STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

900 N Skyline Drive, Suite B, Idaho Falls, ID 83402
(208) 528-2650

Brad Little, Governor
Jess Byrne, Director

March 22, 2022

Tom Hedges
P.O. Box 11803
Jackson, WY, 83002

Subject: Final § 401 Water Quality Certification, Moose Creek Ranch Improvement Project

Dear Tom Hedges:

Please find the enclosed Section § 401 Water Quality Certification for the Army Corps of Engineers permit NWW-2019-648-I01. DEQ has determined that the proposed project activities will comply with Idaho Water Quality Standards; given that you comply with all terms of the federal permit, this §401 certification and any applicable water quality management plans (e.g., total Maximum Daily Loads).

DEQ conducted a 21-day public comment period ending on March 18, 2022. No comments were received, and no substantive changes have been made to the final certification. Please ensure you and anyone performing this work comply with the conditions of this certification prior to beginning work. Please also notify the DEQ Idaho Falls Regional Office when work begins.

Sincerely,

Troy Saffle
Regional Administrator
Idaho Falls Regional Office

enclosure

c: James Joyner, Army Corps of Engineers, james.m.joyner@usace.army.mil
Kent Werlin, Biota Research and Consulting, Inc., kwerlin@biotaresearch.com
Alex Bell, Idaho DEQ, alex.bell@deq.idaho.gov
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Idaho Department of Environmental Quality
Final § 401 Water Quality Certification

March 22, 2022

Project Name: NWW-2019-648-I01, Moose Creek Ranch Improvement Project

Permit Number (if applicable): NWP No. 39 Commercial and Institutional Developments

Applicant/Authorized Agent: THH, LLC / Biota Research and Consulting, Inc.

Project Location: The proposed project is located at the Moose Creek Ranch at 2733 E 10800 S, Teton County, approximately 2.5 miles South-East of Victor, Idaho (43.563333, -111.058554).

Receiving Water Body: Moose Creek (ID17040204SK039_02)

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 U.S.C. Section 1341(a)(1); and Idaho Code §§ 39-101 et seq. and 39-3601 et seq., the Idaho Department of Environmental Quality (DEQ) has authority to review activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon its review of the certification request, received on 2/1/2022, 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 proposed project is to further develop the existing commercial property of the Moose Creek Ranch. Construction activities will include the following: (1) development of an RV park (2) construction of luxury tent sites, (3) development of gravel pathways, a campfire area, and expansion of landscaping, (4) construction of a new fire pond and rerouting of an existing artificial channel.

RV Park - The proposed development of the RV park will involve site grading and construction of several parking pads. This process will require approximately 128-cubic yards of ¾-inch crushed gravel, geotextile, and soil to be discharged and permanently impact 1,811 square feet of wetland.

Tent Platforms - The proposed installation of luxury tent platforms will involve removal of existing infrastructure and construction resulting in the discharge of approximately 11-cubic yards of 12-inch wood posts, pressure treated dimensional lumber, and ¾-inch crushed gravel into wetlands. This process will permanently impact approximately 280-square feet of wetlands.

Gravel Pathways, Campfire Area, and Landscaping - The proposed project will involve the removal of existing sod and soil within the proposed footprint of the pathways and campfire area and replacement with approximately 4-inches of ¾-inch crushed gravel. Landscaping around the tent sites will require the addition of approximately 4-inches of imported topsoil and installation of grass sod. Altogether, the development of the gravel pathways, campfire area, and sod landscaping will require 222-cubic yards of ¾-inch crushed gravel, topsoil, and sod to be discharged and permanently impact approximately 7,232-square feet of wetlands. In addition, these construction activities will also discharge of approximately 26-cubic yards of ¾-inch crushed gravel into an estimated 721-square feet of existing artificial stream channel.

The proposed construction activities will result in a total stream impact length of 700-linear feet (to the existing artificial diversion channel and fire pond) and total wetland impact of 17,612-square feet.

During construction, silt fencing and straw wattles will be used to reduce the environmental impact of proposed development. After construction, sites disturbed will be reclaimed and revegetated.

2 Antidegradation Review

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

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

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

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

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

2.1 Pollutants of Concern

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

2.2 Receiving Water Body Level of Protection

This project is located on Moose Creek within the Teton Subbasin assessment unit (AU) Moose Creek - Idaho/Wyoming border to mouth - ID17040204SK039_02. This segment of Moose Creek is a second order perennial stream that extends 1.28-miles from the Wyoming border to the confluence at Trail Creek. This AU has the following existing beneficial uses: Cold Water Aquatic Life and Salmonid Spawning. Secondary Contact Recreation is a presumed use in this AU. 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, all beneficial uses for this AU are Fully Supported. Following this, DEQ will provide Tier II protection in addition to Tier I for this waterbody (IDAPA 58.01.02.051.01, 58.01.02.051.02).

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

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

Water bodies not supporting existing or designated beneficial uses must be identified as water quality limited, and a total maximum daily load (TMDL) must be prepared for those pollutants causing impairment. Once a TMDL is developed, discharges of causative pollutants shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the development

of the TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect uses (IDAPA 58.01.02.055.04).

