



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

September 25, 2017

**404 Permit Application Number:** NWW-2017-418-B02 / NWP-14

**Applicant/Authorized Agent:** ITD-District 4 (Scott Malone) / ITD-District 4 (Connie Jones)

**Project Location:** Township 10 South, Range 18 East, Sections 22 & 27

**Receiving Water Body:** Coulee Canal or Twin Falls Coulee

---

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 its review of the joint application for permit, received on July 27, 2017, 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, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

### Project Description

The project activities include the discharge of 250 cubic yards of road fill materials (concrete, riprap, sand, and rock) below the ordinary high water mark of the Coulee Canal for the replacement of an existing 34 foot long culvert with an 84 foot long cement box culvert. The bridge replacement project will result in the unavoidable loss of 418 square feet (0.01 acre) of emergent wetlands. The new structure will be aligned to match the canal. An 8 inch irrigation pipe will be replaced and tied back into the existing pipe.

## 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. However, since the location and purpose for the project deals with an irrigation conveyance in an agricultural area, the project activity could further contribute boundup phosphorus in the 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 and phosphorus.

### ***Receiving Water Body Level of Protection***

This project is located on Coulee Canal within the Upper Snake Rock Subbasin. The Coulee Canal is not included within the assessment unit (AU) database maintained by DEQ, nor is it included in the National Hydrography Dataset (NHD). Coulee Canal is a man-made waterway (irrigation canal), not currently designated in sections 110 through 160 of the WQS.

In Idaho, man-made waterways that are not designated in IDAPA 58.01.02, sections 110-160, are protected for the uses for which they were developed; in this case, agricultural water supply (IDAPA 58.01.02.101.02). The Coulee Canal is undesignated, is not assessed in the most recent Integrated Report, and will be dewatered during the proposed project. Therefore, DEQ finds Tier

I antidegradation protection appropriate for Coulee Canal unless presented with data warranting Tier II protection (IDAPA 58.01.02.052.05.b).

### ***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.

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. ITD will prepare an Erosion & Sediment Control Plan even though the project is not expected to require an NPDES SWPPP that will outline BMPs to minimize sedimentation and erosion into adjacent wetlands and waterways which will include use of wattles and erosion control seeding. All work in the Coulee Canal will be conducted during the non-irrigation season when there is no flowing water in the canal. If necessary, a temporary dewatering system will be installed to carry drainage through the work area which will reduce the potential for turbidity. Temporary sandbags may be placed in the work area to keep moisture out of the work area. All disturbed slopes will be seeded, fertilized, and mulched to reduce the potential for excess sediment entering the canal. Vegetation removal will be minimized as practicable; therefore no impacts to stream temperature are expected to occur. Since the location and purpose for the project deals with an irrigation conveyance in an agricultural area, the project activity could further contribute boundup phosphorus in the sediment. However, by preventing the movement of sediment in the canal through the implementation of effective BMPs, conducting work during low flows, installing a dewatering system, and reseeding disturbed areas, this project will not contribute to phosphorus enrichment to the canal. 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.

There is no available information indicating the presence of any existing beneficial uses other than agricultural water supply during the irrigation season. The proposed project will occur after the irrigation season, and DEQ finds the proposed BMPs, permit conditions, and conditions in this certification will be adequate to maintain and protect agricultural water supply use after the project is complete. Therefore, the permit ensures that the level of water quality necessary to protect the known existing use 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. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. The applicant shall provide access to the project site and all mitigation sites upon request by DEQ personnel for site inspections, monitoring, and/or to ensure that conditions of this certification are being met.
7. 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.
8. 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 <http://yosemite.epa.gov/R10/WATER.NSF/NPDES+Permits/Region+10+CGP+resources>.

### ***Fill Material***

1. Fill material subject to suspension shall be free of easily suspended fine material. The fill material to be placed shall be clean material only.
2. Fill material shall not be placed in a location or in a manner that impairs surface or subsurface water flow into or out of any wetland area.
3. Placement of fill material in existing vegetated wetlands shall be minimized to the greatest extent possible.

