



Idaho Department of Environmental Quality

Final Section 401 Water Quality Certification

August 15, 2022

Project Name: SH-16, Ustick Road to US20/26, ITD Key No. 23408

Permit Number (if applicable): NWW-2007-00251

Applicant/Authorized Agent: Greg Vitley – Idaho Transportation Department

Project Location: Ada and Canyon Counties, Idaho; 43.648528°, -116.473502°

Receiving Water Body: Fivemile Creek, multiple drains and laterals, and associated wetlands

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 § 404 dredge and fill 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 6/1/2022. DEQ reviewed the prefiling meeting request and determined that necessary project information submitted with advance notice 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 7/5/2022, 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 State Highway 16 (SH-16), Interstate-84 (I-84) to State Highway 44 (SH-44), project is a large linear transportation project, which has been broken down into multiple phased

components for work completion. Currently, two construction phases are active, which include the I-84 to Franklin Road (Key No. 23410) phase, and the Ustick Road to US 20/26 (Key No. 23408) phase. A third phase, which includes Franklin Road to Ustick Road (Key No. 23409) is approaching additional agency review completion, at which time the Idaho Transportation Department (ITD) will seek a third § 401 water quality certification (WQC). This § 401 WQC is specific to the Ustick Road to US20/26 phase, ITD Key No. 23408.

The Ustick Road to US20/26 phase is located between mile markers 95.86 and 98.38, which consists of approximately three miles of the seven-mile SH-16 roadway alignment. The new roadway alignment begins south of Ustick Road, between McDermott Road and Star Road, and extends approximately one-fourth mile north of the intersection of US 20/26 and McDermott Road. The project proposes to build a signalized at-grade intersection at Ustick Road, expand the existing intersection at US 20/26, and construct the SH 16 Mainline between Ustick Road and US 20/26 which will span McMillan Road and Five Mile Creek. Construction activities include excavation, backfill, removal and installation of structures; including culverts, removal and installation of piping, coffer dams, concrete, and rip rap fill over multiple areas throughout the project site. The proposed project will impact Fivemile Creek, East Tap (Grimm) Drain, McFadden Spur, Noble Lateral, Eightmile Lateral, Sky Pilot Drain, McMullen Lateral 2, McMullen Sub-Lateral 1, McMullen Sub-Lateral, Creason Lateral, and 30 Unnamed Ditches. It will also result in permanent impacts to 0.53-acres of associated wetlands.

Best Management Practices (BMPs) will be selected for erosion and sediment control, stormwater collection and treatment, and groundwater protection. An Idaho Pollutant Discharge Elimination System (IPDES) Construction General Permit (CGP) will be acquired for the project, and a Stormwater Pollution Prevention Plan (SWPPP) will be developed to reduce pollutants in stormwater runoff resulting from construction activities. Proposed construction activities and BMPs will include, but are not limited to:

1. Construction impacts will be confined to the minimum area necessary to complete the project.
2. Any soil-disturbing work, including excavation, below the ordinary high-water mark (OHWM) will be conducted within dewatered work areas isolated from flowing waters.
3. Any de-watering needed from inside creek or irrigation channel diversions, temporary shoring, or other work isolation structure will be pumped to an upland site. Sediment laden water will not be allowed to return to surface waters. Clean water may return to the channel.
4. All concrete will be poured in the dry weather season and be allowed time to cure before contact with surface waters.
5. Installation of riprap and other materials will occur from the banks or using in-water isolation measures.
6. All materials, such as riprap, placed within the water will be free of rock fines, silt, soil, or other extraneous materials.

7. All excavated materials will be removed to an upland location where they cannot enter any water body.

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 pollutants of concern for this project are sediment and nutrients. 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 and nutrients.

