



# Idaho Department of Environmental Quality

## Draft § 401 Water Quality Certification

September 27, 2021

**Project Name:** Ross Point Recreation Site Development

**Federal Permit:** U.S. Army Corps of Engineers § 404 Permit

**Applicant/Authorized Agent:** Jake Bachtel, U.S. Bureau of Land Management

**Project Location:** Ross Point in the City of Post Falls; 47.700257 N, -116.872636 W

**Receiving Water Body:** Spokane River

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Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 U.S.C. Section 1341(a)(1); and Idaho Code §§ 39-101 et seq. and 39-3601 et seq., the Idaho Department of Environmental Quality (DEQ) has authority to review activities receiving federal permits and issue water quality certification decisions.

Based upon its review of the certification request and related project documents, received on September 1, 2021, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permit and the conditions set forth in this water quality certification, then it is reasonable for DEQ to conclude that the activity will comply with water quality requirements, including applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, the Idaho Water Quality Standards (WQS), IDAPA 58.01.02, and other appropriate water quality requirements of state law.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations or permits.

## 1 Project Description

The purpose of the project is to create a day-use recreation site for the public, including non-motorized access to the river. Approximately 188 linear feet of the bank will be impacted by bank stabilization and construction of a pier, aluminum gangway, and dock. Bank stabilization will include the removal and replacement of existing riprap. Approximately 371 cubic yards of fill material will be placed. The slopes will be re-graded, and boulders and angular basalt will be placed with vegetative plantings between the rocks. Construction along the bank is proposed to be conducted in dry conditions during winter drawdown. The site-wide construction window is estimated at one year, from September 2021 to July 2022. The applicant proposes the

implementation of several Best Management Practices (BMPs) to protect the river from receiving sediment impacts during and after construction.

## 2 Antidegradation Review

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

**Tier I Protection.** The first level of protection applies to all water bodies subject to Clean Water Act jurisdiction and ensures that existing uses of a water body and the level of water quality necessary to protect those existing uses will be maintained and protected (IDAPA 58.01.02.051.01; 58.01.02.052.01). Additionally, a Tier I review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).

**Tier II Protection.** The second level of protection applies to those water bodies considered high quality and ensures that no lowering of water quality will be allowed unless deemed necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).

**Tier III Protection.** The third level of protection applies to water bodies that have been designated outstanding resource waters and requires that activities not cause a lowering of water quality (IDAPA 58.01.02.051.03; 58.01.02.052.09).

DEQ employs a water-body-by-water-body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (IDAPA 58.01.02.052.05.a). Any water body not fully supporting its beneficial uses will be provided Tier I protection for that use, unless specific circumstances warranting Tier II protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

### 2.1 Pollutants of Concern

The pollutants of concern for this project are sediment and metals. As part of the Section 401 water quality certification, DEQ is requiring the applicant to comply with various conditions to protect water quality and to meet Idaho WQS, including the water quality criteria applicable to sediment and metals.

### 2.2 Receiving Water Body Level of Protection

This project is located on the Spokane River within the Upper Spokane Subbasin assessment unit (AU) 17010305PN004\_04 (Spokane River – Coeur d'Alene Lake to Post Falls Dam). This AU is designated for cold water aquatic life, salmonid spawning, primary contact recreation, and domestic water supply. In addition to these uses, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 58.01.02.100).

According to DEQ's 2018/2020 Integrated Report, the cold water aquatic life use is not fully supported. Causes of impairment include lead, zinc, and total phosphorus. As such, DEQ will provide Tier I protection (IDAPA 58.01.02.051.01) for the aquatic life use. The contact recreation beneficial use is fully supported. As such, DEQ will provide Tier II in addition to Tier I protection for the contact recreation use (IDAPA 58.01.02.051.01).

### **2.3 Protection and Maintenance of Existing Uses (Tier I Protection)**

A Tier I review is performed for all new or reissued permits or licenses, applies to all waters subject to the jurisdiction of the Clean Water Act, and requires demonstration that existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected. The numeric and narrative criteria in the WQS are set at levels that ensure protection of existing and designated beneficial uses.

