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Coeur d'Alene, ID 83814 • (208) 769-1422



Brad Little, Governor  
Jess Byrne, Director

July 12, 2023

By email: [Vsicilian@comcast.net](mailto:Vsicilian@comcast.net)

Vince Cracchiolo  
17365 CDA River Rd.  
Kingston, ID 83839

Subject: Final Section 401 Water Quality Certification for the Cracchiolo bank stabilization project

Dear Mr. Cracchiolo:

Enclosed is the Final Section 401 Water Quality Certification for the U.S. Army Corps of Engineers Nationwide Permit 13: Bank Stabilization. No comments were received during the 21-day period that the document was available on our website for public comment. Please make sure that you and anyone performing this work read the document and are familiar with the conditions of this certification prior to beginning work. Please also notify the Department of Environmental Quality Coeur d'Alene Regional Office when work begins, at 208-769-1422. 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, Coeur d'Alene Regional Office

2023AKF37

Encl. 1 Final Section 401 Water Quality Certification

c: Polly Cracchiolo, [Brittdrea2@comcast.net](mailto:Brittdrea2@comcast.net)

Garrett Schock, U.S. Army Corps of Engineers, [Garrett.N.Schock@usace.army.mil](mailto:Garrett.N.Schock@usace.army.mil)



# Idaho Department of Environmental Quality

## Final § 401 Water Quality Certification

July 12, 2023

**Project Name:** Cracchiolo Bank Stabilization

**Permit Number:** § 404 Nationwide Permit 13, Bank Stabilization

**Applicant/Authorized Agent:** Polly and Vince Cracchiolo

**Project Location:** 47.664167 N, -116.032172 W; Near Prichard in Shoshone County

**Receiving Water Body:** North Fork Coeur d'Alene 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, received on 6/16/2023, 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 Sections 301, 302, 303, 306, and 307 of the Clean Water Act, the Idaho Water Quality Standards (WQS), 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

This Natural Resource Conservation Service project is intended to prevent an estimated 357 tons of sediment from eroding into the North Fork Coeur d'Alene River each year. An excavator will be positioned at the top of the bank to perform the installation of riprap, willows, and barbs along 700 ft of the river. Seven barbs will be placed, with a 130 ft gap between each barb, to direct flow away from the bank. Twenty feet of riprap, with incorporated willow bundles will be placed upstream and downstream of each barb. The project will be performed between July and October 2023. Most of the work is expected to be completed out of the water.

## 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 has 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 deemed 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 not cause a lowering of 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 Integrated Report and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

### 2.1 Pollutants of Concern

The pollutant of concern for this project is sediment. As part of the Section 401 water quality certification, DEQ is requiring the applicant to comply with various conditions to protect water quality and to meet Idaho WQS, including the water quality criteria applicable to sediment.

### 2.2 Receiving Water Body Level of Protection

This project is located on the North Fork Coeur d'Alene River within the Upper Coeur d'Alene subbasin assessment unit (AU) ID17010301PN001\_05 *North Fork Coeur d'Alene River, below Prichard Creek*. This AU is designated for cold water aquatic life, salmonid spawning, primary contact recreation, and domestic water supply beneficial uses. In addition to these uses, all waters of the state are protected for agricultural and industrial water supply, wildlife habitat, and aesthetics (IDAPA 58.01.02.100).

According to DEQ's 2022 Integrated Report, the aquatic life use in this receiving water body AU is not fully supported. Causes of impairment include sediment, temperature, flow regime

modification, and physical substrate habitat alterations. The contact recreation beneficial 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 WQS 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 shall be consistent with the allocations in the TMDL (IDAPA 58.01.02.055.05). Prior to the development of the TMDL, the WQS require the application of the antidegradation policy and implementation provisions to maintain and protect uses (IDAPA 58.01.02.055.04).

During the construction phase, the applicant will implement, install, maintain, monitor, and adaptively manage best management practices (BMPs) directed toward reducing erosion and minimizing turbidity levels in receiving water bodies downstream of the project. In addition, permanent erosion and sediment controls will be implemented, which will minimize or prevent future sediment contributions from the project area. As such, the project will be consistent with the *Subbasin Assessment and Total Maximum Daily Loads of the North Fork Coeur d'Alene River*.

If the project is conducted in accordance with 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; therefore, 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 Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

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

The North Fork Coeur d'Alene River is considered high quality for primary contact recreation. As such, the water quality relevant to this use must be maintained and protected, unless a lowering of water quality is deemed 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 receiving water body (IDAPA 58.01.02.052.06). The only pollutant of concern associated with this project is sediment. However, sediment is not relevant to recreational uses since aquatic life is the more sensitive use and sediment will be expected to cause impairments to aquatic life at concentrations well below what would be necessary to cause recreational use impairment; it is therefore unnecessary for DEQ to conduct a Tier II analysis (IDAPA 58.01.02.052.06). This project complies with the Tier II provisions of Idaho's WQS (IDAPA 58.01.02.051.02; 58.01.02.052.06 and 58.01.02.052.08).

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

The following conditions are necessary to ensure this project complies with Idaho water quality standards and other appropriate water quality requirements of State law applicable to the North Fork Coeur d'Alene River.

