers:

The GP requires BMPs to reduce turbidity and monitoring to ensure that the BMPs are implemented properly. Proper implementation of BMPs will be protective of the Idaho WQS for turbidity.

In addition, the draft GP includes the following turbidity effluent limit:

Any visible increase in turbidity (any cloudiness or muddiness) above background beyond any point more than 500 feet downstream (500 feet of stream length) of the suction dredge during operations is considered a violation of this permit. This requirement includes any turbidity that may result from any other part of the operation.

A mixing zone is a defined area or volume of receiving water around a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable WQS. State WQS can be exceeded in the mixing zone, as long as acutely toxic conditions are prevented and the mixing zone does not impair the beneficial uses of the receiving water. An authorized mixing zone will ensure that the WQS are met at all points outside the mixing zone.

The 500 foot distance downstream for all dredges is based upon the mixing zone included in the draft CWA § 401 Certification (Appendix C) from the State of Idaho. After the public comment period, the State will issue a final CWA § 401 certification. The mixing zone size in the final permit will be based on the State's final certification.

2. Turbidity Limits for Dischargers to the SF Clearwater River

The SF Clearwater River TMDL specified the following WLAs for the suction dredge industry. These WLAs are established as effluent limits in the draft GP.

SF Clearwater River above Harpster Bridge, including tributaries:

July 15 – August 15:

- When background turbidity is 50 NTU or less: Turbidity below the mixing zone shall not exceed background turbidity by more than 5 NTU or
- When background turbidity is more than 50 NTU: Turbidity below the mixing zone shall not exceed background turbidity by more than 10% and shall not exceed a maximum increase of 25 NTU.

The TMDL developed for this stream reach allows a daily mass sediment loading of 314 tons per day. This mass loading is based on 15 dredges operating for 8 hours a day, mining no more than 2 cubic yards (yd³)/hour.

Based on this information, EPA is proposing that facilities on the SF Clearwater operate under these conditions and reapply for GP coverage on an annual basis. No more than 15 authorizations will be granted during any one year.

EPA will accept NOIs for the SF Clearwater River starting on April 1st each year. In order to collect information on this waterbody, if coverage was granted in the previous year and an Annual Report (AR) was not submitted, EPA will not process the NOI until the Permittee provides the AR for the previous year. EPA will authorize the first 15 NOI submittals that meet all the requirements of the joint EPA/IDWR/USFS or BLM process outlined in a special supplement to the IDWR Instructions, and notify any additional applicants that coverage is no longer available.

August 16 – July 14:

- The TMDL specifies that zero wasteload allocation is available between August 16 and July 14. Therefore, no discharges are allowed to the SF Clearwater River above Harpster bridge and tributaries between August 16 and July 14.

SF Clearwater River below Harpster Bridge:

The TMDL specifies that zero wasteload allocation for the entire year. Therefore, no discharges are allowed at any time to the SF Clearwater River below Harpster Bridge.

3. Boise-Mores Creek Watershed

The TMDL developed for this watershed allows an annual mass sediment loading of 1,615 tons after allocations for future capacity and a 10% margin of safety. This calculation is based on dredges operating for 4 hours a day, mining no more than 2 yd³/hour. Based on this information, EPA is proposing that facilities on Grimes, Elk, and Mores (GEM) creeks and their open tributaries process no more than 2 yd³/hour during the hours allocated to them and reapply for GP coverage on an annual basis so authorizations do not exceed the load allocations during any one year. NOIs will be accepted from January 1 through April 1, or the next business day if April 1 falls on a weekend. In order to collect information on these waterbodies, if coverage was granted in the previous year and an AR was not submitted, EPA will not process the NOI until the Permittee provides the AR for the previous year.

Each stream with suction dredge season was allocated a sediment load based upon the proportion of flow it contributes. The load allocation calculations are as follows:

$$\frac{\text{Segment flow (cfs)}}{\text{Total flow (cfs)}} \times \text{Suction Dredge Load} \left(\frac{\text{tons}}{\text{year}} \right) = \text{Segment Allocation} \left(\frac{\text{tons}}{\text{year}} \right)$$

Grimes Creek – Mean Annual flow = 159.2 cubic feet per second (ft³/s)
 $(159.2/293) \times 1615 = 878 \frac{\text{tons}}{\text{yr}}$ or 84 four hour dredge days

Elk Creek – Mean Annual flow = 20.2 ft³/s
 $(20.2/293) \times 1615 = 111 \frac{\text{tons}}{\text{yr}}$ or 11 four hour dredge days

Mores Creek – Mean Annual flow = 113.6 ft³/s
 $(113.6/293) \times 1615 = 626 \frac{\text{tons}}{\text{yr}}$ or 60 four hour dredge days

EPA IS REQUESTING COMMENTS

DURING A MEETING WITH SUCTION DREDGERS, EPA HEARD THAT ALLOCATING CUBIC YARDS, BASED ON DREDGE SIZE, RATHER THAN HOURS WOULD BETTER UTILIZE THE WASTELOADS ALLOCATED UNDER THE TMDL. EPA REQUESTS COMMENTS ON THE METHODOLOGY AND IN PARTICULAR, HOW MUCH MATERIAL CAN BE PROCESSED, UNDER TYPICAL CONDITIONS, FOR ALL DREDGE SIZES ALLOWED UNDER THIS PERMIT (1-5 INCH).

The TMDL recommended that each dredge be limited to a discharge of no more than 2 yd³/hour, as averaged over the period of operation for the entire day. For those dredges that process less than 2 yd³/hr, allocating hours underutilizes the WLA provided by the TMDL. Since the hours were calculated using 2 yd³/hr, the corresponding volumes for the allocations are:

Grimes Creek: $84 \times 4 \times 2 = 672 \text{ yd}^3$
Elk Creek: $11 \times 4 \times 2 = 88 \text{ yd}^3$
Mores Creek: $84 \times 4 \times 2 = 672 \text{ yd}^3$

EPA has previously allocated hours on an annual basis under the 2013 GP. Hours have been proportionately distributed based on the number of applicants each year. EPA is proposing to continue this practice during the next permit cycle but is requesting comment on whether it should allocate cubic yards instead. The EPA considers either expression to be consistent with the assumptions and requirements of the WLA in the TMDL. If a decision is made to allocate volume rather than hours, the method of accepting NOIs and allocating will remain the same.

D. MONITORING

CWA § 308 and the federal regulations at 40 CFR 122.44(i) require that permits include monitoring provisions to determine compliance with effluent limitations. Monitoring may also be required to gather data for future effluent limitations or to monitor effluent impacts on receiving water quality. Monitoring frequencies are based upon the nature and effect of the pollutant, as well as a determination of the minimum sampling necessary to adequately monitor performance. The

Permittee is responsible for conducting the monitoring and for reporting results to EPA.

The draft GP requires that all Permittees conduct a daily visual inspection to monitor turbidity downstream of the suction dredge during operation. If no visual difference is noted before the end of the mixing zone is reached, the Permittee is not required to observe any farther downstream.

If any visible increase in turbidity is observed above background beyond the end of the mixing zone, it is a violation of the GP and the Permittee must modify the operation to meet the permit limitation or cease operations.

E. REPORTING

Monitoring results must be compiled for the Annual Report (AR) which must be submitted to EPA and the appropriate IDEQ Regional Office no later than January 31 for the activities of the previous calendar year. Appendix B provides an information sheet containing the requirements of an AR. These include:

Permittee contact information (name, address, phone and email), permit specific information (permit number, waterbody name, latitude and longitude), dredge season information (dates bracketing the dredge period, number of days dredged in the period, estimate of the cubic yards processed during the season), length of longest observed turbidity plume, a report of any non-compliance with the permit (date, violation, remedy to return to compliance, date of any fuel spills not required to be reported during the season to IDEQ), printed name, date, and signature above the certification requirements under Permit Part V.E.4.

EPA will accept the above information in any format as long as it contains a signature above the required certification language. Appendix B, which contains the above information in table format, has been provided for convenience, but Permittees are not required to use it.

VII. BEST MANAGEMENT PRACTICES (BMPS)

As discussed in the previous section, the draft GP requires compliance with BMPs to minimize the effect and the potential for the release of suspended solids and other deleterious substances from suction dredge operations.

The draft GP requires compliance with the following BMPs (see Permit Part II.D.):

A. Silt and Clay Areas:

Dredging of concentrated silt and clay should be avoided.

The Permittee shall use reasonable care to avoid dredging silt and clay materials that could result in an increase in the discharge of suspended solids, which causes an increase in turbidity in violation of the GP. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent discharge by limiting operation speed of the suction dredge.

This practice will decrease the amount of fine material released into the water that could cause turbidity plumes in excess of the permitted distance.

