



May 23, 2023

Shawn Scoresby  
Hagerman Canyon Farms  
319 River Road  
Bliss, ID 83314  
[Shawn@hcanyonfarms.com](mailto:Shawn@hcanyonfarms.com)

Subject: Final Clean Water Act § 401 Water Quality Certification for the Stevenson Project No. 2 Hydroelectric Project (Black Canyon Bliss); FERC Project No. 8866-013

Dear Mr. Scoresby:

On May 24, 2022, Black Canyon Bliss, LLC submitted for review a complete application for § 401 Water Quality Certification of the Stevenson Project No. 2 Hydroelectric Project (Black Canyon Bliss); FERC Project No. 8866-013. No comments or requests for public hearing were received during the 45-day period that the document was available on the DEQ website for public comment.

DEQ has determined that the hydroelectric facility will comply with Idaho Water Quality Standards; given that the project complies with all terms of the federal license, this § 401 certification and any applicable water quality management plans (e.g., total Maximum Daily Loads).

An electronic copy of this certification has also been sent via email to [Shawn@hcanyonfarms.com](mailto:Shawn@hcanyonfarms.com). 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 this final certification.

If you have questions, please contact Sean Woodhead at 208-737-3877 or via email at [sean.woodhead@deq.idaho.gov](mailto:sean.woodhead@deq.idaho.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Sue Switzer".

Sue Switzer  
Regional Administrator

Attachment(s): Section 401 Water Quality Certification

c: Candice Hill, Black Canyon Bliss, LLC, [candice@hcanyonfarms.com](mailto:candice@hcanyonfarms.com)  
Sean Woodhead, Idaho DEQ, [sean.woodhead@deq.idaho.gov](mailto:sean.woodhead@deq.idaho.gov)  
Tambra Phares, Idaho DEQ, [tambra.phares@deq.idaho.gov](mailto:tambra.phares@deq.idaho.gov)



## Idaho Department of Environmental Quality Section 401 Water Quality Certification

May 23, 2023

**Project Name:** Stevenson Project No. 2 (Black Canyon Hydro)

**Permit Number (if applicable):** FERC No. P-8866

**Applicant/Authorized Agent:** Shawn Scoresby – Black Canyon Bliss, LLC

**Project Location:** Bliss, Gooding County, Idaho; 42.90505°N, -114.953169°W

**Receiving Water Body:** Unnamed Tributary, Snake 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.

Based upon its review of the certification request in accordance with the Clean Water Act § 121.5 (b) and (c), received on 5/24/2022, 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 Existing Facility and Project Description

The project proponent initiated the Federal Energy Regulatory Commission (FERC) relicensing process in March 2019, using FERC's Traditional Licensing Process. DEQ previously issued a § 401 Water Quality Certification for the hydroelectric facility in October 1985. There have been no changes to the project since the original certification and no new modifications to the existing project are anticipated. The facility consists of an intake at 2,810 feet, a 14-inch-diameter, 580-foot-long steel penstock, a powerhouse containing a single generating unit with a rated capacity of 75 kW, a tailrace discharging into the Snake River, and a 7.5-mile-long, 34.5-kV transmission line. The facility uses natural spring water that emerges from three natural springs at the base of the canyon walls and flows roughly one and one-half miles to the intake

of the hydro system. The hydraulic turbine is a Canyon Hydro Dual Nozzle Pelton Turbine (Model No. 1220-2). The plant is operated with a manual start up when water level parameters are met. Shut down will be automatic if water level drops below 0.5 cubic feet per second (cfs). The water then diverts from the turbine and drains naturally into the Snake River. The facility is being used for continuous power delivery and not for peaking. The estimated annual generation is 180,000 kW when at full capacity. The head for power generation is 112.5 feet. Maximum flow through the plant is 5.0 cfs and minimum flow is approximately 0.5 cfs. The power plant house is approximately 20' x 15' with a concrete floor. The building is made from wood and tin sheeting. There is a 14-inch steel mainline that enters the plant.

## 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

DEQ personnel visited the Stevenson Project No. 2 in June 2022 and determined that there were no pollutants of concern regarding the existing facility.

## 2.2 Receiving Water Body Level of Protection

The receiving waterbody of this facility is within the Upper Snake-Rock subbasin assessment unit (AU) ID17040212SK001\_07 (Snake River-Lower Salmon Falls to Clover Creek). According to the most recent federally approved [DEQ Integrated Report](#), this AU has the following designated beneficial uses: primary contact recreation and cold water aquatic life. DEQ will provide Tier I protection only for this water body. 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).

An EPA-approved TMDL has been developed for this AU. The TMDL addresses concerns that were identified in the *Upper Snake Rock TMDL Modification (2005)*, *Upper Snake Rock Watershed Management Plan TMDL (2000)*, and the *Middle Snake River Watershed Management Plan (1997)*. Goals of the TMDLs are to reduce loads of sediment (total suspended solids), fecal coliform, and phosphorus to the Snake River and its tributaries.

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. In addition, 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 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 Water Quality Certification**

Under § 401(a)(1) of the Clean Water Act, FERC may not issue a license authorizing the construction or operation of a hydroelectric project unless the state water quality certifying agency has issued water quality certification for the project or has waived certification. Section 401(d) of the Clean Water Act provides that the certification must become a condition of any federal license that authorizes construction or operation of the project. The Stevenson Project No. 2 (Black Canyon Hydro), FERC No. P-8866, has an existing federal license that is undergoing relicensing using the Traditional Licensing Process. Section 401 water quality certification conditions are outlined in the following section.

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

The following conditions ensure Stevenson Project No. 2 (black Canyon Hydro) complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to an unnamed tributary.

### **3.1 General Conditions**

This certification is based on the certification request submitted by Shawn Scoresby on 5/24/2022, 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 at the facility 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.

### 3.2 Management of Hazardous or Deleterious Materials

The following conditions 3.7.1 through 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 Twin Falls Regional Office: (208) 736-2190.
9. Collect, remove, and properly dispose of spill and cleanup materials in a manner approved by DEQ.

## 4 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 Sean Woodhead, Twin Falls Regional Office, 208-736-2190, [sean.woodhead@deq.idaho.gov](mailto:sean.woodhead@deq.idaho.gov).



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Sue Switzer  
Regional Administrator  
Twin Falls Regional Office



## References

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- 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>