Response to Comments on

National Pollutant Discharge Elimination System (NPDES) Permit

For Discharges from the

Boise – Garden City Area Municipal Separate Storm Sewer Systems (MS4s)

NPDES Permit No. IDS027561

May 2021

U.S. Environmental Protection Agency, Region 10

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Introduction

On February 18, 2021, the U.S. Environmental Protection Agency Region 10 (EPA) proposed to reissue the National Pollutant Discharge Elimination System (NPDES) permit for discharges from the municipal separate storm sewer systems (MS4s) located in the corporate city boundaries of Boise and Garden City in Ada County, Idaho. Six co-permittees own and/or operate MS4s in this area: Ada County Highway District (ACHD), Boise State University (BSU), City of Boise, Garden City, Ada County Drainage District #3 (DD3) and the Idaho Transportation Department-District #3 (ITD3). These entities are collectively referred to in this document as "the Permittees," and Permit #IDS027561 as "the Permit."

EPA held a public comment period from February 18, 2021 to April 5, 2021. During this time EPA met with the Permittees on March 9, 2021, to answer clarifying questions regarding the draft Permit.

This document provides EPA responses to comments received during the comment period. Comments are broadly organized by topic in the order the issue appears in the Permit. Comments are generally reflected verbatim, while some have been summarized for brevity. Where indicated, EPA has made changes to the final Permit. The Administrative Record contains the comment letters received, as well as information considered by EPA during the permit development process.

State Certification under Clean Water Act §401

On March 29, 2021, the Idaho Department of Environmental Quality (IDEQ) provided EPA with a final Clean Water Act (CWA) Section 401 certification that includes conditions that must be included in the Permit pursuant to CWA Section 401(d), 33 U.S.C. § 1341(d). A copy of the final certification is provided in Appendix A of this document. Final certification conditions are included in the Permit. See Table 1.

Edits to the Final Permit

EPA has made minor editorial changes throughout the Permit text for clarity, consistency, and/or grammatical correction, and as identified in comments received. The Permit becomes effective on October 1, 2021.Alltypographical errors related to implementation due dates have been corrected where identified. Changes made in response to comments and IDEQ certification are identified in Table 1 below:

Table 1. Edits to Final Permit

<table>
<tr><th colspan="2">Edits Based on Public Comments Received:</th><th colspan="2">Edits Based on IDEQ Input:</th></tr>
<tr><td>Schedule</td><td>See Response #4</td><td rowspan="10">Part 2.5.9
Part 3.2.7.1
Part 4.1 (new)
Part 5.1
Appendix A.2</td><td rowspan="10">Conditions of IDEQ's Final §401 Water Quality Certification for the Boise-Garden City Area MS4s; NPDES Permit #IDS027561, dated March 29, 2021. See Appendix B of this document.</td></tr>
<tr><td>Part 2.5.2</td><td>See Response #5</td></tr>
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<tr><td>Par 6.2.1 & Appendix B</td><td>See Response #22</td></tr>
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Appendix A.2</td><td>See Responses #27 & 28</td></tr>
</table>

Response to Comments

The Boise-Garden City Area MS4 Permittees (Permittees) and Idaho Rivers United (IRU) submitted comments during the comment period.

General Topics

1. **(Permittees):** The Permittees appreciate the positive working relationship with the Agency in developing the draft Permit as well as the many years of cooperation, flexibility and support provided us as a group throughout implementation of our previous two Phase I Permits. Together we have developed solid stormwater programs to meet NPDES Permit and national stormwater program goals.

   Response: Comment noted.

2. **(IRU):** The Boise River is the centerpiece of the community and provides a multitude of benefits including drinking water, recreational opportunities, and fish and wildlife habitat. Stormwater carrying bacteria, nutrients, sediment, and other pollutants threatens water quality and quantity throughout the Boise River catchment area. Effective stormwater management is critically important, especially in quickly growing areas such as the Treasure Valley. Millions of dollars will be invested in upgrading and modernizing stormwater infrastructure to reduce pollutant loads as the Boise area continues to experience rapid population growth coupled with widespread development. Further implementing green stormwater infrastructure (GSI) and low-impact development (LID) measures across the Permit area represents an opportunity for the "Permittees" to closely align with the City of Boise's 100% clean energy goals and emerging climate action strategy. Requiring not only the education of the public, but also their involvement in stormwater issues and management opportunities should be a major component of the Permit.

   Response: Comment noted. Requirements for public education and public involvement activities are included in the final Permit. No change has been made to the Permit.

3. **(IRU):** IRU commends many aspects of this draft Permit as well as previously approved iterations of the Permit that have provided increased protection from stormwater pollutants discharged into the Boise River. The following comments touch on aspects of the draft Permit that could be improved or clarified to ensure the Boise River is protected to the maximum extent possible (MEP).

   Response: Comment noted**.**

4. **(Permittees): Regarding the Schedule, page 2,** which states: *1. Stormwater Management Program Document: Maintain updated SWMP Document(s) on at least one publicly accessible website – See Part 2.5.5 and Part 3.1.8 October 1, 2021*.

   This is a typo. Since proposed effective Permit date is October 1, 2021, updated SWMP document is intended to be October 1, 2022, not October 1, 2021.

   Response: EPA revised the Schedule to reflect the October 1, 2022 due date.

Limitations and Conditions (Permit Part 2)

5. **(Permittees): Regarding Permit Section 2.5.2 *Joint Responsibility and Joint Agreements:*** Request the term "Inter-Governmental Agreement" be added to the Permit language consistent with prior Permits.

Response: EPA agrees to revise Permit Part 2.5.2 to use the term "intergovernmental agreement," consistent with the prior permit. During the March 9, 2021 meeting with the Permittees, EPA was asked if the "written and enforceable agreement" (referenced in Part 2.5.2, as drafted), was equivalent to the existing intergovernmental agreement that the Permittees have operated under since the initial permit term in November 2000. At FS Section 2.3, page 15, EPA states that the Permittees' existing intergovernmental agreement is a written and enforceable agreement between the parties. To provide further clarity and as stated above, EPA is revising Permit Part 2.5.2 to use the term "intergovernmental agreement."

6. **(Permittees): Regarding Permit Section 2.5.9 *Best Management Practice (BMP) Selection*:** The Permittees recommend adding the [underlined] text to Permit Section 2.5.9 as indicated below.

> *When selecting best management practices the Permittees must consider and, if practicable, utilize practices identified in the Idaho Department of Environmental Quality's Catalog of Stormwater Best Management Practices for Idaho Cities and Counties or approved best management practices identified in local stormwater management design manuals or similar guidance documents.*

Response: EPA declines to revise the text as suggested. No change has been made to the Permit. Permit Part 2.5.9 is a condition of IDEQ's final Clean Water Act 401 certification for the permit and must be included in the final Permit pursuant to CWA Section 401(d). See Appendix B of this document. EPA clarifies that the Permittees may continue to use BMP manuals or guidance documents that they have approved for use within their respective jurisdictions.

