STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

June 10, 2016

Mr. Daniel Opalski, Director
Office of Water and Watersheds
USEPA Region 10
Mail Stop – OWW-135
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

Subject: FINAL §401 Water Quality Certification for the Draft NPDES Pesticide General Permit for Point Source Discharges to Waters of the United States from the Application of Pesticides (PGP); NPDES IDG87####

Dear Mr. Opalski:

The Idaho Department of Environmental Quality (DEQ) has reviewed the above-referenced draft permit and associated fact sheet, which was received in our office on February 23, 2016. DEQ offered a 31-day public comment period beginning on April 8, and ending on May 9, 2016. DEQ received comments from the following individuals:

1. Austin Hopkins, Idaho Conservation League, received May 9, 2016
2. Thomas Woolf, Idaho State Department of Agriculture, received May 9, 2016

DEQ has reviewed these comments and no changes were made from the draft certification to the final certification. Please find enclosed final certification and a table of all the active public drinking water system surface water intakes for inclusion with the PGP for the State of Idaho. If the final PGP is substantially different from the draft permit upon which this certification is based, DEQ reserves the right to revise the enclosed final certification.

If you have any questions or concerns, please feel free to contact Nicole Deinarowicz at (208) 373-0591 or via email at nicole.deinarowicz@deq.idaho.gov.

Sincerely,

Barry N. Burnell

Barry N. Burnell
Water Quality Division Administrator

BNB:ND:tg

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e: Final 401 Certification for the Pesticide General Permit, Public Water System Surface Water Intakes Table

c: Michael Lidgard – USEPA, Region 10
Dirk Helder – USEPA, Region 10
DEQ Regional Administrators
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Don Essig, DEQ, Surface Water Program Manager

Idaho Department of Environmental Quality

Final §401 Water Quality Certification

June 10, 2016

NPDES Permit Number(s): Pesticide General Permit (PGP) for Point Source Discharges to Waters of the U.S. from the Application of Pesticides IDG87####

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 National Pollutant Discharge Elimination System (NPDES) permits and issue water quality certification decisions.

Based upon the review of the draft Pesticide General Permit (PGP) and associated fact sheet, 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, 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, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

The draft PGP authorizes discharges to surface waters subject to the jurisdiction of the Clean Water Act (CWA) from the application of biological and chemical pesticides for the following four pesticide use patterns:

1. Mosquito and other flying insect pest control;
2. Aquatic weed and algae control;
3. Aquatic nuisance animal pest control; and
4. Forest canopy pest control.

Antidegradation Review

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

- Tier 1 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 1 review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).

- Tier 2 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 3 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 1 protection for that use, unless specific circumstances warranting Tier 2 protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

Pollutants of Concern

EPA estimated this permit would provide coverage for discharge of over 3,500 pesticide products that are currently registered for use (Fact Sheet, page 37). These pesticide products contain at least one of the more than 400 pesticide active ingredients and they may also contain a variety of other inert ingredients.

Receiving Water Body Level of Protection

All waters in Idaho that receive discharge from pesticide applications authorized in the draft PGP will receive, at minimum, Tier 1 antidegradation protection because Idaho's antidegradation policy applies to all Waters of the State. Water bodies that support their aquatic life or recreational uses are considered to be "high quality waters" and receive Tier 2 antidegradation protection, in addition to Tier 1 protection. 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).

Although Idaho does not currently have any outstanding resource waters (ORWs) designated, it is possible that a water body could 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 outstanding resource water requirements of Idaho's antidegradation policy.

To determine the support status of the receiving water body, persons filing a Notice of Intent (NOI) for coverage under this general permit must use the most recent EPA-approved Integrated Report, available on Idaho DEQ's website: 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 2 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. If a water body is unassessed, the applicant is directed to contact DEQ for assistance in filing the NOI.

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 5 contains waters which have been identified as "impaired", for which a TMDL is needed. These waters are Tier 1 waters, for the use which is impaired. With the exception, if the aquatic life uses are impaired for any of these three pollutants—dissolved oxygen, pH, or temperature—and the biological or aquatic habitat parameters show a healthy, balanced biological community, then the water body shall receive Tier II protection, in addition to Tier I protection, for aquatic life uses (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/.

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, the applicant is directed to make contact with the appropriate DEQ Regional Office or the State Office. Contact information can be obtained at: http://www.deq.idaho.gov/regional-offices-issues/.

