



Fact Sheet

NPDES Permit Number: IDS028053
Public Comment Period Start Date: April 26, 2021
Public Comment Period Expiration Date: May 26, 2021
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**U.S. Environmental Protection Agency (EPA) Proposes to Modify
the National Pollutant Discharge Elimination System (NPDES) Permit
for Stormwater Discharges Issued to:**

**City of Pocatello, City of Chubbuck,
Bannock County, Idaho Transportation Department-District #5, and
Idaho State University**

EPA Region 10 proposes to modify the NPDES permit for discharges from the municipal separate storm sewer systems (MS4s) owned and/or operated by the entities listed above. These entities are referred to collectively in this document as “the Permittees.” The permit was reissued on June 11, 2019 and modified to incorporate the Permittees’ monitoring plans on December 15, 2020.

In this action, EPA proposes to modify Permit Part 4 to require implementation of the Permittees’ Pollutant Reduction Activities as submitted to EPA on March 19, 2021.

EPA will accept public comment only on the modified provisions described in this document.

This Fact Sheet includes:

- Information on public comment, public hearing, and appeal procedures, and
- A description and rationale for the modifications proposed.

State CWA Section 401 Certification

The Idaho Department of Environmental Quality (IDEQ) certified Permit #IDS028053 on May 20, 2019 pursuant to CWA Section 401; a copy of the final certification is included in the Administrative Record for this action. On March 25, 2021, IDEQ confirmed that it does not need to recertify the Permit that incorporates this modification.

Public Comment and Opportunity for Public Hearing

Because of the COVID-19 virus, access to the Region 10 EPA building is limited. Therefore, EPA requests that all comments on the proposed permit modification or requests for a public

hearing be submitted via email to Misha Vakoc (vakoc.misha@epa.gov). If you are unable to submit comments via email, please call 206-553-6650.

Persons wishing to comment on, or request a Public Hearing for, the proposed permit modification must do so in writing by the expiration date of the Public Comment period. A request for Public Hearing must state the specific NPDES permit, the nature of the issues to be raised as well as the requester's name, address and telephone number. All comments and requests for Public Hearings must be in writing and should be submitted to EPA as described in the Public Comments Section of the attached Public Notice.

After the comment period ends, and all comments have been considered, EPA's Regional Director for the Water Division will make a final decision regarding permit reissuance. If EPA receives no comments, the conditions in the proposed permit will become final, and the permit will become effective upon issuance. If comments are submitted, EPA will prepare an individual response to comments document and, if necessary, will make changes to the Permit. After making any necessary changes, EPA will issue the Permit with its response to comments document, unless issuance of a new draft Permit is warranted pursuant to 40 CFR § 122.14. The Permit modification will become effective no earlier than thirty (30) days after the issuance date, unless the Permit is appealed to the Environmental Appeals Board pursuant to 40 CFR § 124.19.

Documents Available for Review

The draft Permit, fact sheet and other information is available on EPA Region 10 website at: <https://www.epa.gov/npdes-permits/stormwater-discharges-municipal-sources-idaho-and-washington> OR <https://www.epa.gov/npdes-permits/idaho-npdes-permits>.

Because of COVID-19 response, there is no public access to the Region 10 EPA buildings at this time. Therefore, EPA cannot make hard copies available for viewing at our offices.

For technical questions regarding the Permits listed above or this Fact Sheet, contact Misha Vakoc at the phone number or E-mail listed above. Services for persons with disabilities are available by contacting Audrey Washington at (206) 553-0523.

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Acronyms

CFR	Code of Federal Regulations
CWA	Clean Water Act
CZARA	Coastal Zone Act Reauthorization Amendments
EFH	Essential Fish Habitat
ESA	Endangered Species Act
EPA	United States Environmental Protection Agency, Region 10
IDEQ	Idaho Department of Environmental Quality
MS4	Municipal Separate Storm Sewer System
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
PUA	Pocatello, ID Urbanized Area
QAPP	Quality Assurance Project Plan
US	United States
USC	United States Code
USFWS	U.S. Fish and Wildlife Service

1 Facility Information

The City of Pocatello, City of Chubbuck, Bannock County, Idaho Transportation Department - District #5, and Idaho State University each own and/or operate regulated small municipal separate storm sewer systems (MS4s) located in the Pocatello Urbanized Area (PUA).

These entities cooperate as co-permittees under NPDES Permit #IDS028053 and are referred to collectively in this document as “the Pocatello Urbanized Area (PUA) MS4s” and/or “the Permittees.”

