



May 17, 2023

Shannon Ehlers, Refuge Manager  
US Fish and Wildlife Service, Kootenai National Wildlife Refuge  
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Bonners Ferry, ID 83805  
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Subject: Final §401 Water Quality Certification for the Kootenai River Pumps Dredge

Dear Ms. Ehlers:

Enclosed is the Final Section 401 Water Quality Certification for the Army Corps of Engineers Nationwide Permit Number 3, Maintenance. No comments were received during the 21-day period that the document was available on our website for public comment. Make sure that you and anyone performing work related to this project read the document and are familiar with the conditions of this certification prior to beginning work. Notify the Department of Environmental Quality Coeur d'Alene Regional Office when work begins. If you have questions, please contact Chantilly Higbee at 208-666-4605 or via email at [Chantilly.higbee@deq.idaho.gov](mailto:Chantilly.higbee@deq.idaho.gov).

Sincerely,

A handwritten signature in blue ink that reads "Dan McCracken".

Dan McCracken  
Regional Administrator

Enclosure (1)

c: Chantilly Higbee, DEQ, [Chantilly.higbee@deq.idaho.gov](mailto:Chantilly.higbee@deq.idaho.gov)  
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# Idaho Department of Environmental Quality

## Final Section 401 Water Quality Certification

May 17, 2023

**Project Name:** Kootenai River Pumps Dredge

**Permit Number:** Nationwide Permit No. 3, Maintenance

**Applicant:** Shannon Ehlers, US Fish and Wildlife Service

**Project Location:** 48.7273 N, -116.3893 W; Kootenai National Wildlife Refuge near Bonners Ferry in Boundary County

**Receiving Water Body:** Kootenai 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 (CWA) §§ 121.4 and 121.5, all project proponents shall submit a request for a pre-filing meeting at least thirty days in advance of submitting a certification request. A pre-filing meeting request was received by DEQ on 1/5/2023.

Based on its review of the certification request in accordance with the CWA § 121.5 (b) and (c), received on 3/30/2023, 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 CWA §§ 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 project is located on the Kootenai River within the Lower Kootenai subbasin AU ID17010104PN012\_08 (Kootenai River – Deep Creek to and including Shorty's Island). The applicant proposes to perform maintenance dredging in the Kootenai River to remove debris and sediment affecting two pump intakes which serve the Kootenai National Wildlife Refuge. A crawler crane with a 100-125-foot boom will be stationed on a flat pad on the riverbank and

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will perform clamshell bucket dredging from that position. A maximum volume of 230 cubic yards of material is proposed for removal. Dredge depth will occur to a maximum of three feet (Table 1). Spoils will be placed upland and remain onsite. Silt fencing will be installed around the spoils while they dewater. Once spoils have dried, they will be leveled and seeded. Dredging is proposed to take place during the summer, at a low flow period between June 16 and September 30, 2023, over a maximum of three days.

**Table 1.** Dredge area dimensions and volume.

Location	Dimensions (ft)	Volume (yd <sup>3</sup> )
Pump 1	25 x 50 x 3	139
Pump 2 sections A & B	60 x 12 x 3	80
Pump 2 section C	10 x 10 x 3	11

## 2 Antidegradation Review

As part of its water quality standards program, Idaho's antidegradation policy provides 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 mercury. Mercury is present in riverbed sediments throughout the water body, including sediments within the assessment unit

(AU) where the project will occur, at concentrations exceeding background levels<sup>1</sup>. Dredging causes sediment suspension and can result in the release and dissolution of mercury into the water column. Mercury is also the causative pollutant for the primary contact recreation beneficial use impairment in the AU immediately downstream of the project (ID17010104PN001\_08, Kootenai River - Shorty's Island to the Id/Canadian border), which is approximately 1.5 river miles downstream of the project location. Mercury is bioaccumulative. Fish tissue mercury concentrations in the downstream AU exceed Idaho's human health criterion of 0.3 mg/kg. As TMDL development is not yet underway to address this impairment, mercury loading in the watershed has not been characterized.

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 the pollutants of concern.

