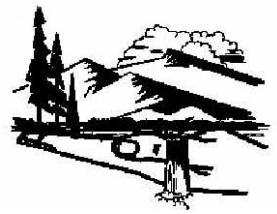




Mark Gordon, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Todd Parfitt, Director

January 7, 2022

Scott Gamo
Wyoming Department of Transportation
5300 Bishop Blvd.
Cheyenne, Wyoming 82002

RE: Certification of Nationwide Permit #14, File NWO-2020-02150 for the Snake River Bridge Replacement Project that will impact the Snake River and adjacent wetlands near Wilson, Wyoming. The project area is located in Section 23, Township 41 North, Range 117 West, Teton County, Wyoming.

Dear Mr. Gamo,

In accordance with the provisions of Section 401 of the Clean Water Act, the Wyoming Department of Environmental Quality (WDEQ) has reviewed the Wyoming 401 Water Quality Certification Request and accompanying materials and hereby *grants certification with conditions* of Nationwide Permit #14 for this project. This certification reasonably assures that the discharge of dredged or fill material under this project will comply with Sections 301, 302, 303, 306 and 307 of the federal Clean Water Act; Wyoming Statute 35-11-302(a)(i) and (ii); and Wyoming Surface Water Quality Standards (Chapter 1, Wyoming Water Quality Rules); provided that the permittee complies with all 'Certification Conditions' described below.

Project Description

The purpose of the project is to replace the WY22 Highway bridge over the Snake River and upgrade adjacent sections of the WY22 and WY390 Highways near Wilson, Wyoming that will impact the Snake River and adjacent wetlands.

Proposed activities include removal and replacement of the WY22 bridge, road widening, installation of coffer dams for bridge work, and construction of temporary access roads. These activities will result in the excavation and redistribution of approximately 37,000 cubic yards (CY) of in-channel aggregate for use in construction in addition to 377 CY of imported fill for the new bridge abutments. Excavation of in-channel aggregate will only occur on dry gravel bars away from the active channel during low flow conditions. It is anticipated use of coffer dams will result in up to 1.174 acre of temporary in-channel impacts. These discharges will result in permanent impacts to 0.342 acre of wetland of which a combination of on-site and in-kind mitigation will be required.

Certification Conditions

Hazardous, Toxic and Deleterious Materials

1. This certification requires all equipment to be inspected daily for oil, gas, diesel, anti-freeze, hydraulic fluid and other petroleum leaks. All such leaks will be properly repaired and equipment cleaned prior to being brought on-site. Leaks that occur after the equipment is on-site will be repaired within one day or removed from the project area. The equipment is not allowed to continue operating upon discovery of a leak. In addition, compliance with all State and Federal requirements for storage of petroleum products and solvents is required.¹;
2. Equipment and machinery must not be located in a surface water of the state for refueling, repair and/or maintenance¹;
3. Petroleum products and hazardous, toxic and/or deleterious materials shall not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of a surface water of the state. Adequate measures and controls must be in place to ensure those materials will not enter a surface water of the state as a result of high water, precipitation runoff, wind, storage facility failure, or accidents in operation¹;
4. Emergency spill and release procedures shall be kept on the job-site and readily available for review. Appropriate emergency spill/release response materials (e.g. booms, pads, socks, absorbents, floats) shall be kept on the job-site at all times for the duration of project¹;

In-water Construction Activity

5. Construction equipment shall not operate below the existing water surface except as follows:
 - a. Fording at one location is acceptable; however, vehicles should not push or pull material along the bed or banks below the existing water level. Impacts from fording must be minimized²;
 - b. Work below the waterline which is essential must be carried out in a manner which minimizes impacts to the aquatic system and water quality²;

¹ Petroleum products and hazardous, toxic or deleterious materials cannot be present in quantities or concentrations within surface waters of the state which would threaten or cause the non-attainment of Chapter 1 Wyoming Water Quality Rules §§ 12, 13, 15, 16, 17, 18, 19, 20, 21, 29 and 32.

² Ensures that discharges of dredge/fill material and associated construction-related activities in a surface water of the state do not result in detrimental physical and/or habitat conditions, elevated quantities and/or concentrations of suspended or floating sediment, or combinations thereof which would adversely affect fisheries, aquatic life other than fish, drinking water, recreational, agricultural, industrial, and/or wildlife uses of the water pursuant to Chapter 1 Wyoming Water Quality Rules §§ 12, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25 and 32.