EPA reissued the PUA MS4 Permit on June 10, 2019; the Permit subsequently became effective on October 1, 2019 and will expire on September 30, 2024. EPA modified the Permit to incorporate the Permittees’ monitoring plan on December 15, 2020. The Permit authorizes the PUA MS4 discharges to waters of the United States that include the Portneuf River and Pocatello Creek, and defines stormwater management control measures to reduce pollutants to the maximum extent practicable (MEP), protect water quality, and comply with other provisions of the Clean Water Act (CWA).

A map of the PUA MS4 Permit Area is provided in Appendix 3. Detailed description of the PUA MS4s, and other background information regarding the PUA MS4 Permit, can be found in EPA’s Fact Sheet, dated November 2018, and other materials in the Administrative Record for this modification.

2 Cause for Modification

PUA MS4 Permit Part 4 (*Special Conditions for Discharges to Impaired Waters*) requires the Permittees to submit a description of two (2) Pollutant Reduction Activities designed to reduce impairment pollutants from the MS4 to Portneuf River; this submittal must be made no later than October 1, 2021. Permit Part 2.6 identifies the required content of such submittal.

On March 19, 2021, the Permittees submitted the document entitled *Pocatello Urbanized Area Proposed Pollutant Reduction Activities, dated 3.16.2021*; this document is available for public review as part of this modification. The Permittees propose to conduct the following activities:

Project #1: *Pocatello Creek Stream Bank Restoration*

Project #2: *City Creek Road and Trail Management*

The submitted document is provided in Appendix 2 of this document.

The Permittees noted in their transmittal correspondence that, before submitting the documents to EPA, the Permittees shared the document with members of the Portneuf Watershed Partnership; the Partnership is comprised of stakeholder representatives from the Idaho Department of Environmental Quality (IDEQ), the Shoshone-Bannock Tribes, Idaho Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Forest Service, Bureau of Land Management, the Portneuf Resource Council, Natural Resource Conservation Service, the Portneuf Soil and Water Conservation District, and Idaho State University, among others. IDEQ submitted comments on the draft document, which the Permittees addressed and incorporated into the document describing final activities.

EPA reviewed the submitted materials and consulted with IDEQ in March 2021. Consistent with Permit Part 2.6.4, EPA determines that the Pocatello Urbanized Area: Pollutant Reduction Activities meet the requirements of the Permit. EPA is modifying the relevant Permit text to acknowledge and require the Permittees to conduct these activities during the Permit term. Below is a brief explanation for the modified text.

3 Modified Permit Provisions

3.1 Cover Page

EPA issued the Permit on June 11, 2019, with an effective date of October 1, 2019. The permit was modified on December 15, 2020, to incorporate the Permittees monitoring plans. The cover page has been revised to include a new effective date for any modified permit provisions relative to this action, of at least 30 days after the modified Permit's issuance date.

3.2 Permit Part 4 Special Conditions for Discharges to Impaired Waters

Permit Part 4.1 required the submittal of two Pollutant Reduction Activities no later than October 1, 2021.

As previously noted, the Permittees submitted their Pollutant Reduction Activities on March 19, 2021, see Appendix 2.

EPA proposes to revise Permit Part 4 to require the Permittees to implement the Pollutant Reduction Activities as submitted, delete the submittal requirements in Part 4.1.1, and clarify reporting expectations.

3.3 Other Editorial Changes

EPA proposes minor editorial changes to the Table of Contents and Permit Part 6.4.4 to acknowledge the identified pollutant reduction activities.

4 Other Legal Requirements

4.1 Environmental Justice

As part of the permit development process, EPA Region 10 conducted a screening analysis to determine whether this permit action could affect overburdened communities. "Overburdened" communities can include minority, low-income, tribal, and indigenous populations or communities that potentially experience disproportionate environmental harms and risks. EPA used a nationally consistent geospatial tool that contains demographic and environmental data for the United States at the Census block group level. This tool is used to identify permits for which enhanced outreach may be warranted.

Based on this screening, the PUA is identified as an area where potentially overburdened communities reside. To ensure that individuals in this area are able to participate meaningfully in the NPDES permit process, EPA will work to ensure that interested stakeholders in these areas, and throughout the state, are informed and able to provide their input on appropriate local stormwater management activities.

EPA encourages MS4 Permittees to review (and to consider adopting, where appropriate) *Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways To Engage Neighboring Communities* as described in the EPA document

available at <https://www.federalregister.gov/articles/2013/05/09/2013-10945/epa-activities-to-promote-environmental-justice-in-the-permit-application-process#p-104>.