Stormwater Management Program Control Measures (Permit Part 3)

7. **(Permittees): Regarding Permit Section 3.1.1 *Compliance Dates,*** the Permittees suggest replacing August 4, 2025 with April 3, 2026, consistent with the Permit Schedule, on Permit page 2.

> *…..No later than ~~August 4, 2025~~ April 3, 2026, the Permittee must fully implement all required components described in Parts 3.1.2 through 3.1.8 below*

Response: EPA has corrected the typographical error as suggested.

8. **(IRU): Regarding Permit Section 3.1.3 *Stormwater Education Activities*:** The requirement of distributing eight educational messages over a four-year term is insufficient. Public participation and education in stormwater management is crucial in ensuring its effectiveness and should be required to occur at least once per quarter over the duration of the Permit term.

Response: EPA agrees that regular and consistent public participation along with education is important to successful stormwater management. However, EPA declines to revise the text as suggested. As written, Permit Part 3.1.3 is a clear and specific control measure; it establishes a practicable endpoint for the Permittees and is comparable to requirements in all regulated MS4 permits in Idaho. No change has been made to the Permit.

9. **(IRU): Regarding Permit Section 3.1.4 *Target Audiences and Topics*:** Stormwater education activities should be required to reach each listed target audience (General Public; Business/Industrial/Commercial/Institutions; Construction/Development; Elected Officials, Land Use Policy and Planning Staff) rather than at least one.

Response: EPA agrees that each of these audiences have a role to play in successful stormwater management, however EPA declines to revise the text as suggested. As written, Permit Part 3.1.4 provides flexibility for Permittee(s) to focus their outreach and education efforts on audiences that need stormwater education in their community; this provision does not limit the

Permittees to only one audience (i.e., Permittees can choose multiple target audiences). As written, the provision is a clear and specific control measure, and is comparable to requirements in all regulated MS4 permits in Idaho. No change has been made to the Permit.

10. **(Permittees): Regarding Permit Section 3.1.5 *Assessment*** Suggest additional language (examples) to clarify what shall be acceptable methods for assessment activities to ensure both Permittee's and IDEQ have a consistent understanding.

    Response: EPA declines to revise the text as suggested; no change has been made to the Permit. See Response #11.

11. **(Permittees): Regarding Permit Section 3.1.5 *Assessment* (and related Permit Section 6.2.6):** Suggest adding the [underlined text below] to clarify that assessments required by Section 3.1.5 are excluded from Quality Assurance Requirements set forth in Section 6.2.6.

    > The Permittees must maintain a Quality Assurance Project Plan (QAPP) for any monitoring or quantitative assessment activities conducted in compliance with this Permit, *excluding quantitative assessment as required in Part 3.1.5, that intend to assess the understanding and/or efficacy of the relevant messages and adoption of appropriate behaviors by target audiences.*

    Response: EPA declines to revise the text as suggested; no change has been made to the Permit. EPA explained on page 18 of the FS " *…A vital, yet challenging, component of successful education programs is the assessment of whether the Permittees' efforts are achieving the goals of increasing public awareness and behavior change to improve water quality…..EPA recognizes and encourages the long-term nature of such assessment activities, and notes that there may be opportunities for Permittees to work together within the State, or with other organizations, on specific MS4 topics if they choose to do so.*"

    Quality assurance planning for outreach and education activities can be straightforward and do not need to be elaborate or time intensive. EPA expects the Permittees to "build-in" some manner of measuring the success or failure of selected outreach and education activity(ies). Assessment in this context means to identify whether the desired changes in targeted behaviors has occurred as a result of the education and outreach activity; this information provides valuable feedback that can be incorporated into future activities and subsequent permits.

    EPA affords the Permittees broad flexibility to assess the success of their selected outreach and educational activities in a meaningful and reasonable manner. EPA includes an example of pre-activity planning and post-activity reporting, from the City of Bothell, WA, related to Bothell's Dumpster Operations Evaluation. See Appendix A of this document. Additional resources and guidance related to education/outreach assessment and quality assurance planning that Permittees could utilize include:

    > Taylor, André & Wong, Tony. (2003). *Non-structural Stormwater Quality: Best Management Practices: Guidelines for Monitoring and Evaluation.* Available online at: https://www.researchgate.net/publication/228690174_Non-structural_Stormwater_Quality_Best_Management_Practices_Guidelines_for_Monitoring_and_Evaluation
    >
    > WA Department of Ecology. (2019). *Template Quality Assurance Project Plans*, as created for Effectiveness Studies required by the Eastern Washington Municipal Stormwater Permit. Specifically, see the *Template QAPP for Outreach and Education Activities,* as available online under "Supporting Documents" at:

https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Municipal-stormwater-general-permits/Eastern-Washington-Phase-II-Municipal-Stormwat-(1)

WA Department of Ecology also provides information from a prior workshop, entitled *Evaluating Environmental Education and Outreach Programs*, at: https://apps.ecology.wa.gov/publications/summarypages/0407017.html

EPA's *Getting in Step: Guide for Conducting Watershed Outreach Campaigns* contains information and recommendations about evaluating outreach and public education campaigns; see: https://cfpub.epa.gov/npstbx/getinstep.html.

EPA encourages the Permittees to continue working as watershed partners with other MS4 Permittees in Idaho to find common goals and participate in shared outreach and education activities that benefit the audiences in the Lower Boise River watershed.

12. **(IRU): Regarding Permit Section 3.1.7.2 *Outreach/Training on Permanent Stormwater Controls*:** A requirement of training local audiences on permanent stormwater management controls of once per year is insufficient and should occur at least once per quarter. Public involvement must go beyond just education to active involvement and readily available training.

    Response: EPA agrees that regular, consistent public engagement regarding installation and long-term operation and maintenance of stormwater controls is important. However, EPA declines to revise the text as suggested to maintain consistency with all other regulated MS4 permits in Idaho. As written, Permit Part 3.1.7.2 is a clear and specific control measure that establishes a practicable endpoint for the Permittees to accomplish. No change has been made to the Permit.

13. **(IRU): Regarding Public Involvement:** This Permit creates a strong framework of required public outreach but should be farther reaching in its goals. Public investment and knowledge of stormwater management is crucial to minimizing pollutants that Permittees have less authority over such as those coming from private land in the form of insecticides, herbicides, and fertilizers that can negatively impact water quality and aquatic ecosystems. Educating the public to recognize inadequate stormwater management infrastructure or illicit discharges is very time and cost effective for the Permittees and should be more thoroughly outlined in this Permit.

    Public outreach via GSI installations in a wide array of communities and environments, well-dispersed throughout the Permit area, would serve to give more equitable knowledge and access to stormwater management resources and benefits. Easily accessible GIS mapping resources would aid involving the public in identifying areas of need.

    Require a pilot program among the Permittees be established that allows and encourages public input, design, and leadership on at least one GSI or other permanent stormwater control installation at a neighborhood-level within the Permit area at a location designated as high priority by the Permittees.

