



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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(208) 799-4370

Brad Little, Governor  
Jess Byrne, Director

August 8, 2022

David Doeringsfeld, Port of Lewiston  
1626 6<sup>th</sup> Ave North  
Lewiston, ID 83501

Subject: Final § 401 Water Quality Certification for Port of Lewiston Berth Maintenance  
Dredging, NWW-2013-00519

Dear Mr. Doeringsfeld,

The Idaho Department of Environmental Quality (DEQ) has issued a Section § 401 Water Quality Certification for the Port of Lewiston Berth Maintenance Dredging project. No comments were received during the 21-day public comment period.

DEQ has determined that the proposed project activities will comply with Idaho Water Quality Standards; given that you comply with the terms of the federal permit, this § 401 certification, and any applicable water quality management plans (e.g., Total Maximum Daily Loads).

Questions or comments regarding this certification should be directed to Sujata Connell at [Sujata.Connell@deq.idaho.gov](mailto:Sujata.Connell@deq.idaho.gov) or 208-799-4370

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Camin".

Michael Camin  
Regional Administrator

Enclosure (1)

c: Megan Biljan, Army Corps of Engineers, [megan.biljan@usace.army.mil](mailto:megan.biljan@usace.army.mil)  
Sally Fisher, 8<sup>th</sup> Ave Collaborative, LLC, [sally.fisher@comcast.net](mailto:sally.fisher@comcast.net)  
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## Idaho Department of Environmental Quality Final Section 401 Water Quality Certification

August 8, 2022

**Project Name:** Port of Lewiston Berth Maintenance Dredging

**Permit Number (if applicable):** Individual Permit, NWW-2013-00519

**Applicant/Authorized Agent:** Port of Lewiston, Idaho

**Project Location:** Latitude 46.422773° N, longitude -117.013196° W; site is located at the downstream end of the Port of Lewiston's barge dock.

**Receiving Water Body:** Clearwater 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.

In accordance with the Clean Water Act §§ 121.4 and 121.5, all project proponents must submit a request for a prefiling meeting at least thirty days in advance of submitting a certification request. A prefiling meeting request was received by DEQ on 5/25/2022. DEQ reviewed the prefiling meeting request, spoke with the applicant, and determined that the project information submitted was sufficient to evaluate potential water quality impacts to act on the certification request within a reasonable period of time.

Based upon its review of the certification request in accordance with the Clean Water Act § 121.5 (b) and (c), received on 6/28/2022, 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 the Clean Water Act §§ 301, 302, 303, 306, and 307, Idaho's "Water Quality Standards" (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 this project is to provide critical maintenance dredging of shipping berths at the Port of Lewiston necessary to restore the authorized depth of the berths to 16-feet as

measured at minimum operating pool to continue to maintain the Port's shipping activities that are linked to the local and regional economy and the movement of goods to international markets. The berth dredging consists of removing approximately 4,380-cubic yards of material from the berthing areas (including two grain terminals, a container and cargo barge terminal, and warehousing) at river mile 1-1.5 on the Clearwater River. The contractor will use mechanical methods such as clamshell (most likely), dragline, shovel/scoop, or suction dredging to remove materials from the river bottom. Dredged materials will be loaded onto a barge, then transported down river and placed at a beneficial use site located at Bishop Bar in Washington (Snake River, river mile 118). Dredging and removal activities are expected to be completed within two 8-hour shifts, depending on methods used, and fill less than two barges. Dredging is currently expected to occur December 15 through March 1, during the 2022/2023 construction period.

## 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 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 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 do not lower 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 [DEQ 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. Sediment samples from the project area were collected in 2014 and 2019 and analyzed for characterization purposes and suitability for open-water disposal in the Snake River or at an approved beneficial use or upland site. The analyses showed non-detectable or low detections for chemicals of concern included in Idaho's state water quality standards. As part of the § 401 water quality certification, DEQ requires the applicant to comply with various conditions to protect water quality and meet Idaho's water quality standards, including the water quality criteria applicable to sediment.