Water bodies not supporting existing or designated beneficial uses must be identified as water quality limited, and a total maximum daily load (TMDL) must be prepared for those pollutants causing impairment. Once a TMDL is developed, discharges of causative pollutants shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the development of the TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect uses (IDAPA 58.01.02.055.04). A TMDL has not yet been approved by the EPA for this AU.

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the project. As long as the project is conducted in accordance with the provisions of the project plans, federal permit, and conditions of this certification, then it is reasonable for DEQ to conclude that the project will comply with the state's numeric and narrative criteria. These criteria are set at levels that protect and maintain existing and designated beneficial uses.

There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated and discussed above; therefore, the permit ensures that the level of water quality necessary to protect both existing and designated uses is maintained and protected in compliance with the Tier I provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

### **2.4 High-Quality Waters (Tier II Protection)**

The Spokane River is considered high quality for primary contact recreation. As such, the water quality relevant to this use must be maintained and protected, unless a lowering of water quality is deemed necessary to accommodate important social or economic development.

To determine whether degradation will occur, DEQ must evaluate how the permit issuance will affect water quality for each pollutant that is relevant to the recreation use of the Spokane River (IDAPA 58.01.02.052.06). Metals (i.e., lead and zinc) are relevant to the recreation use of the Spokane River.

One of the primary goals of the project is to prevent erosion, which is a common problem along this section of the Spokane River. At present, the shoreline at the project location lacks riparian vegetation, and part of the bank is unstable and eroding. Erosion contributes sediment to the river, and may also contribute metals. In addition to stabilizing the banks permanently, the applicant proposes several temporary BMPs (e.g., silt fence), to protect the river from receiving sediment impacts during and after construction. Because metals may be contained within the sediments, these measures will also protect the river from receiving additional metals. Work below the OHWM will take place only during low water at winter draw down. Work below the OHWM will be limited to installing bank stabilization measures.

In order to maintain the ambient water quality conditions, permanent erosion and sediment controls must be implemented, which will minimize or prevent future sediment contributions from the project area. This project will stabilize the bank and re-establish vegetation. The provisions in the federal permit, coupled with the conditions of this certification, ensure that degradation to the Spokane River will not occur. Therefore, DEQ concludes that this project complies with the Tier II provisions of Idaho's WQS (IDAPA 58.01.02.051.02; 58.01.02.052.06 and 58.01.02.052.08).

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

The following conditions are necessary to ensure the Ross Point Recreation Site Development project complies with Idaho water quality standards and other appropriate water quality requirements of State law applicable to Spokane River.

#### **3.1 General Conditions**

This certification is based on the certification request submitted by the applicant on September 1, 2021 and is conditioned upon the requirement that any modification (e.g., change in work windows, etc.) of the permitted activity shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401. Such modifications may not be implemented until DEQ has determined whether additional certification is necessary.

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

1. DEQ reserves the right to modify, amend, or revoke this certification if DEQ determines that, due to changes in relevant circumstances—including without limitation, changes in project activities, the characteristics of the receiving water bodies, or state WQS—there is no longer reasonable assurance of compliance with WQS or other appropriate requirements of state law.

*Because DEQ is certifying only the activity described in the certification request based on information available at the time of certification, this condition is necessary to ensure that discharges from activities not described in the certification request, or where there has been a change in the characteristics of or WQS applicable to the receiving water body, will comply with 33 U.S.C. § 1341, 40 CFR Part 121, and other applicable water quality requirements, including without limitation 33 U.S.C. § 1311(a), Idaho Code § 39-108, IDAPA 58.01.02.051, IDAPA 58.01.02.052, IDAPA 58.01.02.080, IDAPA 58.01.02.200, IDAPA 58.01.02.210, IDAPA 58.01.02.250, IDAPA 58.01.02.251, IDAPA 58.01.02.252, IDAPA 58.01.02.253, and IDAPA 58.01.02.400.*

2. If ownership of the project changes, the certification holder shall notify DEQ, in writing, upon transferring this ownership or responsibility for compliance with these conditions to another person or party. The new owner/operator shall request, in writing, the transfer of this water quality certification to his/her name.