    Response: EPA declines to include new education and outreach provisions in the Permit as suggested. No change has been made to the Permit.

    EPA appreciates the ideas presented and encourages IRU (and other local organizations) to work with the Permittees and their Partners for Clean Water organization to create opportunities for greater public awareness. However, EPA finds that the Permittees' continued efforts to engage the public on GSI are both reasonable and appropriate. EPA expects that similarly focused

actions will continue during the upcoming permit term. Examples of the Permittees' ongoing implementation and outreach activities include: the *Lower Boise Green Infrastructure* story map, available on the City of Boise's website, at: https://boise.maps.arcgis.com/apps/MapJournal/index.html?appid=051136d2476a42b88db86d683cde5ecd; and the ACHD *Green Stormwater Infrastructure* guidance document, (June 2014) at: http://achdidaho.org/Documents/Engineering/Stormwater/GSIstormwaterGuidanceManual.pdf

The Permittees also continue to engage audiences on appropriate design, operation and maintenance of new and existing stormwater infrastructure; informational examples include:

The City of Boise's *Stormwater Design Manual -Detailed information to help you design and maintain stormwater systems* (December 2019), at: https://www.partnersforcleanwater.org/media/1122/stormwaterdesignmanual12-2019.pdf

Stormwater Best Management Practices Guide for Homeowners Associations and Commercial Facilities, at: https://www.partnersforcleanwater.org/media/1159/bmp-guide-for-hoas_partners-final.pdf; and the

Ada County Highway District Stormwater Management Pond Revegetation Guidance Manual at: https://www.achdidaho.org/Documents/Engineering/Stormwater/ACHD_RevegationGuidanceManual_FINAL.pdf.

14. **(IRU): Regarding Permit Section 3.2.2 *MS4 Map Outfall and Inventory*:** IRU supports the creation of a GIS resource mapping MS4s and associated outfall locations. We recommend that the map be made publicly available and see opportunity for the timeline to be expedited several years forward. The presence of a completed digital GIS outfall map during this Permit term would serve as a useful tool for public education and help Permittees with the continued installation of GSI features in areas near outfalls that would allow them to be highly effective at storing, infiltrating, and [evapotranspirating] stormwater.

    Response: EPA declines to edit the Permit as suggested; no change has been made to the Permit. Each Permittee currently maintains their MS4 map in a GIS format, and makes representations of these MS4 maps publicly available through their MS4 Annual Reports, which are available through their associated website(s). These online resources are available and accessible to the public. EPA included representation of these maps in FS Appendix 3. It is not necessary to explicitly require the Permittees to make their MS4 map layers accessible through other online application; however, the Permittees may wish to consider whether other means of map accessibility is feasible. EPA notes that Cities of Caldwell and Nampa each currently provide public accessibility to their MS4 catch basin maps in two ways: through their an online mapping webpages (https://www.cityofcaldwell.org/departments/mapping and https://www.cityofnampa.us/185/Mapping, respectively), and through direct links provided on their individual stormwater website information pages.

15. **(IRU) Regarding Permit Section 3.2.2.4:** IRU supports the integration of Waterbody Assessment Units into outfall mapping.

    Response: Comment noted. No change has been made to the Permit.

16. **(IRU): Regarding Permit Section 3.4.2.3 *GSI Implementation***: A basic framework meant to guide Permittee strategy in regards to GSI implementation would be useful. While we understand that the Permittees asked for an open-ended section on GSI, only requiring continued implementation is not ambitious enough. A broad strategy that prioritizes more GSI pilot projects and installations in

heavily used public spaces as well as roadways is necessary. This would serve to functions: 1) place GSI projects like pervious sidewalks, curb cuts, and bioswales for example in high use areas where the public would be more likely to be involved, and 2) GSI would be most effective in areas along roads and in public spaces where a variety of pollutants are concentrated.

GSI installations should be required to be well distributed across the entire Permit area and in a diversity of built environments and neighborhoods to ensure that there is equitable access to not only knowledge of green stormwater infrastructure, but also the climate and pollutant regulating benefits that accompany GSI implementation.

GSI implementation should also include a publicly accessible GIS map similar to section 3.2.2 that displays GSI installations.

Require the installation of pilot projects dispersed throughout Permit area and public involvement at installations through educational resources and/or volunteer work. Mapping of priority areas would help ensure an adequate distribution of GSI installations that can bring benefits and knowledge of green infrastructure to a diversity of communities in the Permit area.

Response: EPA disagrees that additional provisions for the GSI implementation is necessary in the Permit. See Response #13. No change has been made to the Permit.

17. **(IRU): Regarding Riparian Zone Management and Outfall Disconnection:** More clarity is needed as to why Part II.B.2.c.iii of the last Permit, which required at least one project to disconnect an outfall via GSI, was requested to be deleted from this Permit by the Permittees. While Permittees plan to implement outfall disconnections via GSI methods, this permit should ensure that these types of projects are taking place.

    Response: EPA declines to revise this Permit as suggested by the commenter. The Permittees complied with this requirement during the prior permit term. In its 2017 Annual Report, ACHD provides important context that supports the discontinuation of the Riparian Zone Management and Outfall Disconnection requirement; the following quote is from the implementation status discussion found in Section 3.3.2 of the 2017 Annual Report:

    > *Riparian Management - ACHD's primary role in Ada County is for planning, designing, building and maintaining more than 4,866 lane miles of roadway and infrastructure. Acquisition of riparian areas for protection is not a part of this primary role, unless it is a project specific need.*
    >
    > *Outfall Disconnection - ACHD's policy for new projects is to retain stormwater on site. In areas with high groundwater or bedrock, GSI or detention may be the appropriate way to address stormwater runoff. In retrofit or infill situations, ACHD will in most situations retain the outfall, but disconnect the drainage area using GSI or other infiltration practice. Retaining outfalls provide outlet for 100-year event flows allowing for stormwater facilities to be sized for 95th percentile storm (0.6 inches) and provides an overflow outlet in case the onsite facility doesn't perform as designed or flows exceed a 100-year event. In the past, ACHD may have removed the outfall, but due to reasons previously cited, total outfall removal is not the practice of choice.*
    >
    > *One outfall disconnection was completed in the permit area over the last permit term (2013). Construction of the Whitewater Park Boulevard project included eliminating the Pleasanton Street outfall (3N2E05_026). Much of the runoff that was directed to this outfall, approximately 170 acres, is now directed to an infiltration/detention basin. Unfortunately, site conditions and other unknown factors are currently creating a situation where the facility is not working as designed. ACHD and Boise City staffs are working to modify the facility so that it functions properly.*

Over the last five years ACHD has focused on disconnecting alleys within the Boise downtown area from the MS4. To date, ACHD has installed five permeable paver alleys. Three alleys have been designed and will be installed in the summer of 2018, with an additional three alleys currently under design. … Design and construction of permeable alleys are included in ACHD's Integrated Five Year Work Plan through 2020.