Protection and Maintenance of Existing Uses (Tier 1 Protection)

As noted above, a Tier 1 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. 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 designated beneficial uses. The effluent limitations and associated requirements contained in thePGP are set at levels that ensure compliance with the narrative and numeric criteria in the WQS.

Most of the active and inert ingredients in pesticides do not have numeric criteria in Idaho WQS; therefore, for these pollutants, DEQ relies on the narrative criteria for toxic substances, hazardous materials, and deleterious materials to ensure protection of designated and existing beneficial uses (IDAPA 58.01.02.200). These narrative criteria state that water bodies shall be free of these substances and materials in concentrations that impair existing or designated beneficial uses.

Before a pesticide that is not considered to be minimum risk can be registered for use, it undergoes significant review by the U.S. EPA in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The purpose of this review is to ensure the pesticide is safe for workers and homeowners who might apply the product, safe when used on food items

and safe for the environment. The review evaluates the risk to non-target organisms and seeks to minimize those risks through label restrictions that may limit the number of applications made on an annual basis or through maximum application rates. EPA's review evaluates the risk of both active ingredients and the formulated end use product and considers the effects on the target pest(s) and the environment where the pesticide is applied. It takes into account how the pesticide is applied, how often it is applied (amount, timing, and frequency) and where it is applied. Before EPA will approve a pesticide they must determine it will "not generally cause unreasonable adverse effects" on the environment, pose a risk to workers or home applicators, or pose a human dietary risk from residues on food or in drinking water when used according to the pesticide label. In examining the environmental or human health effects, EPA considers whether the pesticide has the potential to cause adverse effects on non-target organisms, wildlife, fish, and plants, as well as possible contamination of surface water or ground water from leaching, runoff, and spray drift. If a pesticide posed unacceptable acute or chronic risk, then EPA would not register the pesticide for use.

If EPA approves a pesticide for use, then EPA will impose restrictions on its use through labeling requirements that are designed to avoid unreasonable adverse effects on the environment and human health. The draft PGP only authorizes the use of pesticides that have been registered according to FIFRA or that have been classified as minimum risk pesticides exempt from federal registration requirements.

In addition to the FIFRA requirement that pesticides be applied according to their label instructions, the draft PGP contains non-numeric technology-based effluent limitations that are designed to minimize impacts from pesticide applications. These effluent limitations require Operators to use the lowest effective amount and frequency of pesticide application and to perform regular maintenance activities to prevent and reduce unintended releases of pesticides and to ensure the equipment is operating properly. Furthermore, the draft PGP contains a water quality-based effluent limitation that prohibits the discharge from violating WQS. In addition to these requirements, the draft PGP prohibits the discharge of pollutants for which a water body is considered to be impaired. Table 1 lists Idaho water bodies not fully supporting their beneficial uses due to elevated concentrations of pollutants that have the potential to be contained in, or a degradate of, pesticides. Operators are not eligible for coverage under the PGP if there is any discharge of the listed pollutant from the pesticide application to any one of these impaired waters, unless evidence is provided that demonstrates that the water is no longer impaired, or the pesticide application does not contain the pollutant listed.

Table 1. Water bodies not fully supporting beneficial uses as a result of concentrations of pollutants that have the potential to be contained in, or a degradate of, pesticides. According to the draft permit, pesticides containing these substances are not to be used in or near the water bodies in this table. This list is based upon the most recent EPA-approved Integrated Report (DEQ 2014).

Pollutant	Water Body	Assessment Unit
Chlorpyrifos	Mason Creek	ID17050114SW006_02
	Fifteenmile Creek	ID17050114SW007_04
	Tenmile Creek	ID17050114SW008_03
	Fivemile Creek	ID17050114SW010_03
	Jenkins Creek	ID17050201SW005_02
Copper	Prichard Creek	ID17010301PN004_03
	Clark Fork River Delta	ID17010213PN001_08
	Clark Fork River	ID17010213PN003_08
	Clark Fork River	ID17010213PN005_08
	Deep Creek	ID17060101SL004_03
	Big Deer Creek	ID17060203SL005_03
	South Fork Big Deer Creek	ID17060203SL007_02
	Panther Creek	ID17060203SL010_05
	Panther Creek	ID17060203SL011_04
Malathion	Mason Creek	ID17050114SW006_02

In consideration of the rigorous registration process for pesticide products and active ingredients and the requirements of the draft PGP, the use of pesticides in accordance with the label instructions is not expected to result in concentrations that will impair existing or designated beneficial uses of Idaho's water bodies (see Fact Sheet, pages 78-94 for further discussion).

