



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

January 12, 2024

**Project Name:** Twin Lakes Channel Side Canal Sediment Removal Project

**Permit Name and Number:** Nationwide Permit 16, Return Water From Upland Contained Disposal Areas

**Applicant/Authorized Agent:** Mike Sullivan, Phase II Canal Twin Lakes Inc.

**Project Location:** Channel between Upper and Lower Twin Lakes in Kootenai County;  
47.8922, -116.8903

**Receiving Water Body:** Twin Lakes

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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 or licenses and issue water quality certification decisions.

In accordance with the Clean Water Act § 121.4, 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 10/11/2023. To facilitate early engagement and project coordination, DEQ accepted an opportunity to host a pre-filing meeting which was conducted on 10/31/2023, to seek clarification as well as to discuss the project and potential information needs.

Based upon review of the federal permit application, readily available water quality related materials, and certification request in accordance with the Clean Water Act § 121.5 (b) and (c) and 121.7 (c), received on, 11/21/2023, 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.

Pursuant to Clean Water Act §§ 401 (a)(1) and 121.7 (c); and IDAPA 58.01.02.052.08, DEQ issued a 21-day public notice to solicit comments on the draft certification on 12/20/2023 through 1/10/2024. No public comments were received during the 21-day comment period.

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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 applicant proposes to suction dredge a portion of the channel between Upper and Lower Twin Lakes to improve navigation and water quality by removing sediment, phosphorus, and organic material. The applicant proposes to perform this work over approximately 30 days in fall 2024. Approximately 4,270 cubic yards of sediment and organic material will be removed and pumped up to 2,000 feet via floating pipe to a treatment system and de-watering site at the Idaho Department of Fish and Game boat launch. Material will be removed over a length of 1,920 feet, across an average width of 20 feet, and to a depth of about three feet.

The dewatering site will be located at the boat launch paved parking area and will be comprised of one to two geotextile filter bags or 'geotubes' (TITANTube using Flintex OS435 Hi-Flo Fabric) approximately 100 feet long, 30 feet wide, and 90 feet in diameter, placed on an impervious plastic liner. The lot will be leveled using wood chips prior to geotube placement. Dredged material will be mixed with a flocculent polymer (about 90 parts per million) 75 to 100 feet prior to entering the geotubes. A sampling port will be installed to ensure adequate mixing of the dredge material and flocculent. Sampling of the treatment solution will be performed several times each day. The geotubes will allow treated water to return to the channel over the course of several months, leaving the sediment, organic material, flocculent, and a fraction of the phosphorus in the bag (some soluble phosphorus will be discharged back to the lake). Discharge water will be monitored to ensure compliance with Idaho's water quality standards prior to returning to the channel. In the spring of 2025, the filter bags will be opened, the sediment removed, and hauled to a local ranch.

## 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 pollutants of concern for this project are sediment and phosphorus. 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 these pollutants.

## 2.2 Receiving Water Body Level of Protection

This project is located on Twin Lakes within the Upper Spokane Subbasin assessment unit (AU) Twin Lakes ID17010305PN013L\_0L. This AU has been designated for cold water aquatic life, 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 Integrated Report, this AU is not fully supporting its aquatic life use. Causes of impairment include total phosphorus and dissolved oxygen. 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).

The pollutants of concern associated with this project are sediment and phosphorus. Sediment is not relevant to recreational uses since aquatic life is the more sensitive use and sediment is not 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) for sediment.

However, phosphorus is a nutrient which, when present in excess can cause accelerated plant growth, and can result in a eutrophic or enriched system. This can lead to nuisance or objectionable conditions (e.g., nuisance algae or cyanobacteria) which can impair beneficial uses including the recreation use (e.g., from the presence of cyanotoxins). Therefore, DEQ will conduct a Tier II analysis (IDAPA 58.01.02.052.06) for phosphorus.

## 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 Idaho's 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). Prior to the development of the TMDL, Idaho's water quality standards require the application of 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 AU2. The TMDL addresses nutrient loading concerns that were identified in the 1991 Twin Lakes Management Plan and through the nutrient loading analysis. Goals of the TMDL are to reduce total phosphorus and increase dissolved oxygen in the system.