ACHD's 2017 Annual Report also states that ACHD's permeable paver alleys have successfully disconnected more than six (6) acres of drainage area from discharging through the MS4. EPA believes that the practical considerations described above create sufficient justification for deleting the explicit requirement for outfall disconnection. Instead, EPA expects that Permittees to continue allowing for outfall disconnection, where feasible, as part of their GSI implementation over the next permit term. No change has been made to the Permit.

18. **(IRU): Regarding Permit Section 3.4.5.1 *Inspect High Priority Areas*:** IRU supports the designation of certain permanent stormwater controls as "high priority" and recommends that these designations and the reasons behind their selection be made publicly available.

    Response: No change has been made to the Permit. Such prioritization is readily available to the public from the Permittees. See, for example, the ACHD *Phase I Stormwater Management Plan* (December 2020), Section 5.2.7:

    "*ACHD staff performs multiple levels of inspection on permanent stormwater management controls, also referred to as Best Management Practices (BMPs), depending on whether the BMP is under construction or existing, whether the facility can be inspected from the surface or subsurface, and whether ACHD owns the facility. Details on new activities are available in ACHD's 2019-2020 Annual Report, Section 3.2.5 and 3.2.6.*"

19. **(IRU): Regarding Permit Section 3.4.6 *Operation and Maintenance (O&M) of Permanent Stormwater Controls***: IRU supports the creation of a GIS resource for O&M of stormwater controls and the integration of this with the MS4 map. The timeline for completion of this digitization process should be expedited several years forward, along with the MS4 map.

    Response: The prior Permit required the Permittees to integrate GIS capabilities into its O&M tracking, and the Permittees (lead by ACHD) currently have integrated tracking systems in place. See, for example, the ACHD *Phase I Stormwater Management Plan* (December 2020), Section 5.2.6. No change has been made to the Permit.

20. **(Permittees): Regarding additional text as new Permit Section 3.4.6.1** Suggest inserting new Section 3.4.6.1 that contains the following [underlined] text. If new text is inserted as requested, existing Section 3.4.6.1 would become section 3.4.6.2:

    O&M Inspections of High Priority Locations: At appropriate intervals determined by the Permittee, where parties other than the Permittee are responsible for the O&M of permanent stormwater controls, the Permittee must schedule and complete inspections to evaluate the ongoing operation and maintenance of such practices.

    Response: EPA agrees that permanent stormwater controls that are maintained by other entities are an important part of the Permittees' stormwater infrastructure to be inspected under Permit Part 3.4.6. The purpose of Part 3.4.6 is to ensure proper installation, and long-term operation and maintenance, of all permanent stormwater controls within each Permittee's jurisdiction. Such actions must occur at regular intervals. To clarify this expectation, EPA agrees to include text that aligns with the commenters' suggested language.

EPA has added the following text as new Part 3.4.6.2:

> ***O&M Inspections of High Priority Locations:*** *Where parties other than the Permittee are responsible for the O&M of permanent stormwater controls, the Permittee must schedule and complete inspections to evaluate the ongoing operation and maintenance of such practices. The Permittee may determine the regular intervals for conducting such inspections to ensure the effective long-term operation and maintenance of such controls.*

Required Response to Excursions Above Idaho Water Quality Standards (Permit Part 5)

21. **(Permittees): Regarding Permit Section 5.4 Implementation**, the draft text states: *The Permittee must begin implementation of any additional BMPs pursuant to the schedule approved by IDEQ immediately upon receipt of EPA's written notification of approval.* Does the requirement for EPA's written approval of the additional BMP implementation schedule (as part of an adaptive management response) end when IDEQ officially takes over the stormwater program?

    Response: Yes. After June 30, 2021, IDEQ will be the permitting authority and, as such, will be responsible for providing written approval.

Monitoring, Recordkeeping and Reporting (Permit Part 6)

22. **(Permittees): Regarding Permit Section 6.2.1 Wet Weather Stormwater Outfall Monitoring**: This text states: *The Permittees must continue to conduct wet weather stormwater outfall monitoring according to the Storm Water Outfall Monitoring Plan dated October 23, 2014.*

    There are minor updates needed to the Storm Water Outfall Monitoring Plan dated October 23, 2014. These include the removal of the Stilson site (documented in alternative monitoring approach submitted to EPA with Permit Reapplication), removal of 2 rain gauge sites, relocating the Whitewater sampling station across the street from its previous location, updated equipment information, and modifying grab sample acceptance criteria. If these updates are considered significant changes, we request one Storm Water Monitoring Plan update that could be submitted as part of the first Annual Report, January 30, 2023. No updates are being requested for the Americana Subwatershed Monitoring Plan, December 28, 2020.

    Response: EPA agrees, and has added the following sentence to Permit Part 6.2.1 to require submittal of an updated monitoring plan: *The Permittees must submit an updated Stormwater Outfall Monitoring Plan as part of the Year 1 Annual Report as required by Part 6.4.2.* EPA has also revised Permit Appendix B – Annual Report Format to prompt the Permittees to include the updated Monitoring Plan with the Year 1 Annual Report.

23. **(Permittees): Regarding Permit Table 6.2., entitled *Minimum Levels*:** Suggest revising title "Minimum Levels" with "Required Levels of Sensitivity". Dissolved oxygen and temperature are field parameters and technically do not have MLs because calibration curves are not run for these parameters, nor does one determine (MDLs) for these parameters. The Idaho Department of Environmental Quality's (IDEQ) IPDES User's guide recognizes that these parameters cannot have MLs.

    Response: The text in Table 6.2 follows EPA's NPDES permit template. No change has been made to the Permit.

24. **(Permittees): Regarding Permit Section 9, Definitions**: Suggest revising the following definition: *Method Detection Limit (MDL) means the minimum concentration of a substance (analyte) that can be measured and reported with 99 percent confidence that the analyte concentration is greater than ~~zero~~ a blank and is determined from analysis of a sample in a given matrix containing the analyte.* Suggest striking "minimum" and replacing "zero" with "a blank" for MDL definition accuracy.

    Response: The definition of method detection limit in Permit Part 9 follows EPA's NPDES permit template. No change has been made to the Permit.

25. **(Permittees): Regarding Permit Section Part 6.4.2.1,** the draft text there contains a typographical error. *The reporting period for the Year 1 Annual Report will be from October 1, 2021 – September ~~20~~ 30, 2022*. Replace 20 with 30 as highlighted above. Table 6.4.2 also contains a typographical error with regard to Annual Report Deadlines for Year 1 Annual Report Due Date January 30, 2022. Replace 2022 with 2023.

    Response: EPA has corrected these errors.