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

3. A copy of this certification must be kept on the job site and readily available for review by any contractor working on the project and any federal, state, or local government personnel.

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

4. The applicant is responsible for all work done by contractors and must ensure the contractors are informed of and follow all the conditions described in this certification and the federal permit.

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

5. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation and be replaced or augmented if they are not effective. BMPs shall be replaced or augmented if they are not effective.

*This condition is necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200.08, IDAPA 58.01.02.250.02.e, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

### **3.2 Erosion and Sediment Control**

*The following conditions 6-15 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

6. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's Idaho Catalog of Storm Water Best Management Practices<sup>1</sup>. Other resources may also be used for selecting appropriate BMPs.
7. Permanent erosion and sediment control measures will be installed in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
8. Permanent erosion and sediment control measures will be installed at the earliest practicable time consistent with good construction practices and will be maintained as necessary throughout project operation.
9. Structural fill or bank protection will consist of materials that are placed and maintained to withstand predictable high flows in the waters of the state.
10. All construction debris, scraps, particles, and other associated materials will be properly captured and disposed of so they cannot enter waters of the state or cause water quality degradation.
11. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion (2020 Catalog of Storm Water BMPs 3.5.1.4).
12. Maximum fill slopes will be such that material is structurally stable once placed and does not slough into the stream channel during construction, during periods prior to revegetation, or after vegetation is established.
13. Sediment from disturbed areas or sediment that is able to be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state. Placement of clean aggregate at all construction entrances or exits and other BMPs such as truck or wheel washes, if needed, must be used when earth-moving equipment will be leaving the site and traveling on paved surfaces.
14. Silt curtains (turbidity curtains) must be implemented and properly maintained to minimize in-water sediment suspension and resulting turbidity. If a curtain is causing turbidity, it may be causing an exceedance of the water quality standards.

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<sup>1</sup> [Idaho Catalog of Storm Water Best Management Practices, Prepared by the State of Idaho Department of Environmental Quality, April 2020.](#)

15. Silt curtains shall be reliable and function correctly. Curtain design and materials (product) must have been previously and scientifically field tested to determine effectiveness in water quality protection. Manufacturers' specifications and deployment instructions shall be followed. If water flow is present, curtains must have been designed, tested, and recommended by the manufacturer for this condition (velocity rating). Curtains that drag back and forth along the bottom of the lake or stream due to weave action are incorrectly installed and are a violation of this certification, unless a manufacturer who has scientifically field tested this design recommends this type of placement. The silt curtain shall function in such a manner as to meet water quality standards. Silt curtains shall be deployed so as to minimize the area within the curtain while still maintaining optimum function. Curtains shall hang so the fabric is smooth, allowing sediment to slide down the curtain face rather than becoming trapped in folds.

### 3.3 Fill Material

*The following conditions, 16-22, are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.210, IDAPA 58.01.02.250, IDAPA 58.01.02.251, IDAPA 58.01.02.252, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

16. Fill material subject to suspension will be free of easily suspended fine material. Only clean material may be placed as fill.
17. If concrete pour sites require dewatering, or if any concrete is handled over the water, the permittee shall **submit to DEQ plans for review and approval** for the management of concrete and/or a dewatering plan that assures the activity will meet water quality standards.
18. If cofferdams are deployed in areas with flowing water, the cofferdam must be designed, tested, and recommended by the manufacturer for this condition.
19. Stranded fish found in dewatered cofferdams should be safely moved to a location (preferably downstream) with water. The Idaho Department of Fish and Game should be contacted with questions about fish handling.
20. Concrete wash water must be contained in an upland area where it cannot enter surface water.
21. All temporary fills will be removed in their entirety on or before construction completion.
22. Excavated or staged fill material must be placed so it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state.