For more information, see <https://www.epa.gov/environmentaljustice> and Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

4.2 Endangered Species Act

The Endangered Species Act (ESA) Section 7(a)(2) requires federal agencies to consult with the National Oceanic and Atmospheric Administration – National Marine Fisheries Service (NOAA Fisheries) and the U.S. Fish and Wildlife Service (USFWS) regarding potential effects an action may have on listed endangered species.

There are no listed endangered or threatened species under the jurisdiction of either NOAA Fisheries or USFWS within the Permit Area. Therefore, EPA has determined that modification of the PUA MS4 Permit will have *no effect* on any threatened or endangered species.

4.3 Essential Fish Habitat

Essential Fish Habitat (EFH) is the waters and substrate necessary for fish spawning, breeding, feeding, or growing to maturity. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with the NOAA-Fisheries if a proposed action has the potential to adversely affect (by reducing the quality and/or quantity of) EFH. EPA has determined that the modification of the PUA MS4 Permit does not affect any EFH species; therefore, consultation is not required for this action.

4.4 National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of federal undertakings on historic properties listed on, or eligible for listing on, the National Register of Historic Places. The term federal “undertaking” in NHPA regulations to include a project, activity, or program of a federal agency that can result on changes in the character or use of historic properties, if any historic properties are located in the area of potential effects for that project, activity or program. See 36 CFR § 802(o) and 36 CFR §802(e). Federal undertakings include EPA’s issuance of a NPDES permit.

EPA determined that the reduction of pollutants in runoff through compliance with a MS4 discharge permit will not result in the disturbance of any site listed or eligible for listing in the National Historic Register. Therefore, EPA believes that the actions associated with the Permit are also in compliance with the terms and conditions of the National Historic Preservation Act.

Pursuant to Permit Part 8.10, Permittees are reminded that they must comply with applicable state, Tribal and local laws, including those concerning protection of historic properties. If any permitted entity engages in any activity which meets all of the following criteria, then they must consult with and obtain approval from the State Historic Preservation Office prior to initiating the activity:

- The entity is conducting the activity in order to facilitate Permit compliance;
- The activity includes excavation and/or construction; and

- The activity disturbs previously undisturbed land.

Examples of actions may include construction of a retention/detention basin, storm drain line, or infiltration basin; dredging; and stabilization projects (e.g., retaining walls, gabions). The requirement to submit information on future earth disturbing does not include activities such as maintenance and private development construction projects.

4.5 National Environmental Policy Act and Other Federal Requirements

Regulations at 40 CFR §122.49, list federal laws that may apply to the issuance of permits i.e., ESA, NHPA, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of potential impacts, options to avoid or minimize impacts; and development and analysis of measures to mitigate adverse impacts.

EPA has not promulgated effluent limitation guidelines or new source performance standards specific to MS4 discharges. MS4 permits are not subject the NEPA.

Idaho is not located in the U.S. coastal zone, so CZARA does not apply to issuance of the Permit. In addition, the Permit will not authorize the construction of a water resources facility or the impoundment of any waterbody. No regulated small MS4s are located in designated Wild and Scenic River areas. Therefore, EPA determines that the Fish and Wildlife Coordination Act, 16 USC § 661 et seq., and Wild and Scenic Rivers Act, 16 USC § 470 et seq., do not apply to issuance of the Permit.

4.6 Permit Dates

The PUA MS4 Permit was reissued on June 11, 2019, and effective on October 1, 2019. The Permit's expiration date is September 30, 2024. EPA modified the Permit to incorporate the monitoring plan on December 15, 2020. EPA is not proposing to revise these dates. See Section 3.1.

4.7 State Certification of the Draft Permit Modification

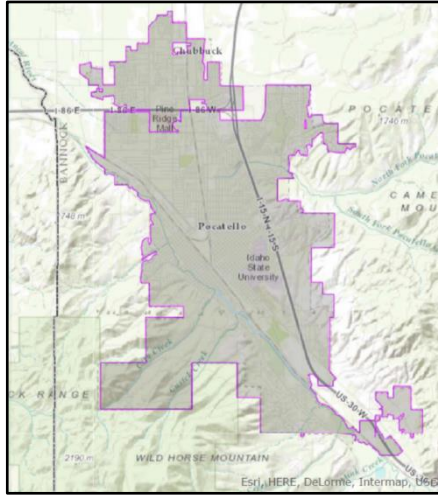
Section 401 of the CWA required EPA to seek State certification before issuing a final permit. As a result of the certification, the State may require more stringent permit conditions or additional monitoring requirements to ensure that the permit complies with water quality standards, or treatment standards established pursuant to any State law or regulation.