26. **(Permittees): Regarding Permit Section 6.4.2.3,** the draft text states: *Preparation and submittal of the s must may be coordinated*…. Missing word. Consider changing "must" to "may" to read, *"Preparation and submittal of the annual reports may be coordinated by Ada County Highway District."* The Permittees wish to continue to submit the Renewal Application jointly but may wish to submit individual annual reports using the Permit Appendix B – Annual Report Form. If there is value to receiving the Permittee hardcopies in one package, ACHD can compile the reports. Otherwise, especially once the submittal is electronic, it seems simplest for each Permittee to submit their own Annual Report with its duly authorized signatory. The electronic submission would need to allow multiply entities to submit Annual Reports under one Permit number. The Permittees will continue to post Annual Reports to the Partners publicly [accessible] website (Section 3.1.8) so citizens can easily locate all the Permittees' reports.

    Response: Comment noted. EPA has revised the permit as suggested.

27. **(Permittees): Regarding Permit Section 7.9 *Twenty-Four Hour Notice of Noncompliance Reporting*:** Does the 24-hour notice of non-compliance reporting to the EPA end once IDEQ officially takes over the stormwater program?

    Response: Yes. The Permittees must report to IDEQ only; EPA has revised the text of Part 7.9 accordingly. See Response #21.

28. **(Permittees): Regarding Permit Appendix A, 2. *Reporting of Discharges Containing Hazardous Materials or Deleterious Material:*** The Permit states "If no assistance is needed in cleaning up the spill, contact the Idaho Falls Region DEQ office during normal working hours…" Should "Idaho Falls Region DEQ office" be replaced with "Boise Regional DEQ office"?

    Response: EPA has corrected Appendix A.2 to indicate the Boise Regional DEQ office.

Appendix A: Example Evaluation/Assessment Planning Documents:

City of Bothell WA Dumpster Operations Evaluation

The two (2) documents included in this Appendix provide a reasonable example of the type of upfront planning and progress reporting that EPA intends Permittees to consider when conducting and assessing the success or failure of their outreach and education activities in compliance with Permit Part 3.1.

- *Dumpster Operations Evaluation Prepared March 16, 2015* (3 pages) describes the intended activity, as well as the manner in which the City will measure success.
- *Dumpster Maintenance Assessment Report Prepared December 11, 2015* (3 pages) describes the conduct of the activity and shares interim results as intended but the original project description.

EPA does not intend these documents to provide an exclusive example of creating Quality Assurance Project Plans for assessing outreach and education activities and encourages the reader to consult the other references listed in Response # 11.

Appendix A.1

Dumpster Operations Evaluation

Prepared March 16, 2015

The purpose of this evaluation is to determine whether three business related dumpster maintenance best management practices (BMP's) are potentially contributing to storm water pollution in Bothell. In order to evaluate this we decided to utilize existing resources and include our efforts in an on-going program.

Why is this an issue?

Improper dumpster maintenance can contribute to stormwater pollution which impacts local streams. For this reason, the Department of Ecology has listed dumpster maintenance in the education and outreach portion of the permit. This assessment will serve as a tool to help determine the water quality benefit of a city-wide program.

What will the evaluation entail?

Goals for this project include:

- Determine whether BMP #1- close dumpster lid after each use, is already being practiced with a majority of the target audience
- Determine whether BMP #2-repair or replace leaking or damaged dumpsters, has been called in by the business owner/manager. If not, we will notify the hauler and then follow up to see if replacement occurred in a timely and efficient manner
- Determine whether BMP #3 – area around dumpsters is clear of debris and staining. If not, business or property management has been notified.

The target audience for this project is small quantity hazardous waste businesses with dumpsters that can contribute to stormwater pollution (restaurants, auto repair, multi-family, etc.) within Bothell city limits. This target audience was chosen for several reasons:

- Our Local Source Control (LSC) Specialist is already visiting this target audience so current behaviors will be easy to observe and education can be distributed during a routine site visit
- Improperly disposed of hazardous waste is a potential stormwater issue and small quantity generators, unlike medium and large generators, are virtually unregulated
- Little is known about whether these practices are being adopted by this target audience
- Businesses within this target audience are varied, so they can provide some initial qualitative insight into whether certain business types comply more than others or respond differently to the provided outreach
- The City recently contracted with a new hauler, so it is not known whether the provided dumpsters for small businesses are in adequate repair

Targets for success are defined as:

- 100% of dumpster lids closed
- 100% of dumpsters without leaks
- 100% of dumpster areas clear of debris

Defined Program Elements

Outreach Materials

Three outreach materials were determined as necessary to conduct this evaluation:

- BMP #1 - a sticker depicting the BMP for placement on the dumpster by the business
- BMP #2 - a card with the hauler contact information distributed to all target businesses
- BMP #3 - notification to business or property management.

Site Visits

The target number of commercial dumpster customers receiving the outreach is 100 in a one-year period. Only commercial customers with dumpsters will be tabulated (no small containers or trash compactors will be included). Site visits will be scheduled in accordance with procedures established through the LSC program. Once site visits have been set, the LSC Specialist will conduct a pre-inspection and record current dumpster practices and the state of the dumpster. They will then conduct his regular inspection and will provide the described outreach materials along with verbally describing the desired BMP's. Any issues with a damaged or leaking dumpster will be reported to the Special Projects Administrator and hauler with a notice to correct per our contract.

The Surface Water Program Coordinator will follow up six months after each inspection and record whether the dumpster lid is closed, the sticker has been placed, and if necessary, whether the dumpster has been replaced.

Control

The control will be 100 randomly selected commercial customers within Bothell that utilize dumpsters. The same initial observations will be conducted but contact with the business will not be made.

Tracking Outputs

The following outputs will be recorded:

- Name and address of business
- Type of business
- Single use or shared dumpster
- Pre-inspection date
- Pre-inspection condition BMP#1
- Pre-inspection condition BMP#2
- Pre-inspection condition BMP#3
- Site visit date
- Outreach materials provided-Sticker and Contact Info
- Follow-up inspection date
- Follow-up inspection condition BMP#1
- Follow-up inspection condition BMP#2
- Follow-up inspection condition BMP#3
- Placement of sticker on dumpster
- Comments from owner/operators on information, materials, etc.
- Amount of staff time spent specifically on this project

Evaluation

In order to appropriately judge whether this project should be expanded and improved in the future, qualitative and quantitative assessments will be conducted based on the outputs. The final evaluation will contain information within three categories:

1) Qualitative before and after information will be compared with the control and summarized to determine how well the program worked and how it can be adapted based on feedback.
2) A review of City code regarding dumpster placement, containment, and drainage will be conducted to determine whether amendments should be made.
3) Research will be conducted into other existing programs to see what lessons might be learned, and long term evaluation will be discussed to see if adoption of BMP's drops off after a certain amount of time.

Appendix A.2

Dumpster Maintenance Assessment Report

Prepared December 11, 2015

Background

Improper dumpster maintenance at local businesses can contribute to stormwater pollution which impacts local streams. The purpose of this assessment is to determine whether three business related dumpster maintenance best management practices (BMP's) are potentially contributing to storm water pollution in Bothell. This assessment will serve as a tool to help determine the water quality benefit of a city-wide business dumpster maintenance program.