The effluent limitations, including non-numeric technology-based and water quality-based effluent limits, visual monitoring requirements, and associated requirements contained in the draft PGP, coupled with other applicable state laws, and the conditions set forth in this certification provide DEQ reasonable assurance of compliance with IDAPA 58.01.02.051.01 and IDAPA 58.01.02.052.07.

High-Quality Waters (Tier 2 Protection)

As indicated previously, water bodies that fully support their beneficial uses will be provided Tier 2 protection. As such, the quality of these waters must be maintained and protected, unless it is deemed necessary to accommodate important economic or social development.

The pesticide applications identified in the draft PGP have historically occurred in Idaho for decades. For example, mosquito abatement districts were formed in Idaho as early as the 1960's and the Idaho mosquito abatement district statute (Title 39 Chapter 28) was enacted in 1959. Although not used often anymore, the U.S. Forest Service conducted forest canopy pest control in Idaho in the early 1970s as well as in the 1980s. The Idaho Department of Lands has employed aerial application of pesticides sporadically since at least 1965. In consideration of the historical application of pesticides directly to or near water bodies in Idaho, DEQ concludes that many of the pesticide application activities are existing and do not constitute a new or increased discharge to high quality waters. However, this permit may also result in new dischargers, such as the examples described below.

a. A new pesticide may be used in or near a water body that has historically received discharge either directly or indirectly from the application of a different pesticide.
b. A pesticide application to or near a water body that has never had a direct or indirect discharge of pesticides may occur during the term of this permit (e.g. a lake may be treated for milfoil for the first time in its history).

While a pesticide application might constitute a new discharge, DEQ expects that generally, the application of a pesticide will not result in a lowering of water quality. Idaho WQS define lowering water quality or "degradation" as a change in a pollutant that is adverse to designated or existing uses (IDAPA 58.01.02.10.20). In addition, a Tier 2 analysis is only required if any degradation is significant, meaning that, in general, the discharge causes a cumulative decrease in assimilative capacity of more than ten percent (10%) from conditions as of July 1, 2011, (IDAPA 58.01.02.52.08.a.i). Pesticides are not applied continuously rather their application varies in magnitude, duration, and frequency depending upon the target pest(s) and product used. Pesticide applicators are required by FIFRA to follow the pesticide use directions and restrictions, which limit the application rate and in some cases, the frequency of application (e.g. total number of applications per season). In addition to their non-continuous application, pesticides have varying half-lives, ranging from hours to months and this is considered during the registration process. By complying with the use directions and pesticide labeling restrictions, the risks to human health and the environment from the pesticide application are minimized. Furthermore, the draft PGP requires that pesticides be applied in the smallest effective amount possible and that the optimum application frequency be used, which is a requirement above and beyond simply complying with the FIFRA use directions and label restriction.

Given these factors, DEQ expects that many pesticide applications authorized by the draft PGP will not result in a measurable change in water quality, or any change that will be significant. The Idaho State Department of Agriculture (ISDA) is currently contracting to implement various Eurasian watermilfoil control projects in various lakes and reservoirs in Idaho. Many of these projects conducted water quality monitoring for the pesticide active ingredient that was used. The Inland Empire Cooperative Weed Management Area has prepared at least four reports summarizing their Eurasian watermilfoil control efforts for 2006, 2007, 2008, and 2009 (http://www.iecwma.org/milfoil/reports.htm). These reports contain water quality monitoring data for the active ingredients in pesticide products that were applied in Hayden Lake, Cave Lake, and Medicine Lake. This data indicates that the active ingredients (e.g. 2,4-D and triclopyr) in pesticides were not measurable in treatment areas anywhere from one (1) to forty-one (41) days following application. Similarly results have been found for fish eradication projects using rotenone. Finlayson, Siepmann, and Trumbo (2001)[1] found that for the various rotenone application projects in California, rotenone generally degraded to nondetectable levels in one to three weeks. In a more recent study (McMillin and Finlayson 2008)[2], concentrations of