### 3.4 In-water Work

*The following conditions 23-26 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400*

23. Work in open water is to be kept at a minimum and only when necessary. Equipment shall work from an upland site to minimize disturbance of waters of the state. If this is not practicable, appropriate measures must be taken to ensure disturbance to the waters of the state is minimized.
24. Construction affecting the bed or banks shall take place only during periods of low flow.
25. Work in waters of the state shall be restricted to areas specified in the application.
26. If work boats or barges must be brought in from another water body, they must be inspected for invasive species and cleaned prior to deployment into the Spokane River. Cleaning shall be adequate to remove all life stages of aquatic invasive species.

### 3.5 Turbidity

*The following conditions 27-29 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200.08, IDAPA 58.01.02.250.02.e, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

27. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standards as stipulated under the Idaho WQS. *Any violation of this standard must be reported to the DEQ regional office immediately.*
28. All practical BMPs/containment measures such as silt curtains, geotextile fabrics, and silt fences must be correctly implemented and properly maintained to minimize instream sediment suspension and resulting turbidity.
29. Visual observation is acceptable to determine whether BMPs are functioning properly unless a plume is observed. If a plume is observed, the project may be causing an exceedance of WQS and the permittee must inspect the condition of the project's BMPs and initiate turbidity sampling consistent with Table 1, with a properly and regularly calibrated turbidimeter. Turbidity sampling must be conducted, recorded, and reported as described below. *A properly and regularly calibrated turbidimeter is required.*
  - a. Turbidity sampling location. Choose, identify, and document the following locations for each plume observed:
    - i. Background locations: The sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current.
    - ii. Compliance locations: Choose a location in the plume that is immediately outside of any containment measures such as silt curtains. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The

downstream sample must be taken immediately following the upstream sample.

- b. Turbidity samples must be representative of lake turbidity when the activity is being conducted. *Measurements cannot be taken during a cessation of activity.*
- c. Results from the down-current sampling point must be compared to the up-current or background level to determine whether project activities are causing an exceedance of state WQS. If the downstream turbidity is 50 NTUs or more greater than the upstream turbidity, then the project is causing an exceedance of the WQS.

**Table 1. Turbidimeter monitoring and sampling when a plume is observed.**

Turbidity above background <sup>1</sup>	Monitoring/sampling frequency <sup>1</sup>	Additional actions required
0 to 24 NTU	Visual monitoring every 2 hours	None
25 to 49 NTU	Sample every 2 hours	STOP work after 8 hours in every 24-hour period
25 NTU for 10 or more consecutive days	Sample before and after following instructions <sup>2</sup>	STOP work and follow instructions <sup>2</sup> ; Notify DEQ Regional Office at (208) 666-4605
50 NTU or more	Sample before and after following instructions <sup>3</sup>	STOP work and follow instructions <sup>3</sup> ; Notify DEQ Regional Office at (208) 666-4605

<sup>1</sup>Turbidity shall be sampled three times at each location and reported. Use the maximum value of three samples for determining compliance and following Table 1 direction.

<sup>2</sup>Instructions: If BMPs appear to be functioning to their fullest capacity, then the permittee must modify the activity or implement additional BMPs (this may include modifying existing BMPs) until additional sampling indicates turbidity standards are met. Sampling can cease when a plume is no longer observed. Work can continue when a plume is no longer observed, and measurements are below 25 NTU.

<sup>3</sup>Instructions: If BMPs appear to be functioning to their fullest capacity, then the permittee must modify the activity or implement additional BMPs (this may include modifying existing BMPs) until additional sampling indicates turbidity standards are met. Sampling can cease when a plume is no longer observed. Work can continue when a plume is no longer observed, and measurements are below 50 NTU.

- d. **Reporting:** Copies of daily logs for turbidity meter calibration and turbidity sampling must be made available to DEQ and other local, state and federal regulatory agencies upon request. Beginning with the observation of a plume, provide the following information:
  - i. **Calibration log** must include instrument serial number, date, time, and calibration result.
  - ii. **Turbidity sampling log** must include instrument manufacturer information and serial number, background NTUs, compliance point NTUs, comparison of the points in NTUs, and location, time, and date for each reading.

