



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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C.L. "Butch" Otter, Governor
Toni Hardesty, Director

April 23, 2015

Mike Miller
Yellowstone Pipe Line Company
2626 Lillian Ave
Billings, MT 59101

RE: Final §401 Water Quality Certification Yellowstone Pipe Line Company 4th of
July Creek Crossing; NWW-2015-086-C09

Dear Mr. Miller,

Enclosed is the final water quality certification for the above referenced Yellowstone Pipe Line Company project. The draft certification was advertised for public comment for 21 days between March 30 and April 20, 2015. 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,


Daniel Redline
Regional Administrator
Coeur d'Alene Regional Office

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



Idaho Department of Environmental Quality Final §401 Water Quality Certification

April 23, 2015

404 Permit Application Number: NWW-2015-086-C09

Applicant/Authorized Agent: Yellowstone Pipeline Company, Dan Nebel P.G.,
Terracon Consultants, Inc.

Project Location: T49N, R1W, Section 8; Located just east of the 4th of July Pass next to Interstate 90.

Receiving Water Body: 4th of July Creek

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended; 33 U.S.C. Section 1341(a)(1); and Idaho Code §§ 39-101 et seq. and 39-3601 et seq., the Idaho Department of Environmental Quality (DEQ) has authority to review activities receiving Section 404 dredge and fill permits and issue water quality certification decisions.

Based upon a review of the joint application for permit, received on February 27, 2015, 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

Just east of the 4th of July Pass along Interstate 90 (I-90) there is a pipeline corridor that crosses under the freeway and then under 4th of July Creek. This corridor contains the Williams Northwest Pipeline, a 6 5/8" natural gas pipeline, and the Yellowstone Pipeline Company's (YPL) 10" refined petroleum product pipeline. This project involves only the YPL pipeline located on USFS and I-90 right-of-way land. YPL will replace, by horizontal directional drill, 523 feet of their pipeline located on either side and underneath I-90. This replacement is necessary due to the detection of an anomaly in the pipe located under I-90. The timing of this repair must occur in mid-August due to the requirements of the U.S. Pipeline and Hazardous Materials Safety Administration. In addition to the anomaly, YPL detected that the pipeline has only shallow cover over the pipe at the 4th of July Creek crossing located a short distance from the freeway. So in addition to the directional drill, and the subject of this certification, YPL proposes to replace 139 feet of pipeline on the right hand side of the eastbound lane of the

freeway using an open cut method. The open cut portion includes the section of the pipe that travels under 4th of July Creek. The directional bore that will go under I-90 could not be extended to include the stream crossing due to topographic features. Work will be done during the low flow period (per this certification) lasting less than 2 days. Water in the stream will be diverted using a temporary flume to keep the water out of the worksite. After replacement and testing, 90 feet of the old pipe in the vicinity of the crossing will be removed. Topsoil will be piled separately; stream banks will be planted with willows and stabilized with 1 to 2 foot diameter boulders.

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 pollutants of concern for this project are sediment and temperature. 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 provisions of the temperature total maximum daily load for 4th of July Creek.

Receiving Water Body Level of Protection

This project is located on 4th of July Creek within the Coeur d'Alene Lake Subbasin assessment unit (AU) ID17010303PN020_03 (4th of July Creek source to mouth). This AU has not yet been

designated. Because DEQ presumes most waters in the state will support cold water aquatic life and primary or secondary contact recreation beneficial uses, undesignated waters are protected for these uses (IDAPA 58.01.02.101.01.a). 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 2010 Integrated Report, this AU is not fully supporting one or more of its assessed uses. The aquatic life and salmonid spawning uses are not fully supported. Causes of impairment include physical substrate habitat alterations and temperature. The contact recreation beneficial use is unassessed. However, the only pollutants of concern associated with this project are sediment and temperature. Neither of these pollutants is relevant to recreational uses; therefore, it is unnecessary for DEQ to determine the support status of recreational uses because this project will not create impacts that could affect recreation uses.