[1] Finlayson, B.J., S. Siepmann, and J. Trumbo. 2001. Chemical Residues in Surface and Ground Waters Following Rotenone Application to California Lakes and Streams. Pages 37-54 *in* R.L. Cailteux, L. DeMong, B.J. Finlayson, W. Horton, W. McClay, R.A. Schnick, and C. Thompson, editors. Rotenone in fisheries science: are the rewards worth the risks? American Fisheries Society, Trends in Fisheries Science and Management 1, Bethesda, Maryland.
[2] McMillin, S. and B.J. Finlayson. 2008. Chemical residues in water and sediment following rotenone application to Lake Davis, California 2007. California Department of Fish and Game, Pesticide Investigations Unit, OSPR Administrative Report 08-01. Rancho Cordova, California.

rotenone and rotenolone (a metabolite) in water were below reporting limits thirty-two (32) and fifty-four (54) days, respectively, after treatment in Lake Davis.

While DEQ concludes that most pesticide applications, when done in accordance with use directions and label restrictions, will not result in a significant lowering of water quality, DEQ acknowledges that there may be circumstances where a pesticide application authorized under the draft PGP has the potential to result in a significant lowering of water quality. DEQ expects that projects with this potential will be only those that surpass the annual treatment area thresholds stipulated in the draft PGP (Section 1.2.2). Where an activity may result in significant degradation, DEQ must assure that the activity is necessary to accommodate important social or economic development. DEQ considers activities covered under the draft PGP to be necessary to accommodate important social or economic development for a variety of reasons.

Alternatives Analysis

DEQ believes that, with respect to the larger or more frequent applications that may cause a lowering of water quality, the draft PGP only allows necessary pesticide application. The draft PGP requires certain Operators (i.e. federal or state governmental entities, irrigation districts, pest control districts, and entities exceeding the annual treatment area thresholds) to consider a variety of pest control options including such options as no action, prevention, mechanical or physical control methods, or cultural methods. In selecting the pest control method, the Operator should consider the impact to water quality and non-target organisms, pest resistance, feasibility, and cost effectiveness. The most efficient and effective means of pest management that minimizes discharges of pesticides to waters of the U.S. must be chosen. The evaluation of pest control methods must be documented in the pesticide discharge management plan along with a description of how the selected control measure will be implemented to comply with the PGP. DEQ believes these draft PGP requirements adequately satisfy the antidegradation requirement of ensuring that any potential degradation of high quality water is necessary.

Socioeconomic Justification

Pesticide applications result in social and/or economic benefits to the community affected by the application. Controlling target pests is beneficial for economic and social reasons. For example, mosquito control reduces the potential risk of community members becoming infected with West Nile Virus. Treating lakes impacted with aquatic weeds such as Eurasian watermilfoil enhances recreational opportunities (such as boating or swimming) and can be beneficial to aquatic life uses (removing milfoil can prevent dissolved oxygen sags at the end of the growing season). Controlling weeds in agricultural water conveyances improves water delivery and helps to minimize loss of water, thereby benefiting the water users.

DEQ also believes that public involvement is provided for in connection with the draft PGP. The draft PGP and DEQ's certification, including this antidegradation review, are subject to public notice and comment. In addition, for Operators required to submit a Notice of Intent (NOI) the public has the opportunity to access and review an Operator's NOI and may contact the regulatory agencies if they have concern about a pesticide application program. In response to these comments, or based upon its own determination, EPA may determine that additional

technology-based or water quality-based effluent limitations are necessary for a particular project (Draft PGP, Section 1.2.3).

Other Source Controls

Before DEQ can authorize a lowering of water quality, DEQ must assure that the highest statutory and regulatory requirements of point sources and cost-effective and reasonable best management practices for nonpoint sources shall be achieved in the watershed. DEQ believes that this evaluation can be done on a statewide basis for both point and nonpoint sources of pesticides. Aside from the draft PGP, there are no other point source discharge permits that have effluent limitations for pesticides. If a point source will discharge pesticides, then the discharge permit for that point source will require the highest regulatory and statutory control. Thus, DEQ concludes that the highest statutory and regulatory requirements of point sources are already in place.

