



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, ID 83706 • (208) 373-0502
www.deq.idaho.gov

Brad Little, Governor
John H. Tippetts, Director

October 28, 2019

Alan Parks
86 North 900 West
Blackfoot, ID 83221

RE: Final §401 Water Quality Certification for the Alan Parks Snake River Bank Barbs Project,
NWW-2017-184

Dear Mr. Parks,

Enclosed is the final water quality certification for the above referenced individual Army Corps of Engineers project, (NWW-2017-184). No comments were received during the 21-day period that the document was available on our website for public comment. Please make sure that your staff and contracted individuals read the document and are familiar with conditions of the certification (pages 3-6).

If you have questions or concerns, please contact Greg Mladenka at (208) 239-5014 or via email at greg.mladenka@deq.idaho.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Olenick".

Bruce Olenick
Regional Administrator
Pocatello Regional Office

Enclosure

c: Robert Brochu, Army Corps of Engineers



Idaho Department of Environmental Quality Final §401 Water Quality Certification

October 28, 2019

404 Permit Application Number: NWW-2017-184, Alan Parks Snake River Bank Barbs

Nationwide Permit Number: 13, Bank Stabilization

Applicant/Authorized Agent: Alan Parks

Project Location: N 43.181611 Lat., W -112.401522 Long., Blackfoot Idaho, Bingham County

Receiving Water Body: Snake River

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 Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon our review of the joint application for permit, received on September 5, 2019, DEQ certifies that if the permittee complies with the terms and conditions imposed by the permit along with the conditions set forth in this water quality certification, then there is reasonable assurance the activity will comply with the 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.

Project Description

The applicant proposes to discharge 1420 cubic yards of rock riprap below the ordinary high water mark of the Snake River to construct three (3) barbs over approximately 650 feet of river bank. The goal of this project is to stop the river from eroding northward into an agricultural field located in the river's meander corridor.

Antidegradation Review

The WQS contain an antidegradation policy providing three levels of protection to water bodies in Idaho (IDAPA 58.01.02.051).

- 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 is employing 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).

Pollutants of Concern

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

Receiving Water Body Level of Protection

This project is located on Snake River within the American Falls Subbasin assessment unit (AU) ID17040206SK022_04 (Snake River – River Mile 791 (T01N R37E Sec. 10) to American Falls). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, primary contact recreation and domestic water supply (IDAPA 58.01.02.150.08). 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 2016 Integrated Report, this receiving water body AU is not supporting its aquatic life and contact recreation uses due to mercury impairment. As such, DEQ will provide Tier I protection for this water body (IDAPA 58.01.02.051.01).

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. Riprap placed into the channel shall be free of soil. Construction will be during low-flow conditions and visual turbidity monitoring and BMP implementation/modification is required. Revegetation of areas presently lacking vegetation and any areas disturbed during the project shall be done with native shrub and tree species.

As long as the project is conducted in accordance with the provisions of the project plans, Section 404 permit, and conditions of this certification, then there is reasonable assurance the project will comply with the state's numeric and narrative criteria. 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).

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

General Conditions

1. Establishment of native shrub and tree vegetation between and adjacent to riprap barbs where natural vegetation is not presently established will be required. Prior to commencing construction, an acceptable revegetation plan must be provided to DEQ. Spacing and composition should reflect that of established native vegetation in the area.
2. This certification is conditioned upon the requirement that any modification (e.g., change in BMPs, 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.
3. 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.

4. 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.
5. 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.
6. Project areas shall be clearly identified in the field prior to initiating land-disturbing activities to ensure avoidance of impacts to waters of the state beyond project footprints.
7. The applicant shall provide access to the project site upon request by DEQ personnel for site inspections, monitoring, and/or to ensure that conditions of this certification are being met.
8. 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 Section 404 permit.
9. If this project disturbs more than 1 acre and there is potential for discharge of stormwater to waters of the state, coverage under the EPA Stormwater Construction General Permit *must* be obtained. More information can be found at <https://www.epa.gov/npdes-permits/stormwater-discharges-construction-activities-region-10>.

Turbidity

10. Sediment resulting from this activity must be mitigated to prevent violations of the turbidity standard as stipulated under the Idaho WQS (IDAPA 58.01.02). *Any violation of this standard must be reported to the DEQ regional office immediately.*
11. 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 projects 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).

Vegetation Protection and Restoration

12. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.
13. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
14. Fencing and other barriers should be used to mark the construction areas.
15. Where possible, alternative equipment should be used (e.g., spider hoe or crane).
16. 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. Also, please see General Condition 1, above.

Management of Hazardous or Deleterious Materials

17. 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.
18. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
19. 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.
20. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
21. 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.
22. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
23. In accordance with IDAPA 58.01.02.850, 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 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 Pocatello regional office at 208-236-6160/ 888-655-6160 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).
 - Pocatello Regional Office: 208-236-6160 / 888-655-6160
 - d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

Required Notification

The permittee must notify the Pocatello Regional Office when authorized work begins.

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 Greg Mladenka, Pocatello Regional Office, 208-236-6160, greg.mladenka@deq.idaho.gov.



Bruce Olenick
Regional Administrator
Pocatello Regional Office