Goals for this project include:

- Determine whether BMP #1-dumpster lid is closed after each use, is already being practiced with a majority of the target audience
- Determine whether BMP #2-dumpsters found leaking are repaired or replaced, is occurring between business owners/operators and the garbage hauling company
- Determine whether BMP #3-area around dumpster is clear of debris and staining, is being practiced with a majority of the target audience

The target audience for this project is small quantity hazardous waste businesses which utilize products that can contribute to stormwater pollution (restaurants, auto repair, multi-family, etc.) within Bothell city limits.

Defined Program Elements

Outreach Materials

Three outreach materials are also being evaluated to learn whether information is being received and passed along to other staff/employees:

- BMP #1 - a sticker depicting the BMP for placement on the dumpster by the business
- BMP #2 - a card with the hauler contact information distributed to all target businesses
- BMP #3 - notification to business or property management.

Site Visits

The target number of commercial dumpster customers receiving the outreach is 100 in a one year period. Only commercial customers with dumpsters will be tabulated (no small containers or trash compactors will be included). Site visits are scheduled in accordance with procedures established through the LSC program. Once site visits have been set, the LSC Specialist conducts a pre-inspection and records current dumpster practices and the state of the dumpster. They then conduct their regular inspection and provide the described outreach materials along with verbally describing the desired BMP's. Any issues with a damaged or leaking dumpster are reported to the Special Projects Administrator and garbage hauler with a notice to correct per our contract.

The Surface Water Program Coordinator or Local Source Control Specialist follow up 30-60 days after each inspection and record whether the dumpster lid is closed, the sticker has been placed, and if necessary, whether the dumpster has been replaced.

Control
The control is 100 randomly selected commercial customers within Bothell that utilize dumpsters. The same initial observations of the three BMP's are conducted but contact with the business is not made.

Evaluation

In order to appropriately judge whether this project should be expanded and improved in the future, qualitative and quantitative assessments will be conducted based on the outputs. The final evaluation will contain information within three categories:

4) Qualitative before and after information will be compared with the control and summarized to determine how well the program worked and how it can be adapted based on feedback.
5) A review of City code and hauling contract regarding dumpster placement, containment, and drainage will be conducted to determine whether amendments should be made.
6) Research will be conducted into other existing programs to see what lessons might be learned, and long term evaluation will be discussed to see if adoption of BMP's drops off after a certain amount of time.

Initial Findings for 2015

Evaluation findings for 2015 are provided below in reference to the categories above:

1) 102 control site inspections were conducted in August and the BMP findings are as follows:
   - BMP #1- 34% found with their lid open
   - BMP #2- 2% found to be leaking or damaged
   - BMP #3- 14% found with garbage outside the dumpster

   11 experimental site visits with subsequent follow-up were conducted in June-November and the BMP findings are as follows:

   - BMP #1- 27% found with lid open during pre-inspection and none were found during follow-up inspection
   - BMP #2- 9% found with leaking or broken dumpster during pre-inspection and 9% were found during follow-up inspection
   - BMP #3- 9% found with garbage around dumpster area during pre-inspection and 9% were found during follow-up inspection
   - Stickers were placed on 18% of the dumpsters during the follow-up inspection
2) Review of our waste hauler contract has found no placement, containment, or drainage requirements. It does, however, contain requirements for keeping containers in good repair with no leaks and has provisions to contain, clean, and report any known spills to our stormwater drainage system to the City spill hotline.

Review of our City code has found that a disposal provider is required. All container locations are required to be screened from view, stored onsite, and all containers shall be closed. An interview with our Lead Stormwater Drainage Review Engineer found they are willing to place any language that we would like to see in our city code provided we write it and have it approved by our Utility Manager and Legal Department.

3) A work group with other jurisdictions was formed to share knowledge, resources, materials, and findings. The group consists of stormwater, solid waste, local source control, department of health, and FOG (fats, oils, and grease) professionals to determine the best way to address concerns without adding additional regulations for businesses. We continue to work together so that tips, lessons learned, and results can be shared and, where possible, compared.

Appendix B: Idaho Department of Environmental Quality's Final Certification under Clean Water Act §401

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 N. Orchard Street, Boise ID 83706
(208) 373-0550

Brad Little, Governor
Jess Byrne, Director

March 29, 2021

By email: *poulsom.susan@epa.gov*

Susan Poulsom
NPDES Permits Section Manager
1200 Sixth Avenue, Suite 155
Seattle WA 98101

Re: Reference No. IDS027561 – Boise-Garden City Area MS4

Dear Ms. Poulsom:

The Department of Environmental Quality (DEQ) has considered water quality certification for the Boise-Garden City Area's MS4 Permit. DEQ is issuing the attached Final 401 Water Quality Certification subject to the terms and conditions contained therein.

If you have any questions or further information to present please contact Kati Carberry at 208-373-0434, or via email at *kati.carberry@deq.idaho.gov*.

Sincerely,

Aaron Scheff
Regional Administrator

KLC:dr
2021AKF31

Attachment(s): Final 401 Water Quality Certification

e: Misha Vakoc, EPA, Seattle
Jason Pappani, DEQ State Office
Elizabeth Spelsberg, DEQ State Office

Idaho Department of Environmental Quality
Final §401 Water Quality Certification

March 29, 2021

NPDES Permit Number(s): IDS027561 Boise-Garden City Area MS4

Receiving Water Bodies: Stewart Gulch, Cottonwood Creek, Crane Creek, Dry Creek, Currant Creek, Spring Valley Creek, Fivemile Creek, Eightmile Creek, Ninemile Creek, and the Boise 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 I 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 I review is performed for all new or reissued permits or licenses (IDAPA 58.01.02.052.07).
- Tier II 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 III 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 I protection for that use, unless specific circumstances warranting Tier II 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

Boise-Garden City Area discharges the following pollutants of concern: sediment, nutrients (nitrogen and phosphorus), heat, chlorides, metals, petroleum and hydrocarbons, microbial pollution (*Escherichia coli*), and organic chemicals (pesticides and industrial chemicals).

Receiving Water Body Level of Protection

The Boise-Garden City Area discharges to Stewart Gulch, Cottonwood Creek, Crane Creek, Dry Creek, Currant Creek, Spring Valley Creek, Fivemile Creek, Eightmile Creek, Ninemile Creek, and the Boise River within the Lower Boise River Subbasin. The presumed or designated beneficial uses for each assessment unit (AU) receiving the discharges are listed in Table 1. The designated uses for these waterbodies are identified in the WQS (IPAPA 58.01.02.140.12). DEQ presumes undesignated waters in the state will support cold water aquatic life and primary or secondary contact recreation beneficial uses; therefore, 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).

In addition to the waterbodies listed above, the Boise-Garden City Area MS4 system discharges to several conveyances including laterals, drains, and canals that are not within the AU database maintained by DEQ, nor are they part of the National Hydrography Dataset. These conveyances are not designated in Idaho's water quality standards, and, if they are waters of the United States, are considered man-made waterways (IDAPA 58.01.02.010.58). DEQ protects such waterways for the use for which they were developed, namely agricultural water supply (IDAPA 58.01.02.101.02). As such, DEQ will provide Tier I protection only for these conveyances.