For nonpoint sources of pesticides, DEQ believes that compliance with the label use directions and restrictions constitutes the most cost-effective and reasonable best management practice for pesticide application. The ISDA is the agency responsible for ensuring compliance with federal and state laws and rules governing the use of pesticides. To do this, ISDA actively implements various programs such as applicator licensing, pesticide registration, inspections, water quality monitoring, education, and enforcement. The public outreach and education program is aimed at ensuring users understand label instructions and use BMPs that effectively minimize drift and runoff.

Furthermore, the federal pesticide re-registration process constitutes another layer of best management practices that will aid in controlling nonpoint sources of pesticides to waters of the U.S. EPA continues to review the registrations of pesticide products and active ingredients. If evidence suggests unacceptable environmental or human health risks based on new information (e.g. new toxicity studies or newly evaluated exposure pathways), EPA will not re-register active ingredients or pesticide products or EPA will change the label restrictions to minimize such risks.

In summary, where projects may result in significant degradation of high quality waters, DEQ concludes: 1) such projects are necessary for important social or economic development and 2) the highest statutory and regulatory controls on point source discharges and cost-effective and reasonable best management practices of nonpoint sources of pesticides are being achieved in the State. Therefore, DEQ concludes the permit requirements coupled with the requirements of this certification complies with the Tier 2 provisions of Idaho's WQS (IDAPA 58.01.02.051 and IDAPA 58.01.02.052.08).

Protection of Outstanding Resource Waters (Tier 3)

Idaho's antidegradation policy requires that the quality of outstanding resource waters be maintained and protected from the impacts of point and nonpoint sources activities. As mentioned previously, no water bodies in Idaho have been designated as outstanding resource waters to date; however, it is possible that waters may become designated during the term of the PGP. Because of this possibility, DEQ evaluated whether the draft PGP complies with the ORW antidegradation provision.

The draft PGP only authorizes discharges to ORWs when specific conditions are met. Those conditions are: 1) the application must be made to restore or maintain water quality or to protect public health or the environment and 2) water quality must not be degraded on a long-term basis. Pesticide applications to, or near ORWs that do not meet these conditions are not eligible for coverage under the draft PGP and will be required to obtain authorization under an individual permit. Therefore, DEQ has determined that the proposed permit complies with Idaho's antidegradation provision concerning ORWs (IDAPA 58.01.02.051.03 and IDAPA 58.01.02.052.09).

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

Conditions Applicable to All Pesticide Use Patterns

In the event of an unauthorized release of hazardous materials to waters of the U.S. that requires reporting in accordance with Part 6.5.1 of the draft PGP, then the Operator[3] shall: 1) stop the spill; 2) contain the spilled material; 3) call 911 and immediately notify the local DEQ of the spill; and 4) collect, remove, and properly dispose of the material (IDAPA 58.01.02.850). Some pesticides may be considered hazardous materials, and it is the Operator's responsibility to know whether the chemical pesticide(s) being used are considered a hazardous material.

Conditions Applicable to Applications of Aquatic, Chemical Pesticides for Purposes of Controlling Pests in Navigable Waters of the U.S.[4]

1. If the application is directly into navigable waters subject to the jurisdiction of the CWA (waters of the U.S.) that contain public drinking water system (PDWS)[5] surface water intake(s), the Operator must notify (see Condition #6) the appropriate DEQ Regional Office Administrator as well as the PDWS operator(s)/owner(s) at least fourteen (14) days prior to the application if:
   - The pesticide contains at least one of the following chemicals: endothall, diquat, 2,4-D, or glyphosate[6]; and
   - The targeted pest control area is within 600 feet[7] of the intake or within the distance restrictions (associated with domestic use) specified on the label, whichever distance

[3] Operator is defined in Appendix A of the permit. Where multiple Operators are responsible for a discharge, compliance by one Operator constitutes compliance by all Operators.

[4] The conditions in this subsection are not applicable if the application is targeting areal or land-based pests or if the application uses biological pesticides for the control of pests in navigable waters of the U.S.

[5] A public drinking water system provides water to the public for human consumption and has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals at least sixty (60) days out of the year (IDAPA 58.01.08.003.107).

[6] These 4 synthetic organic chemicals are regulated under the National Primary Drinking Water Regulations and are currently used in pesticide products that may be applied to aquatic environments.

is greater. The targeted pest control area is that area within the waters of the U.S. where the aquatic, chemical pesticide is expected to perform its intended purpose.

