STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

444 Hospital Way, #300, Pocatello, ID 83201
(208) 236-6160

Brad Little, Governor
Jess Byrne, Director

December 12, 2022.
By certified mail: 70180680000037340884

Todd Hubbard
5151 S. 5th Avenue
Pocatello, ID 83204

Subject: Final Section 401 Water Quality Certification for the I-15 B Bridge Replacement; NWW-2022-00492

Dear Mr. Hubbard,

The Idaho Department of Environmental Quality (DEQ) has issued a Section § 401 Water Quality Certification for the Army Corps of Engineers permit NWW-2022-00492.

DEQ determined that the proposed project activities will comply with Idaho Water Quality Standards (IDAPA 58.01.02) if 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).

No comments were received during the 21-day public comment period available on DEQ's website. Ensure that all parties performing this work read the document and understand the conditions of this certification prior to beginning work. Notify the DEQ Pocatello Regional Office when work begins.

An electronic copy of this certification was sent to you via email at Todd.Hubbard@itd.idaho.gov. If you have questions, please contact Matt Schenk at 208-236-6160 or via email at Matthew.schenk@deq.idaho.gov.

Sincerely,

Katy Bergholm,
Regional Administrator,
Pocatello Regional Office

Enclosure (1)
Ec:

Jake Cordtz, Army Corps of Engineers, *Jacob.W.Cordtz@usace.army.mil*
Jen Cornell, Idaho DEQ, *jennifer.cornell@deq.idaho.gov*
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Todd Hubbard, ITD District 5, *Todd.Hubbard@itd.idaho.gov*

Idaho Department of Environmental Quality
Draft Section 401 Water Quality Certification

February 10, 2023

Project Name: I-15B Rapid Creek Bridge Replacement, ITD Key No. 22279

Permit Number (if applicable): NWW-2022-00492

Applicant/Authorized Agent: Todd Hubbard and Alissa Salmore - Idaho Transportation Department

Project Location: West of Mile Post 168 US-30, Bannock County, Inkom, Idaho (42.7939°N; -112.25363°W)

Receiving Water Body: Rapid Creek

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 5/23/2022. To facilitate early engagement and project coordination, DEQ accepted an opportunity to host a prefiling meeting which was conducted on 6/6/2022, to seek clarification as well as to discuss the project and potential information needs.

Based upon its review of the certification request in accordance with the Clean Water Act § 121.5 (b) and (c), received on 12/9/2022, 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.

Accessibility Services: The Idaho Department of Environmental Quality will provide reasonable language access services and/or disability services for documents at no charge. To request an accommodation under Title VI of the Civil Rights Act of 1964 or Americans with Disabilities Act, contact DEQ's nondiscrimination coordinator at (208) 373-0271 or accessibility@deq.idaho.gov. Para obtener información en español, visite https://www.deq.idaho.gov/about-us/accessibility/.

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

Though the receiving water is listed as fully supporting according to the most recent Integrated Report (DEQ 2022), the project has the potential to discharge sediment to Rapid Creek. Thus, the pollutant of concern for this project is sediment. 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 Rapid Creek within the Portneuf subbasin assessment unit (AU) ID17040208SK023_03, Rapid Creek - source to mouth. According to the most recent federally approved DEQ Integrated Report, this AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, and secondary contact recreation. 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; however, 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, so it is unnecessary for DEQ to conduct a Tier II analysis (IDAPA 58.01.02.052.08) for sediment.

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

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

The following conditions ensure the NWW-2022-00492 Rapid Creek Bridge Replacement Project complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to Rapid Creek.

3.1 General Conditions

This certification is based on the certification request submitted by the Idaho Transportation Department on 12/9/2022, 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

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 re-enter waters of the state.

3.3 Erosion and Sediment Control

The following conditions 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 prior to project commencement. At a minimum, BMPs must be inspected and maintained daily during project implementation and be replaced or augmented if they are not effective.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. Disturbed areas suitable for vegetation will be seeded or revegetated with native species to prevent subsequent soil erosion (EPA 2000).
9. 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.
10. 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.

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 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. Fording 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.

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 Pocatello Regional Office: (208) 236-6160.

8. Collect, remove, and properly dispose of spill and cleanup materials in a manner approved by DEQ.

3.8 Treated Wood

The following condition meets Idaho 's water quality standards, including without limitation IDAPA 58.01.02.200 and IDAPA 58.01.02.210.

This condition ensures that toxic chemicals are not introduced into waters of the state. The *Guidance for the Use of Wood Preservatives and Preserved Wood Products In or Around Aquatic Environments* (DEQ 2008) must be considered when using treated wood materials in the aquatic environment. The DEQ guidance references the *Best Management Practices for the Use of Treated Wood in Aquatic and Wetland Environments (*Western Wood Preservers Institute et al. 2011). This BMP document provides recommended guidelines for producing and installing treated wood products for use in sensitive environments.

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 Pocatello Regional Office when authorized work begins.

References

DEQ (Idaho Department of Environmental Quality). 1999. *Portneuf River TMDL Water Body Assessment and Total Maximum Daily Load.* Boise, ID: DEQ. https://www.deq.idaho.gov/water-quality/surface-water/total-maximum-daily-loads/portneuf-river-subbasin/

DEQ (Idaho Department of Environmental Quality). 2008. *Guidance for the Use of Wood Preservatives and Preserved Wood Products in or Around Aquatic Environments*. Boise, ID: DEQ. https://www2.deq.idaho.gov/admin/LEIA/api/document/download/4838

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

EPA (US Environmental Protection Agency). 2000. *National Menu of Best Management Practices (BMPs) for Stormwater. https://www.epa.gov/npdes/national-menu-best-management-practices-bmps-stormwater*

RSET (Northwest Regional Sediment Evaluation Team). 2018. *Sediment Evaluation Framework for the Pacific Northwest*. Prepared by the RSET Agencies.

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. https://preservedwood.org/portals/0/documents/BMP.pdf