4. All temporary fills shall be removed in their entirety on or before construction completion.
5. 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 uncontrolled.

### ***Erosion and Sediment Control***

1. 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 *Catalog of Stormwater Best Management Practices for Idaho Cities and Counties*, available online at <http://www.deq.idaho.gov/media/494058-entire.pdf>. Other resources may also be used for selecting appropriate BMPs.
2. One of the first construction activities shall be placing permanent and/or temporary erosion and sediment control measures around the perimeter of the project or initial work areas to protect the project water resources.
3. Permanent erosion and sediment control measures shall be installed in a manner that will provide long-term sediment and erosion control to prevent excess sediment from entering waters of the state.
4. Permanent erosion and sediment control measures shall be installed at the earliest practicable time consistent with good construction practices and shall be maintained as necessary throughout project operation.
5. Top elevations of bank stabilization shall be such that adequate freeboard is provided to protect from erosion at 100-year design flood elevation.
6. Structural fill or bank protection shall consist of materials that are placed and maintained to withstand predictable high flows in the waters of the state.
7. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation.
8. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
9. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
10. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
11. Maximum fill slopes shall 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.
12. To the extent reasonable and cost-effective, the activity submitted for certification shall be designed to minimize subsequent maintenance.
13. Sediment from disturbed areas or able to 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.

## ***Turbidity***

1. 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.*
2. 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).
3. Containment measures such as silt curtains, geotextile fabrics, and silt fences must be implemented and properly maintained to minimize instream sediment suspension and resulting turbidity.
4. Turbidity monitoring must be conducted, recorded, and reported as described below. Monitoring must occur each day during project implementation when project activities may result in turbidity increases above background levels. *A properly and regularly calibrated turbidimeter is required.*

A sample must be taken every 3 hours at a relatively undisturbed area approximately 50 feet up-current from in-water disturbance or discharge to establish background turbidity levels for each monitoring event. Background turbidity, location, date, and time must be recorded prior to monitoring down-current.

Monitoring must occur every 3 hours approximately 50 feet down-current from the in-water disturbance or point of discharge and within any visible plume. The turbidity, location, date, and time must be recorded for each sample or observation.

Results from the compliance point sampling must be compared to the background levels sampled during each monitoring event. If the downstream turbidity exceeds upstream turbidity by 50 nephelometric turbidity units (NTU) or more, the project is causing an exceedance of the WQS. If an exceedance occurs, the permittee must inspect the condition of the projects BMPs. If the BMPs appear to be functioning to their fullest capability, then the applicant must modify the activity (this may include modifying existing BMPs).

Copies of daily logs for turbidity monitoring must be available to DEQ upon request. The log must include background measurements (in NTUs) or observations; compliance point measurements or observations; comparison of background and compliance point monitoring as a numeric value (in NTUs) or in narrative form; and location, time, and date for each sampling event. The report must describe all exceedances and subsequent actions taken and the effectiveness of the action including subsequent monitoring.

## ***Turbidity Monitoring and Compliance Requirements***

To ensure compliance with Idaho's WQS, required monitoring steps shall include the following:

1. Choose and identify the following locations for each crossing:

- a. Background location: A relatively undisturbed location unaffected by the construction activity, up-current from the permitted activity; and,
- b. Compliance location: A location downcurrent from the permitted activity, within any visible plume, at the distance that corresponds to the size of the waterbody where work is taking place as listed on the table below:

Wetted Stream Width	Compliance Distance
Up to 30 feet	50 feet
>30 feet to 100 feet	100 feet
>100 feet to 200 feet	200 feet
>200 feet	300 feet

2. Conduct Compliance Monitoring with a Turbidimeter
  - a. Measure turbidity at both background and compliance locations at the frequency directed in the tables below and record the date, time, location, and turbidity measurements in the daily log. The permittee must also record all controls and practices implemented at the start of the work.
  - b. Turbidity measurements must be representative of stream turbidity when the activity is being conducted. *Measurements cannot be taken during a cessation of activity.*
  - c. If the project causes turbidity levels to increase above 50 NTU over background, the permittee must implement additional controls and practices, resume work, and monitor both points again. A description of the additional controls and the date, time, and location where they are implemented must be recorded in the daily log.