- B. Mercury: If mercury is found during suction dredge operation, (i.e. mercury is collected in the sluice box), the operator must:

Keep the mercury collected and do not remobilize the collected mercury, including by stopping suction dredging immediately if that is the only way to prevent the remobilization of the collected mercury; and

Work with the appropriate entity to dispose of the mercury properly.

Some communities have household hazardous waste disposal programs available for free to citizens and/or at a low cost to small businesses or conditionally exempt small quantity generators. To find out if your community has a program, contact your county solid waste department or landfill or city public works department. If your county does not have a program, but a nearby county does, it may be willing to accept out-of-county waste at a lower cost than alternative disposal options. You could also generate support for a county-sponsored event or, if you belong to a mining association, an association-sponsored event. Contact your local IDEQ office for questions on hazardous waste regulations.

Boise	(208) 373-0550	(888) 800-3480
Coeur d'Alene	(208) 769-1422	(877) 370-0017
Idaho Falls	(208) 528-2650	(800) 232-4635
Lewiston	(208) 799-4370	(877) 541-3304
Pocatello	(208) 236-6160	(888) 655-6160
Twin Falls	(208) 736-2190	(800) 270-1663

Consult the IDEQ Best Management Practices for Mercury Collection from Suction Dredging Activities:

http://www.deq.idaho.gov/media/638458-mercury_BMP_dredging_fs_0411.pdf

Mercury was used in historic placer mining operations to amalgamate gold fines. As a result, elemental mercury may be present in stream beds and banks and, if remobilized, can result in impacts to fish and other aquatic life. If Permittees encounter mercury, they must take the above steps to prevent mercury from reentering the water body.

- C. Separation Distances

1. Suction dredge operations shall not operate within 800 feet of another suction dredge operating simultaneously, and
2. All Permittees are prohibited from discharging within 500 feet upstream of the confluence with a waterbody that is impaired for sediment or mercury.

The first requirement should ensure that the mixing zone of one operation does not overlap with that of another. Eight hundred (800) feet is the sum of a 500 foot mixing zone for an operation plus a designated 300 foot buffer.

This ensures that water quality between dredges is not impacted. The second condition ensures that dredging operations will not impact an impaired waterbody.

D. Fish Passage, Spawning Fish and Spawning Habitat:

1. Dredging and discharging are prohibited within 500 feet of locations where:
 - a. fish are spawning or
 - b. fish eggs or alevins are known to exist at the time dredging occurs
2. Suction dredge operations must not occur in gravel bar areas at the tail of pools, or where discharges of suspended solids result in fine sediments settling onto gravel bars.
3. The Permittee shall ensure there is adequate passage for fish around and through the mining area at all times.

The following information (Appendix C of the GP) can be used to determine if you are located in an area that may be a spawning area of a species of concern. These areas should be avoided.

- Trout construct spawning nests (redds) in clean gravel from 0.25 to 1.5 inches in diameter. The preferred site is a gravel bar at the tail or side of pools covered by 6 to 12 inches of smoothly flowing water. Redds may be recognized as round or oval depressions in the gravel which appear cleaner or brighter than the surrounding gravel.
- Salmon and Steelhead spawn in similar areas in gravel and cobblestones up to 3-4 inches in diameter.
- Steelhead, Rainbow and Cutthroat Trout can spawn from March through June, but primarily in the months of April and May, and their eggs and fry remain in the gravel until mid-summer.
- Spring and Summer Chinook Salmon typically spawn in August and September, Fall Chinook Salmon spawn in October and November. Their eggs and fry remain in the gravel until the following spring.
- Brook Trout, Brown Trout, Bull Trout, Kokanee and Mountain Whitefish spawn from September into December and their eggs and fry remain in the gravel during winter. Incubation of Bull Trout eggs also occur over a longer period than other species and their young have an extended period of residency in spawning gravels - 200 days as opposed to about 60 days for other trout.
- Pacific Lamprey are an anadromous species present in the Snake River Drainage utilizing similar stream habitats to Chinook Salmon and Summer Steelhead. Lamprey adults migrate into the Columbia and Snake River basins from June through October, over winter, and spawn during April through July. Spawning substrates are fine to medium size gravels (0.25 to 1.0 inch diameter). Following a hatching

period of 2-3 weeks, larvae (ammocoetes) rear in fine substrates where they remain for over 5 years until the transformation to adult is complete. Adults migrate to the ocean where they become parasitic.

This BMP is designed to minimize impacts to fish spawning and spawning habitat and to provide for fish passage.

E. Stream Channel:

Suction dredge operations must occur within the wetted perimeter of the stream channel and must not alter the bottom elevation of the active stream channel (dredged material must be used to backfill all dredged holes before any new holes are excavated) or redirect the flow of water into the stream bank, which may destroy the natural form (width/depth configuration) of the active stream channel.

Under CWA § 101, EPA is required to restore and maintain the chemical, physical, and biological integrity of waters of the United States. Protection of the physical integrity of waterbodies includes protection of habitat that could be impacted by stream bank erosion or destruction of the natural form of the channel.

F. Erosion:

Suction dredge operations that result in undercutting, littoral channeling, stream bank or beach erosion, are prohibited. Removal or disturbance of boulders (cobbles or larger rock) or any type of vegetation (dead or alive) on the stream bank, leading to erosion or undercutting of the banks is prohibited.

In addition, per IDAPA 37.03.07.64.04, the operation of the dredge shall be done in a manner so as to prevent the undercutting of stream banks.

This practice will ensure that erosion does not occur and that the finer sediments that may be found in these areas do not cause higher turbidity in the receiving waters.

G. Dams or Diversions:

Damming or diversions within a stream channel are not authorized by this GP.

EPA does not authorize the construction of dams or diversions under CWA § 402. Dams or diversions may be permitted by the U.S. Army Corps of Engineers under CWA § 404.

H. Boulders and Natural Obstructions:

Explosives, motorized winches or other motorized equipment to move boulders, logs, or other natural obstructions to facilitate dredging are prohibited under this GP.

This practice should ensure that important habitat, which includes large organic debris and large boulders, will not be destroyed.

I. Mechanized Equipment:

The use of wheeled or tracked equipment is prohibited under this GP while suction dredging is in progress. With the exception of the suction dredge itself and any life support system necessary to operate the suction dredge, mechanized equipment shall not be used below the mean (ordinary) high water mark.

This practice will minimize turbidity from sources other than the suction dredge.

J. Refueling and Hazardous/Deleterious Material Storage

Care shall be taken by the operator during refueling of equipment to prevent spillage.

The Permittee must check the equipment for fuel and oil leaks daily prior to operation. Equipment must be in proper working order and shall not leak petroleum products.

Any spills shall be cleaned up using materials such as sorbent pads and booms.

All chemical or petroleum products shall be stored in a safe and secure location at all times. Fuel not stored and dispensed with an ANSI or UL approved safety container must be maintained not less than 100 feet from the mean high water mark.

Hazardous and deleterious material must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to ensure that those materials will not enter state waters as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation or unauthorized third party activities.

Petroleum spills shall be reported to IDEQ (see Permit Part II.C.10.c.). The size of spills of petroleum products required to be reported to IDEQ according to IDAPA 58.01.02.851.04 within 24 hours are specified in Permit Part II.C.10.c.i. and ii. Spills must be cleaned up using materials such as sorbent pads and booms.

Suction dredges must be anchored to the streambank during refueling, so that fuel does not need to be carried out into the stream. Unless the dredge has a detachable fuel tank, miners may transfer no more than one gallon of fuel at a time during refilling. Miners must use a funnel while pouring, and place an absorbent material such as a towel, under the fuel tank to catch any spillage from refueling operations. A spill kit including material for minimizing the effects of a spill such as sorbent pads and boom must be available on-site in case of accidental spills.

These practices will decrease the potential for contamination of surface water from petroleum products and other potentially harmful substances.

K. Invasive Species

Pursuant to IDAPA 02.06.09, operators must ensure their dredging equipment does not house invasive species. Equipment must be decontaminated prior to its placement in waters of the state. Furthermore, dredging equipment used in multiple streams should be decontaminated before each deployment. IDEQ Decontamination procedures can be found at:

www.deq.idaho.gov/water/data_reports/surface_water/monitoring/decontamination_procedures.pdf

IDAPA 02.06.09, "Rules Governing Invasive Species." establishes procedures for inspection, certification, permitting, compliance verification, decontamination, recordkeeping, and enforcement of regulated Aquatic Invertebrate Invasive Species.

L. Screening Requirements

The intake for the suction dredge pump (not the intake hose) shall be covered with screening mesh. If fry-sized salmonids are never present at the site, screen mesh openings shall not exceed 1/4 inch. Otherwise, screen mesh openings shall not exceed 3/32 inch.