## 2.2 Receiving Water Body Level of Protection

This project is located on the Clearwater River within the Clearwater subbasin assessment unit (AU) ID17060306CL001\_07 (Lower Granite Dam pool). According to the most recent federally approved [DEQ Integrated Report](#), this AU is designated for cold water aquatic life, primary contact recreation, and domestic water supply beneficial uses. 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 2022 Integrated Report, this receiving water body AU is fully supporting its assessed uses (IDAPA 58.01.02.052.05.a). As such, DEQ will provide Tier II protection in addition to Tier I for this water body (IDAPA 58.01.02.051.02; 58.01.02.051.01).

The only pollutant of concern associated with this project is sediment. Sediment is not relevant to recreational uses because aquatic life is the more sensitive use. Sediment will be expected to cause impairments to aquatic life at concentrations well below that necessary to cause recreational use impairment. There are no domestic water supply intakes between the project area and the Washington state border, so it is unnecessary for DEQ to conduct a Tier II analysis for the contact recreation or domestic water supply uses (IDAPA 58.01.02.052.08).

## 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 will be maintained and protected. The numeric and narrative criteria in the water quality standards are set at levels that ensure protection of existing and designated beneficial uses.

Throughout the life of the project, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) to minimize turbidity levels in receiving water bodies downstream of the project. Regular observation of sediment aboard the barge or at the placement site will be conducted. To minimize sediment loss and turbidity generation during dredging activities the applicant will ensure smooth closure of the bucket when at the bottom and will not stockpile dredged material on the riverbed. Depending on the results of the water quality monitoring program, enhanced BMPs may also include slowing the velocity of the ascending loaded clamshell bucket through the water column, pausing the dredge bucket near

the bottom while descending and near the water line while ascending, and placing filter material over the barge scuppers to clear return water.

If sediment is placed on the barge for delivery to the placement area, no spill of sediment from the barge will be allowed. The barge will be managed such that dredged sediment load does not exceed the capacity of the barge. The load will be placed in the barge to maintain an even keel and avoid listing. Materials such as filter fabric may be placed over the barge scuppers to filter suspended sediment from the barge effluent.

If the project is conducted according to 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. 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 IDAPA 58.01.02.051.01 and 58.01.02.052.07.

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

The Clearwater River is considered high quality for cold water aquatic life and primary contact recreation beneficial uses. The water quality relevant to these uses must be maintained and protected, unless lowering water quality is 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 cold water aquatic life uses of the Clearwater River (IDAPA 58.01.02.052.06). Sediment is the only pollutant of concern for this project. As previously mentioned, the proposed timing of in-water work is intended to avoid spawning and juvenile fish. Turbidity and other water quality parameters will be monitored during dredging to ensure construction activities comply with water quality standards. BMPs may include smooth closure of the bucket when at the bottom and no stockpiling of dredged material in the riverbed. Depending on the results of the water quality monitoring, enhanced BMPs may be implemented including slowing the velocity of the loaded bucket through the water column, pausing the dredge bucket near the bottom while descending, and near the water line while ascending, and utilizing materials such as filter fabric over the barge scuppers to help filter sediment from any barge effluent. The project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

The provisions in the federal permit and the conditions of this certification ensure that degradation to the Clearwater River (ID17060306CL001\_07) will not occur. DEQ concludes that this project complies with the Tier II provisions of 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 ensure the Port of Lewiston Berth Maintenance Dredging Project complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to Clearwater River.

#### **3.1 General Conditions**

This certification is based on the certification request submitted by the Port of Lewiston on 6/28/2022, and is conditioned upon the requirement that any modification (e.g., change in work windows, etc.) of the permitted activity will first be provided to DEQ for review to determine compliance with Idaho's water quality standards.

