



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706 • (208) 373-0550
www.deq.idaho.gov

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

July 7, 2014

Mr. Michael J. Lidgard
NPDES Permits Unit Manager
EPA Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

Subject: DRAFT 401 Water Quality Certification for the City of Payette WWTP,
ID-0020672

Dear Mr. Lidgard:

The Boise Regional Office of the Department of Environmental Quality (DEQ) has reviewed the above-referenced permit for the City of Payette. Section 401 of the Clean Water Act requires that states issue certifications for activities which are authorized by a federal permit and which may result in the discharge to surface waters. In Idaho, DEQ is responsible for reviewing these activities and evaluating whether the activity will comply with Idaho's Water Quality Standards, including any applicable water quality management plans (e.g., total maximum daily loads). A federal discharge permit cannot be issued until DEQ has provided certification or waived certification either expressively, or by taking no action.

This letter is to inform you that DEQ is issuing the attached draft 401 certification subject to the terms and conditions contained therein. Please contact me directly at (208) 373-0277 to discuss any questions or concerns regarding the content of this certification.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Wagner", is written over a light blue horizontal line.

Pete Wagner
Regional Administrator
Boise Regional Office

c: Susan Poulosom, EPA Region 10
Miranda Adams, DEQ State Office



Idaho Department of Environmental Quality Draft §401 Water Quality Certification

July 7, 2014

NPDES Permit Number(s): ID0020672 City of Payette Wastewater Treatment Plant

Receiving Water Body: Payette 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 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, 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.

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 City of Payette Wastewater Treatment Plant discharges the following pollutants of concern: BOD₅, TSS, *E. coli*, total residual chlorine (chlorine), pH, temperature, and ammonia. Effluent limits have been developed for BOD₅, TSS, *E. coli*, chlorine, and pH. Effluent and receiving water monitoring are required, but no effluent limits are proposed for temperature or ammonia.

Receiving Water Body Level of Protection

The City of Payette Wastewater Treatment Plant discharges to the Payette River within the Payette Subbasin assessment unit (AU) ID17050122SW001_06 (Payette River – Black Canyon Reservoir Dam to mouth). 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).

The cold water aquatic life use in the Payette River AU is not fully supported due to excess temperature (2010 Integrated Report). In addition to exceedances in temperature monitoring data, the biological and habitat data for the AU does not indicate a healthy cold water community. The primary contact recreation beneficial use is not fully supported due to excess *E. coli* (2010 Integrated Report). As such, DEQ will provide Tier 1 protection only for the aquatic life and recreation beneficial uses (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. In order to protect and maintain designated and existing beneficial uses, a permitted discharge must comply with narrative and numeric criteria of the Idaho WQS, as well as other provisions of the WQS such as Section 055, which addresses water quality limited waters. The numeric and narrative criteria in the WQS are set at levels that ensure protection of designated beneficial uses. The effluent limitations and associated requirements contained in the City of Payette Wastewater Treatment Plant permit are set at levels that ensure compliance with the narrative and numeric criteria in the WQS.

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. A central purpose of TMDLs is to establish wasteload allocations for point source discharges, which are set at levels designed to help restore the water body to a condition

that supports existing and designated beneficial uses. Discharge permits must contain limitations that are consistent with wasteload allocations in the approved TMDL.

In the absence of a TMDL and depending upon the priority status for development of a TMDL, the WQS stipulate that either there be no further impairment of the designated or existing beneficial uses or that the total load of the impairing pollutant remains constant or decreases (IDAPA 58.01.02.055.04 and 58.01.02.055.05). Discharge permits must comply with these provisions of Idaho WQS. The Payette Subbasin is a high priority watershed for temperature TMDL development. This discharge has been previously permitted at the current design flow so there is no increase in thermal load to the water body. While the receiving water is impaired for temperature, the sources of the impairment are flow and habitat modification not related to point source dischargers. Additionally, the critical time period for salmonid spawning is in the spring timeframe when temperatures are not likely to be elevated. The draft permit includes continuous temperature monitoring requirements for the effluent and receiving water.

The EPA-approved *Lower Payette River TMDL* (1999) establishes wasteload allocation for fecal coliform and the *Lower Payette TMDL Implementation Plan and Addendum* (2003) establishes wasteload allocations for *E. coli* and explains the adoption of an *E. coli* bacteria water quality standard to replace the fecal coliform standard. These wasteload allocations are designed to ensure the Payette River will achieve the water quality necessary to support its existing and designated aquatic life beneficial uses and comply with the applicable numeric and narrative criteria. The effluent limitations and associated requirements contained in the City of Payette Wastewater Treatment Plant permit are set at levels that comply with these wasteload allocations.

In sum, the effluent limitations and associated requirements contained in the City of Payette Wastewater Treatment Plant permit are set at levels that ensure compliance with the narrative and numeric criteria in the WQS and the wasteload allocations established in the *Lower Payette River TMDL and Addendum*. Therefore, DEQ has determined the permit will protect and maintain existing and designated beneficial uses in the Payette River in compliance with the Tier 1 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

Mixing Zones

Pursuant to IDAPA 58.01.02.060, DEQ authorizes a mixing zone that utilizes 25% of the critical flow volumes of Payette River for total residual chlorine.

Other Conditions

This certification is conditioned upon the requirement that any material modification of the permit or the permitted activities—including without limitation, any modifications of the permit to reflect new or modified TMDLs, wasteload allocations, site-specific criteria, variances, or

other new information—shall first be provided to DEQ for review to determine compliance with Idaho 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 or comments regarding the actions taken in this certification should be directed to Lauri Monnot at the Boise Regional Office, (208) 373-0461 or Lauri.Monnot@deq.idaho.gov.

DRAFT

Pete Wagner
Regional Administrator
Boise Regional Office