EPA is including this requirement pursuant to a recommendation from the NMFS to facilitate their responsibilities for protecting fish under ESA.

VIII. OTHER PERMIT PROVISIONS

Specific regulatory requirements for NPDES permits are contained in 40 CFR 122.41. These conditions are included in the GP in Parts III., IV., and V. as monitoring and reporting requirements, compliance responsibilities, and general requirements.

IX. OTHER LEGAL REQUIREMENTS

A. ENDANGERED SPECIES ACT

Section 7 of the ESA requires a federal agency to consult with the NMFS and the USFWS (hereafter the Services) to ensure that any action it authorizes, funds or carries out is not likely to jeopardize the continued existence of any listed Threatened or Endangered (T&E) species or results in the destruction or adverse modification of its critical habitat.

EPA prepared a biological evaluation (BE) analyzing the effects of the 2013 GP on the listed species. A not likely to adversely affect determination was made by EPA and concurred on by the Services. EPA has conferred with the Services to determine that no aquatic species have been added to the list and no additional

critical habitat has been designated. EPA intends to provide the Services with an Executive Update with the 2013 BE. It will include another not likely to adversely affect determination, based primarily on the permit continuing to restrict dredging operations in closed streams where critical habitat for fish species has been designated. Permit conditions allow operations to be permitted where site specific ESA consultation has occurred for other federal regulatory requirements (e.g., USFS Plan of Operations, Corps Section 10 permit). Critical habitat contains biological features essential to the conservation of the species, particularly during sensitive life stages such as spawning and rearing.

During future consultations, EPA may coordinate consultation efforts with the land manager or other permitting authority in order to apply the consultation to areas not under the jurisdiction of the land manager (i.e., state land, private property). In order to do this, EPA would have to include any ESA stipulations in the authorization letter since the ESA stipulations are likely to be site specific. Compliance with ESA is required by 40 CFR 122.49(c).

EPA IS REQUESTING COMMENTS

EPA REQUESTS COMMENTS ON WHETHER THE ABOVE ESA STRATEGY FOR FUTURE CONSULTATIONS IS FEASIBLE.

If the Services do not agree with EPA's determination of not likely to adversely affect on this GP, EPA will enter into formal consultation to ensure that the GP will not result in jeopardy of the listed species or adverse modification of their critical habitat.

NMFS has been reviewing applications that propose to alter stream channels and has been providing IDWR with pre-application assistance on possible ESA Section 10 incidental take permits. NMFS will continue to provide comments through this process.

The draft GP contains conditions meant to minimize impacts to T&E species and their habitats. These include the turbidity effluent limits and restrictions on locations and timing of suction dredge activities.

The IDWR Letter Permit does not allow suction dredging during periods when fish are spawning and eggs or alevins are in the gravel. The following is information from the IDWR that is included in the draft GP:

To protect important spawning populations of salmon, steelhead, and trout, streams are closed to dredging during the periods when fish are spawning and eggs or alevins are in the gravel. Because different species of fish spawn at different times, some streams have fish eggs or alevins in the gravel during every month of the year and are therefore closed year round to dredging (See current IDWR Instructions for more details).

Critical habitat was designated for the Snake River Sockeye Salmon (*Oncorhynchus nerka*), Snake River Spring/Summer Chinook Salmon

(*Oncorhynchus tshawytscha*), and Snake River Fall Chinook Salmon (*Oncorhynchus tshawytscha*) in December 1993. Critical habitat was designated for Snake River Steelhead in 2005. Critical habitat was designated for the Bull Trout (*Salvelinus confluentus*) in 2005. Revised critical habitat was designated for the Kootenai River White Sturgeon on July 9, 2008. Critical habitat for the Kootenai River White Sturgeon consists of 18.3 river miles of the Kootenai River within Boundary County, Idaho, from river mile 141.4 to river mile 159.7.

The critical habitat in Idaho for the Snake River Salmon, Steelhead, and Bull Trout is described as follows:

Snake River Sockeye Salmon

Consists of river reaches of the Columbia, Snake, and Salmon Rivers; Alturas Lake Creek; Valley Creek; and Stanley, Redfish, Yellow Belly, Pettit and Alturas lakes (including their inlet and outlet creeks).

Snake River Spring/Summer Chinook Salmon

Consists of river reaches of the Columbia, Snake, and Salmon Rivers, all tributaries of the Snake and Salmon Rivers (except the Clearwater River) presently or historically accessible to Snake River Spring/Summer Chinook Salmon (except reaches above impassable natural falls and Hells Canyon Dam).

Snake River Steelhead

Consists of river reaches of the Columbia, Snake, and Salmon Rivers, and all tributaries of the Snake and Salmon River presently or historically accessible to Snake River Steelhead (except reaches above impassable natural falls, Dworshak Dam, and Hells Canyon Dam).

Bull Trout

Consists of Lake Pend Oreille Subunit of Clark Fork River Drainage (East River, Gold Creek, Granite Creek, Grouse Creek, Lightning Creek, Middle Fork East River, N.F. Grouse Creek, Pack River, Priest River, Tarlac Creek, Trestle Creek, Twin Creek, and Uleda Creek). The Priest Lake and River Subunit (Cedar Creek, Granite Creek, Hughes Fork, Indian Creek, Kalispell Creek, Lion Creek, N.F. Indian Creek, Soldier Creek, S.F. Granite Creek, S.F. Indian Creek, S.F. Lion Creek, Trapper Creek, Two Mouth Creek, and Upper Priest River). The Coeur d'Alene Lake Drainage (Beaver Creek, Coeur d'Alene Lake and River, Eagle Creek, Fly Creek, North Fork Coeur d'Alene River, Prichard Creek, Ruby Creek, St. Joe River, Steamboat Creek, and Timber Creek). The Snake River in Adams and Washington Counties.

In streams where suction dredging occurs, the most critical life stage for salmon, steelhead, and trout is the egg stage. To protect important spawning populations of salmon, steelhead, and trout, streams are closed to suction dredging during the periods when fish are spawning and eggs or alevins are in the gravel.

B. ESSENTIAL FISH HABITAT (EFH)

The 1996 amendments to the Magnuson-Stevens Fishery Management and Conservation Act set forth a number of new mandates for NMFS, regional fishery management councils, and other federal agencies to identify and protect important marine and anadromous fish habitat. The action agency needs to make a determination on Federal actions that may adversely impact EFH.

In freshwaters, the GP is unlikely to be used during the critical phase (egg stage) and if it were, studies show that the impacts of an operation are minimal after 500 feet so, a 500 foot buffer (Permit Part II.D.4.a.) should be sufficient protection. EPA determines that, with the inclusion of the 500 foot buffer, no adverse impact to EFH would result from the issuance of this GP. This EFH assessment is documented in the BE.

C. NATIONAL FOREST SYSTEM LANDS

Suction dredging activities under the GP on National Forest System Lands must comply with USFS Mining regulations found at 36 CFR 228A. These regulations require that a “notice of intent to operate” be submitted to the USFS District Ranger who is in charge of the area on which the proposed operation will take place.

D. IMPACT ON SMALL BUSINESSES.

EPA analyzed the potential impact of the GP on small entities and concludes that this reissuance will not have a significant impact on a substantial number of small entities. As discussed in Section III., Summary of Changes from Previous Permit, all changes from the 2013 GP result in either no or negligible incremental cost and no or negligible operational and/or economical burdens. EPA did not conduct a quantitative analysis of impacts as that would only be appropriate if the GP would affect a substantial number of small entities.

E. STATE PERMIT REQUIREMENTS

Pursuant to IDAPA 37.03.07, operators must obtain an IDWR Letter Permit. A Letter Permit may be obtained from the following web page:

<https://www.idwr.idaho.gov/streams/recreational-mining-permits.html>

F. STATE CERTIFICATION

CWA § 401 prohibits EPA from issuing a permit which may result in any discharge to waters of the United States until the State in which the discharge will originate has certified that the discharge will comply with certain CWA provisions (or has waived certification). The regulations at 40 CFR 124.53 allow for the

State to require more stringent conditions in the permit, if the certification cites the CWA or State law references upon which that condition is based. In addition, the regulations require a certification to include statements of the extent to which each condition of the permit can be made less stringent without violating the requirements of State law.

The State of Idaho, IDEQ, provided EPA with their draft CWA § 401 Certification for the draft GP on August 29, 2017. See Appendix C for certification conditions.

After public comments have been evaluated, a preliminary final GP will be sent to the IDEQ to begin the final certification process. If the state authorizes different or additional conditions as part of the certification, the GP may be changed to reflect these conditions.