- iii. Turbidity sampling log submitted to DEQ must include a narrative discussing all exceedances, controls applied and their effectiveness, changes made to controls, subsequent sampling, work stoppages, and any other actions taken.

### 3.6 Vegetation Protection and Restoration

*The following conditions 30-33 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

30. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
31. Fencing and other barriers should be used to mark the construction areas.
32. Where possible, alternative equipment that has limited impact on vegetation should be used (e.g., spider hoe or crane).
33. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation shall be successfully reestablished to function for water quality benefit at pre-project levels or improved at the completion of authorized work.

### 3.7 Toxics and Other Pollutants

34. In conformance with IDAPA 58.01.02.200, the use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, fertilizers, and deicing salts during construction and operation should be limited to the best estimate of optimum application rates. All reasonable measures shall be taken to avoid excess application and introduction of chemicals into waters of the state.

### 3.8 Management of Hazardous or Deleterious Materials

*The following conditions 35-41 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.080, IDAPA 58.01.02.200, IDAPA 58.01.02.400, IDAPA 58.01.02.800, IDAPA 58.01.02.850.*

35. Portable toilets and garbage containers placed at work areas that are near or over water shall be regularly maintained and securely anchored to prevent tipping and release to surface water.
36. Petroleum products and hazardous, toxic, and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must be in place to ensure that those materials will not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.

37. Daily inspections of all fluid systems on equipment to be used in, over, or near waters of the state shall be done to ensure no leaks or potential leaks exist prior to equipment use. A log book of these inspections shall be kept on site and provided to DEQ upon request. If equipment leaks fluids as a normal part of operation, it shall have an absorbent drip pad (diaper) or other appropriate containment to capture all leaks.
38. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
39. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the state. Waste/wash water must not be allowed to enter waters of the state.
40. Emergency spill procedures shall be in place and include spill response kits (e.g., oil absorbent booms or other equipment) located where heavy equipment is being operated.
41. In the event of an unauthorized release of hazardous material to state waters or to land such that there is a likelihood that it will enter state waters, the responsible persons in charge must:
  - a. Make every reasonable effort to abate and stop a continuing spill.
  - b. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or ground waters of the state.
  - c. Call 911 if immediate assistance is required to control, contain, or clean up the spill. If no assistance is needed in cleaning up the spill, contact the appropriate DEQ regional office during normal working hours or Idaho State Communications Center after normal working hours (1-800-632-8000). If the spilled volume is above federal reportable quantities, contact the National Response Center (1-800-424-8802). Coeur d'Alene Regional Office: 208-769-1422 / 877-370-0017.
  - d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

### **3.9 Dredged/Excavated Material Management**

42. If dredged/excavated substrate requires upland disposal, such disposal must be done in a manner that prevents the material from re-entering waters of the state.

*This condition is necessary to ensure that there is no unauthorized discharge from upland disposal sites in accordance with 33 U.S.C. § 1311(a) and Idaho water quality requirements, including without limitation Idaho Code § 39-108, IDAPA 58.01.02.080, and IDAPA 58.01.02.400.*

## **4 Required Notification**

The permittee must notify the Coeur d'Alene Regional Office when authorized work begins.

## 5 Right to Appeal Final Certification

The final Section 401 Water Quality Certification may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the “Rules of Administrative Procedure before the Board of Environmental Quality” (IDAPA 58.01.23), within 35 days of the date of the final certification.

Questions or comments regarding the actions taken in this certification should be directed to Chantilly Higbee, Coeur d’Alene Regional Office at 208-666-4605 or via email at [Chantilly.Higbee@deq.idaho.gov](mailto:Chantilly.Higbee@deq.idaho.gov).

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Dan McCracken  
Regional Administrator  
Coeur d’Alene Regional Office