

2110 Ironwood Parkway
Coeur d'Alene, ID 83814 • (208) 769-1422



Brad Little, Governor
Jess Byrne, Director

July 12, 2023

By email: Poiele@aol.com

Larry Mundt
Mundt, LLC
8251 South Mundt Rd.
Coeur d'Alene, ID 83814

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

Dear Mr. Mundt:

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.

Sincerely,

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

Dan McCracken
Regional Administrator, Coeur d'Alene Regional Office

2023AKF38

Encl. 1 Final Section 401 Water Quality Certification

c: U.S. Army Corps of Engineers, CENWW-RD-CDA@usace.army.mil



Idaho Department of Environmental Quality

Final Section 401 Water Quality Certification

July 12, 2023

Project Name: Mundt LLC Toedter Streambank Stabilization

Permit Number: § 404 Nationwide Permit 13, Bank Stabilization

Applicant/Authorized Agent: Larry Mundt, Mundt LLC

Project Location: Approximately 47.600531 N, -116.876578 W; Kootenai County parcel 49N04W088500 near Coeur d'Alene

Receiving Water Body: Mica 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 pre-filing meeting at least thirty days in advance of submitting a certification request. A pre-filing meeting request was received by DEQ on 5/16/2023.

Based upon its review of the certification request in accordance with the Clean Water Act § 121.5 (b) and (c), 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 the Clean Water Act §§ 301, 302, 303, 306, and 307, Idaho's "Water Quality Standards" (IDAPA 58.01.02), and other appropriate water quality requirements of state law.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations or permits.

1 Project Description

This is a Natural Resource Conservation Service project that is proposed to take place each fall in 2023, 2024, and 2025. Each year, approximately 230 ft of streambank will be stabilized using rock riprap and vegetative bioengineering. Willow bundles will be installed every 4 ft in the rock riprap and a total of 46 log root wads will be installed 15 ft apart. A total of 772 cubic yards of

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material will be placed along 685 linear feet of streambank. A cofferdam will be installed around the in-water work area, with water to be pumped upland to mitigate turbidity. Disturbed areas will be graded and seeded.

2 Antidegradation Review

As part of its water quality standards program, Idaho has an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051). DEQ adopted regulations to implement the antidegradation policy (IDAPA 58.01.02.052).

Tier I Protection. The first level of protection applies to all water bodies subject to Clean Water Act jurisdiction and ensures that existing uses of a water body and the level of water quality necessary to protect those existing uses will be maintained and protected (IDAPA 58.01.02.051.01; 58.01.02.052.01). Additionally, a Tier I review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).

Tier II Protection. The second level of protection applies to those water bodies considered high quality and ensures that no lowering of water quality will be allowed unless necessary to accommodate important economic or social development (IDAPA 58.01.02.051.02; 58.01.02.052.08).

Tier III Protection. The third level of protection applies to water bodies that have been designated outstanding resource waters and requires that activities do not lower water quality (IDAPA 58.01.02.051.03; 58.01.02.052.09).

DEQ employs a water-body-by-water-body approach to implementing Idaho's antidegradation policy. This approach means that any water body fully supporting its beneficial uses will be considered high quality (IDAPA 58.01.02.052.05.a). Any water body not fully supporting its beneficial uses will be provided Tier I protection for that use, unless specific circumstances warranting Tier II protection are met (IDAPA 58.01.02.052.05.c). The most recent federally approved [DEQ Integrated Report](#) and supporting data are used to determine support status and the tier of protection (IDAPA 58.01.02.052.05).

2.1 Pollutants of Concern

The 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 Mica Creek within the Coeur d'Alene Lake subbasin assessment unit (AU) ID17010303PN004_03 *Mica Creek - source to mouth*. This AU has not yet been designated. Because DEQ presumes most waters in the state will support cold water aquatic life and primary or secondary contact recreation beneficial uses, undesignated waters are protected for

these uses (IDAPA 58.01.02.101.01.a). Additionally, 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 the receiving water body is not fully supported. Causes of impairment include physical substrate habitat alterations and sediment. The contact recreation beneficial use is also not fully supported. The cause of impairment is fecal coliform. As such, DEQ will provide Tier I protection for both the aquatic life and contact recreation uses (IDAPA 58.01.02.051.01).

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 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). 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).

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 *Coeur d'Alene Lake and River (17010303) Sub-basin Assessment and Proposed Total Maximum Daily Loads*.