G. ANTIDegradation

In setting permit conditions, EPA must consider the State's antidegradation policy. This policy is designed to protect existing water quality when the existing water quality is better than that required to meet the standards and to protect water quality from being degraded below the standard when existing quality meets the standard. For high quality waters, antidegradation requires that the State find that allowing lower water quality is necessary to accommodate important economic or social development before any degradation is authorized.

The draft GP does not authorize discharges from suction dredge mining in streams that are already impaired for sediments. Exceptions exist in some streams where the TMDL includes load allocations for suction dredging. These are discussed in other sections of this Fact Sheet.

For waters that are not impaired, discharges from suction dredge operations are allowed in certain waters and at certain times of year under the conditions of the draft GP. The draft GP limits turbidity and requires the use of BMPs. IDEQ has indicated in their preliminary certification that the permit complies with the State's antidegradation requirements.

H. PERMIT EXPIRATION

In accordance with 40 CFR 122.46(a), NPDES permits shall be effective for a fixed term not to exceed five (5) years. Therefore, this GP will expire five years from the effective date of the final GP. If the GP is not reissued prior to the expiration date, it may be eligible for an administrative extension of coverage in accordance with the Administrative Procedures Act (APA) and will remain in full force. However, EPA cannot provide coverage under this GP to any Permittee who submits the NOI for administrative continuance of coverage to EPA after the permit expiration date.

Therefore, any Permittee granted coverage under the GP prior to the expiration date that submits an NOI for administrative continuance of coverage within the proper time frame, and receives notice from EPA that the NOI is deemed timely and complete, will remain covered by this GP until the earlier of:

1. Authorization for coverage under a reissuance or replacement of this GP, following timely and appropriate submittal of a complete NOI requesting authorization to discharge under the new GP and compliance with the requirements with the new GP; or
2. Submittal of a Notice of Termination in accordance with Permit Part I.B and 40 CFR 122.64; or
3. Issuance of a new GP that authorizes discharges without requiring re-submittal of an NOI to obtain coverage; or
4. Issuance or denial of an individual permit for the facility's discharges; or
5. A formal permit decision by EPA not to reissue this GP, at which time EPA will identify a reasonable time period for covered dischargers to seek coverage under an alternative general permit or an individual permit. Coverage under this GP will cease at the end of this time period.

Permit coverage for Grimes, Elk, and Mores creeks and their open tributaries will be good from May 1st through April 30th of the following year. Although most waters in this watershed are closed for the majority of the year, some waters remain open the entire year.

Permit coverage on the SF Clearwater River will be good for the duration of the season as outlined in the TMDL, July 15th through August 15th of a particular year.

APPENDIX A – REFERENCES

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APPENDIX B

Waterbodies Where Placer Mining is Not Authorized Under the General Permit

Part 1: National Wild and Scenic Rivers

Pursuant to the authorities specified in Section 47-1323, Idaho Code, the State Board of Land Commissioners prohibited dredge mining in any form from water bodies making up part of the National Wild and Scenic Rivers System. The Wild and Scenic Rivers Act, enacted in 1968, has been amended multiple times to designate additional waters as Wild and Scenic. Designated waters not specifically listed in the Idaho Code still fall under the general prohibition on dredging mining.

1. Middle Fork of the Clearwater River (designated in 1968).
From the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork, upstream to the Powell ranger station; and the Selway River from Lowell upstream to its origin.
2. Middle Fork of the Salmon River (designated in 1968).
From its origin to its confluence with the main Salmon River.
3. Snake River (designated in 1975).
The segment from Hells Canyon Dam downstream to an eastward extension of the north boundary of section 1, T5N, R47E, Willamette Meridian.
4. Rapid River (designated in 1975).
The segment from the headwaters of the main stem to the national forest boundary; and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem.
5. St. Joe River (designated in 1978).
Including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries.
6. Salmon River (designated in 1980).
The segment of the main stem from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar.
7. Owyhee River System (designated in 2009).
The Owyhee River from the Idaho-Oregon State border to the upstream boundary of the Owyhee River Wilderness; the North Fork of the Owyhee River from the Idaho-Oregon State border upstream to the upstream boundary of the North Fork Owyhee River Wilderness; the South Fork of the Owyhee River upstream from its confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness at the Idaho Nevada State border; Battle Creek from its confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness; Deep Creek from its confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness in Section 30, Township 12 South, Range 2 West, Boise Meridian; Dickshooter Creek from its

confluence with Deep Creek to a point on the stream ¼ mile due west of the east boundary of Section 16, Township 12 South, Range 2 West, Boise Meridian; and Red Canyon from its confluence with the Owyhee River to the upstream boundary of the Owyhee River Wilderness.

8. Bruneau River System (designated in 2009).

The Bruneau River from the downstream boundary of the Bruneau-Jarbidge Wilderness to its upstream confluence with the West Fork of the Bruneau River; and West Fork of the Bruneau River from its confluence with the Jarbidge River to the downstream boundary of the Bruneau Canyon Grazing Allotment in the Southeast/Northeast quadrants of Section 5, Township 13 South, Range 7 East, Boise Meridian.

9. Jarbidge River System (designated in 2009).

Jarbidge River from its confluence with the West Fork of the Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness; and Sheep Creek from its confluence with the Bruneau River to the upstream boundary of the Bruneau-Jarbidge Rivers Wilderness.

10. Big Jacks Creek System (designated in 2009).

Big Jacks Creek from the downstream border of the Big Jacks Creek Wilderness in Section 8, Township 8 South, Range 4 East, to the point at which it enters the Northwest ¼ of Section 26, Township 10 South, Range 2 East, Boise Meridian; Little Jacks Creek from the downstream boundary of the Little Jacks Creek Wilderness upstream to the mouth of O X Prong Creek; Cottonwood Creek from its confluence with Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness; Duncan Creek from its confluence with Big Jacks Creek upstream to the east boundary of Section 18, Township 10 South, Range 4 East, Boise Meridian; and Wickahoney Creek from its confluence with Big Jacks Creek to the upstream boundary of the Big Jacks Creek Wilderness.

Part 2: Withdrawn River Segments

Pursuant to Section 58-104(a) and 47-702, Idaho Code, the State Board of Land Commissioners has prohibited recreational dredge or placer mining in the following segments. All locations are in the Boise Meridian.

1. Boise River

- a. The Bed of the South Fork of the Boise River from Anderson Ranch Dam in T01S, R08E, downstream to Neal Bridge in Section 34, T03N, R06E.
- b. The Bed of the Middle Fork of the Boise River from the east boundary of T05N, R08E, downstream to the west boundary of Section 1, T03N, R05E.
- c. The Bed of the Boise River from Lucky Peak Dam in T02N, R03E, down River to Star Highway in T04N, R01W. Note: This withdrawal does not include the removal of sand and gravel, which is necessary for flood control purposes.

2. Payette River
 - a. The Bed of the North Fork of the Payette River, from Cabarton Bridge to Banks, between the ordinary high water marks, situated in Section 31, T13N, R 05E, to Section 32, T 09N, R 03E.
 - b. The Bed of the Main Payette River, from Banks to Black Canyon Dam, between the ordinary high water marks, situated in Section 32, T09N, R03E, to Section 22, T07N, R01W.
3. Priest River

The Bed of Upper Priest River, from the Canadian border to the confluence with Priest Lake, between the ordinary high water marks, situated in Section 12, T65N, R05W to Section 19, T63N, R04W.
4. St. Joe River

The bed of the St. Joe River , including tributaries, from its origin downstream to its confluence with Coeru d'Alene Lake, except for the St. Maries River and its tributaries.
5. Clearwater River

The bed of the Middle Fork of the Clearwater River from the town of Lowell downstream to the town of Kooskia.
6. Lochsa River

The bed of the Lochsa River from the Powell Ranger Station downstream to its junction with the Selway River at Lowell forming the Middle Fork.
7. Selway River

The bed of the Selway River from its origin downstream to the town of Lowell.
8. Salmon River
 - a. The Bed of the Salmon River from the mouth of the North Fork of the Salmon River in T24N, R21E, downstream to Long Tom Bar.
 - b. The Bed of the Salmon River from the mouth in T29N, R04W, upstream to Hammer Creek in T28N, R01E.
 - c. The Bed of the Middle Fork of the Salmon River from its origin to its confluence with the main Salmon River.
 - d. The Bed of the South Fork of the Salmon River from the mouth through T20N, R06E
9. Snake River
 - a. The Bed of the Henry's Fork of the Snake River from its point of origin at Henry's Fork to the point of its confluence with the backwaters of Ashton Reservoir, situated in Section 21, T15N, R43E, to Section 13, T09N, R42E.

