

**National Pollutant Discharge Elimination System (NPDES) Permit for**

**City of Post Falls  
Municipal Separate Storm Sewer System (MS4)**

**NPDES Permit No. IDS-028231**

**Response to Comments on Proposed Permit**

**November 2008  
U.S. Environmental Protection Agency, Region 10**

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### **I. Introduction**

On February 29, 2008, the U.S. Environmental Protection Agency Region 10 (EPA) proposed a draft National Pollutant Discharge Elimination System (NPDES) permit for discharges from municipal separate storm sewer system (MS4) owned and operated by the City of Post Falls (City). This NPDES permit, # IDS-028215, will be referred to in this document as the City Permit or Permit.

EPA published a public notice announcing the proposed City Permit in the *Coeur d'Alene Press* on February 29, 2008. EPA also concurrently proposed four similar NPDES permits for the following entities within the same Urbanized Area: Idaho Transportation Department District #1 (NPDES Permit #IDS-028223), Lakes Highway District (NPDES Permit #IDS-028207), City of Coeur d'Alene (NPDES Permit #IDS-028215) and Post Falls Highway District (NPDES Permit #IDS-028193) MS4. EPA hosted a public hearing regarding all of these proposed permits on the evening of April 2, 2008, at the Lake City Senior Center in Coeur d'Alene. The public comment period closed on April 29, 2008.

This document provides a response to comments received on the proposed City Permit. In some cases, the exact phrasing of the comment is presented. In other cases, substantive portions of the comment were excerpted or summarized. The Administrative Record contains complete copies of each comment letter.

Unless otherwise noted, all comments pertaining to this permit were received from the City of Post Falls. Comments relevant to each of the five concurrently proposed municipal storm water permits are also included, and are attributed to their author as indicated. These comments are organized in the order the topic or issue is found in the proposed City Permit. Where indicated, EPA has made changes to the final City Permit.

### **II. State Certification under Clean Water Act §401**

On February 8, 2008, Idaho Department of Environmental Quality (IDEQ) provided a draft Clean Water Act (CWA) §401 certification, which found that the proposed City of Post Falls permit provides reasonable assurance that Idaho water quality

standards will be met. IDEQ accepted public comment on the draft certification concurrently during the EPA comment period through April 29, 2008.

IDEQ issued a final CWA §401 certification on October 22, 2008. A copy of the IDEQ's final certification is also included in Appendix A.

### III. Response to Comments

1. **Comment (Idaho Transportation Department District #1): Regarding Part II.A.2.a** – The permit need to identify any applicable water quality standards and points of compliance so that the permittee can ensure compliance.

**Response:** Although the Idaho Transportation Department was commenting upon its own permit, this comment is relevant to all of the concurrently proposed MS4 permits for the Coeur d'Alene Urbanized Area. Therefore, to provide additional clarity, EPA has revised Parts I.C.1.c.ii , I.C.2 and II.A.2.a of the City Permit to specifically reference the Idaho water quality standards found at IDAPA 58.01.02. The physical points of compliance are the location(s) at which the MS4 discharges to waters of the U.S.

2. **Comment:** The City has begun an “Adopt a Street Program” with two groups already signed up and collecting litter.

**Response:** Comment noted.

3. **Comment: Regarding Part IV and Table IV.A,** the monitoring for temperature in the permit will be onerous. Please clarify what is anticipated for temperature monitoring.

**Response:** EPA expects that a temperature recording device, such as a thermometer, will be used at the time the sample is taken to record the temperature of the discharge from the outfall. The permit only requires sampling of the discharge from a limited number of outfalls, and does not require monitoring of the water column.

4. **Comment: Regarding Table IV.A,** sampling is requested at the outfalls with the highest flows; the locations cited in the draft permit appear to be in error. The correct outfalls would be the 4<sup>th</sup> Avenue outfall and the Centennial Trail outfall.

**Response:** EPA has revised Table IV.A to reflect this correction.

5. **Comment:** The City now questions whether the two outfalls identified as Ponderosa and Polites Park would discharge to Spokane River. With the highly permeable soils, stormwater from these two locations may infiltrate prior to reaching the river. With further evaluation of these two locations, these outfalls may be removed from the outfall classification and subsequently eliminate future

sampling and requirements.