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. 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). There is a temperature TMDL for this stream which calls for an increase in shade over the stream channel.

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 *Coeur d'Alene Lake Tributaries Temperature TMDL*. Although the project will impact up to 74 feet of stream bank, YPL proposes to stabilize the bank and replant with willow. The certification conditions will ensure that the density and extent of woody riparian vegetation is an increase from existing conditions and therefore will meet the TMDL requirements.

Salmonid spawning is an existing use that is impaired. To protect this use, the work will be done in mid-August which will avoid the cutthroat trout spawning period and is also subsequent to the time when cutthroat trout fry emerge from streambed gravels. The stream will be flumed so as to not dry up portions of the channel other than just the work site. Turbidity monitoring will ensure

that if water quality standards are exceeded for turbidity, additional best management practices will be implemented to meet the standards and protect salmonid species in downstream waters. Given these provisions, 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).

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>.

Site Materials

1. Excavated, dredged, or staged fill material must be placed so it is isolated from the water's edge and wetlands and not placed where it could re-enter waters of the state.

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. 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.
6. A BMP inspection and maintenance plan must be developed and implemented. At a minimum, BMPs must be inspected and maintained daily during project implementation.
7. BMP effectiveness shall be monitored during project implementation. BMPs shall be replaced or augmented if they are not effective.
8. All construction debris shall be properly disposed of so it cannot enter waters of the state or cause water quality degradation.
9. Disturbed areas suitable for vegetation shall be seeded or re-vegetated to prevent subsequent soil erosion.
10. 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.
11. 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 and In-Water Work

1. Work shall be conducted during the lowest flow period for 4th of July Creek.
2. 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).
3. All practical BMPs on disturbed banks and within the waters of the state must be implemented to minimize turbidity. Containment measures and diversions must be implemented and properly maintained to minimize instream sediment suspension and resulting turbidity.

4. Hourly visual observation of downstream waters 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 begin quantitative turbidity monitoring. If the turbidity standard is exceeded, inspection of the conditions of projects BMPs must be done. 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) sufficient to meet the turbidity standard.
5. Visual observation and quantitative monitoring (when required) must occur each day of project implementation.
6. A properly and regularly calibrated turbidimeter is required for quantitative monitoring.
7. If a continuing plume is observed which meets WQS, quantitative monitoring shall occur every two hours until the plume is no longer visible. If turbidity standards were not met after initially observing a plume, quantitative monitoring must be done once after BMPs have been modified and work resumed, verifying that the modifications were adequate.

Monitoring for compliance must occur approximately 50 feet downstream 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.

Background turbidity levels must be sampled during each monitoring event. The location for these samples must be above any disturbance caused by this project. If the downstream turbidity exceeds upstream turbidity by 50 nephelometric turbidity units (NTU) or more, the project is causing an exceedance of the WQS.

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.

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 if it will minimize impact to the project site (e.g., spider hoe or crane).
5. If authorized work results in unavoidable woody vegetation disturbance within the riparian zone, woody vegetation shall be successfully reestablished to function for water quality benefit (stream shading) at levels that exceed those of pre-project levels at the completion of authorized work. Photo documentation of before and after conditions is required to verify compliance with the temperature TMDL.

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:
 - 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. In accordance with IDAPA 58.01.02.851.04, any aboveground spill or overflow of petroleum that results in a release that exceeds 25 gallons *or that causes a sheen on a nearby surface water* shall be reported to DEQ within 24 hours and corrective action in accordance with IDAPA 58.01.02.852 shall be taken.
9. In accordance with IDAPA 58.01.02.851.04, any aboveground spill or overflow of petroleum that results in a release less than 25 gallons *and does not cause a sheen on nearby surface water* shall be reported to DEQ by calling the Idaho State Communications Center at 1-800-632-8000 if cleanup cannot be accomplished within 24 hours.

Required Notification

The permittee must notify the Coeur d'Alene Regional Office when authorized work begins by calling (208) 666-4605 (leaving a voice mail is acceptable).

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