- b. The Bed of the Snake River from the east boundary of T06S, R08E, to the west boundary of T01S, R02W, encompassing the Birds of Prey Area.
- c. The Bed of the Snake River from the mouth of the east ordinary high water mark to the center of the main channel (State of Idaho ownership in the Hells Canyon National Recreation Area), from the north boundary of T20N, R04W to the south boundary of T31N, R05W.

Two waterbody segments are withdrawn but open for recreational suction dredging. These include the bed of the South Fork Payette River from the Sawtooth Wilderness boundary in section 12, T9N, R9E to Banks in section 32, T9N, R3E and the bed of the Snake River from Section 5, T11S, R20E to King Hill.

Part 3: State Protected Rivers

Pursuant to the authorities specified in Section 42-1734A, Idaho code and adopted by the Idaho Water Resource Board, the following waterways and/or stream segments are protected as either a State Natural River or as a State Recreational River with recreational dredge or placer mining prohibited.

1. Priest River Drainage

- Upper Priest River, International Boundary to confluence with Upper Priest Lake
- Upper Priest Lake
- The Thoroughfare, Upper Priest Lake to beginning of private property along south bank.
- The Hughes Fork, headwaters to mouth
- Rock Creek, headwaters to mouth
- Lime Creek, headwaters to mouth
- Cedar Creek, headwaters to mouth
- Trapper Creek, headwaters to mouth
- Granite Creek, confluence of its North and South Forks to mouth
- Priest River, Priest Lake outlet structure to McAbee Falls
- Lion Creek, headwaters to mouth
- Two Mouth Creek, headwaters to mouth
- Indian Creek, headwaters to mouth

2. Payette River Drainage

- South Fork Payette River, Deadwood River to Big Pine Creek
- Payette River, confluence of its South and Middle Forks to Beehive Bend
- North Fork Payette River, Cabarton Bridge to mouth
- North Fork Payette, headwaters (includes Cloochman and Trail Creeks) to Payette Lake inlet

3. Boise River Drainage

- South Fork Boise River, Anderson Ranch Dam to a point 250 yards upstream of Neal Bridge
- Calf Creek, headwaters to mouth
- Lime Creek and all tributaries, headwaters to mouth
- Middle Fork Lime Creek and all tributaries, headwaters to confluence
- North Fork Lime Creek and all tributaries, headwaters to confluence
- South Fork Lime Creek and all tributaries, headwaters to confluence
- Big Smoky Creek and all tributaries, headwaters to mouth
- Boise River, from confluence of its North and Middle Forks to backwaters of Arrowrock Reservoir
- Sheep Creek, headwaters to mouth
- South Fork Sheep Creek, headwaters to mouth
- Devils Creek, headwaters to mouth
- East Fork Sheep Creek, headwaters to mouth
- Middle Fork Boise River, mouth of Roaring River to confluence with the North Fork Boise River
- Roaring River, headwaters to mouth
- East Fork Roaring River, headwaters to mouth
- Middle Fork Roaring River, headwaters to mouth
- North Fork Boise River, mouth of Crooked River to confluence with the Middle Fork Boise River
- North Fork Boise River, Sawtooth Wilderness Area to mouth of Hunter Creek
- Crooked Creek, above confluence with Edna Creek
- McNutt Creek, headwaters to mouth
- Taylor Creek, headwaters to mouth
- McDonald Creek, headwaters to mouth
- Horsefly Creek, headwaters to mouth
- Blue Jay Creek, headwaters to mouth
- Lodge Pole Creek, headwaters to mouth
- Bow Creek, headwaters to mouth
- Big Silver Creek, headwaters to mouth
- Johnson Creek, Sawtooth Wilderness Area to mouth
- Robin Creek, headwaters to mouth
- Grouse Creek, headwaters to mouth

4. Snake River Drainage

- Snake River, downstream boundary of the Milner Hydroelectric Project to Clover Creek, but excluding hydroelectric project boundaries.

5. Henry's Fork Snake River Drainage

- Targhee Creek, including West and East Forks, source to National Forest boundary

- Henry's Fork, Big Springs to Island Park Reservoir, and the lower 2 miles of Henry's Lake Outlet
- Henry's Fork, Island Park Reservoir to Ashton Reservoir
- Golden Lake
- Silver Lake
- Thurman Creek, Golden Lake to mouth
- Buffalo River springs approximately 8 miles upstream of mouth to mouth
- Elk Creek, right-of-way lines below Elk Creek Dam to mouth
- Warm River, Partridge Creek to upper boundary of Warm River Campground
- Robinson Creek, Yellowstone Park boundary to mouth
- Rock Creek, Yellowstone Park boundary to mouth
- Henry's Fork, Ashton Dam to Falls River
- Falls River, Idaho border to Kirkham Bridge
- Boone Creek, Idaho border to mouth
- Conant Creek, Idaho border to Conant Creek diversion structure
- Teton River, Trail Creek to Felt Dam
- Teton Creek springs near Highway 33 to mouth
- Fox Creek springs approximately 2.5 miles upstream of mouth to mouth
- Badger Creek springs approximately 3 miles upstream of mouth to mouth
- Bitch Creek, Idaho border to mouth

6. South Fork Snake River Drainage

- South Fork Snake River, Palisades Dam to confluence with Henry's Fork
- Fish Creek, headwaters to confluence with McCoy Creek
- South Fork Snake River, Palisades Dam to confluence with Henry's Fork
- Fish Creek, headwaters to confluence with McCoy Creek
- Big Elk Creek, Idaho-Wyoming state line to Palisades Reservoir backwaters
- Little Elk Creek, headwaters to Palisades Reservoir backwaters
- Bear Creek and perennial tributaries, headwaters to Palisades Reservoir backwaters and the following perennial tributaries:
 - South Fork Bear Creek, headwaters to mouth
 - Deadman Creek, headwaters to mouth
 - Warm Springs Creek, headwaters to mouth
 - North Fork Bear Creek, headwaters to mouth
 - Small Creek, headwaters to mouth
 - Poison Creek, headwaters to mouth
 - Currant Creek, headwaters to mouth
 - Muddy Creek, headwaters to mouth
 - Elk Creek, headwaters to mouth
- Palisades Creek and perennial tributaries, headwaters to South Fork Snake Confluence and the following perennial tributaries:
 - North Fork Palisades Creek, headwaters to mouth
 - East Fork Palisades Creek, Idaho-Wyoming state line to mouth
 - Corral Creek, Idaho-Wyoming state line to mouth

- Lost Spring Canyon, headwaters to mouth
- Dead Man Canyon, headwaters to mouth
- Little Dry Canyon, headwaters to mouth
- Dry Canyon, headwaters to mouth, including Upper Palisades Lake
- Water Fall Canyon, headwaters to confluence with Dry Canyon

- Fall Creek and perennial tributaries, headwaters to mouth, and the following perennial tributaries:
 - East Fork Fall Creek, headwaters to mouth
 - Willow Springs Creek, headwaters to mouth
 - Beaver Creek, headwaters to mouth
 - Trap Creek, headwaters to mouth
 - Haskin Creek, headwaters to mouth
 - Camp Creek, headwaters to mouth
 - Gibson Creek, headwaters to mouth
 - Blacktail Creek, headwaters to mouth
 - South Fork Fall Creek, headwaters to mouth
 - Currant Hollow, headwaters to mouth

- Pine Creek and perennial tributaries, headwaters to confluence with South Fork Snake River, and the following perennial tributaries:
 - Tie Canyon, headwaters to mouth
 - Poison Canyon, headwaters to mouth
 - Mike Spencer Canyon, headwaters to mouth

- North Fork Pine Creek and perennial tributaries, headwaters to mouth, and the following perennial tributaries:
 - Elk Flat Fork, headwaters to mouth
 - Holter Creek, headwaters to mouth
 - Red Creek, headwaters to mouth
 - Corral Creek, headwaters to mouth
 - Lookingglass Creek, headwaters to mouth

- West Pine Creek, headwaters to mouth, including unnamed headwater tributaries.