The Twin Lakes Management Plan identifies conditional suction dredging in the channel as one management strategy to remove phosphorus (contained in sediments). The TMDL identifies "internal loading" as a source of phosphorus in the system that could be addressed but does not include point source wastewater discharge as an allocation category. The proposed project will include dredging (phosphorus removal) and discharge (phosphorus discharge) because the geotubes and polymer will not retain all the phosphorus removed from the channel via suction dredge; a fraction will be discharged back into the channel via seep from the geotubes. Prior to the submittal of the certification request, DEQ requested the project proponent provide data sufficient to quantify the amount of phosphorus to be (1) suction dredged, (2) retained and disposed of, and (3) discharged back to the channel. DEQ has determined that despite discharge of some phosphorus from the geotubes into the channel, the proposed project will result in a net removal of phosphorus from the system. The quantity of phosphorus to be removed by the project will offset the quantity discharged back into the system (IDAPA 58.01.02.052.06.c.). Therefore, the project is consistent with the goals and allocations in the TMDL and Twin Lakes Management Plan.

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.

The applicant specifically proposes the following BMPs, **which are conditions of this certification:**

- Use turbidity curtains to close off the side canal at both ends and at any other point where surface water connects with the main channel during active dredging to

eliminate boat traffic from the work area. The curtains will be left in place until suspended solids have completely settled out.

- A turbidity curtain will surround the dewatering site to help ensure any turbid water doesn't reach the main channel.
- Install perimeter fencing signs at the dewatering site announcing closure of the launch area until the following spring and direct the public to the availability of the two other boat launches on the lakes.
- Monitor and record measurements for turbidity daily.
- Care will be taken not to unduly churn up sediment outside of the immediate work area.
- Maintain secondary containment for the filter bags throughout active dredging and ongoing dewatering.
- All chemicals will be properly stored and used according to manufacturers instructions.
- Maintain secondary containment for all chemicals during the project.
- Monitor and remove vegetation build up behind all turbidity curtains during active dredging.
- Avoid tracking mud onto Twin Lakes Road.

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 High-Quality Waters (Tier II Protection)

Twin Lakes 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 Twin Lakes (IDAPA 58.01.02.052.06). The pollutant of concern for this project is phosphorus because excess phosphorus can promote cyanobacteria growth, which can impair beneficial uses including the recreation use (e.g., from the presence of cyanotoxins).

As described in Section 2.3, DEQ has determined that despite discharge of some phosphorus from the geotubes into the channel, the proposed project will result in a net removal of phosphorus from the system. The quantity of phosphorus to be removed by the project will offset the quantity discharged back into the system (IDAPA 58.01.02.052.06.c.). Best management practices will be implemented and maintained through the life of the project to minimize phosphorus contributions from the project area. The net removal of phosphorus will

maintain the ambient water quality conditions of Twin Lakes. The provisions in the permit, coupled with the conditions of this certification, ensure that degradation to the Twin Lakes ID17010305PN013L\_0L AU will not occur. Therefore, DEQ concludes that this project complies with the Tier II provisions of Idaho's water quality standards (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 ensure the project complies with Idaho's water quality standards and other appropriate water quality requirements of state law applicable to Twin Lakes.

#### **3.1 General Conditions**

This certification is based on review of the federal permit application, readily available water quality related materials, and certification request submitted by the project applicant on 10/31/2023 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 this certification in accordance with the Clean Water Act § 121.10 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 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 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 Fill Material and Debris**

The following conditions 3.2.1 through 3.2.2 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.

1. All temporary fills, including woodchips (mulch) will be removed in their entirety on or before construction completion.
2. All project-related sediment and debris will be properly disposed of offsite so it cannot enter waters of the state or cause water quality degradation.

### **3.3 Sediment and Turbidity Control**

The following conditions 3.3.1 through 3.3.10 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.

1. 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.