Because DEQ is certifying only the activity described in the certification request, this condition ensures that discharges under circumstances that differ from those described in the certification request will comply with 33 U.S.C. § 1341, 40 CFR 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 water quality standards—there is no longer reasonable assurance of compliance with the water quality standards 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 ensures that discharges from activities not described in the certification request, or where there has been a change in the characteristics of or water quality standards applicable to the receiving water body, will comply with 33 U.S.C. § 1341, 40 CFR 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 will notify DEQ, in writing, upon transferring this ownership or responsibility for compliance with these conditions to another person or party. The new owner/operator will request, in writing, the transfer of this water quality certification to the new name. This condition ensures that, if ownership changes, DEQ has the minimum information to support ongoing compliance with 33 U.S.C. § 1341, 40 CFR 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 ensures all responsible parties, including on-site 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 ensures all responsible parties, including on-site contractors, comply with this water quality certification and applicable water quality requirements, including without limitation Idaho Code § 39-108, IDAPA 58.01.02.080, and IDAPA 58.01.02.400.

5. If this project disturbs more than 1-acre and there is potential for discharge of storm water to waters of the state, then coverage under the [DEQ Construction General Permit Program](#) may be required.

This condition ensures that work authorized under the federal permit complies with water quality requirements prohibiting unauthorized storm water 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 Erosion and Sediment Control

The following conditions 3.2.1 and 3.2.2 protect beneficial uses in accordance with Idaho's water quality standards, including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, and IDAPA 58.01.02.400.

1. 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 replaced or augmented if they are not effective.
2. All project debris, scraps, particles, and other associated materials will be captured and properly disposed of so they cannot enter waters of the state or cause water quality degradation.

### 3.3 Turbidity

The following conditions 3.3.1 through 3.3.4 protect beneficial uses according to Idaho's water quality standards, 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, and IDAPA 58.01.02.400.

1. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standards stipulated in Idaho's water quality standards. Any violation of this standard must be reported to the DEQ regional office within 24-hours.
2. Containment measures such as silt curtains, geotextile fabrics, and silt fences must be implemented on the barge and properly maintained to minimize instream sediment suspension and resulting turbidity.
3. All practical BMPs 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 water quality standards, and the permittee must inspect the condition of the project BMPs. If the BMPs appear to be functioning improperly, then corrective action must be taken, and 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 consistent with Table 1, is required.
  - a. A properly and regularly calibrated turbidimeter is required for sample collection measurements to be analyzed in the field. The turbidimeter should be calibrated before each use or according to the manufacturer's recommendations. The calibration log should be maintained and made available to DEQ upon request. Instantaneous grab samples may be collected for field analysis and taken to a laboratory for analysis as needed. When turbidity monitoring is required, a grab sample must be collected at an undisturbed area immediately upstream from the in-water disturbance or discharge to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded before monitoring downstream. A sample must be collected immediately downstream from the in-water disturbance or point of discharge and within the 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 to obtain meaningful and representative results.
  - b. Results from the downstream sampling location must be compared to the upstream sample location or background turbidity to determine whether project activities are causing an exceedance of Idaho's water quality standards. If the downstream turbidity is 50 nephelometric turbidity units (NTUs) or greater than the upstream turbidity, then the project is causing an exceedance of the water quality standards. Any exceedance of the turbidity standard must be reported to the appropriate DEQ regional office within 24-hours of the sample event.
  - 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 10 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 available to DEQ upon request. The report must describe all exceedances and subsequent corrective actions taken, including the effectiveness of the action.