As previously noted, IDEQ certified the PUA MS4 Permit on May 20, 2019. On March 25, 2021, IDEQ confirmed that it does not need to recertify the PUA MS4 Permit that incorporates this pending modification.

APPENDIX 1 – PERMIT AREA MAPS: POCATELLO URBANIZED AREA



Figure 3.A: City Boundaries for the City of Pocatello and City of Chubbuck



Pocatello UA Maps	Census 2000	http://www2.census.gov/geo/maps/urbanarea/uaoutline/UA2000/ua70426/ua70426_01.pdf
	Census 2010	http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/ua70426_pocatello_id/

Figure 3.B: City and Year 2000 UA Boundaries for the Pocatello Urbanized Area

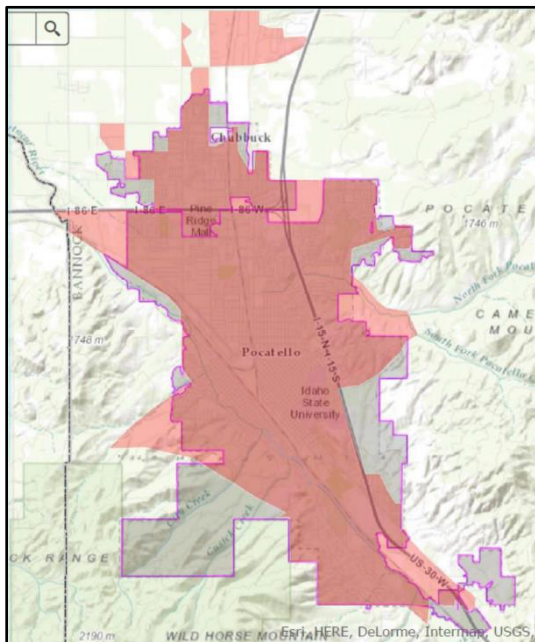
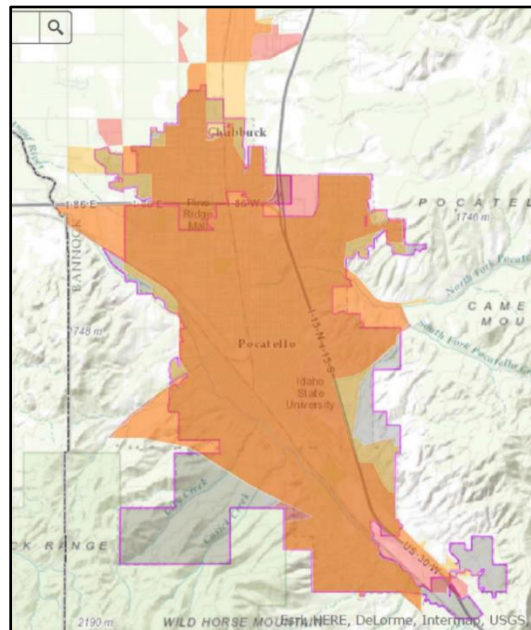


Figure 3.C: Combined City, Year 2000 UA, and Year 2010 UA Boundaries for the Pocatello Urbanized Area



**APPENDIX 2 – POCATELLO URBANIZED AREA: POLLUTANT
REDUCTION ACTIVITIES AS SUBMITTED MARCH 19, 2021**

Pocatello Urbanized Area: Pollutant Reduction Activities

Project #1: Pocatello Creek Stream Bank Restoration

Background on Site

Pocatello Creek is a tributary to the Portneuf River, which crosses Bannock County, ITD and City of Pocatello jurisdictions. About 4 miles of the stream lies within the MS4, and for almost half of that length the creek is piped underground. Pocatello Creek flows right next to or below a main road for the entirety of its path in the MS4.

Adjacent land use includes residential housing, a City park, a golf course driving range, small hobby farms, and busy arterial roads.

Over the years, significant streambank erosion has been documented along Pocatello Creek as a result of extensive channelization and adjacent land use practices. In one area, this erosion has clogged up most of a 6' diameter culvert, where the stream crosses under I-15. Both Pocatello Creek and the Portneuf River are impaired for sediment.

Extensive channelization of most of the streams within the PUA has resulted in a lack of stream visibility for much of the public. This proposed pollutant reduction activity seeks to bring attention to streambanks and address the pollution (sediment) that comes from eroding and neglected streambanks.