- Burns Creek and perennial tributaries, headwaters (including unnamed headwater tributaries) to South Fork Snake Confluence, and the following perennial tributaries:
 - Beartrap Canyon, headwaters to mouth
 - Little Burns Canyon, headwaters to mouth
 - Jensen Creek, headwaters to mouth
 - Hell Hole Canyon, headwaters to mouth

- Burns Creek (tributary to reservoir), headwaters to Idaho-Wyoming state line

- Trout Creek, headwaters (including all unnamed headwater tributaries), to confluence with Palisades Reservoir
- McCoy Creek and perennial tributaries, Fish Creek Confluence to backwaters of Palisades Reservoir, and the following perennial tributaries:
 - Spring Creek, headwaters to mouth
 - Clear Creek, headwaters to mouth
 - Wolverine Creek, headwaters to mouth
 - Kirk Creek, headwaters to mouth
 - Box Canyon Creek, headwaters to mouth
 - Hell Creek, headwaters to mouth
 - Jensen Creek, headwaters to mouth
 - Bitters Creek, headwaters to mouth
- Indian Creek (tributary to Palisades Reservoir), Idaho-Wyoming state line to Smith Canyon.
- Sheep Creek, headwaters to South Fork Snake Confluence
- Indian Creek (tributary to South Fork Snake River), headwaters to South Fork Snake Confluence
- Rainey Creek and perennial tributaries, headwaters to South Fork Snake Confluence, and the following perennial tributaries:
 - North Fork Rainey Creek, headwaters to mouth
 - South Fork Rainey Creek, headwaters to mouth
- Prichard Creek, headwaters to South Fork Snake Confluence
- Black Canyon, headwaters to South Fork Snake Confluence
- Warm Springs, source to South Fork Snake Confluence
- Wolverine Creek, headwaters to South Fork Snake confluence
- Cress Creek, source to South Fork Snake confluence

7. North Fork Clearwater River Drainage

- Isabella Creek, headwaters to mouth
- Weitas Creek, headwaters to mouth
- Little North Fork Clearwater River, Meadow Creek to Cedar Creek
- North Fork Clearwater River, headwaters to Wrangler Creek and from Isabella Creek to the backwater of Dworshak Reservoir (Thompson Creek)
- Reeds Creek, Calhoun Creek to mouth
- Beaver Creek, Charlie Creek to mouth
- Little North Fork Clearwater River, headwaters to backwaters of Dworshak Reservoir at Meadows Creek
- Elk Creek, headwaters to Deep Creek
- Kelly Creek, headwaters to mouth
- Cayuse Creek, headwaters to mouth

8. South Fork Clearwater River Drainage:

- Tenmile Creek, headwaters to Wilderness boundary, the Wilderness boundary to confluence with South Fork Clearwater and the following perennial tributaries:
 - Williams Creek, headwaters to confluence with Tenmile Creek,
 - Sixmile Creek, headwaters to confluence with Tenmile Creek
- Twentymile Creek, headwaters to Wilderness boundary and the Wilderness boundary to confluence with South Fork Clearwater
- Johns Creek, headwaters to Wilderness boundary, the Wilderness boundary to confluence with South Fork Clearwater and the following tributaries:
 - Hagen Creek, headwaters to confluence with Johns Creek,
 - Square Mountain Creek, headwaters to confluence with Moores Creek:
 - Moores Creek, headwaters to confluence with Square Mountain Creek,
 - Gospel Creek, headwaters to confluence with Johns Creek,
 - West Fork Gospel Creek, headwaters to confluence with Gospel Creek,
- Red River, headwaters to confluence with American River, and the following tributaries:
 - Otterson Creek, headwaters to confluence with Red River,
 - South Fork Red River, headwaters to confluence with Red River,
 - West Fork Red River, headwaters to confluence with Middle South Fork Red River,
 - Moose Butte Creek, headwaters to confluence with Red River,
 - Red Horse Creek, headwaters to confluence with Red River,
- American River, headwaters to confluence with South Fork Clearwater, and the following tributaries:
 - Limber Luke Creek, headwaters to confluence with American River,
 - West Fork American River, headwaters to confluence with American River,
 - East Fork American River, headwaters to confluence with American River,
 - Kirks Fork, headwaters to confluence with American River.
- Crooked River, headwaters to confluence with S. F. Clearwater River, & the following tributaries:
 - Relief Creek, headwaters to confluence with Crooked River,
 - East Fork Crooked River, headwaters to confluence with Crooked River,
 - West Fork Crooked River, headwaters to confluence with Crooked River,
 - Newsome Creek, headwaters to confluence with S.F. Clearwater, & the following tributaries:
 - Haysfork Creek, headwaters to confluence with Newsome Creek,
 - Baldy Creek, headwaters to confluence with Newsome Creek,
 - Pilot Creek, headwaters to confluence with Newsome Creek,
 - Sawmill Creek, headwaters to confluence with Newsome Creek,
 - Sing Lee Creek, headwaters to confluence with Newsome Creek,
 - West Fork Newsome Creek, headwaters to confluence with Newsome Creek
- Wing Creek, headwaters to confluence with South Fork Clearwater,
- Silver Creek, headwaters to confluence with South Fork Clearwater,
- Meadow Creek, headwaters to confluence with South Fork Clearwater,
- Mill Creek, headwaters to confluence with South Fork Clearwater

9. Main Salmon River Drainage

- Little Salmon River - Hwy 95 bridge above “The Falls” to confluence with the Salmon River
- Boulder Creek - from its headwaters to its confluence with the Little Salmon River
- Hard Creek - from its headwaters to its confluence with Hazard Creek
- Hazard Creek - from the outlet of Hazard Lake downstream to its confluence with the Little Salmon River

Several waterbodies are listed as State Protected but have exemptions for recreational suction dredging. In the Upper Boise watershed, these include Bear River, Bear Creek, Crooked River below Edna Creek, Cub Creek, Louise Creek, Rocky Creek, SF Cub Creek and Steamboat Creek. In the South Fork Snake watershed, these include McCoy Creek above Fish Creek, City Creek, Camp Creek, Iowa Creek, and Miners Delight Creek. In the Clearwater watershed, this includes the South Fork of the Clearwater River.

Part 4: 303(d) Listed Waterbodies for Sediments

Discharges from suction dredge operations are not authorized in waterbodies that are listed for sediment and mercury (except as part of a state or federally sanctioned restoration project).

The Idaho Department of Environmental Quality’s document: Final 2014 Integrated Report, Sections 4(a), 4(b) and 5: Impaired Waters: Lakes and Rivers [303(d) list], which was approved by EPA, contains the list of water quality limited waterbodies.

The document can be accessed at:

<http://www.deq.idaho.gov/media/60179654/idaho-2014-integrated-report.pdf>

It is the responsibility of the Permittee to check the website or contact IDEQ for the most up-to-date, EPA approved, 303(d) list.



APPENDIX C – CWA § 401 CERTIFICATION

Idaho Department of Environmental Quality Draft §401 Water Quality Certification

August 29, 2017

NPDES Permit: Small Suction Dredge Miners General Permit for Idaho (IDG370000)

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended, 33 USC 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 National Pollutant Discharge Elimination System (NPDES) permits and issue water quality certification decisions.

Based upon its review of the above-referenced permit, associated fact sheet and compiled research pertaining to the effects of suction dredging, 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 discharge will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, including 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.

The Small Suction Dredge Miners General Permit (GP) provides coverage throughout the State of Idaho *except* for the following areas (Refer to Part I.D, and Appendices D through F of the Permit):

- National Protected Areas including National Parks and Preserves, National Monuments, National Sanctuaries, National Wildlife Refuges, National Conservation Areas, and National Wilderness Areas unless an approval from the land management agency is submitted with the Notice of Intent;
- Nez Perce Reservation, Coeur d'Alene Reservation, Kootenai Reservation; Shoshone Bannock Reservation, and the Duck Valley Reservation;
- National Wild and Scenic Rivers;
- Critical Habitat designated under the Endangered Species Act;
- Specific river segments withdrawn by the State Board of Land Commissioners including sections of the Boise, Payette, Priest, St. Joe, Clearwater, Lochsa, Selway, Salmon, and Snake Rivers;
- State Protected Rivers;
- Waters of the State which are §303(d)-listed ("impaired") for sediment or mercury; and

- Specified locations where any of the following four species of snails, that are listed as either threatened or endangered under the ESA, are found: Snake River Physa, Banbury Springs Lanx, Bliss Rapids Snail, and Bruneau Hot Springsnail.

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).

1. Pollutants of Concern

Sediment and mercury are the only two pollutants of concern associated with recreational dredging discharges authorized under the Small Suction Dredge Miners GP. Sediment is relevant to the aquatic life uses and not relevant to contact recreational uses. Whereas mercury is relevant to both aquatic life and contact recreation beneficial uses. Therefore, DEQ must evaluate the permit with respect to maintaining and protecting these uses in Idaho streams.

2. Receiving Water Body Level of Protection

All waters in Idaho that receive discharges authorized under the Small Suction Dredge Miners GP will receive, at minimum, Tier I antidegradation protection because Idaho's antidegradation policy applies to all state waters. Water bodies that fully support their aquatic life or recreational uses are considered *high quality waters* and will receive Tier II antidegradation protection, in addition to Tier I protection. In addition to these uses, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 01.02.100).