This notification requirement also applies to applications into jurisdictional[8] tributaries of waters of the U.S. with PDWS intake(s) if the application falls within the distance specified above. Waters of the U.S. with PDWS intake(s) are listed in Section 9 of the permit. Contact information for the DEQ Regional Office Administrators can be obtained at: http://www.deq.idaho.gov/regional-offices-issues/.

2. If a chemical pesticide containing endothall, diquat, glyphosate, or 2,4-D is applied directly into waters of the U.S. within the distance outlined in Condition #1 of this subsection, then the Operator shall conduct water quality monitoring as follows:
   a. Water quality monitoring shall be specific to the pesticide applied.
   b. Water quality monitoring shall be conducted at the downstream edge of the targeted pest control area or at the PDWS intake, whichever location is agreed upon by DEQ and the PDWS operator(s)/owner(s).
   c. Water quality monitoring must begin within three (3) days after the pesticide application, unless an alternative waiting period is specified by DEQ.
   d. Water quality monitoring shall be conducted at least weekly following the initial day of treatment or at an alternative frequency that is specified by DEQ.
   e. Water samples shall be analyzed at a laboratory that is certified for drinking water analyses (http://www.deq.idaho.gov/water-quality/drinking-water/pws-monitoring-reporting/laboratory-analysis/).
   f. Water quality monitoring shall continue until chemical residues fall below the maximum contaminant levels in Table 1.

Table 1. Maximum Contaminant Levels

Chemical	*Maximum Contaminant Level (ug/L)*
Diquat	20
Endothall	100
Glyphosate	700
2,4-D	70

   g. A copy of the water quality monitoring results received from the laboratory shall be sent to the appropriate DEQ Regional Office Administrator.

3. If the application is directly into waters of the U.S. subject to appropriation under the laws of the State of Idaho, the Operator shall provide advanced notice to owners of water rights and water permits for domestic and agricultural use that are on record with the Idaho Department of Water Resources and that have an authorized point of diversion located

[7] For streams and rivers, only applications upstream of the intake are of interest. For reservoirs and lakes, applications within the specified distance from the intake in any direction are generally of interest, unless it can be demonstrated water within the targeted pest control area will not reach the intake.
[8] Jurisdictional tributaries are those tributaries that are considered to be waters of the U.S. and are therefore subject to regulation under the Clean Water Act.

within the distance specified in Condition #1 of this subsection. No notice is required to owners of diversions that are located upstream from a pesticide application. Information about water right or water permit owners may be obtained at: http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx.

Seasonal or annual notification will fulfill the advanced notice requirement of this condition. Notification may be achieved by a variety of methods, including but not limited to: email, posting on a web page, billing notice, letter, news release, or door hanger. The notification shall contain the information specified in Condition #6.

4. If an application is into waters of the U.S. that may be used for recreational activities, then the Operator shall post notices at boat launches and public swimming beaches[9]. The Operator shall follow the FIFRA label instructions, where applicable, for posting requirements. If the FIFRA label does not have specific requirements for posting notices, then the Operator shall comply with the following:
    a. The notice shall be placed at location(s) accessible by the public (e.g. docks or information kiosks) and the extent of posting shall be limited to the target pest control area.
    b. The notice shall be posted at least fourteen (14) days prior to treatment.
    c. The notice shall indicate the date(s) of application, the product used, the purpose of the application, any water use restrictions, and Operator phone number.
    d. The notice shall be removed within two (2) weeks after the pest control project has been completed.

    Operators are not required to post notice for applications to canals or drainage delivery systems that were constructed for the sole purpose of water conveyance.

5. For applications of chemical pesticides (e.g. Rotenone or Antimycin A) to waters of the U.S. for the sole purpose of eradicating vertebrate animals, the Operator must notify (see Condition #6) the appropriate DEQ Regional Office Administrator thirty (30) days prior to the application.

6. When notifications are required, they must include the following information: Operator name and telephone number; map with targeted pest control area defined; anticipated schedule of application(s); pesticide(s) that will be used; and any water use restrictions associated with the pesticide labeling information. Notifications to the DEQ Regional Office Administrator shall be in writing and may be submitted via email, hand delivery, or ground mail.

7. These conditions shall not apply to Operators applying pesticides to man-made waterways (as defined in section 010.58 of the Idaho WQS) which they own, operate or maintain for irrigation water delivery or drainage purposes.