Severely eroded bank of Pocatello Creek.

As seen in the photo at right, this stream is very visible from an adjacent roadway, and as such provides an excellent opportunity for demonstrating riparian restoration in an urban setting in the Portneuf Valley.

The PUA permittees are conducting water quality monitoring along Pocatello Creek during the Permit term (see PUA Monitoring Plan and QAPP), which will allow the permittees to better assess the impact of the proposed pollutant reduction activities.

Proposed Project

We plan to implement at least one bank stabilization and riparian revegetation activity along Pocatello Creek using willows and other riparian shrubs.

Furthermore, we'd like to implement outreach activities with neighboring landowners and the general public to limit further channelization or use of the creek as a dumping site, and to encourage private landowners to partner with the City on future stream restoration projects within the MS4 to reduce sediment inputs and improve riparian habitat.

Tentative Project Schedule

- 2019 – Contract and execute revegetation and bank stabilization project along 300' of Pocatello Creek just below I-15. Remove sediment from culvert under I-15. Begin landowner outreach.
- 2020-2024 – Continue landowner outreach and schedule out additional restoration projects as funds and landowners permit. Evaluate project impact following permit monitoring plan.

Pocatello Urbanized Area: Pollutant Reduction Activities

Project #2: City Creek Road and Trail Management

Background on Site

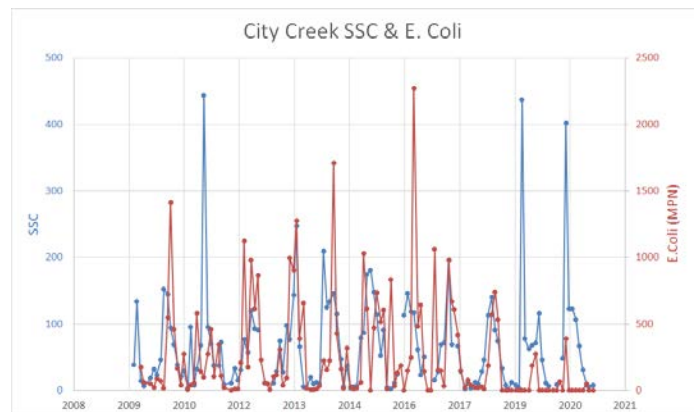
City Creek is a tributary to the Portneuf River in Pocatello, ID. About 95% of the creek lies within the MS4, with the headwaters originating just outside the boundaries of the MS4 on state and federal lands. This drainage has heavy recreation use, primarily from hikers and mountain bikers, with some ATV, motorcycle and full-size vehicle use. There is a single track mountain bike trail along one side of the creek for its entire length. A full-size vehicle road (Kinport/City Creek Rd) runs along the other side of the creek for 2.5 miles, with 3 more miles of road running uphill of the creek, but with all discharge flowing down the road or adjacent gullies into City Creek.



Example of erosion along City Creek Rd.

This road is the major source of sediment to City Creek as a result of a lack of maintenance, steep slopes and highly erodible soils. From 2009-2019, City Creek exceeded the suspended sediment concentration (SSC) total maximum daily load target 46% of the time. Additionally, sediment is known to provide improved habitat for E. coli and thus more sediment in streams increases survivorship of this bacteria, which also exceeds water quality standards during summer months.

Numerous authorized and ever growing numbers of un-authorized mountain bike trails are also contributing sediment to City Creek.



SSC and E coli levels measured at the mouth of City Creek from 2009-2020.

Proposed Project

In partnership with the USFS and State of Idaho, the City of Pocatello aims to regrade City Creek Rd to prevent water from channelizing and sending sediment-laden water directly into the creek. By decreasing sediment levels in the creek, we expect to see associated decreases in E. coli levels in City Creek as well. Reducing both of these constituents benefits City Creek, as well as the Portneuf River, which is impaired for both sediment and bacteria.

We aim to evaluate the impact of the adjacent mountain bike trail (and other mountain bike trails) on water quality and work on updating City Creek Management Plan to guide future O&M activities for this trail system to limit impacts to water quality.

Tentative Project Schedule

- 2020-2024 – Work with state and federal partners, as well as trail users, to update trail maps and O&M plan for the City Creek area. Evaluate and implement restoration projects as noted in the O&M plan.
- 2021-2023 – Contract and execute road work to reduce erosion into City Creek from recreational use of Kinport/City Creek Rd.
- 2021-2024 – Develop and implement monitoring plan to assess project effectiveness.