2.2 Receiving Water Body Level of Protection

This project is located on Fivemile Creek, East Tap (Grimm) Drain, McFadden Spur, Noble Lateral, Eightmile Lateral, Sky Pilot Drain, McMullen Lateral 2, McMullen Sub-Lateral 1, McMullen Sub-Lateral, Creason Lateral, and 30 Unnamed Ditches within the Lower Boise River subbasin. The Fivemile Creek assessment unit (AU) is ID17050114SW010_03 (Fivemile Creek – 3rd order). According to DEQ's 2022 Integrated Report, this AU is not fully supporting one or

more of its assessed uses. The aquatic life use in this receiving water body AU is not fully supported. Causes of impairment include sedimentation/siltation. The contact recreation beneficial use is also not fully supported. Causes of impairment include *Escherichia coli* (*E. coli*). As such, DEQ will provide Tier I protection for both the aquatic life and contact recreation uses (IDAPA 58.01.02.051.01). Additionally, this project impacts East Tap (Grimm) Drain, McFadden Spur, Noble Lateral, Eightmile Lateral, Sky Pilot Drain, McMullen Lateral 2, McMullen Sub-Lateral 1, McMullen Sub-Lateral, Creason Lateral, and 30 Unnamed Ditches, which are not within the AU database maintained by DEQ, nor are they part of the National Hydrography Dataset. East Tap (Grimm) Drain, McFadden Spur, Noble Lateral, Eightmile Lateral, Sky Pilot Drain, McMullen Lateral 2, McMullen Sub-Lateral 1, McMullen Sub-Lateral, Creason Lateral, and 30 Unnamed Ditches are not designated in Idaho's water quality standards and are man-made waterways (IDAPA 58.01.02.010.58). DEQ protects such waterways for the use for which they were developed, namely agricultural water supply (IDAPA 58.01.02.101.02). DEQ will provide Tier I protection only for these water bodies. 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).

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.

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 will be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Before developing the TMDL, the water quality standards require applying the antidegradation policy and implementation provisions to maintain and protect uses (IDAPA 58.01.02.055.04).

Several EPA-approved TMDLs have been developed for this AU. The TMDL addresses concerns that were identified in two Lower Boise River TMDL addendums (DEQ 2015). Goals of the TMDLs are to reduce sediment, bacteria, and nutrient loads in fifteen assessment units within the Lower Boise River subbasin. Load reductions for sediment, bacteria, and nutrients can be best achieved by reducing nonpoint source discharges from both large-scale and small-scale projects within the subbasin. ITD is listed as a responsible party in the Lower Boise TMDL for implementing best management practices (BMPs) on public road construction projects, and therefore will make all necessary efforts in implementing BMPs appropriate for reducing nonpoint source sediment inputs. Throughout the life of the project, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) to reduce erosion and minimize turbidity levels in receiving water bodies downstream of the project. Permanent erosion and sediment controls will be implemented that will minimize or prevent future sediment contributions from the project area.

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 be consistent with the *Lower Boise River TMDL: 2015 Sediment and Bacteria Addendum* and the *Lower Boise River TMDL: 2015 Total Phosphorus Addendum* and 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.

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

The following conditions ensure the SH-16, Ustick Road to US20/26, ITD Key No. 23408 project complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to Fivemile Creek, East Tap (Grimm) Drain, McFadden Spur, Noble Lateral, Eightmile Lateral, Sky Pilot Drain, McMullen Lateral 2, McMullen Sub-Lateral 1, McMullen Sub-Lateral, Creason Lateral, and 30 Unnamed Ditches.

3.1 General Conditions

This certification is based on the certification request submitted by ITD on 7/5/2022, 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 Fill Material

The following conditions 3.2.1 – 3.2.3 are necessary to 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 58.01.02.210, 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. 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 for use 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 predict the effect on water quality during dredging. Sediment assessment and characterization following the procedures in the *Sediment Evaluation Framework for the Pacific Northwest* (RSET 2018) satisfies this requirement. A different assessment and characterization methodology may be used if the DEQ approves the methodology in writing.
2. 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 reenter waters of the state.

3.3 Erosion and Sediment Control

The following conditions 3.3.1 – 3.3.9 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. BMPs for sediment and erosion control suitable to prevent exceedances of Idaho’s water quality standards and TMDLs will be selected and installed before starting construction at the site. One resource to evaluate appropriate BMPs is the *Idaho Catalog of Storm Water Best Management Practices* (DEQ 2020). Other resources may also be used for selecting appropriate BMPs.
2. Permanent erosion and sediment control measures will be installed to provide long-term sediment and erosion control and 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 replaced or augmented if they are not effective.
6. All construction 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.

7. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion (EPA 2000).
8. Maximum fill slopes will be material that is structurally stable once placed and does not slough into the stream channel during construction, during periods before revegetation, or after vegetation is established.
9. Sediment from disturbed areas or sediment that can be tracked by vehicles onto pavement must not leave the site in amounts reasonably 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 to prevent track-out.

3.4 Turbidity

The following conditions 3.4.1 – 3.4.4 protect beneficial uses according to Idaho’s water quality standards, including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200.08, 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 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 to evaluate appropriate BMPs is the *Idaho Catalog of Storm Water Best Management Practices* (DEQ 2020). 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 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 ^a	Monitoring/Sampling Frequency ^a	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 ^b	STOP work and follow instructions ^b ; notify DEQ regional office
50 NTU or more	Sample before and after following instructions ^c	STOP work and follow instructions ^c ; notify DEQ regional office

- 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.

3.5 In-Water Work

The following conditions 3.5.1 – 3.5.11 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 in open water must be kept at a minimum and only when necessary. Equipment must work from an upland site to minimize disturbance of waters of the state. If this is

not practicable, take appropriate measures to ensure disturbance to the waters of the state is minimized.

2. Construction affecting the bed or banks must occur only during periods of low flow.
3. Forging the channel is not permitted. Build temporary bridges or other structures if crossings are necessary.
4. 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.
5. Heavy equipment working in wetlands must be placed on mats or suitably designed pads to prevent damage to the wetlands.
6. Activities in spawning areas must be avoided to the maximum extent practicable.
7. Work in waters of the state is restricted to areas specified in the application.
8. Measures must be taken to prevent wet concrete from entering waters of the state when placed in forms and/or from truck washing.
9. Activities that construct and maintain intake structures must include adequate fish screening devices to prevent fish entrainment or capture.
10. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
11. To minimize sediment transport, stream channel or streambank stabilization must be completed before returning water to a dewatered segment.

3.6 Vegetation Protection and Restoration

The following conditions 3.6.1 – 3.6.4 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. 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 the 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, native riparian and wetland vegetation must be successfully reestablished to benefit water quality 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 – 3.7.9 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 removed from the vicinity of the waters of the state before refueling, repair, and/or maintenance.
6. Equipment and machinery must be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment capability before entering waters of the state. Any wastewater or wash water must not enter waters of the state.
7. Emergency spill response procedures must be in place and include a spill response kit (e.g., oil absorbent booms or other equipment).
8. 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 Boise Regional Office: (208) 373-0550
9. Collect, remove, and properly dispose of spill and cleanup materials in a manner approved by DEQ.

3.8 Culverts

The following conditions 3.8.1 – 3.8.5 control erosion, sediment, and turbidity to protect beneficial uses according to Idaho’s water quality standards, including without limitation IDAPA 58.01.02.200 and IDAPA 58.01.02.250.

1. To prevent road surface and culvert bedding material from entering a stream, culvert crossings must include BMPs to retain road base and culvert bedding material. For perennial waters, the permittee should consider Idaho’s “Stream Channel Alterations Rules” (IDAPA 37.03.07). Another source of BMPs for culvert installation are found in the “Rules Pertaining to the Idaho Forest Practices Act” (IDAPA 20.20.01). Examples of BMPs include, but are not limited to: parapets, wing walls, inlet and outlet rock armoring, compaction, suitable bedding material, antiseep barriers such as bentonite clay, or other acceptable roadway retention systems.

2. The culvert must not constrict the stream channel and must not be angled so the outflow is directed toward the streambank. The culvert's flow line must match the existing stream invert at its entrance and exit. Adequate grade control must be installed to prevent channel down cutting or excessive deposition from occurring.
3. The culvert must be installed so it does not impede fish passage.
4. The culvert outflow must be armored with riprap to provide erosion control. This riprap will be clean, angular, dense rock that is free of fines and resistant to aquatic decomposition.
5. Culverts must be sized appropriately to maintain the natural drainage patterns.

3.9 Dredge Material Management

Upland disposal of dredged material must prevent the material from reentering waters of the state.

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

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

4 Required Notification

The permittee must notify the Boise 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 Chase Cusack, Boise Regional Office at 208-373-0490 or via email at Chase.Cusack@deq.idaho.gov



Aaron Scheff
Regional Administrator
Boise Regional Office

References

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