6. Discharges and associated construction activities are not permitted during high flows/high water due to the elevated risk of degradation to aquatic habitat, water quality and physical conditions. Therefore, construction activities within a surface water shall take place only during periods of low flow or low water except for unique circumstances where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur if immediate action is not taken³;
7. The timing and duration of construction must minimize disturbances to fish spawning. Site specific information on spawning seasons and spawning areas for all fish species can be obtained from fisheries supervisors at Wyoming Game and Fish Department (WGFD) Regional Offices⁴;
8. Unless specifically authorized by the Wyoming Game and Fish Department, discharges of dredge or fill material, including in-stream structures, shall not prohibit movements of aquatic life indigenous to the waterbody or that are intentionally introduced, including those species that normally migrate through the project area⁴;
9. Where applicable, stream channel enhancement/restoration and/or bank stabilization must be completed prior to returning water to a dewatered segment⁵;
10. Excavation of in-channel aggregate for construction use shall only be performed in dry channel bars away from the active channel during low flow conditions to prevent sediments from entering the flowing portion of the Snake River. Entrance and exit routes for the excavation shall be located only in the dry⁵;
11. Water pumped from de-watering areas (i.e., coffer dams) will not be allowed to reenter a surface water of the state unless authorized through a WDEQ Wyoming Pollutant Discharge Elimination System (WYPDES) Temporary Discharge Permit^{5,6};

Surface Water Intakes

12. For activities that occur within ten stream miles of a downstream public water supply intake, the responsible parties for the public water supply intake shall be notified so that any preventative actions can be implemented to ensure discharges and associated construction activities do not adversely affect the quality of public drinking water. Documentation of this notification and how concerns were addressed shall be kept on file and be made available upon request⁷;

³ Chapter 1 Wyoming Water Quality Rules §§ 12, 15, 16, 21, and 32.

⁴ Chapter 1 Wyoming Water Quality Rules §§ 15, 16, 21, 23, 24, 25, and 32.

⁵ Ensures that discharges of dredge/fill material and associated construction-related activities in a surface water of the state do not result in detrimental physical and/or habitat conditions, elevated quantities and/or concentrations of suspended or floating sediment, or combinations thereof which would adversely affect fisheries, aquatic life other than fish, drinking water, recreational, agricultural, industrial, and/or wildlife uses of the water pursuant to Chapter 1 Wyoming Water Quality Rules §§ 12, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25 and 32.

⁶ Chapter 2 Wyoming Water Quality Rules §§ 2, 4, and 5.

⁷ Chapter 1 Wyoming Water Quality Rules §§ 15, 16, 17 and 18.

Temporary Structures

13. Any temporary crossings, bridge supports, cofferdams or other structures must be designed and installed to accommodate all high flows/water anticipated to occur while these structures are present without degradation to aquatic habitat and water quality. All temporary structures and fills (e.g. construction pad, access ramp) must be completely removed from the waterbody at the conclusion of the permitted activity and the area restored. According to the project application, temporary coffer dams shall be used to de-water areas necessary for removal of the existing bridge and construction of the new bridge⁸;

Stockpiling and Staging of Fill and Excavated Material

14. All excess stockpiled fill and excavated material shall be disposed of at an upland site, not in a surface water of the state. All measures and precautions shall be taken to prevent entry of said material into a surface water of the state during high water/flow events⁹;
15. To the maximum extent practicable, all stockpiling and staging areas of fill or excavated material shall be placed at an upland site, not in a surface water of the state. All measures and precautions shall be taken to prevent entry of said material into a surface water of the state as a result of high water or precipitation events⁹;

Erosion and Sediment Control

16. Adequate best management practices to prevent, control or reduce erosion and sediment entry from the project area into surface waters of the state is required. The project area encompasses the location(s) where discharges will occur along with the associated construction activities. Appropriate best management practices include but are not limited to those described in the WDEQ/WQD's Stream and Lake Best Management Practices Manual. This and other WDEQ/WQD BMP manuals can be found at <https://deq.wyoming.gov/water-quality/watershed-protection/nonpoint-source/>. Best management practices shall be properly installed, maintained, and functional at all times during project implementation. At a minimum, best management practices shall be inspected, maintained and evaluated for effectiveness daily during project implementation⁹;

⁸ Chapter 1 Wyoming Water Quality Rules §§ 12, 14, 19, 20, and 32.