For each affected AU, Table 1 lists impairments and the antidegradation tier assigned to it according to DEQ's 2018/2020 Integrated Report. DEQ assigns a Tier I or a Tier II for aquatic life use and recreational use individually.

If a receiving water body's AU is fully supporting an assessed use (IDAPA 58.01.02.052.05.a) DEQ will provide Tier II protection in addition to Tier I for that use. If a receiving water body's AU is not fully supporting its assessed use (IDAPA 58.01.02.051.01) DEQ will provide Tier I protection for that use.

If a beneficial use (aquatic life use or recreational use) is unassessed, DEQ must provide an appropriate level of protection on a case-by-case basis using information available at this time (IDAPA 58.01.02.052.05.b).

Table 1. Receiving Water Bodies

HUC	Receiving Waters (Name)	Waterbody Unit	Designated or Presumed Uses	Assessment Unit	Beneficial Use Impairments	Aquatic Life Use	Recreational Use
17050114	Stewart Gulch, Cottonwood and Crane Creeks	SW-12, Stewart Gulch, Cottonwood and Crane Creeks - source to mouth	COLD (Presumed) SCR (Existing)	17050114SW012_02	COLD: Combined Biota/Habitat SCR: *Escherichia Coli*	Tier I	Tier I
	Dry Creek	SW-13, Dry Creek – source to mouth	COLD (Presumed) SCR (Presumed)	17050114SW013_03	Fully Supporting	Tier II	Tier II
	Fivemile Creek, Eightmile Creek, Ninemile Creek	SW-10, Fivemile Creek – Source to Miller Canal	COLD SCR	17050114SW010_02	COLD: Low Flow Alterations SCR: *Escherichia Coli*	Tier I	Tier I
	Fivemile Creek			17050114SW010_03	COLD: Cause Unknown, Nutrients Suspected, Chlorpyrifos, Sedimentation/Siltation SCR: *Escherichia Coli*	Tier I	Tier I
	Boise River	SW-5, Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	SS COLD PCR	17050114SW005_06	SS and COLD: Temperature COLD: Low Flow Alterations, Physical Substrate Habitat Alterations, and Sedimentation/Siltation PCR: Fecal Coliform	Tier I	Tier I
	Boise River	SW-5, Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	SS COLD PCR	17050114SW005_06a	SS and COLD: Temperature COLD: Flow Regime Modification, Physical Substrate Habitat Alterations, and Sedimentation/Siltation PCR: Fecal Coliform	Tier I	Tier I
	Boise River	SW-5, Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	SS COLD PCR	17050114SW005_06b	SS and COLD: Temperature COLD: Flow Regime Modification, Physical Substrate Habitat Alterations, Sedimentation/Siltation, and Total Phosphorus PCR: Fecal Coliform	Tier I	Tier I
	Boise River	Boise River - Diversion Dam to river mile 50 (T04N, R02W, Sec. 32)	SS COLD PCR Domestic Water Supply	17050114SW011a_06	SS and COLD: Flow Regime Modification, Physical Substrate Habitat Alterations	Tier II	Tier II

SS=salmonid spawning; COLD=cold water aquatic life; PCR=primary contact recreation; SCR = secondary contact recreation

Protection and Maintenance of Existing Uses (Tier I Protection)

A Tier I 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 and designated uses and the level of water quality necessary to protect existing and designated uses

shall be maintained and protected. In order to protect and maintain existing and designated beneficial uses, a permitted MS4 discharge must reduce the discharge of pollutants to the maximum extent practicable. The terms and conditions contained in Boise-Garden City Area's permit and certification require the Boise-Garden City Area permittees to reduce the discharge of pollutants to the maximum extent practicable.

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 (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).

The EPA-approved TMDLs listed in Table 2 establish wasteload allocations for sediment, bacteria, and phosphorus. These wasteload allocations are designed to ensure the impaired waterbodies will achieve the water quality necessary to support their existing and designated aquatic life and contact recreation beneficial uses and comply with the applicable numeric and narrative criteria. The effluent limitations and associated requirements contained in the Boise-Garden City Area permit is set at levels that are consistent with these wasteload allocations.

Table 2. EPA-Approved TMDLs

Assessment Unit	Waterbody Name	Beneficial Use Impairments	Approved TMDL
17050114SW012_02	Cottonwood and Crane Creeks - source to mouth	COLD: Combined Biota/Habitat SCR: *Escherichia Coli*	*Lower Boise River TMDL-2015 Sediment and Bacteria Addendum*
17050114SW010_02	Fivemile, Eightmile, and Ninemile Creeks-1st and 2nd order	COLD: Low Flow Alterations SCR: *Escherichia Coli*	*Lower Boise River TMDL-2015 Sediment and Bacteria Addendum*
17050114SW010_03	Fivemile Creek-3rd order	COLD: Cause Unknown, Nutrients Suspected, Chlorpyrifos, Sedimentation/Siltation SCR: *Escherichia Coli*	*Lower Boise River TMDL-2015 Sediment and Bacteria Addendum*
17050114SW005_06	Boise River-Veterans Memorial Parkway to Star Bridge	SS and COLD: Temperature COLD: Low Flow Alterations, Physical Substrate Habitat Alterations, and Sedimentation/Siltation PCR: Fecal Coliform	*Lower Boise River TMDL Subbasin Assessment for Fecal Coliform and Sediment (1999)*
17050114SW005_06a	SW-5, Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	SS and COLD: Temperature COLD: Low Flow Alterations, Physical Substrate Habitat Alterations, and Sedimentation/Siltation PCR: Fecal Coliform	*Lower Boise River TMDL Subbasin Assessment for Fecal Coliform and Sediment (1999)*
17050114SW005_06b	SW-5, Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	SS and COLD: Temperature COLD: Flow Regime Modification, Physical Substrate Habitat Alterations, Sedimentation/Siltation, and Total Phosphorus PCR: Fecal Coliform	*Lower Boise River TMDL Subbasin Assessment for Fecal Coliform and Sediment (1999)* *Lower Boise River TMDL-2015 Total Phosphorus Addendum*

SS=salmonid spawning; COLD=cold water aquatic life; PCR=primary contact recreation

The Boise-Garden City Area permittee continues to effectively implement stormwater control activities that demonstrate a Tier I level of protection and consistency with the wasteload allocations in the Lower Boise River watershed TMDLs, including:

- Continued implementation of a cooperative jurisdiction-wide Stormwater Management Program (SWMP);
- Continued public education and outreach program to inform the public about stormwater impacts and assessment of those efforts;
- Permittee-led training for personnel, consultants and construction contractors working within the Permittee's rights of way in Boise and Garden City;
- Relevant stormwater management information posted on readily available website(s);
- Ongoing litter removal from the I-84 right of way through the Adopt a Highway Program;
- Current MS4 maps and detailed outfall inventories;
- Policies and protocols for screening and response to illicit discharges into the MS4s;

- Requirements for erosion and sediment controls at all construction sites that disturb one or more acres;
- Ongoing inspection and maintenance of the road/highway systems and other stormwater management facilities in each jurisdiction;
- Ongoing identification and characterization of MS4 outfalls with ongoing dry weather flows;
- Response to spills and spill prevention activities;
- Ongoing MS4 discharge monitoring;
- Continued implementation of green infrastructure techniques where appropriate;
- Continued and updated as needed street, road, highway, and/or public parking lot sweeping management plans;
- Quantitative monitoring/assessment to determine BMP removal of pollutants of concern in all impaired AUs;
- Requirements for Boise-Garden City Area MS4 to monitor and assess temperature in discharges to the Boise River; and
- The stipulation that if either EPA or DEQ determine that a MS4 causes or contributes to an excursion above the water quality standards, the permittee must take a series of actions to remedy the situation.