Although Idaho does not currently have any Tier III designated outstanding resource waters (ORWs), it is possible for a water body to be designated as an ORW during the life of this permit. Because of this potential, this antidegradation review will also assess whether the permit complies with the ORW requirements of Idaho's antidegradation policy.

To determine the support status of the receiving water body, the most recent EPA-approved Integrated Report, available on Idaho DEQ’s website, is to be used:

<http://www.deq.idaho.gov/water-quality/surface-water/monitoring-assessment/integrated-report/>.

High quality waters are identified in Categories 1 and 2 of the Integrated Report. If a water body is in either Category 1 or 2, it is a Tier II water body.

Unassessed waters are identified in Category 3 of DEQ’s Integrated Report. These waters require a case-by-case determination to be made by DEQ based on available information at the time of the application for permit coverage.

Impaired waters are identified in Categories 4 and 5 of the Integrated Report. Category 4(a) contains impaired waters for which a [TMDL](#) has been approved by EPA. Category 4(b) contains impaired waters for which controls other than a TMDL have been approved by EPA. Category 5 contains waters which have been identified as “impaired”, for which a TMDL is needed. These waters are Tier I waters, for the use which is impaired. However, an impaired water body will receive Tier II protection for its aquatic life uses if the following conditions are met: (1) the aquatic life impairment is due to dissolved oxygen, pH, or temperature and (2) the biological or aquatic habitat parameters show a healthy, balanced biological community (IDAPA 58.01.02.052.05.c.i).

DEQ’s webpage also has a link to the state’s map-based Integrated Report which presents information from the Integrated Report in a searchable, map-based format:

<http://www.deq.idaho.gov/assistance-resources/maps-data/>. This map-based tool contains a layer specific to mercury listings.

Water bodies can be in multiple categories for different causes. If assistance is needed in using these tools, or if additional information/clarification regarding the support status of the receiving water body is desired, please feel free to contact your nearest DEQ regional office or the State Office (Table 1).

Table 1. Idaho DEQ Regional and State Office Contacts

<i>Regional and State Office</i>	<i>Address</i>	<i>Phone Number</i>	<i>Email</i>
Boise	1445 N. Orchard Rd., Boise 83706	208-373-0550	kati.carberry@deq.idaho.gov
Coeur d’Alene	2110 Ironwood Parkway, Coeur d’Alene 83814	208-769-1422	june.bergquist@deq.idaho.gov
Idaho Falls	900 N. Skyline, Suite B., Idaho Falls 83402	208-528-2650	troy.saffle@deq.idaho.gov
Lewiston	1118 “F” St., Lewiston 83501	208-799-4370	sujata.connell@deq.idaho.gov
Pocatello	444 Hospital Way, #300 Pocatello 83201	208-236-6160	lynn.vanevery@deq.idaho.gov
Twin Falls	650 Addison Ave. W., Suite 110, Twin Falls 83301	208-736-2190	kiley.mulholland@deq.idaho.gov
State Office	1410 N. Hilton Rd., Boise 83706	208-373-0502	don.essig@deq.idaho.gov

3. Protection and Maintenance of Existing Uses (Tier I Protection)

A Tier I review is performed for all new or reissued permits, applies to all waters subject to the jurisdiction of the Clean Water Act, and requires a demonstration that existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. In order to protect and maintain designated and existing beneficial uses, a permitted discharge must comply with narrative and numeric criteria of the Idaho WQS, as well as other provisions of the WQS such as

Section 055, which addresses water quality limited waters. 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. A central purpose of TMDLs is to establish wasteload allocations (WLA) for point source discharges, which are set at levels designed to help restore the water body to a condition that supports existing and designated beneficial uses. Discharge permits must contain limitations that are consistent with wasteload allocations in the approved TMDL. A permit with effluent limitations consistent with TMDL wasteload allocations will provide the level of water quality necessary to support existing and designated uses and therefore satisfies Tier I antidegradation requirements.

The water quality-based effluent limitations and requirements contained in the Small Suction Dredge Miners GP, conditions in Idaho Department of Water Resource's recreational mining permits, coupled with the conditions set forth in this certification, are designed to ensure compliance with the narrative and numeric criteria in the Idaho WQS. Specifically, the permit and the certification prohibit any visible increase in turbidity (cloudiness or muddiness) above background beyond the mixing zone. DEQ is authorizing a 500-foot mixing zone for turbidity, which is consistent with state WQS (IDAPA 58.01.02.060). DEQ conducted a study on the South Fork of the Clearwater in 2001 to evaluate the potential impacts to water quality by recreational suction dredge mining operations (DEQ 2003¹). Although the study revealed no turbidity exceedances within visible sediment plums (ranging from 229 feet – 492 feet) created by active recreational suction dredges, DEQ believes that a 500 foot mixing zone is adequate in addressing turbidity increases caused by dredging activities.

Additionally, the permit prohibits suction dredging in waters that have been identified by DEQ as impaired due to sedimentation/siltation, except for where an existing TMDL has an established wasteload allocation for discharges associated with suction dredging. The permit references two specific TMDLs—Boise-Mores Creek Subbasin Assessment and TMDL (DEQ 2009²) and South Fork Clearwater River Subbasin Assessment and TMDLs (DEQ 2003³)—which contain wasteload allocations for small suction dredging, and it is the responsibility of the permittee to operate in compliance with those allocations through monitoring and reporting. EPA has set restrictions on the number of operators allowed on these waters and limited how much material can be processed during the hours allocated to the operators in order to comply with the established WLAs. By achieving these wasteload allocations established in the permits will ensure compliance with the numeric turbidity criteria and the narrative sediment standard. Further, to be protective of chinook, cutthroat, and steelhead spawning periods and incubation of embryos, EPA has limited dredging activities in the South Fork Clearwater Subbasin from July 15 through August 15 each year only. For the aforementioned reasons, the permit ensures compliance with WLAs in the applicable TMDLs, as well as the provisions of Section 055 of Idaho's WQS with respect to sediment.

¹ DEQ (Idaho Department of Environmental Quality). 2003. *Water Quality Summary Report 34: A recreational Suction Dredge Mining Water Quality Study on South Fork Clearwater River*. Grangeville and Boise, ID: DEQ. www.deq.idaho.gov/media/837524-wq-summary-34-suction-dredge-mining.pdf

² DEQ (Idaho Department of Environmental Quality). 2009. *Boise-Mores Creek Subbasin Assessment and TMDL*. Boise, ID: DEQ. www.deq.idaho.gov/media/450496-water_data_reports_surface_water_tmdls_boise_mores_creek_boise_mores_creek_entire.pdf

³ DEQ and EPA (Idaho Department of Environmental Quality and US Environmental Protection Agency). 2003. *South Fork Clearwater River Subbasin Assessment and Total Maximum Daily Loads*. Lewiston and Boise, ID: DEQ and EPA. www.deq.idaho.gov/media/453550-water_data_reports_surface_water_tmdls_clearwater_river_sf_clearwater_river_sf_entire.pdf

The Small Suction Dredge Miners GP *does not authorize* discharges of mercury, but operators of dredging equipment may encounter and recover mercury during dredging operations. This is especially true in areas where historic mining has taken place and mercury may be present in higher than normal concentrations. The permit contains requirements pertaining to the handling and collection of mercury encountered as a result of dredging activities. The permittee is advised to adhere to DEQ’s *Best Management Practices for Mercury Collection from Suction Dredging Activities* (http://www.deq.idaho.gov/media/638458-mercury_BMP_dredging_fs_0411.pdf) and to contact DEQ for information on hazardous waste regulations.

While suction dredging removes some mercury from the streambed substrate, it may also mobilize and releases mercury into the water column. Not all of the mercury that is released during dredging activities is removed from the water column. Dredging breaks up liquid mercury into smaller particles, increasing the surface area. Where waters of the State are already not supporting beneficial uses due to elevated levels of mercury, and there is no mercury TMDL in place with an allocation for suction dredging, further loading of this pollutant will violate WQS (IDAPA 58.01.02.055; IDAPA 58.02.080). Under these circumstances, DEQ does not have reasonable assurance of compliance with WQS where waters are already impaired by mercury. Therefore, DEQ denies certification of this general permit for the following water bodies, which are currently identified as “impaired” by mercury:

Table 2. Waters of the State impaired by mercury

<i>Assessment Unit(s) (AUs)</i>	<i>Segment Name</i>	<i>Waterbody name(s) within the impaired AU(s)</i>
17040208SK016_05	Portneuf River – 5 th order (Twentyfour Mile Creek to Pebble Creek)	Portneuf River
17050108SW004_02 17050108SW004_03 17050108SW004_04 17050108SW004_05	Jordan Creek – source to Williams Creek	Buck Creek, Bull Frame Creek, China Creek, Cunningham Creek, Duck Creek, East Fork Goose Creek, Goose Creek, Iron Mine Creek, Jordan Creek (2 nd , 3 rd , 4 th and 5 th order), Pole Creek, Presby Creek, Rail Creek, West Fork Goose Creek
17060101SL003_08	Snake River – Hells Canyon Dam to Sheep Creek	Snake River and Deep Creek
17040206SK022_04	Snake River – river mile 791 (T01N, R37E, Sec. 10) to American Falls Reservoir	Snake River
17060208SL029_03	Sugar Creek – 3 rd order (Crane Creek to mouth)	Sugar Creek
17060209SL008_07	Salmon River – Slate Creek to Rice Creek	Salmon River

Mercury impaired water bodies are listed in Table 2 (2014 Integrated Report) above; this list is subject to change during the life of the permit, as the Integrated Report is updated every two (2) years and the permit will be valid for a term of five (5) years. Therefore, it is the permittee's responsibility to know whether or not additional waters have been added to this list.