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

Turbidity Above Background <sup>a</sup>	Monitoring/Sampling Frequency <sup>a</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>b</sup>	<b>STOP work and follow instructions<sup>b</sup>; notify DEQ regional office</b>
50 NTU or more	Sample before and after following instructions <sup>c</sup>	<b>STOP work and follow instructions<sup>c</sup>; notify DEQ regional office</b>

- a. Sample and report turbidity three times at each location. Use the maximum value of three samples to determine compliance following Table 1 directions.
- b. Instructions: If BMPs appear to be functioning properly, then the permittee must modify the activity or implement corrective action such as installing additional BMPs (this may include modifying existing BMPs) until additional sampling indicates turbidity standards are met. Sampling can cease when a sediment plume is no longer observed. Work can commence when a sediment plume is no longer observed, and measurements are consecutively below 25 NTU.
- c. Instructions: If BMPs appear to be functioning properly, then the permittee must modify the activity or implement corrective action such as installing additional BMPs (this may include modifying existing BMPs) until additional sampling indicates turbidity standards are met. Sampling can cease when a sediment plume is no longer observed. Work can commence when a sediment plume is no longer observed, and measurements are below 50 NTU.

### 3.4 In-Water Work

The following conditions 3.4.1 through 3.4.4 protect beneficial uses according to Idaho's water quality standards, including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, and IDAPA 58.01.02.400.

1. Work performed in open water must be limited to the work window provided in the application (December 15 through March 1).
2. A water quality monitoring plan must be implemented, and appropriate measures must be taken to ensure disturbance to waters of the state is minimized to the greatest extent practicable.
3. Activities in spawning areas must be avoided to the maximum extent practicable.
4. Work in waters of the state is restricted to areas specified in the application.

### 3.5 Management of Hazardous or Deleterious Materials

The following conditions 3.5.1 through 3.5.8 protect beneficial uses according to Idaho's water quality standards, 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, and IDAPA 58.01.02.850.

1. Petroleum products and hazardous, toxic, and/or deleterious materials must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of waters of the state. Adequate measures and controls must ensure that those materials will not

- enter waters of the state because of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.
2. Secondary containment is required for chemical materials.
  3. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
  4. Daily inspections of all fluid systems on equipment to be used in or near waters of the state must ensure no leaks or potential leaks exist before equipment use. A logbook of daily equipment inspections must be kept on site and provided to DEQ upon request.
  5. Equipment and machinery must be refueled and/or steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment capability. Any wastewater or wash water must not enter waters of the state and be properly disposed in accordance with federal, state, and local requirements.
  6. Emergency spill response procedures must be in place and include a spill response kit (e.g., oil absorbent booms or other equipment).
  7. If an unauthorized release of hazardous material to state waters or to land occurs and there is a likelihood 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 so 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).
    - d. Contact Lewiston Regional Office: (208) 799-4370
  8. Collect, remove, and properly dispose of spill and cleanup materials in a manner approved by DEQ.

### **3.6 Dredge Material Management**

Upland disposal of dredged material must include prevention of the material from reentering waters of the state. The proposed disposal site is in Washington on Bishop Bar at river mile 118 on the Snake River.

This condition ensures that there is no unauthorized discharge from upland disposal sites according to 33 U.S.C. § 1311(a) and Idaho's water quality requirements, including without limitation Idaho Code § 39-108, IDAPA 58.01.02.080, and IDAPA 58.01.02.400

### **3.7 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 must be taken to avoid excess application and introduction of chemicals into waters of the state.

#### **4 Required Notification**

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

#### **5 Right to Appeal Final Certification**

The final § 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 Sujata Connell, 208-799-4370 or [Sujata.Connell@deq.idaho.gov](mailto:Sujata.Connell@deq.idaho.gov).



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Michael Camin  
Regional Administrator  
Lewiston Regional Office

## References

DEQ (Idaho Department of Environmental Quality). 2020. *Idaho Catalog of Storm Water Best Management Practices*. Boise, ID: DEQ. <https://www.deq.idaho.gov/water-quality/wastewater/storm-water/>

DEQ (Idaho Department of Environmental Quality). 2022. *Idaho Department of Environmental Quality 2022 Integrated Report*. Boise, ID: DEQ. <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/16619>