#### **3.1 General Conditions**

This certification is based on the certification request submitted by the Project Applicant on 6/16/2023 and is conditioned upon the requirement that any modification (e.g., change in work windows, etc.) of the permitted activity shall first be provided to DEQ for review to determine compliance with Idaho WQS and to provide additional certification pursuant to Section 401. Such modifications may not be implemented until DEQ has determined whether additional certification is necessary.

*Because DEQ is certifying only the activity described in the certification request, this condition is necessary to ensure that discharges under circumstances that differ from those described in the certification request will comply with 33 U.S.C. § 1341, 40 CFR Part 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 WQS—there is no longer reasonable assurance of compliance with WQS 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 is necessary to ensure that discharges from activities not described in the certification request, or where there has been a change in the characteristics of or WQS applicable to the receiving water body, will comply*

*with 33 U.S.C. § 1341, 40 CFR Part 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 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 his/her name.

*This condition is necessary to ensure that, in the event of an ownership change, DEQ has the minimum information to support ongoing compliance with 33 U.S.C. § 1341, 40 CFR Part 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 is necessary to ensure all responsible parties, including onsite 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 is necessary to ensure all responsible parties, including onsite 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. 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 be replaced or augmented if they are not effective. BMPs shall be replaced or augmented if they are not effective.

*This condition is necessary for the protection of beneficial uses in accordance with Idaho water quality requirements 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, IDAPA 58.01.02.400.*

### **3.2 Fill Material**

*The following conditions 6-8 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements 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, IDAPA 58.01.02.400.

6. Fill material subject to suspension will be free of easily suspended fine material. Only clean material may be placed as fill.
7. All temporary fills will be removed in their entirety on or before construction completion.
8. 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 9-17 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

9. BMPs for sediment and erosion control suitable to prevent exceedances of state WQS shall be selected and installed before starting construction at the site. One resource that may be used in evaluating appropriate BMPs is DEQ's Idaho Catalog of Storm Water Best Management Practices<sup>1</sup>. Other resources may also be used for selecting appropriate BMPs.
10. Permanent erosion and sediment control measures will be installed in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
11. 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.
12. 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.
13. 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 be replaced or augmented if they are not effective.
14. All construction debris, scraps, particles, and other associated materials will be properly captured and disposed of so they cannot enter waters of the state or cause water quality degradation.
15. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion.
16. Maximum fill slopes will be such that material is structurally stable once placed and does not slough into the stream channel during construction, during periods prior to revegetation, or after vegetation is established.

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<sup>1</sup> [Idaho Catalog of Storm Water Best Management Practices, Prepared by the State of Idaho Department of Environmental Quality, April 2020.](#)

17. Sediment from disturbed areas or sediment that can be tracked by vehicles onto pavement must not be allowed to leave the site in amounts that would reasonably be 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.

### 3.4 Turbidity

*The following conditions 18-19 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements 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, IDAPA 58.01.02.400.*

18. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standards as stipulated under the Idaho WQS. Any violation of this standard must be reported to the DEQ regional office immediately.
19. 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 plume is observed, the project may be causing an exceedance of WQS and the permittee must inspect the condition of the project BMPs. If the BMPs appear to be functioning to their fullest capability, then the permittee must modify the activity or implement additional BMPs (this may also include modifying existing BMPs).

### 3.5 In-Water Work

*The following conditions 20-25 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

20. Work in open water is to be kept at a minimum and only when necessary. Equipment shall work from an upland site to minimize disturbance of waters of the state. If this is not practicable, appropriate measures must be taken to ensure disturbance to the waters of the state is minimized.
21. Construction affecting the bed or banks shall take place only during periods of low flow.
22. Fording of the channel is not permitted. Temporary bridges or other structures shall be built if crossings are necessary.
23. 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.
24. Activities in spawning areas must be avoided to the maximum extent practicable.
25. Work in waters of the state shall be restricted to areas specified in the application.



### 3.6 Vegetation Protection and Restoration

*The following conditions 26-28 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.200, IDAPA 58.01.02.250, IDAPA 58.01.02.253, IDAPA 58.01.02.400.*

26. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
27. Fencing and other barriers should be used to mark the construction areas.
28. If authorized work results in unavoidable vegetative disturbance, riparian and wetland vegetation shall be successfully reestablished to function for water quality benefit at pre-project levels or improved at the completion of authorized work.

### 3.7 Management of Hazardous or Deleterious Materials

*The following conditions 29-36 are necessary for the protection of beneficial uses in accordance with Idaho water quality requirements 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, IDAPA 58.01.02.850.*

29. 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 must be in place to ensure that those materials will not enter waters of the state as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.
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 be done to ensure no leaks or potential leaks exist prior to equipment use. A log book of these inspections shall be kept on site and provided to DEQ upon request.
32. Equipment and machinery must be removed from the vicinity of the waters of the state prior to 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 prior to entering a water of the state. Any wastewater or wash water must not be allowed to enter a water of the state.
34. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
35. In the event of an unauthorized release of hazardous material to state waters or to land such that there is a likelihood that 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 in such a manner that it will not reach surface waters 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 Coeur d'Alene Regional Office: (208) 769-1422

36. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

## 4 Required Notification

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

## 5 Right to Appeal Final Certification

The final Section 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, Coeur d'Alene Regional Office at 208-666-4605 or via email at [Chantilly.Higbee@deq.idaho.gov](mailto:Chantilly.Higbee@deq.idaho.gov).



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Dan McCracken  
Regional Administrator  
Coeur d'Alene Regional Office