In summary, the terms and conditions contained in Boise-Garden City Area's MS4 permit will reduce the discharge of pollutants to the maximum extent practicable and are consistent with the wasteload allocations established in the TMDLs listed in Table 2. Therefore, DEQ has determined the permit will protect and maintain existing and designated beneficial uses in the Tier I waterbodies listed in Table 1 in compliance with the Tier I provisions of Idaho's WQS (IDAPA 58.01.02.051.01 and 58.01.02.052.07).

High-Quality Waters (Tier II Protection)

As shown in Table 1, Dry Creek and the Boise River (Diversion Dam to Veterans Parkway 17050114SW011a_06) is considered high quality for recreation and aquatic life beneficial uses. As such, the water quality relevant to recreation and aquatic life uses in these waterbodies 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 recreation and aquatic life uses of Dry Creek and the Boise River (IDAPA 58.01.02.052.05). Sediment, nutrients (nitrogen and phosphorus), heat, chlorides, metals, petroleum and hydrocarbons, microbial pollution (*Escherichia coli*), and organic chemicals (pesticides and industrial chemicals) are the relevant pollutants of concern for recreational and aquatic life uses in this waterbodies.

For a reissued permit or license, the effect on water quality is determined by looking at the difference in water quality that would result from the activity or discharge as authorized in the current permit and the water quality that would result from the activity or discharge as proposed in the reissued permit or license (IDAPA 58.01.02.052.06.a). NPDES permits for regulated MS4s must include terms and conditions to reduce the discharge of pollutants to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements under the Clean Water Act. "Maximum extent practicable" is the statutory standard that describes the level of pollutant reduction that MS4 operators must achieve. The proposed MS4 permit relies on practices that identify and reduce discharge of pollutants to the maximum extent practicable (Permit parts 2 & 3).

To ensure discharged stormwater will not degrade receiving waters, the permittees are required to effectively prohibit non-stomrwater from entering the MS4; and are required to implement controls to reduce pollutants in MS4 discharges to the maximum extent practicable including implementation of best management practices, control techniques, system design and engineering methods, and other such provisions determined appropriate for the control of pollutants.

In each annual report the permittee must include a general summary of the results of their dry weather screening program activities. Additionally Boise-Garden City Area permittees must submit an enforcement response policy (ERP) or plan for construction site runoff. The ERP must address enforcement of construction site runoff controls for all construction projects within their jurisdiction, to the extent allowable under Idaho state law (Permit part 3.3.6).

With the exception of individual one or two family dwelling development or redevelopment and the infill or redevelopment of public pedestrian infrastructure projects, all new development and redevelopment projects that result in land disturbance of 5,000 square feet or more must control stormwater runoff and ensure that permanent controls or practices are utilized to protect water quality. (Permit part 3.4) The permittee must complete one update to the existing green infrastructure strategy and incorporate consideration of options for additional innovative approaches to control stormwater quality and quantity (Permit part 3.4.2.3).

Pollutant reductions should be realized as each element of the SWMP is implemented and must be updated if necessary to impose the required SWMP control measures. Additionally, the permittee must ensure that their industrial and commercial stormwater management programs include the required SWMP measure components (Permit part 3.6).

Stormwater control measures, when designed, constructed and maintained correctly have demonstrated the ability to reduce runoff, erosive flows, and pollutant loadings.[1] Due to the nature of MS4 permits, implementation requires investigating and resolving complaints; continual discovery of pollutant sources; use, monitoring, and refinement of BMPs; and additional knowledge through training opportunities. Water quality is expected to improve in the receiving waterbodies and the downstream receiving waters in the lower Boise Watershed as a result of conducting these pollutant reduction activities (Permit part 4.3).

This level of scrutiny and effort combined with requirements to address pollution sources is expected to improve water quality the longer the permit is in effect and result in insignificant or

[1] Urban Stormwater Management in the United States, National Research Council, 2008

no adverse change in existing water quality significant to recreational and aquatic life uses. Therefore, DEQ has reasonable assurance that at a minimum, no degradation will result from the discharge of pollutants Boise-Garden City Area's MS4.

In summary, DEQ concludes that this discharge permit complies with the Tier II 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

Best Management Practices

Best management practices must be designed, implemented, monitored, and maintained by the permittee to fully protect and maintain the beneficial uses of waters of the United States and to improve water quality at least to the maximum extent practicable.

When selecting best management practices the permittees must consider and, if practicable, utilize practices identified in the Idaho Department of Environmental Quality Catalog of Stormwater Best Management Practices.

Notification

The permittee must notify DEQ within 30 days of becoming aware that a discharge from the permittee's MS4 is causing or contributing to an excursion above Idaho Water Quality Standards. Upon notification DEQ may determine that an adaptive management report form the permittee is required.

Temperature Monitoring

To ensure the permitted discharges will comply with temperature criteria for the protection of aquatic life (IDAPA 58.01.02.250.02.(b), .(f)), the permittee must monitor temperature in stormwater discharges from the MS4 to the Boise River including assessment units 17050114SW005_06, 17050114SW005_06a, and 17050114SW005_06b, to quantify stormwater impacts to this waterbody.

Reporting of Discharges Containing Hazardous Materials or Deleterious Material

Pursuant to IDAPA 58.01.02.850, all spills of hazardous material, deleterious material or petroleum products which may impact waters (ground and surface) of the state shall be immediately reported. Call 911 if immediate assistance is required to control, contain or clean up the spill. If no assistance is needed in cleaning up the spill, contact the Boise Regional Office at 208-373-0550 during normal working hours or Idaho State Communications Center after normal working hours. If the spilled volume is above federal reportable quantities, contact the National Response Center.

For immediate assistance: Call 911

National Response Center: (800) 424-8802

Idaho State Communications Center: (800) 632-8000

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 Kati Carberry, Boise Regional Office at 208-373-0434 or via email at **kati.carberry@deq.idaho.gov**.

Aaron Scheff
Regional Administrator
Boise Regional Office