**Compliance Monitoring With a Turbidimeter**

Allowable Exceedance in Turbidity	Action Required at 1st Monitoring Interval	Action Required at 2nd Monitoring Interval
0 to 24 NTU above background	Continue to monitor every 2 hours	Continue to monitor every 2 hours
25 to 49 NTU above background	Continue to monitor every 2 hours	STOP work after 8 hours/24-hour period
25 NTU above background for 10 or more consecutive days	STOP work and follow instructions in 2.c. above	
50 NTU or more above background (first occurrence)	STOP work and follow instructions in 2.c. above	
50 NTU or more above background (second occurrence)	STOP work and follow instructions in 2.c. above and notify DEQ Regional Office	

3. Reporting—Copies of daily logs for turbidity monitoring must be made available to DEQ and other local, state and federal regulatory agencies upon request. The log must include:
  - a. Background NTUs, compliance point NTUs, comparison of the points in NTUs, and location, time, and date for each reading.
  - b. A narrative discussing all exceedances, controls applied and their effectiveness, subsequent monitoring, work stoppages, and any other actions taken.

### ***In-water Work***

1. 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.
2. Construction affecting the bed or banks shall take place only during periods of low flow.
3. Fording of the channel is not permitted. Temporary bridges or other structures shall be built if crossings are necessary.
  - a. 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.
4. Heavy equipment working in wetlands shall be placed on mats or suitably designed pads to prevent damage to the wetlands.
5. Activities in spawning areas must be avoided to the maximum extent practicable.
6. Work in waters of the state shall be restricted to areas specified in the application.
7. Measures shall be taken to prevent wet concrete from entering into waters of the state when placed in forms and/or from truck washing.
8. Activities that include constructing and maintaining intake structures must include adequate fish screening devices to prevent fish entrainment or capture.
9. Stranded fish found in dewatered segments should be moved to a location (preferably downstream) with water.
10. To minimize sediment transport, stream channel or stream bank stabilization must be completed prior to returning water to a dewatered segment.

### ***Pollutants/Toxics***

1. 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.

### ***Vegetation Protection and Restoration***

1. Disturbance of existing wetlands and native vegetation shall be kept to a minimum.
2. To the maximum extent practical, staging areas and access points should be placed in open, upland areas.
3. Fencing and other barriers should be used to mark the construction areas.
4. Where possible, alternative equipment should be used (e.g., spider hoe or crane).
5. 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.

### ***Dredge Material Management***

1. Upland disposal of dredged material must be done in a manner that prevents the material from re-entering waters of the state.

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

1. 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.
2. Vegetable-based hydraulic fluid should be used on equipment operating in or directly adjacent to the channel if this fluid is available.
3. 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.
4. Equipment and machinery must be removed from the vicinity of the waters of the state prior to refueling, repair, and/or maintenance.
5. 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.
6. Emergency spill procedures shall be in place and may include a spill response kit (e.g., oil absorbent booms or other equipment).
7. 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
  - b. Make every reasonable effort to abate and stop a continuing spill.
  - c. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or ground waters of the state.
  - d. 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).
    - Twin Falls Regional Office: 208-736-2190 / 800-270-1663
  - e. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.

### ***Required Notification***

The permittee must notify Dr. Balthasar Buhidar at (208) 736-2190 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 Dr. Balthasar Buhidar, Twin Falls Regional Office, (208) 736-2190, or via email at [Balthasar.buhidar@deq.idaho.gov](mailto:Balthasar.buhidar@deq.idaho.gov).



David Anderson

Regional Administrator

Twin Falls Regional Office