



Idaho Department of Environmental Quality
DRAFT §401 Water Quality Certification

January 21, 2010

NPDES Permit Number: City of Fruitland Wastewater Treatment Plant, **ID-002033-8**

Pursuant to the provisions of Section 401(a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended, 33 USC 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 National Pollutant Discharge Elimination System (NPDES) permits and issue water quality certification decisions.

Based upon its review of the above-referenced permit and associated Fact Sheet, 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 discharge will comply with the applicable requirements of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, including 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.

MIXING ZONES

Pursuant to IDAPA 58.01.02.060, DEQ authorizes a mixing zone that utilizes up to 25% of the critical flow volumes of the Snake River for chlorine and ammonia.

ANTIDegradation

Idaho WQS provide that existing uses and the water quality necessary to protect the existing uses shall be maintained and protected (IDAPA 58.01.02.051.01). In addition, where water quality exceeds levels necessary to support uses, that quality shall be maintained and protected unless the Department finds, after intergovernmental coordination and public participation, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located (IDAPA 58.01.02.051.02).

The City of Fruitland discharges its treated wastewater to the Snake River (assessment unit ID17050115SW001_08), which is listed in Section 4.a. (EPA Approved TMDLs) in Idaho for sediment, phosphorus, dissolved oxygen, and temperature. The *SNAKE RIVER – HELLS CANYON TMDL* (2004) addresses each of these pollutants and has been approved by EPA. The allocations in the TMDL are set at levels that will achieve compliance with criteria for the listed pollutants.

The effluent limitations in the draft permit for the City of Fruitland are set at levels that ensure the State's numeric and narrative criteria will be met. The numeric and narrative criteria are set at levels which protect and maintain designated and existing beneficial uses. Therefore, in accordance with IDAPA 58.01.02.051.01, the limits in the draft permit protect and maintain designated and existing beneficial uses in the Snake River.

Additionally, the effluent limitations in the draft permit for the City of Fruitland are the same or more stringent than the limits in the existing permit. The limits for phosphorus and temperature are new and are consistent with the *Snake River – Hells Canyon TMDL*. Limitations for pH are new and comply with Idaho WQS at the end-of-pipe. The TSS limitations are more stringent than the previous permit and are consistent with the *Snake River – Hells Canyon TMDL*. In order to reflect a change to the WQS, the permit changes the bacteria limits from fecal coliform to *E. coli* limits. The *E. coli* limits, however, are as or more protective of water quality than the old fecal coliform limits. In 1986 EPA updated its criteria to protect recreational use of water recommending an *E. coli* criterion as a better indicator of bacteria levels that may cause gastro-intestinal distress in swimmers than fecal coliform. DEQ subsequently changed its bacteria criterion from fecal coliform to *E. coli*. The limits in the draft permit, therefore, ensure that the existing level of water quality in the Snake River is maintained and the analysis necessary to lower water quality set forth in IDAPA 58.01.02.051.02 is not triggered.

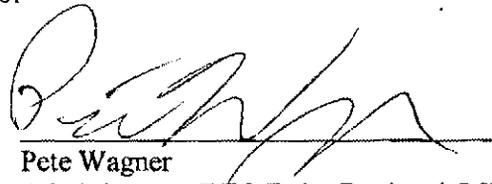
OTHER CONDITIONS

The certification is conditioned upon the requirement that any material modification of this permit or the permitted activities including without limitation, any modifications of the permit to reflect new or modified TMDL waste load allocations or other new information, shall first be provided to DEQ for review to determine compliance with WQS and to provide additional certification pursuant to section 401.

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 regarding the actions taken in this certification should be directed to Craig Shepard, DEQ (Boise Regional Office) at (208) 373-0550.



Pete Wagner
Administrator, DEQ Boise Regional Office