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) directed toward reducing erosion and minimizing turbidity levels in Moose Creek. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area when the artificial channel is rewatered. 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. In addition, the project will be consistent with the *Teton River Subbasin: 2016 Total Daily Maximum Daily Loads and Five-Year Review,* by implementing BMP's to limit the sediment impacts to Moose Creek. All work will be conducted during dry conditions (when the diversion is shut off). All disturbed soil adjacent to the artificial channel will be revegetated to reduce erosion. During and after construction, the applicants will regularly inspect the effectiveness of BMPs and identified BMP deficiencies will be immediately addressed.

There is no available information indicating the presence of any additional 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 Moose Creek AU is considered high quality for Cold Water Aquatic Life, Salmonid Spawning, and Secondary Contact Recreation. As such, the water quality relevant to these uses 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 above-mentioned uses of Moose Creek (IDAPA 58.01.02.052.06). The pollutant of concern is sediment. Because sediment is not relevant to contact recreation, project activities are not expected to result in a lowering of water quality with respect to recreational beneficial use support. However, sediment is relevant to both Cold Water Aquatic Life and Salmonid Spawning. The permittee must minimize the transport of sediment from the construction site and reconstructed channel into Moose Creek through the implementation of BMPs. All work to realign the existing artificial channel will be conducted in dry conditions when the diversion is temporarily shut off. Loss of wetland habitat will be mitigated following the "Compensatory Mitigation Plan Moose Creek Ranch Improvement Project" plan required by special conditions outlined in the 404 permit. The disturbed project area will be revegetated using native seed mixes, live cuttings, and shrub plantings.

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. The provisions in the federal permit, coupled with the conditions of this certification, ensure that degradation to Moose Creek (ID17040204SK039_02) will not occur during construction or when the artificial channel is rewatered. 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 Moose Creek Ranch Improvement Project complies with Idaho water quality standards and other appropriate water quality requirements of state law applicable to Moose Creek.

3.1 General Conditions

This certification is based on the certification request submitted by the Biota Research and Consulting, Inc., on behalf of THH, LLC, on 2/1/2022 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 of the Clean Water Act. 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.

2. 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.

If this project disturbs more than 1-acre and there is potential for discharge of stormwater to waters of the state, coverage under the DEQ Storm Water Permit Program. This condition is necessary to ensure that work authorized under the federal permit complies with water quality requirements prohibiting unauthorized stormwater discharges, including without limitation 33 U.S.C. § 1311(a), 33 U.S.C. § 1342(p), IDAPA 58.01.02.080, and IDAPA 58.01.02.400.

3.2 Fill Material

The following conditions 3.2.1-3.2.3 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.210, IDAPA 58.01.02.250, IDAPA 58.01.02.251, IDAPA 58.01.02.252, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. Fill material subject to suspension will be free of easily suspended fine material. Only clean material may be placed as fill. If dredged material is proposed to be used as fill material and

there is a possibility the material may be contaminated, then the permittee must assess and characterize sediment to determine the suitability of dredge material for unconfined-aquatic placement; determine the suitability of post dredge surfaces; and to predict effect on water quality during dredging. Sediment assessment and characterization done in accordance with the procedures in the Sediment Evaluation Framework for the Pacific Northwest[1] (RSET, 2018) satisfies this above requirement. A different assessment and characterization methodology may be used if the Department approves the methodology in writing.

2. All temporary fills will be removed in their entirety on or before construction completion.
3. Excavated or staged fill material must be placed so it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state.

3.3 Erosion and Sediment Control

The following conditions 3.3.1-3.3.9 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS and TMDLs shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's Idaho Catalog of Storm Water Best Management Practices[2]. Other resources may also be used for selecting appropriate BMPs.
2. Permanent erosion and sediment control measures will be installed in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
3. Permanent erosion and sediment control measures will be installed at the earliest practicable time consistent with good construction practices and will be maintained as necessary throughout project operation.
4. Structural fill or bank protection will consist of materials that are placed and maintained to withstand predictable high flows in the waters of the state.
5. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation and be replaced or augmented if they are not effective.
6. All construction debris, 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.
7. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion[3].

[1] Northwest Regional Sediment Evaluation Team (RSET). 2018. Sediment Evaluation Framework for the Pacific Northwest. *Prepared by* the RSET Agencies, May 2018, 183pp plus appendices.

[2] Idaho Catalog of Storm Water Best Management Practices, *Prepared by* the State of Idaho Department of Environmental Quality, April 2020.

[3] EPA, National Menu of Best Management Practices (BMPs) for Stormwater, 2000

8. Maximum fill slopes will be such that material is structurally stable once placed and does not slough into the stream channel during construction, during periods prior to revegetation, or after vegetation is established.
9. Sediment from disturbed areas or sediment that can be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be expected to enter waters of the state. Placement of clean aggregate at all construction entrances or exits and other BMPs such as truck or wheel washes, if needed, must be used when earth-moving equipment will be leaving the site and traveling on paved surfaces.

