



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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

C.L. "Butch" Otter, Governor
Curt Fransen, Director

June 20, 2014

Mr. William Walkup
Gem Shores Home Owners Association II
10807 East 48th Street
Spokane Valley, WA 99202

RE: Final §401 Water Quality Certification Gem Shores Home Owners, NWW-2007-1061-C09 Hayden Lake

Dear Mr. Walkup,

Enclosed is the final water quality certification for the Gem Shores boat access and beach restoration project. This certification was advertised for public comment for 30 days between May 20 and June 19, 2014. No comments were received and no substantive changes have been made to the final certification. If you have any questions or concerns, please contact June Bergquist at 208.666.4605 or via email at june.bergquist@deq.idaho.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Daniel Redline".

Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office

Enclosure

c: Mike Burgan, Corps of Engineers – Coeur d'Alene Field Office
Miranda Adams, DEQ State Office



Idaho Department of Environmental Quality Final §401 Water Quality Certification

June 20, 2014

404 Permit Application Number: NWW-2007-1061-C09, Gem Shores Home Owners

Applicant/Authorized Agent: Jeramey Gilbreath, Specialty Construction, Inc.

Project Location: T51N, R3W, Section 10; Located on Hayden Lake between Skinner Bay and Mokins Bay

Receiving Water Body: Hayden Lake

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 April 17, 2014, 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

Gem Shores Home Owners Association II would like to restore boating access between a cove and Hayden Lake, restore a sandy beach that has been lost through erosion, stabilize the shoreline of the newly restored beach and stabilize the western edge of the channel excavated to restore boat access to the cove. Work includes the excavation of 1,350 cubic yards of sandy material and discharge of 355 cubic yards of excavated sandy material and 310 cubic yards of angular riprap into Hayden Lake. The balance of the dredged material will be disposed of on an upland site. The dredging portion of the work was accomplished during the winter of 2013/2014 (did not require a Corps permit) and the balance will be finished during low pool of winter 2014/2015.

Antidegradation Review

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

- Tier 1 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 1 review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).
- Tier 2 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 3 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 1 protection for that use, unless specific circumstances warranting Tier 2 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 and phosphorus. 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 Hayden Lake within the Upper Spokane Subbasin assessment unit (AU) ID17010305PN005L_0L (Hayden Lake). This AU has the following designated beneficial uses: cold water aquatic life, salmonid spawning, 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). There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated.

The cold water aquatic life use in this Hayden Lake AU is not fully supported due to excess phosphorus (2010 Integrated Report). The primary contact recreation beneficial use is not assessed; however, DEQ sampling in Hayden Lake in 1997 showed less than detection limits for both *E. coli* and fecal coliform bacteria at various locations. As such, DEQ will provide Tier 1

protection only for the aquatic life use and Tier 2 protection, in addition to Tier 1, for the recreation beneficial use (IDAPA 58.01.02.051.02; 58.01.02.051.01).

Protection and Maintenance of Existing Uses (Tier 1 Protection)

As noted above, a Tier 1 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 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. Hayden Lake has a TMDL for total phosphorus.

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 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. These criteria are set at levels that protect and maintain designated and existing beneficial uses. In addition, the project will be consistent with the *Sub-Basin Assessment and Total Maximum Daily Loads of Lakes and Streams Located on or Draining to the Rathdrum Prairie (17010305)*. Project work will be done in the dry to prevent turbidity from entering Hayden Lake. In this way, phosphorus attached to sediment particles will not be dissolved in the water column.

There is no available information indicating the presence of any existing beneficial uses aside from those that are already designated and discussed above; therefore, the permit ensures that the level of water quality necessary to protect both designated and existing uses is maintained and protected in compliance with the Tier 1 provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

High-Quality Waters (Tier 2 Protection)

The Hayden Lake is considered high quality for primary contact recreation. As such, the water quality relevant to primary contact recreation uses of the Hayden Lake 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 primary contact recreation uses of the Hayden Lake (IDAPA 58.01.02.052.06). These pollutants include the following: sediment and phosphorus. Sediment is not relevant to recreational uses, but phosphorus is relevant. The inclusion of certification conditions to reduce turbidity in Hayden Lake should be sufficient in minimizing phosphorus contributions to the water body. Therefore, this project will not result in a lowering of water quality with respect to any pollutant relevant to the Tier 2 protection for this

water body. As such, the project complies with IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06.

Permanent erosion and sediment controls must be implemented, which will minimize or prevent future sediment contributions from the project area. Although this project may result in minimal short-term sediment impacts to the water body, DEQ does not expect long-term impacts or degradation to the Upper Spokane AU or Hayden Lake. Therefore, DEQ concludes that this project complies with the Tier 2 provisions of Idaho's WQS (IDAPA 58.01.02.051.02 and IDAPA 58.01.02.052.06).

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

9. Fill material shall be free of organic and easily suspended fine material. The fill material to be placed shall include dredged sand and stone only.
10. All temporary fills shall be removed in their entirety on or before construction completion.
11. 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.

Erosion and Sediment Control

12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation.
18. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
19. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
20. Disturbed areas suitable for vegetation shall be seeded or revegetated to prevent subsequent soil erosion.
21. To the extent reasonable and cost-effective, the activity submitted for certification shall be designed to minimize subsequent maintenance.

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 at (208)666-4605 (voice mail is acceptable).

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. Due to the proximity of a public drinking water intake to the construction activity, immediately report to DEQ if a turbidity plume persists if efforts described above fail. This situation must be reported to the DEQ regional office immediately at (208)666-4605 and to the drinking water system Hayden Haven/Gem Shores immediately at (208)661-9182.
4. Containment measures such as silt curtains, geotextile fabrics, and silt fences must be implemented and properly maintained to minimize in-lake sediment suspension and resulting turbidity.

In-water Work

5. Construction shall take place only during periods of low flow.
6. Work in waters of the state shall be restricted to areas specified in the application.
7. Stranded fish found in dewatered segments within the construction zone should be moved to the lake.

Vegetation Protection and Restoration

8. To the maximum extent practical, staging areas and access points should be placed in open non-vegetated areas.
9. Fencing or flagging should be used to mark the access areas.
10. 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

11. 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.
 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 prior to use below the ordinary high water mark of Hayden Lake. Any wastewater or wash water must not be allowed to enter a water of the state.
 6. Emergency spill instructions and equipment 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
 - 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. Immediately notify DEQ of the spill by calling the Idaho State Communications Center at 1-800-632-8000.
 - d. Collect, remove, and dispose of the spilled material in a manner approved by DEQ.
 8. Any release that causes a sheen (of any size) in waters of the state must be reported *immediately* to the National Response Center at 1-800-424-8802 and DEQ by calling the Idaho State Communications Center at 1-800-632-8000.

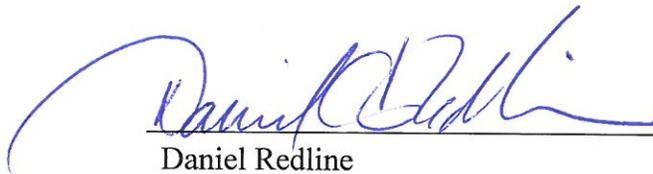
Required Notification

The permittee must notify the appropriate DEQ Regional Office when authorized work begins. Notification can be made by calling (208) 666-4605 and leaving a voice mail message.

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 June Bergquist, Coeur d'Alene Regional Office at 208.666.4605 or via email at june.bergquist@deq.idaho.gov .



Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office