4. Protection of High-Quality Waters (Tier II Protection)

Water bodies that fully support their beneficial uses are recognized as high quality waters and are provided Tier II protection in addition to Tier I protection. Water quality parameters applicable to existing or designated beneficial uses must be maintained and protected under Tier II, unless a lowering of water quality is deemed necessary to accommodate important economic or social development. For general permits, the Department conducts an antidegradation review, including any Tier II analysis, at the time at which general permits are certified (IDAPA 58.01.02.052.03).

The Small Suction Dredge Miners GP sets restrictions on when and where recreational dredging will be allowed to occur. Many of the waters on which operations are prohibited are high quality waters. The permit also sets limits on the number of operators allowed on certain water bodies and how much material can be processed in a certain amount of time. The permit includes a number of provisions aimed at preventing increases in turbidity and sediment loading. Of the two turbidity criteria in the WQS, the draft permit includes the more stringent criteria (IDAPA 58.01.02.252.01.b.ii) as the effluent limit for turbidity for all waters. In addition, dredgers are limited to processing an average of 2 yards cubic yards per hour during the hours they are allocated. The permit also requires the use of best management practices (BMPs) that include BMPs that will limit erosion and the increase in turbidity. These BMPs include but are not limited to:

- Use reasonable care to avoid the dredging of silt and clay materials;
- Prohibition of altering the stream channel in a way that would redirect the flow of water into the stream bank;
- Prohibition of undercutting, littoral channeling, stream bank or beach erosion, and the removal or disturbance of boulders or any type of vegetation on the stream bank.

The permit also includes provisions to ensure adequate fish passage and protection of spawning fish and spawning habitat. This certification also includes provisions to mitigate erosion, including a prohibition on stream bank dredging and restrictions on the use of mechanized equipment. Based upon the limits in the permit, and the terms of this certification, DEQ believes that dredging activities are unlikely to cause adverse changes in water quality, when appropriate mixing is taken into account. Moreover, if there is a change in sediment levels, any such change is expected to be temporary.

DEQ has denied certification with respect to dredging in waters where there are known high levels of mercury. However, DEQ has no information to suggest that mercury increases will be an issue in waters that do not contain high levels of mercury. Therefore, DEQ believes it is unlikely there will be an increase in mercury levels in high quality waters that would violate the Tier II antidegradation policy. For these reasons, DEQ believes that the permit is protective of water quality and that suction dredging is not likely to cause adverse changes in water quality. Furthermore, EPA may decide that an individual permit is needed and will require the applicant to obtain an individual water quality certification from the state.

In sum, DEQ has determined that as long as permittees operate consistent with the terms of the NPDES permit, conditions in Idaho Department of Water Resource's recreational mining permits as well as the requirements set forth in this certification, there is reasonable assurance that existing and

designated beneficial uses will be protected and maintained and there will be no lowering of water quality in any high quality waters (IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.08).

5. Protection of Outstanding Resource Waters (Tier III Protection)

Idaho's antidegradation policy requires that the quality of outstanding resource waters (ORWs) be maintained and protected from the impacts of point and nonpoint source activities (IDAPA 58.01.02.051.03). As mentioned previously, no water bodies in Idaho have been designated as ORWs.

As a condition of this certification, DEQ is requiring any applicant proposing to discharge to an ORW, should one become designated during the term of this permit, to obtain an individual NPDES permit from EPA and an individual water quality certification from the state. This condition will ensure compliance with Idaho's antidegradation provisions concerning ORWs.

Denial of Certification With Respect to Water Bodies Impaired due to Siltation/Sedimentation and/or Mercury

As explained above in the antidegradation review, DEQ does not have reasonable assurance of compliance with WQS with respect to suction dredging activities on sediment impaired water bodies or mercury impaired water bodies, except where an approved TMDL has an established wasteload allocation for discharges associated with suction dredging, and therefore, denies certification for such operations.

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

6. Mixing Zone

Pursuant to IDAPA 58.01.02.060, DEQ authorizes the use of a mixing zone for sediment discharges authorized under the GP. The authorized mixing zone extends 500 lineal feet downstream of the discharge point. There shall be no observable turbidity plume (cloudiness or muddiness) extending beyond the mixing zone.

7. Public Water Supply Intakes

DEQ will notify active public drinking water systems if recreational dredging operations are proposed to occur within 500-feet of their surface water intake.

8. Outstanding Resource Waters

In the event a water body currently open to dredging is designated as an ORW during the term of the Small Suction Dredge Miners GP, applicants proposing to discharge to the ORW shall obtain an individual NPDES permit from EPA and an individual water quality certification from the state.

9. Stream Channel Alteration Permit Requirements

Pursuant to Idaho Code 42-3801 *et seq.* and IDAPA 37.03.07, operators must also obtain a stream alteration permit for recreational dredging from the Idaho Department of Water Resources. A permit application may be obtained from the following web page:

<https://www.idwr.idaho.gov/streams/stream-channel-alteration-permits.html>.

10. Mechanized Equipment

There shall be no use of mechanized equipment below the mean high water mark except for the dredge itself and any life support system necessary to operate the dredge (IDAPA 37.03.07.064.03).

11. Stream Banks

Dredging stream banks is not authorized. Removal or disturbance of boulders (cobbles or large rock) or any type of vegetation (alive or dead) on the stream bank, leading to erosion or undercutting of the banks is prohibited (IDAPA 58.01.02.050.02; IDAPA 37.03.07.064.04).

12. Invasive Species

Pursuant to IDAPA 02.06.09 (adminrules.idaho.gov/rules/current/02/0609.pdf), operators must ensure their dredging equipment does not house invasive species. Equipment must be decontaminated prior to its placement in waters of the state. Decontamination procedures may be found at: http://www.deq.idaho.gov/media/457155-decontamination_procedures.pdf.

13. Fish Passage

The permittee shall ensure there is adequate passage for fish around and through the mining area at all times (IDAPA 58.01.02.050.02; IDAPA 58.01.02.080.01).

14. Hazardous and Deleterious Material Storage

Hazardous and deleterious materials must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to ensure that those materials will not enter state waters as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third party activities (IDAPA 58.01.02.800).

15. Reporting of Discharges Containing Hazardous Materials or Petroleum Products

Discharges of oil, grease, fuel, or other hazardous materials associated with the dredging activity must be reported in accordance with this condition. Equipment used for suction dredging must be in proper working condition and shall not leak petroleum products. The permittee must check the equipment for fuel and oil leaks daily prior to operation.

All spills of hazardous material, deleterious material or petroleum products which may impact the ground water or surface water of the state shall be immediately reported. 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 in Table 3 during normal working hours or Idaho State Communications Center after normal working hours. If the spilled volume is above federal reportable quantities, contact the National Response Center.

For immediate assistance: Call 911

National Response Center: (800) 424-8802

Idaho State Communications Center: (800) 632-8000

Table 3. Idaho DEQ Regional Contacts

<i>Regional Office</i>	<i>Toll Free Phone Number</i>	<i>Phone Number</i>
Boise	888-800-3480	208-373-0550
Coeur d'Alene	877-370-0017	208-769-1422
Idaho Falls	800-232-4635	208-528-2650
Lewiston	877-541-3304	208-799-4370
Pocatello	888-655-6160	208-236-6160
Twin Falls	800-270-1663	208-736-2190

Other Conditions

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities—including without limitation, any modifications of the permit to reflect new or modified TMDLs, wasteload allocations, site-specific criteria, variances or other new information, shall first be provided to DEQ for review to determine compliance with WQS and to provide additional or individual certification pursuant to Section 401.

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 Nicole Deinarowicz, DEQ State Office, at (208) 373-0591 or via email at nicole.deinarowicz@deq.idaho.gov.

DRAFT

Barry N. Burnell
Water Quality Division Administrator
DEQ State Office