## **2.2 Receiving Water Body Level of Protection**

The project is located on the Kootenai River within the Lower Kootenai subbasin AU ID17010104PN012\_08 (Kootenai River – Deep Creek to and including Shorty's Island). This water body is designated for cold water aquatic life, salmonid spawning, primary contact recreation, and domestic water supply. 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, the aquatic life use (i.e. cold water and salmonid spawning) is not fully supported. The cause of impairment is temperature. The contact recreation use is fully supported. As such, DEQ will provide Tier I protection (IDAPA 58.01.02.051.01) for the aquatic life use and Tier II protection (IDAPA 58.01.02.051.02) in addition to Tier I for the contact recreation use (IDAPA 58.01.02.052.05.c).

## **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 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 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). 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). A TMDL has not yet been developed for this water body.

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<sup>1</sup> See USGS Report 2011-5006, available at <https://pubs.usgs.gov/sir/2011/5006/>.

The applicant is required to implement and adaptively manage best management practices aimed at limiting the sediment impacts to surface water. Throughout the life of the project, the applicant shall implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) to reduce erosion and minimize turbidity in the Kootenai River.

During dredging, the applicant proposes the following BMPs to address sediment:

1. Work during 'low flow' conditions.
2. Install a silt curtain around the project area.
3. Completely fill the clamshell bucket with sediment before removing it from the water.
4. Work slowly during dredging to minimize disturbance.
5. Install silt fencing around dredged spoils while they dewater.

These BMPs are incorporated as conditions of this certification.

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.

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

The Kootenai River is considered high quality for the primary contact recreation beneficial use. The water quality relevant to this use 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 the recreation use of the Kootenai River (IDAPA 58.01.02.052.06). The pollutant of concern for recreation in the Kootenai River, as it pertains to the project, is mercury.

Idaho's mercury fish tissue criterion was developed for the protection of human health. The criterion is 0.3 mg/kg methylmercury residue in fish muscle tissue. DEQ's [Implementation Guidance for the Idaho Mercury Water Quality Criteria](#) was used to assist DEQ in making a determination as to whether degradation will occur as a result of the issuance of the permit. However, the document does not provide specific guidance for the issuance of certification decisions for 404 projects. Rather, the document specifies two fish tissue methylmercury concentration thresholds as having significance in decision making for other DEQ programs.

Average fish tissue concentrations between 0.24 mg/kg and 0.30 mg/kg can be used by DEQ to justify an 'unassessed' water body status for the purpose of CWA § 305(b) reporting and may

be used to justify prioritization for additional monitoring. This concentration range is also used for *Reasonable Potential to Exceed* determinations in the development of Idaho Pollutant Discharge Elimination System permits (i.e., permits issued for continuous point source discharges). Average fish tissue concentrations above 0.30 mg/kg would indicate the water body is impaired and these data would be used as the basis for § 303(d) listing. In the case of such a listing, TMDL development would follow.

In determining whether degradation will occur for this project, DEQ compared the 0.24 mg/kg threshold in the guidance document to available fish tissue data collected by the Kootenai Tribe of Idaho (KTOI) in 2020. No samples collected from the receiving AU exceeded the threshold. Average fish tissue concentrations in the AU were reported as 0.106 mg/kg. Because relatively recent data indicate fish tissue is not approaching the mercury criterion, and because the proposed discharge is temporary and short-term in duration (3 days), DEQ has determined that the proposed discharge is *de minimis*. This conservative approach was used instead of requiring the applicant to characterize the sediment at the project site. Data considered in this decision are reported in Table 2.

**Table 2.** Fish muscle tissue data were collected by the KTOI in 2020 and submitted to DEQ for consideration in the 2022 Integrated Report. Data listed in this table were collected within AU 17010104PN012\_08. All samples were below 0.24 mg/kg.

KTOI Sample No.	Latitude	Longitude	Total Hg mg/kg wet weight
BB-15	48.745586	-116.415033	0.12
BB-2	48.751233	-116.409706	0.05
BB-24	48.751233	-116.409706	0.10
BB-26	48.715659	-116.390643	0.16

While this project is of short duration, application materials indicate that maintenance dredging occurred in 2012 and the applicant requires “*ongoing specialized maintenance to...dredge the Kootenai River bottom near the intakes...*”. It is therefore reasonable for DEQ to expect to receive additional requests for maintenance dredging in the future, approximately once per decade. While certification for maintenance dredging may be requested in the future, the scope of this certification is limited only to what is proposed in the certification request received on 3/30/2023; that is, a single, short-term temporary event.