⁹ Ensures that discharges of dredge/fill material and associated construction-related activities in a surface water of the state do not result in detrimental physical and/or habitat conditions, elevated quantities and/or concentrations of suspended or floating sediment, or combinations thereof which would adversely affect fisheries, aquatic life other than fish, drinking water, recreational, agricultural, industrial, and/or wildlife uses of the water pursuant to Chapter 1 Wyoming Water Quality Rules §§ 12, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25 and 32.

17. Adequate stabilization and erosion control measures are required for all permanent structures and treatments to minimize erosion of these features during high flows or high water. Stabilization and erosion control measures shall include only native material where appropriate and feasible¹⁰;
18. All construction debris shall be properly disposed of at an upland site in accordance with applicable state and federal regulations, not in a surface water of the state¹¹;
19. All fill material should be placed and compacted and subsequently protected from erosion. Where applicable, areas proposed for fill should be cleared of all vegetation, debris and other materials that may destabilize the fill. Maximum fill slopes shall be such that material is structurally stable once placed and does not slough into a surface water of the state during construction, during periods prior to revegetation, or after vegetation has established¹⁰;

Vegetation Protection and Restoration

20. Vegetation must be protected except where its removal is absolutely necessary for completion of the work. Vegetation removal shall not cause in-channel or bank degradation beyond what existed prior to construction¹⁰;
21. Re-vegetate disturbed soil in a manner that optimizes plant establishment for that specific site. Revegetation may include topsoil replacement, planting, seeding, fertilization and weed-free mulching as necessary. Native material shall be used where appropriate and feasible. Re-vegetate cut and fill slopes with appropriate species to prevent erosion¹⁰;

Culverted Crossings

22. Where applicable, culverted crossings of surface waters of the state must meet the following criteria:
 - a. To prevent physical degradation, culverts shall be placed in a relatively straight section of stream channel and outflows shall not be directed into a stream bank¹⁰;
 - b. Culvert dimensions shall not create water depths or velocities that prohibit upstream fish migration¹²;

¹⁰ Ensures that discharges of dredge/fill material and associated construction-related activities in a surface water of the state do not result in detrimental physical and/or habitat conditions, elevated quantities and/or concentrations of suspended or floating sediment, or combinations thereof which would adversely affect fisheries, aquatic life other than fish, drinking water, recreational, agricultural, industrial, and/or wildlife uses of the water pursuant to Chapter 1 Wyoming Water Quality Rules §§ 12, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25 and 32.

¹¹ Chapter 1 Wyoming Water Quality Rules §§ 12 and 14.

¹² Chapter 1 Wyoming Water Quality Rules §§ 15, 16, 21, 23, 24, 25, and 32.

- c. Culvert slope shall be no steeper than the channel gradient immediately upstream and downstream of the culvert and generally should match the overall waterbody gradient to prevent physical degradation associated with channel scour, bank erosion and/or channel incision¹³;
- d. Culvert outlet elevations or downstream bed scour shall not prohibit upstream fish migration¹³;
- e. Culverts shall be adequately sized to accommodate all high flows/water anticipated to occur while these structures are present without degradation to aquatic habitat and water quality¹⁴;

Other Pollutants

23. No activities authorized by this certification shall result in the discharge of substances in amounts, concentrations or combinations thereof into a surface water of the state which
- a. Can settle to form sludge, bank or bottom deposits; or
 - b. Form floating or suspended solids; or
 - c. Produce color, odor, or other conditions; or
 - d. Are toxic to humans, animals, aquatic life, plants; or
 - e. Produce a predominance of undesirable aquatic life; or
 - f. Cause harmful accumulations of radioactivity in aquatic life, animals, plants; or
 - g. Cause harmful acute or chronic effects to aquatic life; or
 - h. Adversely alter the structure or function of indigenous or intentionally introduced aquatic communities; or
 - i. Which could result in degradation of the water quality necessary to support fisheries, aquatic life other than fish, drinking water, recreation, fish consumption, agricultural, industrial and/or scenic uses of the water¹⁵;

¹³ Chapter 1 Wyoming Water Quality Rules §§ 15, 16, 21, 23, 24, 25, and 32.