**Response:** Comment noted. Assessment and verification of outfall locations and flows within the City's jurisdiction is required in Part II.B.3 of the permit.

6. **Comment (City of Coeur d'Alene): Regarding Part IV. C. 2 – Annual Report,** it appears that the annual report is due at the end of the reporting period, which does not allow any time to compile the most recent data and assimilate it into a report. We suggest that the annual report be due 3 months after the end of the reporting period. If the permit is issued in the fall this is a very busy time for staff and the 3 month period provide adequate time to compile all the information and data and produce the report.

**Response:** This comment is relevant to all of the concurrently proposed MS4 permits for the Coeur d'Alene Urbanized Area. EPA agrees to address this timing issue by revising Part IV.C.2 to identify a specific date as the deadline by which the Annual Report is due to be submitted. EPA has specified a deadline 45 days after the end of the 12 month reporting period (February 15); the report will reflect work done in the previous 12 month period reporting period.

7. **Comment (Spokane Tribe of Indians):** The Spokane Tribe expects the Washington Department of Ecology to develop a Total Maximum Daily Load (TMDL) for polychlorinated biphenyls (PCBs) in the near future to address PCBs in the Spokane River. This NPDES permit should have some literature reference pertaining to such a TMDL because restrictions and/or modifications may need to take place prior to the expiration date of the permit.

**Response:** When a TMDL for PCBs is completed by Washington Department of Ecology, and approved by EPA, EPA will at that time consider whether any conditions of the TMDL require additional actions for the City of Post Falls relative to discharges from the MS4. EPA will then determine whether modification of the permit is necessary at that time pursuant to 40 CFR 122.62.

8. **Comment (Spokane Tribe of Indians):** The Spokane Tribe concurs with the monitoring program for storm discharge events. This information should be used to improve the Post Falls MS4 permit in the future. The permit should indicate that monitoring should target any flood event during the May-June and July-August timeframe.

**Response:** Comment noted. To provide maximum flexibility to the permittee to obtain necessary samples during storm events, EPA declines to include any additional provisions or restrictions to the monitoring requirements.

#### **IV. Endangered Species Act**

The Endangered Species Act 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) if their actions could beneficially or adversely affect any threatened or endangered species. EPA evaluated the potential effects of the discharges from the City of Post Falls MS4 on listed endangered and threatened species in the vicinity of the Coeur d'Alene Urbanized Area, and has determined that issuance of this permit is not likely to adversely affect any threatened or endangered species or critical habitat.

Appendix B of this document includes the information used by EPA to support this determination.

# Appendix A – Final CWA §401 Certification from Idaho Department of Environmental Quality



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY



2110 Ironwood Parkway • Coeur d'Alene, Idaho 83814 • (208) 769-1422

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

October 22, 2008

Mr. Michael Lidgard  
U.S. Environmental Protection Agency  
Region 10  
1200 6<sup>th</sup> Avenue, OW-130  
Seattle, WA 98101

RE: Final 401 Water Quality Certification for the City of Post Falls Municipal  
Separate Storm Sewer System (MS4) NPDES Permit # IDS-028231.

Dear Mr. Lidgard,

The State of Idaho Department of Environmental Quality (Department) has reviewed the proposed MS4 permit for the City of Post Falls. This letter will serve as the Department's final Water Quality Certification.

### WATER QUALITY CERTIFICATION

Based on the Department's review of the referenced permit, the Department certifies, pursuant to the provisions of Section 401 of the Federal Water Pollution Control Act (Clean Water Act) as amended, 33USC Section 1341, and Idaho Code Sections 39-101 et. seq., and 39-3601 et. seq., that if the permittee complies with the terms and conditions as written in Permit #IDS 028231, then there is a reasonable assurance that the authorized discharges of storm water will comply with applicable requirements of Sections 301, 302, 306 and 307 of the Clean Water Act.

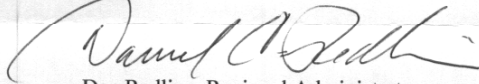
This §401 Certification decision may be appealed pursuant to the Idaho Environmental Protection and Health Act, Idaho Code § 39-107(5) and the Idaho Administrative Procedure Act. Such an appeal is a prerequisite to any district court action and must be initiated by filing a petition for a contested case in accordance with the Rules of Administrative Procedure before the Department of Environmental Quality Board

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(IDAPA 58.01.23) within thirty-five (35) days of the date of the Department's decision regarding the 401 certification.