[9] A public swimming beach is an area indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition (IDAPA 58.01.02.010.81).

Other Conditions

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities—including without limitation, changes to the draft PGP, 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 Idaho WQS and to provide additional 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 thirty-five (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 nicole.deinarowicz@deq.idaho.gov.

Barry N. Burnell

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Administrator, Water Quality Division

Idaho Water Body Segments with Public Water Supply Intakes, by County.

County	Stream Name	Segment Boundaries
Ada	Boise River	Diversion Dam to river mile 50
Benewah	Adams Creek	Confluence of West Fork and Middle Fork St. Maries Rivers to Carpenter Creek
	Rochat Creek	Headwaters to St. Joe River
Boise	Bogus Creek	Headwaters to Shafer Creek
	Elk Creek	Source to mouth
	Middle Fork Payette River	Big Bulldog Creek to mouth
	Mores Creek	Headwaters to Lucky Peak Reservoir
	Payette River	Confluence of the North Fork and South Fork Payette Rivers to Black Canyon Reservoir
	Warm Springs Creek	Headwaters to Middle Fork Payette River
Bonner	Berry Creek	Headwaters to Colburn Creek
	Kreiger Creek	Headwaters to Cocolalla Creek
	Little Sand Creek	Headwaters to Sand Creek
	Pend Oreille Lake	Pend Oreille Lake
	Pend Oreille River	Pend Oreille Lake to Albeni Falls Dam
	Sand Creek	Headwaters to Pend Oreille Lake
	Strong Creek	Headwaters to Pend Oreille Lake
Boundary	Brown Creek	Headwaters to Twentymile Creek
	Brown Creek	Cow Creek - source to mouth
	Kootenai River	Moyie River to Deep Creek
	Meadow Creek	Headwaters to Moyie River
	Myrtle Creek	Toot Creek to Kootenai River
	Skin Creek	Idaho/Montana border to Moyie River
	Twentymile Creek	Headwaters to Brown Creek
Clearwater	Canal Gulch Creek	Headwaters to Orofino Creek
	Clearwater River	Lolo Creek to North Fork Clearwater River
	Elk Creek	Headwaters to Dworshak Reservoir
	North Fork Clearwater River	Dworshak Reservoir Dam to mouth
	North Fork Clearwater River	Dworshak Reservoir
	Orofino Creek	Headwaters to Clearwater River
Custer	Garden Creek	Headwaters to Salmon River
Elmore	East Fork Montezuma Creek	Headwaters to Middle Fork Boise River
	Snake River	Clover Creek to Browns Creek
Idaho	Clearwater River	Confluence of South and Middle Fork Clearwater Rivers to Lolo Creek
	Elk Creek	Confluence of Big Elk and Little Elk Creeks to American River
	Wall Creek	Headwaters to Sally Ann Creek

County	Stream Name	Segment Boundaries
Kootenai	Coeur d'Alene Lake	Coeur d'Alene Lake
	Hayden Lake	Hayden Lake
	Twin Lakes	Twin Lakes
Latah	Big Meadow Creek	Headwaters to West Fork Little Bear Creek
	Potlatch River	Big Bear Creek to Clearwater River
Lemhi	Chipps Creek	Headwaters to Salmon River
	Jesse Creek	Headwaters to Salmon River
	Pollard Canyon Creek	Headwaters to Salmon River
	Salmon River	Williams Creek to Pollard Creek
Nez Perce	Big Canyon Creek	Headwaters to Clearwater River
	Clearwater River	Lower Granite Dam pool
Payette	Payette River	Black Canyon Reservoir Dam to Snake River
Shoshone	Boulder Creek	Headwaters to South Fork Coeur d'Alene River
	Canyon Creek	Headwaters to South Fork Coeur d'Alene River
	Deadman Creek	Headwaters to South Fork Coeur d'Alene River
	Lake Creek	Headwaters to South Fork Coeur d'Alene River
	Placer Creek	Headwaters to South Fork Coeur d'Alene River
Valley	Boulder Creek	Headwaters to the East Fork of the South Fork Salmon River
	Little Horsethief Creek	Source to mouth
	North Fork Payette River	Payette Lake
	Payette Lake	Payette Lake
Washington	Snake River	Boise River to Weiser River
	Weiser River	Keithly Creek to Snake River