The applicant shall implement and adaptively manage best management practices aimed at limiting the mobilization of mercury into the water column. During dredging, the applicant proposes the following BMPs to address mercury:

1. *Pump turbid water upland to create a negative pressure cell within the project area to capture liberated mercury and prevent it from moving downstream of the project site.*
2. *Completely fill the clamshell bucket with sediment before removing from the water.*
3. *Work slowly during dredging to minimize disturbance.*
4. *Install silt fencing around dredged spoils while they dewater.*

These BMPs are incorporated as conditions of this certification.

The provisions in the permit and the conditions of this certification ensure that it is reasonable for DEQ to conclude that degradation to the Kootenai River will not occur because of the project. As such, 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.

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

The following conditions ensure the Kootenai River Pumps Dredge project complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to the Kootenai River.

### **4.1 General Conditions**

1. This certification is based on the certification request and supporting documents submitted by the US Fish and Wildlife Service on 3/30/2023<sup>2</sup> and is conditioned upon the requirement that any modification (e.g., change in work window) of the permitted activity shall 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.*

2. 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.*

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<sup>2</sup> DEQ also received project-related information from the applicant on 1/10, 3/2, and 4/12/2023.

3. 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 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.*

4. A copy of this certification shall 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.*

5. The applicant is responsible for all work done by contractors and shall 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.*

## **4.2 Erosion and Sediment Control**

*The following conditions 6-12 are necessary for the protection of 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.*

6. A BMP inspection and maintenance plan shall be developed and implemented before starting work. One resource to evaluate appropriate BMPs is the [Idaho Catalog of Storm Water Best Management Practices](#).
7. At a minimum, BMPs shall be inspected and maintained daily during project implementation and be replaced or augmented if they are not effective.
8. Equipment shall work from an upland site to minimize disturbance of wetlands and waters of the state.
9. Heavy equipment working in wetlands shall be placed on mats or suitably designed pads to prevent damage to the wetlands.
10. Silt fence installation and management is required to contain contaminated runoff associated with dredged spoils.
11. Dredged spoils shall be placed at least 100 feet from surface water and wetlands and shall not be allowed to re-enter waters of the state.



12. Dredged spoils, once dried and spread, shall be stabilized with vegetative cover.

### **4.3 Dredging/In-water work**

*The following conditions 13-22 are necessary for the protection of 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.*

13. Work shall occur only during low flow conditions.
14. Work in waters of the state shall be restricted to areas specified in the application.
15. BMPs for control of sediment and mercury suitable to prevent exceedances of Idaho's water quality standards shall be selected and installed before starting project activities. This includes setting up the pump and related equipment and discharge area required for pumping turbid water out of the dredging work area.
16. Suspended sediment and turbidity shall remain isolated within the work area and shall not be allowed to move downstream.
17. Total containment silt curtains designed to contain in-water suspended sediment and turbidity shall be securely installed prior to the start of project activities, and according to the manufacturer's instructions for use. Silt curtains shall be monitored and maintained throughout the life of the project.
18. Total containment silt curtains shall be reliable and function correctly. Curtains that drag back and forth along the bottom of the river due to current are incorrectly installed and shall be considered a violation of this certification. Silt curtains shall function in such a manner as to meet Idaho's water quality standards.
19. The installation and use of a pump to transfer turbid water from the dredging work area is required in order to prevent suspended mercury from moving downstream. The pump shall be used any time turbidity is present within the contained dredge work area.
20. To the maximum extent practical, operators shall work slowly and avoid unnecessary churning up and creation of sediment suspension within the dredge work area.
21. To the maximum extent practical, the clamshell bucket shall be filled completely with dredged material before removing from the water.
22. Suspended sediment resulting from this activity outside of the containment area shall be mitigated to prevent violations of Idaho's water quality standards. Steps shall be taken to immediately address the source of the violation. Any violation of this standard shall be reported to the DEQ regional office, along with remedial actions taken (Table 3).