Questions regarding this certification can be directed to June Bergquist at 208/666-4605 or e-mail to: [june.bergquist@deq.idaho.gov](mailto:june.bergquist@deq.idaho.gov).

Sincerely,



Dan Redline, Regional Administrator  
Coeur d'Alene Regional Office

cc: Barry Burnell, DEQ  
Doug Conde, DEQ

## **Appendix B – Endangered Species Act Determination of Not Likely to Adversely Affect Listed Species**

The Endangered Species Act 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) if their actions could beneficially or adversely affect any threatened or endangered species. EPA evaluated the potential effects of the discharges from the City of Post Falls MS4 on listed endangered and threatened species in the vicinity of the Coeur d’Alene Urbanized Area, and has determined that issuance of this permit is not likely to adversely affect any threatened or endangered species or critical habitat.

EPA reviewed the current list of endangered and threatened species from the USFWS, dated June 1, 2008 (14420-2008-SL-0354). For Kootenai County, Idaho, the following species are listed: Canada lynx (*Lynx canadensis*), Water howellia, (*Howellia aquatilis*), Spalding’s catchfly (*Silene spaldingii*) and bull trout (*Salvelinus confluentus*). Species lists available from NOAA Fisheries do not identify any additional listed endangered or threatened species within this portion of the Spokane River basin.

### ***Canada Lynx***

Canada lynx generally occur in boreal and montane regions dominated by coniferous or mixed forest with thick undergrowth, but they may also enter open forest, rocky areas, and tundra to forage for abundant prey. (Koehler 1990). Resident populations currently exist only in Maine, Montana, Washington and possibly Minnesota. The lynx is considered extant but no longer sustaining self-support populations in Idaho. (USFWS 1998). Hunting and habitat destruction are the primary causes of the Canada lynx decline.

Issuance of an NPDES permit for the City of Post Falls municipal storm water discharges within the Coeur d’Alene Urbanized Area will not result in habitat destruction, nor will it result in changes in population that could result from increased habitat destruction. Furthermore, issuance of this permit will not impact the food sources of the Canada lynx. Lynx are not an aquatic or aquatic dependent species; therefore any contact with water near a stormwater outfall within the urban area is unlikely and expected to be very infrequent. Therefore, EPA has determined that issuance of this permit will have no effect on the Canada lynx.

### ***Water Howellia***

Water Howellia, grows in firm consolidated clay and organic sediments that occur in wetlands associated with ephemeral glacial pothole ponds and former river oxbows. The known Idaho population of Water Howellia is found within Latah County, near Harvard, Idaho. Water Howellia appears to be extirpated from Kootenai County in Idaho (USFWS, et al, 2007a). EPA has therefore determined that issuance of this permit will have no effect on Water Howellia.



### ***Spalding's Catchfly***

Spalding's Catchfly is an herbaceous perennial plant found in open, moist grassland communities, although it is occasionally also found within sagebrush-steppe communities as well as pine forests. The plant is typically found at elevations ranging from 420 to 1,555 meters (1,380 to 5,100 feet), usually in deep, productive loess soils (fine, windblown soils). Plants are generally found in swales or on north or east facing slopes where soil moisture is relatively higher. The final recovery plan for Spalding Catchfly (USFWS 2007b) includes a map of known populations of the species which suggest that the species are not known to occur near the Coeur d'Alene Urbanized Area within Kootenai County.

Issuance of an NPDES permit for the City of Post Falls municipal storm water discharges within the Coeur d'Alene Urbanized Area will not result in habitat destruction. Therefore, EPA has determined that issuance of this permit will have no effect on Spalding's Catchfly.

### ***Bull Trout***

Bull trout are native to the Pacific Northwest and western Canada and are widespread throughout the tributaries of the Columbia River Basin, including the headwaters of the Columbia in Montana and Canada (63 FR 31647, June 10, 1998). The USFWS listed the Columbia River segment of the bull trout population as threatened on June 10, 1998. That listing did not designate critical habitat (63 FR 31647). However, critical habitat was designated in 2005, and this designation included Lake Coeur d'Alene (70 FR 56212).