3.4 Turbidity

The following conditions 3.4.1-3.4.4 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200.08, IDAPA 58.01.02.250.02.e, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standards as stipulated under the Idaho WQS. Any violation of this standard must be reported to the DEQ Idaho Falls Regional Office immediately.
2. Containment measures such as silt curtains, geotextile fabrics, and silt fences must be implemented and properly maintained to minimize instream sediment suspension and resulting turbidity. One resource that may be used in evaluating appropriate BMPs is DEQ's Idaho Catalog of Storm Water Best Management Practices[2]. Other resources may also be used for selecting appropriate BMPs.
3. All practical BMPs on disturbed banks and within the waters of the state must be implemented to minimize turbidity. Visual observation is acceptable to determine whether BMPs are functioning properly. If a sediment plume is observed, the project may be causing an exceedance of WQS and the permittee must inspect the condition of the project BMPs. If the BMPs appear to be functioning to their fullest capability, then the permittee must modify the activity or implement additional BMPs (this may also include modifying existing BMPs).
4. If the project continues to have a visual sediment plume after BMPs have been inspected and modified, turbidity monitoring is required.
    a. A properly and regularly calibrated turbidimeter is required for measurements analyzed in the field but grab samples may be collected and taken to a laboratory for analysis. When monitoring is required, a sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current. Then a sample must be collected immediately down-current from the in-water disturbance or point of discharge and within any visible sediment plume. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

b. 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 greater than the upstream turbidity, then the project is causing an exceedance of the WQS. Any exceedance of the turbidity standard must be reported to the appropriate DEQ regional office within 24-hours.

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

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

3.5 In-Water Work

The following conditions 3.51-3.5.10 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. 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.
2. Construction affecting the bed or banks shall take place only during periods of low flow.
3. Temporary crossings must be perpendicular to channels and located in areas with the least impact. The temporary crossings must be supplemented with clean gravel or treated with other mitigation methods at least as effective in reducing impacts. Temporary crossings must be removed as soon as possible after the project is completed or the crossing is no longer needed.
4. Heavy equipment working in wetlands shall be placed on mats or suitably designed pads to prevent damage to the wetlands.
5. Activities in spawning areas must be avoided to the maximum extent practicable.
6. Work in waters of the state shall be restricted to areas specified in the application.
7. Measures shall be taken to prevent wet concrete from entering waters of the state when placed in forms and/or from truck washing.
8. Activities that include constructing and maintaining intake structures must include adequate fish screening devices to prevent fish entrainment or capture.
9. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
10. To minimize sediment transport, stream channel or stream bank stabilization must be completed prior to returning water to a dewatered segment.

3.6 Vegetation Protection and Restoration

The following conditions 3.6.1-3.6.4 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.

1. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
2. Fencing and other protective barriers should be used to mark construction areas.
3. Where possible, alternative equipment should be used (e.g., spider hoe or crane).
4. 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 Management of Hazardous or Deleterious Materials

The following conditions 3.7.1-3.7.8 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.080, IDAPA 58.01.02.200, IDAPA 58.01.02.400, IDAPA 58.01.02.800, IDAPA 58.01.02.850.

1. Petroleum products and hazardous, toxic, and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must be in place to ensure that those materials will not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.
2. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
3. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be done to ensure no leaks or potential leaks exist prior to equipment use. A logbook of these inspections shall be kept on site and provided to DEQ upon request.
4. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
5. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment prior to entering a water of the state. Any wastewater or wash water must not be allowed to enter a water of the state.
6. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
7. 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; also contact Idaho Falls Regional Office: (208) 528-2650.

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

3.8 Treated Wood

The following condition is necessary to meet water quality requirements including without limitation IDAPA 58.01.02.200 and IDAPA 58.01.02.210.

DEQ's Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments[4] must be considered when using treated wood materials in the aquatic environment. Within this guidance document DEQ references the *Best Management Practices for the Use of Treated Wood in Aquatic and Wetland Environments*[5]. This best management practices document provides recommended guidelines for the production and installation of treated wood products destined for use in sensitive environments. This condition is necessary to ensure that toxic chemicals are not introduced into waters of the state.

3.9 Dredge Material Management

Upland disposal of dredged material 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.

3.10 Pollutants/Toxins

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.

[4] Guidance for the Use of Wood Preservatives and Preserved Wood Products in or Around Aquatic Environments, Idaho Department of Environmental Quality, 2008

[5] Western Wood Preservers Institute, Wood Preservation Canada, Southern Pressure Treaters' Association, and Southern Forest Products Association. 2011. "Best Management Practices: For the Use of Treated Wood in Aquatic and Wetland Environments" Vancouver, WA: Western Wood Preservers Institute.

4 Required Notification

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

5 Right to Appeal Final Certification

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

Questions or comments regarding the actions taken in this certification should be directed to Alex Bell, Idaho Falls Regional Office, 208-528-2679, alex.bell@deq.idaho.gov.

Troy Saffle
Regional Administrator
Idaho Falls Regional Office