### **4.4 Turbidity**

*The following conditions 23-24 are necessary for the protection of 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.*

23. If a sediment plume is observed, the project may be causing an exceedance of water quality standards, and the permittee shall inspect the condition of the BMPs and modify as appropriate. If the BMPs appear to be functioning improperly, then corrective action shall be taken and documented.
24. If the project continues to cause a sediment plume after BMPs have been inspected and modified, turbidity monitoring consistent with Table 3, is required.
- A properly calibrated turbidimeter is required** for all samples analyzed in the field. The turbidimeter shall be calibrated before each use or according to the manufacturer's specifications.
  - Calibration and turbidity monitoring logs shall be made available to DEQ upon request.
  - When turbidity monitoring is required, a grab sample shall be collected at an undisturbed area immediately upstream from the work area to establish background turbidity levels. Background turbidity, latitude/longitude, date, and time shall be recorded before monitoring downstream. A sample shall be collected immediately downstream work area and within the sediment plume. The sample shall be representative of the plume. The turbidity, latitude/longitude, date, and time shall be recorded for each sample. The downstream sample shall be taken immediately following collection of the upstream sample to obtain meaningful and representative results.
  - Results from the downstream sampling location shall be compared to the upstream sample location (background turbidity) to determine whether dredging is causing an exceedance. 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.

**Table 3.** 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
50 NTU or more	Sample before and after following instructions <sup>b</sup>	STOP work and follow instructions <sup>b</sup> ; notify DEQ regional office <sup>c</sup>

- Sample and document turbidity three times at each location. Use the maximum value of three samples to determine compliance following Table 3 directions.
- Instructions: If BMPs appear to be functioning properly, then the permittee shall modify the activity or implement corrective action such as installing additional BMPs until additional sampling indicates the turbidity standard is met. Work may only commence when a sediment plume is no longer observed, and measurements are below 50 NTU.
- Notification to DEQ shall include descriptions of all exceedances and subsequent corrective actions taken, including the effectiveness of each action.

#### 4.5 Vegetation Protection and Restoration

*The following conditions 25-27 are necessary for the protection of 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.*

25. To the maximum extent practical, staging areas and access points shall be placed in open, upland areas.
26. The work and staging areas shall be clearly marked.
27. If authorized work results in unavoidable vegetative disturbance, native riparian and wetland vegetation shall be successfully reestablished to benefit water quality at pre-project levels or improved at the completion of authorized work.

#### 4.6 Management of Hazardous or Deleterious Materials

*The following conditions 28-36 are necessary for the protection of 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.*

28. 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 shall 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.
29. Secondary containment is required for chemicals.
30. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
31. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall ensure no leaks or potential leaks exist before equipment use. A logbook of daily equipment inspections shall be kept on site and provided to DEQ upon request.
32. Equipment and machinery shall be removed from the vicinity of the waters of the state before refueling, repair, and/or maintenance.
33. Equipment and machinery shall be steam cleaned of oils and grease in an upland location or staging area with appropriate wastewater controls and treatment capability before commencing work. Any wastewater or wash water shall not enter waters of the state.
34. Emergency spill response procedures shall be in place and include a spill response kit (e.g., oil absorbent booms or other equipment).
35. 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 shall:
  - 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 DEQ Coeur d'Alene 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 Coeur d'Alene Regional Office: (208) 769-1422.
36. Collect, remove, and properly dispose of spill and cleanup materials in a manner approved by DEQ.

#### **4.7 Pollutants/Toxins**

37. In conformance with IDAPA 58.01.02.200, the use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, and fertilizers shall 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.

### **5 Required Notification**

The permittee shall notify the Coeur d'Alene Regional Office when authorized work begins.

### **6 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 Chantilly Higbee, 208-666-4605 or [Chantilly.Higbee@deq.idaho.gov](mailto:Chantilly.Higbee@deq.idaho.gov).



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Dan McCracken  
Regional Administrator  
Coeur d'Alene Regional Office