¹⁴ Ensures that discharges of dredge/fill material and associated construction-related activities in a surface water of the state do not result in detrimental physical and/or habitat conditions, elevated quantities and/or concentrations of suspended or floating sediment, or combinations thereof which would adversely affect fisheries, aquatic life other than fish, drinking water, recreational, agricultural, industrial, and/or wildlife uses of the water pursuant to Chapter 1 Wyoming Water Quality Rules §§ 12, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25 and 32.

¹⁵ Chapter 1 Wyoming Water Quality Rules §§ 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 28, 30, and 32.

Other Water Quality Permitting Requirements

WYPDES Storm Water Permit

1. For activities that will clear, grade or otherwise disturb one (1) or more acres and there is a potential for discharge of storm water to surface waters of the state, coverage under a storm water permit must be obtained from the WDEQ. Disturbance includes construction of the project and associated access roads, construction of wetland mitigation sites, borrow and stockpile areas, and equipment staging and maintenance areas. The major requirements of a storm water permit pertain to the development and implementation of a pollution prevention plan along with regular inspection of pollution control activities. The Wyoming Pollutant Discharge Elimination System (WYPDES) Program should be contacted for guidance. More information can be found at <https://deq.wyoming.gov/water-quality/wypdes/discharge-permitting/storm-water-permitting/>;

WYPDES Temporary Discharge Permit

2. For any point source discharges to surface waters not related to storm water runoff or dredge/fill material such as discharges from gravel crushing and washing operations, cofferdam or site dewatering, vehicle or machinery washing, drilling fluids or cuttings, or other material processing operations, coverage under a WYPDES discharge permit may be required. Depending on the type of operation, the length of operation, and the type of discharge, either a general temporary discharge permit or an individual discharge permit may be required. The WYPDES Program should be contacted for guidance. More information can be found at <https://deq.wyoming.gov/water-quality/wypdes/discharge-permitting/>;

Temporary Turbidity Waiver

3. Discharges and associated construction activities shall not increase turbidity by more than 10 nephelometric turbidity units (NTUs) in all cold-water fisheries and/or drinking water supplies (Classes 1, 2AB, 2A and 2B) or by more than 15 NTUs in all warm water or nongame fisheries (Classes 1, 2ABww, 2Bww and 2C). However, the WDEQ may authorize short-term increases in turbidity above the limits described on a case-by-case basis for construction related activities through the issuance of a temporary turbidity waiver. The application for a temporary turbidity waiver can be found at <https://deq.wyoming.gov/water-quality/watershed-protection/cwa-section-401-turbidity-wetland/>;

SPCC Plan

4. If above ground storage of petroleum products exceeds 1,320 gallons in total or more than 660 gallons in a single tank, development of a Spill Prevention Control and Countermeasures (SPCC) plan may be required pursuant to 40 CFR 112. The Region 8 EPA office in Denver should be contacted for guidance. More information can be found at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/contact-us-about-oil-spill-prevention-and>.

This letter constitutes state certification for the discharge of dredged or fill material from this project under Section 401 of the Clean Water Act and subject to the certification conditions contained herein. **Please be advised that this certification is not an authorization to begin construction.** This letter does not provide an exemption from any other federal, state or local laws or regulations, nor does it provide exemption from legal action by private citizens for damage to property that the discharge and associated activity may cause. This certification does not relieve the permittee of any liability for damages to existing or designated uses that may result from failure to comply with the certification conditions. The WDEQ also reserves the right to amend this certification and any of its terms and conditions as may be appropriate or necessary to protect surface water quality and associated designated uses.

Sincerely,



Todd Parfitt
Director
Department of Environmental Quality

TP/JZ/DHW/EGH/CF

cc: Michael Stanley, USACE, 2232 Dell Range Blvd, Suite 210, Cheyenne, WY 82009
Deb Ferguson, WYDOT, 5300 Bishop Blvd., Cheyenne, WY 82002

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