The Idaho Department of Fish and Game (IDFG) has stated that there is no reproducing population of bull trout in the Spokane River or any of its tributary streams and that the only bull trout that would be expected to be found in the Spokane River would be transients from Lake Coeur d'Alene. There is an adfluvial population that spawns in the headwaters of the St. Joe River, which is a tributary to Lake Coeur d'Alene. IDFG also stated that there is no fish passage at the Post Falls dam (communication between Brian Nickel, EPA, and Ned Horner, IDFG, 2/1/07). EPA fact sheets for the 1999 reissuances of the NPDES permits for wastewater treatment plants discharging to the Spokane River state that bull trout cannot get past the Post Falls Dam and that bull trout in the Spokane River are probably transients from Lake Coeur d'Alene (EPA 1999a, 1999b, 1999c). There is no known population of bull trout in the Spokane River downstream of the Post Falls dam (FERC 2006).

As noted in the fact sheet for the Post Falls MS4 NPDES permit, the City of Post Falls discharges stormwater through five outfalls. Two of the five outfalls referred to as the Centennial Trail outfall and the 4<sup>th</sup> Avenue outfall, are located downstream of the Post Falls dam. These two outfalls, provide drainage for approximately 11.7 acres and 44.1 acres, respectively. Because of their location relative to the known population of bull trout in the Spokane River, EPA determines that discharges from these outfalls will have no effect on bull trout or on critical habitat for bull trout.

The remaining three storm water outfalls owned by the City of Post Falls are located upstream of the Post Falls dam and downstream of Lake Coeur d'Alene. The Spokane Street outfall drains approximately 1.8 acres of the City. The Polites Park outfall is estimated by the City to drain approximately 2.8 acres of land. The Ponderosa outfall drains an area of undetermined size, but discharges into a dry coulee adjacent to the Spokane River. The City reports that storm runoff from this outfall infiltrates into the ground at this location. During the course of the permit term, City staff will conduct field inspections during storm events to determine whether the Ponderosa outfall contains sufficient flow to discharge directly to the river at any point during storm events.

EPA's permit requires the City of Post Falls to develop, implement and enforce a Storm Water Management Program (SWMP) designed to reduce pollutants to the maximum extent practicable and to protect water quality. EPA regulations require SWMPs to address six minimum control measures as defined in 40 CFR 122.32. Narrative effluent limits in the permit outline the specific actions which must be taken to implement following minimum measures:

- 1) Public education and outreach efforts educate the public on impacts of stormwater runoff so individuals can take actions to protect or improve the water quality.
- 2) Public involvement activities in development of the SWMP should encourage public participation in its implementation.
- 3) Illicit discharge detection and elimination to accurately map all storm sewer outfalls, prohibit discharges of non-storm water to the system, detect and address non-storm water discharges and inform the public of the hazards of illegal discharges and improper disposal of waste. EPA regulations allow MS4 operators to develop a comprehensive storm sewer system map as a result of the first five-year NPDES permit term. This program should significantly reduce any illicit discharges to the system that may contain contaminants that could potentially harm the snails.
- 4) Construction site runoff control ordinance to require the use of appropriate erosion, sediment and onsite waste control at construction sites, which will reduce pollutant discharges during the construction process.
- 5) Post-construction stormwater management requirements for new development and redevelopment ensure that appropriate stormwater pollution controls are included in the design of developments to reduce pollutant discharges in storm water runoff after construction is complete.
- 6) Pollution prevention/good housekeeping for municipal operations ensure that existing municipal operations and maintenance activities are performed to minimize contamination of stormwater discharges.

In addition, the permit requires stormwater outfall monitoring to gather information in order to better characterize the quality of the discharges.

Since the storm water discharges that will be covered by this Permit have existed for many years, all of the activities required in the implementation of the City of Post

Falls' SWMP should have a beneficial effect on the bull trout population upstream of the Post Falls dam by reducing the levels of environmental contaminants in existing storm water discharges. Therefore, EPA determines that issuance of this permit for discharges from the City of Post Falls storm water outfalls located above Post Falls dam may affect, but are not likely to adversely affect, bull trout in the Spokane River. Because the City of Post Falls does not discharge to Lake Coeur d'Alene, EPA also determines that issuance of this permit will not adversely affect critical habitat for bull trout.

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