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

The following conditions ensure this project complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to Mica Creek.

3.1 General Conditions

This certification is based on the certification request submitted by the 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'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 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.

3. 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.

4. 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.

3.2 Fill Material

The following conditions 5-7 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 58.01.02.210, 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.

5. Fill material subject to suspension shall be free of easily suspended fine material. Only clean material may be placed as fill.
6. Temporary fills will be removed in their entirety on or before construction completion.
7. Excavated or staged fill material shall 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 8-16 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.

8. BMPs for sediment and erosion control suitable to prevent exceedances of Idaho's water quality standards shall 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*¹. Other resources may also be used for selecting appropriate BMPs.
9. 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.

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

10. 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.
11. 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.
12. A BMP inspection and maintenance plan shall be developed and implemented. At a minimum, BMPs shall be inspected and maintained daily during project implementation and replaced or augmented if they are not effective.
13. 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.
14. Disturbed areas suitable for vegetation will be seeded or revegetated to prevent subsequent soil erosion.
15. 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.
16. Sediment from disturbed areas or sediment that can be tracked by vehicles onto pavement shall 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, shall be used when earth-moving equipment will be leaving the site and traveling on paved surfaces to prevent track-out.

3.4 Turbidity

The following conditions 17-18 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.

17. Sediment resulting from this activity shall be mitigated to prevent violations of the turbidity standards stipulated in Idaho's water quality standards. Any violation of this standard shall be reported to the DEQ regional office immediately.
18. All practical BMPs on disturbed banks and within the waters of the state shall be implemented to minimize turbidity. Visual observation is acceptable to determine whether BMPs are functioning properly. If a sediment plume is observed, the project may be causing an exceedance of water quality standards, and the permittee shall inspect the condition of the project BMPs. If the BMPs appear to be functioning improperly, then corrective action shall be taken, and the permittee shall modify the activity or implement additional BMPs (this may also include modifying existing BMPs).

3.5 In-Water Work

The following conditions 19-24 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, IDAPA 58.01.02.250, IDAPA 58.01.02.253, and IDAPA 58.01.02.400.

19. Work in open water shall occur 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.
20. Construction affecting the bed or banks shall occur only during periods of low flow.
21. Fording the channel is not permitted. Build temporary bridges or other structures if crossings are necessary.
22. Temporary crossings shall be perpendicular to channels and located in areas with the least impact. The temporary crossings shall be supplemented with clean gravel or treated with other mitigation methods at least as effective in reducing impacts. Temporary crossings shall be removed as soon as possible after the project is completed or the crossing is no longer needed.
23. Activities in spawning areas shall be avoided to the maximum extent practicable.
24. Work in waters of the state shall be restricted to areas specified in the application.

3.6 Vegetation Protection and Restoration

The following conditions 25-26 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 should be placed in open, upland areas.
26. 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.

3.7 Management of Hazardous or Deleterious Materials

The following conditions 27-35 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.

27. 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 be in place to 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.

28. Secondary containment is required for chemical materials.
29. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
30. Daily inspections of all fluid systems on equipment to be used in or near waters of the state shall be performed to ensure no leaks or potential leaks exist before equipment use.
31. Equipment and machinery shall be removed from the vicinity of the waters of the state before refueling, repair, and/or maintenance.
32. 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 entering waters of the state. Wastewater or wash water shall not enter waters of the state.
33. Emergency spill response procedures shall be in place and include a spill response kit (e.g., oil absorbent booms or other equipment).
34. 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 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 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.
35. Collect, remove, and properly dispose of spill and cleanup materials in a manner approved by DEQ.

3.8 Pollutants/Toxins

36. 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 shall be taken to avoid excess application and introduction of chemicals into waters of the state.

4 Required Notification

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

5 Right to Appeal Final Certification

The final § 401 Water Quality Certification may be appealed by submitting a petition to initiate a contested case, pursuant to Idaho Code § 39-107(5) and the “Rules of Administrative Procedure before the Board of Environmental Quality” (IDAPA 58.01.23), within 35-days of the date of the final certification.

Questions or comments regarding the actions taken in this certification should be directed to Chantilly Higbee, Coeur d’Alene Regional Office at 208-666-4605 or via email at Chantilly.Higbee@deq.idaho.gov.



Dan McCracken
Regional Administrator
Coeur d’Alene Regional Office