2. BMPs for sediment and erosion control suitable to prevent exceedances of Idaho's water quality standards and TMDLs 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* (DEQ 2020). Other resources may also be used for selecting appropriate BMPs.
3. Operators should avoid unnecessary churning up and creation of sediment suspension in the channel.
4. Suspended sediment and turbidity must remain isolated in the channel and must not be allowed to move into Upper or Lower Twin Lake.
5. Total containment silt curtains designed to contain in-water suspended sediment and turbidity must be securely installed at both ends of the channel prior to the start of project activities, and according to the manufacturer's instructions for use. Silt curtains and/or similar BMPs must be monitored and maintained through the life of the project.
6. Total containment silt curtains shall be reliable and function correctly. Curtain design and materials must have been previously and scientifically field tested to determine effectiveness in water quality protection. Lack of manufacturer testing of the silt curtain related to protection of water quality shall be considered a violation of this certification. Curtains that drag back and forth along the bottom of the lake due to wave action or current are incorrectly installed and shall be considered a violation of this certification. The silt curtain shall function in such a manner as to meet Idaho's water quality standards.
7. Sediment that can be tracked by vehicles onto pavement must not be allowed to accumulate at the site in amounts that would reasonably be expected to enter waters of the state. Sediment accumulations on asphalt cannot be washed into the channel.
8. Suspended sediment resulting from this activity outside of the containment area must be mitigated to prevent violations of Idaho's turbidity standard. Any violation of this standard must be reported to the DEQ regional office immediately. Steps must be taken to immediately address the source of the violation.
9. All practical BMPs upland and within the waters of the state must be implemented to minimize turbidity.
10. Visual observation is acceptable to determine whether BMPs are functioning properly unless a sediment plume is observed. If a plume is observed, the project may be causing an exceedance of Idaho's water quality standards, and the permittee must inspect the condition of the projects BMPs and initiate turbidity sampling consistent with Table 1. Turbidity sampling must be immediately conducted, recorded, and reported as described below. A properly calibrated turbidimeter is required. Calibration must be performed to manufacturers specifications. Measurements cannot be taken during a cessation of activity.
  - a. Background Location: When monitoring is required a sample must be taken at an undisturbed area immediately up-current from in-water disturbance or discharge to



- establish background turbidity levels. Background turbidity, latitude/longitude, date, and time must be recorded prior to monitoring down-current.
- b. **Compliance Location:** A sample must be collected immediately outside of any containment measures such as silt curtains, within the visible sediment plume. The turbidity, latitude/longitude, date, and time must be recorded for each sample. The downstream sample must be taken immediately following the upstream sample in order to obtain meaningful and representative results.

**Table 1. 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
25 NTU for 10 or more consecutive days	Sample before and after following instructions <sup>b</sup>	STOP work and follow instructions <sup>b</sup> ; notify DEQ regional office
50 NTU or more	Sample before and after following instructions <sup>c</sup>	STOP work and follow instructions <sup>c</sup> ; notify DEQ regional office

- a. Sample and report turbidity three times at each location. Use the maximum value of three samples to determine compliance following Table 1 directions.
- b. Instructions: If BMPs appear to be functioning properly, then the permittee must modify the activity or implement corrective action such as installing additional BMPs (this may include modifying existing BMPs) until additional sampling indicates turbidity standards are met. Sampling can cease when a sediment plume is no longer observed. Work can commence when a sediment plume is no longer observed, and measurements are consecutively below 25 NTU.
- c. Instructions: If BMPs appear to be functioning properly, then the permittee must modify the activity or implement corrective action such as installing additional BMPs (this may include modifying existing BMPs) until additional sampling indicates turbidity standards are met. Sampling can cease when a sediment plume is no longer observed. Work can commence when a sediment plume is no longer observed, and measurements are below 50 NTU.

- c. **Reporting:** Copies of daily logs for turbidity meter calibration and turbidity sampling must be made available to DEQ and other local, state, and federal regulatory agencies upon request. Beginning with the observation of a plume, provide the following information:
- i. Calibration log must include instrument serial number, date, time, and calibration result.
  - ii. Turbidity sampling log must include instrument manufacturer information and serial number, background NTUs, compliance point NTUs, comparison of the points in NTUs, and location, time, and date for each reading.
  - iii. Turbidity sampling log submitted to DEQ must include a narrative discussing all exceedances, controls applied and their effectiveness, changes made to controls, subsequent sampling, work stoppages, and any other actions taken.

### 3.4 In-Water Work and Dredge Material Management

The following conditions 3.4.1 through 3.4.11 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.

1. Work in open water must be kept to 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, take appropriate measures to ensure disturbance to the waters of the state is minimized.
2. Management of dredged material must be done in a manner that prevents the material from re-entering waters of the state. Work shall take place only during periods of low water.
3. Work in waters of the state shall be restricted to areas specified in the application.
4. Measures shall be taken to prevent wet concrete from entering waters of the state when placed in forms and/or from truck washing.
5. Activities that construct and maintain intake structures must include adequate fish screening devices to prevent fish entrainment or capture.
6. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
7. To minimize sediment transport, stream channel or streambank stabilization must be completed before returning water to a dewatered segment.
8. Work in waters of the state shall be restricted to areas specified in the application.
9. Work boats or barges will be inspected for invasive species prior to deployment into Twin Lakes or the channel. Cleaning shall be adequate to remove all life stages of aquatic invasive species. The Idaho State Department of Agriculture should be contacted with questions about invasive species.
10. Geotubes must have secondary containment. Secondary containment must be monitored and maintained.
11. Geotube effluent must be monitored for turbidity daily to ensure that the discharge does not exceed Idaho's WQS. A calibrated meter is required. Calibration must be performed to manufacturers specifications. Copies of logs for turbidity meter calibration and turbidity sampling must be made available to DEQ and other local, state, and federal regulatory agencies upon request. The calibration log must include instrument serial number, date, time, and calibration result. Turbidity sampling log must include instrument manufacturer information and serial number, sample NTUs, and location, time, and date for each reading.

### **3.5 Management of Hazardous or Deleterious Materials**

The following conditions 3.5.1 through 3.5.12 are necessary for the protection of beneficial uses according to Idaho's water quality standards, including without limitation IDAPA 58.01.02.051, IDAPA 58.01.02.080, IDAPA 58.01.02.200, IDAPA 58.01.02.400, IDAPA 58.01.02.800, and IDAPA 58.01.02.850.

1. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
2. Signage, fencing, and other protective barriers should be used to mark the work areas and prevent public entrance.
3. Portable toilets and garbage containers placed at work areas that are near or over water shall be regularly maintained and securely anchored to prevent tipping and release to surface water.
4. 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 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.
5. Secondary containment is required for chemical materials.
6. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
7. 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.
8. Equipment and machinery shall be removed from the vicinity of the waters of the state before refueling, repair, and/or maintenance.
9. 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. Any wastewater or wash water must not enter waters of the state.
10. Emergency spill response procedures shall be in place and include a spill response kit (e.g., oil absorbent booms or other equipment).
11. 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 the Coeur d'Alene Regional Office: (208) 769-1422.

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

### 3.6 Pollutants/Toxins

In conformance with IDAPA 58.01.02.200, the use of chemicals such as soil stabilizers, dust palliatives, sterilants, growth inhibitors, fertilizers, and deicing salts during construction and operation should be limited to the best estimate of optimum application rates. All reasonable measures shall be taken to avoid excess application and introduction of chemicals into waters of the state. Measures shall be taken to prevent flocculent/polymer from entering waters of the state. Flocculent use shall be optimized to retain as much phosphorus as possible.

## 4 Required Notification

The permittee must notify the Coeur d'Alene Regional Office when authorized work begins and if the applicant or organization is transferred or changes.

## 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](mailto:Chantilly.Higbee@deq.idaho.gov).



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Dan McCracken  
Regional Administrator  
Coeur d'Alene Regional Office

## References

DEQ (Idaho Department of Environmental Quality). 2020. *Idaho Catalog of Storm Water Best Management Practices*. Boise, ID: DEQ. <https://www.deq.idaho.gov/water-quality/wastewater/storm-water/>

DEQ (Idaho Department of Environmental Quality). 2022. *Idaho Department of Environmental Quality 2022 Integrated Report*. Boise, ID: DEQ. <https://www2.deq.idaho.gov/admin/LEIA/api/document/download/16619>

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